



REQUEST FOR PROPOSALS

Marine Engineering Consulting Services

RFP No. PS20141139

Issue Date: March 6, 2015

Issued By: City of Vancouver

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
TABLE OF CONTENTS**

TABLE OF CONTENTS

PART A - INFORMATION AND INSTRUCTIONS	Pages A-1 to A-10
1.0 The RFP	
2.0 Key Dates	
3.0 Contact Person	
4.0 Submission of Proposals	
5.0 Changes to the RFP and Further Information	
6.0 Contract Requirements	
7.0 Pricing	
8.0 Evaluation of Proposals	
9.0 Sustainability	
10.0 Certain Applicable Legislation	
11.0 Legal Terms and Conditions	
12.0 Definitions	
APPENDIX 1 - INFORMATION MEETING ATTENDANCE FORM	
PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS	Pages B-1 to B-4
1.0 City Requirements	
2.0 Items to be Addressed in Proposals	
PART C - PROPOSAL FORM	Pages C-1 to C-6
APPENDIX 1 - LEGAL TERMS & CONDITIONS	
PART D - FORM OF AGREEMENT	Pages D-1 to D-37
SCHEDULE 1 - DETAILED REQUIREMENTS	Pages 1-1
SCHEDULE 2 - PRICING SCHEDULE	Pages 2-1
SCHEDULE 3 - CITY-PROVIDED DOCUMENTS AND DRAWINGS	Pages 3-1
SCHEDULE 4 - CERTIFICATE OF EXISTING INSURANCE	Pages 4-1
SCHEDULE 5 - DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE	Pages 5-1

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

1.0 THE RFP

- 1.1 This Request for Proposals (the “RFP”) provides an opportunity to submit Proposals for review by the City and, depending on the City’s evaluation of Proposals, among other factors, to potentially negotiate with the City to enter into an Agreement. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C 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 The RFP concerns the City’s interest in engaging a consulting firm to **provide marine engineering consulting services for the Burrard Civic Marina Renewal project**. Details of the City’s objectives and requirements to which the RFP relates are set out in Part B of the RFP. The City welcomes Proposals respecting innovative or novel approaches to the City’s objectives and requirements.
- 1.3 The City is interested in selecting a single Proponent with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The City currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of an Agreement between the Proponent and the City. However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.
- 1.4 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 below, among others.
- 1.5 **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 C).**
- 1.6 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.
- 1.7 Certain capitalized terms used herein but not defined where first used are defined in Section 12 below.
- 1.8 The RFP consists of four 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 - 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 should be contained in each Proposal.
 - (c) **PART C - 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.

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

- (d) **PART D - FORM OF AGREEMENT:** This part contains a model 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
Deadline for submission of Mandatory Site/Information Meeting registration form (Appendix 1 to this Part A)	March 16, 2015 (Monday) at 4:00 p.m.
MANDATORY Site/Information Meeting	March 17, 2015 (Tuesday) at 11:00 a.m.
Deadline for Enquiries	March 24, 2015 (Tuesday) at 4:00 p.m.
Closing Time	April 2, 2015 (Thursday) at 3:00 p.m.

- 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:

Donabella Bersabal
Contracting Specialist
Phone: 604-829-2081
Email: donabella.bersabal@vancouver.ca

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

- 3.3 **IF A POTENTIAL PROPONENT BELIEVES THAT THE CITY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE CITY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER. SEE SECTION 11.2(l), (m) and (n) BELOW FOR AN INDICATION OF THE TYPES OF CONFLICTS OF INTEREST THAT OFTEN ARISE.**

4.0 SUBMISSION OF PROPOSALS

- 4.1 Proponents should 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 should submit its Proposal in an envelope clearly marked with the Proponent’s name and the RFP title and number (“Marine Engineering Consulting Services; PS20141139”) to the following address:

City of Vancouver
Supply Chain Management Department
453 West 12th Avenue
Vancouver, B.C. V5Y 1V4

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

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

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 Appendix 1 thereto.
- 4.4 Proposals must not be submitted by fax or email.
- 4.5 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.
- 4.6 Proponents should submit one (1) electronic copy (CD or USB flash drive) of the Proposal and three (3) hard copies that should not be bound in three-ring binders, no staples; use bull clips and standard paper. It is not necessary to submit more than one copy of the Proposal Form.

For the pricing table, you may include a table showing the price within the RFP document but it should be supported by an electronic version using Excel spreadsheet in the same format as in Schedule 2 - Pricing Schedule.
- 4.7 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 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 B 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 C). 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 A MANDATORY site/information meeting (the "**Information Meeting**") will be held to enable Proponents to seek clarification with respect to any aspect of the RFP in a group forum. The details are as follows:

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

Date: as specified in Section 2.1 above.

Time: as specified in Section 2.1 above.

Location: 1655 Whyte Ave, Vancouver, BC V6J 1A9; meet in front of main Marina Building

5.5 Potential Proponents are encouraged to read the RFP and submit any questions relating to the RFP to the Contact Person prior to the Information Meeting.

5.6 Potential Proponents interested in attending the Information Meeting should pre-register for the Information Meeting by completing and submitting the form contained in Appendix 1 to this Part A by e-mail to donabella.bersabal@vancouver.ca, on or before the time and date specified in Section 2.1 above.

5.7 The City will in good faith attempt to give accurate oral responses to questions posed during the Information Meeting but Proponents are advised that they may only rely on the written information contained herein or in documents posted to the City's website, as described in Section 5.1 above.

6.0 CONTRACT REQUIREMENTS

6.1 In addition to addressing the other requirements of Part B hereof, each Proponent should indicate in its Proposal the extent to which the Form of Agreement included as Part D hereof is consistent with its Proposal. If the Proposal is inconsistent with any part of the Form of Agreement, the Proponent should so state and should 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 term of any Agreement is expected to be a four-year period.

7.0 PRICING

7.1 All prices quoted in any Proposal must be inclusive of any provincial sales tax payable by the City under the *Provincial Sales Tax Act*, S.B.C.2012, c.35 ("PST"), but exclusive of any tax calculated upon such prices under the Excise Tax Act, R.S.C., 1985, c. E-15 ("GST") or under any other sales tax legislation. GST and any such other sales tax (but not PST) should be described separately in each Proposal.

7.2 Prices must be quoted in Canadian currency.

7.3 Fixed prices must be quoted for the full term of the Proponent's proposed agreement.

7.4 Prices are to be quoted CIP, destination. For the avoidance of doubt, freight, insurance, unloading at the destination designated by the City, import duties, brokerage, royalties, handling, 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.

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS

- 8.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine not only financial terms, but also (i) Proponents' skills, knowledge, reputations and previous experience(s), including experience(s) with the City (if any); (ii) Proponents' capabilities to meet the City's Requirements (as defined in Part B) as and when needed, (iii) quality and service factors, (iv) innovation, (v) environmental or social sustainability impacts; and (vi) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.
- 8.3 Preference will be given to Proponents and proposed personnel that demonstrate knowledge and recent experience (within the last 5 years) in each of the following areas:
- Marine Engineering Assessment and Reporting
 - Marina Functional Programming
 - Marina Design and Construction Documents
 - Innovative use of structure, utility systems and materials in the construction of wharves and piers
 - Marine Structures Design including breakwaters
 - Sustainable/Low Environmental Impact Marina Design
 - Marine Environmental Regulatory Compliance
- 8.4 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.
- 8.5 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.
- 8.6 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 Form of 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.
- 8.7 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.
- 8.8 The City may request that any proposed subcontractors undergo evaluation by the City.
- 8.9 The City is not under any obligation to approve any Proposal and may elect to terminate the RFP at any time.
- 8.10 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;

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

- (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 Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx> align the City's 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. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.
- 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.

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 C). Except where expressly stated in such

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS

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 should 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.
- (d) 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.
- (e) 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 \$100.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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), other applicable legal requirements, 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.
- (j) 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

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS

such non-public documents or information in any manner, including in submitting its Proposal.

- (k) 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.
- (l) Each Proponent must disclose whether any officer, director, shareholder, partner, employee or contractor 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 an 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. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.

- (m) Each Proponent must disclose whether any person having an interest (as defined above) is a former official, former employee or former contractor of the City who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (n) 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. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (o) Each Proponent is required to disclose whether the Proponent is competing for purposes of the RFP with any entity with which it is legally or financially associated or affiliated. Each Proponent must also disclose whether it is cooperating in any manner in relation to the RFP with any other Proponent responding to the RFP. The City will evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.
- (p) 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. The City will

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS**

evaluate each matter disclosed to determine whether and to what extent the Proponent can be given consideration in the RFP in light of the particular matter.

- (q) 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 not to use the name, official emblem, mark, or logo of the City without the express prior written consent of the City.
- (r) 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. The City may also invite a Proponent to adjust its Proposal to remedy any such problem, without providing the other Proponents an opportunity to amend their Proposals.

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 Form of Agreement;
- (b) **"City"** means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (c) **"Form of Agreement"** means the form of agreement contained in Part D 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 C of the RFP.

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

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART A - INFORMATION AND INSTRUCTIONS

APPENDIX 1 TO PART A



FINANCIAL SERVICES GROUP
Supply Chain Management

Re: Request for Proposals No. PS20141139, Marine Engineering Consulting Services

To acknowledge your intent to attend the mandatory Information meeting and to ensure that you receive the required information, please submit this form to the person identified below in accordance with the RFP:

Donabella Bersabal
City of Vancouver
Email: Donabella.bersabal@vancouver.ca

Proponent's Name:			
Address:			
Key Contact Person:			
Telephone:		Fax:	
E-mail:		Incorporation Date:	

Our company WILL attend the mandatory information meeting for Request for Proposals No. PS20141139, Marine Engineering Consulting Services.

Signature

Name of Authorized Signatory

E-mail Address

Date

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

1.0 CITY REQUIREMENTS

1.1 The City has the following objectives and requirements (together, the “Requirements”):

Marine engineering consulting services for the renewal of the Burrard Civic Marina, comprising:

- a) A plan or strategy to direct a multi-year renewal plan for the marina components including the breakwater, float system, utility systems and services based on a previously completed (2013) Condition Assessment Report; and
- b) Design, construction documentation and contract administration services for the first phase of marina renewal work (with a budget in the range of \$2.0M) in accordance with the foregoing plan.

Further information regarding the Requirements is contained in Schedule 1 - Detailed Requirements to the RFP.

1.2 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.

1.3 Unless otherwise stated, if, and wherever, the Requirements state a brand name, a make, the name of a manufacturer, a trade name or a vendor catalogue number; it is for the purpose of establishing a grade or quality of materials, goods or equipment only. It is not intended to rule out the use of other equivalent materials, goods or equipment. If, however, products other than those specified are proposed in any Proposal, the Proposal must explicitly include the names of such products and their manufacturers, any trade names and any applicable vendor catalogue numbers, and the City may request that the Proponent provide specific evidence of equivalency. Evidence of quality in the form of samples may also be requested.

2.0 ITEMS TO BE ADDRESSED IN EACH PROPOSAL

2.1 Each Proposal should have: (i) a title page that clearly indicates the name of the Proponent and the general nature of the Proposal; (ii) a detailed table of contents; and (iii) an executive summary no more than one page long.

2.2 Each Proposal should contain a section titled “Technical Proposal,” which should address the Requirements. This section of the Proposal should be divided into paragraphs that correspond to the numbered paragraphs of the foregoing Section 1 of this Part B.

2.3 Each Proposal should contain a section titled “Commercial Proposal,” which should contain full details of the Proponent’s proposed pricing and payment terms, which should be in accordance with Part A of the RFP and which should include a completed table in an Excel format attached as **Schedule 2 to this RFP.**

All prices must be inclusive of any provincial sales tax payable by the City under the *Provincial Sales Tax Act*, S.B.C.2012, c.35 (“**PST**”), but exclusive of any tax calculated upon such prices under the Excise Tax Act, R.S.C., 1985, c. E-15 (“**GST**”) or under any other sales tax legislation. GST and any such other sales tax (but not PST) should be described separately.

2.4 Each Proposal should contain a section titled “Proponent Overview,” which should provide a description of the Proponent’s company, purpose and history of successes.

2.5 Each Proposal should contain a section titled “Key Personnel,” which should identify and provide professional biographical information for the key personnel that would perform the

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

Proponent's work, outlining their intended roles in meeting the Requirements. If appropriate, also include a complete organization chart, identifying all roles and areas of responsibility.

- 2.6 Consulting Teams are to include engineering expertise in the following disciplines:
- Marine Engineering
 - Structural Engineering
 - Mechanical Engineering
 - Electrical Engineering
 - Civil/Utilities Engineering
 - Marine Barometric Surveying
 - Environmental Monitoring
- 2.7 Each Proponent should make clear in its Proposal its relevant knowledge and experience, and that of its proposed personnel.
- 2.8 Each Proposal should contain a section titled "References," which should provide names and contact information for approximately three parties for whom the Proponent has done work in the past.
- 2.9 Each Proposal should contain a section titled "Subcontractors," which should list all of the subcontractors that the Proponent proposes to use in carrying out its work under an Agreement, or state that the Proponent does not propose to use any subcontractors. If selected to enter into an Agreement with the City, the Proponent may be limited to using subcontractors listed in its Proposal.
- 2.10 If the City objects to a subcontractor listed in a Proposal, the City may permit a Proponent to propose a substitute Subcontractor acceptable to the City.
- 2.11 Each Proposal should contain a section titled "Work Plan," which should detail the sequential process by which the Proponent proposes to undertake the work, and which should include a timeline as necessary. The Proponent's work plan should make reference to the Requirements as appropriate. This section of the Proposal may be completed by cross-referencing the "Technical Proposal" section where appropriate.
- 2.12 The City is committed to environmental and socio-economic sustainability. Therefore, each Proposal should contain a section titled "Sustainability," wherein the Proponent should describe the environmental aspects of its Proposal. In addition, this section of the Proposal should include a completed table in the following form:

Sustainability Initiative	Description	Details	Response
a. Packaging Reduction	The City aims to reduce the packaging associated with acquiring various products. More and more suppliers are adopting innovative programs to reduce packaging.	Tell us about your proposed measures to reduce product packaging such as recycle ability, percentage of recycled content, return/collections programs and/or re-use. Examples include providing products in reusable packaging such as plastic totes, reducing unnecessary packaging such as shrink wrap or offering	

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

Sustainability Initiative	Description	Details	Response
		packaging that is made from recycled material.	
b. Greenhouse Gas/Carbon Reduction	The City aims to reduce its greenhouse gas/carbon emissions, where possible as part of its Climate Protection Program.	Tell us how the design and use of your product or service takes into account strategies to reduce its carbon footprint. Examples could include offering products with a limited amount of embedded carbon, having a strategy for limiting transportation-related to service provision and/or purchasing carbon credits to offset emissions	
c. 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.	
d. 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).	
e. Third Party Eco-labelling	The City aims to purchase, when possible, products that are eco-certified or eco-labelled by a recognized third party.	Describe and explain third party certification for the products to be supplied, which includes labelling requirements. State the type of testing performed, and the standards applicable to support biodegradable products completely breaking down in the landfills.	
f. 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	Tell us about your firm's efforts with regards to socio-economic sustainability. Examples include, but are not limited to, broadening educational	

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART B - CITY REQUIREMENTS AND ITEMS TO BE ADDRESSED IN PROPOSALS

Sustainability Initiative	Description	Details	Response
	and economic wellbeing in the community.	and professional development opportunities, supporting minority/youth groups, and supporting low-threshold job programs for vulnerable people.	

Additionally, each Proposal should be accompanied by a duly completed Declaration of Supplier Code of Conduct Compliance in the form of **Schedule 5**.

- 2.13 Notwithstanding any other provision hereof, the City welcomes Proposals respecting innovative or novel approaches to the City's objectives and requirements and may consider value-creating Proposals that derogate from the Requirements. Each Proposal should contain 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 variation are also noted elsewhere in the Proposal; and (ii) detail proposed amendments to the Form of Agreement. If no amendments to the Form of Agreement are proposed, the Proponent should state that its Proposal is fully consistent with the Form of Agreement.
- 2.14 If, in addition to proposing services which meet the Requirements, the Proponent wishes to offer an alternative or alternatives, the alternative solution(s) should to be submitted separately as an appendix within the Proposal. Any pricing impact of the alternative solution(s) should be provided separately in the appendix.
- 2.15 Each Proponent should note Section 9 of Appendix 1 to Part C and should include in its Proposal a section entitled "Conflicts; Collusion; Lobbying" as necessary.
- 2.16 The sections of each Proposal should be arranged in the order in which they are referred to in this Part B. Proponents should avoid, to the extent possible, the inclusion of other top-level Proposal sections.
- 2.17 Each Proponent should submit with its Proposal a Certificate of Existing Insurance, in the form of **Schedule 4** to the RFP, duly completed and signed by its insurance agent or broker as evidence of its existing insurance, along with 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 5.7 of the Form of Agreement**, should the Proponent be selected as a successful Proponent.
- 2.18 Each Proponent should submit with its Proposal proof of valid WorkSafeBC registration. Such registration should be maintained as specified in **Section 5.8 of the Form of Agreement**.
- 2.19 Each Proposal must be submitted under the cover of a completed Proposal Form, including **Appendix 1** thereto.

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM

PROPOSAL FORM

RFP No. PS20141139, Marine Engineering Consulting 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

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 C 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 Proposals No. PS20141139, as amended from time to time and including all addenda.

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.

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM

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. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

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.

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:

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM

- (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.

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 \$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 the Proponent under 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;

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM**

- (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.

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), other applicable legal requirements, 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

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor 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:
 - i. an official or employee of the City; or

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM**

- ii. related to or has any business or family relationship with an 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.

- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

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 is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP.

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.

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
PART C - PROPOSAL FORM**

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 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

Name and Title



PRIME CONSULTANT AGREEMENT

PRIME CONSULTANT:

<  >

PROJECT:

<  >

FACILITIES DESIGN AND MANAGEMENT

<  insert date >

TABLE OF CONTENTS

	Page No.
ARTICLE 1.0 DEFINITIONS	1
ARTICLE 2.0 PRIME CONSULTANT'S RESPONSIBILITIES	4
2.1 Basic Services and Additional Services	4
2.2 Construction Budget and Construction Cost Estimates	5
2.3 Adjustment of Construction Budget	5
2.4 Construction Contract Requirements	6
ARTICLE 3.0 CITY'S RESPONSIBILITIES	7
3.1 Provision of Information	7
3.2 Other City Responsibilities	7
ARTICLE 4.0 PAYMENTS TO THE PRIME CONSULTANT	8
4.1 Payments	8
4.2 Reimbursable Expenses	9
4.3 Changes and Adjustments	10
4.4 Project Suspension or Abandonment	10
4.5 Taxes	10
ARTICLE 5.0 GENERAL CONDITIONS	11
5.1 Prime Consultant's Consultants and Employees	11
5.2 Confidentiality	11
5.3 Deliverables	13
5.4 Project Identification	14
5.5 Dispute Resolution	14
5.6 Release and Indemnification	15
5.7 Insurance	16
5.8 WorkSafeBC Coverage	17
5.9 Term and Termination	17
5.10 Law Governing this Agreement	19
5.11 Successors and Assigns	19
5.12 Extent of Agreement	19
5.13 Notices	20
5.14 No Promotion	20
5.15 Compliance with Law	21

5.16 Precedence of Documents 21

5.17 Severance..... 21

5.18 Time of the Essence 21

5.19 No Waiver 21

5.20 Remedies Cumulative. 21

5.21 Counterparts 21

5.22 Independent Legal Advice..... 22

5.23 Electronic Execution 22

SCHEDULE A – BASIC AND ADDITIONAL SERVICES 23

SCHEDULE B – FEES FOR BASIC AND ADDITIONAL SERVICES 32

SCHEDULE C – CONSTRUCTION BUDGET AND PROJECT SCHEDULE 34

SCHEDULE D – REPORTS AND CITY-PROVIDED ITEMS 35

SCHEDULE E – KEY EMPLOYEES AND PRIME CONSULTANT’S CONSULTANTS 36

APPENDICES 37

PRIME CONSULTANT AGREEMENT

THIS PRIME CONSULTANT AGREEMENT is made as of

BETWEEN:

CITY OF VANCOUVER, a municipal corporation continued pursuant to the *Vancouver Charter* and having an office at 453 West 12th Avenue, Vancouver, British Columbia, V5Y 1V4

(the “City” (as further defined herein))

AND:

 INSERT PRIME CONSULTANT NAME>, a
 corporation/limited partnership/general partnership
formed under the laws of and having an office at
 insert address>, Vancouver, British Columbia,

(the “Prime Consultant”)

WHEREAS:

- A. The City is undertaking to engage a consulting firm to provide marine engineering consulting services for the Burrard Civic Marina Renewal project (the “Project”) and wishes to engage the Prime Consultant to provide design services and construction administrative services therefor; and
- B. The Prime Consultant has agreed to provide to the City the services it requires on the terms and conditions set out herein,

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

ARTICLE 1.0 DEFINITIONS

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

- 1.1 “Additional Services” means the Services listed under the heading “Additional Services” within Schedule A.
- 1.2 “Agreement” means this Prime Consultant Agreement between the City and the Prime Consultant, including the following schedules and appendices, which are integral parts hereof, and all amendments made hereto by written agreement between the City and the Prime Consultant:

Schedule A	Basic and Additional Services
Schedule B	Fees for Basic and Additional Services
Schedule C	Construction Budget and Project Schedule
Schedule D	Reports and City-Provided Items
Schedule E	Key Employees and Prime Consultant’s Consultants
Appendix 1	Request for Proposals

Appendix 2	Prime Consultant's and Prime Consultant's Consultants' Proposals
Appendix 3	WorkSafeBC Registration Confirmation
Appendix 4	Certificate of Professional Liability Insurance
Appendix 5	Certificate of Commercial General Liability Insurance

- 1.3 **“Basic Services”** means the Services listed under the heading “Basic Services” within Schedule A and the services set forth in this Agreement, excluding the schedules and appendices hereto.
- 1.4 **“Business Day”** means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday.
- 1.5 **“City”** means the City of Vancouver acting as a corporate entity and as owner of the Project Site and expressly excludes the City while acting in its capacity as a municipal regulatory authority.
- 1.6 **“City’s Consultant”** means a person, firm or company retained and compensated by the City to provide consulting services for the Project, other than the Prime Consultant.
- 1.7 **“City’s Project Manager”** means the individual employee of the City or a City’s Consultant who is authorized to give instructions to the Prime Consultant on behalf of the City with respect to the Project.
- 1.8 **“Claims”** has the meaning set out in Section 5.6.
- 1.9 **“Confidential Information”** has the meaning set out in Section 5.2.
- 1.10 **“Construction Budget”** means the budget available for total Construction Cost, determined or approved in writing by the City; provided that, as at the time of signing this Agreement, the Construction Budget (the “preliminary Construction Budget”) is as set out in Schedule C.
- 1.11 **“Construction Cost”** means the contract price (expected to be specified in a Construction Contract), net of applicable taxes, to complete the Construction Work, as estimated by the Cost Consultant and agreed to by the City and the Prime Consultant, acting reasonably, based on the market rates expected to prevail at the time scheduled for the Construction Work, plus, if the City is to provide any labour or material for the Construction Work, the market value of that work or material; for the avoidance of doubt, “Construction Cost” shall not include the compensation to be paid to the Prime Consultant, the Prime Consultant’s Consultants or the City’s Consultants in connection with the Project or the cost of land, City of Vancouver development cost charges or development cost levies or other costs which are the responsibility of the City (except for labour and materials for the Construction Work).
- 1.12 **“Construction Contract”** means each written agreement between the City and a Construction Contractor for Construction Work.
- 1.13 **“Construction Contract Documents”** means all documents that shall make up a Construction Contract.
- 1.14 **“Construction Contractor”** means the person, firm, or corporation (or more than one such persons, firms or corporations) contracting with the City to provide labour, materials and equipment for the performance of Construction Work.
- 1.15 **“Construction Work”** means the total construction services to be performed by the Construction Contractor to complete the construction of the Project.

- 1.16 **“Cost Consultant”** means the person, firm or company, retained and compensated by the City (unless otherwise expressly provided herein), to provide Construction Cost estimates for the Project.
- 1.17 **“Deliverables”** has the meaning set out in Section 5.3.
- 1.18 **“General Review”** means site visits to the Project Site at intervals appropriate to the stage of construction, and field reviews and tests as the Prime Consultant considers necessary, for purposes of checking the progress and quality of the Construction Work, as it is carried out, and to determine whether the Construction Work is in conformity with the requirements of the Construction Contract Documents.
- 1.19 **“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.
- 1.20 **“Indemnified Party”** has the meaning set out in Section 5.6.
- 1.21 **“Professional Standard”** means the highest of the standard:
- (a) imposed by law;
 - (b) prescribed by the professional and regulatory bodies in the applicable profession, field or discipline;
 - (c) equal to that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered; and
 - (d) necessary to meet the Project Schedule and other deadlines set out in this Agreement, or as reasonably specified from time to time by the City.
- 1.22 **“Prime Consultant’s Consultant”** means a person, firm or company retained, with the approval of the City, and compensated by the Prime Consultant, to provide consulting services for the Project, as listed under “Prime Consultant’s Consultants” in Schedule E.
- 1.23 **“Prime Consultant’s Proposal”** means the Prime Consultant’s proposal submitted to the City on <📅date> and entitled <📄insert title of proposal> in response to the RFP and attached as Appendix 2 and the other documents included in Appendix 2.
- 1.24 **“Project Budget”** means the City’s estimate of the total cost to it for the Project, including, but not limited to, the Construction Cost, the Prime Consultant’s fees hereunder, other professional fees, land costs and all other costs to the City for the Project.
- 1.25 **“Project Schedule”** means the time schedule for the Project, which at the time of signing this Agreement is as set out in Schedule C.
- 1.26 **“Project Site”** means Burrard Civic Marina - 1655 Whyte Ave, Vancouver, BC V6J 1A9.
- 1.27 **“RFP”** means Request for Proposal No. PS20141139 Marine Engineering Consulting Services, together with all related addenda and questions and answers issued by the City, all of which are attached as Appendix 1.

- 1.28 “**Services**” means all of the services the Prime Consultant is to perform for the City pursuant to this agreement, including the Basic Services and any Additional Services.
- 1.29 “**Substantial Performance of the Construction Work**” means that the Construction Work (under the Construction Contract) has been “completed” as such term is defined in the *Builders’ Lien Act* (British Columbia).
- 1.30 “**Total Performance of the Construction Work**” shall have been reached when the entire Construction Work has been performed to the requirements of the Construction Contract Documents, and is so certified by the Prime Consultant.
- 1.31 “**WCB**” has the meaning set out in Section 5.8.
- 1.32 “**WCB Legislation**” has the meaning set out in Section 5.8.

ARTICLE 2.0 PRIME CONSULTANT’S RESPONSIBILITIES

2.1 Basic Services and Additional Services

- 2.1.1 The Prime Consultant shall provide the Basic Services, including marina design and engineering services, structural, mechanical, electrical and civil engineering services, cost estimating, marine barometric surveying, environmental monitoring, construction administration services and other basic consulting services, as necessary, all in accordance with any instructions given by the City from time to time.
- 2.1.2 The Basic Services required to be provided by the Prime Consultant include the coordination required to integrate all parts of the Services to be provided by the Prime Consultant, the Prime Consultant’s Consultants, the City and any City’s Consultants. The Prime Consultant shall also work closely, and consult, with City representatives in performing the Basic Services.
- 2.1.3 The Basic Services will be performed in 2 stages. Stage 1 includes all the scope described under 1) Basic Services a) Basic Project Planning Phase found in Schedule A - Basic and Additional Services. Stage 2 includes all the scope described under subsequent phases 1) b) through g) in Schedule A - Basic and Additional Services.
- 2.1.4 The Prime Consultant is authorized to proceed with the work of Stage 1 upon execution of this Agreement. Further authorization to proceed will be contingent on the establishment of and agreement on the Stage 2 scope on the basis of the Stage 1 findings. The City’s authorization to proceed with the work of Stage 2 will be issued as a written contract amendment confirming fee and schedule adjustment consistent with any scope revisions identified by the Stage 1 outcome.
- 2.1.5 The Basic Services required to be provided by the Prime Consultant include all services not specifically referred to in this Agreement, but which are necessary or incidental to the completion of other Basic Services.
- 2.1.6 The Prime Consultant shall provide the particular Additional Services that are from time to time requested in writing by the City subsequent to the date hereof, if any, and, in providing such Additional Services, the Prime Consultant shall comply with any specific instructions given by the City from time to time.
- 2.1.7 Except as otherwise expressly set out herein (including in Schedule D hereto), any information the City provides to the Prime Consultant in respect of the Project, including, without limitation, any studies, reports, plans, drawings, measurements or specifications, is provided for information purposes only and the Prime Consultant is

not entitled to rely on such information as a basis for making professional decisions in performing the Services.

2.1.8 The Prime Consultant acknowledges the time constraints set out in the Project Schedule for the Project and shall provide the Services in accordance with the Project Schedule to facilitate the issuance of completion of all of the Services except post-construction services by **September 30, 2016**, unless otherwise agreed in writing between the City and the Prime Consultant. The City may, acting reasonably, refine the Project Schedule from time to time, and the Prime Consultant shall assist the City, at the City's request, in making such refinements. In the event of a suspension and resumption of the Project or other event reasonably requiring an adjustment to the Project Schedule, the City shall make such adjustments to the Project Schedule as are reasonable in the circumstances.

2.1.9 Unless otherwise specifically provided in this Agreement, the Prime Consultant shall have no responsibility for:

- (a) the discovery, reporting, analyses, evaluation, presence, handling, removal or disposal of;
- (b) advice in respect of; or
- (c) the exposure of persons, property or the environment to

Hazardous Substances at the Project Site that have not been introduced to the Project Site by the Prime Consultant or anyone for whom the Prime Consultant is responsible under this Agreement.

2.1.10 The Prime Contractor shall provide the Services to a Professional Standard.

2.2 Construction Budget and Construction Cost Estimates

2.2.1 The Prime Consultant shall review and provide its professional advice to the City regarding the Construction Budget and assist the Cost Consultant with the preparation of Construction Cost estimates pursuant to this Agreement.

2.2.2 Neither the Prime Consultant nor the City has control over the cost of labour, materials or equipment, over general contractors' methods of determining bid prices, or over competitive bidding, market, or negotiating conditions and therefore the Prime Consultant cannot and does not warrant or represent that bids or any negotiated price for a Construction Contract shall not vary from any Construction Cost estimate.

2.2.3 In producing design development and construction documents for the Project and carrying out other Services, the Prime Consultant shall at all times take the necessary steps to ensure that the design is consistent with all City-approved Project requirements, the most recent City-approved Construction Budget, and all relevant information furnished by the Cost Consultant or (other) City's Consultants.

2.3 Adjustment of Construction Budget

2.3.1 If, prior to the conclusion of the construction documents phase of the Services, the Construction Cost is agreed to be higher than the then Construction Budget, the City shall increase the Construction Budget and/or give directions as to how to revise the Project scope or quality to satisfy the Construction Budget;

- 2.3.2 If the bidding or negotiation phase has not commenced within three months after the Prime Consultant submits the construction documents to the City, the Construction Budget shall be adjusted by the City to reflect changes in the general level of prices in the construction industry between the date of submission of the construction documents to the City and the date on which bids or proposals are sought (as such change is determined by the Cost Consultant).
- 2.3.3 If the lowest bona fide Construction Work bid or lowest negotiated Construction Work proposal exceeds the latest-approved Construction Budget, the City may do one or more of the following:
- (a) give written approval of an increase in the Construction Budget;
 - (b) authorize re-solicitation of bids or proposals, or negotiation or renegotiation of a price;
 - (c) give instructions to the Prime Consultant to revise the Project scope or quality as necessary to reduce the Construction Cost; and
 - (d) terminate this Agreement in accordance with Section 5.9.
- 2.3.4 If the City chooses to proceed under Section 2.3.3(c), the Prime Consultant shall, under the direction of the City acting reasonably, modify the construction documents or provide other services necessary to reduce the Construction Cost to the latest approved Construction Budget. Such modifications or other necessary services requested to reduce the Construction Cost shall be deemed to be Basic Services and shall not be subject to additional charge only if: (a) the lowest bona fide Construction Work bid or lowest negotiated Construction Work proposal referred to in Section 2.3.3 exceeded the relevant Construction Budget by more than 10 percent; and (b) such excess did not result from extraordinary market conditions or other factors reasonably not foreseen by or under the control of the Prime Consultant, and, even when such two conditions are satisfied, such modifications or services shall be deemed to Basic Services only up to the point at which the Construction Cost is reduced to within 10 percent of such relevant earlier Construction Budget. In each other case (and in each case of work within such 10 percent buffer), the modifications or other necessary services shall be treated as Additional Services.

2.4 Construction Contract Requirements

- 2.4.1 The Prime Consultant's issuance of a certificate for payment for Construction Work performed under the Construction Contract shall constitute a representation by the Prime Consultant to the City, based on General Review and on review of the Construction Contractor's application for payment that the Construction Work for which payment is sought has been performed, that to the best of the Prime Consultant's knowledge, information and belief, such Construction Work is in conformity with the Construction Contract Documents, and that the Construction Contractor is entitled to payment in the amount certified, subject to any specific reservations or qualifications stated in the certificate for payment.
- 2.4.2 The issuance of a certificate for payment shall not be a representation that the Prime Consultant has made any examination to ascertain how and for what purpose the Construction Contractor has used the monies paid to it under the Construction Contract, or that the Construction Contractor has discharged the obligations imposed on it by law under the *Workers' Compensation Act*, or other applicable statutes.

- 2.4.3 The Prime Consultant shall act as, and fulfill the role of, the “Consultant” under the Construction Contract for the Project.

ARTICLE 3.0 CITY’S RESPONSIBILITIES

3.1 Provision of Information

The City shall provide:

- 3.1.1 all reasonably necessary information regarding the requirements for the Project including a program setting forth the City’s Project objectives, constraints, schedules, and criteria, including:
- (a) spatial and functional requirements and relationships;
 - (b) flexibility and expandability;
 - (c) special equipment and systems;
 - (d) site requirements; and
 - (e) sustainability requirements;
- 3.1.2 revisions to the Construction Budget, as required hereby or as otherwise determined by the City; and
- 3.1.3 the information, surveys, reports and services set out in Schedule D.

3.2 Other City Responsibilities

The City shall:

- 3.2.1 examine documents submitted by the Prime Consultant and give the Prime Consultant decisions and approvals as necessary;
- 3.2.2 except to the extent otherwise agreed herein, obtain all required consents, approvals, licenses and permits from authorities having jurisdiction, and pay the cost of all such required consents, approvals, licenses and permits, irrespective of whether the Prime Consultant or the City obtains them;
- 3.2.3 immediately notify the Prime Consultant in writing if the City observes or otherwise becomes aware of any fault or defect in the Project or any non-conformity with the requirements of the Construction Contract;
- 3.2.4 promptly fulfill the City’s responsibilities expressly stated in the Agreement for the orderly progress of the Services and of the Construction Work;
- 3.2.5 authorize in writing a person to act on the City’s behalf and define that person’s scope of authority with respect to the Project, in each case when necessary; and
- 3.2.6 using the City’s standard form of legal, insurance and bonding documents as a basis and in consultation with the City’s Director of Legal Services and the City’s Director of Risk Management, prepare the invitations to tender (or similar solicitations) and Construction Contract Documents for the Construction Work, provided that the Prime Consultant shall be responsible for:

- (a) the preparation of all design, specification and other tender and contract documentation that does not form part of the legal terms and conditions of the documents;
- (b) the review of all legal terms and conditions to ensure logical consistency (as opposed to legal compatibility) of the Prime Consultant's work with those legal terms and conditions; and
- (c) the review and incorporation of such requirements and refinements as are requested by the City's Director of Legal Services and the City's Director of Risk Management.

ARTICLE 4.0 PAYMENTS TO THE PRIME CONSULTANT

4.1 Payments

- 4.1.1 The City shall pay professional fees and reimbursable expenses to the Prime Consultant as set forth in this ARTICLE 4.0 and Schedule B.
- 4.1.2 Payments of fees for the Basic Services, the Additional Services and reimbursable expenses shall be made monthly upon submittal and approval of the Prime Consultant's invoices (as described below) for Services rendered and expenses incurred, and, in relation to the Basic Services, shall be in proportion to the Basic Services performed within each phase of the Services described in Schedule B.
- 4.1.3 If any amounts are to be charged by the Prime Consultant for work done in a given calendar month, the Prime Consultant shall, by the 25th day of the following month, provide to the City's Project Manager a draft invoice, in a form acceptable to the City's Project Manager, including a detailed account of all charges to be claimed by the Prime Consultant for the relevant month (including statements as to percentages of completion of the Prime Consultant's own work and the Prime Consultant's Consultants' work and including supporting documentation, such as Prime Consultant's Consultants' invoices or statements of account). The City's Project Manager shall review the draft, raise any concerns with the Prime Consultant within ten working days and, after settlement of any issues (in the City's Project Manager's discretion), approve the draft invoice. The Prime Consultant, if so requested, shall meet with the City's Project Manager to expedite and settle of the draft invoice. The Prime Consultant shall submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APInvoice@vancouver.ca. The invoice must contain:
 - (a) the Prime Consultant's name, address and telephone number;
 - (b) the City purchase order number;
 - (c) the name of the City's Project Manager;
 - (d) the invoice number and date;
 - (e) details of any applicable taxes; and
 - (f) tax registration number(s).
- 4.1.4 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Prime Consultant's invoices, for whatever reason, the City shall not be liable for interest charges in respect of that invoice for the period

from the date the invoice is submitted until the date that the invoice is paid, provided however, the City shall use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City shall, if it approves the amount of such invoice, cause the respective invoice to be paid within 30 days of approval by electronic funds transfer to the bank account indicated by the Prime Consultant.

- 4.1.5 The Prime Consultant shall keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City shall be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Prime Consultant and by such other means as shall be reasonably necessary or advisable.
- 4.1.6 The Prime Consultant shall not take a mark-up on amounts charged to the Prime Consultant by the Prime Consultant's Consultants.
- 4.1.7 The Prime Consultant shall provide bank account information to the City to enable the City to make payments by electronic funds transfer, as contemplated hereby.

4.2 Reimbursable Expenses

The following expenses, when incurred by the Prime Consultant, or the Prime Consultant's employees, in the interest of the Project, are reimbursable by the City:

- 4.2.1 reasonable, documented travel expenses in connection with the Project for travel that has been expressly pre-authorized in writing by the City; however, expenses for travel within the Lower Mainland of British Columbia and to and from persons' residences shall not be included as reimbursable expenses;
- 4.2.2 reasonable, documented communication and shipping expenses (e.g., for long distance telephone calls, courier service, and postage);
- 4.2.3 reasonable, documented expenses for the reproduction of plans, sketches, drawings, graphic representations, specifications and other documents, excluding reproductions for the Prime Consultant's office use or for the use of the Prime Consultant's Consultants;
- 4.2.4 reasonable, documented expenses for renderings, plotting of computer-generated drawings, models, and mock-ups specifically requested by the City and not forming part of the Basic Services;
- 4.2.5 documented fees, levies, duties or taxes for permits, licenses or approvals that are specific to the Project and are required to be paid by authorities having jurisdiction; and
- 4.2.6 over-time services costs, for over-time authorized in advance by the City, to the extent that the cost of such services exceeds normal direct personnel expenses, where "direct personnel expenses" refers to the salaries of the Prime Consultant's or the Prime Consultant's Consultant's personnel engaged on the Project plus the cost of such mandatory and customary contributions and employee benefits as employment taxes and other statutory benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

4.3 Changes and Adjustments

- 4.3.1 Except to the extent otherwise expressly provided herein or agreed in writing, the Prime Consultant agrees that the City may assume that all services are Basic Services unless the City expressly requests Additional Services in a writing expressly acknowledging that the requested services are Additional Services or the Prime Consultant notifies the City in writing and in advance that an Additional Service is required by the Prime Consultant or an Prime Consultant's Consultant, or has been requested by the City, and the City then agrees in writing and expressly authorizes the performance of the Additional Service.
- 4.3.2 If and to the extent that the Construction Contract time initially established in the Construction Contract is exceeded or extended through no fault of the Prime Consultant and the Prime Consultant is required to provide ongoing contract administration services, incremental services required for such extended period of the Construction Contract administration shall be treated as Additional Services but shall be paid only upon and in accordance with the prior agreement of the City.

4.4 Project Suspension or Abandonment

If the Project is suspended or abandoned in whole or in part for more than a total of 90 consecutive days, the Prime Consultant shall be paid within 30 days of the date that an invoice is submitted for all services performed and reimbursable expenses incurred to date. If the Project is resumed after being suspended or abandoned in whole or in part for more than a total of 60 days whether consecutive or not, the Prime Consultant's fees shall be adjusted by the City to reasonably compensate the Prime Consultant for the increased costs incurred by the Prime Consultant as a direct result of the suspension or abandonment.

4.5 Taxes

- 4.5.1 In the event that new or additional taxes in respect of the services included in this Agreement are required to be paid by the Prime Consultant by federal or provincial legislation enacted after the Agreement is executed, the fees payable under this Agreement shall be adjusted to include such new or additional taxes.
- 4.5.2 Except as stated in Section 4.5.1, the prices stated herein include all taxes and government levies, except for the federal goods and services tax arising under the *Excise Tax Act* (Canada) as a result of the sale of the Services within Canada hereunder.
- 4.5.3 If the Prime Consultant is a non-resident of Canada as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation, unless a Canada Revenue Agency waiver has been provided to the City within the time limit required under the Canada Revenue Agency administrative guidelines as in effect from time to time and, in any event, prior to payment of an invoiced amount. The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest shall be payable by the City on sums withheld and later paid directly to the Prime Consultant.
- 4.5.4 The Prime Consultant shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Prime Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.
- 4.5.5 The foregoing Section 4.5.4 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 5.0 GENERAL CONDITIONS

5.1 Prime Consultant's Consultants and Employees

- 5.1.1 The Prime Consultant shall be responsible for retaining and paying all the Prime Consultant's Consultants and employees. However, the City now acknowledges that, unless otherwise expressly set forth herein, it shall be responsible for retaining and paying for the Cost Consultant and (other) City's Consultants, including any of the City's Consultants engaged to perform the work referred to in Schedule D.
- 5.1.2 The Prime Consultant hereby assumes full responsibility to the City for all work performed by the Prime Consultant's Consultants under this Agreement. Nothing in this Agreement shall create any contractual relationship between the City and any of the Prime Consultant's Consultants.
- 5.1.3 The Prime Consultant shall only utilize:
- (a) its employees; and
 - (b) its Prime Consultant's Consultants approved in writing by the City
- to perform the Services under this Agreement.
- 5.1.4 Except in the event of circumstances beyond the Prime Consultant's control, the Prime Consultant may not make substitutions or changes to its employees primarily responsible for the performance of the Services, and it must ensure that its Prime Consultant's Consultants do not make substitutions or changes to their employees primarily responsible for the performance of the Services, in each case as such employees are listed under the heading "Key Employees" within Schedule E, and in each case without the prior written consent of the City, which consent shall not be unreasonably withheld, delayed, or conditioned.
- 5.1.5 Notwithstanding the foregoing Section 5.1.4, in no event may the Prime Consultant or an Prime Consultant's Consultant replace any professionally-registered staff with staff that is not so registered, and the Prime Consultant shall ensure that the Prime Consultant's Consultants do not do so.
- 5.1.6 For the purposes of the above Section 5.1.4, "circumstances beyond the Prime Consultant's control" means an illness, death, injury, pregnancy, medical leave, or termination of employment or contract but expressly excludes situations where an employee is called upon to perform services for another client of the Prime Consultant or its affiliates.
- 5.1.7 The City may, with stated reasons and acting reasonably, request that the Prime Consultant replace an employee assigned to the Project or cause an Prime Consultant's Consultant to replace an employee assigned to the Project. The Prime Consultant shall and shall cause each Prime Consultant's Consultant to, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace any such individual with someone of substantially similar competency and experience.

5.2 Confidentiality

- 5.2.1 In the course of or for the purpose of performing the Services, the Prime Consultant shall obtain or have access to information, including but not limited to technical information, financial information and business information, which is confidential to the City, and is the exclusive, world-wide property of the City and/or its suppliers and

customers (collectively “**Confidential Information**”). Excluded from the definition of Confidential Information is:

- (a) information which is in, or becomes part of, the public domain, not due to the Prime Consultant’s breach of this Agreement or the Prime Consultant’s actions;
- (b) information which was previously in the Prime Consultant’s possession and did not originate from the City; and
- (c) information which lawfully becomes available to the Prime Consultant from a third party not under an obligation of confidence to the City regarding such information.

5.2.2 The Prime Consultant shall not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Prime Consultant shall not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees and its Prime Consultant’s Consultants who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and use-restriction provisions in this Section 5.2. The Prime Consultant shall take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.

5.2.3 If the Prime Consultant is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Prime Consultant shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that, prior to any disclosure, the Prime Consultant shall promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City’s request and expense, co-operate in obtaining a protective order or other assurance that confidential treatment and restrictions on use shall be accorded such Confidential Information.

5.2.4 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 services to the City. The Prime Consultant confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia) with respect to all personal information received from the City whether as part of the Confidential Information or otherwise.

5.2.5 The Prime Consultant acknowledges that in the event of a breach by the Prime Consultant or any of its employees of their respective confidentiality obligations pursuant to this Section 5.2, damages alone would not be an adequate remedy. The Prime Consultant therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City shall have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.

5.2.6 The Prime Consultant shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:

- (a) completion of the Services;

- (b) expiration or earlier termination of this Agreement; and
- (c) written request of the City for return of the Confidential Information;

provided that the Prime Consultant shall have the right to retain one copy of the Confidential Information solely for archival purposes or as otherwise may be required by law, subject to its ongoing confidentiality and restricted use obligations.

5.2.7 This Section 5.2 shall survive the expiration or earlier termination of this Agreement.

5.3 Deliverables

5.3.1 As a result of or as part of providing the Services, the Prime Consultant may receive, create, produce, acquire or collect one or more of the following:

- (a) products, goods, equipment, supplies, models, prototypes and other materials;
- (b) information and data;
- (c) reports, designs, models, plans, sketches, drawings, graphic representations, documents and specifications; and
- (d) any other items identified in this Agreement as deliverables;

(collectively, the “**Deliverables**”).

5.3.2 Deliverables are deemed not to include:

- (a) any item not required to be produced by the Prime Consultant or supplied to the City as part of or together with the Services, provided that if the City has paid or is liable to pay for any portion of such item’s creation, production, acquisition or collection then such item shall be deemed to be a Deliverable; and
- (b) any item produced as a result of the Services, which is specified in this Agreement as being excluded from the Deliverables category.

5.3.3 The Prime Consultant shall keep accurate records and provide regular reports to the City about the Deliverables as they are created or acquired, and grant to the City access to the Deliverables at all times on reasonable notice. The Prime Consultant shall treat each Deliverable as subject to the confidentiality provisions for the benefit of the City set out in Section 5.2 unless advised otherwise by the City.

5.3.4 A copy of each Deliverable, as to the whole or that portion of the Deliverable then existing, shall be delivered by the Prime Consultant to the City on the earliest of each of the following events:

- (a) the date specified in, or inferable from, this Agreement for the delivery of such Deliverable;
- (b) immediately on the date of expiration or sooner termination of this Agreement; or
- (c) the date specified by written notice of the City requesting delivery of all or any part of the Deliverable.

- 5.3.5 The Prime Consultant represents and warrants that the Deliverables shall not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The Prime Consultant shall defend, indemnify and hold the City harmless from and against any and all damage, liability, cost and expense incurred by the City in connection with any claim by a third party that a Deliverable infringed, misappropriated or misused its copyright, patent, trade-mark, trade secret, or confidential or proprietary information.
- 5.3.6 The Prime Consultant hereby grants to the City, and shall procure that each Prime Consultant's Consultant shall grant to the City, automatically and without additional consideration, an irrevocable, perpetual, royalty-free and unfettered license to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of all Deliverables that are reports, designs, models, plans, sketches, drawings, graphic representations, documents or specifications for any purpose in connection with the Project (including in connection with the City's use and occupancy of the Project, and any future alterations, additions or reconstruction of the Project), and the City may retain copies of all of the same for such purpose.
- 5.3.7 The Prime Consultant irrevocably waives, in favour of the City, all moral rights in the Deliverables.
- 5.3.8 The Prime Consultant shall obtain from its employees and contractors and, as required, third parties (and shall require that its contractors obtain from their employees and contractors), all required licenses, including rights to sublicense, all assignments and all releases of intellectual property, and waivers of moral rights, respecting the Deliverables so as to give full effect to the provisions of this Section 5.3, including the unfettered license referred to in Section 5.3.6. The Prime Consultant shall moreover provide to the City, during and after the term of this Agreement, any reasonable assistance required for the City to obtain, perfect and enforce its rights in the Deliverables or to receive the full benefit of the Deliverables for purposes of the Project.
- 5.3.9 This Section 5.3 shall survive the expiration or earlier termination of this Agreement.

5.4 Project Identification

The Prime Consultant shall be entitled, at the Prime Consultant's expense, to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building. The location, size and design of the sign or inscription and the duration of the signage shall be subject to approval by the City.

5.5 Dispute Resolution

- 5.5.1 Any claim, dispute or issue in dispute between the City and the Prime Consultant in relation to this Agreement shall be decided by mediation or arbitration, if the City and the Prime Consultant so agree in writing in relation to the specific claim, dispute or issue in dispute, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.
- 5.5.2 In the event that parties agree to arbitration pursuant to Section 5.5.1:
- (a) 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;

- (b) 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
- (c) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

5.5.3 This Section 5.5 shall survive the expiration or earlier termination of this Agreement.

5.6 Release and Indemnification

- 5.6.1 Notwithstanding any other provision hereof, it is agreed that the Prime Consultant shall not be liable for damages, interest, costs or any other expenses arising out of the failure of any manufactured product or any manufactured or factory-assembled system of components to perform in accordance with the manufacturer's written specifications on which the Prime Consultant relied in the preparation of the design, construction or supplementary documents, unless the Prime Consultant could reasonably have anticipated such failure.
- 5.6.2 The Prime Consultant now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Prime Consultant, its contractors or consultants, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement (excepting any caused by the non-performance by the City of its obligations hereunder, or any gross negligence or wilful misconduct by the City).
- 5.6.3 In undertaking the Services, the Prime Consultant acknowledges that the Prime Consultant has inspected the Project Site, and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Prime Consultant to perform the Services.
- 5.6.4 Despite any insurance coverage of the City, the Prime Consultant hereby agrees to indemnify and save harmless the City of Vancouver and its successors, assigns, official, employees, agents and authorized representatives and each of them (in each case an "Indemnified Party") from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Prime Consultant, its contractors or consultants, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are primarily caused by errors, omissions or negligent acts of an Indemnified Party.
- 5.6.5 The foregoing Section 5.6.4 shall not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.
- 5.6.6 This Section 5.6 shall survive the expiry or sooner termination of this Agreement.

5.7 Insurance

- 5.7.1 The Prime Consultant shall, purchase and maintain, at its own cost, professional liability insurance covering the Prime Consultant for the services to be performed by the Prime Consultant under this Agreement. The professional liability insurance policy shall have a limit of \$2,000,000 per claim and \$5,000,000 in annual aggregate coverage and shall be subject to a deductible of not more than \$10,000 per claim. The policy shall remain in effect throughout the period of construction and for a minimum of two years following the date of Substantial Performance of the Construction Work. The professional liability insurance policy shall not be cancelled or endorsed to reduce limits of liability without 30 days' notice in writing by registered mail to the City. Should the policy be endorsed to restrict coverage mid-term, notice of such restriction shall be provided in writing by registered mail to the City by no later than the effective date of such change.
- 5.7.2 The Prime Consultant shall purchase and maintain during the entire term of this Agreement, at its own cost, a commercial general liability insurance policy acceptable to the City, with to a limit of not less than \$2,000,000 per occurrence and a deductible of not more than \$5,000 per claim, which protects the Prime Consultant and its directors, officers, partners, personnel, and agents from all insurable claims which might arise from the performance of the Basic Services and any Additional Services in connection with this Agreement, for any damage to property, including loss of use thereof, or completed operations or products, any injury including personal injury, and any death caused by the negligence, fault, error or omission of the Prime Consultant or its directors, officers, partners, employees or agents or any of them, in respect of the performance of the Services under this Agreement.
- 5.7.3 During the entire term of this Agreement, the Prime Consultant shall have the commercial general liability policy of insurance referred to in Section 5.7.2 endorsed, in respect of the performance of this Agreement:
- (a) to name the City as an additional insured;
 - (b) to provide a cross-liability clause or endorsement in favour of the City; and
 - (c) to provide that no cancellation or material change, reduction of coverage or cancellation of the insurance shall be made except on at least 60 days' written notice from the insurer to the City.
- 5.7.4 The Prime Consultant shall cause the Prime Consultant's Consultants to each carry the insurance specified in Sections 5.7.1, 5.7.2 and 5.7.3; provided that the per-claim and annual aggregate coverage limits applicable to the Prime Consultant's Consultants' professional liability insurance shall vary based on the prices of the services being provided to the Prime Consultant by each Prime Consultant's Consultant. In particular, if a Prime Consultant's Consultant's fees payable by the Prime Consultant are less than \$100,000, the per-claim limit must be no lower than \$1,000,000 and there must be at least \$2,000,000 in annual aggregate coverage; if the fees are between \$100,000 and \$249,999, the per-claim limit must be no lower than \$2,000,000 and there must be at least \$3,000,000 in annual aggregate coverage; if the fees amount to \$250,000 or more, the per-claim limit must be no lower than \$2,000,000 and there must be at least \$5,000,000 in annual aggregate coverage.
- 5.7.5 All of the insurance coverage required hereby shall be obtained from insurers authorized to carry on business in the Province of British Columbia. Moreover, prior to the commencement of work under this Agreement, the Prime Consultant shall provide the City with evidence of its having all required insurance in the form of detailed

certificates of insurance. The certificates of insurance must identify this Agreement, the policy holder and the contract subject-matter, and must not contain any disclaimer. Similar evidence of renewals, extensions or replacements of all required insurance must be forwarded to the City. At any time, upon request, the Prime Consultant shall provide the City with updated insurance certificates or certified copies of its insurance policies required by this Agreement.

- 5.7.6 Upon request, the Prime Consultant shall deposit with the City certificates of insurance for the policies required to be obtained by the Prime Consultant's Consultants or copies of the insurance-related clauses from its agreements with them.

5.8 WorkSafeBC Coverage

- 5.8.1 The Prime Consultant agrees that it shall procure and carry at its expense and shall cause each of the Prime Consultant's Consultants to procure and carry at their expense full WorkSafeBC ("WCB") coverage as required by the *Workers Compensation Act* (British Columbia) and the regulations thereunder including all amendments thereto from time-to-time (the "WCB Legislation") for their respective employees, contractors and agents engaged in the performance of the Services under this Agreement. The Prime Consultant agrees that, notwithstanding any other provision of this Agreement, the City has the unfettered right to set off the amount of the unpaid premiums, assessments and penalties for such WCB coverage against any monies owing by the City to the Prime Consultant. The City shall have the right to withhold payment under this Agreement until the WCB premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.

- 5.8.2 Prior to commencing any services under this Agreement and thereafter as and when requested by the City, the Prime Consultant shall provide the City with the Prime Consultant's and each Prime Consultant's Consultant's WCB registration numbers and with written confirmation from the WCB that the Prime Consultant and all of the Prime Consultant's Consultants are registered and in good standing with the WCB and that all premiums, assessments and penalties have been paid to date.

- 5.8.3 The Prime Consultant shall indemnify and hold harmless the City from and against all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to:

- (a) unpaid WCB assessments of the Prime Consultant or any other employer for whom the Prime Consultant is responsible under this Agreement;
- (b) the acts or omissions of any person engaged directly or indirectly by the Prime Consultant in the performance of the Services, or for whom the Prime Consultant is responsible at law and which acts or omissions are or are alleged by the WCB to constitute a breach of the WCB Legislation or any other failure to observe the safety rules, regulations and practices of WCB, including any and all fines and penalties levied by the WCB, and
- (c) Any breach of Section 5.8.2.

- 5.8.4 The foregoing Section 5.8.3 shall survive the expiry or sooner termination of this Agreement.

5.9 Term and Termination

- 5.9.1 Unless earlier terminated pursuant to the remaining provisions of this Section 5.9, this Agreement shall expire at such date at which both: (a) three years have elapsed since

Substantial Performance of the Construction Work; and (b) Total Performance of the Construction Work has been achieved; provided that if the City and the Prime Consultant continue to deal with each other in relation to the Project following such date, this Agreement shall be deemed to be renewed on a month-to-month basis until such time as their dealings cease.

- 5.9.2 The City may terminate this Agreement at any time (and for its convenience) upon 30 days' written notice to the Prime Consultant, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Services and to minimize expenditure, including complying with any instructions from the City as to how to do so.
- 5.9.3 If the City reasonably considers that the Prime Consultant is not discharging any of its material obligations under this Agreement, the City may inform the Prime Consultant 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 14 days or such longer period as agreed by the parties, the City may by a further notice to the Prime Consultant of at least 14 days terminate this Agreement.
- 5.9.4 The City may terminate this Agreement with immediate effect if the Prime Consultant 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.
- 5.9.5 After giving at least 14 days' written notice to the City, the Prime Consultant 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) 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 Prime Consultant 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 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 Prime Consultant 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 60 days.
- 5.9.6 The following consequences shall apply upon the termination of this Agreement:
- (a) The Prime Consultant shall, as soon as reasonably practicable:
 - (i) deliver to the City all work and Deliverables produced by or on behalf of the Prime Consultant 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 Project Site access cards, equipment and other items provided by the City in connection with 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 Prime Consultant shall be solely responsible for its or their safe-keeping;
 - (iv) if so requested by the City, take reasonable steps to assign any Prime Consultant's Consultant 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 Project Site.
- (b) The Prime Consultant shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 5.9.6(a) and its reasonable demobilization costs, up to a maximum of \$1,000, in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a default by the Prime Consultant in the provision of any part of the Services, in which case all such costs shall be for the Prime Consultant's own account.
 - (c) The Prime Consultant 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.
 - (d) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.

5.10 Law Governing this Agreement

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the parties now irrevocably agree that, unless the parties agree to arbitration pursuant to Section 5.5, the courts of the Province of British Columbia shall have exclusive jurisdiction in all matters arising out of or in any way relating to this Agreement, except to the extent necessary to enforce, in another jurisdiction, any decision or award made by an arbitrator pursuant to Section 5.5 or any judgment of any court in the Province of British Columbia.

5.11 Successors and Assigns

The City and the Prime Consultant, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. However, neither the City nor the Prime Consultant shall assign or transfer an interest in this Agreement without the written consent of the other.

5.12 Extent of Agreement

This Agreement represents the entire and integrated Agreement between the City and the Prime Consultant and supersedes all prior negotiations, representations, or agreements, either

written or oral. This Agreement may be amended only by a written instrument signed by both the City and the Prime Consultant.

5.13 Notices

5.13.1 Any notice required or permitted to be given by one party to another pursuant to this Agreement must be in writing and shall be validly given if delivered by personal delivery or courier, transmitted by electronic means (with delivery confirmation or an email reply effectively acknowledging delivery) or mailed in British Columbia by registered mail to the respective party at its address as follows:

- (a) **City of Vancouver**
Facilities Design and Management
300-515 West 10th Avenue
Vancouver, British Columbia V5Z 4A8

Attention:
Fax:

- (b) name>
address>

Attention: name and title>
Fax: 604->
Email:

or to such other person or address as one party may advise the other in writing from time to time, provided that, notwithstanding the foregoing, the Prime Consultant's invoices shall be addressed as specified in Section 4.1.3 or as otherwise specified in the relevant City purchase order.

5.13.2 Any notice given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 5.13.1 shall be conclusively deemed to have been given:

- (a) if given by personal delivery, on the day of actual delivery thereof;
- (b) if given by courier or registered mail, on the Business Day following confirmation by the courier or postal service that the notice has been delivered; and
- (c) if given by electronic 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 electronic transmission.

5.14 No Promotion

The Prime Consultant shall not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters,

client lists, websites, internet domain names, press releases, brochures or other written materials without the express prior written consent of the City (except as may be necessary for the Prime Consultant to perform its obligations under this Agreement). The Prime Consultant shall not use the City's logo or any of the City's official marks without the express prior written consent of the City

5.15 Compliance with Law

The Prime Consultant shall comply and shall cause the Prime Consultant's Consultants to comply with all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Prime Consultant, the Prime Consultant's Consultants and the services to be performed under this Agreement, all as may be in force from time to time.

5.16 Precedence of Documents

In the event of any conflict or inconsistency between this Agreement (excluding Appendix 2) and the Prime Consultant's Proposal, this Agreement (excluding Appendix 2) shall take precedence.

5.17 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.

5.18 Time of the Essence

Time is of the essence of this Agreement.

5.19 No Waiver

No action or failure to act by the City shall constitute a waiver of any right or duty under this Agreement, or constitute an approval or acquiescence in any breach hereunder, except as may be specifically agreed in writing by the City.

5.20 Remedies Cumulative.

The remedies of the parties provided for in this Agreement are cumulative and are in addition to any remedies available to the parties at law or in equity. No remedy shall be deemed to exclude or restrict the right of a party to any other remedies against the other party and a party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.

5.21 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.

SCHEDULE A - BASIC AND ADDITIONAL SERVICES

1) BASIC SERVICES

The following are Basic Services requirements:

a) Basic Project Planning Phase

Within the project planning phase (the “**Project Planning Phase**”), the Prime Consultant will perform the following Basic Services, based on the Condition Assessment Report, their own site review and analysis, and discussions with the City regarding their needs and issues:

- i) Review the Condition Assessment Report findings and the completed works done on the BCM to date per information provided by the City;
- ii) Review the City’s needs and priorities in relation to long term and immediate renewal work;
- iii) Incorporate input from stakeholders and user groups;
- iv) Review power needs for the slips and recommend service amperage(s);
- v) Determine and assess wind and wave impacts;
- vi) Create 2-3 long-term phasing strategies for full renewal, including slip layout recommendations, based on the Condition Assessment Report recommendations and other inputs;
- vii) Create 2-3 complimentary immediate phasing strategies to address the most pressing issues, concerns and priorities (in particular breakwater, floats, electrical);
- viii) Ensure immediate phasing strategies are viable within the available construction budget of \$2.0M and that they maintain ongoing operation of the marina;
- ix) Review the strategies with the City to select the optimal long term and immediate phasing strategy;
- x) Create design/engineering schematics of the preferred immediate phasing strategy, to describe the Burrard Civic Marina Renewal work;
- xi) Ensure schematic work is consistent with the requirements of applicable codes including the Vancouver Building By-law latest version;
- xii) Provide the Cost Consultant with information necessary to prepare estimates of the Construction Cost;
- xiii) Prepare a report summarizing the above findings and recommendations;
- xiv) Include six meetings with City staff and stakeholders (start-up, information gathering, long term phasing options, immediate phasing options, schematic design, and report presentation); and
- xv) Include two additional information meeting with stakeholders and user groups.

Depending on the outcome of the Project Planning Phase, the scope of the subsequent phases for implementation may be modified in accordance with the recommended multi-year plan and priorities.

b) **Basic Schematic Design Phase**

Within the schematic design phase of the Project, the Prime Consultant shall perform, as Basic Services, the following services and such additional schematic design phase services as are indicated in the RFP or the Prime Consultant's Proposal:

- i) summarizing findings and recommendations from the project planning phase and/or other preceding work in a written, illustrated document, which establishes the scope for the design;
- ii) reviewing the requirements furnished by the City, and the characteristics of the Project Site;
- iii) reviewing and commenting on the Construction Budget and Project Schedule in relation to the City's requirements;
- iv) reviewing with the City alternative approaches to the design of the Construction Work and the types of construction contracts;
- v) reviewing applicable statutes, regulations, codes and by-laws and where necessary, reviewing the same with the authorities having jurisdiction including environmental authorities;
- vi) reviewing and addressing the requirement for civic services - sanitary sewer, electrical power, potable, water fire suppression systems;
- vii) developing at least 2 design options for the work that address all requirements including structural, mechanical, electrical, civil, and environmental;
- viii) reviewing the options with the Project Working Group and Project Steering Committee and subsequently developing the preferred option as the schematic design;
- ix) based on mutually agreed upon requirements and schedules, and the Construction Budget, preparing for the City's review and approval schematic design documents to illustrate the scale and character of the Project and how the parts of the Project functionally relate to each other, including, at a minimum, the following Deliverables:
 - (1) a site plan;
 - (2) spatial relationship diagrams;
 - (3) principal float and breakwater plans;
 - (4) sections;
 - (5) elevations; and
 - (6) outline specifications;
- x) providing the Cost Consultant with information necessary to prepare estimates of the Construction Cost.

c) **Basic Design Development Phase**

Within the design development phase of the Project, the Prime Consultant shall perform, as Basic Services, the following services and such additional design development phase services as are indicated in the RFP or the Prime Consultant's Proposal, taking into account the most recent City-approved Construction Budget and the most recently approved estimate of Construction Cost:

- i) preparing, for the City's review and approval, design development documents consisting of drawings and other documents appropriate to the scale of the Project to describe the size and character of the entire Project, including the marina design - architectural, structural, mechanical, and electrical systems, sustainability measures, code compliance, materials and such other elements as may be appropriate, including but not limited to:
 - (1) site plan;
 - (2) moorage plan;
 - (3) float and breakwater plans;
 - (4) sections;
 - (5) elevations;
 - (6) project briefs, including information from the Prime Consultant and each Prime Consultant's Consultant detailing area calculations, all building systems, sustainability measures and all the parameters that shall guide the work in the next phase; and
 - (7) presentation materials as required for the public meetings and presentations to municipal boards and authorities, as required by City of Vancouver by-laws for the Project;
- ii) providing the Cost Consultant with information necessary to prepare estimates of the Construction Cost;
- iii) and investigating alternate solutions to problem areas and generally consulting with the City and the Cost Consultant to the extent necessary for the Cost Consultant to be able to confirm the design is consistent with the Construction Budget;
- iv) continuously reviewing and ensuring compliance with applicable statutes, regulations, codes and by-laws as the design phase of the Project progresses.

d) **Basic Construction Documents Phase**

Within the construction documents phase of the Project, the Prime Consultant shall perform, as Basic Services, the following services and such additional construction documents phase services as are indicated in the RFP or the Prime Consultant's Proposal, taking into account the most recent City-approved Construction Budget and the most recently approved estimate of Construction Cost:

- i) preparing, for the City's review and approval, construction documents consisting of drawings and standard-format specifications setting forth in detail the requirements for the construction of the Project;

- ii) providing the necessary documents for the City to obtain pre-tender estimates of Construction Cost from the Cost Consultant;
- iii) coordinating with the City in preparing the City's tender or other solicitation package;
- iv) reviewing the City's form of Construction Contract for information and coordination purposes;
- v) reviewing statutes, regulations, codes and by-laws applicable to the design and where necessary reviewing the same with the authorities having jurisdiction in order that all required consents, approval, licenses and permits necessary for the Project may be obtained, and obtaining the following required consents, approvals, licenses and permits on the City's behalf:
 - (1) a development permit;
 - (2) a building permit (including the provision of all required schedules and letters of assurance); and
- vi) other services indicated to be Basic Services under the "Construction Documents" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A.

e) **Basic Tender Phase**

Within the bidding or negotiation phase of the Project (which shall be managed by the City), the Prime Consultant shall perform, as Basic Services, the following services and such additional bidding or negotiation phase services as are indicated in the RFP or the Prime Consultant's Proposal:

- i) in conjunction with the City of Vancouver's Supply Chain Management (SCM) Department, to provide assistance in the development of the construction tender scope of work, specifications, Issued-For-Tender drawings where applicable, schedule of quantities and prices with the City's Project Manager and SCM staff's input;
- ii) attend bidder site reviews or meeting, and address technical questions from bidders;
- iii) contribute to City-issued addenda, amendments and other technical information as required;
- iv) review tender submissions, participate in qualification or selection processes and provide recommendations on the award;
- v) other services indicated to be Basic Services under the "Bidding or Negotiation" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A.

f) **Basic Construction Contract Administration Phase**

Within the construction contract administration phase of the Project, the Prime Consultant shall perform, as Basic Services, the following services and such additional construction contract administration phase services as are indicated in the RFP or the Prime Consultant's Proposal:

- i) being a representative of the City acting as the "Consultant"/"Payment Certifier" as defined in the Construction Contract and doing all things required of it thereunder;

- ii) acting on the City's behalf to the extent provided in the Construction Contract Documents;
- iii) reviewing the Construction Work at all appropriate times when it is in preparation or progress;
- iv) acting as the coordinating registered professional for the Project, which role shall include without limitation, providing overall liaison, control, coordination and communication between all parties for the Project (except as limited by the Construction Contract);
- v) forwarding all instructions from the City to the Construction Contractor;
- vi) carrying out the General Review of the Construction Work and coordinating field review from all disciplines;
- vii) examining, evaluating and reporting to the City upon representative samples of the Construction Work;
- viii) keeping the City informed of the progress and quality of the Construction Work, and reporting to the City defects and deficiencies in the Construction Work observed during the course of site reviews;
- ix) attending regularly scheduled construction meetings at the Project Site;
- x) determining the amounts owing to the Construction Contractor under the Construction Contract based on the Prime Consultant's observations and evaluation of the Construction Contractor's applications for payment;
- xi) issuing certificates for payment under the Construction Contract for Construction Work performed;
- xii) interpreting the requirements of the Construction Contract Documents and communicating to the City and, as necessary, the Construction Contractor its opinions as to the performance thereunder by both the City and the Construction Contractor;
- xiii) rendering interpretations in written and graphic form as may be required with reasonable promptness on the written request of either the City or the Construction Contractor (in conformity with the Construction Contract);
- xiv) rendering written findings, as required within a reasonable time (and in conformity with the Construction Contract), on all claims, disputes and other matters in question between the City and the Construction Contractor relating to the execution or performance of the Construction Work or the interpretation of the Construction Contract Documents;
- xv) rejecting, in conformity with the Construction Contract, work which does not conform to the Construction Contract Documents;
- xvi) whenever required by the Construction Contract or necessary or advisable, in the Prime Consultant's opinion, for the implementation of the Construction Contract Documents, requiring special inspections or testing of work (in conformity with the Construction Contract), whether or not such work has been fabricated, installed or completed;
- xvii) reviewing, and taking other appropriate actions with reasonable promptness upon, the Construction Contractor's submittals such as shop drawings, product data, and samples, in conformity with the Construction Contract;

- xviii) preparing, in conformity with the Construction Contract, contemplated change orders, change orders, and change directives for the City's approval and signature in accordance with the Construction Contract Documents;
- xix) directing, in conformity with the Construction Contract, minor adjustments in the Construction Work which are consistent with the intent of the Construction Contract Documents, when these do not involve an adjustment in the Construction Contract price or an extension of the Construction Contract time;
- xx) furnishing, in conformity with the Construction Contract, supplemental instructions to the Construction Contractor with reasonable promptness or in accordance with a schedule for such instructions agreed to by the Prime Consultant and the Construction Contractor;
- xxi) determining the date of Substantial Performance of the Construction Work in accordance with the Builders' Lien Act and the Construction Contract and issuing a certificate of completion in respect thereof;
- xxii) determining the dates for substantial completion of subcontracts in accordance with the progressive release provisions of the Builders' Lien Act and the Construction Contract and issuing certificates of completion therefor;
- xxiii) determining the date of Total Performance of the Construction Work and issuing a written certificate of same in accordance with the Construction Contract;
- xxiv) verifying the validity of the Construction Contractor's application for final payment and issuing a certificate of final payment;
- xxv) receiving from the Construction Contractor, reviewing on behalf of the City for Construction Contract compliance, and, when compliant, forwarding to the City, written warranties and related documents;
- xxvi) reviewing and confirming that operation manuals prepared by the Construction Contractor are in accordance with the Construction Contract, and forwarding the same (which compliant) to the City;
- xxvii) preparing a Project close-out report , including at a minimum a summary of each of the design phases, all monthly reporting and site reviews during construction, a final budget summary, including all change orders, a final schedule summary, including any adjustments, the certificate of completion, the final certificate for payment, the occupancy permit, and a summary commentary explaining any major issues and deviations from expectations
- xxviii) preparing record drawings showing changes in the Construction Work made during construction based on marked-up as-built drawings, and other data furnished by the Construction Contractor to the Prime Consultant, and sending to the City two paper copies and four electronic copies on disk of each such drawing, provided that the accuracy of such information shall be the sole responsibility of the Construction Contractor;
- xxix) prior to the end of the period of one year following the date of Substantial Performance of the Construction Work, reviewing any defects or deficiencies which have been reported or observed during that period, and notify the Construction Contractor in writing of those items requiring attention by the Construction Contractor to complete the Construction Work in accordance with the Construction Contract;

- xxx) preparing and providing all schedules required under the City of Vancouver Building Bylaw for issuance of an occupancy permit;
- xxxi) LEED coordinating occupancy tasks and paperwork are not required ;
- xxxii) LEED reporting is not required;
- xxxiii) other services indicated to be Basic Services under the “Construction Contract Administration” heading in the “Sequence and Scope of Services Chart” attached at the end of and forming part of Schedule A.

g) Basic Post-Construction Phase

Within the post-construction phase of the Project, the Prime Consultant shall perform, as Basic Services, the following services and such additional post-construction phase services as are indicated in the RFP or the Prime Consultant’s Proposal:

- i) other services indicated to be Basic Services under the “Post-Construction” heading in the “Sequence and Scope of Services Chart” attached at the end of this Schedule A.

2) ADDITIONAL SERVICES

The following are, each to the extent they are not required as Basic Services, Additional Services, and they shall be provided to the City by the Prime Consultant if the City requests them in writing:

- a) Providing more exhaustive or continuous on site review or representation than is required as a Basic Service.
- b) Providing site evaluations, planning surveys, or comparative studies of prospective sites.
- c) Providing special surveys and other related services required for approval by authorities having jurisdiction over the Project.
- d) Providing services relating to future facilities, systems and equipment.
- e) Providing detailed estimates of Construction Cost, detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.
- f) Providing graphic design, signage and other similar services.
- g) Providing tenant layout and design services.
- h) Preparing models or renderings specifically commissioned by the City.
- i) Preparing documents for alternative, separate or sequential bids or providing extra services in connection with bidding, negotiations, or construction prior to the completion of the construction documents phase.
- j) Coordinating construction work performed by separate construction contractors or by the City’s own forces and coordinating the services required in connection with construction performed and equipment supplied by the City.
- k) Providing services after expiry of the period of three years following the date of Substantial Performance of the Construction Work.
- l) Revising or providing additional drawings, specifications or other documents which are:

- i) caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
 - ii) caused by an interpretation by the authorities having jurisdiction which differs from the Prime Consultant's interpretation of statutes, regulations, codes or by-laws, which difference the Prime Consultant could not have reasonably anticipated; or
 - iii) due to changes required as a result of the City's failure to render decisions in a timely manner.
- m) Providing services in connection with evaluating substitutions proposed by the Construction Contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them.
- n) Making investigations, inventories of materials and equipment, valuations and detailed appraisals of existing facilities.
- o) Providing services made necessary by the material default of the Construction Contractor, by major defects or deficiencies in the Construction Work of the Construction Contractor, or by a material failure of performance by either the City or Construction Contractor under the Construction Contract.
- p) Providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work.
- q) Providing services in evaluating an extensive or unreasonable number of claims submitted by the Construction Contractor or others in connection with the Construction Work.
- r) Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.
- s) Attending, presenting or speaking as the City's representative at any public hearing, mediation, arbitration proceedings, or legal proceedings except as required as a Basic Service.
- t) Providing for services of consultants other than the Prime Consultant's Consultants.
- u) Translating documents into a language other than English.
- v) Providing or arranging for any services not otherwise provided for in this Agreement, or which the Agreement states are to be treated as Additional Services.
- w) Providing other services indicated to be Additional Services in the "Sequence and Scope of Services Chart" attached at the end of and forming part of this Schedule A.

SEQUENCE AND SCOPE OF SERVICES CHART

Please refer to the attached Sequence and Scope of Services Chart.

Sequence and Scope of Services Chart

Project Inception		Project Feasibility		Concept Approval		Development Permit		Building Permit		Award of Construction Contract		Substantial Performance		Occupancy Permit		Maintenance	
1.0 Predesign		2.0 Schematic Design		3.0 Design Development		4.0 Construction Documents		5.0 Bidding or Negotiation		6.0 Construction Contract Administration		7.0 Post-Construction					
Services <ul style="list-style-type: none">○ Facility Programming○ Space Relationships○ Flow Diagrams○ Project Development/Scheduling○ Project Budgeting○ Life Cycle Cost Studies○ Economic Feasibility Studies○ Agency Consulting/Review/Approval○ Site Selection/Analysis/Utilization○ Environmental Studies○ Energy Studies○ Existing Facilities Surveys○ Client-supplied Data○ Coordination○ Project Management○ Presentations○ Marketing Studies○ Project Financing○ Special Studies○ Re-zoning Assistance○ Project Promotion○ OCP/Zoning Review○ Obtain Consultants' Proposals		Services <ul style="list-style-type: none">● Client-Supplied Data● Coordination● Program and Budget Evaluation/Review● Review Site Characteristics● Review Alternate Design Approaches● Architectural Schematic Design● Schematic Design Coordination● Drawings & Documents● Review Construction Contract Types● Statement of Probable Construction Costs● Client Consultation● Agency Consultation● Building Code Review● Development Permit Submission● Budget Review/Evaluation○ Certified Professional Service○ Interior Design Development○ Special Studies Reports; e.g. Planning Tenant or Rental Spaces○ Promotional Presentations○ Models or Perspectives○ Project Management○ Rezoning Variance Submission○ Value Analysis○ Building Envelope Professional Services		Services <ul style="list-style-type: none">● Client-Supplied Data● Coordination● ENGINEER Design Development● Design Development Coordination● Drawings & Documents● Statement of Probable Construction Costs● Client Consultation● Agency Consultation● Building Code Review● Development Permit Submission● Budget Review/Evaluation○ Certified Professional Service○ Interior Design Development○ Special Studies Reports; e.g. Planning Tenant or Rental Spaces○ Promotional Presentations○ Models or Perspectives○ Project Management○ Rezoning Variance Submission○ Value Analysis○ Building Envelope Professional Services		Services <ul style="list-style-type: none">● Client-Supplied Data● Coordination● ENGINEER Construction Documents (Working Drawings, Form of Contract and Specifications)● Document Checking and Coordination● Statement of Probable Construction Costs● Client Consultation● Agency Consultation● Building Code Review● Letters of Assurance● Budget Review/Evaluation● Coordinating Registered Professional Role● Building Permit Submission○ Certified Professional Service○ Interior Construction Documents○ Alternate Bid Details & Special Bid Documents○ Project Management○ Area Analysis○ Project Lease Plans○ Tenant Layout Drawings○ Multiple Contracts Management○ Phased Construction Management○ Building Envelope Professional Services		Services <ul style="list-style-type: none">● Client-Supplied Data● Coordination● Coordinate Issue of Bid Documents● Coordinate/Issue Addenda● Bid Evaluation● Client Consultation● Prepare Contracts○ Separate Bids or Negotiated Bids○ Services Related to Bidders' Proposals○ Project Management○ Prepare Prequalification Criteria○ Prequalify Contractors		Services <ul style="list-style-type: none">● Construction Inspection/Field Review● Progress Reports' Evaluation● Certificates for Payment● Interpretation of Contract Documents● Shop Drawing/Product Data/Sample Review● Change Orders & Change Directives● Review of Warranties (1)● Client Consultation● Letters of Assurance● Coordinating Registered Professional Role● Substantial Performance Report and Certification (1)● Deficiency Assessment (1)● Instructions for Correction of Deficiencies (1)● Final Inspection and Certification for Payment (1)● Agency Consultation○ Interior Construction Inspection/Field Review○ Full-Time Project Rep○ Admin. of Separate Contracts○ Project Management○ Promotional Material○ Record (As-Built) Drawings○ Certification re: Financing○ Alternate Dispute Resolution Services○ Certified Professional Service○ Multiple Contracts Management○ Phased Construction Management○ Building Envelope Professional Services○ Payment certifier role for subcontracts (Lien legislation)		Services <ul style="list-style-type: none">○ Project Inspection/Field Review○ Deficiency Assessment○ Instructions for Correction of Deficiencies○ Start-up Assistance○ Services Provided After Substantial Performance Date○ Fine Arts/Crafts/Graphics/Non-Building Equipment Selection○ Building Analysis and Reports○ Services Related to Alterations and Demolition○ Life Cycle Cost Monitoring○ Environmental Monitoring○ Project Management○ Commissioning○ Alternate Dispute Resolution Services○ Expert Witness Services○ Post-Occupancy Evaluation		Coordination of Engineering and Special Consultants Services <ul style="list-style-type: none">○ Start-Up Assistance○ Services Provided After Substantial Performance Date○ Non-Building Equipment Selection○ Building Analysis and Reports○ Services Related to Alterations and Demolition○ Life Cycle Cost Monitoring○ Systems Performance Review○ Commissioning			

● Basic Services: normally provided as integrated

○ Additional Services: provided to meet specific project needs

SCHEDULE B - FEES FOR BASIC AND ADDITIONAL SERVICES

1) BASIC SERVICES

The following are the professional fees the City shall pay to the Prime Consultant for the Basic Services performed by the Prime Consultant and by the Prime Consultant's Consultants:

(To be inserted upon award based on Proponent's submission)

2) ADDITIONAL SERVICES

The City and the Prime Consultant shall discuss and seek to agree the fees for Additional Services, which shall be fixed fees, per-service, and shall be recorded in writing; provided that if the City and the Prime Consultant do not agree the fees for a particular Additional Service, the following are the fees the City shall pay for the Additional Service:

- a) Fees for authorized Additional Services not included in Basic Services, excluding those provided by the Prime Consultant's Consultants, shall be calculated on a time-worked basis at the hourly rates set out on page of the Prime Consultant's Proposal in Appendix 2.
- b) Fees for authorized Additional Services provided by the Prime Consultant's Consultants shall be invoiced to the Prime Consultant by the Prime Consultant's Consultants according to the hourly rates agreed to in advance in writing by the City and the Prime Consultant, and then shall be re-invoiced by the Prime Consultant to the City. However, in no event shall these rates exceed the hourly rates set out in the Prime Consultant's Proposal.







(To be inserted upon award based on Proponent's submission)

SCHEDULE C - CONSTRUCTION BUDGET AND PROJECT SCHEDULE

C1 The preliminary Construction Budget is \$2,000,000.00, comprised of the following:

Marina Upgrades	\$1,675,000
Marina Breakwater	<u>\$325,000</u>
Total:	<u>\$2,000,000</u>

C2 The Project Schedule, up until the issuance of an occupancy permit, is as follows, with the work to be started on the date of this Agreement and the occupancy permit to be issued by **September 30, 2016**:

Phase:	Duration:
Project Planning Phase	<  >
Schematic Design Phase	<  >
Design Development Phase	<  >
Construction Documents Phase	<  >
Bidding or Negotiation Phase	<  >
Construction Contract Administration Phase	<  >

SCHEDULE D - REPORTS AND CITY-PROVIDED ITEMS

1. The City shall provide the following documents for the Prime Consultant's information only, and not for reliance:
 - a. Burrard Bridge Civic Marina Extension Drawing 033-011-01 (Plan);
 - b. Burrard Bridge Civic Marina Extension Drawing 033-011-02 (Details);
 - c. Burrard Bridge Civic Marina Extension Drawing 033-012 (Electrical Plan);
 - d. Burrard Bridge Civic Marina Extension Drawing 033-013 (Plumbing System);
 - e. Burrard Bridge Civic Marina Expansion Dredging Drawing 033-014;
 - f. Sounding Survey of Heather and Burrard Marina Drawing 033-017;
 - g. Depth Sounding Survey of Burrard Marina Drawing 033-018;
 - h. Burrard Civic Marina Float Leveling and Repairs Drawing S01; and
 - i. Burrard Civic Marina Float Leveling and Repairs Drawing S02 (Stringer Clarification).
2. The City shall provide the following additional documents, which may be relied upon by the Prime Consultant for accuracy, but not for completeness. The Prime Consultant is solely responsible for any inferences drawn from the specific information in the following document:
 - a. Burrard Civic Marina Condition Assessment Report March 2013.

**SCHEDULE E -
KEY EMPLOYEES AND PRIME CONSULTANT'S CONSULTANTS**

Key Employees

The following are the key employees of the Prime Consultant and of Prime Consultant's Consultants, who shall be primarily responsible for performing the Services:

-
-
-

Prime Consultant's Consultants

The following Prime Consultant's Consultants have been approved by the City:

Company Name, Address	Contact Name and Telephone Number	Area of Responsibility
 name of Company> address>	Name: Phone: 	
 name of Company> address>	Name: Phone: 	
 name of Company> address>	Name: Phone: 	

APPENDICES

The following appendices will be attached or be incorporated by reference, upon contract award:

APPENDIX 1 - REQUEST FOR PROPOSAL

APPENDIX 2 - PRIME CONSULTANT AND PRIME CONSULTANT'S SUB CONSULTANTS' PROPOSAL

APPENDIX 3 - WORKSAFEBC REGISTRATION CONFIRMATION (PRIME CONSULTANT AND PRIME CONSULTANT'S SUB CONSULTANTS)

APPENDIX 4 - CERTIFICATE OF PROFESSIONAL LIABILITY INSURANCE

APPENDIX 5 - CERTIFICATE OF COMMERCIAL GENERAL LIABILITY INSURANCE

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 1 - SCHEDULE OF DETAILED REQUIREMENTS**

**SCHEDULE 1
SCHEDULE OF DETAILED REQUIREMENTS**

1.0 BACKGROUND

- 1.1 The Burrard Civic Marina (BCM) is located at the entrance to False Creek. It is the largest marina in False Creek with 423 water berths, 162 land storage spaces and 69 canoe, kayak, and paddleboat storage spaces.
- 1.2 A Condition Assessment Report completed in March 2013 highlighted the need for renewal of the BCM given the age of the facility and the condition of the existing float system, utility systems and services. The existing float system is deemed to be past its service life and requires ongoing costly maintenance that is labour intensive due to the maritime environment. The existing float design and its construction are not best suited to support the addition of new mechanical and electrical systems that are required of today's newer vessels. At this time the City requires a plan or strategy to direct a multi-year renewal plan, as well as detailed consulting to support the initial 2015/16 renewal work in accordance with this plan.

2.0 SCOPE OF WORK

- 2.1 This RFP identifies a business opportunity for the successful proponent to provide Marine Engineering Consulting Services for the Burrard Civic Marina Renewal in two stages as described below.
- 2.2 Based on previous reporting, the three priorities of the Burrard Civic Marina Renewal are:
- Breakwater Construction
 - Electrical Service Upgrading, and
 - Float Renewal
- 2.3 A breakwater previously protecting the marina has been removed and the City is seeking recommendations on the optimal strategy to reinstate appropriate breakwater protection (potentially utilizing the existing piles).
- 2.4 The City is further seeking recommendations on the optimal approach to address the need to upgrade both the electrical service and the floats. One concept is to upgrade the floats and electrical together in phases, and another is to consider upgrading the electrical service or renewing the floats for the entire marina as a first step. Both need to be reviewed in the context of possible phased or future reconfiguration of the floats to optimize efficiency.

A. STAGE 1 - PROJECT PLANNING

- i. The initial Project Planning Stage is to assess needs and create an overall phased renewal plan.
- ii. Based on the Condition Assessment Report, their own site review and analysis, and discussions with the City regarding their needs and issues, the Consultant team will be asked to:
- Review the Condition Assessment Report findings and the completed works done on the BCM to date per information provided by the City;
 - Review the City's needs and priorities in relation to long term and immediate renewal work;
 - Incorporate input from stakeholders and user groups;

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 1 - SCHEDULE OF DETAILED REQUIREMENTS**

- Review power needs for the slips and recommend service amperage(s);
- Determine and assess wind and wave impacts;
- Create 2-3 long-term phasing strategies for full renewal, including slip layout recommendations, based on the Condition Assessment Report recommendations and other inputs;
- Create 2-3 complimentary immediate phasing strategies to address the most pressing issues, concerns and priorities (in particular breakwater, floats, electrical);
- Ensure immediate phasing strategies are viable within the available construction budget of \$2.0M and that they maintain ongoing operation of the marina;
- Review the strategies with the City to select the optimal long term and immediate phasing strategy;
- Create design/engineering schematics, scheduling and basic costing, to describe the Burrard Civic Marina Renewal work;
- Ensure schematic work is consistent with the requirements of applicable codes including the Vancouver Building By-law latest version;
- Provide the Cost Consultant with information necessary to prepare estimates of the Construction Cost;
- Prepare a report summarizing the above findings and recommendations;
- Include six meetings with City staff and stakeholders (start-up, information gathering, long term phasing options, immediate phasing options, schematic design, and report presentation);
- Include two additional information meeting with stakeholders and user groups.

B. STAGE 2 - FULL ENGINEERING SERVICES FOR THE BURRARD CIVIC MARINA RENEWAL WORK (Construction Budget \$2.0M)

- i. Subsequent to the completion of Stage 1 reporting and the approval to proceed with the preferred option for Burrard Marina Renewal work, the consultant team will be asked to provide full consulting services for the initial renewal work, including schematic design, design development, contract documents, documents required for permitting, tendering assistance to the City of Vancouver Supply Chain Management group, contract administration, close-out documentation, and post-construction services, all as described in the attached Form of Agreement ("FOA").
- ii. Proponents are asked to provide in their proposals in separate lump-sum pricing for Stage 1 and Stage 2 work, both broken down along the phases described in the FOA.

3.0 DELIVERABLES

3.1 Deliverables generally as described in or inferable from Schedule A to the Form of Agreement, attached including:

- A. Long Term and Immediate Phasing Plan Report
- B. Schematic Design Documents
- C. Design Development Documents
- D. Development Permits and Building Permit
- E. Tender and Construction Documents

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 1 - SCHEDULE OF DETAILED REQUIREMENTS

F. Full Construction Phase and Post-Construction Services

4.0 CITY-PROVIDED DOCUMENTS AND DRAWINGS

- 4.1 Interested Proponents will need to sign a Non-Disclosure Agreement (incorporated by reference to this RFP) and send it to the Contact Person prior to receiving a copy of all documents and drawings listed under Schedule 3 of this RFP.

5.0 COMPLETED WORKS

- 5.1 In October 2013, there were remedial repairs done on the piles and float leveling. Below is the list of tasks performed by the contractor at that time:

A. Piling

1. Wharf new wood pile @ no. 4 & A and walers;
2. Wharf miscellaneous metals;
3. Removed and replaced steel mooring pile dolphins;
4. 10 New steel piles have been installed at the S & T floats;
5. Installation of 10 anodes;
6. Removal and replacement of the finger floats for piling access; and
7. Moorage upgraded for non-painted piles.

B. Float Leveling

1. Float leveling requiring 2'x6'x1' billets - 35 required; 2'x4'x1' billets - 45 required;
2. Replacement of the Timber Mooring Piles;
3. Replacement of the Wharf Stringers;
4. Replacement of the Float Walers;
5. Replacement of the Timber Mooring Wells;
6. Replacement of the UHMW Rub Strips; and
7. Replacement of light standard.

- 5.2 All waler work completed to the floats are shown on Drawing S01 incorporated by reference to this RFP and the wharf stringer replacement is shown in Drawing S02 also incorporated by reference to this RFP. The above repairs should not be included in future construction plans.

6.0 QUALIFICATIONS

- 6.1 The City is seeking Marine Engineering Consultants qualified to provide the services described above. All Proponents must state fulfillment of these qualifications in their proposal. The successful proponent must have recent experience (within the last 5 years) in each of the following areas:

- Marine Engineering Assessment and Reporting;
- Marina Functional Programming;
- Marina Design and Construction Documents;
- Innovative use of structure, utility systems and materials in the construction of wharves and piers;
- Marine Structures Design including breakwaters;
- Sustainable/Low Environmental Impact Marina Design; and
- Marine Environmental Regulatory Compliance.

- 6.2 Consulting Teams are to include engineering expertise in the following disciplines:

- Marine Engineering;

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 1 - SCHEDULE OF DETAILED REQUIREMENTS

- Structural Engineering;
- Mechanical Engineering;
- Electrical Engineering;
- Civil/Utilities Engineering;
- Marine Barometric Surveying; and
- Environmental Monitoring.

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 2 - PRICING SCHEDULE**

**SCHEDULE 2
PRICING SCHEDULE**

Please use the Excel Spreadsheet included in the RFP package for your pricing.

**SCHEDULE 3
CITY-PROVIDED DOCUMENTS AND DRAWINGS**

The drawings and documents listed below are incorporated by reference:

- 3.1. Drawing 033-011-01 (Plan) - Burrard Bridge Civic Marina Extension
- 3.2. Drawing 033-011-02 (Details) - Burrard Bridge Civic Marina Extension
- 3.3. Drawing 033-012 (Electrical Plan) - Burrard Bridge Civic Marina Extension
- 3.4. Drawing 033-013 (Plumbing System) - Burrard Bridge Civic Marina Extension
- 3.5. Drawing 033-014 - Burrard Bridge Civic Marina Expansion Dredging
- 3.6. Drawing 033-017 - Sounding Survey of Heather and Burrard Marina
- 3.7. Drawing 033-018 - Depth Sounding Survey of Burrard Marina
- 3.8. Drawing S01 - Burrard Civic Marina Float Leveling and Repairs
- 3.9. Drawing S02 (Stringer Clarification) - Burrard Civic Marina Float Leveling and Repairs
- 3.10. Burrard Civic Marina Condition Assessment Report March 2013

**REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 4 - CERTIFICATE OF EXISTING INSURANCE**

**SCHEDULE 4
CERTIFICATE OF EXISTING INSURANCE**

Please use attached insurance certificate template.



**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.
2. **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:	INSURER _____
✓ Personal Injury	POLICY NUMBER _____
✓ Property Damage including Loss of Use	POLICY PERIOD From _____ to _____
✓ Products and Completed Operations	Limits of Liability (Bodily Injury and Property Damage Inclusive) -
✓ Cross Liability or Severability of Interest	Per Occurrence \$ _____
✓ Employees as Additional Insureds	Aggregate \$ _____
✓ Blanket Contractual Liability	All Risk Tenants' Legal Liability \$ _____
✓ Non-Owned Auto 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 _____	<i>If vehicles are insured by ICBC, complete and provide Form APV-47.</i>

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** **Limits of Liability**

INSURER _____	Per Occurrence/Claim \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	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

Dated _____

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

REQUEST FOR PROPOSALS NO. PS20141139
MARINE ENGINEERING CONSULTING SERVICES
SCHEDULE 5 - DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE

SCHEDULE 5
DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE

Purpose: All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the Supplier Code of Conduct.

The City of Vancouver expects each supplier of goods and services to the City to comply with the supplier performance standards set out in the City's Supplier Code of Conduct (SCC) <http://vancouver.ca/policy_pdf/AF01401P1.pdf>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest 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 suppliers must come into compliance with these standards. To give effect to these requirements, an authorised signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorised signatory of _____(vendor name), I declare that I have reviewed the SCC and to the best of my knowledge, _____(vendor name) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, 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 law	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 no further consideration being given to the submission of _____(vendor name).

Signature: _____

Name and Title: _____