



REQUEST FOR APPLICATIONS ("RFA") No. PS09041

THE PREQUALIFICATION OF CONTRACTORS TO PROVIDE CONCRETE,
PAVING, AND VARIOUS STREET CONSTRUCTION SERVICES

Applications will be received in the Purchasing Services Office, 3rd Floor, Suite #320, East Tower, 555 West 12th Avenue, Vancouver, British Columbia, Canada, V5Z 3X7 prior to the Closing Time: 3:00:00 P.M. Vancouver Time (as defined in Note 2 below), Tuesday, July 14, 2009.

NOTES:

1. Applications are to be submitted in sealed envelopes or packages marked with the Applicant's Name, the RFA Title and Number.
2. Closing Time and Vancouver Time will be conclusively deemed to be the time shown on the clock used by the City's Purchasing Services Office for this purpose.
3. The City's Purchasing Services Office is open on Business Days 8:30 A.M. to 4:30 P.M. Vancouver Time and closed Saturdays, Sundays and holidays.
4. DO NOT SUBMIT BY FAX.

All queries related to this RFA shall be submitted
in writing prior to July 7, 2009 to the attention of:

Harinder Kainth,
Buyer

Fax: 604.873.7057 E-mail: purchasing@vancouver.ca

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The City of Vancouver now requests applications from Contractors meeting the requirements set out below to be registered on the Pre-Qualified List for Street Construction Services for the City.

Interested businesses should apply to be registered by carefully reviewing, completing and then signing and delivering the attached Application Form, along with the required supporting documents.

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Purchasing Services
Suite 320, East Tower, 3rd Floor
555 West 12th Avenue
Vancouver, BC, V5Z 3X7
Tel: (604) 873-7749
Fax: (604) 873-7057

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APPLICATION FORM

APPLICATION FOR REGISTRATION ON PRE-QUALIFIED LIST FOR
CONCRETE, PAVING, AND VARIOUS STREET CONSTRUCTION SERVICES

Applicant's Name: _____

Address: _____

Telephone/Fax/E-mail: _____

Key Contact Person: _____

Incorporation Date: _____

Place of Incorporation: _____

Incorporation Number: _____

Billing Representative: _____

On-Site Foreman: _____

Key On-Site Contact: _____

Dispatch/Equipment Maintenance: _____

Quality Control: _____

Office Manager: _____

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THE PREQUALIFICATION OF CONTRACTORS TO PROVIDE CONCRETE,
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1.0 DOCUMENTS WHICH MUST BE ATTACHED TO THIS APPLICATION FORM

Applicant now confirms that the Applicant has attached the following documents to this application form:

Description	Confirmation
<i>[Note: Applicant must attach (where applicable) photocopies of each of the following documents and then check the box indicated]</i>	
ICBC/Liability Insurance Document for <u>all equipment</u> that will be used on City streets (\$5,000,000.00 Third Party Liability Coverage as referred to in Appendix B, Clause 26.0 <i>Insurance By The Contractor</i>),	<input type="checkbox"/>
Worker's Compensation Board Proof of Coverage	<input type="checkbox"/>
Proof of General Business Insurance - (as referred to in Appendix B, Clause 26.0 <i>Insurance By The Contractor</i>),	<input type="checkbox"/>
Table of Pay Items, Appendix C	<input type="checkbox"/>
Force Account Rates, Appendix C	<input type="checkbox"/>
Contractor's Experience, Appendix C	<input type="checkbox"/>
List of Subcontractors, Appendix C	<input type="checkbox"/>
Current City of Vancouver Business Licence	<input type="checkbox"/>

2.0 APPLICANT'S SIGNATURE AND LEGAL AGREEMENT

Applicant now submits this Application Form and agrees to be legally bound by the terms and conditions of this Request for Application as set out in Appendix A - *Legal Terms and Conditions of the RFA*, and agrees also that if this Application Form is approved by the City the Applicant will be placed on the Pre-Qualified List, and for so long as the Applicant remains on the Pre-Qualified List, the Applicant may be asked to provide Service, such Service will be provided pursuant to the terms and conditions of Appendix B - *Street Construction Services Contract* and the Applicant now agrees to be legally bound to comply with the terms of such contract as though one such contract was separately signed for each and every project to which the Applicant responds to a request to provide Service.

The Applicant acknowledges that this is a legally binding document and that the City has advised the Applicant to obtain legal advice prior to signing this document.

Legal Name of Applicant

Authorized Signature of Applicant

Date: _____

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APPENDIX A
LEGAL TERMS AND CONDITIONS OF REQUEST FOR APPLICATIONS AND REGISTRATION ON
PRE-QUALIFIED LIST

1.0 DEFINITIONS

In this Request for Applications, the following terms have the following meanings:

- (a) "Applicant" means the business entity signing and delivering this Application Form and applicant means any other applicant responding to this Request for Applications and in each case offering to become a contractor ("Contractor") pursuant to Appendix B - *Street Construction Services Contract*
- (b) "Application Form" means this application form and all of its attachments as submitted by the Applicant in response to this RFA, and in the appropriate contexts, includes Application Forms submitted by other applicants.
- (c) "City" means the City of Vancouver;
- (d) "Losses" means, in respect of any matter, all
 - 1. direct and indirect, as well as
 - 2. consequentiallosses, damages, liabilities, deficiencies, costs and expenses (including without limitation, all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement, whether from a third person or otherwise).
- (e) "Pre-Qualified List" means the register(s) kept by the City for determining the status of Applicants who have responded to this RFA and who have responded from time to time to requests by the City for Service pursuant to the Street Construction Services Contract.
- (f) "Request for Applications" or "RFA" means this request for applications and the application, evaluation, approval, rejection and all other aspects of the application, registration and termination of registration contemplated by this request for applications, including without limitation and by way of example only, the placing of the Applicant on the Pre-Qualified List, the position on the Pre-Qualified List which the City places the Applicant from time to time, and the removal of the Applicant from the Pre-Qualified List by the City for any reason, including without limitation breaches of the terms and conditions set out in this RFA.
- (g) "Service" or "Street Construction Services" means the services provided by an Applicant then registered on the Pre-Qualified List in response to the City's request for service pursuant to the Street Construction Services Contract.
- (h) "Street Construction Services Contract" means each separate and individual agreement formed for each project for which the City requests Service from an Applicant and the Applicant elects to provide Service on the terms and conditions set out in Appendix B - *Street Civil Works Service Contract*.
- (i) "City Engineer" refers to the employee of the City having that title and includes employees acting as assistants, deputies or other authorized delegates of the City Engineer.

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2.0 NO LEGAL OBLIGATION ASSUMED BY CITY

Despite any other term of this RFA, the City has no legal duty or obligation to the Applicant in respect of this RFA, unless and until the City requests Service from the Applicant for any given project and the Applicant elects to provide Service (and then only those duties and obligations which are expressed in the Street Construction Services Contract and only for the contract formed in respect of the Services provided for that project).

3.0 EVALUATION OF APPLICATION FORMS/ADMINISTRATION OF PRE-QUALIFIED LIST

3.1 Pre-Qualified List Policy - Subject to Change

Without any way limiting the scope of the legal terms and conditions set out in this RFA, this Clause 3.0 sets out the City's current policies and procedures with respect to making requests for Street Construction Services and registering Applicants on the Pre-Qualified List. However, these policies and procedures are set out for convenience of reference only, are not legally binding on the City, do not form or give rise to legal rights or obligations on the part of the City or the Applicant, and may be unilaterally changed with or without notice by the City at any time and from time to time in the sole discretion of the City in order to meet any changes in the City's operational needs or to respond to market or other changes affecting the supply and demand for the Service.

3.2 Maintenance of Pre-Qualified List

The City Engineer will maintain the master copy of the Pre-Qualified List and may, at the City Engineer's option add, remove, and alter the relative positions of each Applicant in accordance with the response times, availability, service quality and any other relevant performance ratings made of any given applicant by the City Engineer.

3.3 Applicants Rated by Performance

The City Engineer will rate Applicants on a standard form which will include factors relevant to the City's operational needs. By way of example only, Applicants who are regularly unavailable, when called, might be removed from or have their rating lowered on the Pre-Qualified List particularly where there is a sufficient supply of other Applicants who are then responding when called.

3.4 Pre-Qualified List Used as Basis for Requests for Service

Applicants registered on the Pre-Qualified List will be requested to provide Street Construction Services as operationally required by the City, and not always in accordance with their ratings on the Pre-Qualified List.

3.5 Common Causes of Removal From Pre-Qualified List

The City Engineer will remove from the Pre-Qualified List any Applicant where

- (a) the City Engineer has probable reason to believe the Applicant or its staff have engaged in bribery, possession of alcohol or narcotics within any vehicle being used to provide the Service, abusive aggressive or intimidating language or

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behaviour, or any other activity which could put the staff, reputation, or integrity of the City at risk,

- (b) the Applicant breaches any of the Applicant's obligations as Contractor under any Street Construction Services Contract(s).

3.6 Requests for Further Information

At any time and from time to time, the City may request that the Applicant provide updated corporate records, and any other relevant documentation to evidence the Applicant's compliance with the City's then policies.

3.7 Requests for Consent to Change

In the event that the Applicant is contemplating any change which might result in removal of the Applicant from the Pre-Qualified List and the Applicant wishes to remain on the Pre-Qualified List, the Applicant may submit a request to revise its Application Form to the City Engineer, who will then evaluate the request and may either reject the request, accept the request or accept the request subject to the Applicant satisfying certain conditions.

3.8 Submitting Complaints to the City

In the event that any Applicant has any complaint regarding the City's administration of the Pre-Qualified List or this RFA, the Applicant should fully describe in writing all relevant facts, conversations and events giving rise to the complaint and submit same to the City Engineer.

3.9 Re-Registration Following Removal from Pre-Qualified List

Applicants removed from any sub-list or master copy of the Pre-Qualified List are free to apply again in response to any future Request for Applications issued by the City, but the City reserves all rights of refusal.

3.10 This Clause 3.0 - General Guidance Only - Not Part of Legal Terms and Conditions

As set out in Clause 3.1 above, no part of this Clause 3.0 will create any legal rights or obligations and the whole of this Clause 3.0 is completely subject to and governed entirely by the other terms and conditions of this Appendix A.

4.0 LEGAL TERMS AND CONDITIONS OF APPLICATION PROCESS

4.1 Compliance/Non-Compliance

Any Application Form which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of this RFA or, which otherwise fails to conform to this RFA may or may not be rejected by the City at the City's sole discretion. Accordingly, the City may at its own discretion waive any non-compliance with the RFA, or any of its requirements or expectations including the timing of delivery or any other aspect of the RFA and may at its own discretion elect to retain for consideration Application Forms which are non-conforming, which do not contain the content or form required by the RFA or because they have not complied with the process for submission set out in this RFA.

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4.2 Late Application Forms (If Applicable)

Application Forms received after the Closing Time (if applicable to this RFA) or in locations other than the address indicated, may or may not be considered or reviewed by the City and may or may not be returned unopened.

4.3 Reservation of Complete Control Over Process

The City reserves the right to retain complete control over the RFA process at all times. Accordingly, the Applicant's Application Form or any other Application Form from any other applicant need not necessarily be reviewed or considered or evaluated and need not necessarily be reviewed, considered or evaluated in accordance with the policies and procedures set out in this RFA and the City reserves the right to

- (a) continue, interrupt, cease or modify its review, evaluation, negotiation, ranking and registration process on the Pre-Qualified List and any or all Application Forms,
- (b) modify the City's policies and procedures regarding the Pre-Qualified List, cancel the use of the Pre-Qualified List entirely and adopt a different outsourcing or own forces approach to obtaining the Service,

at any time without further explanation or notification to any of the applicants subject only and always to the express legal terms and conditions set out in Clauses 2.0, and 4.0 through 11.0 of this Appendix A.

5.0 DISCUSSIONS/NEGOTIATIONS

The City may at any time prior to requesting Service from any Applicant, discuss/negotiate changes to the scope of the RFA, modify the terms of the Street Construction Services Contract, or any of the terms or conditions of this RFA or the Street Construction Services Contract with any one or more of the applicants without having any duty or obligation to advise the Applicant or to allow the Applicant to vary its Application Form or the Street Construction Services Contract as a result of discussions or negotiations with other applicants or changes to this RFA or the Street Construction Services Contract, and, without limiting the general scope of Clauses 2.0 and 6.0 through 9.0 of this Appendix A, and by way of example only, the City will have no liability to any Applicant as a result of such discussions, negotiations or changes.

6.0 LEGAL RIGHTS AND OBLIGATIONS ARISING FROM RFA RESTRICTED IN SCOPE

6.1 Scope is Expressly Set out in Clauses 2.0, and 4.0 through 11.0

Despite any other term, expressed or implied, of this RFA, the City and Applicant agree that all of their respective rights and obligations at law and in equity, in contract and in tort, in all matters relating to this RFA will be absolutely and unconditionally subject to Clause 2.0, and Clauses 4.0 through 11.0 of this Appendix A.

6.2 No Duty

The City has no legally enforceable duty or obligation to the Applicant except in the circumstances and except to the restricted extent set out in Clauses 9.0 and 10.0 of this Appendix A.

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6.3 Applicant's Risk

The Applicant acknowledges that the City is a public body required by law to act in the public interest to fulfill the operational requirements for the efficient management of the City's municipal infrastructure. Accordingly, in no event does the City owe to the Applicant (as opposed to the public)

- (a) a contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFA process, or
- (b) any contract or tort law duty to preserve the integrity of the RFA process, and the Applicant now waives and releases the City from all such duties and expressly assumes the risk of all Losses arising from participating in this RFA on this basis.

6.4 Applicant's Cost

The Applicant now assumes and agrees to bear all costs and expenses incurred by the Applicant in preparing this Application Form and participating in this RFA process.

7.0 RELEASE

The Applicant now releases the City from all liability for any and all Losses in respect of

- (a) any alleged or actual breach by the City of this RFA (it being acknowledged and agreed that to the best of the parties knowledge, the City has no obligation or duty under this RFA which it could breach (other than wholly unanticipated obligations or duties which are then subsequently alleged or imposed)),
- (b) any unintentional tort of the City occurring in the course of conducting this RFA,
- (c) the Applicant preparing and submitting the Application Form,
- (d) The City accepting or rejecting the Application Form or any other submission, placing or failing to place an Applicant on the Pre-Qualified List, placing or failing to place an Applicant on a certain position on the Pre-Qualified List, removing or failing to remove an Applicant from the Pre-Qualified List,
- (e) the manner in which the City
 - (i) reviews, considers, evaluates or negotiates any Application Form, or Street Construction Services Contract,
 - (ii) deals with or fails to deal with any applicant or Application Form,
 - (iii) decides to place, rate, position or remove or not place, rate, position or remove an applicant on or from the Pre-Qualified List,
 - (iv) administers the Application Forms, Pre-Qualified List and Applicant(s) in respect to the Pre-Qualified List, or

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- (v) decides to cancel the use of the Pre-Qualified List and adopt an alternative form of obtaining the Street Construction Services, whether by public tender, use of City employees, or otherwise, or
- (f) the Applicant(s), if any, whom the City places, rates, positions, removes or fails to place, rate, position or remove on or from the Pre-Qualified List.

8.0 INDEMNITY

The Applicant now indemnifies and will protect and save the City harmless from and against all Losses, in respect of any claim or threatened claim by the Applicant or any of its employees, subcontractors or agents alleging or pleading

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

9.0 LIMITATION

In the event that, with respect to anything relating to this RFA, the City or its officials or employees are found to have breached any duty or obligation of any kind to the Applicant or its employees, subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Applicant or its employees, subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

10.0 DISPUTE RESOLUTION

10.1 Commercial Arbitration

Any dispute relating in any manner to this RFA, excepting only any disputes arising between the City and any Contractor in respect to any Service requested by the City and provided by the Contractor pursuant to a Street Construction Services Contract, 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) Clause 2.0, and Clauses 4.0 through 11.0 of this Appendix A will:
 - (i) bind the City, Applicant and the arbitrator, and
 - (ii) survive any and all awards made by the arbitrator.
- (c) The Applicant will bear all costs of the arbitration.

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(d) The arbitration will be held in the City of Vancouver.

10.2 British Columbia Law Governs

The laws of British Columbia will apply to this RFA and subject always to Clause 10.1, the City and Applicant now irrevocably submit to the exclusive jurisdiction of the courts of British Columbia.

10.3 Entire Agreement

The provisions of this RFA constitute the entire agreement between the parties with respect to all matters arising from or relating to this RFA and the Pre-Qualified List. No amendments to the legally binding portions of this RFA will be binding on the City or the Applicant unless the same are agreed to in writing by both the City and the Applicant.

11.0 RFA IS CITY PROPERTY/APPLICATION FORM BECOMES CITY PROPERTY

This RFA is proprietary to the City and copyright and all related intellectual property rights in and to this RFA are and will remain vested in the City at all times. Any and all documentation submitted by the Applicant in response to this RFA, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Application Form or any supporting documentation to the Applicant.

REQUEST FOR APPLICATION NO. PS09041
APPENDIX B
STREET CIVIL WORKS SERVICES CONTRACT

THIS CONTRACT is deemed to be made as of each time that, and with respect to each project to which the Applicant responds to a City request for Service under the RFA to which this Contract is attached.

BETWEEN: **CITY OF VANCOUVER**
a municipal corporation with offices
at 453 West 12th Avenue,
in the City of Vancouver,
Province of British Columbia,
V5Y 1V4

(called the “City” in this Contract)

AND: The Applicant named in the Application Form to which this Contract is attached.

(called the “Contractor” in this Contract)

BACKGROUND:

- A. By way of a Request for Applications RFA No. PS09041, the City requested applications from qualified applicants with the ability to meet the requirements, expertise, proven ability, and capability to provide Street Construction Services.
- B. In response to the RFA, based on the Contractor’s Application Form, and supporting documentation and relying on same, and subject always to the Legal Terms and Conditions which govern the Request for Applications process and the Pre-Qualified List, the City has placed the Applicant on the Pre-Qualified List.
- C. Accordingly, if and when the City requests the Applicant to provide Street Construction Services and if in response to such request, the Applicant responds agreeing to do so, the Applicant now agrees to perform the obligations of and be bound by the terms and conditions which apply to the “Contractor” and the City agrees with the Contractor that the following terms and conditions of this Contract will apply.

THE CITY AND CONTRACTOR NOW AGREE AS FOLLOWS:

1.0 DEFINITIONS

In this Street Construction Services Contract, the following terms have the following meanings:

- (a) “Certificate of Substantial Performance” means, subject always to Article V(c) of the Request for Service and to the warranty under Clause 61.0 Maintenance and Warranty, the certificate issued by the City Engineer when the City Engineer has accepted the Contractor’s certification that there has been Substantial Performance of the Contract. Under no circumstances will issuance of the Certificate of Substantial Performance be deemed to mean that the City has accepted the Work as being in compliance with the Contract Documents.

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STREET CIVIL WORKS SERVICES CONTRACT

- (b) "Contract" means the agreement between the Contractor and the City on the terms set out in the Contract Documents.
- (c) "Contract Documents" means this Appendix B - *Street Construction Services Contract*, the Master Municipal Specifications and Standard Detail Drawings, the City of Vancouver Street Restoration Manual the City of Vancouver Supplemental Specifications (latest version), the City of Vancouver Supplemental Detail Drawings, the plans, and all other documents referred to in or expressly incorporated by reference into the Contract all as listed out in Article III of the Request for Service;
- (d) "Contract Price" means the Total Estimated Contract Price as adjusted pursuant to the Contract Documents to take into account such factors as, without limitation and by way of example only, actual quantities instead of those set out in the Schedule of Approximate Quantities and Prices as well as changes authorized pursuant to Clause 44.0 - *Alteration, Deductions and Additions* and Clause 46.0 - *Extra Work*.
- (e) "Contract Times" means the dates stated in the Request for Service to achieve Substantial Performance, and to complete the Work.
- (f) "Construction Project" means any erection, alteration, repair, dismantling, demolition, structural or routine maintenance, painting, load clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, concrete laying, the installation of any machinery or any other work deemed to be construction by the Workers Compensation Board.
- (g) "Contractor" means the person or persons who have undertaken to carry out the Work pursuant to this Contract;
- (h) "City Engineer" means the person filling the office of the City Engineer for the City, or a duly appointed representative.
- (i) "Extra Work Order" means a written description of "Extra Work" prepared by the City Engineer and issued to the Contractor pursuant to Appendix B, Clause 46.0 - Extra Work.
- (j) "Final Certificate of Acceptance" means, subject always to Article V(c) of the Request for Service and to the warranty under Clause 61.0 Maintenance and Warranty, a certificate issued by the City Engineer acknowledging the Contractor's certification that the entire Work of the Contract has been performed by the Contractor to the requirements of the Contract Documents. Under no circumstances will issuance of the Final Certificate of Acceptance be deemed to mean that the City has accepted the work as being in compliance with the Contract Documents.
- (k) "Inspector" means a representative of the City Engineer;
- (l) "Maintenance Period" means the 24 month period following the issuance of the Final Certificate of Acceptance.
- (m) "Notice to Proceed" means a written notice given by the City to the Contractor fixing the date on which the Contract Times will commence to run.
- (n) "Pay Items" means the items detailed in Appendix C - Requirements,

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STREET CIVIL WORKS SERVICES CONTRACT

Section 1.0- *Table of Pay items*

- (o) "Payment Certificate" means the form that is to be used by the City Engineer in processing progress payments, and performing the role of "payment certifier" pursuant to the *Builders Lien Act* and Appendix B Clause 3.2 - Payments.
- (p) "Plant" means every temporary or accessory means necessary or required to carry on or complete the Works, and Extra Works, and which cannot (in the opinion of the City Engineer) be removed prior to issuance of the Final Certificate of Acceptance without injury to the Works, including all temporary buildings and erections, fences, bridge ways, machinery, temporary props, timbers, tools, implements and all special or other equipment of every kind;
- (q) "Prime Contractor" has the meaning set out in the WCB OH & S Regulation.
- (r) "Products" means material, machinery, equipment and fixtures incorporated or to be incorporated in the Work as required by the Contract Documents.
- (s) "Project" means the Work to be performed with respect to the blocks of streets or lanes, or groups of blocks, described in the Request for Service.
- (t) "Request for Service" means a document substantially in the form set out in Appendix E to the RFA after it has been duly accepted, signed and delivered by the Contractor and City.
- (u) "Specifications" has the meaning set out in Clause 64.0 - Specifications.
- (v) "Subcontractor" means the person or persons who the Contractor has engaged to perform specific portions of the Contract as designated in Appendix C - List of Subcontractors.
- (w) "Substantial Performance" means that the Contract has been "completed" as that term is defined in the *Builders Lien Act*.
- (x) "Total Estimated Contract Price" means the entire compensation payable to the Contractor for the Work where the estimated quantities and units are equal to the actual quantities and units of the Work. The Total Estimated Contract Price includes all profit, all costs of supervision, labour, materials, equipment, overhead, financing and all other costs and expenses incurred in performing the Work.
- (y) "Unavoidable Delay" means (a) with respect to the Contractor, any delay caused by circumstances beyond the reasonable control of the Contractor, such as abnormal Weather, acts of God, war or other strife, but expressly excludes normal weather, strikes, lock-outs or other labour disruptions involving the employees of the Contractors and its Sub-Contractor and suppliers, and courier/delivery delays (where other courier/delivery services are available), and (b) with respect to the City, and delay caused by circumstances beyond the reasonable control of the City and includes delays arising from the City's obligations, strikes/lock-outs involving the City's employees, any type of weather, acts of God, war or other strife.
- (z) "WCB" means the Workers Compensation Board established and functioning pursuant to the Workers Compensation Act (British Columbia) (the "WCA"), as amended, and/or

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related or successor legislation, and any successors in function thereto now referred to as “WorkSafe BC”;

- (aa) “WCB Legislation” means the *Workers Compensation Act* (British Columbia) and all regulations enacted pursuant to the *Workers Compensation Act* (British Columbia);
- (bb) “WorkSafe BC/OH&S Regulation” means the *Workers Compensation Act* (British Columbia), including without limitation, the *Occupational Health & Safety Regulation* (BC Regulation 296/97, as amended by BC Regulation 185/99) enacted pursuant to such Act, all as such Act or Regulations are amended or re-enacted from time to time;
- (cc) “Work” or “Works” means the whole of the works, services, construction, materials, matters and things required to be done or supplied by the Contractor pursuant to the Contract Documents.
- (dd) “Work Site” means the place or places where the Work under the Agreement is to be carried out, erected, built or constructed, as described in the Request for Service - Schedule “A”.
- (ee) “Working Day” means any day other than a Saturday, Sunday or holiday as defined in the *Interpretation Act*, (British Columbia).

THE CITY AND CONTRACTOR NOW AGREE AS FOLLOWS:

2.0 PROJECT SPECIFIC/UNIT PRICE CONTRACT

2.1 Separate Contract for Each Project

Despite any other term of this Contract, the City and the Contractor have no contractual or legal relationship with each other of any kind and have no legal obligations to each other except only to comply with this Contract if and when the City requests the Street Construction Services and only then if the Contractor accepts such request by signing and delivering the Request for Service within the stipulated time and then only for Project specified in such Request for Service.

2.2 Contractor’s Duty to Operate as Independent Contractor

The City and Contractor now confirm and agree that the Contractor is an independent contractor and is not obligated at any time to respond to a request by the City for Street Construction Services pursuant to this Contract and agrees to regularly contract at its sole discretion with other third parties and take all such steps and actions as may be necessary or prudent to maintain the Contractor’s status as neither an employee nor a dependent contractor of the City.

2.3 Project Specific/Contract

All Service provided by the Contractor under this Contract is on a Project specific basis, as set out in each Request for Service.

3.0 RATES FOR SERVICE

3.1 Lump Sum/Unit Price Rates

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Payment shall be made on the basis of the lump sum and unit prices set out in Appendix C Requirements - Section 1.0 - Table of Pay Items.

Prices shall be full compensation for all labour, equipment, and materials necessary for the completion of the respective Pay Item to the satisfaction of the City Engineer. All measurement for payment shall be first approved by the City Engineer.

3.2 Payments

- (a) Subject to the provisions of the *Builder's Lien Act*, and the Contract Documents, the City Engineer will fulfil the role of "payment certifier", and the City Engineer will prepare monthly Payment Certificates based on the Inspector's measurements of work in place and the Contractor's invoices received by the City Engineer. Materials supplied will only be included in any Payment Certificate on the basis of delivery slips signed by the Inspector; unsigned delivery slips will not be accepted for inclusion in the Payment Certificate. The City Engineer may withhold any Payment Certificate if in his opinion, it is in the interest of the City Engineer to do so, until the City Engineer is satisfied that the work and material so far done is in accordance with the Contract and that the Contractor is entitled thereto, though the amount to be retained may be unascertained.
- (b) The issuance of a Payment Certificate, Certificate of Substantial Performance, Final Certificate of Acceptance, Partial Payment Certificate or Partial Certificate of Substantial Performance by the City Engineer is a representation that to the best of the City Engineer's knowledge, information and belief, the Work has progressed to the point indicated, (subject to an evaluation of the Work for conformance with the Contract Documents upon completion, to the results of any subsequent tests called for in the Contract Documents, to the correction of any defects in the Work not observed or discovered by the City Engineer nor pointed out to the City Engineer by the Contractor, to minor deviations from the Contract Documents correctable prior to completion and to any qualifications stated by the City Engineer in such certificate) and that the City Engineer shall not thereby be deemed to represent that he has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that he has reviewed the construction means, methods, techniques, sequences or procedures or that he has made any examination to determine how or for what purposes any contractor has used the money paid on account of the Contract Price.
- (c) The Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation or certification of any progress or final payment by the City Engineer, nor the issuance of any certificate, nor any payment by the City to the Contractor under the Contract, nor any use or occupancy of the Work or part thereof by the City, nor any act of acceptance by the City, nor any failure to do so, nor any correction of defective Work by the City shall constitute acceptance of work or products which are not in accordance with the Contract or a release of the Contractor's obligation to perform the Work in accordance with the Contract.
- (d) The City will pay the Contractor within fourteen (14) days of receipt of each Payment Certificate, less all stipulated forfeitures and deductions and less a

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Builder's Lien Act holdback in the amount of ten percent (10%) of the certified payment sum.

- (e) Unless otherwise directed by the City Engineer, no Payment Certificate shall be issued or progress payment made until the expiry of thirty (30) days from the commencement of the Work, and until the Contractor has submitted a proper invoice for same along with a Statutory Declaration, sworn by an officer of the Contractor and verifying that the accounts of all workers, materials and equipment engaged on, or supplied to the Work, together with all statutory or regulatory assessments or deductions, have been paid in full to the date of the last progress payment; provided however that in the case of Subcontractors, the Statutory Declaration will be acceptable if it indicates that ninety percent of the Subcontractor's accounts have been paid to the date of the last progress payment. Only one progress payment shall be made in any one thirty (30) day period.

- (f) Upon Substantial Performance of the Work, or as soon as practical thereafter, the City Engineer shall issue a Certificate of Substantial Performance which certificate will also operate as the Payment Certificate authorizing payment of the amount (if any) necessary to complete payment of the remainder due under the Contract less:
 - i. A Builder's Lien Holdback in the amount of ten percent (10%) of the certified payment sum,

 - ii a holdback for defects and deficiencies in the amount of two hundred percent (200%) of a reasonable value as estimated by the City Engineer for corrections to defective or deficient work. This holdback shall be retained by the City without interest until such defect or deficiency is remedied by the Contractor, or if remedied by the City, applied pursuant to Clause 37.0 - *Defective Work*,

 - iii a holdback in the amount of one hundred percent (100%) of the value as estimated by the City Engineer to complete incomplete work. This holdback shall be retained by the City without interest until such work is completed by the Contractor, or if remedied by the City, applied pursuant to Clause 61.0 - *Maintenance and Warranty* and Clause 28.0 - *Monies Due the City*,

 - iv. a holdback to cover the value of claims or liens filed or reasonable evidence indicating probable filing of claims or liens. This holdback shall be retained by the City without interest until such claims or liens are cleared and discharged, and

 - v. a holdback to cover the value of repairing damage to existing property, and/ or damage to any other contractor's work which has not been settled. This holdback shall be retained by the City without interest until such damage is corrected by the Contractor, or if remedied by the City, applied pursuant to Clause 61.0 - *Maintenance and Warranty* and Clause 28.0 - *Monies Due the City*.

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- (g) For the purposes of the *Builder's Lien Act*, the Certificate of Substantial Performance and the date thereof, shall serve as the Contract's certificate of completion and completion date.
- (h) Fifty-five (55) days following the date of the Certificate of Substantial Performance, and subject to the provisions of the Contract, a Payment Certificate shall be issued for release of the Builder's Lien holdback. Other holdback amounts (if any) will be released upon clearance of those items as listed herein.
- (i) The City Engineer will not be the "payment certifier" under any sub-contract with any Sub-Contractor.
- (j) In the event of an Unavoidable Delay, a Partial Certificate of Substantial Performance for any portion of the Work completed may be issued at the City Engineer's discretion. The other provisions of this clause with respect to holdback amounts and release of holdbacks will apply to any Partial Certificate of Substantial Performance.
- (k) In the event of any circumstance which in the Contractor's opinion entitles it to additional compensation and which are not fully provided for herein, the Contractor shall immediately upon discovery of such circumstance, notify the City Engineer in writing regarding the particulars of the circumstance and the amount of additional compensation the Contractor intends to claim therefor. Otherwise, the Contractor shall have no claim in respect thereof. All claims of every nature which the Contractor may have in respect of this Contract must be submitted in writing to the City Engineer within thirty (30) days of the completion of that particular work, and the Contractor shall make no claim of any nature thereafter. Any claim submitted later than thirty (30) calendar days after completion of that work may be disallowed by the City Engineer.
- (l) Upon full and complete performance of all obligations of the Contractor required to be performed prior to issuance of the Final Certificate of Acceptance, and upon the City Engineer's verification of same pursuant to Clauses (a), (b) and (c) above, the City Engineer will issue the Final Certificate of Acceptance, subject always to Clauses (a), (b) and (c) above as well as all other terms of the Contract Documents which are intended to survive the issuance of the Final Certificate of Acceptance.
- (m) The Contractor's acceptance of payment upon issuance of Final Certificate of Acceptance shall constitute a waiver of all claims by the Contractor against the City.

3.3 Records

The Contractor will keep full and proper accounts and records of all matters relating to the provision of Service and all receipts, invoices, journey logs, and vouchers relating to same. All such information will be at all times open to inspection and audit by the City for the purpose of permitting the City to verify compliance with any aspect of this Contract. All such information will be kept by the Contractor (and be made available to the City) for a period of five (5) years following the date to which the information relates.

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3.4 Canadian Currency

All rates payable under this contract are expressed in and will be payable in Canadian dollars.

4.0 GENERAL LEGAL TERMS AND CONDITIONS

All Contractors must:

- (a) Have a valid City of Vancouver Business License at all times.
- (b) The Contractor is an independent contractor and is not an agent or employee of the City. The Contractor is completely and solely responsible for all acts and omissions of the employees, operators, agents and sub-contractors of the Contractor and under no circumstance will any Contract be formed between the City and any such employee, operator, agent or sub-contractor of the Contractor. The Contractor will ensure as a condition of any sub-contract or employment contract with its workers that such workers will comply with the contractual obligations of the Contractor under this Contract.
- (c) No compensation or reimbursement of expenses will be payable to the Contractor's workers by the City. Any amount owing to the Contractor's workers will be paid by the Contractor and not by the City directly.
- (d) Where the Contractor consists of more than one legal entity, (eg. partnership), the requirements, terms and conditions of this Contract apply to and legally bind each legal entity both jointly and individually.
- (e) The Contractor confirms that this is a legally binding document and that the City has advised the Contractor to obtain legal advice prior to performing the Work under this Contract.
- (f) The Contractor must comply with the City's Sexual Harassment Policy (Contractor should request a copy of same at the time of submitting their Application Form) at all times and in a manner satisfactory to the City Engineer.
- (g) The Contractor must fully comply at all times with the City's zero tolerance policy for drugs and alcohol. The Contractor is prohibited from consuming any narcotics or alcohol at any time prior to or during the provision of the Service.

5.0 WORKSAFEBC COVERAGE AND CONTRACTOR TO BE PRIME CONTRACTOR

Intentionally Omitted - Refer to Appendix D

6.0 COMPLY WITH ALL LAWS

The Contractor must fully comply with all applicable laws and regulations at all times including without limitation and by way of example only;

- (a) all City By-laws regulating truck use, including truck route regulations (Contractors should request a copy of the City's truck route map if they do not have one) and

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regulations regarding engine brake noise, weight/load restrictions, securing of loads and tire specifications, and

- (b) the *Motor Vehicle Act* and related regulations including by way of example only the National Safety Code Regulations, Division 37, which prohibit any driver from operating a commercial motor vehicle beyond the specified maximum number of hours.

7.0 SUSPENSION OR UNAVOIDABLE DELAY OF WORK

- (a) The City shall have the right, from time to time, to suspend the Work in whole or in part, after giving the Contractor notice in writing to that effect. Such notice may be informal and shall be deemed to be sufficient if it indicates the nature or extent of the Work to be suspended or stopped and is signed by the City Engineer. In the event of such right being exercised so as to cause delay to the Contractor, then an extension of time equal to such delay shall be allowed to complete the Contract, but no such delay shall vitiate or void this Contract, or any part thereof, or the obligation hereby imposed, or any concurrent or other bond of security for the performance of this Contract, nor shall the Contractor be entitled to any delay claim or any other claim for damages. Upon the Contractor receiving written notice from the City that the suspended operations are to be resumed the Contractor shall forthwith resume the operations.
- (b) Time periods for each party's performance under the Contract will be extended for periods of time during which their performance is delayed due to an Unavoidable Delay, but in no case will the extension of time be less than the time lost as a result of the Unavoidable Delay, unless such a shorter extension is agreed to by the parties. In order for either party to be entitled to an extension of time pursuant to this clause, they must give written notice promptly to the other party upon the commencement of the Unavoidable Delay.
- (c) In case of the Contractor's failure to finish the Work or Works properly and fully and as required, or in the case of the Work, or any part thereof, being taken out of the Contractor's control, as provided in this Contract, the City may proceed to finish the Work for the Contractor as the Contractor's agent in this respect, and at the Contractor's expense, or proceed as provided in Clause 31.0 - *Termination of Contract (Without Cause)*.
- (d) The Contractor shall give the City at least thirty-six (36) hours notice before commencing Work after a suspension or Unavoidable Delay in the Work has occurred. This notice does not give the Contractor the right to start work on that portion of the Contract without the City's approval.

8.0 CITY ENGINEER SOLE JUDGE

Should any discrepancies appear or difference of opinion or misunderstanding arise as to the meaning of this Contract or as to any omissions therefrom, or misstatements therein, in any respect, or as to quality or dimensions or sufficiency of the Service or any part thereof, or as to the due and proper execution of the Service, or as to the measurement of quantity or valuation of any Service executed or to be executed under the Contract or as to extras thereupon, or deductions therefrom, or as to any other questions or matters arising out of the Contract, the same shall be determined by the City Engineer and the City Engineer's decisions shall be final and binding upon all parties concerned, and from it there shall be no appeal; and the Contractor shall immediately, when ordered by the City Engineer, proceed with and execute

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the Work, or any part thereof, forthwith, according to such decision, and with such additions to or deductions from the hourly rate or unit price as are provided under the terms of this Contract, without making any claim for any extension of time in completing the Contract or the Work, unless arranged for in writing with the City Engineer as provided herein.

9.0 EMERGENCIES

The City Engineer has the authority in an emergency to stop the progress of the Work whenever in his opinion such stoppage may be necessary to ensure the safety of life, or the Work or neighbouring property. This includes authority to make changes in the Work, and to order, assess and award the cost of work extra to this Contract or otherwise, as may in opinion be necessary. The City Engineer shall within two (2) working days confirm in writing any such instructions.

10.0 MATERIAL AND EQUIPMENT SUPPLIED BY THE CONTRACTOR

Material and equipment supplied by the Contractor shall be as specified. If the Contractor wishes to supply and install items other than specified, he shall apply for and must receive written permission from the City Engineer before incorporating such items into the Work. Descriptive literature and price schedules covering such alternative items shall be supplied to the City Engineer if requested.

The Contractor shall furnish for the approval of the City Engineer as the City Engineer may reasonably require samples of any material of any kind to be used in the provision of the services and no material shall be used which is in any way inferior to the Approved samples.

11.0 SUPPLY OF MATERIALS BY THE CITY

The Contractor's responsibility for materials supplied by the City shall begin upon the Contractor's acceptance at the points of supply to the Work Site. All such materials shall be examined and the Contractor shall advise the City Engineer in writing of any defective or damaged material. Any material supplied by the City which is lost, stolen or damaged after acceptance by the Contractor shall be replaced by the Contractor at his own expense.

All material supplied by the City remains the property of the City at all times and material not required for or surplus to the Work must be promptly returned to the City in original condition.

12.0 SUBCONTRACTORS AND SUPPLIERS

- (a) The Contractor shall submit a list of the names of all Subcontractors proposed to engage on the Work. Subcontractors shall not then be changed except with the prior written approval of the City Engineer, which approval may be arbitrarily withheld.
- (b) The Contractor shall supply complete information to Subcontractors and equipment and material suppliers. The Contractor agrees to bind every Subcontractor to the terms of this Contract including all Contract Documents as far as applicable to their work, equipment and material.
- (c) In every subcontract the Contractor shall specify that the City Engineer shall not be the person responsible for payment certification under that subcontract for the purposes of

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the *Builder's Lien Act*, and shall specify the Contractor as the payment certifier under every Sub-contract.

13.0 WORK SITE LIMITS

The Contractor will be solely responsible for

- a) installation of barricades and barriers and other traffic control measures, and
- b) repair and making good of property and improvements which are damaged or destroyed by the Contractor's operations,

whether or not same are required within or outside of the Work Site boundary(ies) shown on the Contract Documents.

14.0 HOURS OF WORK

The attention of the Contractor is drawn to by-law regulations governing noise-generating activities in the City of Vancouver.

The Contractor shall keep the City Engineer advised on the proposed hours of Work so that inspection can be co-ordinated. Work without inspection is not permitted.

The City forces work between the hours of 7:00 a.m. and 4:30 p.m. The Contractor shall not expect any work to be performed by the City's crews outside these hours except by special arrangement agreed to by the City Engineer or in case of emergency.

15.0 TRAFFIC CONTROL

For all works on City streets, lanes or sidewalks, all traffic control shall be provided by the Contractor, at the Contractor's expense, except where otherwise specifically provided for in this Contract. The Contractor shall adhere to the standard procedures and practices prescribed in the Ministry of Transportation and Highways "Traffic Control Manual for Work on Roadways" (Second Field Edition).

The Contractor shall also provide, at the Contractor's expense, erect and maintain all requisite barriers, fences or other proper protection and must provide and maintain such flagpersons, watchpersons and lights as may be necessary or as may be ordered by the City Engineer, in order to ensure safety to the public as well as to those engaged about the premises or Works, and must (where it is practicable in the City Engineer's opinion) keep any roadway open for the use of the public, or for some restricted use specified by the City Engineer, for such width as the City Engineer may direct.

At the request of the City Engineer, the Contractor shall submit a traffic management plan for the City Engineer's approval prior to commencing work or at any other time within two (2) working days of such request.

The Contractor shall, from the date of commencement to the date of completion of the Work assume responsibility for the barricading and signing of hazards resulting from such works as utility trenches, out-of-grade utility-access covers, or any other obstruction or impediment to pedestrian or vehicular traffic, be these works in progress prior to or subsequent to the above mentioned date of commencement.

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Unless ordered otherwise by the City Engineer, the Contractor shall inspect the barricades and warning signs of unattended construction Work Sites at least once per day.

When any work is carried out at night, the Contractor must supply, at the Contractor's expense, a sufficient number of electric or other approved lights to enable the work to be done in an efficient and satisfactory manner, and the City Engineer shall have the right to order additional lights at the Contractor's expense if, in the City Engineer's opinion, they are or may be required.

On the day before work is to commence in each street or portion thereof, the Contractor shall post "NO PARKING" signs and shall notify the Inspector who will determine the adequacy of this signing. The Contractor shall post these signs to the Inspector's satisfaction.

Licence numbers of vehicles legally parked at the time of placement of signs shall be recorded by the Contractor and made available for the Inspector. If these vehicles are still parked when work commences, the Inspector shall be contacted by the Contractor for further instructions.

If inclement weather or other reasons force postponement of the Work, the Contractor shall remove or cover the signs; if any vehicles have been removed from the Work Site, they shall be moved back with a minimum of inconvenience to the vehicle owners.

For the information of the Contractor, the Parking Enforcement Branch or the Vancouver City Police are the only designated authorities approved to call tow trucks. Providing the signing is adequate and the Contractor has contacted the Inspector, the City of Vancouver will pay the costs of towing. Owners of vehicles unlawfully parked will be charged with costs of towing and other costs.

16.0 PUBLIC CONVENIENCE

In carrying out the Work, or any portion thereof, the convenience of the public must always be considered and provided for by the Contractor, who must not obstruct any street, thoroughfare or sidewalk longer than necessary. All pedestrian walkways must be maintained in a safe condition at all times. Any discontinuities likely to prove hazardous to the public and/or pedestrians must be either removed, barricaded or clearly and safely marked.

Unless ordered otherwise by the City Engineer, the Contractor shall inspect the barricades and warning signs of unattended construction Work Sites at least once per day.

The Contractor shall take all steps necessary to control dust and to ensure that no dust causes any hazard or discomfort to the public.

The Contractor shall provide a safe and convenient means of approach to all adjoining lanes, driveways and property for both vehicles and pedestrians wherever necessary and practical. The Contractor shall not deposit any material upon any street, sidewalk, boulevard, grass plot or other City of Vancouver or public property, without the City Engineer's permission, nor shall the Contractor allow the same to remain thereon longer than necessary. From time to time as the Work progresses, or as directed by the City Engineer, such material and rubbish must be removed, all at the Contractor's expense.

Within four days of Substantial Completion, all material of every description must be gathered up from the streets, sidewalks, boulevards and grass plots, and removed therefrom. Where the Contractor tears up, opens or obstructs more of any street, roadway or place than is ordered or

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sanctioned by the City Engineer, then the City of Vancouver may remove such obstructions and replace or make good the opening or openings at the expense of the Contractor.

17.0 ACCESS TO EXISTING STRUCTURES

The Contractor shall at all times maintain satisfactory pedestrian access to buildings and private property.

The Contractor shall provide suitable notice to affected property owners prior to changes in access. Interruption of access to any entrance shall be kept to a minimum.

The Contractor shall maintain fire exits from existing buildings as required by the Fire Department.

18.0 PROTECTION OF WORK AND PROPERTY

The Contractor shall maintain continuously adequate protection of all his Work from damage and shall protect the City's property from all injury arising in connection with the Contract. The Contractor shall make good any such damage or injury. The Contractor shall protect adequately adjacent property as required by law and the Contract.

19.0 FIRE, SECURITY AND SAFETY REGULATIONS

- a) Fire and Security - The Contractor shall comply with and shall enforce compliance by all of the Contractor's agents, employees, subcontractors and suppliers with any and all fire regulations which have been or may be established from time to time by the City Engineer and anybody having jurisdiction over such matters.

All security regulations which have or may be promulgated by the City Engineer or other authorized representatives of the City shall be complied with. Watchmen for the buildings and grounds may be provided by the City at its discretion. However, neither the City nor the City Engineer will be responsible for any loss or damage to the property of the Contractor whether or not watchmen are provided by the City Engineer. The Contractor will furnish such security as the Contractor deems necessary for the protection of its equipment and Products stored or used on Work Site.

- b) Loss Control - The Contractor will provide a Loss Control Program, satisfactory to the City to meet Workers Compensation Board and other requirements.

- c) Safety - When required by the WCB OH&S Regulation, *first aid facilities*, including an attendant, shall be provided on the Work Site at all times during working hours by the Contractor at the Contractor's expense. Such facilities will be completely equipped in accordance with the requirements of the Workers Compensation Board.

The Contractor shall be fully responsible for taking all necessary precautions for the safety of it's workers on the Work Site or of complying with all applicable safety laws and regulations, particularly those regulations pursuant to the Workers Compensation Act to prevent accidents or injury to persons on, about or adjacent to the Work Site.

- d) General - The Contractor shall provide all other safeguards reasonably required directly for or as a result of the Work.

20.0 DRAINAGE

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The Contractor shall keep all portions of the Work well, properly and efficiently drained during construction and until completion, and shall be responsible for all damage which may be caused or result from water backing up or flowing over, through, from or along any part of the Work. The Contractor shall prevent silt, sediment, pollutants and deleterious substances from flowing into storm sewers, sanitary sewers, and water courses. Without limiting the general scope of this Clause, and by way of example only, the Contractor is responsible for

- a) complying with the provisions of the *Fisheries Act* (Canada) in control of silt and sediment all at it's own expense, and
- (b) all applicable provisions of the City's *Sewer and Watercourse By-Law* and *Waterworks By-Law*.

21.0 SAFEGUARDING EXISTING PROPERTY

Existing property, buildings, fences or other improvements of any kind shall be protected by the Contractor during the life of the Contract. The Contractor shall make good to the satisfaction of the City Engineer any damage done to the existing property, buildings, fences or other improvements. This applies to areas of private property adjacent to or within the Work Site.

Where removal of existing improvements such as pavement, fences, structures, sewers and ducts is necessary during the course of the Work, the same shall be re-established by the Contractor to the satisfaction of the City Engineer. The cost of protection and rehabilitation shall be borne by the Contractor.

22.0 EXISTING UTILITIES

The Contractor will be responsible for the care of all public utilities and in the event that any of these are required to be removed, raised or lowered permanently, this will be done either by the City or by the utility company interested and at the expense of the City. If temporary alteration of location is required for purposes of the Work, such work shall be done by the City or by the utility company interested at the expense of the Contractor. The Contractor, however, will be liable for, and will indemnify the City for any damage to the public utilities caused by the Contractor, as set out in Clause 25.0 - Contractor's Liability. Reasonable notice must be given to the City Engineer of any change required in utility services.

Existing utilities may be shown on Drawings. These, however, are shown for convenience only and the City assumes no responsibility for improper locations, or failure to show utility locations on the Contract Documents.

The Contractor shall provide adequate barricades and lighting around and adjacent to any open excavation or potentially dangerous location or other locations designated by the City Engineer.

The Contractor shall at all times ensure that the fire hydrants are not obstructed.

23.0 DUST CONTROL

The Contractor shall at all times control the generation of dust by its operations by water sprinkling or by other methods approved by the City Engineer.

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24.0 ERRORS BY CONTRACTOR

Changes, errors or mistakes made by the Contractor or his subcontractors, workers or employees, and all settlements, washouts and defects, shall be rectified by the Contractor at its expense.

25.0 CONTRACTOR'S LIABILITY

- (a) The Contractor shall be liable for all damages, or claims for damages, for injuries or accidents to persons or property done or caused by the Contractor or the Contractor's employees, or Subcontractors, or resulting from the prosecution of the Work or any of the operations, or caused by reason of the existence or location or condition of the Works, or of any Plant used therein or thereon, or which may happen by reason thereof, or arising from any failure, neglect, or omission on the Contractor's part, or on the part of any of the Contractor's employees, or on the part of any Subcontractor or the Subcontractor's employees, to do or perform any or all of the several acts or things required to be done by the Contractor, the Contractor's employees, the Subcontractor, or the Subcontractor's employees under this Contract.
- (b) The Contractor covenants and agrees to indemnify and save harmless at all times the City against all such damages and claims for damage in respect of the Work, and in the event of any action being brought by any person against the City, the City shall have a remedy over and against the Contractor for any loss, costs, damages or expenses to which the City may be put by reason of such action, either directly or indirectly, or by reason of the execution of this Contract.
- (c) In case of the Contractor's failure, neglect or omission to observe and perform faithfully all the provisions of this Contract, the City Engineer may take such steps, procure such material, equipment, trucks and workers, and do such work or things as the City Engineer may deem advisable towards carrying out and enforcing the same, and any and all expenses so incurred may be deducted or collected by the City under the provisions of this Contract. Any action by the City Engineer pursuant to this clause shall not relieve the Contractor or the Contractor's sureties from any liability under the remainder of the Contract.
- (d) The Works shall be at the risk of the Contractor until fifty-five (55) calendar days after Substantial Completion of the Contract and the Contractor shall indemnify the City for all loss or damage to the Works occurring by any cause (including storm, fire, floods, ground movement and earthquakes) prior to that day which is fifty-five (55) calendar days after Substantial Completion.

26.0 INSURANCE REQUIREMENTS

26.1 General:

26.1.1 General Scope/Policy Limit Requirement - Without limiting any of its obligations or liabilities under this Contract, the Contractor will obtain prior to commencing the Work and continuously carry for the periods stated below, the following insurance coverage with minimum limits of not less than those shown in the respective items set out below.

26.1.2 The Contractors is Solely Liable for Premiums/Deductibles - The Contractor will pay all premiums and deductible costs for all insurance required to be effected

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under this Agreement, provided always that under no circumstances does the payment of such premiums give the Contractor any interest in the proceeds of such insurance or any control over such policies as they relate to the City's interests.

- 26.1.3 Insurer Requirements - All policies must be written with companies licensed to do business in British Columbia with a financial rating of VIII or better and a policy holder's rating of A- or better in the latest edition of *Best Rating Guide on Property and Casualty Insurance Companies*, or otherwise acceptable to the City's Manager - Supply Management.
- 26.1.4 Supply Management Approval Required - All insurance policies must be in a form acceptable to the City's Manager - Supply Management. Self-funded, policy fronting or other non-risk transfer insurance mechanisms are not permitted.
- 26.1.5 Insurer Notice Requirements - All insurance policies must provide the City with sixty (60) days prior written notice of material change, replacement or cancellation. Notice must identify the Contract title, number, policy holder, and be delivered in accordance with Clause 27.0 - *Notices*.
- 26.1.5A Waiver of Subrogation - All insurance policies where the insurer could under any circumstance have any claim by subrogation against the City or its officers, officials, employees and agents, must contain a clause that waives the insurer's right of subrogation against the City and its officers, officials, employees, and agents.
- 26.1.5B City Requirements Not Exhaustive - The Contractor and each of its Subcontractors will provide at its own cost any additional insurance which it is required by any applicable laws or regulations to provide or which it considers necessary.
- 26.1.6 Insurance Requirements Independent of Other Covenants - Neither the providing of insurance by the Contractor in accordance with these requirements nor the insolvency, bankruptcy or the failure of any insurance company to pay any subsequent claim will be held to relieve the Contractor from any other provisions of this Contract with respect to the liability of the Contractor or otherwise.
- 26.1.7 All Coverage Primary - The insurance coverage required to be carried by the Contractor will be primary insurance as respects the City. Any insurance or self-insurance maintained by or on behalf of the City, its officers, officials, employees or agents will be excess of this insurance and will not contribute with it.
- 26.1.8 Contractor's Duty of Good Faith - The Contractor will properly disclose all risks in each insurance application, ensure that it does not violate or void any policy and will otherwise comply at all times with the requirements of the insurers and underwriters.
- 26.1.9 City Remedy on Default If at any time the Contractor fails to provide a certificate of insurance or certified copies of all insurance policies as required in Clause 26.2.0 below, the City may (but is not obligated to or liable for the

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manner in which it does so), effect such insurance on behalf of the Contractor and the cost of doing so will be paid by the Contractor to the City upon request and, in any event, within five (5) working days of such a request.

26.2 Evidence of Insurance:

26.2.1 Contractor to Provide Policy/Certificates - In partial satisfaction of the conditions in this Contract, the Contractor will provide the City with evidence of all required insurance to be taken out in the form of a detailed Certificate of Insurance supported by certified copies of each policy. The certificate of insurance must identify this Contract's title, Effective Date, policy holder and contract subject-matter and must not contain any disclaimer whatsoever. At all times thereafter, during the performance of the Work, the Contractor agrees to comply with all of its obligations under such policies. Proof of insurance, in the form of a certificate of insurance or certified copies of all insurance policies will be made available to the City's Director of Risk Management at any time upon request, until the expiry of the period for which this Contract requires the Contractor to carry insurance.

26.2.2 Obligations Extend to Subcontractors - The Contractor will provide in its agreements with its Subcontractors clauses in the same form as those set out in this Clause 26.0. Upon request, the Contractor will deposit with the City's Manager - Supply Management detailed certificates of insurance for the policies it has obtained from its Subcontractors and a copy of the insurance requirements from each Contractor's contract with any Subcontractors.

26.3 General Liability Insurance:

26.3.1 Commercial General Liability Insurance - The Contractor will maintain commercial general liability insurance in sufficient amounts and description to protect the Contractor, its Subcontractors, the City and their respective officers, officials, employees, and agents in all activities pertaining to the Project.

26.3.2 Commercial General Liability Policy Limit - The limit of commercial general liability insurance must be not less than five million dollars (\$5,000,000) per occurrence inclusive for personal injury, death, property damage losses and loss of use of property and in the aggregate with respect to products and completed operations.

26.3.3 Required Period of Commercial General Liability Coverage - The commercial general liability insurance must be in effect for the period of time commencing with the date of issuance of the Notice to Proceed and continuing for at least two (2) years after issuance of the Final Certificate of Acceptance.

26.3.4 Required Extensions of Commercial General Liability Coverage - The commercial general liability policy of insurance will:

- (a) be on an occurrence form,
- (b) add the City and its officials, officers, employees and agents as additional insureds,

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- (c) contain a cross-liability or severability of interests clause,
- (d) extend to cover non-owned automobile, contingent employer's liability, blanket contractual liability, owner's and contractor's protective liability, personal injury, broad form property damage, broad form products and completed operations, operations of attached machinery, excavating, blasting (if applicable), underpinning, demolition removal, pile driving (if applicable), grading, and hoist operations.

26.4 Motor Vehicle Liability Insurance

26.4.1 Scope, Limit and Duration Requirements - Motor vehicle liability insurance for owned and leased licensed vehicles with limits of five million dollars (\$5,000,000) inclusive for accidental injury to or death of one or more persons or damage to or destruction of property as a result of any one accident. Where the policy has been issued pursuant to a government operated automobile insurance system, the Contractor will provide the City's Director of Risk Management with confirmation of the automobile insurance coverage for all automobiles registered in the name of the Contractor and its Subcontractors to be used on or adjacent to the Work Site. Such Policies are to be in effect at all times and for all vehicles engaged in the Work.

26.5 Contractor's Equipment Insurance:

26.5.1 The Contractor will maintain at all times during the performance of the Work "All Risk" Contractor's Equipment Insurance with insurers acceptable to the City's Director of Risk Management, covering all construction equipment, owned or rented, or for which the Contractor or any of his Subcontractors may be responsible. In the event of loss or damage to the said construction equipment, or any part thereof, the Contractor or the Subcontractor, as the case may be, shall, if so requested by the Owner in writing, forthwith replace such damaged or destroyed construction equipment. The "All Risk" Contractor's Equipment Insurance must have a policy limit of not less than the full replacement cost value of the said construction equipment. The deductible for each such policy must not exceed five thousand dollars (\$5,000.00).

27.0 LIENS

The Contractor hereby agrees to make payment and take all other steps which may be necessary to insure that all Contract monies, and the Work, and every part thereof, shall be and remain at all times free from and not liable to any lien or charge at law or in equity, or to any claim of liability under the *Builders Lien Act*, or to any attachment for debt, garnishee process or otherwise, and the Contractor and his sureties, as well as its respective, administrators, successors and assigns, shall fully indemnify and save harmless the City and all its officers, servants and employees from any and all such liability, and shall, on demand, immediately cause any such lien, charge, claim or attachment to be removed or released from the records of any Land Title Office or Court in which the same may appear.

Notwithstanding anything to the contrary contained in the Contract Document, the City shall not be obliged to pay any monies to the Contractor if and for so long as any liens exist against the Works or the Work Site.

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28.0 MONIES DUE THE CITY

All monies payable to the City by the Contractor may be retained out of any monies then due, or which may become due from the City to the Contractor under this or any other contract with the City, or may be recovered from the Contractor or the Contractor's sureties in any court of competent jurisdiction as a debt due the City.

29.0 ASSIGNMENT AND SUBLETTING

The Contractor shall keep the Work under his personal control. The Contractor shall not, without the prior consent in writing of the City, assign or transfer this Contract or any part thereof. The City's consent to the assigning or subletting of any portion of the Work shall not relieve the Contractor from any obligations or liabilities under this Contract.

30.0 DISCHARGE OF EMPLOYEES

Should any person employed on the Work, or in connection therewith, give any cause for complaint (of which the City Engineer shall be the sole judge), the City may require that such person be replaced and not employed further on the Contract.

31.0 TERMINATION OF CONTRACT (WITHOUT CAUSE)

In the event of it becoming advisable in the interests of the City to suspend the Work of this Contract or any portion thereof, at any time before its completion, and to terminate this Contract, the City Engineer shall have full power to stop the Work and terminate the Contract, on giving to the Contractor notice in writing to that effect whereupon the Contractor will vacate possession and give up the work or part specified in the notice. The Contractor, however, shall be entitled to receive payment for all sums then due for Work already done, materials used or delivered, together with such reasonable compensation as will cover all bona fide damages (to a maximum of 10% of the foregoing amounts), if any; provided however, that no compensation will be allowed to or obtained by the Contractor for materials procured for the Works after the date of the delivery of the notice above referred to, nor for any loss of anticipated profits, either in respect of the Works so suspended as aforesaid, or of the materials then procured for said Works.

32.0 FAIR WAGE POLICY - INTENTIONALLY OMITTED

33.0 CITY OF VANCOUVER, SEWER AND WATERCOURSE BY-LAW NO. 8093 AND WATERWORKS BY-LAW NO. 4848 APPLIES

Contractors must demonstrate sufficient expertise and ability to comply with all applicable City By-Laws when performing any work for the City of Vancouver. The Contractor must utilize back-flow prevention and follow regulations set forth by the City's Environmental Protection Branch. The City Engineer may at any time request proof of the Contractor's competence and compliance.

34.0 ORAL ARRANGEMENTS

In all cases of misunderstanding and disputes, oral arrangements will not be considered, and the Contractor must produce written authority in support of his contentions, and shall advance no claim in the absence of such written authority, or use, or attempt to use, any conversation

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with any person whomsoever against the City Engineer or the City or in prosecuting any claim against any of them.

35.0 PLANT, LABOUR AND MATERIAL

- (a) The Contractor is to provide all necessary storage grounds, and shall furnish all required labour and materials, machinery, tools, together with all proper and required facilities for moving and transporting the same, so that the Contract, and all Work required to be done under it, can and will be carried on in a professional manner, continuously and expeditiously, to completion, to the City's satisfaction. All approved materials provided by the Contractor, from the time at which they are brought upon lands of the City, for the purposes of the Contract, and until the completion of the Works, shall immediately upon installation become and continue to be the property of the City, and the Contractor is prohibited from removing the same, or any part thereof, during the progress of the Work, without the consent or instructions of the City in writing.
- (b) Unless otherwise specified, all materials shall be approved by the City Engineer in accordance with *Clause 58.0 - Samples*, and the Specifications of this Contract.

36.0 CONDEMNED AND SURPLUS MATERIAL

If any plant, equipment or materials are deemed by the City Engineer to be unfit for use in or on the Works, the same shall be removed therefrom within forty-eight hours after notification to that effect from the City Engineer, and in the case of failure on the part of the Contractor to remove the same, the City Engineer may remove them at the Contractor's expense.

No surplus or other material of any kind shall be disposed of without the City Engineer's written permission. The Contractor shall not pile any excavated material upon the sides of the street, except with the City Engineer's permission. All surplus materials, not required by the City, must be disposed of by the Contractor off site, but in such a manner as not to cause nuisance, injury or inconvenience to the City, or to the public or private persons, and the Contractor will indemnify the City against all claims in respect thereof as set out in *Clause 25.0 - Contractor's Liability*.

Notwithstanding anything contained herein, if the City Engineer advises the Contractor that any material excavated during the course of this Contract is required by the City, the Contractor shall, at no cost to the City, deliver such excavated material to any worksite within the City limits specified by the City Engineer.

37.0 DEFECTIVE WORK

- (a) The Contractor shall at any time when so required by the City Engineer, during the Construction or during the Maintenance Period, make such openings, and to such extent, as the City Engineer may direct, which the Contractor shall forthwith make good again to the satisfaction of the City Engineer. Should the Work so opened up be found, in the opinion of the City Engineer, faulty in any respect, the whole of the expenses incurred shall be defrayed by the Contractor; otherwise by the City. All defective work or materials discovered by this or any other means must be forthwith wholly removed, and made good by the Contractor, at the Contractor's expense, to the City Engineer's satisfaction. If the City Engineer rejects Work because it fails to conform to the Contract Documents for any reason including poor workmanship, defective products or materials, or damage to completed Work, the Contractor shall remove the rejected work and redo the work, including the making good of work of

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other contractors destroyed or damaged by such removal or replacement, in accordance with the Contract Documents and all at the Contractor's sole expense.

- (b) If in the opinion of the City Engineer, it is not expedient to correct such rejected work, then the City Engineer may require such work to be left in place, and the City may deduct from monies owing to the Contractor, the difference in value to the City, as determined by the City Engineer, between the work as performed and the work as called for by the Contract Documents.

38.0 METRIC CONVERSION

- (a) Payment for all quantities will be as per the unit price listed for the respective metric units.
- (b) Materials delivered to the site in Imperial Units (i.e. tons as opposed to tonnes) will be converted directly to metric units by the City Engineer as per CSA Specification A-234-1-1973 (CSA Metric Practice Guide).
- (c) In any case where the Contractor's plant or the Contractor's supplier's plant has not yet been converted to metric units (such as weigh scales, etc.), the material must conform to the Specifications of this Contract.

39.0 HYDRANTS AND WATER

The Contractor shall make any necessary arrangements with the City Engineer for obtaining water from City hydrants, including the obtaining of the necessary hydrant keys for such purposes, and shall provide the necessary reducer and small valve which must be used for the purpose of obtaining water from the City's water hydrants. The Contractor shall not use any hydrant key which has not been supplied by the City Engineering Department.

40.0 SANITARY CONVENIENCE

The Contractor must provide and properly maintain, in clean and sanitary condition, suitable and convenient privy or toilet accommodation for employees, so that they shall not be a source of inconvenience, complaint or nuisance to the public or to residents in the vicinity of the Work Site.

41.0 PATENTS AND INTELLECTUAL PROPERTY RIGHTS

As set out in Clause 25.0 - Contractor's Liability the Contractor shall fully indemnify the City against and from all suits or actions arising from the claim of any person or persons who are or claim to be patentees of any process or the owners, licencees or other holders of any other intellectual property, confidential information, or other proprietary rights or interests used in connection with the Work, Plant, Products or of any other material, plant, machinery, tool or appliance used by the Contractor or those for whom the Contractor is in law responsible.

42.0 ACCESS AND ASSISTANCE

The Contractor is to furnish the City Engineer, with any reasonable help which may be required at any time in driving stakes or in setting out the Work. The Contractor shall also furnish the City Engineer, at all times, with convenient means of access to all parts of the Works, and also with all required assistance, to facilitate thorough examination of the same, and inspection, culling or removal of doubtful or defective material, and for any other purpose required in

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connection with the said Works, or in the discharge of their respective duties for which service no additional allowance will be made.

43.0 STAKES, LINES AND LEVELS

The Contractor shall give the City Engineer at least forty-eight (48) hours notice before requiring any levels, lines or stakes on any portion of the Works, and the Contractor shall clearly state in such notice the exact locality or localities where such are needed for immediate use. However, such notice does not require the City Engineer to permit the Work to commence at that location.

The Contractor must be satisfied, before commencing work at any points, as to the meaning and correctness of all stakes and marks, and no claim will be entertained by the City for or on account of any alleged inaccuracies, or for alterations subsequently rendered on account of such alleged inaccuracies, unless the Contractor notified the City Engineer thereof in writing before commencing to work therefrom. The Contractor will be held responsible for the preservation of all stakes and marks in their proper positions, and in case any of them are disturbed, lost or destroyed after having once been given, the Contractor shall at once notify the City Engineer in writing, and all expenses incurred by the City of Vancouver in replacing the same may be charged against the Contractor and deducted or collected, as provided in *Clause 28 - Monies Due the City*.

As the stakes and marks set will not in all cases represent all the grades, levels, lines and angles, or changes of surface, lines or levels, in the finished work, the Contractor must be careful to see that they are taken and read correctly in connection with the plans, details, specifications and City Engineer's direction. Unless otherwise identified in the plans or unless otherwise agreed to by the City Engineer, stakes and marks shall typically only be provided for curb and gutter lines and elevations. Should the Contractor discover or suspect any errors in the same, work shall be discontinued until such errors are investigated and rectified; but no claim shall be made or allowed on account thereof, or on account of any delay occasioned thereby.

44.0 ALTERATIONS, DEDUCTIONS AND ADDITIONS

- (a) The City does not expressly or by implication guarantee that the actual amounts of Work or of materials will correspond to the estimated quantities provided in Schedule A of the Request for Service. The City Engineer shall have the right to order such alterations or changes in the Work as the City Engineer deems advisable, at any time before or during the prosecution of the Work. The City shall reserve the right to increase or decrease or otherwise alter the thickness of pavement, width, line, grade, or detail of any street or the amounts of any portion of the Work, with no increase in the unit price. Some of the items may even be eliminated by the City. The Contractor shall not be entitled to any compensation for anticipated profits, for loss of profit, for damages or for any extra payment whatsoever, except as expressly and specifically provided for herein, because of any difference between the amounts of work actually done or material actually furnished and the estimated amounts as set forth in Schedule A of the Request for Service.
- (b) Any alterations, deductions or additions which result in any portion of the Work being changed from an item for which one unit price was provided to an item for which a different unit price was provided will be paid for at the unit price for the item which describes the actual work done or material supplied, and shall not be paid as Extra Work unless otherwise noted or directed by the City Engineer.

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- (c) If any work, labour or material which the Contractor is required to perform or supply under this Contract is directed by the City Engineer to be changed or omitted, whereby a lesser quantity of work, labour or material is performed or supplied, then the City Engineer may deduct from the Contract Price the value of any work or material not required to be performed or supplied.

45.0 OMISSIONS

Anything which may be imperfectly specified or imperfectly shown on the plans or shown on the plans and not specified, or which may be specified and not shown, must be taken, considered and done as if it were both shown and specified.

46.0 EXTRA WORK

- (a) If the Contractor is ordered to do work for which there is no price quoted, or which is otherwise beyond the requirements of the Contract, then the Contractor shall, before commencing any work or procuring any materials, obtain a written Extra Work Order from the City Engineer acknowledging that the work is Extra Work, authorizing the work to proceed and specifying agreement to the cost or the terms upon which such work will be paid. The Contractor shall not be entitled to any extension of time for completion or any additional payment on account thereof, unless so agreed prior to the work being done.
- (b) The Contractor shall notify the City Engineer prior to the commencement of any Extra Work, in order to facilitate the work of the Inspector. All Extra Work must be done in the presence of the Inspector, or unless otherwise agreed to by the City. If the Contractor fails to follow each procedure specified in this Clause, payment for Extra Work will not be based on unsubstantiated claims, but shall be determined by the City Engineer.
- (c) Any portion of the Work executed under an Extra Work Order that fits the description of an item for which a unit price was quoted will be paid at the unit price quoted for that item, unless otherwise noted or directed by the City Engineer.
- (d) For all other Extra Work as herein provided and executed, the Contractor will be paid a unit rate or rates agreed to in writing by the City Engineer prior to the Work being performed. Or, if the Extra Work Order is issued without such rates being agreed to in writing, then the Contractor will be paid the following:
 - (i) The Contractor's Force Account labour rates, as set out in Appendix C - Requirements - Section 2.0 Force Account Rates, plus an allowance of twenty-one percent (21%) for overhead and profit.
 - (ii) The Contractor's equipment costs for owned equipment at the lower of the market rates or the Contractor's current rates charged for similar work performed in the City of Vancouver.
 - (iii) The Contractor's invoiced cost for work done by a Subcontractor, subcontracted labour or subcontractor hired equipment, plus an allowance of 10% for the cost of scheduling, organizing and accepting liability for the work. The Contractor shall hire equipment only on an hourly rate basis and payment will only be made on that basis.

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- (e) For the purpose of this Clause, the Contractor's current rates will be the rates as submitted by the Contractor in accordance with Appendix C - Requirements - Section 2.0 Force Account Rates. The market rates will be the rates as set out in the current edition of "B.C. Road Builders Rental Rates Guide" at the time of the performance of the Work.
- (f) For the purpose of this Clause, direct labour costs include wages, employer contributions for unemployment insurance, pension plans, workers compensation, annual vacation and fringe benefits and expenditures as form part of any agreement that the Contractor has with its employees. The highest level of supervision chargeable as direct labour costs shall be that of a working foreman.
- (g) For the purpose of this Clause, the Contractor's Force Account equipment rates will only be paid for equipment that is normally charged at an hourly rental rate for similar types of work and is deemed to be an all-inclusive rate. No other amounts will be payable on account of insurance, repairs, incidentals, delivery, profit, overhead or any other direct or indirect expense. Where the equipment requires an operator(s) the hourly rate will be deemed to include the operator(s). No compensation whatsoever is payable on small equipment costing less than two thousand dollars (\$2,000) to purchase. For equipment which is not listed in Appendix C - Requirements, Section 2.0 Force Account Rates (and which is not small equipment less than \$2000) but is used to carry out the Work, the Force Account rates shall be in accordance with the latest edition of the Province of British Columbia, B.C. Ministry of Transportation Rental Rate Guide (Blue Book)
- (h) The City Engineer has the right to refuse any Subcontractor, or hired equipment, if the cost for such hired equipment is in excess of that which is generally accepted as current for similar work in the City of Vancouver; and shall have the right to pay only the going rate for any equipment (including the Contractor's) or supply the City's own equipment.
- (i) Overhead will include any organizing, scheduling, supervision and costs for use of tools, vehicles to carry tools, and transportation, and for plant other than as herein provided or previously agreed.
- (j) Surplus or condemned material that is hauled from the Works, and for which extra payment will be made pursuant to this Clause, must be hauled to a disposal site, the location of which is agreed to by the City Engineer beforehand.
- (k) The Contractor shall furnish the City Engineer with satisfactory vouchers for all material, equipment and labour expended on the Extra Work. As soon as is practical following completion of the Extra Work, the Contractor shall obtain the Inspector's signature acknowledging that the Work was performed and that the Inspector is in agreement with the type, classification, and number of hours of labour and equipment and quantities of material used.

47.0 OVERTIME WORK

- (a) The City Engineer shall have the authority to direct the Contractor (but only by written direction signed by the City Engineer) to work overtime, including Saturdays, Sundays, and holidays, should the City Engineer deem it, for any reason, to be in the best interest of the City to do so.

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- (b) Extra payment will be made only for overtime work ordered in writing by the City Engineer, but not in circumstances where, in the opinion of the City Engineer, the Contractor is behind schedule or cannot meet the Contract Times. Extra payment will not be made where the Contractor chooses to work late to finish a certain task.
- (c) Any work ordered by the City Engineer to be performed on overtime shall be paid (subject in all respects to the conditions of this Clause 47.0) in accordance with Appendix C - Requirements. The only extra payment made will be to cover the additional premium paid by the Contractor for labour, materials and equipment over and above the non-overtime costs which would have been incurred in any event by the Contractor.
- (d) The Contractor shall furnish the City Engineer with satisfactory vouchers for all labour expended on overtime work. As soon as practical following any overtime work for which extra payment will be claimed by the Contractor, the Contractor shall obtain the Inspector's signature acknowledging that the work was performed and that the Inspector is in agreement with the number of hours of labour expended.
- (e) For the purpose of this clause, the "premium" payable for overtime will be limited to the amounts which are actually paid by the Contractor solely for performance or supply outside normal hours and which are fully documented and verified to the satisfaction of the City Engineer.

48.0 OTHER'S RIGHTS

The Contractor shall cooperate with employees of the City, the City's contractors, and any utility company constructing drainage spurs, catch basins and connections, sewers, watermains, light and power conduits, telephone cables, pipes and any other services, during grading operations. The Contractor shall be prepared to delay grading and preparation of subgrade or any part of the Work until after the services are laid. The prices and Pay Item descriptions provided in Appendix C - Requirements are all-inclusive of such delays and interruptions and no additional compensation will be payable on account of same.

49.0 INSPECTOR'S POWERS

Inspectors shall be deemed to be agents of the City Engineer. An Inspector may stop the Work in whole or in part as the interests of the City require. Any work done in the absence of an Inspector may be ordered to be opened up for examination, and must be rebuilt or replaced as directed, at the Contractor's sole expense. No approval by any Inspector shall be taken or construed as an acceptance of defective or improper work or materials, which must, in every case, be removed and properly replaced whenever discovered.

Orders given by Inspectors relating to the quality of material and workmanship must be at once obeyed by the Contractor. Any orders or directions other than as herein provided for, given by Inspectors, shall not be binding upon the City.

The Contractor shall become aware of the Inspector's normal hours of work and must ensure that the Inspectors are advised beforehand of any work which the Contractor intends to perform outside of these normal working hours.

50.0 CONTRACTOR'S SUPERINTENDENT

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The Contractor must, at all times during the performance of the work, utilize a competent and reliable superintendent in charge of the Work Site, and such person shall be deemed to be acting in the Contractor's place, and all notices, communications, orders or instructions given or sent to or served upon such person shall be taken as served upon the Contractor.

51.0 NOTICES TO CONTRACTOR

Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or to any of the Contractor's Superintendent(s), or if mailed or sent to the Contractor at the address given in the Request for Service.

In any written or printed notice to the Contractor in respect of general, special or other repairs, or of any work of any nature required to be done under any of the provisions of the Contract, or of any other matter, the City Engineer shall not be obliged to specify minutely or in detail everything required, or to specify by measurement the exact extent thereof. A reference in such notice to the clause or clauses bearing on the matter, and a description of the locality in general terms indicating where the defect or trouble exists, shall be deemed to be sufficient notice.

52.0 BRIBERY

Should the Contractor or any of the Contractor's agents give or offer any gratuity to, or attempt to bribe, any member of or officer of or employee of the City will result in the Contract being cancelled, without liability or compensation to the Contractor and without prejudice to all of the City's other rights and remedies.

53.0 CLAIMS FOR UNPAID WAGES, DAMAGES, ETC.

The City may, if deemed advisable, on recommendation of the City Engineer, settle any claim for damages and pay all wages overdue, or the price of any materials or the amount due and payable by the Contractor to any Subcontractor, for which payment is in arrears, and the amount thereof shall be a debt due by the Contractor to the City, as money paid by the City for the Contractor at the Contractor's request, and shall be deducted or collected by the City, as provided in Clause 28.0 *Monies Due The City*. The City does not assume any liability in this respect; nor shall the persons to whom such wages are paid become, by such payments, the contractors, employees or agents of the City.

54.0 TAX EXEMPTIONS

If any Provincial, Federal or Municipal taxes, rates or duties paid by the Contractor (including Provincial Social Services taxes refundable by reason of a Federal Sales Tax refund) are refundable or potentially refundable, then the Contractor shall obtain such refunds and pay to the City a sum equal to such refunds obtained or obtainable.

55.0 NON-RESIDENT WITHHOLDING TAX

If the Contractor is, at any time, a non-resident of Canada, within the meaning of the Income Tax Act (Canada) as amended, then, and the Contractor hereby so agrees, the City may deduct from all monies payable under the Contract and remit to the Receiver-General of Canada, the Government of Canada or Canada Customs and Revenue Agency all such amounts as are required to be withheld and remitted by the Income Tax Act (Canada) as amended.

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The City shall receive a further credit under the Contract for monies withheld as of and from the date of the withholding (regardless of when or whether remitted) and no interest shall be payable by the City on sums withheld, not remitted as aforesaid and later paid directly to the Contractor.

56.0 RIGHTS AND REMEDIES

- (a) The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- (b) Except as specifically set out in the Contract Documents, no action or failure to act by the City Engineer or Contractor shall constitute a waiver of any of the parties' rights or duties afforded under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach under the Contract.

57.0 CONTRACTOR'S ROLE

The Contractor shall have complete control of the Work including site safety, and shall effectively direct and supervise the Work so as to ensure conformance with the Contract Documents. Subject to the City's rights as specifically set out in the Contract Documents to give directions regarding the Work, the Contractor shall have sole responsibility for construction means, methods, techniques, sequences and procedures and for coordinating the various parts of the Work.

The Contractor shall maintain good discipline and safe practice amongst his employees and subcontractors engaged in the Work. The Contractor shall not employ workers or subcontractors who are not skilled in the assigned task(s).

58.0 SAMPLES

The Contractor shall furnish for the City Engineer's approval, samples of any material to be used in the Work as the City Engineer may reasonably require, and no material shall be used which is inferior to the approved samples; but it is understood that the approval of any material shall not subject the City to pay for the same nor prevent the rejection afterwards of any portion thereof which is in the opinion of the City Engineer unsound or unfit to be used, nor shall such approval be considered as any waiver of the objection to the Work or portion thereof at any subsequent period on account of the unsoundness or imperfection of the materials used.

59.0 SEVERABILITY

Should a competent judicial court having jurisdiction at the place of Work find any portion of this Contract to be invalid or unenforceable for any reason, that portion of this Contract may be severed from this Contract and the remainder of this Contract shall remain intact in accordance with the original intent of this Contract.

60.0 TERMINATION OF CONTRACT (FOR CAUSE)

- (a) Upon the occurrence of any one of the events listed in Sub-Clauses (i) to (iv) hereafter, the City may, by its City Engineer, forthwith revoke and terminate all or any part of this Contract:

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- (i) if the Contractor breaches any of its obligations as set out in the Contract Documents which arise following the issuance by the City and acceptance by the Contractor of the Request for Service;
 - (ii) if the Contractor fails to commence Work within the period set out in the Request for Service, Article IV (a) - Start/Completion Dates;
 - (iii) if the Contractor becomes bankrupt or makes a general assignment for the benefit of creditors;
 - (iv) if the Contractor purports to assign the Contract without the prior written consent of the City;
 - (v) the City Engineer has, acting in good faith and in the City Engineer's sole discretion, determined that there has been a breach of Clause 52.0 - *Bribery*.
- (b) If at any time, the Work is not being carried out in a sound and workmanlike manner in conformity with the terms of this Contract, or is not progressing continuously in such a manner as to ensure completion within the Contract Times, the City Engineer may give the Contractor written notice stating in general terms the nature or extent of the default. If the default is not remedied within forty-eight (48) hours of delivery of the notice, the City may, by its City Engineer, and without prejudice to any other rights or remedies under this Contract, forthwith revoke and terminate all or any part of this Contract.
- (c) Upon being served with a written notice of termination pursuant to Clause (a) or (b) above, the Contractor shall vacate possession and give up the Work or part of the Work specified in the notice, and the City Engineer may, re-let the same or carry out the Work using its own forces, or any combination thereof, and take all other necessary steps to complete the Work at the cost of the Contractor, and the Contractor shall be deemed to have authorized and ratified all obligations incurred by the City Engineer in completion of the Work.
- (d) In any case of termination of all or any part of the Contract, the Contractor shall be and remain liable to the City for all costs, expenditures and damages which result from the default of the Contractor and are expended in good faith by the City or its contractors in the completion of the Work.

61.0 MAINTENANCE AND WARRANTY

In carrying out the works from their inception, and until the issuance of the Final Certificate of Acceptance, the Contractor shall maintain and protect the Work from damage by the Contractor's own forces, Subcontractors and the public, to any adjacent property, public or private, or to any sidewalks, roadways, curbs, gutters, utility-access holes, frames, covers or other structures, works or things in the vicinity of the Work Site or elsewhere. The Contractor shall repair to the City Engineer's satisfaction any such damage at the Contractor's expense, when ordered by the City Engineer.

The Contractor shall perform the Work in a proper and workmanlike manner and in accordance with the requirements of this Contract and maintain the Work against any defects arising from faulty installation, material or workmanship during the Maintenance Period (the 24 month period following the issuance of the Final Certificate of Acceptance) and make good in a permanent manner satisfactory to the City any defects arising from any of these causes. Whether the Contractor should replace defective Products or Work, or repair the same, shall be determined by the City Engineer. Should the Contractor fail to make good defects as

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aforesaid when ordered by the City Engineer, then the City at its option, after giving the Contractor seventy-two (72) hours' written notice, may do so and the whole costs, charges and expenses so incurred may be deducted or collected by the City of Vancouver as provided in Clause 28.0 Monies Due The City. The decision of the City Engineer shall be final as to the necessity of repairs or of any work done or required to be done under the provisions of the Contract and for the amounts expended thereunder.

62.0 TAXES AND FEES

The Contractor must allow for the payment of all applicable Sales Taxes, except for the Goods and Services Tax (which shall be invoiced as a separate item by the Contractor), Permit Fees, Licenses, and all or any Municipal, Provincial or Federal charges in connection with the Contract, and the Contractor agrees that the City shall not be liable in any manner therefor and agrees to indemnify and save harmless at all times the City of Vancouver against all claims which shall be made with respect thereto.

63.0 PRICING - FIXED

The rates set out in Appendix C - Requirements are fixed for a twelve (12) month period from date of the RFA closing. Prices may be adjusted at the end of each twelve (12) period at the City's sole discretion and may be subject to documented proof of manufacturer's raw material cost changes or any other factors that may relate to this service which can be verified with an independent published source.

Applicants may bid on all or part of the Requirements.

64.0 SPECIFICATIONS

All Work under this Contract shall be performed in strict conformity with the Specifications.

For the purpose of this Contract all references to "Specifications" means the following:

- (a) Master Municipal Construction Document, Volume II, Printed 2000, published by the Master Municipal Construction Documents Association, but expressly excluding all of the Clauses entitled "Instructions to Contractors, Part II" and "General Conditions".
- (b) City of Vancouver Street Restoration Manual, latest edition.
- (c) City of Vancouver Supplemental Specifications.
- (d) City of Vancouver Supplemental Detail Drawings.
- (e) Clause 66.0 - Traffic Control Manual, Clause 68.0 - Scope of Work, and Clause 69.0 - Supplemental Specifications.
- (f) Project-specific specifications and drawings attached as Schedule "A" to the Request for Service.

In the event of any inconsistency between any of the above, the Specifications in (f) govern over all other Specifications, followed by (e) over (a), (b), (c) and (d); followed by (d) over (a), (b), and (c), followed by (c) over (a) and (b), followed by (b) over (a).

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65.0 RESIDENTIAL AND HIGHER ZONED, ARTERIAL, INDUSTRIAL, AND TRANSIT ROUTES - INTENTIONALLY OMITTED

66.0 TRAFFIC CONTROL MANUAL AND BY-LAW UPDATE

The Contractor will use the Traffic Control Manual for Work on Roadways. (Province of B.C. Ministry of Transportation and Highways - Second Edition)

Upon request by the City Engineer, the Contractor will prepare and submit a traffic control plan for the City Engineer's approval.

Note: The City of Vancouver Street and Traffic By-Law 2849 Spilling of Vehicle Loads on Streets - Securing of Loads

99. (2) (a) No person shall drive, ride or propel any vehicle containing any sawdust, solid waste, liquid waste, dirt, gravel, rocks, or other loose material on any street in the City unless such vehicles are kept tightly and securely covered in such a manner as to prevent any of the load from being blown, dropped or spilled from such vehicle

67.0 WORK ADJACENT TO TREES

No tree branches or roots shall be pruned by the Contractor without prior approval by the City Engineer. When branches or roots are cut, it must be done with a sharp axe or saw with a City of Vancouver Park Board inspector present, not with a backhoe or gradall bucket. Where instructed and as required by the City Engineer, work adjacent to trees will be done by hand, not by machine.

68.0 SCOPE OF WORK

The extent of restoration Works that will be required is as specified in the Request for Service.

69.0 SUPPLEMENTAL SPECIFICATIONS

Construction works under this Contract are governed by the Master Municipal Specifications as amended by the latest revision of the City of Vancouver Street Restoration Manual and these Supplemental Specifications.

DIVISION 1

1570 TRAFFIC REGULATION

1.1 Reference Standard

1.1.2 ADD: Refer to Clause 13 of Appendix B.

01721 PROJECT RECORD DOCUMENT - DELETE

DIVISION 2

02224 ROADWAY EXCAVATION, EMBANKMENT AND COMPACTION

1.8 Measurement for Payment

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STREET CIVIL WORKS SERVICES CONTRACT

- 1.8.4 REPLACE: Rock removal, including disposal as directed by the City Engineer, will be paid as Extra Work under Clause 46 -Extra Work of Appendix B.

02233 GRANULAR BASE

- 3.5 Proof Rolling
3.5.7 ADD: City Engineer may require testing of materials and densities by a testing laboratory. Initial tests will be paid for by the City. If Work fails initial tests, subsequent test (s) will be paid for by Contractor.

02523 CONCRETE WALKS, CURBS AND GUTTERS

- 1.4 Measurement and Payment
1.4.9 Delete 1.4.9 and replace with: Drainage facilities will be measured in linear metres installed complete with fabric, wrapping, and supply and placement of drain gravel.

DELETE: 3.16.1 under 3.16 PERFORATED DRAIN and replace with the following:

- 3.16.1 Install perforated drain pipe adjacent to sidewalk or curb and gutter wherever the adjacent finished grade rises more than 1 m within 10 m of the sidewalk or curb and gutter. Perforated drain shall also be installed where shown on Contract Drawings or as directed by the City Engineer.
- 3.16.2 Drain pipe or fittings to be continuously extruded polyvinyl chloride (PVC) or acrylonitrile butadiene-styrene (ABS) plastics, meeting the requirements of the latest revision of CSA B182.1. It shall be available in 3 metre lengths with nominal diameter of 100 mm and perforations as detailed in Section 4.1.4 of CSA B182.1 for leach field pipe. The pipe will include bell and spigot design suitable for solvent welding, where required.
- 3.16.3 Connect to catch basins and stamp letter "D" in walk where drain crosses under.
- 3.16.4 Perforated Corrugated Metal Pipe (PCMP) shall conform to the latest revision of the requirements for Corrugated Metal Culvert Pipe AASHTO Designation M36. PCMP shall consist of 18 gauge (minimum 1.214 mm) metal with 6.35 mm minimum diameter rivets or the seam may be formed by welding. Helical corrugated pipe will be acceptable if it has corrugation 6.35 mm deep by 38 mm wide. Perforations shall consist of two groups of two lines each. The holes shall be not less than 6.35 mm nor more than 11.1 mm in diameter and shall be located in the inside ridges of all corrugations. The lines of holes shall be approximately 25 mm apart and the outer rows of holes shall be not more than 67.5 degrees from the centre line of the non-perforated segment.
- 3.16.5 Drain pipe placed across lane entrances shall be either corrugated metal pipe or non-perforated P.V.C. pipe conforming to the latest C.S.A. standard and having a S.D.R. of 28 or lower, 700 KPa at 5% deflection, and a minimum of 400 mm of cover.

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3.16.6 Geotextile (filter fabric) shall be installed between drain gravel and overlying soil. The filter fabric geotextile shall meet the requirements described in AASHTO M288 for Class 2.

3.16.7 Refer to Section 02721 - Storm Sewers and Standard Detail Drawings MF137-B-1 of the Street Restoration Manual.

02547 ASPHALT TACK COAT

1.5 Measurement and Payment

1.5.1 REPLACE: Payment for all work specified in this section is included in the unit price of Hot-Mix Asphalt Paving items.

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APPENDIX C
REQUIREMENTS

1.0 PAY ITEMS

Estimated quantities for each individual project will be made available to the Contractor with each Request for Service.

The rates set out in this Table of Pay Items will apply to each Request for Service. Prices quoted will be exclusive of all taxes, F.O.B. destination to the Work Site, with all freight, unloading at destination, import duties, brokerage, royalties, handling, overhead, profit and all other costs included.

1.1 Table of Pay Items

See Table of Pay Items in PDF Format (click the link)
<http://vancouver.ca/fs/bid/bidopp/RFA/Documents/PS09041-AppendixC.pdf>

2.0 FORCE ACCOUNT RATES - EXTRA WORK ONLY

2.1 The following Force Account Labour rates will apply only where and to the extent Clause 46.0 - Extra Work applies. For the purpose of this table, the force account labour rates are all-inclusive, except only for GST, PST and an allowance of twenty-one percent (21%) for profit and overhead as per Clause 46.0 - Extra Work. Without limitation and by way of example only, the following rates are deemed to include direct labour costs, wages, employer contributions for unemployment insurance, pension plans, workers compensation, annual vacation and fringe benefits and expenditures as well as all profit and overhead not included in the twenty-one percent (21%) allowance referred to in Clause 46.0 - Extra Work.

Labour Classification	Hourly Rate
Superintendent	
Foreman	
Equipment Operator	
Labourer	

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2.2 The following Force Account Equipment rates will apply only where and to the extent Clause 46.0 - Extra Work applies, and is deemed to be an all-inclusive rate, (except for PST and GST) subject always to the terms and conditions of Clause 46.0 - Extra Work.

Description of Unit	Size or Capacity	Hourly Rate	Owned

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REQUIREMENTS

3.0 CONTRACTOR'S EXPERIENCE

3.1 [In the tables Following, the Contractor shall list their company's experience working on projects that involved road construction, paving or installation of p.c. curbs and sidewalks. Experience on at least one project involving road construction, paving or installation of p.c. curbs and sidewalks is mandatory. Provide reference upon request.]

Description of Comparable Project #1:	
Location of Comparable Project:	
Contract Value:	
Start and Completion Date:	
Completed on Schedule?	Yes / No (circle correct answer)
Name of Contract Owner:	
Name and Telephone Number of Project Reference:	
Names of Subcontractors:	

Description of Comparable Project #1:	
Location of Comparable Project:	
Contract Value:	
Start and Completion Date:	
Completed on Schedule?	Yes / No (circle correct answer)
Name of Contract Owner:	
Name and Telephone Number of Project Reference:	
Names of Subcontractors:	

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Description of Comparable Project #1:	
Location of Comparable Project:	
Contract Value:	
Start and Completion Date:	
Completed on Schedule?	Yes / No (circle correct answer)
Name of Contract Owner:	
Name and Telephone Number of Project Reference:	
Names of Subcontractors:	

[Attach a brochure describing your company history, business sector, list of projects with your contract value completed by your company in the last three years.]

[In the line below, name your proposed superintendent and attach his/her resume of experience. In the following table, list your superintendent's experience working on projects that involved road construction, paving or installation of p.c. curbs and sidewalks. Your superintendent shall have experience on at least one project involving road construction, paving or installation of p.c. curbs and sidewalks; this is mandatory. The Contractor shall provide references upon the City's request.]

Name of Superintendent: _____

Project	Location	Year	Contract Value

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APPENDIX C
REQUIREMENTS

4.0 LIST OF SUBCONTRACTORS

Subject to the terms of the Contract Documents the Contractor will use only the following Subcontractors for Work pursuant to any Request for Service.

[List on separate page if additional space is required. Do not list alternate Subcontractors for the same work.]

[The employment of Subcontractors other than those listed in this Appendix C will not be permitted without the prior written approval of the City Engineer. The City may request information indicating how the Subcontractors listed qualify in experience and background.]

(a) Subcontractor Name: _____
Contact Name: _____ Title: _____
Telephone Number: _____ Fax: _____
Address: _____

Description of Sub-Contract Work/Product _____

(b) Subcontractor Name: _____
Contact Name: _____ Title: _____
Telephone Number: _____ Fax: _____
Address: _____

Description of Sub-Contract Work/Product: _____

(c) Subcontractor Name: _____
Contact Name: _____ Title: _____
Telephone Number: _____ Fax: _____
Address: _____

Description of Sub-Contract Work/Product: _____

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(d) Subcontractor Name: _____
Contact Name: _____ Title: _____
Telephone Number: _____ Fax: _____
Address: _____

Description of Sub-Contract Work/Product: _____

(e) Subcontractor Name: _____
Contact Name: _____ Title: _____
Telephone Number: _____ Fax: _____
Address: _____

Description of Sub-Contract Work/Product: _____

5.0 LOCATION OF ASPHALT PLANT

Please provide the location of the asphalt plant that will be supplying Asphalt under the terms of the contract in the space listed below.

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APPENDIX D
PRIME CONTRACTOR AGREEMENT FORM

1.0 DEFINITIONS

- a) "OH&S Regulation" means Occupational Health & Safety Regulation (British Columbia Regulation 296/97), as amended by British Columbia Regulation 185/9) enacted pursuant to the WCA, and any successor legislation, all as such Regulation is amended or re-enacted from time to time;
- b) "Owner" means City of Vancouver;
- c) "Place of the Work" means the work site at [insert site] British Columbia and as shown;
- d) "Prime Contractor" means the Contractor, who is designated pursuant to Article 3 below by the Owner to be the Prime Contractor for the Project with respect to occupational health and safety for the purposes of WCB Legislation;
- e) "Project" means [insert Work definition], and includes all the Work;
- f) "WCA" means the *Workers Compensation Act*, R.S.B.C. 1996, Chapter 492, and any successor legislation, as such Act is amended or re-enacted from time to time;
- g) "WCB" means the Worker's Compensation Board of British Columbia;
- h) "WCB Legislation" means the WCA and all regulations thereto including the OH&S Regulation, and all rules, regulations and requirements of WorkSafe BC, and any successor legislation, rules, regulations and requirements, all as amended or re-enacted from time to time; and
- i) "WorkSafeBC" means the British Columbia Provincial governmental organization by that name which is responsible, inter alia, for promoting workplace health and safety for the workers and employers of British Columbia, and for working with the affected parties to provide return-to-work rehabilitation, compensation, health care benefits and a range of other services, in the event of work-related injuries or diseases suffered by workers in British Columbia.

All other capitalized terms used in this Prime Contractor Agreement have the meanings given to them in the Contract Documents of which this Prime Contractor Agreement is a part, as applicable.

2.0 PRIME CONTRACTOR'S RESPONSIBILITIES

- a) Proof of Qualification to act as Prime Contractor
 - i) The Prime Contractor is to provide a copy of its WCB/WorkSafeBC "Clearance Letter", a signed copy of this Prime Contractor Agreement and all other documents requested by the Engineer prior to commencement of the Work.
 - ii) The Prime Contractor is to notify the Owner of any changes of status with WorkSafeBC or the WCB during the course of the Project.

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PRIME CONTRACTOR AGREEMENT FORM

- b) After the Prime Contractor has been designated and before Work has commenced, the Prime Contractor shall:
- i) Conduct all necessary and appropriate inquiries of all relevant Owner staff and records in order to verify in writing to the Owner that the Owner has given to the Contractor all information known to the Owner that is necessary to identify and eliminate or control hazards to the health and safety of persons at the Place of the Work.
 - ii) Conduct a pre-contract hazard assessment and carefully review, and plan to address, all hazards identified in that assessment.
 - iii) Inform all other employers whose employees are providing services for the Project at the Place of the Work, that it is the Prime Contractor.
 - iv) Establish and maintain a system or process to ensure all employers, employees and visitors at/to the Place of the Work comply with the WCA, the OH&S Regulation and the requirements of WorkSafeBC. The Prime Contractor will thus be responsible for site orientation and hazard communication.
 - v) Review and complete a “Pre-Job Meeting Form” if the Owner requests.
 - vi) For construction projects, post the Notice of Project on the Place of the Work and deliver a copy to WorkSafeBC at least twenty-four (24) hours before construction commences.
 - vii) Comply with OH&S Regulation 20.2 in respect of the Notice of Project.
 - viii) Identify and set expectations for each subcontractor’s safety contact.
 - ix) Coordinate all safety-related activities, from site orientations to safety committee meetings and toolbox talks, to inspections and incident reviews.
 - x) Inform employers and workers of the workplace hazards associated with the Place of the Work.
 - xi) At the Place of the Work, provide the information listed in WorkSafeBC OH&S Regulation 20.3(4).
 - xii) In all other respects strictly comply with, and strictly enforce compliance by others, as applicable, with, the WCA, the OH&S Regulation, the requirements of WorkSafeBC, the safety policies and procedures of the Owner and the terms and conditions of the Contract Documents applicable.
- c) Throughout the term of the Project, the Prime Contractor shall:
- i) Ensure that all hazards are promptly and appropriately identified and addressed.
 - ii) Ensure the health and safety of the workers on the Project.

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PRIME CONTRACTOR AGREEMENT FORM

- iii) Maintain a current list of persons that each sub-trade (employer) has designated to be responsible for that employer's health and safety activities.
 - iv) Ensure provision of first aid equipment and services as required by the OH&S Regulation.
 - v) Coordinate all occupational health and safety activities for the Project.
 - vi) Prepare, and communicate to all workers on the Place of the Work, an emergency response plan, taking into account the number of people onsite, the people who work outside regular hours and the types of emergencies that may arise. This plan should also describe subcontractor and individual worker responsibilities (e.g. responding to a fire) and provide for any necessary training and equipment, including first aid supplies as work processes change over the course of the Project, this emergency response plan must be updated as appropriate.
 - vii) Make and maintain detailed notes and reports in respect of the initial site safety meeting, safety committee meetings, reviews of contractors' safety systems, inspection and incident investigations, first aid records and orientation and training.
 - viii) On any site where workers of two (2) or more employers are working at the same time and the combined workforce is greater than five (5), identify and designate a "Qualified Coordinator" to coordinate health and safety activities.
 - ix) In all other respects strictly comply with, and strictly enforce compliance by others, as applicable, with, the WCA, the OH&S Regulation, the requirements of WorkSafeBC, the safety policies and procedures of the Owner and the terms and conditions of the Contract Documents applicable.
- d) Prime Contractor's Qualified Coordinator, if applicable, (Construction Only) responsibilities:
- i) Comply with all requirements listed in OH&S Regulation Clause 20.3(3) and on page 13 of the Owner's Multiple Employer Workplace/Contractor Coordination Program (2003).
 - ii) Coordinate all health and safety activities for the Project.
 - iii) Post workplace drawings showing where first aid is located, the emergency transportation system for injured workers and evacuation marshalling points.
 - iv) Ensure that regular workplace safety meetings are held and documented.
 - v) Know who all other contractors' "Qualified Persons" are.
 - vi) Ensure that all workers at the Place of the Work are informed of workplace hazards, from both the pre-contract hazard assessment and from ongoing work activities of all employers at the Place of the Work, and ensure that hazards are properly and punctually addressed throughout the duration of the Project.

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APPENDIX D
PRIME CONTRACTOR AGREEMENT FORM

3.0 DESIGNATION AS PRIME CONTRACTOR

By signing this Prime Contractor Agreement, the undersigned Contractor accepts all responsibilities of a Prime Contractor as outlined above and in the Owner's Contractor Coordination Program (2003), Part III of the WCA and the OH&S Regulation, as well as any other responsibilities required by WorkSafeBC.

As a Contractor signing this Prime Contractor Agreement with the Owner, the undersigned company agrees that the company and its management staff, supervisory staff and workers will comply with the all WorkSafeBC requirements, the OH&S Regulation and Part III of the WCA.

Any violation of a requirement of WCB Legislation by the Prime Contractor may be considered a breach of the Contractor's Contract with the Owner resulting in possible termination or suspension of the Contract and/or any other actions deemed appropriate at the discretion of the Owner.

Any penalties, sanctions or additional costs levied against the Owner, as a result of an action or inaction of the Prime Contractor in its capacity as such, are the sole responsibility of the Prime Contractor, as set out in the Contract.

I, the undersigned, acknowledge that I have read and understand the information above. By signing this Prime Contract Agreement, I agree as a representative of the Contractor to accept all responsibilities of the Prime Contractor for this Project.

Date	_____
Contract #	_____
Name of Contractor	_____
Qualified Coordinator's Name	_____ (Construction Only)
Signature of Authorized Representative	_____
Print Name and Title	_____

REQUEST FOR APPLICATION NO. PS09041
APPENDIX E
REQUEST FOR SERVICE

This AGREEMENT is made as of the ____ day of _____, 2009.

BETWEEN:

CITY OF VANCOUVER,
having an office at 453 West 12th Avenue,
Vancouver, British Columbia, V5Y 1V4

(hereinafter referred to as the "City")

OF THE FIRST PART

AND:

(Name of person, firm, or company)

(hereinafter referred to as the "Contractor")

OF THE SECOND PART

WHEREAS:

- (A) The City has appointed _____, _____ Branch, (hereinafter referred to as the "City Engineer") to act as its sole and exclusive agent for the purposes of managing and administering the performance of the Work by the Contractor in accordance with the Contract Documents (as defined below);
- (B) The Contractor has agreed with the City to perform the Work and to furnish all plant, tools, equipment, labour, products, material and supervision necessary therefor as hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSES as follows:

ARTICLE I - ROLE OF THE CITY ENGINEER

The City hereby designates and appoints the City Engineer as its sole and exclusive agent for the purpose of managing and administering the Contract for the City set out in the Contract Documents. Unless otherwise notified in writing by the City to the Contractor, the agency of the City Engineer shall continue for the entire duration of this Contract including the period of any guarantees or warranties given by or through the Contractor. In the event of the revocation in writing of the agency of the City Engineer by the City, the City Engineer shall have no further authority under this Contract, except as may be specifically designated in writing by the City and agreed to in writing by the City Engineer, and all references to the City Engineer in this Contract shall thereafter be deemed to be a reference to the City or to such other person designated in writing to the Contractor. The City Engineer 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 Engineer has been designated and appointed its sole and exclusive agent.

ARTICLE II - WORK TO BE DONE

The Contractor and the City hereby agree that the Products to be furnished and the Work to be done by the Contractor are:

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APPENDIX E
REQUEST FOR SERVICE

Furnish all materials, products, labour and services, and supervision necessary for the construction of asphalt, concrete, and other works, as specified in the Contract Documents. Any materials, products, labour, services, and supervision performed by the City, City Engineer or his/her representative with regard to the work required of the Contract shall be in accordance with the requirements of the Contract Documents.

All of the Work shall be done, performed or furnished by the Contractor in a proper and workmanlike manner.

ARTICLE III - CONTRACT DOCUMENTS

The following is a list of the Contract Documents which form this Contract. This list is subject to subsequent amendments in accordance with the provisions of the Contract Documents. Terms used in the Contract Documents which are defined in Clause 1 - DEFINITIONS shall have the meaning designated in those definitions.

List of Contract Documents:

- *Application Form (excluding Appendix A)
- *Appendix B
- *Appendix C
- *Appendix D
- *Master Municipal Specifications and Standard Detail Drawings (expressly excluding Instructions to Contractors and General Conditions)
- *Standard Detailed Drawings
- Request for Service
- Schedule A - Project Description
 - Work Site Map/Outline of Limits of Works Site,
 - Detailed Scope of Work Description,
 - Site Specific Terms & Conditions
 - Schedule of Approximate Quantities & Prices

* The above noted Contract Documents are deemed to be incorporated into and form an integral part of this Contract, even though not actually attached to this Request for Service.

The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. The intent and spirit of the Contract Documents is that the Contractor is required to construct the Work complete in every detail within the times and for the purposes designated and that the Contractor shall furnish and do anything and everything necessary for such purposes notwithstanding any omission from the Contract Documents.

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ARTICLE IV - SCHEDULE OF WORK/NOTICE TO PROCEED

(a) Start/Completion Deadlines

The Contractor will;

- (i) begin the on-Site Work within _____calendar days of the Notice to Proceed,
and
- (ii) fully complete the Work on or before _____ calendar days after the City Engineer issues the Notice to Proceed.

(b) Notice to Proceed

Upon Receipt of

- (i) this Request for Service, duly signed and delivered by the Contractor to the City within the time period set out on the last page of this Request for Service, and
- (ii) all required insurance certificates and Workers Compensation Board documents (including for example updated proof of registration, completed and signed Prime Contractor Agreement and proof of posting of "Notice of Project" (where applicable)), Traffic plan as per Clause 15.0 - Traffic Control

then, upon the City Engineers' review and approval the same, the City Engineer will issue a Notice to Proceed to the Contractor and the date of such Notice to Proceed will govern the start and completion deadlines set out in Article IV(a) above. The City will have the right to cancel this Contract without any liability or compensation to the Contractor (but without prejudice to the City's other rights and remedies) if the Contractor fails to deliver the required documents (as set out above) within seven (7) calendar days of delivering the signed Request for Service.

(c) Liquidated Damages for Late Completion of the Service

The City Engineer shall have the right to prescribe the order in which the Projects shall be done. The Contractor is to complete each Project by the date set out in Article IV (a)(ii) above, failing which the Contractor will pay the City for each postal block of street or sidewalk or lane the sum of one hundred dollars (\$100) (unless otherwise stipulated) as liquidated damages for every day that the said work shall remain unfinished after that time.

ARTICLE V - PAYMENT

(a) Amount to be Paid

Subject always to the terms of the Contract Documents, the City agrees to pay to the Contractor, the sum of, the "Total Estimated Contract Price", including the Goods and Services Tax, in Canadian funds for the performance of the Work under this Contract.

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(Insert) Total Estimated Contract Price
\$ _____

b) Application for Payment

- (i) During progress of the Work the Contractor may make application to the City Engineer for payment in the form approved by the City Engineer. The application will be based on the unit prices shown for Pay Items in Appendix C, *Table of Pay Items*. The City Engineer may at any time require as a condition of payment the submission of documentation set out in excluding all PST and GST in Appendix B, Clause 3.2 -*Payments*.
- (ii) On Substantial Performance being certified in accordance with the procedures set out in Clause 3.2 - *Payments* and the value of the certified deficiencies being agreed upon, the Contractor may make application to the City Engineer for the balance of all money then owing under this Contract to the Contractor, less those amounts authorized or required to be deducted pursuant to Appendix B Clause 3.2 - *Payments*.
- (iii) On correction and completion of all deficient work listed on the Certificate of Substantial Performance, the Contractor shall submit his application to the City Engineer for final payment and issuance of the Final Certificate of Acceptance, accompanied by the documentation required by Appendix B Clause 3.2 - *Payments*.

(c) Payment

Despite any other term of the Contract Documents,

- (i) the payment for any Work under this Contract which shall be made to the Contractor by the City,
- (ii) the issuance of any certificate, notice or determination by the City Engineer, including by way of example only, the issuance of the Certificate of Substantial Performance and Final Certificate of Acceptance,

will not be construed as an acceptance of any Work being done in accordance with the Contract Documents.

(d) Final Certificate of Acceptance

The issuance of the Final Certificate of Acceptance shall constitute a waiver by the Contractor of all claims except those previously made in writing and still unsettled, if any, and specified by the Contractor in its application for final payment pursuant to Article V(b) and (c) above.

(e) Payment/Holdback Procedure

Payments to the Contractor will be made by the City as follows:

- (i) Within seven (7) calendar days of receiving the Contractor's application for payment, the City Engineer will adjust, if necessary, and certify the Contractor's application for payment to the City. Where the City Engineer makes any changes

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to the amount submitted by the Contractor for payment, the Contractor will be notified in writing within seven (7) calendar days and will be given the opportunity to defend his application without delay.

- (ii) Within fourteen (14) calendar days of the date the City Engineer certifies the Contractor's application for payment, the City will make payment to the Contractor for the amount set out in the payment certificate less a *Builders Lien Act* holdback amount equal to ten percent (10%) of such certified payment amount and less the aggregate of any previous payments all in accordance with Clause 3.2 - *Payments* and the *Builders Lien Act*.
 - (iii) After 55 calendar days have elapsed from the date of the Certificate of Substantial Performance issued in accordance with Appendix B Clause 3.2 - *Payments* and upon the City Engineer's satisfaction that no encumbrance, lawful claim or lien exists, the City will, within a further 10 calendar days, make payment to the Contractor the remaining *Builders Lien Act* holdback amount, but retaining all other holdbacks or deductions authorized or required by Appendix B Clause 3.2 - *Payments*.
 - (iv) Upon the City Engineer's issuance of the Final Certificate of Acceptance pursuant to Clause 3.2 - *Payments* and Article V(d) above, the City will make a final payment of all money owing to the Contractor under the Contract.
- (f) Interest on Overdue Payments

Where payment is not made in accordance with the payment provisions contained in paragraph (e) above, the overdue amount shall bear interest at the lending rate of the Bank of Montreal for its prime commercial customers and such interest shall be calculated from and after the date upon which such payment was due and shall accrue until the date that payment of the overdue amount together with interest is made. This interest obligation on the City shall constitute the sole remedy of the Contractor for late payment.

ARTICLE VI - NOTICES

Unless otherwise specifically provided in the Contract Documents, all notices, instructions, orders or other communications in writing shall be conclusively deemed to have been given to the Contractor if delivered to the Contractor personally (or in the case of a company to any of its officers or directors personally), or to the Contractor's superintendent or foreman, or delivered by mail to the Contractor at the business address of the Contractor set forth below:

Contractor:

(in this space include complete mailing address)

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Unless otherwise specifically provided in the Contract Documents all notices, requests, claims or other communications by the Contractor shall be in writing and shall be given by personal delivery or by mail addressed to the:

City (c/o City Engineer):
CITY OF VANCOUVER
Engineering Services
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4
Attention: _____

Either of the said addresses may be changed from time to time by written notice to the other party.

Any such notices, instructions, orders, requests or other communications sent by mail as aforesaid shall be deemed to have been given on the second business day following the mailing thereof.

ARTICLE VII - LAW OF CONTRACT

The laws of British Columbia will apply to and govern the Contract Documents and the courts of British Columbia will have exclusive jurisdiction over all disputes not resolved by mediation or arbitration.

ARTICLE VIII - TIME OF THE ESSENCE

Time will be of the essence for all purposes of the Contract Documents and the performance of the Work.

ARTICLE IX - SUCCESSORS AND ASSIGNS

The Contract Documents bind and benefit the City and Contractor and their successors and permitted assigns.

THE CITY NOW REQUESTS SERVICE ON THE TERMS SET OUT IN THIS REQUEST FOR SERVICE, which request may be accepted by the Contractor signing and returning this document within two (2) Working days of its receipt, failing which this request will be deemed to be withdrawn, and where so signed by the Contractor and returned within two (2) Working days the CITY AND CONTRACTOR NOW AGREE TO BE LEGALLY BOUND BY THE TERMS OF THIS REQUEST FOR SERVICE.

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CITY OF VANCOUVER:

General Manager of Engineering Services

Date

CONTRACTOR:

Company Name

Authorized Signatory

Name, Title

Date: