



Purchasing Services
City Square, East Tower
#320 - 555 West 12th Avenue
Vancouver, BC V5Z 3X7

REQUEST FOR APPLICATIONS - RFA NO. PS09145

THE PREQUALIFICATION OF CONTRACTORS TO PROVIDE ASPHALT, CONCRETE AND ROCK CRUSHING 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: 11:00:00 A.M. Vancouver Time (as defined in Note 2 below), Wednesday, July 22, 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 20, 2009 to the attention of:

Linda Woyce,
Buyer
Fax: 604.873.7057 E-mail: purchasing@vancouver.ca

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REQUEST FOR APPLICATIONS RFA PS07044
PRE-QUALIFICATION TO PROVIDE ASPHALT, CONCRETE AND ROCK CRUSHING SERVICES

SCOPE

The City of Vancouver is requesting applications from qualified Asphalt, Concrete and Rock Crushing Contractors meeting the requirements to be registered on the Pre-Qualified List for providing services to the City.

The City requires Contractors to make crushed products from the raw material stockpile that ranges in finished sizes of:

- 100 mm clear
- 25 mm minus
- 25 mm - 6 mm clear
- Jaw run (size to be determined)

The Contractor will be required to move the crushed product from the crushing area to a designated stockpile as directed by the City. The Contractor may be required to make additional crushed products as requested by the City.

The Contractor must be able to produce approximately 1,000 tonnes of crushed product during the City's normal operating hours of 7:00 am to 3:30 pm Monday to Friday. The Contractor must be able to verify his daily total of crushed products by means of a belt scale or other mutually accepted scaling system. The City reserves the right to independently weigh the daily total of crushed product with its scales before payment.

The City may at its discretion supply a wheel loader and operator to move the finished crushed product from the end of the crushing process to the stockpile area. Contractors are to submit prices for the sole use of their equipment and with the option of using the City's wheel loader and operator.

PREQUALIFICATION PROCESS

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

Applicants meeting the qualifications set out herein may be called upon as and when required basis to perform the scope of services, however, this does not guarantee annual business.

Applicants' qualifications will be evaluated by the Superintendent at Kent Yard or his/her designate based on the applicants qualifications, experience, availability, references, and samples of previous work. On site, a minimum OFA Level 1 would be an asset.

To obtain information regarding the status of your Application Form or to arrange an appointment to review your Application Form, please call (604) 873-7263.



Purchasing Services
Tel: (604) 873-7263
Fax: (604) 873-7057

APPLICATION FOR PREQUALIFICATION

APPLICATION FORM

Legal Name of Firm: _____ Key Contact Person: _____

Address: _____

Billing Representative: _____

Postal Code: _____

Telephone: _____ Fax: _____

Principal Contractor: _____ GST Number: _____

Email: _____

Incorporation Date: _____

Place of Incorporation: _____ Incorporation Number: _____

**REQUEST FOR APPLICATIONS RFA PS07044
PRE-QUALIFICATION TO PROVIDE ASPHALT, CONCRETE AND ROCK CRUSHING SERVICES**

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 | Reasons for Deviations |
|--|--------------------------|------------------------|
| Current City of Vancouver Business Licence | <input type="checkbox"/> | |
| Article of Incorporation | <input type="checkbox"/> | |
| Schedule of Rates | <input type="checkbox"/> | |
| Contractor's Experience | <input type="checkbox"/> | |
| List of Subcontractors | <input type="checkbox"/> | |
| WorkSafeBC Proof of Coverage | <input type="checkbox"/> | |
| Proof of Commercial General Liability with minimum limits of five million (\$5,000,000) per occurrence/aggregate *Referred to in General Liability Insurance 26.3, 26.3.2 Commercial General Liability Policy Limit of the service contract, Appendix B | <input type="checkbox"/> | |
| ICBC/Liability Insurance Document for all equipment that will be used on City streets (\$5,000,000 Third Party Liability Coverage) *Referred to in Motor Vehicle Liability Insurance 26.4, 26.4.1 of the service contract, Appendix B | <input type="checkbox"/> | |
| Insurance Certificate completed with the City of Vancouver named as an additional Insured | <input type="checkbox"/> | |

REQUEST FOR APPLICATIONS RFA PS07044
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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 and if the Applicant agrees at any time or from time to time to provide Service, such Service will be provided pursuant to the terms and conditions of Appendix B - *Asphalt, Concrete and Rock Crushing 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.
- (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
 - (i.) 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 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 "Asphalt & Concrete Crushing" 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 Services Contract.
- (h) "Asphalt, Concrete and Rock Crushing 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.
- (i) "Superintendent " , "Yards Superintendent" and Streets Operations refer to employees of the City having those titles and includes employees acting as Managers, assistants, deputies or other authorized delegates of those personnel.

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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 Asphalt & Concrete Cushing 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 Asphalt, Concrete and Rock Crushing 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 Superintendent or approved designate will maintain the master copy of the Pre-Qualified List and may, at the Manager'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 Superintendent.

3.3 Applicants Rated by Performance

The Superintendent or designate 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 Asphalt and Concrete Crushing 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 Superintendent will remove from the Pre-Qualified List any Applicant where

- (a) the Superintendent 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

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or behavior, 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 Asphalt, Concrete and Rock Crushing 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 Superintendent 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 Manager, Materials Management.

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 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 Asphalt, Concrete and Rock Crushing Contract, or any of the terms or conditions of this RFA or the Asphalt, Concrete and Rock Crushing 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 Asphalt, Concrete and Rock Crushing Services Contract as a result of discussions or negotiations with other applicants or changes to this RFA or the Asphalt, Concrete and Rock Crushing 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.

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 fulfil the operational requirements for the efficient management of

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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 Asphalt , Concrete and Rock Crushing 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

(v) decides to cancel the use of the Pre-Qualified List and adopt an alternative form of obtaining the Asphalt, Concrete and Rock Crushing 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.

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

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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 APPLICATIONS - RFA NO. PS09145
APPENDIX B
ASPHALT, CONCRETE AND ROCK CRUSHING SERVICES CONTRACT

THIS CONTRACT is deemed to be made as of each day and each time that 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. PS09145, the City requested applications from qualified applicants with the ability to meet the requirements, expertise, proven ability, capability and to furnish all tools, equipment, labour, material and supervision necessary to provide Asphalt, Concrete, and Rock Crushing Services.
- B. In response to RFA No. PS09145, 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 Asphalt, Concrete and Rock Crushing 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.

1.0 DEFINITIONS

In this Asphalt Concrete Crushing agreement, the following terms have the following meanings:

- (a) "Certificate of Substantial Performance" means, subject always to the Request for Service and to the warranty.
- (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 - *Asphalt, Concrete and Rock Crushing Services Contract*, the Master Municipal Specifications and Standard Detail Drawings, the City of Vancouver Street Restoration Manual the City of Vancouver Supplemental Specifications, the City of Vancouver Supplemental Detail Drawings, the plans, Work

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Requests, and all other documents referred to in or expressly incorporated by reference into the Contract.

- (d) "Contract Price" means the entire compensation payable to the Contractor for the Work determined from actual quantities and units of the Work and changes authorized pursuant to **Clause 44.0 - Alteration, Deductions and Additions** and **Clause 46.0 - Extra Work** and includes all profit, all costs of supervision, labour, materials, equipment, overhead, financing and all other costs and expenses incurred in performing the Work.
- (e) "Contract Times" means the dates stated in each Work Request 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) "Extra Work Order" means a written description of "Extra Work" prepared by the Superintendent and issued to the Contractor pursuant to **Appendix B, Clause 46.0 - Extra Work**.
- (i) "Inspector" means a representative of the City's Kent Yard Operations;
- (j) "Maintenance Period" means the 12 month period following the issuance of the Final Certificate of Acceptance.
- (k) "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.
- (l) "Pay Items" means the items detailed in **Appendix C - Requirements, Section 1.0- Table of Pay items**
- (m) "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 Superintendent) 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;
- (n) "Prime Contractor" has the meaning set out in the WORKSAFE BC OH & S Regulation.
- (o) "Products" means material, machinery, equipment and fixtures incorporated or to be incorporated in the Work as required.
- (p) "Project" means the Work to be described in the Work Request.
- (q) "Request for Service" means a service request.
- (r) "Specifications" has the meaning set out in **Clause 64.0 - Specifications**.

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- (s) "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**.
- (t) "Substantial Performance" means that the Contract has been "completed" as that term is defined in the *Builders Lien Act*.
- (u) "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.
- (v) "WORKSAFE BC OH&S Regulation" means the *WorkSafeBC Act* (British Columbia), including without limitation, the Occupational Health & Safety Regulation (British Columbia Regulation 296/97, as amended by British Columbia Regulation 185/9) enacted pursuant to such Act, all as such Act or Regulations are amended or re-enacted from time to time.
- (w) "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.
- (x) "Work Request" means a document substantially in the form set out in **Appendix F** to the RFA after it has been duly accepted, signed and delivered by the Contractor to the City.
- (y) "Work Site" means the place or places where the Work under the Agreement is to be carried out, erected, built or constructed.
- (z) "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 Asphalt, Concrete and Rock Crushing Services and only then if the Contractor accepts such request by signing and delivering the Request for Service and then only for Projects the Contractor accepts the Work Request for that project within the stipulated time specified in such Work Request.

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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 Asphalt, Concrete and Rock Crushing 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 Work Request.

3.0 RATES FOR SERVICE

3.1 Lump Sum/Unit Price Rates

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 Superintendent. All measurement for payment shall be first approved by the Superintendent.

3.2 Payments

- (a) Subject to the provisions of the *Builder's Lien Act*, and the Contract Documents, the Superintendent will fulfil the role of "payment certifier", and the Superintendent will issue payment for each Work Request based on the Inspector's measurements of work in place and the Contractor's invoices received by the Superintendent. 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 Superintendent may withhold any Payment Certificate if in his/her opinion, it is in the interest of the Superintendent to do so, until the Superintendent 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.
- (d) The City will pay the Contractor within **Thirty (30) days** of receipt of each Application for Payment, less all stipulated forfeitures and deductions.
- (e) In the event of an Unavoidable Delay, a Partial Payment Certificate for any portion of the Work completed may be issued at the Superintendent's discretion.
- (f) 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 Superintendent in writing regarding the particulars of the circumstance and the amount of additional compensation the Contractor intends to claim therefore. Otherwise, the Contractor shall have no claim in respect thereof. All claims of

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every nature which the Contractor may have in respect of this Contract must be submitted in writing to the Superintendent 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 Superintendent.

- (g) The Contractor's acceptance of payment upon issuance of any Payment Certificate 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 5 years following the date to which the information relates.

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 Superintendent.

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- (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 WORKSAFE BC COVERAGE AND CONTRACTOR TO BE PRIME CONTRACTOR

(a) Payment of WorkSafeBC Assessments

The Contractor agrees that it shall at its own expense procure and carry or cause to be procured and carried and paid for, full WorkSafeBC coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Contract. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafeBC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafeBC premiums, assessments or penalties in respect of work done or service performed in fulfilling this Contract had been paid in full.

(b) Designation of Contractor as Prime Contractor

The City now designates the Contractor as the Prime Contractor, and the Contractor now acknowledges and agrees to its designation as the Prime Contractor, for the purposes of the WORKSAFE BC OH&S Regulation.

(c) Prime Contractor's Obligations

Without in any way limiting the Contractor's obligations under the WORKSAFE BC OH&S Regulation, and by way of example only, the Contractor will

- (i) appoint and provide a qualified coordinator if there are two (2) or more employees with a total workforce greater than five (5) at the work site at the same time for the purpose of ensuring the coordination of health and safety activities for the work site,
- (ii) provide and receive and respond to all information required to be given, received or relayed by the Contractor (both as an employer and as the Prime Contractor) pursuant to the WORKSAFE BC OH&S Regulation, and
- (iii) prior to commencing any Work, sign and deliver to the City, the "Prime Contractor Agreement " in the form attached and as **Appendix D - Prime Contractor Agreement Form**.

(d) General WORKSAFE BC Obligations

In addition to, and not in lieu of, the Contractor's obligations as the Prime Contractor, the Contractor will have a safety program acceptable to the WorkSafeBC and will ensure that all City and WorkSafeBC safety policies, rules and regulations are observed during performance of this Contract, not only by the Contractor but by all Subcontractors, workers, material suppliers and others engaged in the performance of this Contract.

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(e) **Notice of Project**

- (i.) Prior to commencement of a Construction Project, the Contractor will
- (ii.) complete and file a "Notice of Project" with the WorkSafeBC in compliance with Clause 20.2 of the WORKSAFE BC OH&S Regulation,
- (iii.) post the Notice of Project at the Work Site, and
- (iv.) will provide a copy of the Notice of Project to the City and confirm in writing that the Notice of Project has been posted at the Work Site.

(f) **Initial Proof of WORKSAFE BC Registration/Good Standing**

Prior to commencing the Work, the Contractor will provide the City with the Contractor's and all Sub-Contractor's WorkSafeBC registration numbers and proof of good standing with the WORKSAFE BC.

(g) **Subsequent Proof of WORKSAFE BC Registration/Good Standing**

From time to time and at anytime, the Contractor will promptly provide the City with proof of the Contractor's and Subcontractor's, good standing with the WORKSAFE BC.

(h) **Pre-Contract Hazard Assessment**

The Prime Contractor now acknowledges and agrees that the Contractor may not rely on the "Pre-Contract Hazard Assessment" and now agrees to assume by the terms of this Contract full responsibility for carrying out the City's obligations under Clause 119 of the WorkSafeBC Act, including without limitation and by way of example only, conducting all due diligence inquiries of all applicable City staff and departments in order to ascertain what, if any, information is known or has been recorded by City staff about the Work Site that is necessary to identify and eliminate or control hazards to the health or safety of persons at the Work Site. The City now agrees to make all reasonable efforts to assist the Contractor in obtaining timely access to City staff and City records for this purpose. The Contractor will start conducting such due diligence inquiries and must complete and deliver written confirmation of the completion of such inquiries to the Superintendent prior to the City being obligated to issue the Notice to Proceed.

(i) **Special Indemnity Against WORKSAFE BC Non-Compliance** - The Contractor will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to

- (i) unpaid WorkSafeBC assessments of the Contractor or any other employer for whom the Contractor is responsible under this Contract,
- (ii) the acts or omissions of any person engaged directly or indirectly by the Contractor in the performance of this Contract, or for whom the Contractor is liable pursuant to the Contractor's obligations as the Prime Contractor, and which acts or omissions are or are alleged by the WorkSafeBC to constitute a breach of the WORKSAFE BC OH&S Regulation or other failure to observe safety rules, regulations and practices of WorkSafeBC, including any and all fines and penalties levied by the WorkSafeBC, or

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(iii) any other breach of the Contractor's obligations under this Clause 5.0.

(j) **Prime Contractor Agreement Form**

The Contractor must complete and sign and deliver the Prime Contractor Agreement in the form set out in Appendix D prior to commencing work on the Contract.

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 regulations regarding engine brake noise, weight/load restrictions, 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 Superintendent. 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 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).

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- (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 SUPERINTENDENT 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 there from, 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 there from, or as to any other questions or matters arising out of the Contract, the same shall be determined by the Superintendent and the Superintendent 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 Superintendent, proceed with and execute 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 Superintendent as provided herein.

9.0 EMERGENCIES

The Superintendent 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 Superintendent 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 Superintendent before incorporating such items into the Work. Descriptive literature and price schedules covering such alternative items shall be supplied to the Superintendent if requested.

The Contractor shall furnish for the approval of the Superintendent, 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 Superintendent 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.

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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 Superintendent, 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 Superintendent shall not be the person responsible for payment certification under that subcontract for the purposes of 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 Superintendent 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 3:30 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 Superintendent or in case of emergency.

15.0 TRAFFIC CONTROL AND BY-LAW UPDATE

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

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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 Superintendent 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 Superintendent's opinion) keep any roadway open for the use of the public, or for some restricted use specified by the Superintendent, for such width as the Superintendent may direct.

At the request of the Superintendent, the Contractor shall submit a traffic management plan for the Superintendent'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.

Unless ordered otherwise by the Superintendent, 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 Superintendent shall have the right to order additional lights at the Contractor's expense if, in the Superintendent's opinion, they are or may be required.

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, removed, barricaded or clearly and safely marked.

Unless ordered otherwise by the Superintendent, 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 Superintendent's permission, nor shall the Contractor allow the same to remain thereon longer than necessary. From time to

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time as the Work progresses, or as directed by the Superintendent, such material and rubbish must be removed, all at the Contractor's expense.

Prior to the Superintendent certifying Substantial Completion, all material of every description must be gathered up from the streets, sidewalks, boulevards and grass plots, and removed there from. Where the Contractor tears up, opens or obstructs more of any street, roadway or place than is ordered or sanctioned by the Superintendent, 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 Superintendent and anybody having jurisdiction over such matters.

All security regulations which have or may be promulgated by the Superintendent 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 Superintendent will be responsible for any loss or damage to the property of the Contractor whether or not watchmen are provided by the Superintendent. 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 WORKSAFE BC OH&S Regulation, first aid facilities, including an attendant, shall be provided on the Work Site at all times during working hours by the

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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 WorkSafeBC 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

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 Superintendent 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 Superintendent. 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 Superintendent of any change required in utility services.

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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 Manager, Street Operations.

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

23.0 DUST CONTROL

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

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 Superintendent may take such steps, procure such material, equipment, trucks and workers, and do such work or things as the Superintendent 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 Superintendent pursuant to this clause shall not relieve the Contractor or the Contractor's sureties from any liability under the remainder of the Contract.

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APPENDIX B
ASPHALT, CONCRETE AND ROCK CRUSHING SERVICES CONTRACT

26.0 INSURANCE REQUIREMENTS

26.1.0 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 Contractor is Solely Liable for Premiums/Deductibles - The Contractor will pay all premiums and deductible costs for all insurance required to be effected 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 Director of Risk Management.
- 26.1.4 Director of Risk Management Approval Required - All insurance policies must be in a form acceptable to the City's Director of Risk 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 51.0 - *Notices to Contractor*.
- 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 to 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.

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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 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.

26.2.0 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 Director of Risk 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.

26.3.0 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 insured,
- (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.

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26.4.0 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.

26.5.0 Contractor's Equipment Insurance:

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.

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.

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30.0 DISCHARGE OF EMPLOYEES

Should any person employed on the Work, or in connection therewith, give any cause for complaint (of which the Superintendent 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 Superintendent 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 - Intentionally Omitted

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

35.0 PLANT, LABOUR AND MATERIAL

- (a) The Contractor 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 Superintendent in accordance with *Clause 58.0 - Samples*, and the Specifications of this Contract.

36.0 CONDEMNED AND SURPLUS MATERIAL - Intentionally Omitted

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37.0 DEFECTIVE WORK

- (a) The Contractor shall at any time when so required by the Superintendent, during the Construction or during the Maintenance Period, make such openings, and to such extent, as the Superintendent may direct, which the Contractor shall forthwith make good again to the satisfaction of the Superintendent. Should the Work so opened up be found, in the opinion of the Superintendent, 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 Superintendent's satisfaction. If the Superintendent 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 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 Superintendent, it is not expedient to correct such rejected work, then the Superintendent 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 Superintendent, 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) 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 Superintendent 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 of Vancouver Superintendent.

40.0 SANITARY CONVENIENCE -- Intentionally Omitted.

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, licensees 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.

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42.0 ACCESS AND ASSISTANCE

The Contractor is to furnish the Superintendent, 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 Superintendent, 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 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 -- Intentionally Omitted.

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 which may be provided in a **Work Request**. The Superintendent shall have the right to order such alterations or changes in the Work as the Superintendent 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 a **Work Request**.
- (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 Superintendent.
- (c) If any work, labour or material which the Contractor is required to perform or supply under this Contract is directed by the Superintendent to be changed or omitted, whereby a lesser quantity of work, labour or material is performed or supplied, then the Superintendent 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.

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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 Superintendent, 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 Superintendent 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 Superintendent.
- (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 Superintendent.
- (d) 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**.
- (e) The Superintendent 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 Superintendent beforehand.
- (k) The Contractor shall furnish the Superintendent 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 Superintendent shall have the authority to direct the Contractor to work overtime, including Saturdays, Sundays, and holidays, should the Superintendent deem it, for any reason, to be in the best interest of the City to do so.
- (b) Extra payment will be made only for overtime work ordered in writing by the Superintendent but not in circumstances where, in the opinion of the Superintendent 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.

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48.0 OTHER'S RIGHTS - Intentionally omitted.

49.0 INSPECTOR'S POWERS - Intentionally omitted.

50.0 CONTRACTOR'S SUPERINTENDENT

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 Superintendent 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 Superintendent, 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.

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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.

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 Superintendent 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 - Intentionally omitted.

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 Superintendent, 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 or any Work Request;
 - (ii) if the Contractor fails to commence Work within the period set out in the Work Request;
 - (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 Superintendent has, acting in good faith and in the Superintendent 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 Superintendent 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, 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 Superintendent 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 Superintendent 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 Superintendent's satisfaction any such damage at the Contractor's expense, when ordered by the Superintendent.

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 12 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.

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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 therefore 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 and may not be changed without the express written agreement of the Superintendent.

64.0 SPECIFICATIONS

The specifications for the 100 mm Clear, 25 mm Minus and 25 mm - 6 mm Clear are set out in **Appendix G**.

65.0 WORK ADJACENT TO TREES

No tree branches or roots shall be pruned by the Contractor without prior approval by the Superintendent.

66.0 SCOPE OF WORK - REFER TO PAY TABLE - APPENDIX C - REQUIREMENTS.

67.0 Performance Security - Intentionally omitted.

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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.

If the table provided is not suitable for the pricing structure provided for the City of Vancouver, please attach a price sheet that is relevant.

TABLE OF PAY ITEMS

| Crushed Product Size | Cost/Tonne with all Contractor's Equipment | Cost/ Tonne with Contractor's Equipment and City Loader with Operator for Removal of Crushed Material |
|--|---|--|
| 100 mm Clear | | |
| 25 mm Minus | | |
| 25 mm - 6.3 mm Clear | | |
| Jaw Run (as determined by the City based on operational requirements) | | |
| Other | | |
| Other | | |

2.0 FORCE ACCOUNT RATES - EXTRA WORK ONLY - Intentionally Omitted

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APPENDIX C
REQUIREMENTS

3.0 CONTRACTOR'S EXPERIENCE

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.

Name of Superintendent: _____

| Project | Location | Year | Contract Value |
|---------|----------|------|----------------|
| | | | |
| | | | |
| | | | |

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.

The employment of Subcontractors other than those listed will not be permitted without the prior written approval of the City. 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/Project _____

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

Description of Sub-Contract Work/Project: _____

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

Description of Sub-Contract Work/Project: _____

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APPENDIX D
PRIME CONTRACTOR AGREEMENT FORM

1.0 DEFINITIONS

- (a) "Owners" means City of Vancouver
- (b) "Prime Contractor" means a Contractor designated by the Owner (City) to be the Prime Contractor on a project with respect to occupational health and safety **ONLY**.

2.0 RESPONSIBILITIES

Proof of Qualification to act as Prime Contractor.

- Contractor is to provide a copy of their WORKSAFE BC "Clearance Letter", a signed copy of this Prime Contractor Agreement and all other documents requested by the City Superintendent, Manager of Streets Operations or assigned designate.
- The Prime Contractor is to notify the City of any changes of status with the WORKSAFE BC during the course of the Contract.

After the Prime Contractor has been designated and before work has commenced, The Prime Contractor shall:

- Ensure the health and safety of the workers on the project.
- Inform all other employers for the project that they are the Prime Contractor.
- Coordinate all occupational health and safety activities for the project.
- Do everything practicable to establish and maintain a system or process to ensure all employers at the workplace comply with the *WorkSafeBC Act*, and the *WORKSAFE BC OH&S Regulation*.
- Review and complete a "Pre-Job Meeting Form" if the Manager, Street Operations requests.
- For construction projects, post the Notice of Project on the Work Site and to WORKSAFE BC
- See *WORKSAFE BC OH&S Regulation 20.2* for the general requirements of a Notice of Project.
- On a Work Site, where workers of 2 or more employers are working at the same time and the combined workforce is greater than 5, identify and designate a Qualified Coordinator to coordinate health and safety activities.
- On a Work Site, provide the information listed in *WORKSAFE BC OH&S Regulation 20.3(4)*.

Prime Contractor's Qualified Coordinator (Construction Only)

- Duties of the Qualified Coordinator are listed in *WORKSAFE BC OH&S Regulation Clause 20.3(3)* or page 13 of the City's Multiple Employer Workplace / Contractor Coordination Program (2003).

3.0 DESIGNATION

By signing this Prime Contractor Agreement, the Contractor accepts all responsibilities of a Prime Contractor as outlined in the City's Contractor Coordination Program (2003), *Part III* of the *WorkSafeBC Act*, and *WORKSAFE BC OH&S Regulation*.

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APPENDIX D
PRIME CONTRACTOR AGREEMENT FORM

As a Contractor signing this Prime Contractor agreement with the City, you are agreeing that your company, management staff, supervisory staff and workers will comply with the *Workers' Compensation Board (WORKSAFE BC) Occupational Health and Safety Regulation and Part III of the WorkSafeBC Act*.

Any WORKSAFE BC violation by the Prime Contractor may be considered a breach of your Contract with the City resulting in possible termination or suspension of the Contract and/or any other actions deemed appropriate at the discretion of the City.

Any penalties, sanctions or additional costs levied against the City, as a result of the actions of the Prime Contractor 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 Contract.

Date: _____

Contract # _____

Name of Contractor _____

Qualified Coordinator's Name: _____
(Construction Only)

Name/Signature of Authorized
Representative/ Signatory of Prime

PRINT NAME and SIGN

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APPENDIX E
REQUEST FOR SERVICE

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:

having an office at _____

(hereinafter referred to as the "Contractor")

OF THE SECOND PART

WHEREAS:

- (A) The City has appointed Jeff Markovic, Superintendent, 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 therefore as hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSES as follows:

ARTICLE I - ROLE OF THE SUPERINTENDENT

The City hereby designates and appoints the Superintendent 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 Superintendent 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 Superintendent by the Superintendent 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 Superintendent, and all references to the Superintendent 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.

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:

Furnish all materials, products, labour and services, and supervision necessary for the asphalt and concrete crushing.

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APPENDIX E
REQUEST FOR SERVICE

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 **Appendix A - 1.0 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
- *Appendix E - Request for Service
- *Appendix F - Work Request
- *Appendix G - Specifications

* 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.

ARTICLE IV - SCHEDULE OF WORK/NOTICE TO PROCEED

(a) Start/Completion Deadlines

The Contractor must begin and complete the required work for each project as set out in each **Work Request** for all projects that are accepted by the Contractor.

(b) Notice to Proceed

Upon Receipt of

- (i) this Request for Service, duly signed and delivered by the Contractor to the City (Fax # 604-321-1362) and
- (ii) All required insurance certificates, letters of credit and Workers Compensation Board documents (including for example updated proof of registration,

REQUEST FOR APPLICATIONS - RFA NO. PS09145
APPENDIX E
REQUEST FOR SERVICE

completed and signed Prime Contractor Agreement and proof of posting of "Notice of Project" (where applicable), Traffic plan as per clause 15.0 then, upon the Superintendents review and approval the same.

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 Contract Price, including the Goods and Services Tax, in Canadian funds for the supply of the Products and the performance of the Work under this Contract.

(b) 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,

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)

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 Jeff Markovic, Superintendent):

CITY OF VANCOUVER
900 Kent Avenue, South East
Vancouver, British Columbia
V5X 2X9

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.

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APPENDIX E
REQUEST FOR SERVICE

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.

CITY OF VANCOUVER:

General Manager/ City Engineer
Engineering Services

Date

CONTRACTOR:

Company Name

Authorized Signatory

Name, Title

Date:

REQUEST FOR APPLICATIONS - RFA NO. PS9145
APPENDIX F
WORK REQUEST

1.0 Project Overview

This Work Request describes the scope of the Work and defines the Project now required as set out below for the purpose of the Request for Service (RFS).

The project number for this project is ----- (mm/dd/yr) and should be used on all reference material specific to this Work Request.

2.0 Specific Project Description

The Work Site under this Work Request is,

The Work within the Work Site under this RFS will include,

3.0 Start/Completion Deadlines

The Contractor will;

(i) begin the on-Site Work within _____calendar days of the Notice to Proceed, or begin the on-site Work on or before_____ (Date)

and

(ii) fully complete the Work on or before _____calendar days, after the Start Date, or fully complete the Work on or before _____ (Date)

4.0 Notice to Proceed

The receipt of this Request for Service, duly signed and delivered by the Contractor to the City is required before any work can begin on the site. 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 signed Work request within two (2) working days of receiving the Work Request form.

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APPENDIX F
WORK REQUEST

5.0 Site Specific Terms & Conditions

THE CITY NOW REQUESTS SERVICE ON THE TERMS SET OUT IN THIS WORK REQUEST, 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 WORK REQUEST.

CONTRACTOR:

Company Name

Authorized Signatory

Name, Title

Date:

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APPENDIX G
SPECIFICATIONS

| 100 mm Minus Crushed Asphalt & Concrete | |
|--|------------------------------|
| SIEVE SIZE | % PASSING (by Weight) |
| 200 mm (8 in.) | 100 |
| 150 mm (6 in.) | 75 - 100 |
| 100 mm (4 in.) | 40 - 90 |
| 50 mm (2 in.) | 10 - 50 |
| 25 mm (1 in.) | 0 - 10 |

| 25 mm Minus Crushed Asphalt & Concrete | |
|---|------------------------------|
| SIEVE SIZE | % PASSING (by Weight) |
| 25 mm (1 in.) | 100 |
| 19 mm (3/4 in.) | 94 - 100 |
| 12.5 mm (1/2 in.) | 62 - 95 |
| 9.5 mm (3/8 in.) | 49 - 85 |
| 4.75 mm (No. 4) | 35 - 63 |
| 2.36 mm (No.8) | 26 - 47 |
| 1.18 mm (No. 16) | 19 - 37 |
| 600 um (No. 30) | 13 - 29 |
| 300 um (No. 50) | 8 - 21 |
| 150 um (No. 100) | 5 - 15 |
| 75 um (No. 200) | 3 - 9 |

| 25 mm Clear Recycled Concrete | |
|--------------------------------------|------------------------------|
| SIEVE SIZE | % PASSING (by Weight) |
| 25 mm | 100 |
| 20 mm | 75 - 100 |
| 16 mm | 50 - 90 |
| 12.5 mm | 35 - 75 |
| 10 mm | 10 - 50 |
| 5 mm | 2 - 40 |
| 2.5 mm | 0 - 2 |