



REQUEST FOR EXPRESSION OF INTEREST

(“RFEOI”)

CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)

RFEOI No. PS20210828

Issue Date: November 23, 2021

Issued by: City of Vancouver (the “City”)

**IN RESPECT OF
CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)**

**REQUEST FOR EXPRESSIONS OF INTEREST NO. PS20210828 (the "RFEOI")
QUALIFICATIONS FOR CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)**

EXPRESSIONS OF INTEREST WILL NOT BE PUBLICLY OPENED.

NOTES:

1. An Expression of Interest should be submitted by email prior to 3:00pm on December 9, 2021 (the "**Closing Time**") in accordance with the following:
 - Subject of the file to be: PS# - Title - Vendor name.
 - Document format for submissions:
 - Schedule 1-5 in PDF format, - 1 combined PDF file, and;
 - Any additional attachments if required.
 - Zip the files to reduce the size or email separately if needed.
 - Send your submissions to Bids@vancouver.ca; do not deliver a physical copy to the City of Vancouver.
 - Submitting the files via Drop box, FTP, or similar programs, is not acceptable.
 - Due to cybersecurity concerns, the City of Vancouver will quarantine any inbound email with attachments not in PDF or Microsoft Office formats which will result in non-delivery to Supply Chain Management and will be deemed not submitted. Non-compliant file formats will be detected and quarantined even if they are compressed, zipped, renamed, and include password protected zipped files.
 - The maximum number of attachments allowed in an email message is 250 attachments.
 - The maximum size limit for an email message, including all attachments, is 20MB per message
2. Each Expression of Interest must be marked with the vendor's name and the RFEOI title and number.
3. "Vancouver Time" will be conclusively deemed to be time in the City of Vancouver, as indicated in the electronic timestamp the Proposal receives upon delivery to the email address specified herein, which is in turn synchronized to Network Time Protocol (NTP) provided by the National Research Council of Canada adjusted to local Pacific Time Zone.
4. DO NOT SUBMIT EXPRESSIONS OF INTEREST BY FAX.
5. **REMINDER:** The Sample Form of Agreement attached at the very end of this RFEOI is strictly a sample at this stage. However, this Form of Agreement will be expected to be entered into prior to any future engagements for the services contemplated in this RFEOI.

6. All queries related to this RFEOI should be submitted in writing to the attention of:

Jason Lo, Contacting Specialist

Email: jason.lo@vancouver.ca

(the “**Contact Person**”)

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SECTION 1 GENERAL INFORMATION

1.1 Introduction

The City of Vancouver (the “City”) is seeking expressions of interest (“**Expressions of Interest**”) from vendors with expertise in ice arenas and curling rinks refrigeration system for engineering and technical design services for multiple system renewal and improvement projects over a three to five year period at various City facilities.

1.2 Background

The City operates several ice arenas at various recreation and sporting sites throughout the City. The City has identified a number of ammonia ice rink system renewal projects that will require specialized engineering design services and support for the procurement and construction of these works. The City also has on-going needs for technical support for our various arena operations, maintenance, and renewal activities and staff.

The City would like to develop a multi-year ice rink ammonia systems engineering program to assist in the planning and design of these works, and for the delivery of these projects. The City anticipates undertaking ammonia system renewal works at five of our civic arena over the next three to five year period.

This Expression of Interest will help the City identify and pre-qualify vendors who are available and qualified to provide these services. At the conclusion of this Expression of Interest process, the City intends to engage in negotiations or other directed secondary procurement processes with one or more of the pre-qualified proponents for the delivery of the intended services outlined in this document. The City intends to then establish agreements with one or more of the selected vendors to provide the anticipated engineering and technical design services over the term of this program, as the City may require.

1.3 Scope of Work

The anticipated scope of work may include any of the following:

- Review and inspect existing site condition and system configuration. Provide lifecycle report identifying equipment condition, operating performance and associated impact risks.
- Assist City staff with equipment life cycle replacement planning and budgeting. Provide recommendations aligning with the City’s rink refrigeration strategy.
- Perform feasibility study and develop early conceptual design
- Attend meetings to review and discuss of design options with various stake holders and departments;
- Provide design and construction documents with the following considerations:
 - Safe designs to provide safety to public and property;
 - Meet or exceed expectations of the design requirements;
 - Satisfy all relevant requirements of regulations, codes, and standards;

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- Identify risks and provide engineering solutions to control them;
- Design for ease of maintenance and service;
- Coordinate with other disciplines (electrical, structural, mechanical, etc.);
- Develop performance specifications;
- Provide tender documents and specifications;
- Assist in procurement process, address questions, tender inquiries and provide bid/proposal review;
- Prepare and submit Building Permit (“BP”) applications including all applicable BP Schedules;
- Coordinate approvals with Technical Safety BC and WorkSafeBC;
- Perform contract and construction administration services, including shop drawing, field reviews and inspection;
- Review compliance with Technical Safety BC, WorkSafeBC, Power Engineering Boiler Pressure Vessel and Refrigeration Safety Regulation (PEBPVRSR Safety Regulation), CSA B52 Mechanical refrigeration code, and applicable regulations;
- Provide field support for operations and maintenance staff;
- Provide refrigeration system commissioning, including re-commissioning or retro-commissioning scope;
- Assist in project handover training and verify compliance with City of Vancouver’s standards and best practices such as DDC Technical Guidelines and Facilities Standard Manual.
- Assist with continuous system optimization projects related to refrigeration system;
- Register refrigeration system design with Technical Safety BC (when applicable);
- Provide peer review / third-party review; and
- Provide engineering and technical advice or professional services related to these ice rink systems to City staff, contractors, or services provider as requested by the City.

1.4 Sustainability

- 1.4.1 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 City vendor 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 Expressions of Interest, to the extent applicable.

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1.4.2 Vendors are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that a vendor supply materials, and where such materials may cause adverse environmental effects, the vendor should indicate the nature of the hazard(s) in its Expression of Interest. Furthermore, each vendor is asked to advise the City of any known alternatives or substitutes for such materials that would mitigate such adverse effects.

1.5 RFEOI Process

1.5.1 Interested parties (“**Respondents**”) are required to respond to this RFEOI in accordance with the instructions set forth in this RFEOI.

1.5.2 Expressions of Interest are being requested in order to afford the City of Vancouver the opportunity to gauge such responses and evaluate Respondents’ expertise, so that the City may then conduct a more formal procurement process, tailored (as determined in the City’s discretion) to the responses received and limited, should the City so determine, to all or some of the RFEOI Respondents. The City currently anticipates that it will carry out a Request for Proposals and that the same will be released to multiple qualified Respondents during the period stated in Schedule 1 – Description of Requirements.

1.5.3 Notwithstanding the foregoing, the City may, as a result of the RFEOI, decide to proceed directly to negotiate a contract with one or more outstanding Respondents (or the sole qualified Respondent, if there is only one).

1.5.4 The RFEOI process is aimed at encouraging businesses with the required level of expertise to participate. Respondents should ensure that their Expressions of Interest demonstrate expertise in ammonia systems.

1.5.5 Any potential Respondent is requested to refrain from submitting an Expressions of Interest if it is not willing to submit bona fide proposal or tender in relation to the subject matter of the RFEOI if the City invites the Respondent to participate in a request for proposals or invitation to tender.

1.5.6 If a potential Respondent believes that the City may be unable to select it due to a conflict of interest, but is uncertain about this, the potential Respondent is urged to contact the individual named on the cover page above as soon as possible with the relevant information so that the City may advise the vendor regarding the matter.

1.6 RFEOI Documents

1.6.1 This RFEOI consists of:

- (a) the cover page hereof and sections 1 through 6 hereof; and
- (b) schedules as follows:
 - (i) Schedule 1 – Description of Requirements;
 - (ii) Schedule 2 – Letter of Expression of Interest;
 - (iii) Schedule 3 – Format for Expressions of Interest; and
 - (iv) Schedule 4 – Certificate of Existing Insurance

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(v) Schedule 5 – Declaration of Supplier Code of Conduct Compliance

(collectively, the “RFEOI Documents”)

- 1.6.2 If the City of Vancouver issues any amendments or addenda to the RFEOI Documents, such amendments or addenda will form part of the RFEOI Documents. It is the sole responsibility of all Proponents to check the City’s website at: <http://www.vancouver.ca/fs/bid/bidopp/openbid.htm> regularly for amendments or addenda to the RFEOI Documents, including questions and answers posted by the City in relation to this RFEOI.

SECTION 2 QUALIFICATION CRITERIA

2.1 General

The City currently expects to base its decision with respect to each Respondent’s qualification (or not) to participate in a request for proposals on (i) whether the statement of qualifications submitted by the Respondent as part of its Expression of Interest (its “**Statement of Qualifications**”) has met, and whether such Statement of Qualifications shows that the Respondent has met, the requirements set out in the RFEOI Documents and (ii) the evaluation criteria set out in Schedule 1 – Description of Requirements.

2.2 Key Personnel and Subcontractors

- 2.2.1 As part of its Statement of Qualifications, a Respondent should submit the names of proposed key personnel and subcontractors.
- 2.2.2 Qualification to participate in a request for proposals may be conditioned on the use of the key personnel and subcontractors specified in a Statement of Qualifications, or other personnel or subcontractors approved in advance by the City.
- 2.2.3 A Respondent should therefore not change its key personnel or subcontractors without discussing the same with the City.
- 2.2.4 Notwithstanding the following, by submitting an Expression of Interest, each Respondent acknowledges that if selected to participate in a request for proposals, the Respondent may be required to include subcontractors selected by the City.

SECTION 3 COMMUNICATIONS

Respondents may not communicate with the City about the RFEOI except in writing by fax or email to the contact person listed on the cover page of this RFEOI.

SECTION 4 SUBMISSION OF EXPRESSIONS OF INTEREST

4.1 Delivery

Each Respondent should submit a single electronic copy of its entire Expression of Interest by email to bids@vancouver.ca. It is each Respondent’s sole responsibility to ensure delivery of its Expression of Interest by the Closing Time. All submissions should be made at the Respondent’s sole cost and expense.

4.2 Late Expressions of Interest

The City of Vancouver may, in its discretion, accept, or reject and return, any Expression of Interest received after the Closing Time.

4.3 Form of Expression of Interest

Each Expression of Interest must consist of a letter in the form set forth in Schedule 2 together with a Statement of Qualifications in the format set forth in Schedule 3, an insurance certificate in the form set forth as Schedule 4 and declaration of Supplier Code of Conduct compliance in the form of Schedule 5.

4.4 Lack of Information

Following receipt of an Expression of Interest, the City of Vancouver may, in its sole discretion and without having any duty or obligation to do so, request that the Respondent provide the City of Vancouver with additional information to clarify or substantiate the information provided by the Respondent. If a Respondent fails to provide information required for the City's evaluation of the Respondent's qualifications, or fails to provide timely clarification or substantiation of the information supplied, that failure may result in no further consideration being given to the Expression of Interest.

4.5 Material Changes

Respondents should inform the City of Vancouver of any material change in information that might affect their qualification status at any time during the RFEI process. Participants in a request for proposals will be required to update key qualification information at the time of proposal submission. Prior to the entry into any agreement for goods or services, a successful vendor will be required to confirm its continued status.

SECTION 5 REVIEW OF EXPRESSIONS OF INTEREST

5.1 Evaluation by the City of Vancouver

The City will review the Expressions of Interest submitted to determine whether, in the City's opinion, each Respondent has demonstrated that it has the required experience and qualifications in order for it to advance in the City's procurement process. In doing so, the City currently expects to base its decision with respect to each Respondent on (i) whether the Statement of qualifications submitted by the Respondent has met, and whether such Statement of Qualifications shows that the Respondent has met, the requirements set out in the RFEI Documents and (ii) the evaluation criteria set out in Schedule 1 – Description of Requirements. The City currently expects to select a number of Respondents ("**Pre-Qualified Respondents**"); provided that:

- 5.1.1 the determination of which Respondents are designated as Pre-Qualified Respondents will be at the sole discretion of the City; and
- 5.1.2 **shortlisted Pre-Qualified Respondents are excluded from bidding the construction scope if the Pre-Qualified Respondents are involved in design and preparation of tender documents;**
- 5.1.3 the City reserves the right to limit the number of Respondents designated as Pre-Qualified Respondents;

5.2 Inquiries

The City, in its sole discretion and without having any duty or obligation to do so, may conduct any inquiries or investigations, including but not limited to contacting references, to verify the statements, documents, and information submitted in connection with an Expression of Interest and may seek clarification from a Respondent's bankers and clients regarding any financial and experience issues.

5.3 Non-Conforming Expressions of Interest

Expressions of Interest which fail to conform to the format requirements set forth in Schedule 3 hereto or which fail to conform to any other requirement of these RFEOI Documents may be rejected by the City of Vancouver, in its discretion. Notwithstanding the foregoing or any other provision of these RFEOI Documents, the City may at its sole discretion elect to retain for consideration Expressions of Interest which deviate either materially or non-materially from the format requirements set out in Schedule 3 hereto or which otherwise fail to conform to any other requirement of these RFEOI Documents.

SECTION 6 NOTIFICATION AND SECONDARY PROCUREMENT PROCESS

6.1 Notification of Prequalification

Following the Closing Time, the City of Vancouver will only notify those Respondents which are selected as Pre-Qualified Respondents (or with which the City proposes to proceed to negotiate an agreement). The City of Vancouver thanks all other Respondents for their interest.

6.2 Changes after Pre-Qualification

Any change in the structure or formation of a Pre-Qualified Respondent will be subject to prior written approval of the City prior to the deadline for submission of proposals or tenders. The City may deny that approval if the change in the structure or formation of the Pre-Qualified Respondent, from that presented in the Expression of Interest, would have affected whether or not the Respondent would have been short-listed in the first instance.

6.3 The City of Vancouver Rights

6.3.1 The City may, without liability to any Respondent or Pre-Qualified Respondent, may:

- (a) amend the scope and description of the goods and services to be procured under the RFEOI or any subsequent request for proposals process, varying them from those described herein, or amend the qualifications that may be required to meet those requirements;
- (b) reject or accept any or all Expressions of Interest;
- (c) cancel the RFEOI process and reject all Expressions of Interest;
- (d) cancel the RFEOI process and commence a new process in respect of the same request for proposals with the same or an amended set of documents, information or requirements;
- (e) request that any Respondent provide additional information, clarifications or goods samples or demonstrations, without requesting the same from all Respondents; or

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- (f) terminate the RFEOI process and enter into direct negotiations with any party whether or not a Respondent .

6.3.2 By submitting an Expression of Interest, a Respondent acknowledges and agrees that these RFEOI Documents are, in no way whatsoever, an offer to enter into an agreement (except on the limited terms and conditions expressly stated in Schedule 2), and that submission of an Expression of Interest by a Respondent does not in any way whatsoever create any obligation on the part of the City to treat the Respondent's or any other Respondent's Expression of Interest in any particular manner or undertake the City's RFEOI process in any particular manner (except as expressly stated in Schedule 2 with respect to confidentiality).

6.3.3 The form of letter set forth in Schedule 2 also contains a release of the City's liability and other important terms and conditions that should be reviewed carefully by each Respondent, and each Respondent should obtain the advice of independent legal counsel in connection therewith.

6.4 Information Disclaimer

6.4.1 The City makes no representation, warranty or undertaking with respect to these RFEOI Documents and the City and its directors, officers, employees, agents, consultants and advisors will not be liable or responsible for the accuracy or completeness of the information in these RFEOI Documents or for any other written or oral information made available to any interested person or its advisors, and any similar such liability however arising, is expressly disclaimed by the City.

6.4.2 Each Respondent should conduct its own independent investigations of all relevant matters and must not rely on the City in such regard. The information contained in the RFEOI Documents is provisional and is expected to be superseded by information in a request for proposals and other documents.

SECTION 7 CONFLICTS/COLLUSION/LOBBYING

7.1 Conflicts of Interest Generally

Each Respondent must disclose whether any officer, director, shareholder, partner, employee or contractor of the Respondent or of any of its proposed subcontractors, or any other person related to the Respondent'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:

- (a) an elected official or employee of the City; or
- (b) 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 Respondent's Expression of Interest by the City. The City will evaluate each matter disclosed to determine whether and to what extent the Respondent can be given consideration in the RFEOI in light of the particular matter.

7.2 Former City Employees

Each Respondent 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 RFEOI obtained during his or her employment or engagement by the

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City. The City will evaluate each matter disclosed to determine whether and to what extent the Respondent can be given consideration in the RFEOI in light of the particular matter.

7.3 Other Clients

Each Respondent must disclose whether the Respondent 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 RFEOI would create a conflict of interest or the appearance of a conflict of interest between the Respondent's duties to the City and the Respondent's or its subcontractors' duties to such third party. The City will evaluate each matter disclosed to determine whether and to what extent the Respondent can be given consideration in the RFEOI in light of the particular matter.

7.4 Collusion

Each Respondent is required to disclose whether the Respondent is competing for purposes of the RFEOI with any entity with which it is legally or financially associated or affiliated. Each Respondent must also disclose whether it is cooperating in any manner in relation to the RFEOI with any other Respondent responding to the RFEOI. The City will evaluate each matter disclosed to determine whether and to what extent the Respondent can be given consideration in the RFEOI in light of the particular matter.

7.5 Lobbying

Each Respondent is required to disclose whether it or any officer, director, shareholder, partner, employee or agent of the Respondent 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 RFEOI or sought, other than through the submission of its Expression of Interest, to influence the outcome of the RFEOI process. The City will evaluate each matter disclosed to determine whether and to what extent the Respondent can be given consideration in the RFEOI in light of the particular matter.

SCHEDULE 1 – DESCRIPTION OF REQUIREMENTS

RFEI Section Reference	
1.1 - 1.5	<p>Description of Products and Services:</p> <p>The City seeks Expressions of Interest from Respondents who have expertise in ice arenas and curling rinks ammonia refrigeration systems, including the following:</p> <ul style="list-style-type: none"> (a) Design and construction of new facility (b) Retrofit and upgrade of existing facility (c) Audit of existing systems and conditions and lifecycle assessment (d) Feasibility, option and evaluation study, including system optimization, energy efficiency and greenhouse Gas (GHG) emission reduction projects. (e) Technical advisory and troubleshooting
1.5	<p>Anticipated Period of Issuance of first Secondary Procurement:</p> <p>Date: January 2022</p> <p>Anticipated Award of first Secondary Procurement:</p> <p>Date: February 2022</p>
2.1 & 5.1	<p>Evaluation Criteria</p> <p>Qualifications and relevant corporate experience and capability of the Respondent;</p> <ul style="list-style-type: none"> (a) Financial capability; (b) Proven track record substantiated by recent and relevant client references; (c) Knowledge of marketplace; (d) Product approach and methodology; (e) Qualifications and relevant experience of the Respondent’s key personnel and sub-contractors to be included in the project team; (f) Experience with similar facilities or equipment; (g) Sustainability; (h) History of any litigation or claims made against the Respondent, or made by the Respondent against the City, during the three years previous to the Closing Time; (i) Ability to meet insurance and bonding requirements; and (j) Innovative ideas relating to execution and deliverables. <p>Note: The above evaluation criteria may not necessarily be listed in order of importance and will not necessarily be weighted equally.</p>

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SCHEDULE 2 – LETTER OF EXPRESSION OF INTEREST

[Letterhead paper of the Respondent or participant responsible for a joint venture, including full postal address, telephone and facsimile.]

Date: *[Insert]*

TO: THE CITY OF VANCOUVER (the “City”)

RE: EXPRESSION OF INTEREST -- REQUEST FOR EXPRESSIONS OF INTEREST NO. PS20210828 (the “RFEI”) IN RESPECT OF CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)

1. Being duly authorized to represent and act on behalf of *[Insert full corporate name and if a joint venture, then state “on behalf of...” and list the full corporate names of the companies forming the joint venture]*, the undersigned hereby submits the attached Statement of Qualifications and supporting materials on behalf thereof.
2. Herein, the term “Respondent” refers to *[insert full corporate name and if a joint venture, then state “...refers to each of” and list the full corporate names of the companies forming the joint venture]*.
3. The City and its representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this Expression of Interest, and to seek clarification from the Respondent’s bankers and clients regarding any financial and experience issues, and to do all other things stated in the RFEI.
4. Capitalized terms used herein have the definitions ascribed thereto in the RFEI.
5. The City its representatives may contact the following persons for further information:

(Respondent - Please enter information here).
6. This Expression of Interest is made with the full understanding and agreement that:
 - (a) any information submitted during qualification may be subject to verification by the City of Vancouver, including during evaluation of any subsequent proposal or tender;
 - (b) the Respondent will (and does hereby undertake to) submit a bona fide proposal or tender in relation to the subject matter of the RFEI (and consistent with this Expression of Interest) if the City invites the Respondent to participate in a request for proposals or invitation to tender;
 - (c) the City of Vancouver may:
 - (i) amend the scope and description of the goods and services to be procured under the RFEI or any subsequent request for proposals process, varying them from those described in the RFEI, or amend the qualifications that may be required to meet the City’s requirements;
 - (ii) reject or accept any or all Expressions of Interest;
 - (iii) cancel the RFEI process and reject all Expressions of Interest;

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- (iv) cancel the RFEOI process and commence a new process in respect of the same request for proposals with the same or an amended set of documents, information or requirements;
 - (v) request any respondent to provide additional information or clarification or goods samples or demonstrations without requesting such information from all respondents; or
 - (vi) terminate the RFEOI process and enter into direct negotiations with any party whether or not a respondent; and
- (d) the City of Vancouver will not be liable in any way whatsoever for any actions described under 4(c) of this letter.
7. The Respondent acknowledges and agrees that the RFEOI Documents are, in no way whatsoever, an offer to enter into an agreement except on the limited terms and conditions expressly stated in this letter, and submission of this Expression of Interest by the Respondent does not in any way whatsoever create any obligation on the part of the City to treat the Respondent's or any other respondent's Expression of Interest in any particular manner or undertake the City's RFEOI process in any particular manner (except as expressly stated below in this letter with respect to confidentiality).
8. The Respondent acknowledges and agrees to the information disclaimers and other terms and conditions set forth in the RFEOI.
9. Except only and to the extent that the City is in breach of Section 10 of this letter, the Respondent now releases the City, its officials, its agents and its employees from all liability for any costs, damages or losses incurred in connection with the RFEOI, including any cost, damages or losses in connection with:
- (a) any alleged (or judicially determined) breach by the City or its officials, agents or employees any obligation or duty under the RFEOI;
 - (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFEOI; or
 - (c) the manner in which the City: reviews, considers, evaluates or negotiates any Expression of Interest; addresses or fails to address any Expression of Interest; or resolves to enter into any contract or not enter into any contract.
10. Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the City's right to publicly disclose information about or from any Expression of Interest, including without limitation names and prices, in the course of publicly reporting to the Vancouver City Council about the RFEOI, the City will treat the Expression of Interest (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.
11. The Respondent acknowledges receipt of the following amendments and addenda (if applicable);
- Amendment/Addendum No.** _____ **Date:** _____
- Amendment/Addendum No.** _____ **Date:** _____
- Amendment/Addendum No.** _____ **Date:** _____

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12. Any dispute relating to the RFEOI (except to the extent that the City breaches Section 10 above) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:
- (a) The arbitrator will be selected by the City's Director of Legal Services;
 - (b) Section 9 of this letter, and the other provisions hereof, will apply; and
 - (c) The Respondent will bear all costs of the arbitration.
13. The Respondent (a) has read, understands and agrees to the terms and conditions in this letter, (b) has had an opportunity to seek legal counsel and (c) affirms that the statements made in its Expression of Interest are true and correct in every detail.

Respondent Name(s): _____

Signature: _____ Date: _____

Name of Signatory: _____

Title of Signatory: _____

Mailing Address: _____

Cheque Payable/Remit to Address: _____

Telephone No.: _____ Fax No.: _____

Key Contact Person: _____ E-mail: _____

GST Registration No.: _____ Date and Jurisdiction of Incorporation: _____

City of Vancouver
Business License No.
(or, if available, Metro
West Inter-Municipal
Business License No.): _____ WorkSafeBC Registration No.: _____

SCHEDULE 3 – FORMAT FOR EXPRESSIONS OF INTEREST

Expressions of Interest submitted by Respondents should consist of:

1. a completed and duly executed Letter of Expression of Interest (the foregoing Schedule 2);
2. a completed and duly executed insurance certificate and a completed and duly executed declaration of Supplier Code of Conduct Compliance (the following schedules 4 and 5); and
3. a Statement of Qualifications, consisting of and arranged as follows:

(a) **Title Page (1 page)**

The title page should identify the RFEOI number identified on the cover page of this RFEOI, the Closing Time, and the Respondent's name, address, telephone number, fax number and contact person.

(b) **Corporate Profile**

- Describe the company, including corporate structure (for example, individual, corporation, partnership, sole proprietorship) and key principals. If the Respondent is proposing a joint venture or other partnership, clearly state this and state who the joint venture parties are and identify who is acting as the lead.
- Describe the key areas of practice, resources, staffing, qualifications, and experience of the Respondent's company, and status of the company's Permit to Practice with EGBC.
- Describe the Respondent's capability (financial, experience and workload capacity) to undertake the described roles and activities that the City has outlined in our requirements. Describe any other projects scheduled during the anticipated time frame that could impact the delivery of services to the City
- Provide any client references for the company, if available.

(c) **Key Staff and Experience**

- Describe the proposed team members, including key principals, roles, and organizational structure of the team as appropriate.
- Provide summary table of the proposed team members that includes the following; Name, Qualifications, Experience, Proposed Roles, and their anticipated annual availability for City projects (estimated hours available to provide services to the City, by year). Please provide resumes for all named key personnel as an appendix attached to this submission.
- Provide a summary of corporate projects of the respondent's team from within the last five years that reflect the type of scope of work that the City has identified in this expression of interest.
- Provide a list of projects related to ice arena and curling rink refrigeration systems undertaken in the last five (5) years by the respondent's team.

QUALIFICATIONS FOR CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)

(d) Outline of Services to be Provided

Provide a brief discussion of your methodology and approach to provide the proposed services described by the City. Please include a discussion of the following in your response:

- Engineering and Technical advisory services to City staff related to the operation, maintenance, and system planning for the civic ice rink refrigeration systems portfolio.
- Engineering and Technical analysis and professional services to support the management of ice rink refrigeration systems throughout the City.
- Engineering and Technical professional services for procurement and construction processes undertaken by the City, including system design, specifications, procurement support, and construction oversight.

(e) Additional Submission Details:

- **Litigation:** please provide a history of any litigation or claims made against the Respondent during the three years immediately prior to the Closing Time.
- **Conflicts/Collusion/Lobbying :** please provide information responsive to Section 7.0 of the RFEOI.

(f) Conflicts/Collusion/Lobbying

Provide information responsive to Section 7.0 of the RFEOI.

SCHEDULE 4 - CERTIFICATE OF EXISTING INSURANCE

(See Attached)



**SCHEDULE 4 - CERTIFICATE OF EXISTING INSURANCE
TO BE COMPLETED AND APPENDED TO THE
SUBMISSION**

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

- THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.
- NAMED INSURED** (must be the same name as the Proponent/bidder and is either an individual or a legally incorporated company)

BUSINESS TRADE NAME or DOING BUSINESS AS _____

BUSINESS ADDRESS _____

DESCRIPTION OF OPERATION _____

- 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	\$ _____

- COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**
 Including the following extensions:

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

- 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>

- UMBRELLA OR** **EXCESS LIABILITY INSURANCE (Inclusive)**

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

- PROFESSIONAL LIABILITY INSURANCE**

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

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

- 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

**SCHEDULE 5 - DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE
 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) <<https://policy.vancouver.ca/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 authorized signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorized 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: _____



SAMPLE PROFESSIONAL SERVICES AGREEMENT

FOR

CONSULTING SERVICES - ENGINEER (AMMONIA SYSTEMS)

RFEOI No. PS20210828

BETWEEN

CITY OF VANCOUVER

AND

CONSULTANT NAME

SAMPLE FORM OF AGREEMENT

REMINDER: Sample Form of Agreement attached of this RFEOI is strictly a sample at this stage. Therefore, no need to engage your internal legal counsel to review at this point. However, this Form of Agreement will be expected to be entered during the RFP stage.

THIS AGREEMENT is made as of the [day] day of [month/year] (the “Effective Date”)

BETWEEN:

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

(the “City”)

OF THE FIRST PART

AND:

[CONSULTANT NAME]
[address]

(the “Consultant”)

OF THE SECOND PART

(the City and the Consultant are hereinafter sometimes referred to individually as “Party” and collectively as “Parties”)

BACKGROUND:

- A. The City requires the professional services described herein, and desires to engage the Consultant to perform said services.
- B. The Consultant has agreed to perform the said services in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises made by the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1.0 INTERPRETATION

1.1 In this Agreement, including the recitals, schedules and appendices to this Agreement, the following words and terms, unless the context otherwise requires, shall have the meanings set out below:

- (a) “Agreement” means this Professional Services Agreement inclusive of all schedules, appendices, exhibits or other documents attached hereto or incorporated herein by reference, as amended from time to time;
- (b) “Applicable Laws” means 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 Consultant, any Sub-contractor and the Services, including the Vancouver Building By-law, the British Columbia Building Code, and the British Columbia Fire Code, all as may be in force from time to time;

- (c) **“City’s Site”** means any land and/or premises owned by the City on which or in respect of which the Services are performed by the Consultant;
- (d) **“City’s Project Manager”** means the City’s employee, or his/her delegate, who is authorized in writing to deal with the Consultant on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- (e) **“Confidential Information”** has the meaning set out in Section 16.1;
- (f) **“Construction Budget”** means the budget available for total Construction Cost, determined or approved in writing by the City;
- (g) **“Construction Contract”** means each written agreement between the City and a Construction Contractor for Construction Work;
- (h) **“Construction Contract Documents”** means all documents that shall make up a Construction Contract;
- (i) **“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;
- (j) **“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 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 Consultant or other City 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);
- (k) **“Construction Work”** means the total construction services to be performed by the Construction Contractor to complete the construction of the Project;
- (l) **“Contract Document”** refers to each of the individual documents composing the Agreement, including this Professional Services Agreement (exclusive of the documents attached hereto or incorporated herein by reference) and each schedule, appendix, exhibit or other document attached to this Professional Services Agreement or incorporated into the Agreement by reference;
- (m) **“Deliverables”** has the meaning set out in Section 18.1;
- (n) **“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;

- (o) “GST” means the tax payable and imposed pursuant to Part IX of the Excise Tax Act (Canada), as amended or replaced from time to time;
- (p) “Project Team” has the meaning set out in subsection 2.2(c);
- (q) “Proposal” means the proposal submitted by the Consultant in response to the RFP, a copy of which is attached hereto, or incorporated by reference herein by operation of, Appendix C;
- (a) “PST” means the provincial sales tax payable and imposed pursuant to the *Provincial Sales Tax Act* (British Columbia), as amended or replaced from time to time;
- (r) “RFP” means Request for Proposal [insert RFP # and title], together with all addenda and questions and answers attached hereto, or incorporated by reference herein by operation of, Appendix D;
- (s) “Services” has the meaning set out in Section 2.1;
- (t) “Sub-contractor” has the meaning set out in Section 5.1; and
- (u) “Term” means the term of this Agreement as specified in Section 13.1.

1.2 The Contract Documents are complementary and what is called for by any one will be as binding as if called for by all. In the event of any conflict or inconsistency between or among any of the Contract Documents, the Contract Documents will be interpreted in the following order of priority, from highest to lowest:

- (a) this Agreement, excluding Appendices B and C;
- (b) the RFP; and
- (c) the Proposal.

1.3 In this Agreement, including the recitals, schedules and appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:

- (a) the recitals and headings to sections, schedules and appendices are for convenience and reference only and will not affect the interpretation of this Agreement;
- (b) the terms “this Agreement”, “hereof”, “herein”, “hereunder” and similar expressions refer, unless otherwise specified or the context otherwise requires, to this Agreement taken as a whole (including any and all attached schedules and appendices) and not to any particular section, subsection or other subdivision;
- (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
- (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;

- (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
- (g) all references to money mean lawful currency of Canada;
- (h) the word “written” includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and “in writing” has a corresponding meaning; and
- (i) the words “include” and “including” are to be construed as meaning “including, without limitation”.

2.0 CONSULTANT'S SERVICES TO THE CITY

2.1 The Consultant will provide and be fully responsible for the following services (the “**Services**”):

- (a) the services described in Appendix A hereto;
- (b) the services described in RFP that aren't otherwise described in Appendix A;
- (c) the services which the Consultant proposed to provide in the Proposal that aren't otherwise described in Appendix A or the RFP; and
- (d) all services not specifically included in subsections 2.1(a), 2.1(b) and 2.1(c), but which are necessary or incidental to the completion of such other Services.

2.2 The Consultant will be fully responsible for:

- (a) coordinating the Services with the City's Project Manager, or his/her delegate, and ensuring that the performance of the Services does not adversely impact any design or construction schedule for any project or work and/or services provided by the City's other consultants, in each case to which the Services relate;
- (b) taking all steps required in placing, effecting and maintaining insurance and providing evidence of insurance as set out in Appendix B - Insurance Requirements; and
- (c) maintaining and supervising its employees and Sub-contractors (the “**Project Team**”) described in Section 4.1.

2.3 The Consultant represents and warrants to the City that the Consultant possesses the necessary skills, knowledge, qualifications and experience to perform the Services to the reasonable satisfaction of the City.

2.4 The Consultant will perform the Services:

- (a) with 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;
- (b) in accordance with sound current professional practices and design standards; and

- (c) in conformity with any and all Applicable Laws.
- 2.5 The Consultant will commence the Services promptly and will use every reasonable effort to carry out the Services in accordance with:
- (a) the requirements and appendices of this Agreement, or
 - (b) where no date is specified for the provision of any component of the Services by this Agreement, such completion dates as are reasonably specified from time to time by the City.

2.6 The Consultant will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to the City's Site or any other City property.

3.0 CONSTRUCTION CONTRACT ADMINISTRATION AND CONSTRUCTION BUDGET

3.1 *Construction Contract Administration*

In connection with the Construction Contract administration portion of the Services:

- (a) the Consultant's issuance of a certificate for payment for Construction Work performed under the Construction Contract shall constitute a representation by the Consultant to the City, based 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 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; and
- (b) the Consultant shall act as, and fulfill the role of, the "Consultant" under the Construction Contract for the Project.

3.2 *Construction Budget and Construction Cost Estimates*

- (a) The 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.
- (b) Neither the 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 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.
- (c) In producing design development and construction documents for the Project and carrying out other Services, the 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 consultants.

3.3 *Adjustment of Construction Budget*

- (a) If, at any time prior to, or upon completion of, the Phase 1 Services, the Construction Cost is anticipated to be higher than the then Construction Budget, the City shall increase the Construction Budget and/or give directions to the Consultant as to how to revise the Project scope or quality to satisfy the Construction Budget.
- (b) If the bidding for or negotiation of the Construction Contract has not commenced within a reasonable period after the 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).
- (c) 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:
 - (i) give written approval of an increase in the Construction Budget;
 - (ii) authorize re-solicitation of bids or proposals, or negotiation or renegotiation of a price;
 - (iii) give instructions to the Consultant to revise the Project scope or quality as necessary to reduce the Construction Cost; and/or
 - (iv) terminate this Agreement in accordance with Section 14.0.
- (d) If the City chooses to proceed under Section 3.3(c), the 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 included in the Services and shall not be subject to additional charge only if: (i) the lowest bona fide Construction Work bid or lowest negotiated Construction Work proposal referred to in Section 3.3 exceeded the relevant Construction Budget by more than 10%; and (ii) such excess did not result from extraordinary market conditions or other factors reasonably not foreseen by or under the control of the Consultant, and, even when such two conditions are satisfied, such modifications or services shall be deemed to be included in the Services only up to the point at which the Construction Cost is reduced to within 10% of such relevant earlier Construction Budget. In each other case (and in each case of work within such 10% buffer), the modifications or other necessary services shall be deemed to be a change to the Services and the provisions of Section 7.0 shall apply.

4.0 **PROJECT TEAM**

- 4.1 Subject to Section 4.2, the Consultant will utilize only the Project Team members noted in the Proposal.
- 4.2 Except for substitutions required by circumstances not within its reasonable control, the Consultant may not make substitutions of Project Team members without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned.

- 4.3 For the purposes of this Section 4, “substitutions required by circumstances not within its reasonable control” means substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract, but expressly excludes situations where the Project Team member is called upon to perform services for another client of the Consultant, its Sub-contractor or their affiliates.
- 4.4 The City may, with stated reasons and acting reasonably, request that the Consultant replace a Project Team member. The Consultant will, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- 4.5 Regardless of whether or not the City consents to a substitution, or requests a substitution, the City will not be liable to pay additional compensation to the Consultant for any replacement Project Team member.

5.0 SUB-CONTRACTORS

- 5.1 Unless expressly permitted pursuant to Section 4.0, the Consultant may not engage any contractor or consultant (in each case a “**Sub-contractor**”) for the performance of any part of the Services, unless the Consultant has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 5.2 The Consultant will administer, coordinate, and manage all Services provided by any Sub-contractors, and will assume full responsibility to the City for all work performed by the Sub-contractors in relation to the Services and will pay all fees and disbursements of all Sub-contractors, subject to reimbursement by the City where the City has expressly agreed in this Agreement that such reimbursement is to be separate from and additional to the fees and disbursements payable to the Consultant.
- 5.3 Where a Sub-contractor is used by the Consultant under this Agreement, the Consultant will legally bind the Sub-contractor to comply with this Agreement.
- 5.4 Nothing in this Agreement will create any contractual relationship between a Sub-contractor and the City.

6.0 BASIS OF PAYMENT TO THE CONSULTANT

- 6.1 In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms hereof, the City will pay the Consultant the fees and reimbursable expenses prescribed herein, plus GST and PST as applicable to the sale made to the City hereunder.
- 6.2 The fees for the Services are described in this Section 6.0 and in **Appendix C**. [Subject to Section 6.3, payment to the Consultant will be based on hours worked by employees of the Consultant or by the Sub-contractors multiplied by the applicable hourly charge-out rates stated in the Proposal.]
- 6.3 If there are maximum, lump sum or other limiting amounts for fees or disbursements indicated herein for the Services or for portions thereof, then notwithstanding anything to the contrary in this Agreement the maximum fees or disbursements to be paid by the City to the Consultant for the Services or such portions of the Services will not exceed those stated amounts, except as mutually agreed in writing. Any limit on the fees or disbursements to be paid by the City to the Consultant will in no way diminish the duties and obligations of the Consultant to provide the Services covered by this Agreement.

- 6.4 [Notwithstanding anything to the contrary contained in this Agreement, save as otherwise mutually agreed in writing subsequent to the date hereof (or pursuant to Section 7.0), the total professional fees payable to the Consultant for the Services (not including GST AND PST or disbursements) will not exceed \$[insert amount].]
- 6.5 [Notwithstanding anything to the contrary contained in this Agreement, save as otherwise mutually agreed in writing subsequent to the date hereof (or pursuant to Section 7.0), the total disbursements for which the City will reimburse the Consultant in respect of the Services will not exceed \$[insert amount] (the “Fixed Disbursement Amount”)].
- 6.6 [Notwithstanding anything to the contrary contained in this Agreement, save as otherwise mutually agreed in writing subsequent to the date hereof (or pursuant to Section 7.0), the maximum liability of the City hereunder (the “Maximum Fees and Disbursements”) will be \$[insert amount], plus GST and PST as applicable to the sale made to the City hereunder] .
- 6.7 Subject to any “Fixed Disbursement Amount” defined herein, or any other limit on disbursements stated herein, the City will reimburse the Consultant for disbursements reasonably incurred by the Consultant in the performance of the Services. Reimbursement of these expenses by the City will be at actual cost without any addition for overhead or profit.
- 6.8 If the Consultant has engaged Sub-contractors, then the Consultant will make full payment to said Sub-contractors for work performed in relation to the Services. [Subject to any “Fixed Disbursement Amount” defined herein, or any other limit on disbursements stated herein, the City will reimburse the Consultant for payments made to Sub-contractors at amounts equal to such actual payments without any additions for overhead and profit to the Consultant.]
- 6.9 The Consultant will, by the 25th day of each month, provide to the City’s Project Manager a draft invoice with an attached detailed account of all charges to be claimed by the Consultant for the preceding month (if any). The City’s Project Manager shall review the draft, raise any concerns with the Consultant within ten working days and, after settlement of any issues (in the City’s Project Manager’s discretion), approve the draft invoice. The Consultant, if so requested, will meet with the City’s Project Manager to expedite and settle of the draft invoice. The Consultant will submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APIInvoice@vancouver.ca. The invoice must contain:
- (a) the 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 (with each tax shown separately); and
 - (f) tax registration number(s).
- 6.10 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Consultant’s invoices, for whatever reason, the City will 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 will use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City will, 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 Consultant.

- 6.11 The Consultant will 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 will 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 Consultant and by such other means as will be reasonably necessary or advisable.
- 6.12 The Consultant shall provide bank account information to the City to enable the City to make payments by electronic funds transfer, as contemplated hereby.

7.0 CHANGES TO SCOPE OF SERVICES

- 7.1 The City's Project Manager may, from time to time and at any time on prior written notice to the Consultant, vary the scope of Services to be provided by the Consultant. In that case and where this Agreement contains delivery dates and/or limits as to fees or disbursements (or a defined "Maximum Fees and Disbursements") for all or any part of the Services, such delivery dates and/or limits will be adjusted as agreed to by both Parties in writing, and failing agreement, as reasonably determined by the City's Project Manager.
- 7.2 Should the Consultant consider that any request or instruction from the City's Project Manager constitutes a change in the scope of Services, the Consultant will provide the City's Project Manager with notice in writing within ten days of such request or instruction. If the Consultant does not deliver written notice to the City within the time period specified, the City will not be obligated to make any payments of additional fees, disbursements or out of pocket expenses to the Consultant.
- 7.3 The City's Project Manager will consider the Consultant's written notice (if any) within a further ten days of receipt of the Consultant's notice and determine and advise as to whether the request constitutes a change in the scope of the Services and, if necessary, the method by which the variation will be scoped and reimbursed. [If the City determines that the professional fees payable to the Consultant should be increased due to an increase in the scope of the Services then any such increases will be based on the hourly rates set out in Section **Appendix C** of the Proposal.]

8.0 RELEASE AND INDEMNIFICATION

- 8.1 The 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 Consultant, its Sub-contractors, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 8.2 In undertaking the Services, the Consultant acknowledges that the Consultant has inspected the City's Site, agrees to accept the City's Site "as-is" and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Consultant to perform the Services.
- 8.3 Despite any insurance coverage of the City, the 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 Consultant, its Sub-contractors, 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 caused by errors, omissions or negligent acts of an Indemnified Party.

8.4 This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.

8.5 The release and indemnity set out above will survive the expiry or sooner termination of this Agreement.

9.0 INSURANCE

9.1 The Consultant will comply with the insurance requirements set out in Appendix B - Insurance Requirements.

10.0 WORKSAFEBC

10.1 The Consultant agrees that it will procure and carry and pay for, full WorkSafeBC coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Agreement. The Consultant agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafeBC coverage against any monies owing by the City to the Consultant. The City will have the right to withhold payment under this Agreement until the WorkSafeBC premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.

10.2 The Consultant will provide the City with the Consultant's and each Sub-contractor's WorkSafeBC registration number and clearance letters from WorkSafeBC confirming that the Consultant and each Sub-contractor are registered in good standing with WorkSafeBC and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this Agreement. The Consultant will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged by the Consultant in the performance of this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.

10.3 Whenever the Consultant is required or permitted to perform any Services on any City sites, the Consultant is now appointed and now accepts appointment as the "prime contractor" (as defined in the WorkSafeBC regulations) in connection with such Services.

11.0 CITY INFORMATION/APPROVALS

11.1 No reviews, approvals or inspections carried out or information supplied by the City will derogate from the duties and obligations of the Consultant (with respect to designs, reviews, inspections, approvals or otherwise), and all responsibility related to the Services will be and remain with the Consultant. For greater certainty, any information provided by the City to the Consultant, whether under the RFP or under this Agreement, including any studies, reports, plans, drawings, or specifications, is provided to the Consultant for information purposes only and may not be relied upon by the Consultant.

12.0 COMMUNICATION BETWEEN CONSULTANT AND CITY

12.1 The City appoints **[insert name]** **[email address]** as the City’s Project Manager for the purposes of this Agreement.

In the event of the revocation in writing of **[insert name]**’s appointment as the City’s Project Manager by the City, **[insert name]** will have no further authority under this Agreement, except as may be specifically designated in writing by the City and agreed to in writing by **[insert name]**, and all references to the City’s Project Manager in this Agreement will thereafter be deemed to be a reference to the City or to such other person designated in writing by the City to the Consultant.

The City’s Project Manager may from time to time delegate to a representative the performance of or the authority to perform the duties, responsibilities, rights and obligations of the City in respect of which the City’s Project Manager has been designated and appointed its sole and exclusive agent.

12.2 The Consultant appoints **[insert name]** **[email address]** as its representative for the purposes of this Agreement (the “**Consultant’s Project Manager**”).

12.3 Unless otherwise agreed to in writing by the Parties, all material communication between the Consultant and the City regarding this Agreement, including performance of the Services, will be between the City’s Project Manager and the Consultant’s Project Manager.

13.0 TERM OF AGREEMENT

13.1 This Agreement will commence on the Effective Date and will expire on the completion of the Services, which Services must be completed by **[insert date]** (the “**Term**”).

14.0 TERMINATION

14.1 The City at any time, in its sole judgment, may, whether or not cause exists, terminate the services of the Consultant in whole or in part by giving ten days’ prior written notice to the Consultant. If termination is not for cause, the Consultant will be paid for all Services properly performed to the date of the delivery of the said notice (subject to the terms of this Agreement) plus all necessary and reasonable wind-up costs incurred, if any, in closing out the Services or the part terminated.

14.2 Despite Section 14.1, in no event and under no circumstances will the Consultant’s “necessary and reasonable wind-up costs incurred” pursuant to Section 14.1 exceed \$**[insert dollar amount calculated at ten business days’ pay]** (including all taxes).

15.0 ASSIGNMENT

15.1 The Consultant will not assign this Agreement in whole or in part except with the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned. Any attempt to assign this Agreement without such consent will be void and of no effect. However, the Consultant will be permitted to assign this Agreement to any entity into, by or with which the business or assets of the Consultant have been merged, acquired, consolidated or re-organized, or any entity which purchases all or substantially all of the business or assets of the Consultant, provided always that the Consultant first provides the City with:

- (a) reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction); and

- (b) a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform this Agreement.

16.0 CONFIDENTIALITY

- 16.1 In the course of or for the purpose of performing the Services, the Consultant will 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 Consultant’s breach of this Agreement or the Consultant’s actions;
 - (b) information which was previously in the Consultant’s possession and did not originate from the City; and
 - (c) information which lawfully becomes available to the Consultant from a third party not under an obligation of confidence to the City regarding such information.
- 16.2 The Consultant will not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Consultant will 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 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 16.0. The Consultant will take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.
- 16.3 If the Consultant is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Consultant shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that prior to any disclosure the Consultant will 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 will be accorded such Confidential Information.
- 16.4 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 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.
- 16.5 The Consultant acknowledges that in the event of a breach by the Consultant or any of its employees of their respective confidentiality obligations pursuant to this Section 16.0, damages alone would not be an adequate remedy. The Consultant therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City will 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.

- 16.6 The 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 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.

- 16.7 This Section 16.0 shall survive the expiration or earlier termination of this Agreement.

17.0 NO PROMOTION OF RELATIONSHIP

- 17.1 The Consultant will 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 (the “Communications”) without the express prior written consent of the City (except as may be necessary for the Consultant to perform its obligations under this Agreement).

- 17.2 Furthermore, the Consultant undertakes and will cause all of its Sub-contractors to undertake not to disclose or promote its relationship with the City in any Communications in a manner which could suggest or create an association, express or implied, between the Consultant and the City. Without limiting the generality of the foregoing, the Consultant will not refer to or use any website, domain name, official emblem, logo or mascot of the City of Vancouver in any Communications, without the express prior written consent of the City.

18.0 DELIVERABLES

- 18.1 As a result of or as part of providing the Services, the 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, drawings, plans, designs, depictions, specifications and other documentation; and
- (d) any other items identified in this Agreement as deliverables;

(collectively, the “Deliverables”).

- 18.2 Deliverables are deemed not to include:

- (a) any item not required to be produced by the 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;

- (b) any item produced as a result of the Services, which is specified in this Agreement as being excluded from the Deliverables category; and
 - (c) any item which pre-existed the effective date of this Agreement, that is owned by a third party or that is used by the Consultant as part of the services provided to any of its other customers (the “Pre-Existing Materials”).
- 18.3 All Deliverables will be owned solely by the City unless otherwise expressly provided herein. The City shall have the complete and unfettered right to use and deal with the Deliverables for its own benefit in any way it sees fit without limitation, and without accounting in any way to the Consultant.
- 18.4 The Consultant will 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 Consultant will treat each Deliverable as subject to the confidentiality provisions set out in Section 16.0 unless advised otherwise by the City.
- 18.5 Each Deliverable, as to the whole or that portion of the Deliverable then existing, will be delivered by the Consultant to the City on the earliest of each of the following events:
 - (a) the date specified in 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.
- 18.6 The Consultant transfers to the City, free of all liens and encumbrances, ownership of each Deliverable, and assigns all of its world-wide present and future rights, title and interest in and to each Deliverable, including copyright, effective as of the date of creation or acquisition of such Deliverable by the Consultant. The Consultant irrevocably waives, in favour of the City, all moral rights in the Deliverables. The Consultant will obtain from its employees and any independent contractors, all required assignments and releases of intellectual property, and waivers of moral rights, in the Deliverables. The Consultant will not assert any rights to or interests in, or apply for or register any copyright or other rights or interests in, the Deliverables, or assist any other person in doing so. The Consultant shall 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 ownership of and rights in the Deliverables, including without limitation execution of assignments and transfers of the Deliverables. This Section does not apply to Pre-Existing Materials.
- 18.7 The Consultant will not incorporate any Pre-Existing Materials in any Deliverable without first:
 - (a) advising the City, in writing, of the nature of the Pre-Existing Materials and their proposed use and obtaining the City’s written consent to do so;
 - (b) acquiring from each third-party owner of such Pre-Existing Materials, a fully paid-up, perpetual, non-exclusive license, in writing, for the City to use the Pre-Existing Materials as part of the Deliverable; and
 - (c) granting, in writing, to the City with respect to such Pre-Existing Materials that the Consultant owns, a fully paid-up, perpetual, non-exclusive license to use the Pre-Existing Materials as part of the Deliverable.

18.8 The Consultant represents and warrants that the Deliverables will not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The 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.

19.0 NOTICES

19.1 Any notice required or permitted to be given to the Consultant will be sufficiently given if delivered in writing by the City's Project Manager to the Consultant's Project Manager personally or, if mailed, by registered mail to the last known address of the Consultant.

19.2 Any notice required or permitted to be given to the City will be sufficiently given if delivered in writing by the Consultant's Project Manager to the City's Project Manager personally or, if mailed, by registered mail to City of Vancouver at 453 West 12th Avenue, Vancouver, B.C., V5Y 1V4 (addressed to the attention of the City's Project Manager).

20.0 NO CONFLICT OF INTEREST

20.1 The Consultant agrees that during the Term the Consultant will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person, whether or not a client of the Consultant's. Without limiting the general scope of this Section 20.1 and by way of example only, the Consultant is prohibited from and will not provide any services which assist or could be seen to be assisting any person in responding to a request for proposal or invitation to tender, or otherwise giving that person an unfair competitive advantage over other proponents or tenderers responding to a request for proposal or invitation to tender by the City. The Consultant now acknowledges that a breach of this Section 20.1 could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada, and accordingly, could be punishable as a crime (as well as a breach of contract).

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

- (a) an elected official or employee of the City; or
- (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration of this Agreement or the performance of the Services.

21.0 NON-RESIDENT WITHHOLDING TAX

21.1 If the 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.

21.2 The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest will be payable by the City on sums withheld and later paid directly to the Consultant.

21.3 The Consultant shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.

22.0 COMPLIANCE WITH LAW

22.1 The Consultant will comply with the City of Vancouver License By-law and maintain a valid business license throughout the duration of this Agreement.

22.2 The Consultant agrees that it will during the Term comply with all Applicable Laws.

23.0 GOVERNING LAW AND RESOLUTION OF DISPUTES

23.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.

24.0 INDEPENDENT CONSULTANT

24.1 This Agreement is a contract for services and the Consultant, its permitted Sub-contractors, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and its permitted Sub-contractors are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City.

24.2 The Consultant will not represent to anyone that the Consultant has any authority to bind the City in any way or that the Consultant is an employee or agent of the City.

25.0 INDEPENDENT LEGAL ADVICE

25.1 The Consultant acknowledges that the Consultant has been given the opportunity to seek independent legal advice before executing this Agreement.

26.0 TIME FOR PERFORMANCE

26.1 **Time of the Essence.** Time shall be of the essence of this Agreement.

26.2 **Unavoidable Delay.** Notwithstanding Section 26.1, except for the performance of obligations to pay money, the time periods for the City and the Consultant to perform under this Agreement will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this Section, an "**Unavoidable Delay**" means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Consultant's lack of financial resources; the Consultant's insolvency ; strikes, lockouts or other withdrawals of services arising out of any labour dispute involving the City, the Consultant or a Sub-contractor; or governmental action taken in the enforcement of any law specifically against the Consultant or its Sub- Consultants. If an Unavoidable Delay occurs, the non-performing party will, as soon as possible after the occurrence of the Unavoidable Delay, give

written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of its obligations under this Agreement.

27.0 GENERAL

- 27.1 **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.
- 27.2 **Severability.** The invalidity, illegality or unenforceability of any portion or provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken position.
- 27.3 **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 will 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.
- 27.4 **Further Assurances.** Each Party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 27.5 **Entire Agreement.** The Contract Documents constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.
- 27.6 **Amendment.** This Agreement shall not be amended except as specifically agreed in writing by both the City and the Consultant.
- 27.7 **Joint and Several Liability of Joint Venture Participants.** If the Consultant is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the entities who comprise the Consultant shall be joint and several.
- 27.8 **Schedules and Appendices.** The schedules and appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 27.9 **Set-Off.** The City may at its option, withhold and set-off against any amount owing to the Consultant (whether under this Agreement or otherwise) any amounts payable by the Consultant to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Consultant, whether such claim is at law or in equity or tort or on any other basis.

27.10 **Enurement.** This Agreement shall enure to the benefit of and be binding upon the City and the Consultant and their respective successors and permitted assigns.

27.11 **Execution.** This Agreement may be executed in one or more counterparts each of which will constitute an original and together will constitute one and the same Agreement. This Agreement may be executed by the Parties electronically or by facsimile and if so executed and transmitted, this Agreement will be for all purposes as effective as if the Parties had delivered an executed original Agreement.

As evidence of their agreement to be bound by the above contract terms, the City and the Consultant each have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

Authorized Signatory

Print Name and Title

[NAME OF CONSULTANT]

Authorized Signatory

Print Name and Title

APPENDIX A - SCOPE OF WORK

APPENDIX B - INSURANCE REQUIREMENTS

A1.1 Required Types/Amounts Prior to commencing the Services, the Consultant will obtain at its own expense:

- (a) a professional (errors and omissions) liability insurance policy with limits of not less than \$1,000,000 per claim and not less than \$1,000,000 in aggregate and a deductible of not more than \$50,000, protecting the Consultant against all claims for loss or damage arising out of any error or omission of the Consultant or the Consultant's personnel in the performance of the Services; and
- (b) a commercial general liability insurance policy with a limit of not less than \$5,000,000 per occurrence, and a deductible of not more than \$5,000, protecting the Consultant and the Consultant's personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Consultant or the actions of the Consultant or the Consultant's personnel. The policy must contain a cross-liability clause in favour of the City and will name the City and the City's officials, employees and agents as additional insureds.

A1.2 Required Policy Terms

All required insurance policies must remain in full force and effect at all times until completion of the Services or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and must:

- (a) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City's Director of Risk Management, acting reasonably;
- (b) be primary insurance in respect to the City, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute with such policies; and
- (c) contain a provision that such insurance coverage will not be cancelled without the insurer giving the City at least 60 calendar days' prior written notice,

and, for any property insurance carried by the Consultant, contain a clause that waives the insurer's right of subrogation against the City and the City's officials, employees and agents.

A1.3 Insurance Certificate

Prior to signing, and immediately following the signature of, this Agreement, the Consultant shall have provided, or shall provide, the City's Project Manager with evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance. The certificate(s) of insurance will identify the Agreement title, number, policyholder and scope of work and must not contain any qualifications or disclaimers. Proof of insurance, in the form of such certificate(s) of insurance (or copies of the policy(ies) themselves, if requested), will be made available to the City's Project Manager at any time during the performance of the Services immediately upon request.

A1.4 Sub-Contractors' Insurance

The Consultant will provide in its agreements with its Sub-contractors insurance clauses in the same form as in this Agreement. Upon request, the Consultant will deposit with the City's Project Manager detailed certificates of insurance for the policies of its Sub-contractors (or copies of the policy(ies) themselves, if requested) and a copy of the applicable insurance clauses from its Sub-contractor agreements.

A1.5 Insurance Requirements Additional to any other Requirements

The Consultant and each of its Sub-contractors will provide, at its own cost, any additional insurance which it is required by law to provide or which it considers necessary.

A1.6 Insurance Requirements Independent of Agreement Obligations

Neither the providing of insurance by the Consultant or the Sub-contractors in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing, will be held to relieve the Consultant from any other provisions of this Agreement with respect to liability of the Consultant or otherwise.

APPENDIX C - SCHEDULE OF PRICES

APPENDIX D - PROPOSAL

APPENDIX E - RFP