



REQUEST FOR PROPOSAL

PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES

RFP No. PS20130566

Issue Date: June 25, 2013

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PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

- 1.1 This Request for Proposal (the “RFP”) provides an opportunity for qualified Proponents to submit Proposals for review by the City of Vancouver (“City”) and, depending on the City’s evaluation of Proposals, among other factors, to potentially negotiate with the City to enter into a three-year Agreement to provide disability management and occupational health services to the City, with an option on the part of the City to extend such Agreement for an additional two-year period after the initial contract term. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART D OF THE RFP: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE CITY TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE CITY.**
- 1.2 **SUCCESSFUL PROPONENT IN RESPECT OF PRF PS20130447 DISQUALIFIED FOR RFP PS20130566:** Proponents shall take notice that the City has another request for proposal, RFP PS20130447 Provision of Employee Assistance Program Services, and that any successful proponent in respect of RFP PS20130447 who enters into a contract with the City to provide Employee Assistance Program services for City employees will be disqualified from consideration as a candidate in respect of this RFP PS20130566.
- 1.3 The RFP concerns the City’s interest in procuring disability management and occupational health services (the “Services”) from one or more professional service providers capable of fulfilling the requirements of the City in a manner that supports the City’s objectives and requirements stated herein. Details of the City’s objectives and requirements are set out in Part B and Part C of the RFP, as well as elsewhere herein. The City welcomes Proposals respecting innovative or novel approaches to the City’s objectives and requirements.
- 1.4 The Services are divided into seven (7) components, as listed in Section 1.7 below. A Proponent may submit a Proposal in respect of one or more of the components of the Services.
- 1.5 Certain information regarding the City’s approximate usage of disability management and occupational health services can be found in Table 1 of Part B of the RFP. However, the City can offer no assurances regarding actual future requirements for such services.
- 1.6 Successful Proponent(s), if any, will have the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The City expects to select one or more successful Proponents and then enter into negotiations with it or them, which will conclude in the execution of an Agreement or Agreements respecting Services. However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; or (iii) enter into one or more agreements respecting the subject matter of the RFP with any person at any time. The City may also terminate the RFP at any time.
- 1.7 The City currently intends that Proposals will be evaluated by the City in relation to their overall value, which will be assessed in the City’s sole and absolute discretion. In assessing value, the City expects to consider the factors described in Section 8 of this Part A, among others.
- 1.8 Interested and qualified Proponents may make Proposals in respect of one or more of the following seven (7) components of the Services:
- (a) Occupational health services;
 - (b) Adjudication and disability case management services in accordance with the Administrative Services Only (ASO) Disability Plan Document for Canadian Union of Public Employees Local 1004 (refer to Annex 7);

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- (c) Adjudication & assessment of accommodation cases;
- (d) Disability/case management (of non-adjudicated cases);
- (e) Independent medical examinations/opinions/assessments;
- (f) Professional addictions assessment and monitoring services; and/or
- (g) WorkSafeBC expertise/appeals work/after-hours support services,

and Proponents must clearly indicate which of the above components of Services their Proposals relate to, and in the case of joint submissions, one party shall be appointed as the City's contact for communications regarding this RFP, and all parties shall be party to any resulting agreement.

- 1.9 **NO BID SECURITY IS REQUIRED FROM PROPONENTS IN CONNECTION WITH THE SUBMISSION OF PROPOSALS BECAUSE NO PROPOSAL WILL BE DEEMED TO BE AN IRREVOCABLE OR OTHERWISE BINDING LEGAL OFFER BY A PROPONENT TO THE CITY. THE LEGAL OBLIGATIONS OF A PROPONENT THAT WILL ARISE UPON THE SUBMISSION OF ITS PROPOSAL WILL BE LIMITED TO THE TERMS AND CONDITIONS STATED UNDER THE HEADING "LEGAL TERMS & CONDITIONS" IN APPENDIX 1 TO THE PROPOSAL FORM (PART D).**
- 1.10 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.
- 1.11 Certain capitalized terms used herein but not defined where first used are defined in Section 12.0 - Definitions of this Part A.
- 1.12 The RFP consists of five parts:
- (a) **PART A - INFORMATION AND INSTRUCTIONS:** This part is intended to serve as a guide to the RFP process for Proponents.
 - (b) **PART B - INTRODUCTION AND BACKGROUND:** This part provides interested persons with a brief description of the services and context.
 - (c) **PART C - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS:** This part describes the subject matter of the RFP, in respect of which the City invites Proposals. This part also stipulates the information that must be contained in each Proposal.
 - (d) **PART D - PROPOSAL FORM:** This part consists of the Proposal Form to be completed by each Proponent in connection with its Proposal. Each Proposal must be submitted under the cover of a duly completed and executed Proposal Form.
 - (e) **PART E - FORM OF SERVICES AGREEMENT:** This part contains a sample form of services agreement. An agreement or agreements in this form may be entered into between the City and one or more successful Proponents.

2.0 KEY DATES

- 2.1 Potential Proponents should note the following key dates:

Event	Time and Date
RFP Posting Date	June 25, 2013

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Deadline for Enquiries	3:00 PM July 9, 2013
Closing Time	3:00 PM July 16, 2013

- 2.2 All references to time in the RFP are references to the time in the City of Vancouver, as shown on the clock used by the City for the purposes of requests for proposals.

3.0 CONTACT PERSON

- 3.1 All enquiries regarding the RFP must be addressed to:

Diana Chan, Contracting Specialist
email: diana.chan@vancouver.ca or fax: 604-873-7057

- 3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

4.0 SUBMISSION OF PROPOSALS

- 4.1 Proponents must submit their Proposals in writing on or before the time and date specified in the bottom row of the table in Section 2.1 above (the "Closing Time").

- 4.2 Each Proponent must submit its Proposal in an envelope clearly marked with the Proponent's name and the RFP title and number ("Provision of Disability Management and Occupational Health Services; PS20130566") to the following address:

Vancouver City Hall
453 West 12th Avenue
Vancouver, British Columbia
Canada, V5Y 1V4

Notwithstanding the foregoing, envelopes submitted by courier or otherwise in-person should be delivered to:

Information Desk, Main Floor Rotunda,
Vancouver City Hall
453 West 12th Avenue
Vancouver, British Columbia
Canada, V5Y 1V4

- 4.3 To be considered by the City, a Proposal must be submitted under the cover of a Proposal Form, completed and duly executed by the relevant Proponent, including Part D, Appendix 1, Legal Terms and Conditions, thereto.
- 4.4 Proposals must not be submitted by fax or email.
- 4.5 Amendments to a Proposal may be submitted in the same manner as the original Proposal, at any time prior to the Closing Time.
- 4.6 Proponents should send one electronic copy (CD or USB) of the Proposal and three hardcopies bound in three-ring binders. It is not necessary to submit more than one hardcopy of the Proposal Form.
- 4.7 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.

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- 4.8 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.
- 4.9 Unnecessarily elaborate Proposals are discouraged. Proposals should generally be limited to the items specified in Part C of the RFP.
- 4.10 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium solely for the purpose of submitting a joint Proposal in response to the RFP, provided that they disclose the names of all members of the consortium and all members complete and execute a Proposal Form (Part D). Nonetheless, the City has a strong preference for proposals submitted by a single Proponent, including a Proponent that would act as a general contractor and use subcontractors as required.
- 4.11 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City's sole discretion.

5.0 CHANGES TO THE RFP AND FURTHER INFORMATION

- 5.1 The City may amend the RFP or make additions to it at any time.
- 5.2 It is the sole responsibility of Proponents to check the City's website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.
- 5.3 Proponents must not rely on any information purported to be given on behalf of the City that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2
- 5.4 An information meeting will not be held.

6.0 CONTRACT REQUIREMENTS

- 6.1 In addition to addressing the other requirements of Part C hereof, each Proponent must indicate in its Proposal the extent to which the sample form of Services Agreement included as Part E hereof is consistent with its Proposal. If the Proposal is inconsistent with any part of the Services Agreement, the Proponent must so state and must propose alternative contract language as part of its Proposal.
- 6.2 If the head office of a Proponent is located within the City of Vancouver or if the Proponent is to perform any work at a site located within the City of Vancouver, the execution of any Agreement will be contingent upon the Proponent having a valid City of Vancouver business license.
- 6.3 The initial term of any Agreement is expected to be a three-year period, with the City having the sole option to extend the Agreement for an additional two-year period after the initial contract term, for a maximum total contract term of five years.

7.0 PRICING

- 7.1 Prices shall be submitted in the form of Annex 3 - Prices for Services, supplemented as necessary to provide the other pricing information requested herein.
- 7.2 The Proponent must clearly indicate any assumptions associated with the prices submitted in Annex 3 - Prices for Services. By way of example only, if the Proponent submits prices which are based on the Proponent being awarded more than one component of the Services, then the

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Proponent shall clearly state that assumption. Furthermore, if this is the assumption being made by the Proponent, then the City requires the Proponent to also provide separate stand-alone prices for each component of the Services that the Proponent is making a Proposal on, so that the City may evaluate the cost of each component of the Services, should the City decide to award the Proponent only one component of the Services.

- 7.3 Further to 7.2 above, the Proponent shall indicate what incentive pricing the Proponent is willing to offer the City, if any, should the Proponent be selected for more than one component of the Services.
- 7.4 The Proponent shall provide details of any incentive pricing the Proponent is prepared to offer the City, such as pay-for-performance pricing based on achieving agreed-upon objectives, durable return-to-work outcomes, and other established service metrics. In this context, alternate pricing models may be proposed by the Proponent for the City's consideration.
- 7.5 In Annex 3 - Prices for Services, under *B. Claims Adjudication and Case Management Services*, if the Proponent is bidding only on the administrative services component, whereby the Proponent adjudicates each claim and issues payment directly to the employee on behalf of the City, then the Proponent must clearly show the breakdown of the pricing to show the pricing for the case management/adjudication component, separate from the pricing for the issuing of payments component.
- 7.6 Proponents must devise a fee-for-service, hourly charges pricing model based on actual utilization for case management, adjudication, and medical coordination and/or consultative services.
- 7.7 Proponents must set flat prices for services such as pre-employment medical examinations, addiction assessments, and testing.
- 7.8 Where medical status examinations, independent medical examinations, medical opinions by specialists, and medical review officer services are proposed to be provided in-house by a Proponent, the Proposal must indicate hourly fees for each. In any event, any successful Proponent must be able to provide an initial price estimate for all of the foregoing services, the final price for which will be within 10% of the initial estimated price.
- 7.9 Any successful Proponent will consider as flow-through expenses (i.e. adding no pricing mark-up to the City) any and all utilized external resources to fulfill portions of the Services, which, by way of example only, include but are not limited to: blood/urine tests; outside medical assessments; and occupational rehabilitation programs.
- 7.10 All prices quoted in any Proposal are to be exclusive of applicable sales taxes calculated upon such prices, but inclusive of all other costs.
- 7.11 Prices must be quoted in Canadian currency.
- 7.12 Fixed prices must be quoted for the full term of the Proponent's proposed agreement.
- 7.13 For the avoidance of doubt, insurance, all costs associated with importing, shipping or handling goods, overhead, profit and all other similar costs are to be included in quoted prices.

8.0 EVALUATION OF PROPOSALS

- 8.1 The City may open or decline to open Proposals in such manner and at such times and places as are determined by the City.

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- 8.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives to determine which Proposal or Proposals offer the overall best value to the City based on price, quality, service, innovativeness, environmental or sustainability concerns or benefits and other criteria including, but not limited to a Proponent's:
- (a) ability to meet the Requirements (as defined in Part C) as and when required, or ability to otherwise satisfy the City's objectives and requirements;
 - (b) skills, knowledge and previous experience;
 - (c) proposed plans and work schedules;
 - (d) business reputations and capabilities; and
 - (e) ability to meet the City's insurance requirements (note: the City may consider different insurance coverage, which the Proponent must state in the Deviations and Variations section of the Proponent's Proposal).

Certain other evaluation criteria may be set out in Part C or elsewhere in the RFP.

- 8.3 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.
- 8.4 The City may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Services Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.
- 8.6 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. Proponents may be asked to provide financial statements prepared by an accountant and covering at least the prior two years.
- 8.7 The City may request that any proposed subcontractors undergo evaluation by the City.
- 8.8 The City is not under any obligation to approve any Proposal and may elect to terminate the RFP at any time.
- 8.9 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to:
- (a) accept any Proposal;

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- (b) reject any Proposal;
- (c) reject all Proposals;
- (d) accept a Proposal which is not the lowest-price proposal;
- (e) accept a Proposal that deviates from the Requirements or the conditions specified in the RFP;
- (f) reject a Proposal even if it is the only Proposal received by the City;
- (g) accept all or any part of a Proposal;
- (h) split the Requirements between one or more Proponents; and
- (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time.

Without limiting the foregoing, the City may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

9.0 SUSTAINABILITY

- 9.1 The City's Ethical Procurement Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/prepare-your-bid.aspx> align the City's overall approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the City's commitment to maximize benefits to the environment through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. To the extent applicable, the Ethical Procurement Policy will be referred to in the evaluation of Proposals, and any successful Proponent will be expected to adhere to the Supplier Code of Conduct.
- 9.2 Proponents are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Proponent supply materials, and where such materials may cause adverse environmental effects, the Proponent is to indicate the nature of the hazard(s) in its Proposal. Furthermore, the Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate such adverse effects.

10.0 CERTAIN APPLICABLE LEGISLATION

- 10.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.
- 10.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

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11.0 LEGAL TERMS AND CONDITIONS

11.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in Appendix 1 to the Proposal Form (Part D). Except where expressly stated in such Appendix 1: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City.

11.2 Potential Proponents should review Appendix 1 to the Proposal Form carefully before submitting a Proposal. Among other things, potential Proponents must note that:

- (a) Except for limited duties in respect of the protection of confidential information and the resolution of legal disputes (as fully specified in Appendix 1 to the Proposal Form), the City does not have, and will not have, any legal obligations to a Proponent or to any proposed subcontractor of that Proponent in respect of the RFP or that Proponent's Proposal until such time as an Agreement is entered into with that Proponent.
- (b) The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process.
- (c) Except only and to the extent that the City is in breach of its duties with respect to a Proponent's confidential information, each Proponent is required to broadly release the City, its officials, its agents and its employees from liability for any losses incurred by the Proponent.
 - (a) Except only and to the extent that the City is in breach of its duties with respect to a Proponent's confidential information, each Proponent is required to broadly indemnify and hold harmless the City, its officials, its agents and its employees from and against losses in respect of any claim or threatened claim against any of them.
 - (b) Except with respect to the City's duties in respect of a Proponent's confidential information, even to the extent the city is found to have breached any duty to the Proponent, if any, the liability of the City, its officials, its agents and its employees to the Proponent will be limited to one hundred dollars (\$100).
 - (c) With limited exceptions set forth in such Appendix 1 to the Proposal Form, any dispute between the City and a Proponent will be subject to arbitration.
 - (d) All RFP-related documents provided to any Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.
 - (e) The documentation containing any Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal to the Proponent.
 - (f) The City will treat any Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information, subject, however, to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the City's full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to the Vancouver City Council or announcing the results of the RFP to Proponents.

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- (g) Proponents must not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City, which have been or are in the future provided or communicated to a Proponent at any time (whether before, during or after the RFP process). Furthermore, each Proponent must agree to not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (h) Each Proponent must waive any rights to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and must agree that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions), including, without limitation, records relating only to the Proponent.
- (i) Each Proponent must disclose whether any officer, director, shareholder, partner or employee of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest is:
 - i. an elected official or employee of the City; or
 - ii. related to or has any business or family relationship with any elected official or employee of the City,in each case such that there could be any conflict of interest or an appearance of a conflict of interest in the evaluation or consideration of the Proponent's Proposal by the City.
- (j) Each Proponent must disclose whether the Proponent or any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the City and the Proponent's or its subcontractors' duties to such third party.
- (k) Each Proponent is required to disclose whether the Proponent has any affiliation, whether legal or financial, with any other entity which is in the business of providing the same type of goods or services which are the subject of the RFP; and whether the Proponent is competing for purposes of the RFP process with any entity with which it is legally or financially associated or affiliated.
- (l) Each Proponent is required to disclose whether it or any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors: (1) is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; or (2) has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of its Proposal, to influence the outcome of the RFP process.
- (m) A Proponent must not disclose or promote any relationship between it and the City, including by means of any verbal declarations or announcements and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures, web sites or other written materials (whether in print, digital, electronic or other format) without the express prior written consent of the City. Each Proponent must undertake

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not to use the name, official emblem, mark, or logo of the City without the express prior written consent of the City.

12.0 DEFINITIONS

12.1 In the RFP, the following capitalized terms have the following meanings:

- (a) **"Agreement"** means a contract entered into between the City and a successful Proponent, if any, following the conclusion of the RFP process, which contract is expected to be in substantially the same form as the Services Agreement;
- (b) **"City"** means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (c) **"Services Agreement"** means the form of agreement contained in Part E of the RFP;
- (d) **"Proponent"** means an entity, which is not, by the terms hereof, restricted from submitting a Proposal, and which does submit a Proposal;
- (e) **"Proposal"** means a proposal submitted in response to the RFP; and
- (f) **"Proposal Form"** means the form contained in Part D of the RFP.

12.2 All other capitalized terms used in the RFP have the meanings given to them elsewhere in the RFP.

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1.0 INTRODUCTION

The City of Vancouver ("City") is renowned for its innovative programs in the areas of sustainability, accessibility and inclusivity. Our mission is to create a great city of communities which cares about its people, its environment and the opportunities to live, work and prosper. The City recognizes that in order to respond to Council priorities, to maintain high-quality core services and to ensure that the City delivers top-quality service to its citizens and its customers, we must rely on our employees.

Recognizing the importance of maintaining a healthy workforce, including good work-life balance, the City provides a number of benefits and employee support solutions. The City is seeking a highly competent and experienced vendor or vendors to provide a range of occupational health, medical assessment and disability management services.

2.0 BACKGROUND

The City is a complex multi-union work environment comprised of approximately 10,000 individuals employed each year for a total full time-equivalent of approximately 7,500.

These employees provide valuable services for the City, its Board of Parks & Recreation, its Vancouver Fire & Rescue Services, and related legal entities such as the Vancouver Public Library Board and the Vancouver Police Board.

With the RFP, the City seeks to find a company or companies that will support the City's hiring and health promotion initiatives, actively adjudicate benefit entitlement, manage employee health concerns and reduce the financial and human cost of occupational and non-occupational disabilities. The City's goal is to provide a framework to support employees and ensure they continue to be valued members of our organization.

The City recognizes that the prevention of injuries and the rehabilitation of its employees are important goals. The City believes that effective integration of disabled employees minimizes the loss of expertise, resources and productive potential and is the best strategy for maintaining our employees' potential and self-worth, all while managing economic costs.

The City seeks to:

- Focus on abilities rather than disabilities.
- Commit to the well-being and rehabilitation of all employees who are suffering from an injury or illness.
- Assist with an injured employee's treatment or rehabilitation by providing temporary transitional / modified work that is meaningful, assists the recovery process and can be performed safely and effectively without creating undue risk of delaying recovery or causing re-injury, or risk to other employees or City property.
- Help the employee maintain a positive outlook following an injury or illness.
- Maintain the trust and respect of the employee.
- Protect the confidentiality of the employee.
- Work with the injured or sick employee in the recovery and return-to-work process.
- Focus on the employee's needs, regardless of his or her ability to participate in return-to-work options.
- Provide a fair and consistent approach.

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- Maintain an atmosphere of mutual support, trust and co-operation.
- Assist employees to overcome the effects of their injuries or illnesses by recognizing the specific needs of each employee.
- Ensure other employees and appropriate supervisors / managers are aware of the required support for the returning employee.
- Manage the human and financial cost associated with disabilities.

The City's approach is supported by internal City professionals that include Team Leaders and Case Managers. In partnership with service providers, the City focuses on achieving positive outcomes through the use of evidence-based approaches to assessment, adjudication and disability / case management.

The City has approximate usage statistics which will be released to interested and qualified Proponents upon Proponents' signing and returning a Non-Disclosure Agreement (refer to Annex 8). Proponents are advised that the usage statistics should be used for guidance purposes only. The actual volumes of work per year may be more or less than the ranges specified. The City will utilize the services of any successful Proponent based on need, taking into consideration desired outcomes, best practices, laws and regulations, and any relevant agreements in effect.

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PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART C – CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

1.0 CITY REQUIREMENTS

- 1.1 The City seeks to enter into an Agreement or Agreements with a qualified Proponent or Proponents capable of fulfilling the requirements of the City and in a manner that supports the City's objectives and requirements.
- 1.2 Qualified Proponents should satisfy the following criteria (in addition to others stated herein):
- (a) Possess and demonstrate experience in the provision of disability management, medical assessment and/or occupational health services as described in Section 1.3, below;
 - (b) Have access to medical practitioners and specialists to perform applicable services described in Section 1.3, below;
 - (c) Have proven knowledge, skills, and abilities working with unionized employers; and
 - (d) Meet all or substantially all of the mandatory criteria and highly desirable qualifications listed in Section 1.9, below, which are relevant to the particular Services proposed.
- 1.3 To better enable us to meet the growing needs of the City and those of our employees we require professional Services covering the following key areas (together, the "**Requirements**"), which are further described in Annex 1 - Schedule of Detailed Requirements and Annex 2 - Work Scope:
- (a) Occupational health services;
 - (b) Adjudication and disability case management services in accordance with the Administrative Services Only (ASO) Disability Plan Document for Canadian Union of Public Employees Local 1004 (refer to Annex 7);
 - (c) Adjudication & assessment of accommodation cases;
 - (d) Disability/case management (of non-adjudicated cases);
 - (e) Independent medical examinations/opinions/assessments;
 - (f) Professional addictions assessment and monitoring services; and/or
 - (g) WorkSafeBC expertise/appeals work/after-hours support services,
- 1.4 Solutions and services may be utilized for employees within any City department as well as employees of related legal entities, such as the Vancouver Police Board and the Vancouver Library Board. Such related legal entities would be made party to any Agreement.
- 1.5 The Requirements stated herein are current as of the date hereof, but they may change or be refined in the course of the evaluation of Proposals or otherwise.
- 1.6 To the extent that the Requirements express estimates of quantities or volumes of goods or services expected to be required by the City, the City cannot offer any assurances that such quantities or volumes will in fact be required.

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1.7 Additional details on the Requirements are contained in Annex 1 - Schedule of Detailed Requirements and Annex 2 - Work Scope.

1.8 A Proponent may bid on one or more of the seven (7) components of the Services.

Each Proponent shall indicate, by completing a table in the form of the below and including it in its Proposal, which component(s) of the Services the Proponent is making a Proposal in respect of:

Component of the Services	Proponent is bidding on this component
a) Occupational health services	YES / NO
b) Adjudication and disability case management	YES / NO
c) Adjudication and assessment of accommodation cases	YES / NO
d) Disability/case management (of non-adjudicated cases)	YES / NO
e) Independent medical examinations/opinions/assessments	YES / NO
f) Professional addictions assessment and monitoring services	YES / NO
g) WorkSafeBC expertise/appeals work/after-hours support services	YES / NO

1.9 The table below states additional mandatory requirements and highly desirable qualifications for Proponents. These some items of a general nature and some that are specific to individual components of the Services. Each Proponent must complete the general section and each of the sections corresponding to the components of the Services in respect of which it is making a Proposal. Preference will be given to Proponents who satisfy all of the relevant mandatory requirements and have all of the relevant highly desirable qualifications.

Mandatory / Highly Desirable Requirement	Can the Proponent satisfy the requirement?
General	
MANDATORY: Has a valid license to practise in the Province of British Columbia	YES / NO [if 'NO', provide reason]
MANDATORY: Will provide the Services during core City business hours, 8:30 am - 5:00 pm, Monday to Friday (exclusive of statutory holidays), by telephone and/or through on-site meetings	YES / NO [if 'NO', provide reason]
MANDATORY: Will maintain secure control of all City records	YES / NO [if 'NO', provide reason]

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and all personal information (as defined under applicable privacy legislation) on the Proponent's servers within Canada or third-party servers within Canada approved by the City and will not store any information outside Canada	
MANDATORY: When called upon, will be involved with the City in legal arbitrations and/or other legal proceedings	YES / NO [if 'NO', provide reason]
HIGHLY DESIRABLE: Will provide the Services outside of core City business hours for pre-scheduled appointments at the request of the City	YES / NO [if 'NO', provide reason]
A - Occupational Health Services	
MANDATORY: Can provide access within five business days for employee assessments	YES / NO [if 'NO', provide reason]
MANDATORY: Can deliver occupational health ("OH") services that are consistent with the requirements described in Annex 2 - Work Scope	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide occupational health physician services during core City business hours - 8:30 am - 5:00 pm, Monday to Friday (exclusive of statutory holidays)	YES / NO [if 'NO', provide reason]
HIGHLY DESIRABLE: Has an occupational health physician available 24 hours per day, 7 days per week, for utilization by the City under exceptional and urgent circumstances	YES / NO [if 'NO', provide reason]
MANDATORY: Has experience working with firefighters and police officers, and has knowledge of NFPA Medical Guidelines for Firefighters	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide detailed reports of activities and costs on a monthly basis	YES / NO [if 'NO', provide reason]
B - Claims Adjudication & Case Management Services	
MANDATORY: Can deliver disability management services for psychological conditions	YES / NO [if 'NO', provide reason]
MANDATORY: Can ensure that appropriate back-up staff are assigned and readily available if the primary contact(s) are not	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide detailed reports of activities and costs on a monthly basis	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide statistical reporting for disability case management on a quarterly and annual basis	YES / NO [if 'NO', provide reason]
MANDATORY: Will contact the assigned City representative within 24 business hours of receiving a referral	YES / NO [if 'NO', provide reason]

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MANDATORY: Will assure coverage for the Proponent's team members' vacations and illnesses, to ensure no service disruptions to the City or its employees	YES / NO [if 'NO', provide reason]
MANDATORY: Will review independent medical examination (IME) reports and provide the appropriate City representative with a summary report within five (5) working days of receiving the IME report	YES / NO [if 'NO', provide reason]
HIGHLY DESIRABLE: Will follow up with an employee's physician within five (5) working days if no response is received for medical information	YES / NO [if 'NO', provide reason]
HIGHLY DESIRABLE: Will provide recommendations to the City within two (2) business days of receiving applicable information from stakeholders (i.e. employee, City, medical practitioner)	YES / NO [if 'NO', provide reason]
D - Disability / Case Management (non-adjudicated cases) [if the Proponent is bidding on this service]	
MANDATORY: Has in-house or external access to occupational health physicians and other medical specialties	YES / NO [if 'NO', provide reason]
MANDATORY: Has experience working with firefighters and police officers, and has knowledge of NFPA Medical Guidelines for Firefighters	YES / NO [if 'NO', provide reason]
E - Independent Medical Examinations / Opinions / Assessments	
MANDATORY: Has internal (in-house) medical resources and/or is able to provide access to external medical resources to provide independent medical examinations and assessment services	YES / NO [if 'NO', provide reason]
MANDATORY: Has experience working with firefighters and police officers, and has knowledge of NFPA Medical Guidelines for Firefighters	YES / NO [if 'NO', provide reason]
F - Professional Addictions Assessment and Monitoring Services	
MANDATORY: Can ensure "chain of custody" for all biological testing	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide monthly reporting confirming an employee's compliance with treatment recommendations	YES / NO [if 'NO', provide reason]
MANDATORY: Can ensure immediate same-day contact with the employer in all cases of "gross non-compliance"	YES / NO [if 'NO', provide reason]
MANDATORY: Can ensure access to a medical review officer for interpretation of laboratory results as needed	YES / NO [if 'NO', provide reason]

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MANDATORY: Has experience working with firefighters and police officers, and has knowledge of NFPA Medical Guidelines for Firefighters	YES / NO [if 'NO', provide reason]
G - WorkSafeBC Expertise	
MANDATORY: Can represent the employer at all levels of appeal hearings	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide written submissions to the Board related to protests, appeals and reviews as requested by the City	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide consulting services /expertise on WorkSafeBC matters and issues that may arise	YES / NO [if 'NO', provide reason]
MANDATORY: Can provide training to City staff on WorkSafeBC matters	YES / NO [if 'NO', provide reason]

2.0 ITEMS TO BE ADDRESSED IN EACH PROPOSAL

Each Proposal must contain: (1) a "Technical Proposal"; and (2) a "Commercial Proposal."

The sections of each Proposal should be arranged in the order in which they are referred to in this Part C, Section 2.0. Proponents should avoid, to the extent possible, the inclusion of other top-level Proposal sections.

2.1 The Technical Proposal must have:

- (a) a title page that clearly indicates the name of the Proponent and the title and number of the RFP;
- (b) a detailed table of contents;
- (c) a section titled, "Introduction, Corporate Profile & Experience", consisting of the following:
 - i. an introduction containing an executive summary of the Proposal without any pricing information;
 - ii. a profile of the Proponent, including:
 - 2.1.c.ii.1. a corporate history (e.g. length of time in business, number of employees and organizational structure, financial stability and proven ability to successfully deliver the services being proposed)
 - 2.1.c.ii.2. information on its facilities (including details of the work locations from which the Services will be provided); and
 - 2.1.c.ii.3. any other company information that the Proponent determines should be known by the City to fulfill the requirements stated in this RFP;

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- iii. information concerning the Proponent’s staffing model and applicable roles;
 - iv. details of in-house resources and expertise;
 - v. Details on available external resources and expertise (if applicable), indicating which external resources the Proponent currently has partnerships and/or relationships with;
 - vi. Information concerning previous experience in providing each of the applicable Services listed in Section 1.3 above (details shall include size, scope, and requirements for each of the applicable services listed in Section 1.3 above); and
 - vii. References, consisting of a minimum of three (3) relevant references on projects of comparable scope, including:
 - 2.1.c.vii.1. Client name;
 - 2.1.c.vii.2. Client’s contact name/position/telephone number/email address; and
 - 2.1.c.vii.3. Nature of the services Proponent provided for the client;
- (d) a section titled, “Quality Assurance / Client Satisfaction”, describing in detail what quality assurance measures the Proponent will provide to the City. In particular:
- i. Describe the metrics and service standards for each service the Proponent is interested in (from Section 1.3 above) and state how the Proponent will ensure compliance with its commitment;
 - ii. Describe any associated accreditations and/or governing bodies the Proponent’s organization has successfully obtained and/or subscribes to;
 - iii. Describe how client satisfaction is measured and reported;
 - iv. Describe how outcomes are measured and reported;
 - v. Describe the Proponent’s complaint-resolution procedure;
 - vi. State how often the Proponent conducts internal audits and/or surveys of its services;
 - vii. Describe how results are reported to the client/customer organization; and
 - viii. State whether the Proponent willing to undergo an independent external audit at the request and cost of the City;
- (e) a section titled, “Intake / Workflow Management”, describing:
- i. the Proponent’s intake and workflow management process as it pertains to the services the Proponent is proposing to provide;
 - ii. how the Proponent will provide coverage for vacation and team absences to ensure no service interruptions are experienced by the City or its employees; and

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- iii. for occupational health physician and/or WorkSafeBC after-hours support services, details of the Proponent's ability and process for handling weekend, evening, holiday and other non-core business hours service needs;
- (f) a section titled, "Confidentiality", addressing:
 - i. how the Proponent's reporting statistics maintain confidentiality;
 - ii. how long files are retained by the Proponent;
 - iii. retention of electronic versions of identifying client information;
 - iv. where indicated, how employees are assured of confidentiality when dealing with the Proponent; and
 - v. how the Proponent is able to meet specific accreditation standards for maintaining confidentiality of records, as well as and reporting;
- (g) a section titled, "Transition", addressing:
 - i. transitioning current services from the incumbent provider, to ensure success;
 - ii. ensuring continuity of the service(s) with the Proponent (i.e. no service disruption); and
 - iii. any costs (describing details), if applicable, to be borne by the City, during the transition of services, as well as details on what services will be provided during transition that will not have any additional cost to the City;
- (h) a section titled, "Reporting/Billing", describing:
 - i. the Proponent's ability to provide the City with detailed billings by department and location, of which more detailed reports will be required quarterly and annually;
 - ii. the Proponent's ability to provide the City regular reporting on a quarterly and annual basis which demonstrates reporting/metrics, issue/needs identification, usage by department, outcome measures, and return on investment;
 - iii. the Proponent's ability to customize reports; and
 - iv. Any costs associated with the required reporting as described in i., ii., and iii., above;
- (i) a section titled "Responses to Annex 1 - Schedule of Detailed Requirements," addressing each of the numbered sections of to Annex 1 - Schedule of Detailed Requirements and demonstrating the Proponent's understanding of, and ability to provide the Services;
- (j) a section titled, "Responses to Annex 2 - Work Scope", describing the features, approach and philosophy that the Proponent has for each of the Services (as listed in Section 1.3 above) the Proponent is proposing to provide the City and addressing in detail each of the City requirements for those Services set out in Annex 2 - Work Scope. This section, at minimum, shall include details pertaining to theProponent's experience

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and ability to meet the specific requirements, in addition to addressing the questions posed for each service as outlined in Annex 2 - Work Scope;

- (k) a completed Component of the Services table, per Part C, Section 1.8, above; and
- (l) a completed Mandatory / Highly Desirable Requirements table, per Part C, Section 1.9, above.

2.2 The Commercial Proposal must contain:

- (a) a completed and signed Proposal Form, found in Part D - Proposal Form;
- (b) a completed and signed Appendix 1 to Proposal Form, found in Part D - Proposal Form;
- (c) full details of the Proponent's proposed pricing and payment terms, which must be in accordance with Part A of the RFP, and, which must include a completed table in the form of Annex 3 - Prices for Services;
- (d) a completed Sustainability Initiative table, per the below:

The City is committed to environmental and socio-economic sustainability. The Proponent shall use this table to describe the environmental aspects of its Proposal.			
Sustainability Initiative	Description	Details	Response
a. Waste Reduction	The City aims to reduce waste where possible.	Tell us how your firm addresses waste minimization and diversion of waste from the landfill in the design of your product or service and its associated delivery, use and disposal. Examples include take-back programs you may have for your products at end-of-life or products that are made from recycled materials.	
b. Toxic Reduction	The City aims to reduce toxins and hazardous substances in the workplace where possible.	Tell us what steps your firm has taken to use 'design for environment' principles to reduce toxic and hazardous substances found in your products. Examples could include products that contain polyvinyl chlorides (PVCs) or volatile organic compounds (VOCs).	
c. Socio-economic Sustainability	Socio-economic sustainability is important to the City. As such, The City aims to do business with suppliers who are striving to advance social and economic wellbeing in the community.	Tell us about your firm's efforts with regards to socio-economic sustainability. Examples include, but are not limited to, broadening educational and professional development opportunities, supporting minority/youth	

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The City is committed to environmental and socio-economic sustainability. The Proponent shall use this table to describe the environmental aspects of its Proposal.

Sustainability Initiative	Description	Details	Response
		groups, and supporting low-threshold job programs for vulnerable people.	

- (e) a section titled "Deviations and Variations," in which the Proponent should: (i) note proposed deviations or variations from the terms and conditions set out in the RFP or from the Requirements, even if such deviations or variations are also noted elsewhere in the Proposal; and (ii) detail proposed amendments to the Services Agreement. If no amendments to the Services Agreement are proposed, the Proponent must state that its Proposal is fully consistent with the Services Agreement;
- (f) a section entitled "Conflicts; Collusion; Lobbying" as necessary;
- (g) a Certificate of Existing Insurance, in the form of Annex 4 to the RFP, duly completed and signed by its insurance agent or broker as evidence of its existing insurance;
- (h) a letter from its insurance broker or agent indicating whether or not (and, if not, then to what extent) it will be able to comply with the insurance requirements set out in Section 10.03 of the Form of Services Agreement, should the Proponent be selected as a successful Proponent. Any successful Proponent will also be required to provide proof of the satisfaction of all insurance requirements prior to or concurrently with the City entering into any Agreement;
- (i) proof of valid WorkSafeBC registration. Such registration should be maintained as specified in Section 10.03 of the Form of Services Agreement;
- (j) a completed and signed Supplier Code of Conduct Compliance Form (Annex 5); and
- (k) a completed and signed Vendor Sustainability Leadership Questionnaire (Annex 6).

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PART D - PROPOSAL FORM

PROPOSAL FORM

RFP No. PS20130566, Provision of Disability Management and Occupational Health Services (the
"RFP")

Proponent's Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____ Fax: _____

E-mail: _____

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the City's website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agreed to the Legal Terms & Conditions attached as Appendix 1 hereto and has separately executed such Appendix 1.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

REQUEST FOR PROPOSAL NO. PS20130566
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PART D - PROPOSAL FORM

APPENDIX 1 TO PROPOSAL FORM

LEGAL TERMS AND CONDITIONS

1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2 DEFINITIONS

In this Appendix 1, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent as a result of the RFP.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means that certain Part D of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the City as Request for Proposal No. PS20130566, as amended from time to time and including all addenda.

REQUEST FOR PROPOSAL NO. PS20130566
PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART D - PROPOSAL FORM

3 NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 11 of this Appendix 1, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City's sole discretion.

4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

5 EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion.

5.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the City is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

REQUEST FOR PROPOSAL NO. PS20130566
PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART D - PROPOSAL FORM

5.4 Acceptance or Rejection of Proposals

The City has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the City; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

6 PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

- (a) any alleged (or judicially determined) breach by the City or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially))
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process,
- (c) the Proponent preparing and submitting the Proposal;
- (d) the City accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the City: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the City enters any agreement respecting the subject matter of the RFP.

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) breach by the City or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

REQUEST FOR PROPOSAL NO. PS20130566
PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART D - PROPOSAL FORM

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 1), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of one hundred dollars (\$100), despite any other term or agreement to the contrary.

7 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the City and any proponent with whom the City has entered a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;
- (b) Section 6 of this Appendix 1 will:
 - i. bind the City, the Proponent and the arbitrator; and
 - ii. survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

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PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART D - PROPOSAL FORM

8 PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

- (a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.
- (b) The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal to the Proponent.

8.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the City's full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to the Vancouver City Council on the proposal results or announcing the results of the RFP, the City will treat the Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

8.3 All City Information Confidential

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

The Proponent confirms and warrants that there is no officer, director, shareholder, partner or employee of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:

- (a) an elected official or employee of the City; or
- (b) related to or has any business or family relationship with any elected official or employee of the City,

in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

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9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the City and the Proponent's or its subcontractors' duties to such third party, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

- (a) the Proponent has no affiliation, whether legal or financial, with any other entity which is in the business of providing the same type of goods or services which are the subject of the RFP; and
- (b) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

9.4 Declaration as to Lobbying

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

10 NO PROMOTION OF RELATIONSHIP

The Proponent must not disclose or promote any relationship between it and the City, including by means of any verbal declarations or announcements and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures, web sites or other written materials (whether in print, digital, electronic or other format) without the express prior written consent of the City. The Proponent undertakes not to use the name, official emblem, mark, or logo of the City, including without limitation, "City of Vancouver", "Vancouver Police Board", "Vancouver Public Library", "Vancouver Park Board", "Vancouver Board of Parks and Recreation", or any other reference to any of the foregoing, without the express prior written consent of the City.

11 GENERAL

- (a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive

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the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.

- (b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.
- (d) The Proponent consents to the City contacting any references named by the Proponent in the Proposal.

AS EVIDENCE OF THE PROPONENT'S INTENT TO BE LEGALLY BOUND BY THIS APPENDIX 1, THE PROPONENT HAS EXECUTED AND DELIVERED THIS APPENDIX 1 AS AN INTEGRAL PART OF ITS PROPOSAL FORM IN THE MANNER AND SPACE SET OUT BELOW:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

REQUEST FOR PROPOSAL NO. PS20130566
PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
PART E - FORM OF SERVICES AGREEMENT

PART E - FORM OF SERVICES AGREEMENT (52 pages to follow)

FORM OF SERVICES AGREEMENT

BETWEEN

/SUPPLIER NAME/

AND

THE CITY OF VANCOUVER

RELATING TO */•/*

DATED

/•/

Form of Services Agreement
FORM OF SERVICES AGREEMENT

THIS AGREEMENT is made as of [●]

BETWEEN:

[Supplier Name], a *[corporation]* organized under the laws of [●]
and having an office at [●] (hereinafter referred to as the
“Supplier”)

AND

The City of Vancouver, a municipal corporation continued under
the *Vancouver Charter* (British Columbia) and having an office at
453 West 12th Avenue, Vancouver, British Columbia, V5Y 1V4
(hereinafter referred to as the “City”).

*[NOTE: The City will consider and determine whether to add
other City legal entities as parties, or have services provided to
other City legal entities upon the instructions of the City, but
without adding them as parties. In any event, modifications will
be required to final Agreements to accommodate such other legal
entities.]*

WHEREAS the Supplier is in the business of [●],

AND WHEREAS the City wishes to procure [●] from the Supplier upon and subject to the terms
and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the
parties hereto agree as set forth herein.

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ARTICLE 1

INTERPRETATION

1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“Agreement” means this agreement, including the schedules hereto, and all amendments made hereto or thereto by written agreement between the Supplier and the City;

“Background IP” has the meaning ascribed thereto in Section 13.04;

“Business Day” means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday;

“Change in Control” means an occurrence whereby a person (or persons acting in concert) acquires control of the relevant entity;

“City Policies” means any or all (as the context requires) of those procedures, standards and/or standard specifications, requirements, policies and the like listed in Schedule G or notified to the Supplier from time to time, as the same may be updated, modified, expanded, revised, supplemented and/or replaced from time to time by the City (as notified to the Supplier);

“City’s Manager” has the meaning ascribed to such term in Section 4.01(a);

“Competent Authority” means (i) any multinational, federal, provincial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, agency, commission, board or authority of any government or governmental body, domestic or foreign, (ii) any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing or (iii) any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing;

“Confidential Information” means all or any confidential information (however recorded or preserved) disclosed before, on or after the date of this Agreement by either Party or any of its Representatives to the Party or its Representatives in connection with this Agreement, concerning:

- (a) this Agreement; or
- (b) the affairs, operations, processes, know-how, suppliers, plans or intentions of the disclosing Party or of any member of the disclosing Party’s Group, including, without limitation, any information which is not generally known to the public or

which has been specifically identified as confidential or proprietary by the disclosing Party,

but does not include:

- (c) any information that is or becomes generally available to the public or to industry professionals (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Agreement);
- (d) any information that was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;
- (e) any information that was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement or other duty of confidentiality with or to the disclosing Party or a member of the disclosing Party's Group or otherwise prohibited from disclosing the information to the receiving Party;
- (f) any information that was known to the receiving Party before the information was disclosed to it by the disclosing Party or its Representatives and was not subject to a confidentiality agreement or other duty of confidentiality (including any obligation under this Agreement) with or to the disclosing Party or a member of the disclosing Party's Group;
- (g) any information that the Parties agree in writing is not confidential or may be disclosed; and
- (h) any information unrelated to this Agreement that is developed by or for the receiving Party independently of and without reference to the information disclosed by the disclosing Party;

“Consent” means an approval, clearance, registration, franchise, right, privilege, certification, quota, consent, permit, licence, qualification, filing, exemption, certificate or permission and any such other matter or authorization whatsoever, including any condition thereof, that is lawfully and necessarily required under any Law or from any Competent Authority in connection with the Services or the Site;

“Contract Price” means the amounts payable (subject to and in accordance with the terms of this Agreement) by the City to the Supplier in return for the proper performance by the Supplier of its obligations under this Agreement, as detailed in Schedule B;

“Defect” means any part of the Services (or omission therefrom) which is defective, deficient or incomplete or does not otherwise comply with the requirements of this Agreement;

“Documentation” means calculations, computer programs and other software, drawings, designs, plans, manuals, records, reports, documents, papers, photos, typographical arrangements, models, contract documents, deliverables, agreements, tender/enquiry

documents, and all other materials in whatever form, including but not limited to tangible copies and electronic forms, supplied either by or on behalf of the Supplier or generated collaboratively by the Parties in the course of the provision of the Services under this Agreement;

“Effective Date” has the meaning ascribed to such term in Section 2.01;

“Encumbrance” means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation;

“Environmental Law” means any Law which imposes any obligations relating to:

- (a) the protection, management, conservation or restoration of the natural environment;
- (b) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and
- (c) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.

“Force Majeure” means, exhaustively, any:

- (a) war, hostilities (whether war is declared or not), invasion, act of foreign enemies;
- (b) rebellion, terrorism (or threat of terrorism), revolution, insurrection, military or usurped power or civil war;
- (c) riot, civil commotion or disorder, strike or lockout by persons other than the Supplier’s personnel and other employees, Subcontractors or any other person for whom the Supplier is responsible;
- (d) natural catastrophe such as an earthquake, forest fire, landslide or flood; or
- (e) change in Law or action by a Competent Authority, which makes it illegal or impossible for either Party to perform its obligations under this Agreement;

“Good Industry Practice” means, in relation to the Services or the performance of any other obligation under this Agreement, the practices, and the application of the skill, care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced international contractor carrying out or procuring

equivalent services of similar type, scope and value, in the same or similar location and in similar circumstances to those pertaining to the Supplier;

“Group” means:

- (a) in respect of the Supplier, the group constituted from time to time by:
 - (i) the Supplier;
 - (ii) all persons that directly or indirectly control or are controlled by the Supplier; and
 - (iii) all persons that are directly or indirectly controlled by any person that directly or indirectly controls the Supplier; and
- (b) in respect of the City, the group constituted from time to time by:
 - (iv) the City; and
 - (v) all bodies corporate directly or indirectly controlled by the City.

“Hazardous Substance” means any substance or material that is prohibited, controlled or regulated by any Competent Authority pursuant to any Environmental Law including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law;

“Intellectual Property Rights” means any and all current and future any and all proprietary rights provided under patent law, copyright law, design patent or industrial design law, or any other applicable statutory provision or common law principle, including trade secret law, that may provide a right in ideas, formulae, algorithms, concepts, inventions, know-how, computer software, database or design, or the expression or use thereof, whether registered or unregistered, together with any right to apply for or register any of the foregoing;

“Key Project Personnel” means the persons named in Schedule H (Key Project Personnel) and any replacement(s) approved by the City in accordance with Article 6;

“Laws” means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, determinations or awards of any Competent Authority whether or not having the force of law and any legal requirements or bases of liability under the common law or civil law, including all such Laws relating to Taxes, the environment, human health or safety, pollution and other environmental degradation, and hazardous materials, which affect or are otherwise applicable to the Services, the Supplier, the Site or any other lands affected by the Services;

“OHS Requirements” means all Law applicable to the Services and related to occupational health or safety, and all of the City Policies that relate to occupational health or safety, and includes without limitation the WCA;

“Parties” means the City and the Supplier and **“Party”** means one of them or either of them, as the context requires;

“Permitted Purpose” has the meaning ascribed thereto in Section 0;

“Proposal” means the Supplier’s proposal dated [●], submitted by the Supplier to the City in response to the RFP;

“Release” means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal;

“Representative” means a Group member of a Party, or an official, officer, employee, agent, subcontractor or other representative of a Party or any member of its Group, or any other person for whom the Party is responsible;

“RFP” means the City’s Request for Proposal number PS20130566;

“Safety Incident” means:

- (a) a failure by the Supplier or any Subcontractor to comply with any OHS Requirements; or
- (b) any hazard, incident or accident caused by the Supplier or a Subcontractor.

“Sales Tax” has the meaning ascribed to such term in Section 15.01;

“Supplier’s Manager” has the meaning ascribed to such term in Section 4.02(a);

“Site” means each of the City worksites at which any part of the Services shall be performed.

“Subcontractor” means any person named in a schedule to this Agreement as a subcontractor, or any other person appointed by the Supplier, in accordance with this Agreement, to perform any part of the Services;

“Services” means the goods, services and works described in Schedule A, which are, at the times and in the quantities directed by the City, to be provided to the City by the Supplier in accordance herewith, and any other services to be provided by the Supplier pursuant to this Agreement;

“Taxes” means all taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Competent Authority, including:

- (a) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, import, customs, profits, windfall profits, environmental, carbon, emissions, pollution, payroll, employment, employer health, pension plan, anti-dumping, countervailing, or excise tax, duty, import, levy, assessment, tariff or other charge;
- (b) all withholdings on amounts paid to or by the relevant person;
- (c) all statutory remittances, employment insurance premiums and social security or pension plan contributions or premiums and Canada pension plan contributions;
- (d) any fine, penalty, interest or addition to tax;
- (e) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency or fee; and
- (f) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;

“Time(s) for Completion” means the time(s) stated in Schedule E by which the Services or any part thereof must be completed, as such time(s) may be adjusted, strictly in accordance with this Agreement;

“Variation” has the meaning ascribed to such term in Section 3.08; and

“WCA” means the *Workers Compensation Act* (British Columbia), and the regulations thereunder.

1.02 **Headings**

This division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement, including its schedules, and not to any particular article, section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to articles, sections and schedules are to articles, sections and schedules of this Agreement.

1.03 **Extended Meanings**

In this Agreement:

- (a) words importing the singular include the plural and vice versa, words importing a gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, except where the context requires otherwise;

- (b) any provision calling for “agreement” requires the relevant agreement to be recorded in writing and signed by both Parties;
- (c) the words “include”, “includes”, “including” and “included” shall be construed without implying limitation by the words which follow those words and without prejudice to the generality of the provisions to which such words relate, unless inconsistent with the context, and the rule of interpretation known as *ejusdem generis* shall not apply;
- (d) each reference to a specific statute, regulation, law or any subordinate instrument or statutory or regulatory provision shall be construed as including any legal or regulatory provision which subsequently amends or replaces the same, and shall include any and all subordinate instruments, orders, rules, regulations and bylaws made thereunder or guidelines issued in respect thereof;
- (e) each reference to a writing means a writing that is hand-written, type-written, printed or electronically made, and which results in a permanent un-editable record; and
- (f) “**control**” when used to describe a relationship between one person and any other person, has the following meanings:
 - (vi) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
 - (vii) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that Person and the Person is able to direct the business and affairs of the entity;
 - (viii) the general partner of a limited partnership controls the limited partnership; and
 - (ix) a person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

1.04 **Schedules**

The following are the schedules hereto, each of which is deemed to be part hereof:

Schedule A	-	SCOPE OF SERVICES
Schedule B	-	PRICES FOR SERVICES
Schedule C	-	ITEMS TO BE PROVIDED BY THE CITY
Schedule D	-	SPECIFIC DELIVERABLES

Schedule E	-	TIME SCHEDULE FOR SERVICES
Schedule F	-	PROJECT BUDGET
Schedule G	-	CITY POLICIES
Schedule H	-	KEY PROJECT PERSONNEL

[NOTE: Certain of these schedules and references to them may be deleted from a final Agreement if inapplicable.]

ARTICLE 2 **EFFECTIVENESS**

2.01 Effective Date

This Agreement shall come into full force and effect on the date hereof (the “Effective Date”).

2.02 Term

Unless earlier terminated pursuant to Article 11, this Agreement shall terminate on the third anniversary of the Effective Date, or on such later date as the Parties may agree in writing.

ARTICLE 3 **SERVICES; GENERAL TERMS**

3.01 Services

- (a) During the term of effectiveness of this Agreement, the Supplier shall provide the Services to the City, at the times and in the quantities directed by the City, and otherwise in accordance with the directions of the City and in conformity with this Agreement.
- (b) The Supplier shall maintain at all times sufficient business capacity and inventories of the supplies necessary for the provision of the Services, to meet the business plans and requirements of the City.

3.02 Application to Prior Acts

Insofar as the Supplier has commenced any part of the Services prior to the Effective Date, such services shall, as of the Effective Date, be deemed to be performed under and subject to the terms of this Agreement, unless otherwise expressly agreed between the Supplier and the City.

3.03 Sufficiency and Competence of Personnel

- (a) The Supplier shall have and maintain at all times and in accordance with all applicable Laws, sufficient numbers of fit, skilled, qualified and experienced

personnel to carry out the provision of the Services within the times and in the manner required by the City.

- (b) The Supplier warrants that it has (and its Subcontractors, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the Services.
- (c) Insofar as the Services involves the Supplier in performing design work, such design work shall be carried out by qualified designers who are engineers or other professionals who comply with the criteria stated in Schedule A (Scope of Services) or, where not so stated, in accordance with Good Industry Practice.

3.04 **Standards and Requirements**

The Supplier shall (and shall procure that its Subcontractors) provide the Services and perform all other obligations under this Agreement in an expeditious manner and at all times in accordance with:

- (a) all applicable Laws and Consents;
- (b) the specific requirements of Schedule A (Scope of Services), Schedule D (Specific Deliverables), Schedule E (Time Schedule for Services), Schedule F (Project Budget) and the instructions of the City;
- (c) the City Policies; and
- (d) where no higher standard is expressly required of the Supplier under this Agreement, Good Industry Practice,

and the Supplier shall comply with the standards and requirements in subsections (a) to (d) above in the order of priority in which such standards or requirements are listed (with subsection (a) being of highest priority).

3.05 **Consents**

The Supplier shall, at the Supplier's sole expense, obtain, maintain and comply with all Consents required by Law to enable it to perform its obligations under this Agreement, except to the extent otherwise expressly stated in the schedules hereto.

3.06 **Warranties**

- (a) The Supplier warrants that the Services shall be performed in accordance with this Agreement and to the best practice standards of diligence, skill, care and efficiency expected of a competent contractor performing work of a similar nature to the Services;
- (b) The Supplier shall deliver or assign all documentation and offer all required assistance to the City to ensure that the City receives the benefit of any product

warranties provided by the suppliers of any goods or materials included in the Services.

3.07 **Relationship Between the Parties**

- (a) The Supplier in its provision of the Services and its performance of its obligations under this Agreement shall at all times act as an independent contractor on its own account and shall have no authority to act as the City's agent unless expressly empowered to do so by the City. This Agreement shall not be deemed to create any relationship of partnership, agency, joint enterprise or other like relationship between the Parties, and the Supplier shall be solely responsible for all employment-related obligations in connection with its employees, its other Representatives and its Subcontractors and their employees.
- (b) The City is not bound to treat the Supplier as its exclusive supplier of any goods or services.

3.08 **Variations Requested by the City**

- (a) Any instruction given by the City which constitutes or gives rise to a change to the scope of the Services expressed in Schedule A (Scope of Services) or to the items expressed in Schedule D (Specific Deliverables), shall constitute a "Variation" and shall be governed by and subject to this Section 3.08.
- (b) During the term of this Agreement, the City may at any time effect a Variation by notice in writing to the Supplier, and the Supplier shall not be entitled to refuse to implement any Variation unless the carrying out of such Variation would contravene any Law (in which case the Supplier shall promptly give notice to the City).
- (c) If the Supplier is of the opinion that a Variation justifies an increase to the Contract Price or a change to the Time(s) for Completion, the Supplier shall submit a claim to the City which sets out the Supplier's assessment of the impact the Variation should have on the Contract Price and the Time(s) for Completion, and thereafter:
 - (i) the City shall consider that claim as soon as possible and may request the Supplier to Services such further evidence as is reasonably required to confirm the details of such claim (and, as soon as practicable after such further evidence is available to it, the Supplier shall provide it to the City); and
 - (ii) within 10 Business Days after the receipt of all the information requested by the City, the Supplier and the City shall meet in order to agree any variations to the Contract Price or the Time(s) for Completion, and corresponding changes to Schedule F (Project Budget), as necessary, which such agreement must be evidenced in writing.

- (d) If no agreement is reached under 3.08(c)(ii) within 20 Business Days of the Parties' first meeting (or such other period as the Parties may agree), the Parties may then refer the matter for arbitration in accordance with Article 16.
- (e) Notwithstanding the foregoing, the City shall be entitled to replace, revise, expand or modify the City Policies at any time upon notice to the Supplier, and no such change shall be considered to be a Variation.

ARTICLE 4

CONTRACT MANAGERS

4.01 City's Managers

- (a) **/●/** and **/●/** (each a "City's Manager") each have full authority to act on behalf of the City in relation to all matters arising under this Agreement.
- (b) Any instruction from the City to the Supplier pursuant to this Agreement shall be issued through an executive officer of the City or through a City's Manager and shall only be effective if in writing or confirmed in writing within seven days of oral instruction. Failure to comply with this Section 4.01 shall render any purported City's instruction invalid. However, this restriction does not apply to any instruction issued in an emergency situation or which relates to a threat or potential threat to the life, health or safety of any individual.
- (c) Notwithstanding the foregoing, each City's Manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the Supplier.

4.02 Supplier's Managers

- (a) **/●/** and **/●/** (each a "Supplier's Manager") each have full authority to act on behalf of the Supplier in relation to all matters arising under this Agreement, and any instruction given by the City (through an executive officer or City's Manager) to either of them shall be deemed to be valid and effective, if given as stated in Section 4.01(b).
- (b) Each Supplier's manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the City.

4.03 Designation of New Managers

The City may designate new City's Managers, or remove that designation from any individual, and the Supplier may designate new Supplier's Managers, or remove that designation from any individual, from time to time, each at its own discretion, through written notice to the other Party.

ARTICLE 5
SUPPLIERS' WARRANTIES AND COVENANTS

5.01 General Representations and Warranties

The Supplier represents and warrants that:

- (a) the Supplier has the full right, power, and authority to enter into this Agreement and to perform the Services;
- (b) the Supplier is a **/●/** duly organized, validly existing and in good standing under the laws of **/●/** and is lawfully authorized to do business in the Province of British Columbia;
- (c) the Supplier is not a party to or bound by any agreement (written or oral), indenture, instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement does or shall constitute or result in a violation or breach;
- (d) the Supplier has a valid City of Vancouver business license;
- (e) all statements made by the Supplier in its Proposal are true and accurate;
- (f) the Supplier is fully experienced in the design and management of projects or works of a similar scope, purpose, complexity, size and technical sophistication as the Services;
- (g) the Supplier possesses a level of skill and expertise commensurate with Good Industry Practice, which it shall utilize in the performance of its obligations under this Agreement;
- (h) the Supplier understands that the City is relying upon the skill, judgment and expertise of the Supplier and its Subcontractors (if any) in the carrying out of the Services and the co-ordination and planning thereof;
- (i) the Supplier's and any Subcontractors' employees are accredited to carry out the relevant portions of the Services to the extent required by applicable Laws and all of them are appropriately skilled, competent and experienced and possess relevant qualifications having regard to the nature and extent of the Services and the Site;

5.02 General Health and Safety-Related Acknowledgements and Covenants

The Supplier shall:

- (a) in the provision of the Services, comply at all times with the OHS Requirements and take all reasonably necessary steps to ensure similar compliance from its Representatives and its Subcontractors, if any;

- (b) if the Services involves any type of manual labour, prior to their attendance at the Site, deliver to each of its Representatives and each of its Subcontractors, if any, and to their employees, if applicable, copies of the OHS Requirements relevant to the Site;
- (c) at all times take all reasonable precautions to maintain the health and safety of workers;
- (d) be at all times registered and in good standing with the relevant workers' compensation insurance Competent Authorities, and provide to the City copies of any notices, correspondence or directions issued by any government or Competent Authority relating to workplace-related employment, human rights, labour, immigration policy, health, safety or environmental matters within 24 hours of the Supplier's receipt of such notice, correspondence or direction;
- (e) appoint a qualified health and safety coordinator to ensure coordination of health and safety activities in the provision of the Services;
- (f) report any accident, injury, illness or other incident relating to workplace health and safety or the environment to the City as soon as reasonably practicable, and provide the City with such assistance as is reasonably necessary (including providing access to relevant documents and to the Supplier's and Subcontractors' employees) in investigating such incident;
- (g) send to the City details of any workplace accident, injury or illness as soon as practicable after its occurrence, and maintain such records and make such reports concerning health, safety and welfare of persons, and damage to property, or the natural, physical or biological environment, as the City may reasonably require; and
- (h) To the extent a "prime contractor", as defined in the WCA, is not already designated by the City for any portion of the Site, the Supplier acknowledges and agrees that it is the prime contractor and assumes and is wholly responsible for the health and safety of all persons at such locations on the basis described in the WCA.

5.03 **Covenants Regarding Violations of Health and Safety Requirements**

Without prejudice to any remedies available to the City hereunder, if any Subcontractor or person employed or engaged by the Supplier (or by a Subcontractor) violates any OHS Requirement, the Supplier shall:

- (a) ensure that the violation is promptly resolved;
- (b) ensure the violation is promptly and appropriately reported to the City first and subsequently to the applicable Competent Authorities;

- (c) promptly take all reasonable, commercial steps necessary to avoid recurrence of the violation
- (d) communicate to the City its plan to avoid recurrence of the violation; and
- (e) without prejudice to the foregoing subsection (c), promptly remove any person responsible for the violation from the provision of the Services if reasonable to do so or if requested to do so by the City.

5.04 **Covenants Regarding the Environment**

- (a) The Supplier shall:
 - (i) at all times, be conscious of the importance of the protection of the natural, physical and biological environment at and in the vicinity of the Site;
 - (ii) conduct, and cause its Representatives to conduct, their respective activities that relate to the Services in a manner that shall have the least possible adverse effect on the natural environment and in compliance with all Environmental Laws and Consents, all at the Supplier's expense;
 - (iii) perform the Services with the least degree of environmental degradation during and as a result of such performance; and
 - (iv) without restricting the generality or application of any other provisions of this Agreement, comply, and cause its Representatives to comply, with all applicable Laws and Consents and with all plans and instructions contained in this Agreement or issued in writing by the City concerning the existence, Release, removal, handling, transport, storage, disposal and treatment of any Hazardous Substances or other materials that are or may be hazardous to the life or health of any person or that endanger the environment or that are regulated by applicable Law.
- (b) During the term of this Agreement, the Supplier shall not bring or store or permit to be used at the Site, any Hazardous Substances unless such Hazardous Substances are (i) reasonably required to carry out the Services, and (ii) brought or stored or permitted to be used at the Site in compliance with all Laws (including Environmental Laws). The Supplier shall not Release nor permit the Release of any Hazardous Substances into the environment. The Supplier is solely responsible for all Hazardous Substances introduced to the Site or the environment by the Supplier or its Representatives or Subcontractors, and the Supplier shall promptly and fully remediate, to the City's satisfaction, any release of Hazardous Substances on or from the Site, or in the vicinity of the Site.

5.05 **Further Covenants Regarding the Site**

The Supplier shall:

- (a) at its sole cost, keep any portion of the Site used in connection with the Services in a safe and tidy condition and to maintain and operate the Supplier's equipment in a good, workmanlike and safe manner;
- (b) not do anything at the Site which is or may become a nuisance, danger or disturbance to the City or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon; and
- (c) not to do anything at the Site which is or may become a nuisance, danger or disturbance to the City or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon.

5.06 **Covenants Against Encumbrances**

- (a) The Supplier shall keep the Site, and each part thereof, free of all Encumbrances filed pursuant to any Law or otherwise in respect of any such work or materials. In any event, if any Encumbrance has been filed in relation to the Site or any improvement thereon, the Supplier shall cause any such Encumbrance to be discharged within 30 days after the Encumbrance has come to the notice of the Supplier.
- (b) The Supplier acknowledges and agrees that, in the event the Supplier shall fail to discharge any Encumbrance contemplated in Section 5.06(a) within 60 days of written notice of such Encumbrance being given by the City, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge the Encumbrance by paying to the applicable Competent Authority, the amount claimed to be due or the amount due, together with a reasonable amount for costs and the amount paid by the City shall be paid by the Supplier to the City forthwith upon demand. In no case shall the City be required to investigate the validity of the Encumbrance prior to discharging the same in accordance with this Section 5.06(b).

5.07 **Absence of Conflicts of Interest**

- (a) Neither the Supplier, nor any of its Representatives has given or shall give or offer to give to the City or any official, officer, employee or agent of the City any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement.
- (b) To the best of the Supplier's knowledge, the Supplier, its Subcontractors, and their respective directors, officers, employees and agents have no pecuniary interests or any other current or past interests or dealings, including with any officials, officers or employees of the City, that would cause any conflict of

interest or be seen to cause a conflict of interest in respect of the Services. Should such a conflict or perceived conflict arise during the term of this Agreement, the Supplier shall declare it immediately in writing to the City. The City may direct the Supplier to resolve any conflict or perceived conflict to the satisfaction of the City. The Supplier warrants that neither the Supplier nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association with any third party which would impair or be seen to impair or qualify the Supplier's provision of the Services.

ARTICLE 6 **PERSONNEL**

6.01 Separate Personnel

- (a) It is the intention of the Parties that any personnel utilized or supplied by the Supplier or any Subcontractor hereunder shall remain employees of the Supplier or Subcontractor, respectively, for the purposes of any applicable Law and no activity performed by such personnel shall be deemed to create or imply any employment or other like relationship between such personnel and the City. If contrary to this intention such personnel are treated as employees of the City for the purposes of any applicable Law, the Supplier shall indemnify the City against any loss, cost, expense, complaint, claim, levy, assessment, penalty or fine (including any Tax liability) resulting therefrom.
- (b) Neither the City nor the Supplier shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, induce any employee of the other, who may work in connection with the Services, to leave his or her current employer, and neither of them shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, employ or make an offer of employment to any such employee of the other during the term of this Agreement or the period of 365 days after the termination of this Agreement without the express prior approval in writing of the employee's current employer.
- (c) If any persons are brought by the Supplier into Canada for purposes of the Services, the Supplier shall be responsible for all immigration matters, and for the expatriation and repatriation of such personnel, and the costs of the same shall be deemed included in the Contract Price.

6.02 Changes in Personnel

The City may request the removal or replacement of any personnel engaged by the Supplier or any Subcontractor in relation to any part of the Services, provided that such request is made in writing stating the City's detailed reasons. The Supplier shall comply with such request as soon as reasonably practicable and shall bear the cost of replacement where the City is of the opinion that the personnel in question are guilty of misconduct, do not have acceptable qualifications or are otherwise unable or unfit to perform satisfactorily and safely. If the City

requests a replacement for a reason other than the immediately aforementioned reasons, the City shall reimburse the Supplier its reasonable properly incurred costs of replacement.

6.03 **Key Project Personnel**

- (a) Where there are Key Project Personnel the Supplier shall:
 - (i) use best endeavours to retain Key Project Personnel for the duration of the provision of the Services;
 - (ii) take reasonable steps to ensure that Key Project Personnel dedicate their time fully to the Services (unless otherwise agreed or approved by the City in writing);
 - (iii) promptly inform the City should any of the Key Project Personnel leave, or give notice of an intention to leave the Supplier, and obtain a substitute or substitutes;
 - (iv) not reassign or allow the reassignment of the Key Project Personnel to other projects during the term of this Agreement without the City's prior written consent (such consent not to be unreasonably withheld or delayed); and
 - (v) take all reasonable steps to ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.
- (b) If:
 - (i) the Supplier wishes to reassign or to replace an individual designated as Key Project Personnel; or
 - (ii) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury or personal hardship,

the Supplier shall provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and shall provide documentation to the City to establish such experience and qualifications.
- (c) Key Project Personnel who are reassigned to other work shall, to the extent possible, remain available to the project team until completion of the Services.
- (d) All the Supplier's Key Project Personnel must be fluent in both spoken and written English, except as may be agreed to the contrary between the City and Supplier in relation to specific individuals or positions to be filled from time to time.

ARTICLE 7 **REPORTING**

7.01 Progress Reports

- (a) *[Monthly/quarterly]* progress reports shall be prepared by the Supplier and submitted to the City in a format reasonably acceptable to the City, or as otherwise required by the City, each within seven days after the last day of the *[month/quarter]* to which it relates.
- (b) Each such progress report shall include (as a minimum):
 - (i) charts and detailed descriptions of progress in preparing Documentation and in otherwise delivering the Services;
 - (ii) copies of any quality assurance documents;
 - (iii) information and statistics relating to health, safety, environmental and community relations aspects of the Services;
 - (iv) health and safety statistics, including details of:
 - (I) any Safety Incidents or other injuries, accidents, or safety or near-miss incidents relating to the safety of the Services; and
 - (II) any hazardous accidents, incidents and activities relating to environmental aspects of the Services or community relations, including any Releases of any Hazardous Substances; and
 - (v) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardise any aspect of the Services or the timing therefor.

7.02 Assistance Regarding Reporting Requirements

The Supplier shall, and shall cause its Representatives to, provide the City with reasonable assistance and information which is necessary to enable the City to comply with any Law.

7.03 Other Reports

The Supplier shall provide any additional reports and information regarding the Services or the Site reasonably requested by the City at any time.

ARTICLE 8
PAYMENT; AUDITS

8.01 Payment to the Supplier

- (a) Subject to Article 11, the City shall pay the Supplier for the Services in accordance with Schedule B (Prices for Services), thirty (30) days after the receipt of invoices prepared in accordance with Section 8.02.
- (b) Unless otherwise expressly stated in the schedules hereto, the Supplier shall pay any and all costs, including freight, marine and transit insurance, Taxes, and transportation and delivery charges on all equipment or things of whatsoever nature provided by the Supplier as required by it for the purposes of the Services and any other incidental costs and all such costs shall be deemed to be included in the Contract Price.
- (c) The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of Schedule B (Prices for Services) and to have obtained all information and to have taken into account all circumstances, risks and other contingencies that may affect the cost of performing the Services (including any circumstances, risks or contingencies that a contractor exercising Good Industry Practice would typically expect to encounter) and any other obligation under this Agreement. The Supplier shall not be entitled to any additional compensation beyond the Contract Price (including without limitation for escalation in the prices of materials and labour) except as otherwise expressly stated in this Agreement.
- (d) Notwithstanding any other provisions of this Agreement, the Supplier shall not be entitled to payment for any Services that has not been performed in compliance with the provisions of this Agreement.

8.02 Content of Invoices

Each of the Supplier's invoices shall set out, as a minimum (and in such form or format as required by the City):

- (a) an itemized list of the amounts owing;
- (b) the time period to which the invoice relates;
- (c) a description of the portion of the Services to which the invoice relates;
- (d) the total amounts payable under the invoice;
- (e) all supporting documentation relating to disbursements; and
- (f) such other information as the City may require from time to time.

8.03 **Currency of Payment**

All currency amounts stated herein are denominated in, all invoices hereunder shall be stated in, and all payments hereunder shall be made in, Canadian dollars.

8.04 **Contested Claims for Payment**

If any item contained in an invoice submitted by the Supplier is contested by the City, the City shall give prompt notice thereof, together with reasons to the Supplier.

8.05 **Audits**

- (a) The Supplier shall maintain up-to-date records and accounts which clearly document the provision of the Services and shall make the same available to the City upon request. The City may request copies of all such records and accounts which shall be provided to the City by the Supplier (subject to reimbursement of the Supplier's reasonable copying costs and any other direct costs and expenses, if any) at any time prior to the expiry of 365 days after completion of the Services or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Supplier in accordance with this Section 8.05(a) shall be deemed to be Confidential Information;
- (b) Not later than three years after the completion of the Services or earlier termination of this Agreement, the City can itself, on notice of not less than 14 days, require that a firm of accountants, surveyors or other auditors nominated by it audit any such records and accounts of the Supplier by attending during normal working hours at the office where the records are maintained. For avoidance of doubt, any records and accounts or other documents provided by the Supplier in accordance with this Section 8.05(b) shall be provided only subject to the accountants, surveyors or other auditors, and each of them, being subject to and agreeing to meet such of the Supplier's reasonable requirements as to confidentiality as the Supplier deems (at its sole discretion) to be appropriate in the circumstances; and
- (c) Any overpayments by the City discovered during the course of any such audit pursuant to Section 8.05(b) shall be payable by the Supplier to the City within 30 days of such discovery, and if the overpayments have been caused by an act or omission of the Supplier and the amount of those overpayments is no less than one quarter of the total amount paid by the City to the Supplier in respect of the Services, then the costs of the relevant audit shall be for the account of the Supplier.

8.06 **Set Off**

Notwithstanding any provision to the contrary in this Agreement and without prejudice to any other remedy which the City may have (whether in common law or equity), the City shall be entitled to deduct from and set off against any sum(s) otherwise due to the Supplier hereunder any sums which are due from the Supplier to the City or which the Supplier is liable to pay to the

City under this Agreement or in connection herewith (including without limitation any monies overpaid to the Supplier under this Agreement or otherwise due and payable to the City by reason of any error in payment under this Agreement).

ARTICLE 9

CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY

9.01 Scheduled Items

The City shall make available, free of cost and without delay or in accordance with any agreed timetable or schedule set forth in Schedule C (Items to be Provided by the City), to the Supplier for the purpose of the Services, the personnel, equipment, facilities, services (including services of third parties) and information described in such Schedule C (if any), and in accordance therewith.

9.02 Other Information

The City shall, within a reasonable time following a written request by the Supplier, provide to the Supplier free of cost such further information, which the City considers relevant to provision of the Services and which is either already in its possession or reasonably within its power to obtain.

9.03 Decisions in Writing

On all matters properly referred to it in writing by the Supplier, the City shall (wherever practicable) give its decision in writing within a reasonable time having regard to the Time(s) for Completion and the Supplier's obligations with regard to the Services.

9.04 Access to the Site

Except to the extent prohibited by applicable Law or any Consent, the City shall grant to the Supplier non-exclusive, timely and in accordance with any agreed schedule, access (as the City is reasonably able to provide) to all necessary areas of the Site on and from the Effective Date and such other non-exclusive access as is necessary or appropriate to perform the Services and the Supplier's other obligations in accordance with this Agreement.

ARTICLE 10

LIABILITY AND INSURANCE

10.01 Covenants of Indemnification by the Supplier

- (a) The Supplier shall indemnify and keep indemnified and hold the City and its officials, officers, employees and agents harmless against all losses, liabilities, claims, demands, costs and expenses (including legal fees), fines, penalties and charges (including those imposed by statute or otherwise imposed), arising out of or in connection with, or consisting of:

- (i) any damage to the Site or any part thereof, or any property whether located at the Site or otherwise, which occurs during the provision of the Services;
 - (ii) any damage to the natural environment, including any remediation cost recovery claims;
 - (iii) any loss or damage arising from a claim by any third party concerning or arising out of the Services, or by any employee or Subcontractor of the Supplier for any reason;
 - (iv) any occupational illness, injury or death of any person, whether at the Site or otherwise, which occurs during, or as a result of, the provision of the Services;
 - (v) any failure by the Supplier to fully comply with the provisions of this Agreement;
 - (vi) a breach by the Supplier or any Subcontractor of any Law in the course of, or as a result of, the provision of the Services;
 - (vii) any actual or alleged infringement of any Intellectual Property Rights caused by the provision of the Services or the use of any process, work, material, matter, thing or method used or supplied by the Supplier or any Subcontractor in the provision of the Services, and
 - (viii) any breach of the warranties of the Supplier contained herein,
- to the extent that such losses, liabilities, claims, demands, costs and expenses, fines, penalties or charges are due to any act, omission or default, or any breach of Law or this Agreement, of the Supplier, a Subcontractor or any Representative of the Supplier or any employee, agent or contractor of any of them.
- (b) Nothing in this Section 10.01 nor otherwise in this Agreement shall limit or exclude any direct liability (whether in contract, tort, for breach of statutory duty or any other legal basis) of the Supplier to the City, including without limitation any liability for:
 - (i) the Supplier's deliberate default, fraud, fraudulent misrepresentation or reckless misconduct in the provision of the Services; or
 - (ii) any loss or damage flowing from the termination of this Agreement.
 - (c) The Supplier appoints the City as the trustee of the City's officials, officers, employees and agents in relation to the covenants of indemnification of the Supplier contained in this Section 10.01 and the City accepts such appointment.

10.02 **Conduct of Claims**

In the event of any claims, statutory fees, costs, charges, penalties (including without limitation any legal costs), contributions, compensations, cost recoveries, expenses or fines being levied or claimed from a person in respect of which an indemnity is provided by the Supplier pursuant to Article 10, the following provisions shall apply:

- (a) subject to Sections 10.02(b), 10.02(c) and 10.02(d) below, where it appears that a person is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of a claim, such person entitled to indemnification may at its sole election and subject to:
 - (i) approval by any relevant insurers (without prejudice to Section 10.02(f)); and
 - (ii) the Supplier providing the party entitled to indemnification with a secured indemnity to its reasonable satisfaction against all costs and expenses (including legal expenses) that it may incur by reason of such action,

permit or require the Supplier to dispute the claim on behalf of the person entitled to indemnification at the Supplier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations; provided that the person entitled to indemnification shall give the Supplier (provided at the Supplier's cost) all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;
- (b) with respect to any claim conducted by the Supplier pursuant to Section 10.02(a) above:
 - (i) the Supplier shall keep the person entitled to indemnification fully informed and consult with it about material elements of the conduct of the claim;
 - (ii) the Supplier shall not bring the name of the person entitled to indemnification (or any Group Member thereof) into disrepute; and
 - (iii) the Supplier shall not pay or settle such claims without the prior consent of the person entitled to indemnification, such consent not to be unreasonably withheld or delayed;
- (c) a person entitled to indemnification shall be free to pay or settle any claim on such terms as it thinks fit (and without prejudice to its rights and remedies under this Agreement) if:
 - (i) the Supplier is not entitled to, or is not permitted or instructed, take conduct of the claim in accordance with Section 10.02(a) above; or

- (ii) the Supplier fails to comply in any material respect with the provisions of Section 10.02(a) or 10.02(b) above;
- (d) the person entitled to indemnification pursuant to Article 10 shall be free at any time to give notice to the Supplier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which Section 10.02(a) above applies. On receipt of such notice the Supplier shall promptly take all steps necessary to transfer the conduct of such claim to the person entitled to indemnification, and shall provide to the person entitled to indemnification all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;
- (e) if the Supplier pays to the person entitled to indemnification an amount in respect of an indemnity and the person entitled to indemnification subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the person entitled to indemnification shall forthwith repay to the Supplier whichever is the lesser of:
 - (i) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out-of-pocket costs and expenses (including legal expenses) properly incurred by the person entitled to indemnification in recovering the same; and
 - (ii) the amount paid to the person entitled to indemnification by the Supplier in respect of the claim under the relevant indemnity,

provided that there shall be no obligation on the part of the person entitled to indemnification to pursue such recovery and that the Supplier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Supplier exceeds any loss sustained by the person entitled to indemnification;
- (f) the Supplier shall inform the person entitled to indemnification of the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement and in relation to such the person entitled to indemnification shall issue instructions accordingly; and
- (g) any person entitled to an indemnity from the Supplier must take all reasonable measures to mitigate any loss, damage or liability that it may suffer in respect of any such matter.

10.03 **Insurance**

- (a) In addition to those mandatory insurance policies that the Supplier is required to carry by any applicable Laws, the Supplier shall take out and maintain in force, with a reputable insurance company, during the term of this Agreement and for a period of five years afterwards:

- (i) Commercial general liability insurance with limits of not less than \$5,000,000 per occurrence, and not less than \$5,000,000 in the aggregate annually, and a deductible of not more than \$5,000, protecting the Supplier and the Supplier's Personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Supplier or the actions of the Supplier or the Supplier's Personnel. The policy will contain a cross-liability clause in favour of the City and will name the City and the City's Personnel as additional insured on a primary and non-contributory basis;
 - (ii) Professional liability insurance with coverage of not less than five million dollars (\$5,000,000) per occurrence and at least five million dollars (\$5,000,000) of annual aggregate coverage;
 - (iii) Auto liability insurance covering all vehicles owned, leased or operated by the Supplier in connection with the Agreement including third party legal liability insurance in an amount not less than \$5,000,000 per occurrence, or such higher amount as the City may require from time to time; and
 - (iv) Medical personnel professional insurance covering each medical professional providing services (whether a physician, registered nurse, kinesiologist, physiotherapist, cardiac technician or otherwise), providing full coverage against personal liability in accordance with the requirements of each relevant professional association in British Columbia and Applicable Laws.
- (b) The Supplier shall ensure that any Subcontractors also maintain the same insurance as the Supplier, having regard to the obligations under this Agreement which they are contracted to fulfil.
 - (c) The Supplier's liabilities under this agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 10.03(a).
 - (d) The cost of the insurances arising under this Section 10.03 shall be deemed to be incorporated into the prices specified in Schedule B.
 - (e) As a condition precedent to any payment from the City to the Supplier under this Agreement, and as and when reasonably requested by the City, the Supplier shall provide documentary evidence (to the reasonable satisfaction of the City, including by completing the City's standard reporting documents used for this purpose) that the insurances required by this Section 10.03 have been taken out and are being maintained.

ARTICLE 11
FORCE MAJEURE; TERMINATION

11.01 Force Majeure

- (a) Neither Party shall be deemed to be in breach of this Agreement or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement reasonably due to Force Majeure.
- (b) If either Party's performance of its obligations under this Agreement is affected by an event of Force Majeure, then:
 - (i) it shall give written notice to the other Party, specifying the nature and extent of the event of Force Majeure, within 10 days after becoming aware of the event of Force Majeure;
 - (ii) performance of such obligation(s) shall be deemed suspended but only for a period equal to the delay reasonably caused by such event;
 - (iii) it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the event of Force Majeure;
 - (iv) the Time(s) for Completion shall be extended to take into account such delay; and
 - (v) within five days of the cessation of any Force Majeure event, the Party affected thereby shall submit a written notice to the other Party, specifying the actual duration of the delay of its obligations caused by the event of Force Majeure and the consequences resulting from such delay, and submit a specific plan to minimize and mitigate those consequences.
- (c) The affected Party shall use all reasonable diligence in accordance with Good Industry Practice to mitigate the cause and the result of an event of Force Majeure and to remedy the situation and resume its obligations under this Agreement, including complying with any instructions from the City, as to how to do so.
- (d) Notwithstanding the obligations of a Party affected by an event of Force Majeure pursuant to Section 11.01(b) and Section 11.01(c), if the event of Force Majeure renders it impossible or impractical for the Supplier to provide the Services in accordance with this Agreement for a period of at least thirty (30) days, the City may terminate this Agreement upon notice delivered to the Supplier at any time following the expiration of such period of thirty (30) days.

11.02 City Suspension and Termination Rights

The City shall have the following rights:

- (a) The City may order the suspension of all or part of the Services at any time and for such period as it determines, by notice with immediate effect to the Supplier, in the event of a Safety Incident; and upon receipt of any such notice of suspension, the Supplier shall immediately cease performing the Services, minimise expenditure and comply with any reasonable instructions of the City relating to such Safety Incident, including any investigations.
- (b) Without prejudice to Section 11.02(a), the City may suspend all or part of the Services (for such period as it determines) or terminate this Agreement at any time (and for its convenience) upon thirty (30) days' written notice to the Supplier, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Services and to minimise expenditure, including complying with any instructions from the City as to how to do so.
- (c) If the City reasonably considers that the Supplier is not discharging any of its material obligations under this Agreement, the City may inform the Supplier by notice stating the grounds for the notice. If evidence of remediation satisfactory to the City, is not received as soon as practicable or in any case within fourteen (14) days or such longer period as agreed by the Parties, the City may by a further notice to the Supplier of at least fourteen (14) days terminate this Agreement.
- (d) The City may terminate this Agreement with immediate effect if:
 - (i) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed over it or any of its assets of undertaking, enters into any arrangement for the benefit of its creditors, becomes the subject of any moratorium or carries on business under a receiver, trustee, manager or arrangement for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events; or
 - (ii) a Change in Control of the Supplier occurs and the City reasonably considers that the Change in Control shall substantively affect the Supplier's ability to perform its obligations under this Agreement.

11.03 **Supplier Termination Rights**

After giving at least seven days' written notice to the City, the Supplier may terminate this Agreement, or at its discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Services when:

- (a) Ninety (90) days after the due date for payment of an invoice, it has not received payment of that part which has not by that time been contested in writing by the City and provided always that:
 - (i) the Supplier has issued a notice of reminder to the City following the due date for payment in relation to such unpaid sum; and

- (ii) the termination notice may not be issued until the expiry of thirty (30) days following the issue of such reminder notice; or
- (b) the City commits any material or persistent breach(es) of its obligations under this Agreement which render(s) performance by the Supplier of its obligations under this Agreement or a substantial part thereof impossible or significantly adversely affect(s) such performance of this Agreement as a whole and further which, remain(s) irremediable after sixty (60) days.

11.04 **Consequences of Termination**

The following consequences shall apply upon a termination:

- (a) On termination of this Agreement for any reason, the Supplier shall, as soon as reasonably practicable:
 - (i) deliver to the City all work and Documentation produced by or on behalf of the Supplier during the course of performing the Services;
 - (ii) return (or destroy if otherwise directed by the City in writing) all Confidential Information provided to it for the purposes of this Agreement;
 - (iii) return all of the City's Site access cards, equipment and other items provided under this Agreement, failing which, the City may enter the relevant premises and take possession thereof, and, until any such access cards, equipment and other items have been returned or repossessed, the Supplier shall be solely responsible for its or their safe-keeping;
 - (iv) if so requested by the City, take reasonable steps to assign any Subcontractor contracts to the City and do all things and execute all documents necessary to give effect thereto; and
 - (v) otherwise comply with all reasonable requirements of the City arising from the cessation of the Services or the continuing development of the Site.
- (b) The Supplier shall be entitled to be paid its reasonable properly incurred costs of compliance with 11.04(a) and its reasonable demobilization costs, up to a maximum of one hundred dollars (\$100), in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a Safety Incident or a default by the Supplier in the provision of any part of the Services, in which case all such costs shall be for the Supplier's own account.
- (c) On termination of this Agreement for any reason, the Supplier shall be entitled to payment for any completed portion of the Services rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B (Prices for Services).

11.05 **Other Surviving Rights and Liabilities of Parties**

- (a) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
- (b) After termination of this Agreement, the provisions of Section 3.06, Section 8.05 Article 10, Article 14 and Article 16 shall remain in force.

ARTICLE 12 **ASSIGNMENT AND SUBCONTRACTING**

12.01 **Assignment**

Neither Party shall assign, transfer, mortgage, charge or deal in any other manner with this Agreement or any of its rights and obligations under or arising out of the Agreement (or any document referred to herein), or purport to take any such action without the prior written consent of the other.

12.02 **Subcontracting**

- (a) The Supplier shall not subcontract the whole or substantially all of the Services.
- (b) Without prejudice to the foregoing subsection (a), save in the case of Subcontractor(s) whose role in the provision of the Services is expressly provided for in the schedules hereto (and only to the extent so provided for), the Supplier may not subcontract any part of the Services without the City's prior written consent.
- (c) The Supplier shall include in each contract by which it engages a Subcontractor a provision allowing the benefit of such contract to be assigned by the Supplier to the City upon request.
- (d) The Supplier shall not without the written consent of the City (which shall not be unreasonably withheld or delayed) initiate or terminate any contract with a Subcontractor.
- (e) If the Supplier is unable to enter into a contract with a Subcontractor whose role in the provision of the Services is expressly provided for in the schedules hereto, it shall as soon as reasonably practicable inform the City of the reason for such inability and procure the services of a replacement subcontractor that is acceptable to the City, acting reasonably.
- (f) The Supplier shall be responsible for the acts, defaults or neglect or any omission of each Subcontractor, its employees and agents in all respects as if they were the acts and defaults or neglect or omission of the Supplier its employees or agents themselves.

ARTICLE 13

INTELLECTUAL PROPERTY

[NOTE: This Article may be removed or reduced in a final Agreement if there are no or limited intellectual property issues connected with the particular Services.]

13.01 Assignment

The Supplier acknowledges and agrees that the City is the exclusive owner of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein. The Supplier shall assign and hereby assigns to the City all right, title, and interests in and to the Documentation, including, without limitation, all existing and future Intellectual Property Rights in and to the Documentation, effective upon their creation to the fullest extent permitted by Law. Insofar as such right, title, and interest do not so vest automatically or immediately in the City by operation of law or under this Agreement, subject to Section 13.02, the Supplier holds legal title of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in trust for the City and grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of such Documentation for any purpose. Such licence shall include the right to sub licence to any third party without restriction.

13.02 Further Assistance

If and to the extent that any of the right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, is not assigned automatically or immediately to the City under Section 0, the Supplier undertakes, at the expense of the City and at any time either during or after this Agreement upon request from the City (notwithstanding that the City may do so in its own name and at its own cost), to execute all documents, make all applications, give all assistance and do all acts and things as may, in the reasonable opinion of the City, be necessary or desirable to vest all right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in the City and to register them in, the name of the City and otherwise to protect and maintain such right, title, and interest. The Supplier further agrees to cooperate fully with the City both during and after the termination of this Agreement, with respect to signing further documents and doing such acts and other things reasonably requested by the City to confirm the transfer of ownership of the Documentation or to obtain or enforce patent, copyright, trade secret, or other protection for the Documentation. The Supplier shall not receive any consideration or royalties in respect of such transfer of ownership, beyond the fees, provided that the expense of obtaining or enforcing intellectual property protection shall be borne by the City.

13.03 Supplier Undertakings and Representations and Warranties

- (a) The Supplier undertakes:
 - (i) to notify the City in writing of the full details of Documentation promptly upon its creation;

- (ii) whenever requested to do so by the City and in any event on the termination of this Agreement (as provided for in Article 11), promptly to deliver to the City all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any parts of the Documentation which are in its possession, custody or power;
 - (iii) that the Supplier shall not, either during the term of this Agreement or thereafter, directly or indirectly, contest, or assist any third party to contest, the City's ownership of the Documentation or of any Intellectual Property Rights related thereto, and
 - (iv) not to register nor attempt to register any Intellectual Property Rights in the Documentation unless requested to do so by the City.
- (b) The Supplier represents and warrants to the City that:
- (i) it has not given and shall not give permission to any Subcontractor or third party to use any of the Documentation, nor any of the Intellectual Property Rights in the Documentation, other than as provided for in this Agreement or otherwise in accordance with the instructions of the City;
 - (ii) it has not brought to the City, or shall use in the provision of the Services, any confidential material or documents of any former client or customer of the Supplier or of any other third party, unless the Supplier has received prior written authorization to do so from the City and from the owner of the confidential material or documents;
 - (iii) it has the absolute right to make the assignments of the right, title, and interest in and to the Documentation contemplated in this Agreement and to grant the rights granted under this Agreement;
 - (iv) it is unaware of any use by any third party or any unauthorized use by a Subcontractor of any of the Documentation or any Intellectual Property Rights in the Documentation; and
 - (v) the use of the Documentation or the Intellectual Property Rights in the Documentation by the City shall not, to the knowledge of the Supplier, infringe any Intellectual Property Rights of any third party.

13.04 **Background Intellectual Property**

Notwithstanding and superseding anything to the contrary in this Article 13, each Party retains title to all Intellectual Property Rights owned or possessed by it or any of its affiliates prior to or independent of performance of this Agreement and used by it in fulfilling its obligations under this Agreement, as well as any modifications or improvements made thereto in the course of performing this Agreement ("Background IP"). To the extent that one Party acquires any right, title, or interest in and to any aspect of the modifications or improvements to the Background IP of the other Party, such Party shall assign such right, title, and interest to the

other Party, immediately following such acquisition. If any of the Supplier's Background IP is included in or required to use the Documentation provided by the Supplier to the City, the Supplier hereby grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence (including the right to sub-licence only to members of the City's Group) to, itself and through contractors and agents, use, copy, amend, reproduce, modify, create derivative works of, use, commercialize, and otherwise exploit the Supplier's Background IP but only to the extent required to use such Documentation for the purpose (or any reasonably inferred purpose) for which it has been provided or for the provision of the Services under this Agreement (excluding any software source code).

13.05 Supplier Employees' and Subcontractors' Rights

The Supplier:

- (a) warrants that the Supplier's employees, Subcontractors and agents have waived or shall have waived in whole all moral rights (including, without limitation, any similar rights allowing the rights holder to restrain or claim damages for any distortion, mutilation, or other modification of works or any part thereof, and to restrain use or reproduction of works in any manner) they may have in the Documentation;
- (b) indemnifies the City, its officers, agents, contractors and employees against any liability, cost, loss or damage (including legal costs on a solicitor-client basis) suffered or incurred that arises under any breach of the warranty contained in Section 13.05(a) above; and
- (c) must do all things requested by the City, including signing or procuring the signature of particular forms, to give full effect to Section 13.05(a) above.

13.06 No Additional Remuneration

The Supplier acknowledges that, except as provided by Law, no further remuneration or compensation (beyond that expressly provided for in this Agreement) is or may become due to the Supplier in respect of the performance of its obligations under this Article 13.

ARTICLE 14 **PRIVACY; CONFIDENTIALITY**

14.01 Freedom of Information and Protection of Privacy Act

The Supplier acknowledges that the City is subject to the Freedom of Information and Protection of Privacy Act (British Columbia), which imposes significant obligations on the City's contractors to protect all personal information acquired from the City in the course of providing any service to the City.

14.02 **No Promotion**

The Supplier shall not, and shall ensure that its Subcontractors shall not, disclose or promote any relationship with the City, including by means of any oral declarations, announcements, sales literature, letters, client lists, press releases, brochures or other written materials, without, in each case, the express prior written consent of the City.

14.03 **Confidentiality Obligations**

Each Party shall keep the Confidential Information of the other Party confidential and each Party shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement or where, in the case of the City, otherwise necessary to pursue the public business of the City (a “Permitted Purpose”), or disclose the Confidential Information in whole or in part to any third party, except as expressly permitted by this Article 14.

[NOTE: Tailored provisions are to be added dealing with the confidentiality of the employees information, depending on the services to which the Agreement applies. These shall be included in the final version of any Agreement.]

14.04 **Disclosure to Representatives**

A Party may disclose the other Party’s Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure, and at all times it is responsible for such Representatives’ compliance with the confidentiality obligations set out in this Article 14.

14.05 **Disclosures Required by Law**

A Party may disclose Confidential Information to the extent required by any applicable Laws or by any Competent Authority provided that, where legally permitted, it notifies the other Party before doing so, gives the other Party a reasonable opportunity to take any steps that the Party considers necessary to protect the confidentiality of that information, and notifies the third person that the information is Confidential Information. In any event, a Party shall furnish only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to obtain a protective order or other reliable assurance that the Confidential Information shall be accorded confidential treatment.

14.06 **Other Disclosures by the City**

The City’s obligations under this Article 14 are wholly subject to and qualified by, the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and, notwithstanding any other provision of this Article 14, the City may disclose Confidential Information in any manner compliant with such statute or otherwise in furtherance of its public role or duties, including in the course of publicly reporting to the Vancouver City Council.

14.07 **Interpretation; Enforcement and Survival**

- (a) Notwithstanding anything in this Article 14 to the contrary, nothing in this Article 14 shall affect the Parties' rights and obligations under Article 13.
- (b) The Parties acknowledge that a breach of any of the obligations or provisions contained in this Article 14 could cause the other Party to suffer loss which may not be adequately compensated for by damages and that the other Party may, in addition to any other remedy or relief, enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual or special damage and notwithstanding that in any particular case damages may be readily quantifiable, and such breaching Party must not plead sufficiency of damages as a defence in the proceeding for such injunctive relief.

ARTICLE 15 **TAXES**

15.01 **Taxes for Own Accounts**

Unless otherwise expressly stated in this Agreement, any Taxes becoming due and payable by either Party pursuant to any applicable Laws as a result of the entering into, the performance of obligations under or the taking of payment pursuant to this Agreement, shall be for the account of that Party, and for greater certainty the Contract Price includes all such Taxes, except for applicable Taxes arising under all sales, excise and value added tax legislation (including, without limitation, the *Excise Tax Act* (Canada) and similar Canadian provincial legislation) (collectively, "Sales Tax") as a result of the sale of goods or services within Canada hereunder, unless it is clearly stated that they are intended to be Sales Tax-inclusive.

15.02 **Withholding Taxes**

- (a) Notwithstanding any other provision to the contrary, if the City determines that it is necessary to satisfy its obligations under any Law relating to Taxes, the City may:
 - (i) withhold an amount from a payment made to the Supplier; and
 - (ii) pay the withheld amount directly to the relevant Competent Authority.
- (b) If an amount withheld in accordance with Section 15.02(a) is paid by the City to the relevant Competent Authority, it is deemed to have been paid to the Supplier on the date on which the remainder of the payment to which it relates was paid to the Supplier.
- (c) The Supplier agrees and acknowledges that it has no claim against the City for any amounts withheld and paid to the relevant Competent Authority in accordance with Section 15.02(a).

- (d) If the City does not withhold an amount under Section 15.02(a) which it is required to withhold pursuant to any laws relating to Taxes, the Supplier agrees to pay that amount to the City, upon request by the City.
- (e) The Supplier agrees that the City shall not be required to increase any payment to the Supplier by the amount withheld by the City under Section 15.02(a)

ARTICLE 16

DISPUTE RESOLUTION

16.01 Optional Procedure

All claims, disputes or issues in dispute between the City and the Supplier in relation to this Agreement shall be decided by mediation or arbitration, if the Parties so agree in writing, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

16.02 Arbitration

- (a) In the event that Parties agree to arbitration pursuant to Section 16.01:
 - (i) the arbitration shall be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and shall be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the Parties, and failing agreement by the Parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia;
 - (ii) the parties shall share equally the costs of the arbitration but shall be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements; and
 - (iii) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

ARTICLE 17

MISCELLANEOUS

17.01 Time of the Essence

Time is of the essence of this Agreement, including without limitation in relation to the Time(s) for Completion.

17.02 Costs

Each of the Parties hereto shall pay their respective legal fees and other costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement

and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

17.03 **Benefit of this Agreement**

- (a) This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties hereto.
- (b) Except as expressly set forth in the foregoing Section 17.03(a) or Section 10.01, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Supplier.

17.04 **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties in relation to the subject matter hereof other than as expressly set forth in this Agreement.

17.05 **Amendments and Waiver**

Subject to Section 3.08, no modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, is limited to the specific breach waiver.

17.06 **Notices**

- (a) Any invoice, demand, notice or other communication to be given to a Party in connection with this Agreement must be given in writing and must be given by personal delivery to a City's Manager or a Supplier's Managers, as applicable, or delivered by registered mail, by courier or by facsimile transmission (with delivery confirmation), addressed to a City's Manager or a Supplier's Manager, as the case may be, or, in each case to such other individual as is designated in writing by the relevant recipient Party. If given by registered mail, courier or facsimile transmission, any such demand, notice or other communication must be given at the relevant address or facsimile number listed below:

If to the Supplier:

[SUPPLIER NAME]

[•]

[•]

[•]

Facsimile: ***[•]***

If to the City:

CITY OF VANCOUVER
 453 W. 12th Avenue
 Vancouver, British Columbia
 V5Y 1V4

Facsimile: 604-873-7057

or to such other address or facsimile number as may be designated by notice given by either Party to the other.

- (b) Any demand, notice or other communication shall be conclusively deemed to have been given: (i) if given by personal delivery, on the day of actual delivery thereof; (ii) if given by registered mail, on the tenth Business Day following the deposit thereof in the mail; (iii) if given by courier, on the Business Day following confirmation by the courier that the notice has been delivered; and (iv) if given by facsimile transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. Notwithstanding the foregoing, if the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication must not be mailed but must be given by personal delivery, courier or facsimile transmission.

17.07 **Governing Law and Jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.
- (b) All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- (c) This Agreement is subject to the exclusive jurisdiction of the courts in the Province of British Columbia except:
 - (i) as otherwise agreed by the Parties pursuant to Article 16; and
 - (ii) to the extent necessary to enforce, in another jurisdiction, any decision or award made pursuant to Article 16 or any judgment of any court in the Province of British Columbia.

17.08 **Further Assurances**

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

17.09 Severance

If any term or condition of this Agreement is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby. If any term or condition of this Agreement is found to be illegal, invalid ineffective, inoperable or otherwise unenforceable, but would not be so if some part of it were deleted, the term or condition shall apply with such modifications as may be necessary to make it enforceable.

17.10 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

17.11 Electronic Execution

Delivery of an executed signature page to this Agreement by either Party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the Parties by their duly authorized signatories:

[SUPPLIER NAME]

Per: _____
[Name; Title]

[Name; Title]

CITY OF VANCOUVER

Per: _____
[•]

[•]

[•]

SCHEDULE A

SCOPE OF SERVICES

[The Scope of the Supplier's Services, as finally negotiated and agreed, shall be clearly expressed in this Schedule A.]

SCHEDULE B

PRICES FOR SERVICES

[The contents of this schedule should be comprehensive, detailed and tied to the descriptions of Services in Schedule A.]

[Notwithstanding any other provision hereof, if the Supplier is, at any time during the term of effectiveness of this Agreement, party to a contract with another customer pursuant to which the Supplier charges effective prices lower than the prices charged to the City for reasonably comparable services, the above-listed prices shall be adjusted, retroactively to the date of effectiveness of such other contract, so that the prices charged hereunder are at least as low as the effective prices charged pursuant to such other contract.]

SCHEDULE C

ITEMS TO BE PROVIDED BY THE CITY

[Details shall include the personnel, equipment, facilities, services and information to be provided by the City.]

SCHEDULE D

SPECIFIC DELIVERABLES

[Details shall include any achievement of certain specific, measurable outcomes, which the Supplier is to achieve.]

SCHEDULE E

TIME SCHEDULE FOR SERVICES

[To describe the time for the completion of the Services and any applicable milestones to be achieved by particular dates prior to the completion of the Services.]

SCHEDULE F
PROJECT BUDGET

[To be added if applicable.]

SCHEDULE G

CITY POLICIES

1. The City's Supplier Code of Conduct Compliance, as referred to in the RFP.

[To include other applicable internal policies, standards, or other requirements with which the Supplier must comply if applicable.]

SCHEDULE H

KEY PROJECT PERSONNEL

[To be added if applicable.]

REQUEST FOR PROPOSAL NO. PS20130566
PROVISION OF DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES
ANNEX 1 - SCHEDULE OF DETAILED REQUIREMENTS

ANNEX 1 - SCHEDULE OF DETAILED REQUIREMENTS

Further to the Requirements described in Part C of this RFP and Annex 2 below, this Annex 1 sets forth certain City questions, objectives, and concerns, each of which Proponents should address in their Proposals for submission. The quality of Proponents' responses to the following items shall demonstrate the Proponents' understanding of, and ability to provide the required Services. Describe or include in the Proposal:

1. a detailed implementation plan clearly describing what activities and costs are included, and what, if any, additional fees may apply. For example, the Proponent shall describe what implementation and promotional activities, with associated hard and soft costs (i.e. printing, education sessions, meetings, etc.), are included in the Proponent's implementation plan;
2. any potential to introduce co-branded material with the City, at the City's option;
3. a plan describing how the Proponent will work with internal stakeholders to strengthen the ability to achieve positive outcomes;
4. ways to build trust and integrate the services into the City's suite of employee services and organizational culture;
5. alignment with the City's organizational objective: the *"City inspires excellence in the workplace and in its employees."*;
6. metrics that identify usage, utilization, and outcomes by City departments and by union, while maintaining confidentiality, and without additional cost to the City;
7. attendance at work site/return-to-work meetings with City staff, employees, and other stakeholders such as union representatives, as and when required by the City, including, on occasion, outside of core hours, with advance notice provided;
8. representation of, or assistance to the City in grievances, arbitrations, WorkSafeBC appeals, and/or other legal proceedings;
9. value-added services (at no additional cost to the City) such as, but not limited to: education sessions, health and wellness initiatives, health risk assessments, newsletters, lifestyle risk coaching, bio-metric screening, drug benefit analysis and drug utilization assessments, policy / program development, articles on current health issues, health and wellness tools, treatments and/or other services related to the scope of this RFP that will benefit the City and its employees, and will support positive outcomes;
10. quality control standards to which external vendors (i.e. the Proponent's sub-contractors) can be held accountable, where external vendors are utilized to provide services such as occupational rehabilitation programs, medical assessments, etc. For further clarity, Proponents shall describe how they maintain quality control standards; and
11. any service metrics/standards agreement with the City, subject to periodic (i.e. annual, at minimum) review.

ANNEX 2 - WORK SCOPE

This Annex 2 - Work Scope is a detailed description of the services listed in Part C, Section 1.3.

Each Proponent shall, in its Proposal, describe the features, approach and philosophy that the Proponent has for each of the services the Proponent is proposing to provide the City.

The Proponent shall ensure that its response, at minimum, includes details pertaining to its experience and ability to meet the specific requirements, in addition to addressing the questions posed for each Service as outlined below:

A. Occupational Health Services

Pre-Placement Health Evaluations

Vancouver Fire & Rescue Services and Vancouver Police Department

- Medical Examination including - health and lifestyle history, examination of the head, neurological testing, abdominal exam, joint range of motion, and examination of the cardiovascular system
- Vision testing - distance, near and colour
- WorkSafeBC Audiogram - baseline test
- Blood pressure
- Blood test (chemistry, hematology)
- Resting 12 lead EKG
- Exercise Stress Electrocardiogram (EKG) TB skin test
- Pulmonary function testing
- Urine dipstick - sugar, protein, blood
- Laser eye surgery- Recruits who have had laser eye surgery are required to have an eye assessment by a specialist agreed to by both parties as a part of the pre-placement medical screening process

Note: Fire recruits are required to cover all costs associated with the pre-placement health evaluations. Payment for these services is to be arranged between the service provider and each recruit.

Labourers / Outside Workers

- Medical examination including - health and lifestyle history, examination of the head, neurological testing, abdominal exam, joint range of motion, and examination of the cardiovascular system
- Vision testing - distance, near and colour
- WorkSafeBC Audiogram - baseline test
- Blood pressure
- Resting 12 lead EKG
- Urine dipstick - sugar, protein, blood
- Physical fitness assessment - exercise stress tests, flexibility, strength

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- Functional testing -handgrip, push/pull, arm lift, lifting capacity, method-times-measurement (MTM) carry, crouch.

A.1 The Proponent shall detail how it can provide the required Pre-Placement Health Evaluation services to the City.

Special Health Evaluations

The City has a number of jobs that require special health evaluations to ensure employees are fit to do strenuous and potentially hazardous work with respirators or evaluations required by other regulatory agencies. Current requirements for these evaluations are for the Fire Department Hazardous Materials Team (Hazmat), drivers' medicals and any employee with self-reported health issues affecting their use of a respirator.

a) Annual Hazmat Evaluation for Fire & Rescue Services:

- Medical examination including: health and lifestyle history, examination of the head, neurological testing, abdominal exam, joint range of motion, and examination of the cardiovascular system
- Vision testing - distance, near and colour
- Blood pressure
- Blood work - chemistry, hematology and lipids
- Resting 12 lead EKG
- Exercise stress EKG (if indicated)
- Urine dipstick - sugar, protein, blood
- Physical fitness assessment
- Spirometry (if indicated)
- Screening for occupational exposures (if indicated, heavy metals, blood borne pathogens)

b) Respirator Protection Evaluation

Employees who are required to wear respirators may complete a questionnaire during their annual respirator fit test. If they indicate having difficulty wearing a respirator, or have or may have a medical condition affecting respirator use, they are referred for medical evaluation. Required services include:

- Review of City of Vancouver Respirator User Health Screening Form
- Physical examination if indicated
- Medical testing if indicated (exercise stress EKG, spirometry)

A.2 The Proponent shall detail how it can provide the required Special Health Evaluations services to the City.

A.3 The Proponent shall answer the following questions relating to Special Health Evaluations:

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- a) What protocol(s) does the Proponent use for physiological tests of fitness? Please describe.
- b) Where are tests for physiological fitness conducted?
- c) Does the Proponent have the ability to conduct assessments at a City facility? If yes, please describe the Proponent's abilities / experience in this area.
- d) Does the Proponent have experience conducting special medical examinations (as outlined in this RFP) for other clients/employers in the Province of British Columbia? Please explain.
- e) What professions does the Proponent propose to utilize to conduct the medicals/tests as described?
- f) Does the Proponent have experience with conducting hazmat physicals? If so, please detail the protocol(s) used, and explain why the protocol(s) were chosen.
- g) Does the Proponent currently manage medical monitoring programs for clients? If so, describe.
- h) Does the Proponent have a good understanding of existing WorkSafeBC regulations related to exposures to hazardous substances? If so, describe.
- i) What protocol does the Proponent follow to evaluate a person's ability to wear a respirator?

Exposure Monitoring

The City tracks employees who are exposed on a regular basis to chemicals and metals such as Forensic Identification and Drug Squad Evaluations for the Vancouver Police Department in accordance with the WorkSafeBC regulations. The City may identify other areas that may require monitoring.

A.4 The Proponent shall detail how it can provide the required Exposure Monitoring services to the City.

Periodic Health Evaluations for Fire & Rescue Services & Vancouver Police

The applicable Occupational Health Plan for Vancouver Fire & Rescue Services and the Vancouver Police Department requires the City to provide periodic health evaluations for fire and police department members. The timing of the physical is dependent upon age. Current physicals include counseling and whole person wellness. Required services include:

- Notification of persons requiring a physical.
- Medical examination including - health and lifestyle history, examination of the head, neurological testing, abdominal exam, joint range of motion and examination of the cardiovascular system.
- Vision testing - distance and near
- Blood pressure
- Resting 12 lead EKG
- Urine dip stick for blood, sugar and protein
- Tetanus boosts (if indicated)

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- Exercise Stress EKG (if indicated for high physical exertion; fire suppression, bike squad)
- Screening for Occupational Exposure (if indicated, heavy metals, blood borne pathogens)

A.5 The Proponent shall detail how it can provide the required Periodic Health Evaluations services described above.

A.6 The Proponent shall answer the following questions related to Periodic Health Evaluations for Fire & Rescue and Vancouver Police:

- a) Explain how the Proponent tracks / manages this work to ensure agreed-upon deliverables and standards are maintained.
- b) How would the Proponent communicate results to the various City departments about an individual's fitness to work after the evaluation has been conducted?
- c) The City requires a monthly detailed report of services conducted. As part of this report, a list of those employees who did not attend scheduled testing or did not make appointments as required must be included. Please describe the Proponent's reporting format and include examples of report(s).

Hepatitis B Immunization Program

The City currently has an extensive Hepatitis B immunization program. Hepatitis B inoculations are available to any City employee with the potential for exposure to blood or body fluids Hepatitis B. The service provider will be expected to provide vaccination services both on-site and in house. The successful Proponent is required to maintain a database of all City employees who have received Hepatitis B vaccinations. The successful Proponent will provide reports to the designated contact regarding the vaccination status of employees currently receiving the Hepatitis B vaccination series.

A.7 The Proponent shall detail how it can provide the required Hepatitis B Immunization Program to the City.

A.8 The Proponent shall answer the following questions related to the Hepatitis B Immunization program:

- a) Does the Proponent have the ability to provide vaccination services both on-site and in-house utilizing qualified staff to deliver this service?
- b) Can the Proponent maintain a database and provide data of all City employees who have received vaccinations, or are due for vaccinations, as well as the vaccination status of employees? Please describe.

Flu Clinic

The City may provide flu vaccinations to its employees on an annual basis. If required, flu clinics are established over a six to eight week period with a registered nurse being responsible for administering the vaccinations.

A.9 The Proponent shall detail how it can provide the required Flu Clinic services to the City.

A.10 The Proponent shall answer the following questions related to the Flu Clinic services:

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- a) Does the Proponent currently have licensed staff capable of purchasing and administering vaccinations?
- b) Does the Proponent currently have the capability to set-up mobile flu clinics? If so, please provide details.

Note: The City currently reimburses employees for obtaining flu shots from a provider of their choice. The City may consider alternative options / approaches proposed by the Proponent, which may be mutually beneficial to the City and its employees.

Blood and Body Fluid Exposure Program

The City has an exposure control plan for blood and bodily fluids. The occupational physician's role within this plan includes:

- Counseling for exposed workers and providing post exposure testing
- Consultative services to the City regarding blood and body fluid exposure issues

A.11 The Proponent shall detail how it can provide the required Blood and Body Fluid Exposure Program to the City.

A.12 The Proponent shall answer the following questions related to the Blood and Body Fluids Exposure Program:

- a) What is the Proponent's experience with cases of exposure to blood and body fluid?
- b) What is the Proponent's experience with counseling workers who have been exposed to blood and bodily fluids?
- c) Can the Proponent provide post-exposure testing?

Special Personal Protective Equipment

Employees may request, through a personal physician's note, a variation in standard issue personal protective equipment to meet a medical need. The occupational health physician will review these requests and make a determination whether the change in equipment is necessary.

A.13 The Proponent shall detail how it can provide the required services as they relate to Special Personal Protective Equipment.

After-Hours Emergency Consultative Services

The City may require access to an Occupational Health Physician that is available for emergency consultation services 24 hours/day, 7 days a week.

A.14 The Proponent shall detail how it can provide the required After-Hours Emergency Consultative services to the City, including answers to the following questions related to After-Hours Emergency Consultative Services:

- a) Describe the Proponent's Occupational Health Physician's regular working hours. Is the Proponent's Occupational Health Physician available after regular work hours for emergency consultative services? If yes, please describe the Proponent's available services.

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- b) Is the Occupational Health Physician an in-house resource, or does the Proponent utilize an external party/provider for these services?

B. ASO Adjudication & Management of Canadian Union of Public Employees 1004 Disability Plan

Claims Adjudication and Payment / Advice To Pay

A successful Proponent will be required to adjudicate claims under the City's disability plan for which proof of disability is required. In cases of approved claims, the City will consider alternate options for administering payment to the employee as follows*:

- Administrative Services Only with the provider adjudicating each claim and issuing an 'Advice to Pay' to the City. This will include direction to the City as to the benefits payable to the employee, including the duration of the payable period;

OR

- Administrative Services Only with the provider adjudicating each claim and issuing payment directly to the employee on behalf of the City. The successful Proponent will be responsible for calculating any statutory deductions and the benefits payable (including duration) to the employee. Note: If the Proponent makes a Proposal consistent with this approach, the Proponent must show a price breakdown, and clearly show the pricing for the adjudication component separately from the pricing for the issuing of payments directly to the employee.

*A Proponent may make a submission with respect to one or both approaches as outlined above.

Where a successful Proponent is making payment on behalf of the City, the successful Proponent will:

- a) Calculate any required statutory deductions (i.e. CPP, EI, income tax) payable by the employee in respect of a disability benefit payable to the employee under the benefit plan (collectively called the "Participant Remittance").
- b) Deduct and withhold the Participant Remittance from a disability benefit payable.
- c) Remit and report the Participant Remittance to the applicable government authority under the applicable City payroll account.
- d) Provide applicable government slips for income tax reporting purposes to Participants; and
- e) Provide the City with reports concerning the Participant Remittance that have been made on behalf of the City by the successful Proponent to assist the City in reconciling and satisfying its obligations to government authorities with respect to Participant Remittances and any other payroll related deductions that may be required to be made by the City.

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ANNEX 2 - WORK SCOPE

Case Management Claims Following Adjudication

Following adjudication, a successful Proponent will be required to manage approved cases through a proactive case management model to ensure human and financial costs are positively impacted. A successful Proponent must make difficult decisions / recommendations regarding entitlement and return to work issues related to sensitive cases. The City expects the successful Proponent to be proactive and identify early intervention strategies as well as ensure treatment plans are appropriate for the employee's condition and will mitigate the human and financial cost implications of lengthy claims.

Additional Services:

At the City's request, a successful Proponent may be required to provide the following:

- **Recovery of Overpayments** - Should the successful Proponent become aware of an overpayment under the benefit plan and determine that recovery should in its opinion, be attempted, it will make an attempt to recover the amount overpaid and provide supporting information regarding the overpayment to applicable stakeholders (Note: in the event that the Proponent is proposing to provide an 'Advice to Pay' model, the Proponent will be required to advise the City of the necessary information in order for the City to attempt to recover the overpayment).
- **Enrollment** - The successful Proponent will provide assistance with initial and ongoing enrollment where required for service delivery based on needs associated with any chosen approach.
- **Forms** - The successful Proponent will provide standard claim forms / employee statements, physician statements and employer statements to enable the fulfillment of its adjudicative responsibilities.
- **Records** - The successful Proponent will maintain the claims records.
- **Claim Reports / Monthly Statements of Account.** The successful Proponent will provide standard claim reports monthly with more detailed reports being required quarterly and annually. Where indicated, Claims reports will be accompanied by monthly statements of account.
- **Benefit Plan Amendments** - Upon receipt of appropriate documentation from the City, the successful Proponent will implement requested changes to the benefit plan, including the issue of any revised documents or forms, where required.

B.1 The Proponent shall detail how it can provide the required ASO Adjudication & Management of Canadian Union of Public Employees 1004 Disability Plan services to the City.

B.2 The Proponent shall answer the following questions:

- a) Describe the Proponent's general approach and process for adjudicating and managing claims.
- b) Identify whether the Proponent's proposed approach for benefit payment is to issue payment directly to the City employees or provide an 'Advice to Pay' to the City.
- c) Describe the Proponent's approach to adjudicating and managing mental health / psychological illness and addictions.
- d) How does the Proponent see its role versus the employee's treating practitioner in the adjudication process?
- e) What steps are taken when there are challenges communicating with an employee's treating medical practitioner.

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- f) Describe the Proponent's general approach and the steps the Proponent would take to having an employee fully return to work or to transitional modified duties.
- g) What is the Proponent's approach to managing issues when legitimacy or fraud is in question?

Rehabilitation Programs & Services

In certain situations, for adjudicated cases, the City will require a provider(s) for rehabilitation programs and services such as Occupational Rehabilitation Programs, Occupational Therapy Services, Functional Capacity Evaluations, Physical Therapy, Ergonomic Assessments, Worksite Evaluations, and Physical Demands Analysis.

B.3 The Proponent shall detail how it can provide the required services related to Rehabilitation Program and Services for adjudicated cases.

B.4 The Proponent shall answer the following questions:

- a) Describe the specific services the Proponent is capable of providing in-house.
- b) If the Proponent plans to utilize and/or partner with external providers for the various rehabilitation programs and services, the Proponent shall indicate which services are being contracted out, and the Proponent shall name the provider for each service.

C. Adjudication and Assessment of Accommodation Cases

A successful Proponent may be required to adjudicate requests for permanent accommodations and determine if there is bona fide medical to support the need for the request. Based on medical evidence, the successful Proponent will be required to provide the City clear objective information on any permanent restrictions and limitations.

C.1 The Proponent shall detail its approach and how it can provide the required Adjudication and Assessment of Accommodation Cases.

D. Disability / Case Management & Medical Coordination (non-adjudicated cases)

A successful Proponent will be required to assist with managing disability cases through a proactive case management model to ensure human and financial costs are positively impacted. This will include cases falling outside of the adjudication process (as described in section B, above), and may involve both occupational and non-occupational related cases.

City departments may refer employees to the successful Proponent when they believe there may be a barrier to returning to work. Additionally, employees that are currently working may also be referred to the successful Proponent to immediately address any identified issues. The City's expectation is that employees return to work healthy and productive enough to ensure that they are not being placed in situations which may be harmful to themselves, other employees or the City. Interviewing individual employees may be required. A successful Proponent must have qualified staff to indicate whether the individual employee is capable of performing his or her normal work and to make recommendations for modified or transitional work where required.

A successful Proponent's function will also include determining the need to utilize other resources such as medical assessments, functional capacity evaluations, occupational rehabilitation programs, etc. to foster the employee's recovery and sustainable return to work. The successful Proponent will be responsible for coordinating such medical resources as the need exists.

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A successful Proponent may be required to represent or otherwise assist the City in grievances, arbitrations, worker's compensation appeals, and/or other legal proceedings. Additional disability / case management functions of the successful Proponent may include:

- Confirmation of disabling conditions and determination if absence is due to a defined medical condition / restriction(s)
- Matching prognosis against standard return to work guidelines and assistance with return to work barriers
- Obtaining medical, functional and job information to support return to work as determined by restrictions and abilities for temporary accommodations as required
- Coordination of diagnostic testing in order to expedite treatment and return to work.
- Coordinating physical and / or psychological assessments as they pertain to assessing return to work ability
- Case management services as required to ensure treatment recommendations are implemented as per Independent Medical Examinations ("IME") recommendations

D.1 The Proponent shall detail how it can provide the required Disability/Case Management & Medical Coordination services, as described above, to the City.

D.2 The Proponent shall answer the following questions related to Disability / Case Management & Medical Coordination:

- a) Describe which services the Proponent is able to provide in-house and which services it will contract out. If the Proponent has the ability to provide services in-house, detail if, and how, the Proponent would / may also utilize an external provider to support positive outcomes.
- b) What factors does the Proponent believe to be of significant importance when determining an individual's fitness for returning to work?
- c) What is the Proponent's role when non-medical issues are hindering recovery and/or work return?
- d) It is often imperative to understand the physical and mental demands of a given job in order to make appropriate return to work decisions. Describe how the Proponent ensures appropriate return-to-work decisions are being made in this regard.
- e) When handling return to work issues, the City requires clear communication of the individual's abilities / limitations from the successful Proponent. What information will the Proponent be prepared to release to the City, while ensuring the individual's rights to confidentiality are respected?
- f) The successful Proponent may be required to represent or otherwise assist the City in and/or with grievances, arbitrations, workers' compensation appeals and/or other legal proceedings. Please describe the Proponent's knowledge, skills, abilities and experience in this type of practice.

The City may also benefit from having access to After-Hours Support Services as it pertains to WorkSafeBC-related stay-at-work matters. In this regard, the City would have 24 hours/day, 7 days/week access to an experienced Proponent who can consult with City staff and provide guidance and coaching following a workplace incident. This may include, but is not limited to, assisting City staff with implementing suitable actions to support the City's practices / programs, such as modified work and other advice to mitigate the human and financial costs associated with workplace injuries.

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D.3 The Proponent shall describe how it can provide this After-Hours Support Service, if required.

Rehabilitation Programs & Services

In certain situations, for non-adjudicated cases, the City will require a provider(s) for rehabilitation programs and services such as Occupational Rehabilitation Programs, Occupational Therapy Services, Functional Capacity Evaluations, Physical Therapy, Ergonomic Assessments, Worksite Evaluations, and Physical Demands Analysis.

D.4 The Proponent shall detail how it can provide the required services related to Rehabilitation Program and Services for non-adjudicated cases.

D.5 The Proponent shall answer the following questions:

- a) Describe the specific services the Proponent is capable of providing in-house.
- b) If the Proponent plans to utilize and/or partner with external providers for the various rehabilitation programs and services, the Proponent shall indicate which services are being contracted out, and the Proponent shall name the provider for each service.

E. Independent Medical Examinations / Medical Opinions / Assessments

On occasion, the City may require independent medical examinations, medical opinions and/or assessments to help manage cases. This may be on a stand-alone basis or part of the overall case management activities for those situations which are referred to a provider for disability management services.

E.1 The Proponent shall describe its in-house capabilities to provide the types of services described above (note: the response should specify the services the Proponent can provide).

F. Professional Addictions Assessment & Monitoring Services

The City recognizes the significant personal and organizational costs of psychological and stress-related illnesses as well as substance use disorders. In this context, the provider must be skilled in adjudicating and managing these conditions, be able to provide and/or ensure bio-psycho-social assessment, and be able to bring insight and action to objective assessments that will directly address addiction, cognitive and behavioral issues. Where appropriate, a successful Proponent will advise the employer if a referral for an Independent Medical Evaluation or Substance Abuse Professional is recommended, and /or provide guidance to the City that will enable the City to focus on achieving positive outcomes from a human and financial perspective.

The successful Proponent must demonstrate it has a team or an available team of physicians, psychologists and psychiatrists with training and certification in addiction. These professionals must have the proven knowledge, skills and abilities to provide assessments that determine if the employee is a recreational user and/or has a medical addiction that impacts the employee's ability to perform safety-sensitive work. Upon completion of assessments, where indicated, treatment options must be outlined. If required, and where appropriate, a process for medical maintenance and monitoring contracts must be developed and implemented that includes random screenings as indicated. Recognizing the importance of aftercare follow-up treatment, a successful Proponent must demonstrate its ability to have aftercare follow-up treatment in place prior to any residential program discharge.

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A successful Proponent must have the ability to provide and/or coordinate lab-based and/or mobile collection services as required. Proper protocols and chain of custody procedures must be followed and clearly explained in the Proposal.

Where indicated, a successful Proponent must have the ability to manage laboratory needs and use fully accredited laboratories ensuring for appropriate chain of custody protocols.

F.1 The Proponent must describe its process to review and manage testing both positive and negative results as well as overall compliance with the addiction specialist's treatment recommendations. In this context, the Proponent shall describe how it will ensure legal tests are met, and shall provide specific, verifiable examples of how it has successfully managed complex cases.

G. WorkSafe BC Claims Management Assistance / Appeals Work / After Hours Support Services

The City requires professional expertise to assist in managing its occupational / WorkSafeBC matters. This may include, but is not limited to, consultative services / representation and/or submissions involving:

- Letters of Protest
- Relief of Costs
- Disability Awards and Vocational Rehabilitation decisions
- Representing the City at all levels of formal appeal
- Claims submission and claims management
- WorkSafeBC policies
- WorkSafeBC appeals
- New policy interpretation
- Onsite training pertaining to WorkSafeBC related matters

G.1 The Proponent shall describe its ability to provide required professional expertise as listed above.

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ANNEX 3 - PRICES FOR SERVICES

ANNEX 3 - PRICES FOR SERVICES

The Proponent must provide a standard pricing schedule based on the table below. All pricing submitted will be guaranteed and fixed for a period of five (5) years.

All prices are to be exclusive of applicable sales taxes calculated upon such prices, but inclusive of all other costs.

DESCRIPTION OF SERVICE	PRICE excluding GST (indicate units for pricing i.e. per hour, each, per assessment, etc.)
A. OCCUPATIONAL HEALTH SERVICES	
Pre-placement Evaluations for Vancouver Fire & Rescue	\$
Pre-placement Evaluations for Vancouver Police	\$
Pre-placement Evaluations for Labourer Positions	\$
Forensic ID Team and Drug Squad Special Medicals	
Annual Hazmat Evaluation	\$
Respirator Protection Evaluation	\$
Exposure Monitoring	\$
Periodic Health Evaluations for Fire & Rescue Services and Police	\$
Hepatitis B Immunization Program	\$
Flu Clinic (refer to Annex 2, Question A.10):	
Vaccine Cost	\$
Onsite RN fees	\$
Blood and Body Fluids Exposure Program	\$
Blood/Urine Test	\$
Outside Medical Assessment	\$
Special Personal Protective Equipment	\$
After Hours Emergency Consultative Services (Occupational Health Physician)	\$
(Include any additional service offerings and associated pricing)	\$

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ANNEX 3 - PRICES FOR SERVICES

B. CLAIMS ADJUDICATION AND CASE MANAGEMENT SERVICES	
Adjudication & Case Management Services (Advice to Pay Model)	\$
Adjudication & Case Management Services (Issue Payment Directly to Employee Model) - Case Management Component	\$
Adjudication & Case Management Services (Issue Payment Directly to Employee Model) - Issuing Payments Component	\$
Rehabilitation Programs & Services:	
Occupational Rehabilitation Program	\$
Functional Capacity Evaluations	\$
Fit for Work Assessment	\$
Ergonomic Assessments	\$
Worksite Assessments	\$
Physical Demands Analysis	\$
Occupational Therapy Services	\$
Physical Therapy Services	\$
C. ADJUDICATION & ASSESSMENT OF ACCOMMODATION CASES	
Adjudication & Assessment	\$
D. CASE MANAGEMENT & MEDICAL COORDINATION (FOR NON-ADJUDICATED CASES)	
Case Management & Medical Coordination	\$
WorkSafeBC After Hour Support Services	\$
Rehabilitation Programs & Services:	
Occupational Rehabilitation Program	\$
Functional Capacity Evaluations	\$
Fit for Work Assessment	\$

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ANNEX 3 - PRICES FOR SERVICES

Ergonomic Assessments	\$
Worksite Assessments	\$
Physical Demands Analysis	\$
Occupational Therapy Services	\$
Physical Therapy Services	\$
E. INDEPENDENT MEDICAL EXAMINATIONS / MEDICAL OPINIONS / ASSESSMENTS	
Occupational Health Physician	\$
General Physician	\$
Psychiatrist	\$
Psychologist	\$
(List additional medical specialties and associated fees below)	
e.g. Medical Status Examination, Independent Medical, Medical Opinion (by Specialty), Medical Review Office Services	\$
F. PROFESSIONAL ADDICTIONS ASSESSMENT & MONITORING SERVICES	
Substance Abuse Professional Initial Assessment:	
Indicate Professional Discipline: _____	\$
Substance Abuse Professional follow-up Assessment:	
Indicate Professional Discipline: _____	\$
Telephone Consultations	\$
Maintenance and Monitoring	\$
G. WORKSAFEBC CLAIMS MANAGEMENT / APPEALS/ AFTER HOURS SUPPORT SERVICES	
WorkSafe BC Claims Management Services	\$
WorkSafe BC Appeals Representation	\$
Onsite WorkSafeBC Training	\$
ADDITIONAL / OPTIONAL SERVICES	Price (state units)

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ANNEX 3 - PRICES FOR SERVICES

INCENTIVE PRICING	
e.g. pay-for-performance, durable return outcomes, and/or other established service metrics	
OTHER	
Minimum billing increments for hourly work	
How many days' /hours' notice is required for cancellation of appointments or assessments?	
Is there a fee for "no-shows"? If so, please indicate:	
Is there a charge for onsite travel? If so, please indicate mileage rate:	
Travel time hourly rate (if applicable):	
ASSUMPTIONS AND/OR NOTATIONS REGARDING THE PROPOSED FEES:	

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ANNEX 4 - CERTIFICATE OF EXISTING INSURANCE



CERTIFICATE OF EXISTING INSURANCE
TO BE COMPLETED AND APPENDED TO THE PROPOSAL/TENDER

Section 2 through 8 – to be completed and executed by the Insurer or its Authorized Representative

1. THIS CERTIFICATE IS ISSUED TO: City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.

NAMED INSURED (must be the same name as the proponent/bidder and is either an individual or a legally incorporated company)

BUSINESS TRADE NAME or DOING BUSINESS AS

BUSINESS ADDRESS

DESCRIPTION OF OPERATION

3. PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)

INSURER	Insured Values (Replacement Cost) -
TYPE OF COVERAGE	Building and Tenants' Improvements \$
POLICY NUMBER	Contents and Equipment \$
POLICY PERIOD From to	Deductible Per Loss \$

4. COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)

Including the following extensions:

<input checked="" type="checkbox"/> Personal Injury	INSURER	
<input checked="" type="checkbox"/> Property Damage including Loss of Use	POLICY NUMBER	
<input checked="" type="checkbox"/> Products and Completed Operations	POLICY PERIOD	From to
<input checked="" type="checkbox"/> Cross Liability or Severability of Interest	Limits of Liability (Bodily Injury and Property Damage Inclusive) -	
<input checked="" type="checkbox"/> Employees as Additional Insureds	Per Occurrence	\$
<input checked="" type="checkbox"/> Blanket Contractual Liability	Aggregate	\$
<input checked="" type="checkbox"/> Non-Owned Auto Liability	All Risk Tenants' Legal Liability	\$
	Deductible Per Occurrence	\$

5. AUTOMOBILE LIABILITY INSURANCE for operation of owned and/or leased vehicles

INSURER	Limits of Liability -
POLICY NUMBER	Combined Single Limit \$
POLICY PERIOD From to	If vehicles are insured by ICBC, complete and provide Form APV-47.

6. ☐ UMBRELLA OR ☐ EXCESS LIABILITY INSURANCE Limits of Liability (Bodily Injury and Property Damage Inclusive) -

INSURER	Per Occurrence	\$
POLICY NUMBER	Aggregate	\$
POLICY PERIOD From to	Self-Insured Retention	\$

7. PROFESSIONAL LIABILITY INSURANCE

INSURER	Limits of Liability
POLICY NUMBER	Per Occurrence/Claim \$
POLICY PERIOD From to	Aggregate \$
	Deductible Per Occurrence/Claim \$

If the policy is in a "CLAIMS MADE" form, please specify the applicable Retroactive Date:

8. OTHER INSURANCE

TYPE OF INSURANCE	Limits of Liability
INSURER	Per Occurrence \$
POLICY NUMBER	Aggregate \$
POLICY PERIOD From to	Deductible Per Loss \$

TYPE OF INSURANCE	Limits of Liability
INSURER	Per Occurrence \$
POLICY NUMBER	Aggregate \$
POLICY PERIOD From to	Deductible Per Loss \$

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

PRINT NAME OF INSURER OR ITS AUTHORIZED REPRESENTATIVE, ADDRESS AND PHONE NUMBER

Dated

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PROVISION DISABILITY MANAGEMENT AND OCCUPATIONAL HEALTH SERVICES

ANNEX 5 - SUPPLIER CODE OF CONDUCT COMPLIANCE

Purpose: All suppliers are to complete and submit this form with Proposals to demonstrate compliance with the Supplier Code of Conduct.

The City of Vancouver expects each supplier of goods and services to the City to comply with the City's Supplier Code of Conduct (SCC) <http://vancouver.ca/policy_pdf/AF01401P1.pdf>. The SCC defines minimum social standards for City suppliers and their subcontractors based on the International Labour Organization (ILO) core labour conventions and compliance with national and other applicable law of the country of manufacture of products including those laws relating to labour, worker health and safety, and the environment.

Proponents/vendors must comply with these standards upon submitting a proposal or quotation to the City, or have a plan in place to comply within a specific period of time. The City reserves the right to determine an appropriate timeframe in which proponents/vendors must come into compliance with the SCC. To give effect to this requirement, an authorized signatory of the undersigned proponent/vendor must complete the following declaration and include this declaration with their submission/quotation:

"As an authorized signatory of <insert proponent/vendor name>, I declare that to the best of my knowledge, <insert proponent/vendor name> and our sub-contractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws of the country of manufacture, other than as noted in the table below (include all violations/convictions that have occurred in the past three years as well as plans for corrective action).

Section of SCC, Title of ILO convention/national law or other	Date of violation /conviction	Description of violation /conviction	Regulatory/ adjudication body and document file number	Corrective action plan

I understand that a false declaration and/or lack of a corrective action plan may result in disqualification of <insert proponent/vendor name>'s submission/quotation."

Corporate Name of Proponent _____

Name & Title of Authorized Signatory _____

Signature _____

Date _____

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ANNEX 6 - VENDOR SUSTAINABILITY LEADERSHIP QUESTIONNAIRE

Purpose: This document is designed to identify where suppliers are going above the minimum standards in the Supplier Code of Conduct and are demonstrating sustainability leadership in their own operations as part of the evaluation criteria of a bid process.

As part of the City's corporate Purchasing Policy and related Supplier Code of Conduct, all City vendors must meet minimum requirements related to ethical, social and environmental standards. Beyond these basic requirements, the City would also like to reward vendors that are demonstrating leadership and innovation in sustainability. In order to be able to do so, the City requires that all suppliers bidding on a City contract answer the following questions. The answers to the questionnaire will be evaluated as part of the bid evaluation process.

You will need to be able to verify all your answers to the City upon request. Please keep in mind that these questions relate to your company's internal operations and overall sustainability leadership.

Section 1: Workplace Health & Safety, Wage Rates and Diversity

1. Tell us how your company works to promote workplace health and safety.

a) We have a documented Health & Safety Policy and Program that is openly endorsed by senior management and is updated on an annual basis	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We have a Health & Safety Manual that includes safe work procedures, incident investigation process with the intent of prevention, workplace inspection process and emergency preparedness and response.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) We conduct hazard assessments and job task-specific health & safety training on an annual basis	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) We are registered with one or more of these Safety Management System/Program:		
OHSAS 18001	<input type="checkbox"/> Yes	<input type="checkbox"/> No
CAN/CSA Z1000	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ANSI Z10	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) We have a system registered, certified or recognized by another standard	Please specify _____	
f) We adhere to one or more of the ILO health and safety resolutions	<input type="checkbox"/> Yes	<input type="checkbox"/> No
g) We have a non-registered audited health and safety management system	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2. Tell us how you ensure fair wages and employee benefits.

a) We pay all of our staff a minimum wage that meets the regional LICO (See http://www.statcan.gc.ca/pub/75f0002m/2009002/tbl/tbl-2-eng.htm for wage amounts)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We pay benefits to all of our full-time employees	<input type="checkbox"/> Yes	<input type="checkbox"/> No

3. Tell us about your strategy to address diversity in your workplace.

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	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a) We have a policy or strategy to support hiring a diverse workforce	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We have a policy or strategy to purchase from diverse contractors/suppliers	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) Our company participates in work/employment training programs for vulnerable/diverse populations (e.g. Social purchasing portal)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Section 2: Environmental Management & Stewardship

4. Tell us what policies and programs your company has in place to manage its environmental impact.

	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a) We have a documented Environmental or Sustainability Policy	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We have an environmental management system registered to ISO 14001	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) We have a system registered, certified or recognized by another standard (e.g. EMAS)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Please specify _____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) We have a non-registered audited environmental management system	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) We conduct compliance audits to health, safety and environmental legislation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) We produce a publicly available annual environmental, CSR, sustainability or accountability report	<input type="checkbox"/> Yes	<input type="checkbox"/> No

5. Tell us how your company works to reduce its greenhouse gas (GHG) emissions.

	<input type="checkbox"/> Yes	<input type="checkbox"/> No
a) We measure our GHG emissions and have developed a reduction strategy	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We publicly report our GHG emissions	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) We have set publicly available GHG reduction targets	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) We have set a target for the use of renewable or alternative forms of energy and have developed a strategy to reach this target	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e) We have retrofitted our facility, our fleet and/or made process improvements to decrease GHG emissions and energy use	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f) We have an alternative transportation program for employees (e.g. public transit subsidy, cycling facilities, carpooling program)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
g) We purchase from shipping/delivery companies that have taken steps to reduce their GHG emissions	<input type="checkbox"/> Yes	<input type="checkbox"/> No
h) We operate in third party verified green buildings and have developed a plan to meet third party verified standards (such as LEED, BREEAM, etc) in as many of our facilities as possible	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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Please specify the verification system:_____

6. Tell us how your company works to reduce waste in its daily operations.

a) We conduct annual audits to measure the total amount of solid waste generated by our facilities and have a waste reduction strategy	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We have set publicly available waste reduction targets	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) We have an office recycling program that includes office paper, beverage containers, batteries and printer cartridges	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d) We have other recycling programs in our operations	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Please specify additional materials recycled:_____

7. Tell us how your company works to reduce the use of toxins and properly manage hazardous substances

a) We are not in violation with any local, national or international laws related to the use of toxins and management of hazardous substances	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b) We have a Toxic Reduction Strategy/Policy that aims to reduce toxins across all operations	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c) We measure the implementation of our Toxic Reduction Strategy/Policy against a pre-determined set of performance metrics and verify performance with a third-party	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Section 3: Back-up Documentation to Verify Responses

The City reserves the right to verify responses on this questionnaire and may request some or all of the following documentation.

Section	Question	Back-up Documentation
Section 1: Workplace Health & Safety, Wage Rates and Diversity	Question 1	<ul style="list-style-type: none"> A copy of policies Proof of safety management system certification
	Question 2	<ul style="list-style-type: none"> Documentation of employee benefit packages and a list of those who receive benefits
	Question 3	<ul style="list-style-type: none"> A copy of policies
Section 2: Environmental Management & Stewardship	Question 4	<ul style="list-style-type: none"> A copy of policies Proof of environmental management system certification A copy of public report
	Question 5	<ul style="list-style-type: none"> A copy of public report A copy of reduction targets and related results A copy of LEED, BREEAM, etc. certification
	Question 6	<ul style="list-style-type: none"> Total tonnes of solid waste generated A copy of reduction targets
	Question 7	<ul style="list-style-type: none"> A copy of policy or strategy A copy of reduction targets and related results A copy of third party audit/verification

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ANNEX 7 - DISABILITY PLAN DOCUMENT [18 pages to follow]

Disability Plan Document

City of Vancouver

And

Canadian Union of Public Employees Local 1004

Dated December 11, 2007
Amended June 2013

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1) **Background**

This Disability Plan Document represents a compilation of a number of separate plan documents, Short Term Disability, Long Term Disability and the City's sick leave provisions. It also reflects the parties' rights and obligations pursuant to the Collective Agreement. The purpose of drafting a single plan document to deal with the various disability issues is to simplify administration of the separate plans and to introduce a limited number of substantive changes to the plan. The City has consulted with the Union on issues involving administrative changes, and negotiated specific substantive changes where Union consent was required. This Disability Plan Document is not incorporated by reference into the Collective Agreement, although the Union acknowledges that the City's obligation as set out in the Collective Agreement and 2003-2006 Memorandum of Agreement has been satisfied with the provision of this Disability Plan.

The City agrees that with the exception of administrative changes which do not impact employee benefit levels or benefit entitlement, further changes to the Disability Plan Document shall be made only after consultation with and the consent of the Union. In the event of any dispute as to the meaning of this Disability Plan Document, the parties shall rely upon the plan text of the agreement failing which reference to notes, discussions and draft plan texts is permitted. It is agreed by the parties that so long as this agreement is in place, these appeal processes replace any existing or pre-existing appeal processes with respect to the administration, application or entitlement to Medium or Long Term Disability.

The effective date of this Disability Plan Document is April 1, 2009.

2) Definitions

The following are definitions of terms used in this document and for the purposes thereof, shall have the meaning set forth below.

- (a) “*Actively at Work*” and “*Active Work*” mean the Employee is performing all of the regular duties of the Employee’s Normal Occupation, temporary assignment or acting assignment with the Employer, as applicable, for a full scheduled shift.
- (b) “*Collective Agreement*” means the agreement in writing between the Employer and the Union containing provisions as to rates of pay, hours of work, and other conditions of employment applicable to Employees. Collective Agreement means the agreement in effect on the date of Total Disability.
- (c) “*Date of Disability*” means the first day upon which the Employee becomes Totally Disabled but does not include a day where an Employee has worked at least five hours for the Employer. If an Employee has worked five or more hours for the Employer, the Employee shall be paid for a full day of work as if he had worked the full day; the following day will be considered the Date of Disability if the Employee remains Totally Disabled. If an Employee has worked less than five hours for the Employer, this will be considered the Date of Disability; the full day will be treated as the first day of Short Term Disability.
- (d) “*Employee*” means a regular full-time employee, regular part-time employee or temporary full-time employee of the Employer subject to the provisions of the Collective Agreement. For the purposes of this Plan, an employee shall not become an Employee until or unless:
 - (i) for regular full-time and regular part-time employees, the first day following the date such Employee has completed three months of continuous service with the Employer for Medium Term Disability and Long Term Disability, and the first day following the date such Employee has completed six months of continuous service with the Employer for Short Term Disability;
 - (ii) for temporary full-time employees, the first day following the date such Employee has worked continuously in a full-time capacity for six months and worked 1,200 hours in a temporary full-time, auxiliary and/or regular part-time capacity with the Employer.
 - (iii) the Employee is Actively at Work on the date he otherwise becomes eligible in accordance with (i) or (ii) above. If an employee is not Actively at Work on the date he otherwise becomes eligible, the employee shall only become an Employee after his return to employment with the Employer.

Temporary full-time employees who have previously qualified for benefits and are subsequently rehired within one year for a temporary full-time assignment greater than eight weeks shall immediately become an Employee.

An Employee who is a member of the Executive Board of the Canadian Union of Public Employees Local 1004 shall be eligible for coverage under this Plan for the period of time that he is a member of the Executive Board, providing leave of absence has first been approved by the Employer.

- e) “*Employer*” means the City of Vancouver including the Board of Parks and Recreation.
- f) “*He*”, “*his*” and “*him*” refer to both genders.

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- g) "Medical Examination" is an examination by a duly qualified Physician or medical practitioner and includes but is not limited to a functional capacity evaluation, occupational fitness assessment, or an independent medical examination.
 - h) "Normal Occupation" means the regular occupation, job or work (apart from any temporary or acting assignment) an Employee was performing at the time he became Totally Disabled.
 - i) "Qualifying Period" for Short Term Disability benefits is zero Scheduled Work Days of Total Disability. The Qualifying Period for Medium Term Disability benefits is three Scheduled Work Days of Total Disability. The Qualifying Period for Long Term Disability benefits is three Scheduled Work Days plus 26 weeks of Total Disability.
 - j) "Physician" means a doctor of medicine (M.D.) legally licensed to practise medicine in the place where services are provided.
 - k) "Plan" means this Disability Plan Document and all amendments to, replacements of, substitutions for and additions to any part, which the parties may, at any time hereafter, include or adopt as part of the Plan. Any amendments, replacements, substitutions and/or additions to the Plan shall be made after consultation with the Union and the consent of the Union. The Employer may make administrative changes to the Plan providing that such changes do not result in a general reduction in benefits levels or entitlements.
 - l) "Pre-Disability Rate of Pay" means the posted and/or classified rate of pay for the Employee's Normal Occupation on the Date of Disability.

Effective January 1st, 2013 and each January 1st thereafter, for the term of this agreement, adjustments will be made annually to the pre-disability benefits as of January 1st of that year. Adjustments will reflect the general wage increase implemented in the prior calendar year and will not attract retroactivity.

"Pre-Disability Rate of Pay" for Medium Term Disability and Long Term Disability means the average rate of pay earned by the Employee for time worked for the Employer during the previous calendar year, updated for any negotiated wage increase(s), or the posted and/or classified rate of pay for the Employee's Normal Occupation on the Date of Disability, whichever is higher. Any period(s) of Short Term Disability, Medium Term Disability or Long Term Disability during the previous calendar year are calculated at the Employee's posted and/or classified rate of pay for the Employee's Normal Occupation. The Pre-Disability Rate of Pay will be re-calculated for all Employees on January 1st based on the previous calendar year.

The Pre-Disability Rate of Pay for new Employees whose employment with the Employer begins mid-way through a calendar year will be the posted and/or classified rate of pay for the Employee's Normal Occupation on the Date of Disability.

- m) "Rehabilitation Income" means income which the Employee receives for work performed under an approved Rehabilitation Program.
- n) "Rehabilitation Program" includes but is not limited to a graduated return to work program, transitional duties, temporary alternate work assignments, work hardening activities and retraining programs, or a combination thereof, approved by the Employer.
- o) "Scheduled Work Day" means a day on which the Employee is normally expected to work including a statutory holiday and any day during which an Employee is on an authorized paid leave of absence (including a paid vacation day).
- p) "Totally Disabled" and "Total Disability" mean the inability of the Employee, due to illness or injury, to physically or mentally perform the duties of the Normal Occupation for Short Term

Disability, Medium Term Disability, and the first two years of Long Term Disability benefits. Thereafter, an Employee is considered Totally Disabled if, due to illness or injury, the Employee is physically or mentally unable to perform the duties of any occupation or employment for wages or compensation, for which the Employee is reasonably qualified by education, training or

experience, or may reasonably become so qualified, and for which the earnings are 60% or more of the Employee's Pre-Disability Rate of Pay.

- q) "Union" means the Canadian Union of Public Employees Local 1004 and any successor thereof in respect to the Collective Agreement.

3) Termination of Entitlement to Coverage Under this Plan

Coverage for disability benefits under this Plan will terminate on the earliest of the following:

- a) The date the Employee turns age 65
- b) The date the Employee dies.
- c) Termination of employment, except as noted under Termination of Benefits for an Employee in receipt of Long Term Disability benefits.
- d) The date this Plan is discontinued or terminated.

4) Benefit Determination

The first three days of absence from work due to Total Disability are classified as Short Term Disability.

If Total Disability continues beyond three Scheduled Work Days, then the following 26 weeks of Total Disability are classified as Medium Term Disability. Each period of Medium Term Disability must be preceded by completion of three days of Short Term Disability, regardless of whether or not the Employee is in receipt of Short Term Disability benefits as specified under Amount of Benefit. An Employee must return to Active Work, and be physically and mentally able to perform the duties of their Normal Occupation, for 30 calendar days without absence due to illness or injury in order to replenish their Medium Term Disability coverage to 26 weeks.

If Total Disability continues beyond 26 weeks of Medium Term Disability, then Total Disability is classified as Long Term Disability.

5) Amount of Benefit

The Employer pays Short Term Disability benefits for a maximum of three Scheduled Work Days for each bona fide illness or injury to a maximum of 12 Scheduled Work Days per calendar year. The amount of Short Term Disability benefit is equal to 70% of the Employee's Pre-Disability Rate of Pay. After 12 days of Short Term Disability benefits have been paid by the Employer during a calendar year, all subsequent periods of Short Term Disability during the calendar year are unpaid.

Medium Term Disability benefits are paid at 80% of the Employee's Pre-Disability Rate of Pay, reduced by income as specified under items (a),(b), (c) and (i) under Other Income.

Long Term Disability benefits are paid at 65% of the Employee's Pre-Disability Rate of Pay, reduced by income as specified under items (a), (b), (c) and (i) under Other Income, and subject to the All Source Limitation.

The foregoing shall not apply to any benefit of income payable to the Employee from a personal insurance policy or to any other income or benefit the Employee was receiving prior to becoming disabled. It shall include any vacation pay received by the Employee during his benefit payment period

and any benefit or income the Employee is entitled to receive regardless of whether the Employee applies to receive such benefit, except in the case of Canada Pension benefits while on Medium Term Disability.

It is understood that it is in the employee's best interest to apply for CPP Disability benefits; however the City agrees not to withhold benefits if an employee does not apply for CPP Disability benefits prior to eligibility for LTD. The Union and the employee agree not to hold the City harmless should an application not be made.

6) Payment of Benefit

A Totally Disabled Employee will receive the benefit specified under Amount of Benefit, subject to any provisions for reduction, termination or exclusion of benefits contained in this Plan.

Payments for Short Term Disability will be made by the Employer via normal payroll procedures.

Payments for Medium Term Disability shall be payable at the end of each week during the Benefit Payment Period. If Total Disability starts or ends on a day other than the first or last Scheduled Work Day of a week then the benefit shall be prorated for that partial week on the basis of $1/n^{\text{th}}$ of the applicable benefit for each day of Total Disability, where "n" is equal to the number of days the employee is regularly scheduled to work each week.

Payments for Long Term Disability shall be payable at the end of each month during the Benefit Payment Period. The first payment covers the period beginning on the day of the month in which the Qualifying Period is completed and ending on the last day of such month. The last payment covers the period beginning on the first day of the month and ending on the day before benefits cease, as specified under Termination of Benefits. For the purpose of calculating the first payment and last payment, $1/n^{\text{th}}$ of the monthly Long Term Disability benefit is payable for each day of Total Disability, where "n" equals the number of days in the month.

7) All Source Limitation

If the Employee's Long Term Disability benefit, as calculated under Amount of Benefit, plus income from all of the sources specified under Other Income, exceed 80% of the Employee's Pre-Disability Rate of Pay, then the Employee's Long Term Disability benefit will be reduced by such excess amount.

If an Employee is participating in a Rehabilitation Program as specified under Rehabilitation, the All Source Limitation shall be calculated at 100% of the Employee's Pre-Disability Rate of Pay, taking into account the Employee's Medium Term or Long Term Disability benefit as calculated under Amount of Benefit, income from all of the sources specified under Other Income, plus income earned under the Rehabilitation provision of this Plan.

8) Other Income

The following benefits or payments will be considered Other Income. With the exception of (a), only those benefits or payments resulting from the Employee's Total Disability will be considered Other Income, if on or after the date the Employee became Totally Disabled, the Employee begins to receive such benefits or payments or would be entitled to receive them had the Employee made satisfactory application.

- (a) Earnings or payments from any employer, including severance payments and earnings from self-employment, but excluding earnings from an approved Rehabilitation Program as specified under Rehabilitation.

-
- (b) Benefits payable under any Workers' Compensation Act.
 - (c) Disability benefits payable under a public pension plan (e.g., the Canada Pension Plan or Quebec Pension Plan), excluding those benefits payable to the Employee on behalf of his dependents.
 - (d) Disability benefits payable to the Employee under a public pension plan (the Canada Pension Plan or Quebec Pension Plan) on behalf of his dependents.
 - (e) Disability benefits payable under any other group, association or franchise insurance plan.
 - (f) Disability benefits payable under any other government plan.
 - (g) Maternity/parental benefits payable under the Employment Insurance benefit.
 - (h) Retirement benefits provided by an employer and/or a government.
 - (i) Income replacement indemnity payable under any automobile insurance plan or policy to the extent permitted by law.
 - (j) Earnings recovered through a legally enforceable cause of action against some other person or corporation in accordance with the provisions under Third Party Liability.

When determining the amount of Other Income, the following will apply:

- (a) Any benefits not payable on a monthly basis will be converted to a monthly basis.
- (b) Any government awards that are not payable solely due to incomplete application by the Employee, or the Employee's failure to complete an application, will be estimated and taken into account.
- (c) For disability benefits payable under a public pension plan, the only changes which are taken into account are those resulting from a change in dependent status or an error in determining the original benefit amount.
- (d) Any changes due to a cost of living increase will be excluded.

9) Claims Submission

The Employer recognizes that where it has a legitimate basis to insist that employees provide satisfactory medical verification for their absences and/or fitness to return to work, its right is not absolute. Therefore, medical verification may be required by the Employer, on a case by case basis, for Short Term Disability benefits if the employee has a record of excessive illness and/or injury time off, or there is sufficient evidence to cast doubt on the need for such time off. Medical verification may include a Physician's note and/or completion of the Employer's Occupational Fitness Assessment form by the Employee's attending Physician.

The Employee is responsible for any charges related to the completion of the Physician's note and/or Employer's Occupational Fitness Assessment form. Short Term Disability benefits may be withheld by the Employer until medical verification is submitted.

An Employee is required to complete an Application for Disability Benefits form for Medium Term Disability benefits. The Employee is required to attend a Physician within eight calendar days of the Date of Disability and have the Physician complete the "Attending Physician's Initial Statement" included in the Application for Disability Benefits form for Medium Term Disability benefits. If the Physician is seen beyond the eighth day of disability, this date will become the date of eligibility for Medium Term Disability benefits. The Employee is responsible for any charges assessed by a Physician for the completion of the Application for Disability Benefits form.

Proof of disability through completion of the Application for Disability Benefits form for Medium Term Disability benefits must be provided to the Employer's designated disability claims adjudicator within:

-
- (a) 15 calendar days of the Date of Disability or the date the Employee is advised in writing by the Workers' Compensation Board that his claim has been rejected or terminated, or
 - (b) on the date the Employee returns to work,

whichever occurs first.

Failure to furnish such proof within this time will not invalidate nor reduce any claim if it is shown that it was not reasonably possible to furnish such proof, and that such proof was furnished as soon as reasonably possible, but under no circumstances will a claim for Medium Term Disability benefits be processed if the Application for Disability Benefits form is not provided to the Employer's designated disability claims adjudicator within 30 calendar days of the Date of Disability.

During Medium Term Disability and Long Term Disability, the Employer may request or require additional medical verification, such as an occupational fitness assessment, functional capacity evaluation and/or independent medical examination to support continued eligibility for or continuation of benefits under this Plan. The charges for this additional medical verification will be paid by the Employer.

An Employee who is in receipt of Long Term Disability benefits will be required to immediately apply for Canada Pension Plan disability benefits as directed by the Employer or the Employer's designated disability claims adjudicator of the Plan. If the initial application for Canada Pension Plan Disability benefits is not successful, the Employee must exhaust Step 1 of the appeal process by filing a request to Social Development Canada for reconsideration of the decision. The Employee is responsible for any charges assessed by a Physician for completing and supplying the medical information required to support their Canada Pension Plan application. The Employer is responsible for any charges assessed by a Physician for completing and supplying the medical information required for Step 1 of the appeal process. The Employee shall provide proof of acceptance or declination of their application for Canada Pension Plan disability benefits to the Employer. If the Employee fails to apply for Canada Pension Plan disability benefits, refuses to exhaust Step 1 of the appeal process, or does not supply the Employer or the Employer's designated disability claims adjudicator with proof of acceptance or declination, the Employer may estimate the Employee's Canada Pension Plan disability award and reduce the Employee's Long Term Disability benefit by such estimate.

10) Exclusions and Limitations

Benefits will not be paid when any of the following situations occurs:

- (a) The Employee is not under continuing medical supervision and treatment appropriate for the nature of disability.
- (b) Total Disability is due to intentional self-inflicted injuries or illness.
- (c) Total Disability is due to bodily injury resulting directly or indirectly from insurrection, war, service in the armed forces of any country or participation in a riot.
- (d) Total Disability is due to an injury sustained while engaged in any occupation or employment for wage or profit, unless the Employee's claim has been denied by Workers' Compensation.
- (e) Total Disability is due to participation in or a consequence of having participated in the commission of an offence under the Criminal Code of Canada or similar offence under the laws of any other country.
- (f) The Employee is incarcerated in a penitentiary or jail.
- (g) Total Disability is due to cosmetic surgery or treatment, unless such surgery or treatment is attributable to an injury or illness.

-
- (h) The Employee is on maternity leave of absence or could be placed on such leave by the Employer according to any maternity leave provisions in the relevant government legislation. An Employee who becomes Totally Disabled due to any cause prior to such maternity leave of absence is eligible for benefits. However, once such disability extends into the maternity leave of absence, benefits are suspended for the duration of the maternity leave.

Any portion of the maternity leave of absence subsequent to the onset of Total Disability will be applied towards completing the Qualifying Period.

An Employee who is unable, because of Total Disability, to return to work as scheduled after a maternity leave of absence, whether such disability arose prior to or during the maternity leave of absence, will become eligible for commencement or continuation of disability benefit payments on her intended date of return to work, provided she is otherwise eligible for benefits.

If an Employee fails to qualify for maternity leave of absence because of a failure to meet the length of service requirements in the relevant government legislation, benefits will not be payable for Total Disability due to any cause during any leave of absence agreed upon by the Employer and Employee.

- (i) Total Disability occurs while the Employee is on leave of absence or suspension. Benefits for an Employee who becomes Totally Disabled while on leave of absence or suspension will commence on the first day the Employee would otherwise have returned to work with the Employer except for reason of the disability.
- (j) The Employee is on strike or locked-out by the Employer, except when the Employee has completed the Qualifying Period prior to 12:01 a.m. on the date that such strike or lock-out commences. Benefits for an Employee who becomes Totally Disabled while on strike or locked-out by the Employer will commence on the first day the Employee would otherwise have returned to work with the Employer except for reason of the disability.
- (k) The Employee resides outside Canada for more than six months of the calendar year.

11) Termination of Benefits

Disability benefits terminate on the earliest of the following situations:

- (a) The Employee is no longer Totally Disabled.
- (b) The date the Employee reaches age 65.
- (c) The date the Employee dies.
- (d) Termination of the Employee for cause, unless the Employee is in receipt of, or eligible for, Medium Term Disability benefits immediately prior to the termination of employment. An Employee terminated for cause will be eligible for Medium Term Disability benefits only, subject to all other provisions of this Plan.
- (e) The date the Employee fails to take a Medical Examination requested by the Employer.
- (f) After 8 weeks of Total Disability only, the date the Employee refuses to, or ceases to, actively and co-operatively participate in a Rehabilitation Program approved and recommended by the Employer.
- (g) For temporary full-time Employees only, following exhaustion of Short Term Disability and Medium Term Disability benefits.
- (h) The date the Employee reaches the maximum unreduced retirement pension benefit, defined as the earlier of 35 years of contributory service or upon reaching age 65, under the Municipal

Pension Plan, providing the maximum unreduced retirement pension benefit is equal to or greater than the disability benefit under this Plan.

If a Totally Disabled Employee is in receipt of Long Term Disability benefits and is terminated for non-culpable reasons, the Employee can continue to access Long Term Disability in accordance with the provisions of this Plan.

12) Third Party Liability

Where an Employee becomes Totally Disabled and has a cause of action against a third party for income lost as a result of the disability, the Employee shall repay, out of any recovery for lost income from the third party, all monies paid out by this Plan on account of such Total Disability, up to but not exceeding the full amount of any such recovery from the third party or the amount of benefits received by the Employee under this Plan, whichever is less. If in the final disposition of such claim against the third party, whether by judgment or negotiated settlement of such claim, there is found or determined to be a division of liability between the Employee and third party, the Employee shall only be obliged to repay to the Employer the same percentage of the lesser of such recovery or the amount of benefits as a percentage of fault ascribed to the third party.

If a lump sum payment is made under judgment or settlement for loss of future income or earning capacity, the Employer will be entitled to make a determination of the amount of compensation this represents on a monthly basis and to reduce the benefits payable under this Plan for each month after the judgment or settlement by the amount of the Employee's overcompensation.

Where an Employee's Total Disability arises out of an accident where a third party is responsible, and where, in the opinion of the Employer's legal counsel, a valid claim exists, the Employer shall be subrogated to the Employee's claim and the Employee will enter into and execute an assignment of all right of action, sufficient for the Employer to carry on the suit or action in the Employee's place and stead, and the Employee shall give such evidence and render such assistance at the trial or otherwise as may be necessary to prosecute the action successfully.

Upon full reimbursement to the Employer of all monies paid as a result of Total Disability, the Employer will ensure the Employee has all rights and entitlements under this Plan and under the Gratuity Plan of the City of Vancouver as though the absence had not occurred.

13) Rehabilitation

Rehabilitation shall be deemed to include graduated return to work programs, transitional duties, temporary alternate work assignments, work hardening activities and retraining programs, or a combination thereof, which the Employee is medically capable of performing.

Rehabilitation Programs may be developed and/or recommended by the Employer, Union, Physician or Employee. The Program must be approved by the employee's physician and will be subject to final approval by the Employer. After an Employee has been Totally Disabled for 8 weeks, participation in a recommended Rehabilitation Program is mandatory; prior to 8 weeks of Total Disability, a Rehabilitation Program is possible subject to the mutual agreement of the Employer, Union, Physician and Employee.

The maximum period of a Rehabilitation Program will be one year, unless the Employer specifically authorizes extensions. Rehabilitation Programs may span periods of Medium Term Disability and Long Term Disability.

If an Employee's disability prevents them from substantially fulfilling the requirements of a Rehabilitation Program, the program may be adjusted with the approval of the Employer. If an Employee is unable to

participate in a Rehabilitation Program for medical reasons, or if there is no approved Rehabilitation Program available for the Employee, the Employee will be eligible for Medium Term Disability or Long Term Disability benefits as described under this Plan. However, the Employee may be required to participate in retraining or work hardening in order to facilitate their return to work, providing they are medically able to do so.

After 17 weeks of Total Disability, if an Employee refuses to participate in a recommended Rehabilitation Program or if an Employee is not actively and cooperatively participating in a recommended Rehabilitation Program for which the Employee is medically able to do so, Medium Term Disability and Long Term Disability benefits will terminate and the Employee's coverage under this Plan will terminate.

While participating in a Rehabilitation Program, the Employee will have access to the following Plan enhancements:

- (a) An Employee who is engaged in a Rehabilitation Program that involves actively returning to work will be eligible to receive their full Pre-Disability Rate of Pay or the posted rate for the position, whichever is greater, for all hours worked in the Rehabilitation Program, regardless of the type of work assigned. The balance of time in the Rehabilitation Program where the Employee is not actively at work will be paid the applicable prorated Medium Term Disability or Long Term Disability benefit, as specified under Amount of Benefit.
- (b) The period of Medium Term Disability (normally 26 weeks) and/or the own occupation period of Long Term Disability will be extended by an amount equal to the time worked by the Employee under an approved Rehabilitation Program while in receipt of Medium Term Disability or Long Term Disability benefits.
- (c) An Employee who has completed a Rehabilitation Program and has been permanently placed in a lower paid position will have their Pre-Disability Rate of Pay protected while in the position for the remaining balance of the period of Medium Term Disability and the own occupation period of Long Term Disability, to a maximum of one year. At the end of the rate protection period, the Employee will revert to the normal classified rate of pay for the position occupied.

14) Successive Disability

If a Totally Disabled Employee is in receipt of Medium Term Disability benefits, subsequently returns to work in their Normal Occupation or other assignment unrelated to the Employee's disability or accommodation for the disability as assigned by the Employer, for less than 30 calendar days and suffers a relapse of the previous illness or injury or a new illness or injury, the first three Scheduled Work Days of absence will be considered Short Term Disability and will be paid according to the Amount of Benefit provision. If the successive disability continues beyond three Scheduled Work Days, then the Employee will have access to the unused portion of the 26 week Medium Term Disability period, followed by Long Term Disability.

If a Totally Disabled Employee is in receipt of Long Term Disability benefits, subsequently returns to work in their Normal Occupation or other assignment unrelated to the Employee's disability or accommodation for the disability as assigned by the Employer, for less than 30 calendar days and suffers a relapse of the previous illness or injury or a new illness or injury, the Employee will have access to the unused portion of the two year own occupation definition of disability under Long Term Disability, and will continue to receive Long Term Disability benefits if they satisfy the any occupation definition of disability under the Plan.

15) Rights Under the Plan

This Plan shall not give any Employee any right to be retained in the employment of the Employer.

16) Recourse

No person shall have any recourse under any provision of this Plan against any officer or Employee of the Employer, and all such officers and employees shall be free from all liability under the Plan.

17) Misstatements

If the age of any Employee is found to be incorrectly stated, the Employer is empowered to make or cause to be made adjustments to disability benefits paid or payable to the Employee under this Plan, including recovery of any benefits overpaid to the Employee.

18) Appendix A

Dispute Resolution Process

The Dispute Resolution Process will deal with both administrative issues and medical issues, arising out of a particular claim for benefits under Medium Term Disability or Long Term Disability, as detailed below. In the event there is a dispute as to whether an issue is administrative or medical, this dispute will be settled under the Administrative Disputes process.

Administrative Disputes

Administrative disputes arise when the Union feels that through the administration and interpretation of this Plan document, benefits have either been rejected, suspended, or terminated pursuant to a particular claim for benefits as a result of non-medical findings.

Each dispute (Admin Dispute) must be communicated in writing to the Employer within 30 calendar days of the Employee being made aware of a decision on the application for disability benefits in writing. In an attempt to agree on a joint statement of facts, a pre-hearing will take place within 10 calendar days of the Admin Dispute being communicated in writing to the Employer. The primary focus of the pre-hearing meeting is to discuss possible resolutions and, if not successful, to agree on the facts, the evidence, and to exchange documents and particulars prior to the hearing date. The Admin Dispute will then be scheduled for a hearing in front of an industry trouble-shooter within 30 calendar days of the pre-hearing meeting.

All presentations at the hearing will be short and concise and will include a comprehensive opening statement. The Employer and Union will make limited use of authorities during their presentation. The Employer and Union will also attempt to agree on a joint brief of documents and statement of facts and only call evidence where necessary.

No legal counsel or an external third party will be used, other than a representative from CUPE National providing the CUPE National representative is not a lawyer or legally trained. The industry trouble-shooter may attempt to mediate the Admin Dispute. If unable to do so, then a decision as contemplated herein will follow:

- (i) the decision shall be rendered in 24 hours;
- (ii) if requested by either the Employer or Union, a written decision shall be rendered within ten days of the hearing with reasons of the decision.

The decision of the industry trouble-shooter will be without prejudice and precedent, and not used or introduced in any other proceedings. The decision or award of the industry trouble-shooter is final and conclusive and is not open to question or review in any administrative tribunal/board or court on any grounds whatsoever.

The Employer and Union will equally share the costs of the fees and expenses of the industry trouble-shooter.

Medical Disputes

A medical dispute (Medical Dispute) arises when the Employee and Union dispute the decision of the Employer's designated disability claims adjudicator regarding a rejection, suspension or termination of benefits pursuant to a particular claim, where the decision of the Employer's designated disability claims adjudicator is based on medical facts as they relate to the Employee being Totally Disabled.

Disputes will be advanced and scheduled on a first-in basis. Medical Disputes must be communicated in writing to the other party within 20 calendar days of the Employer's designated disability claims adjudicator's written decision.

Step 1

The Medical Review Committee will be composed of three Physicians; one designated by the Union, one by the Employer, and a third agreed to by the first two Physicians. It is understood that the Medical Dispute shall be finally and conclusively determined by the Medical Review Committee.

Decisions rendered by the Medical Review Committee shall not be subject to any recourse through the grievance procedure, and are binding on the parties as it relates to the circumstances and/or question before the Medical Review Committee.

It will be the responsibility of all parties to forward their respective information to the Medical Review Committee no later than 20 calendar days before the review is scheduled to commence. Information submitted after this date may not be given full consideration or any consideration by the Medical Review Committee.

All parties are urged to work toward an agreed statement of facts, and/or an agreed framed question for the Medical Review Committee. Either party may also submit information pertaining to the file, provided such information has been disclosed to the other party prior to its submission to the Medical Review Committee. The Medical Review Committee will conduct a review of all medical information on the file and may require the Employee to attend a Medical Examination. The Medical Review Committee will communicate their decision in writing, with reasons, to both parties as quickly as possible.

The Employer and the Union will jointly and equally fund the cost of the Medical Review Committee (the Costs), and will be billed separately, however the unsuccessful party shall reimburse the successful party of their share of the Costs within 30 calendar days of the determination

Step 2

The step 1 decision of the Medical Review Committee will be final and binding, but it is understood that the step 1 decision may be reviewed at this step 2 following a period of 6 months providing such review is initiated by the Union by submitting a request in writing to the Employer within 18 months following the date of the step 1 decision. Grounds for this step 2 review (Review) are limited to changes in the Employee's medical condition that change the prognosis for the Employee's return to work or level of benefit entitlement.

Additional information will be provided by the Employee's and/or Employer's Physician for further consideration within 30 calendar days of the Review being initiated. This information should include employee capabilities and limitations and details around the physical demands of the job. This information will be reviewed by the Physician agreed to by the Union and Employer from the original Medical Review Committee at step 1, or an agreed to alternate Physician in the event the agreed to Physician from the original Medical Review Committee is unable to act, and a written decision will be issued.

The cost for this Review by the agreed to Physician from the original Medical Review Committee, or the agreed to alternate Physician, will be shared equally between the Employer and Union, and will be billed separately; however the unsuccessful party shall reimburse the successful party of their share of the Costs within 30 calendar days of the determination.

Each particular claim for benefits is limited to one appeal at the Step 2 Review level.

The Step 2 Review is final and binding and is not open to question or review in any administrative tribunal/ board or court on any grounds whatsoever.

Signed this ____ day of January 2008.

ON BEHALF OF THE EMPLOYER:

ON BEHALF OF CUPE LOCAL 1004:



ANNEX 8 - Non-Disclosure Agreement

WHEREAS, in response to the City's Request for Proposal ("RFP") #PS20130566 entitled "Provision of Disability Management and Occupational Health Services", the City may disclose to the undersigned company (the "**Recipient**"), certain Confidential Material of the City for the sole purpose of considering, evaluating, and responding to the RFP (the "**Purpose**") and on the terms and subject to the conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual premises and covenants herein, the receipt and sufficiency of which is hereby acknowledged, the City and the Recipient hereby agree as follows:

1.0 Definitions

- 1.1 "**Affiliate**" means an affiliate as defined in the *Business Corporations Act* (British Columbia), as may be amended.
- 1.2 "**Agreement**" means this Non-Disclosure Agreement.
- 1.3 "**City**" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter, and includes, but is not limited to, the Vancouver Police Board, the City's Board of Parks and Recreation, the Vancouver Fire and Rescue Service, and the Vancouver Library Board;
- 1.4 "**Recipient's Team**" means any person who is a member of the Recipient's team for purposes of responding to the RFP, whether such member is an employee, sub-contractor or agent of the Recipient, or any employee or agent of such person.
- 1.5 "**Confidential Material**" means all information, in any form or medium, known or used by the City or an Affiliate of the City which is not known to the general public, including, but not limited to, the know-how, trade secrets, strategic plans, technical information, product information, supplier information, customer information, financial information, marketing information and information as to business opportunities, methods and strategies and research and development of the City and its Affiliates. If and to the extent any Confidential Material is included in any report, assessment, diagram, memorandum or other document or copied or reproduced in any other form or medium, such report, assessment, diagram, memorandum, document or Confidential Material in such other form or medium will be deemed to be Confidential Material.

2.0 Title

- 2.1 All right, title and interest in and to Confidential Material will be and remain vested in the City. Nothing in this Agreement obliges the City to disclose Confidential Material to the Recipient or grants the Recipient any license or right of any kind with respect to Confidential Material, except the limited right to use such information solely for the Purpose.
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3.0 Recipient's Obligations

- 3.1 The Recipient will use Confidential Material only as strictly required for the Purpose and only in the manner and upon the terms specified in this Agreement.
- 3.2 The Recipient will deal in utmost good faith with the City in its use of the Confidential Material provided by the City.
- 3.3 The Recipient will hold and keep, and will ensure that all of the Recipient's Team will hold and keep, the Confidential Material in confidence and in trust for the City, using at least the same degree of care, but no less than a reasonable degree of care, as the Recipient uses to protect its own similar confidential information of like importance, and will,
- (a) prevent any access, reproduction, disclosure or use of the Confidential Material not expressly authorized herein,
 - (b) disclose the Confidential Material only to those of the Recipient's Team who have a definable need to know such information for Purpose, provided that the members of such Recipient's Team are bound by a confidentiality agreement with the Recipient no less restrictive than this Agreement, and in the event the employment or appointment of any such person is terminated, the Recipient agrees to use its best efforts to recover any of the Confidential Material in such person's custody or control. The Recipient will be responsible for all damages arising from any disclosure of all or part of the Confidential Material or any act in contravention of this Agreement by a person to whom such Confidential Material was given by the Recipient as if the disclosure were made or the act performed directly by the Recipient,
 - (c) not, and will ensure that each of the Recipient's Team will not, copy or reproduce any of the Confidential Material, except as strictly necessary in order to carry out the Purpose, and
 - (d) promptly notify the City in writing of any unauthorized copying, reproduction, use or disclosure of the Confidential Material of which the Recipient is or becomes aware, and such notice will include a detailed description of the circumstances of the copying, reproduction, use or disclosure and the parties involved.

4.0 Exceptions to Confidentiality Obligations

- 4.1 This Agreement imposes no obligation upon the Recipient with respect to the City's Confidential Material received hereunder that
- (a) the Recipient can promptly demonstrate with documentary evidence was already legitimately known to the Recipient without a duty of confidentiality prior to the disclosure thereof by the City,
 - (b) is lawfully received by the Recipient from a third party, other than a supplier introduced to the Recipient by the City, without a duty of confidentiality,
 - (c) has become general public knowledge through no act or fault on the part of the Recipient or the Recipient's Team, or
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- (d) the Recipient can promptly demonstrate with documentary evidence was independently developed by or for the Recipient without the use of any Confidential Material.

5.0 Legal Requirement to Disclose

- 5.1 If the Recipient or any of the Recipient's Team is or becomes legally required to disclose any Confidential Material to a government body or court of law, the Recipient agrees, to the extent permissible by law, to give, and will ensure that the Recipient's Team give, the City sufficient advance notice to enable the City the opportunity to contest the disclosure or obtain a protective order.

6.0 Warranty Disclaimer

- 6.1 All Confidential Material is provided on an "as is" basis, and all representations and warranties, express or implied, including as to its accuracy or completeness, fitness for purpose, merchantability, and non-infringement, are hereby disclaimed.

7.0 Injunctive Relief

- 7.1 The Recipient acknowledges and agrees with the City that
 - (a) the secrecy of the Confidential Material is of the utmost importance to the City, and the Confidential Material is of a sensitive and confidential nature such that monetary damages alone may be inadequate to protect the City's interests against any actual or threatened breach of this Agreement
 - (b) the covenants and conditions of this Agreement are reasonable and necessary for the protection of the City's business and security and all defences to the strict enforcement thereof by the City are hereby waived by the Recipient to the fullest extent permitted by law, and
 - (c) a violation of any of the provisions of this Agreement will result in immediate and irreparable damage to the City, and so the City will, in addition to any other rights to relief, be entitled to the remedies of specific performance and injunctive or other equitable relief in respect of any actual or threatened breach of this Agreement, without proof of actual damages or the inadequacy of monetary damages.

8.0 General

- 8.1 Upon the request at any time of the City, the Recipient will promptly **destroy** all Confidential Material and any copies or reproductions thereof in the Recipient's possession or under its control or in the possession or under the control of any of the Recipient's Team, and will certify in writing such destruction or return of all Confidential Material. If compliance with the foregoing would violate any applicable law or regulation, then such information may be retained provided that it is not used for any purpose other than to evidence the Recipient's compliance with such law or regulation, and such retained information must be maintained in confidence as set forth in this Agreement.
 - 8.2 Neither party has an obligation under this Agreement to enter into any other business relationship with the other party.
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- 8.3 The Recipient will not, without the written consent of the City, disclose to any third party either the fact that discussions or negotiations are taking place concerning the Transactions or any of the terms, conditions or other facts with respect to the Transactions including the status thereof or the subject matter of this Agreement, provided, however, that nothing herein will prevent the Recipient from making such disclosure
- (a) on a confidential basis to any of the Recipient's Team to the extent such person needs to know such information strictly for the Purpose, or
- (b) in order to comply with the requirements of applicable securities or other laws.
- 8.4 No waiver, addition to or amendment of this Agreement will be effective unless made in writing signed by authorized signatories of the parties and expressly stated to be a waiver, addition to or amendment of this Agreement. This Agreement states the entire agreement between the parties as to its subject matter and merges and supersedes all previous communications with respect to their obligations hereunder, and the provisions hereof will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
- 8.5 This Agreement will be governed by and interpreted and construed in accordance with the laws prevailing in the Province of British Columbia and the Recipient irrevocably attorns to the exclusive jurisdiction of the courts of British Columbia and all courts having appellate jurisdiction thereover in relation to the interpretation and enforcement of this Agreement.
- 8.6 If the Recipient agrees to the terms and conditions of this Agreement the Recipient is required to sign and return this Agreement to the City of Vancouver Purchasing Services Office, fax number 604-873- 7057, attention Diana Chan.

Signed by:

[Print name in full with title]

[Print Recipient's company name in full]

Date
