



REQUEST FOR PROPOSAL PS07035

JANITORIAL SERVICES

Proposals will be received in the Courier Delivery Drop-off Office, 1st Floor, Vancouver City Hall, 453 West 12th Avenue, Vancouver, British Columbia, Canada, V5Y 1V4 prior to 3:00:00 P.M. City Hall Clock Time (as defined in Note 2 below) on Tuesday, APRIL 10, 2007 (the "Closing Time") and registered 11:00:00 A.M. Wednesday, APRIL 11, 2007.

NOTES:

1. Proposals shall be in a sealed envelope or package marked with the Proponent's Name, the RFP Title and Number.
2. The Closing Time will be conclusively deemed to be the time shown on the clock located in the City's Courier Delivery Drop-Off Office.
3. DO NOT SUBMIT BY FAX.

All queries related to this RFP shall be submitted
in writing to the attention of:

**Karen Wong, B.Mgt., C.P.P.
Contracting Specialist**

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

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**** APPENDICES 1 - 7 ARE CONTAINED IN FOUR (4) SEPARATE FILES TO BE DOWNLOADED BY THE PROPONENT FROM THE CITY OF VANCOUVER PURCHASING WEBSITE (See download instructions in Section 1.1 of Part B of this RFP)****

APPENDIX 1 - COAL HARBOUR COMMUNITY CENTRE

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PART A - INTRODUCTION

1.0 Introduction

1.1 The purpose of this RFP is to invite Proponents to submit Proposals for the supply of janitorial services to the City of Vancouver and the Vancouver Board of Parks and Recreation (the "Park Board") for specific facilities in accordance with the requirements set out herein. For ease of reference, the City of Vancouver and the Park Board will be referred to collectively in this RFP as the "City".

2.0 Overview

2.1 The City wishes to enter into a Contract with a qualified and experienced janitorial service provider to provide janitorial services to the following City of Vancouver and Park Board locations (collectively, the "Facilities" and individually a "Facility"): Manitoba Works Yard, National Works Yard, Kent Avenue Yard, the Vancouver South Transfer Station, Evans Service Yard (Park Board), the Roundhouse Community Arts & Recreation Centre (Park Board) and the Coal Harbour Community Centre (Park Board).

2.2 The following is a brief description of the Facilities:

- (a) The Roundhouse Community Arts & Recreation Centre and the Coal Harbour Community Centre are Vancouver Park Board resources used by the communities.
- (b) Evans Service Yard - is located north of National Avenue and is a warehouse facility for the Park Board.
- (c) Manitoba Works Yard is the operations centre for numerous Engineering branches. Manitoba Works Yard is composed of five buildings.
- (d) National Works Yard is the City's new engineering operations centre, replacing the old Cambie Works Yard and is a five-hectare works yard located on National Avenue. The new yard incorporates the operations of three (3) City branches along with associated administrative support for the facility and has been a successful initiative in promoting sustainable design practices. The Administrative Centre and Parking Operations Building has received a LEED (Leadership in Energy and Environmental Design) award. The National Works Yard is composed of five buildings.
- (e) Kent Avenue Yard is comprised of 6 buildings.
- (f) Vancouver South Transfer Station is located at Manitoba and Kent Avenue West and is also the home to VSTS Recycling Depot.

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2.3 The locations and operational times for the Facilities are detailed in the following table:

Facility	Dept.	Hours of Operation	Location
Manitoba Works Yards	Engineering Management	7:00 A.M. to 3:30 P.M. Monday to Friday	250 West 70 th Avenue
National Works Yard	Engineering (Traffic and Electrical Operations)	7:00 A.M. to 3:00 P.M. Monday to Friday	701 National Avenue
Kent Avenue Yard	Engineering, Materials Management	7:00 A.M. to 3:30 P.M. Monday to Friday	900 Kent Avenue South
Vancouver South Transfer Station	Engineering, Solid Waste Management	5:30 A.M. to 9:00 P.M. Monday to Friday 7:00 A.M. to 7:00 P.M. Saturday and Sunday	250 West 70 th Avenue
Evans Service Yard	Vancouver Park Board	7:30 A.M. to 3:30 P.M. Monday to Friday	955 National Avenue
Roundhouse Community Arts & Recreation Centre	Vancouver Park Board	9:00 A.M. to 10:00 P.M. Monday to Friday; 9:00 A.M. to 5:00 P.M. Saturday and; 10:00 A.M. to 5:00 P.M. on Sunday	181 Roundhouse Mews
Coal Harbour Community Centre	Vancouver Park Board	9:00 A.M. to 10:00 P.M. Monday to Friday; 9:00 A.M. to 5:00 P.M. Saturday and; 10:00 A.M. to 5:00 P.M. on Sunday	480 Broughton Street

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3.0 Informational Meetings

3.1 The City will hold two information meetings for Proponents (“Informational Meetings”) as follows:

Time and Date	Locations
Informational Meeting (Session 1): March 21, 2007 Meeting will start at 8:00A.M. 250 - West 70 th Avenue, reception area, Operations Building.	Manitoba Works Yard
	Kent Avenue Yard
	Vancouver South Transfer Station
Informational Meeting (Session 2): March 22, 2007 Meeting will start at 8:00A.M. 701 National Avenue, reception area	National Works Yard
	Evans Service Yard
	Coal Harbour Community Centre
	Roundhouse Community Arts & Recreation Centre

3.2 The Informational Meetings will include an overview of the requirements and process for this RFP and will also enable Proponents to seek clarification on RFP issues in a communal forum.

3.3 Proponents are encouraged to read this RFP prior to the Informational Meetings and submit any questions relating to this RFP to the contact person listed on the cover page prior to the first Informational Meeting.

3.4 All prospective Proponents are to pre-register for the Informational Meetings by submitting an Informational Meeting Attendance Form (Appendix 8) by fax or e-mail to the contact person listed in Appendix 8 by the date and time set out in Appendix 8.

3.5 The City will in good faith attempt to give accurate verbal responses to questions during the Informational Meetings but Proponents are advised that they may only rely on the formal written response/summary to be issued by the City following the Informational Meetings. The formal written response/summary will be issued by the City as soon as possible following the Informational Meetings and posted on the City's Web-site at <http://www.vancouver.ca/bid/bidopp/openbid.htm>.

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PART A - INTRODUCTION**

4.0 Key Dates

4.1 Proponents should take note of the following key dates:

<i>Event</i>	<i>Dates</i>
Release of RFP	March 9, 2007
Informational Meeting Response Form and Preliminary Inquiries Deadline	March 19, 2007
Informational Meeting (Session 1)	March 21, 2007
Informational Meeting (Session 2)	March 22, 2007
Deadline for Response Notification Form	April 3, 2007
Deadline for All Inquiries	April 3, 2007
RFP Closing	April 10 , 2007

5.0 Objective

5.1 The primary objective of this RFP is to enter into contracts with one or more qualified and experienced janitorial service providers to provide janitorial services to the City in respect of the Facilities.

6.0 Requirements

6.1 In support of the objective outlined above, the City has identified requirements (the "Requirements") which are set out in Schedule A - *Requirements*, Part C - *Special Conditions*, and Appendices 1 through 7. The successful Proponent or Proponents will be required to perform the Services in accordance with the Requirements. Proponents should offer their solutions to the Requirements in the manner and format described in Part B- Instructions to Proponents, utilizing Part D - Proposal Form and the schedules attached thereto.

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NOTE: Except where otherwise expressly stipulated or the context otherwise requires, capitalized terms used in this RFP will have the meanings specifically ascribed to such terms in this RFP including the definitions set out in Attachment A - Legal Terms and Conditions of the Proposal Form (Part D).

1.0 Administrative Requirements

- 1.1 The Proponents must download Appendices 1 through 7 of this RFP from the City's website at <http://www.vancouver.ca/bid/bidopp/openbid.htm>
- 1.2 Following the Informational Meetings, please indicate whether or not you will be submitting a Proposal by completing and submitting the Response Notification Form (Appendix 9) by fax or e-mail to the contact person listed on the cover page of this RFP by the date and time set out in Appendix 9.
- 1.3 While the City may utilize the information received via the Response Notification Forms (Appendix 9) to disseminate information concerning this RFP to prospective Proponents, it is the sole responsibility of the Proponent to regularly check the City's website at <http://www.vancouver.ca/bid/bidopp/openbid.htm> for amendments, addenda and questions and answers related to this RFP.
- 1.4 The Proponent is to submit its Proposal in accordance with instructions identified on the cover page and as provided within this Part B.

2.0 Conduct of RFP - Inquiries and Clarifications

- 2.1 The City's Manager of Materials Management will have conduct of this RFP, and all communications are to be directed only to the contact person named on the cover page.
- 2.2 It is the responsibility of the Proponent to thoroughly examine these documents and satisfy itself as to the full requirements of this RFP. Inquiries are to be in written form only, faxed to 604-873-7057 or e-mailed to purchasing@vancouver.ca to the attention of the contact person shown on the cover page before the deadline shown in Section 3.0 of Part A. If changes to this RFP are required, an addendum will be issued and posted on the City's website as noted in Section 1.3 above.

3.0 Contract Requirements - Form of Agreement

- 3.1 The term of the Contract shall be for a three (3) year period with the option to renew for two (2) additional one (1) year periods to a maximum total term of five (5) years. The option to extend the contract is subject to mutual agreement between the Contractor and the City.
- 3.2 Where the head office of the successful Proponent is located within the City of Vancouver and/or where the successful Proponent is required to perform any work at a site located within the City of Vancouver, the successful Proponent is required to have a valid City of Vancouver business license prior to Contract execution.
- 3.3 The successful Proponent will be requested to enter into the Contract substantially in the form set out in Appendix 10 - *Form of Agreement*. The City reserves the right to make changes to the Form of Agreement that it determines are necessary in its sole and absolute discretion. Proponents should carefully review Appendix 10 - *Form of*

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Agreement and ensure that they can comply with all of the terms including the insurance, Workers Compensation Board and performance security provisions.

- 3.4 If any of the terms set out in this RFP (including the Form of Agreement) are unacceptable to the Proponent, the Proponent should identify such terms and provide suggested alternatives in Schedule C - Deviations and Variations. While the City is not obligated to accept any alternative, all suggested alternatives will be considered during the evaluation process, but may or may not be acceptable to the City.

4.0 Pricing

- 4.1 Prices quoted are to be exclusive of GST and PST and in Canadian funds.
- 4.2 Prices are to be quoted F.O.B. destination with all freight, unloading at destination, import duties, brokerage, royalties, handling, overhead, profit and all other costs included.

5.0 Consortium Proposals

- 5.1 The City will consider a Proposal from two or more persons or companies having no formal corporate links who wish to form a joint venture or consortium solely for the purpose of submitting a Proposal in response to this RFP, provided they disclose the names of all members of the joint venture or consortium and all members sign the Proposal Form.
- 5.2 A single person or company is to be identified as the "Key Contact Person" on the Proposal Form (Part D), and be prepared to represent the consortium to the City. The Key Contact Person will serve as the primary contact and take overall responsibility for all communications with the City during the Proposal submission, evaluation, and any negotiation process.
- 5.3 Consortium Proposals are to include proposed contract language describing each consortium member's roles and responsibilities and the proposed legal contract structure.
- 5.4 The City reserves the right to accept the consortium as proposed or choose to negotiate an Agreement with individual consortium members separately. Each component of the consortium proposal is to be priced out individually.

6.0 Submission of Proposal

- 6.1 Proponents are to submit **seven (7) copies** of their Proposal in three ring binders with each section tabbed and including all accompanying schedules, appendices or addenda in a sealed envelope or package marked with the Proponent's name, the RFP title and number, prior to the Closing Time to the location shown on the cover page of this RFP.
- 6.2 Only the English language may be used in responding to this RFP.
- 6.3 Proposals received after the Closing Time or in locations other than the address indicated, may or may not be accepted and may or may not be returned. The City may or may not elect to extend the Closing Time.

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- 6.4 Amendments to a Proposal are to be submitted in writing in a sealed envelope or package, marked with the Proponent's name and the RFP title and number.
- 6.5 Proposals may be withdrawn at any time before or after the Closing Time and are to be withdrawn by written notice delivered to the office of the Purchasing Department, 2nd Floor, City Hall (to the attention of the contact person shown on the title page of this RFP), and signed by the authorized signatory for the Proponent.
- 6.6 All costs associated with the preparation and submission of the Proposal, including any costs incurred by the Proponent after the Closing Time, will be borne solely by the Proponent.

7.0 Format of Proposal

- 7.1 Unnecessarily elaborate Proposals, beyond that sufficient to present a complete and effective response, are not required and unless specifically requested, the inclusion of corporate brochures and narratives are discouraged.
- 7.2 Proponents are to complete all forms included in this RFP attaching any additional appendices that may be required. Proposals should be arranged as follows:

Title Page: The title page will show the RFP title and number, Closing Time, Proponent name, address, telephone number and the name and title of the Proponent's contact person.

Table of Contents: Page numbers should be indicated.

Executive Summary: A short summary of the key features of the Proposal demonstrating the Proponent's understanding of the scope of the Requirements.

Proposal Form: The Proponent will complete the Proposal Form and attached Attachment A - *Legal Terms and Conditions* included in this RFP in accordance with the instructions.

Schedules: The Proponent will complete and provide the information within the respective schedules included in this RFP. If additional space is required to respond to the requirements as outlined, then additional pages may be attached.

8.0 Bid Security

- 8.1 Since no irrevocable offer is required under this RFP, no bid security is required.

9.0 Conflict of Interest/Solicitation

- 9.1 Proponents are to ensure that any and all conflicts or potential conflicts and any and all collusion, or appearance of collusion is fully and properly disclosed in Section 6.0 of Attachment A - *Legal Terms and Conditions* of the Proposal Form.

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- 9.2 Failure to disclose this information may result in the rejection of the Proposal, the associated entity's Proposal, and/or the immediate cancellation of any contract should one be awarded in reliance on the information contained in the submitted Proposal.
- 9.3 If any director, officer, employee, agent or other representative of a Proponent makes any representation or solicitation offering a personal benefit of any kind, directly or indirectly, to any officer, employee, agent or elected official of the City with respect to the Proposal, whether before or after the submission of the Proposal, the City will automatically disqualify such Proponent.

10.0 Opening of Proposals

- 10.1 The City reserves the right to open all Proposals in a manner and at the time and place determined by the City. Dissemination of Proposal information will be as follows:
 - a) Upon opening of the Proposals, the name of each Proponent will be announced.
 - b) Upon completion of Proposal evaluation, the salient features of each Proposal and the recommended Proposal will be summarized and publicly reported on to the City's Council.

11.0 Evaluation of Proposals

- 11.1 Proposals will be evaluated on the basis of the overall best value to the City based on quality, service, price and any other criteria set out in this RFP including, but not limited to:
 - a) the Proponent's ability to meet the Requirements;
 - b) the Proponent's ability to deliver the Requirements when and where required;
 - c) the Proponent's financial offer;
 - d) the Proponent's business reputation and capabilities, experience and where applicable, the experience of its personnel, financial stability, track record and references of current and former clients;
 - e) environmental responsibility demonstrated by the Proponent;
 - f) quality of submission;
 - g) the Proponent's ability to comply with all City insurance requirements;
 - h) any innovative solutions proposed by the Proponent; and
 - i) any other criteria set out in the RFP or otherwise reasonably considered relevant by the City.
- 11.2 The City may elect to short list Proponents in stages as deemed necessary. Short listed Proponents will be asked to provide additional information or details for clarification, which may include the Proponent (and any or all Sub-Contractors of the Proponent) attending interviews, making a presentation, performing demonstrations, and where necessary, providing any additional information that City may request.
- 11.3 Samples of items, when required, should be submitted within the time specified and must be supplied at no expense to the City. If not destroyed in testing and evaluation, the samples will be returned at the Proponent's request and expense.
- 11.4 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. The Proponent may be asked to provide annual financial reports or

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a set of financial statements prepared by an accountant and covering the Proponent's last two (2) fiscal years.

- 11.5 Preference may be given to Proposals offering environmentally beneficial products or services.

12.0 Deviation from Requirements or Conditions

- 12.1 Any deviation from the Requirements or the conditions specified in this RFP should be clearly stated in the Proposal within Schedule C - Deviations and Variations. The City will be the sole judge as to what constitutes an acceptable deviation. If no deviations are indicated in the Proposal then the City will assume that the Proponent is proposing to provide the Services in full compliance with the Requirements and other conditions of this RFP including Appendix 10 - *Form of Agreement*.

13.0 Proposal Approval

- 13.1 Proposal approval is contingent on funds and the Proposal being approved by City Council. Only then may the successful Proponent and the City proceed to settle, draft and sign the Contract.
- 13.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle and invite the Proponent to proceed with discussions to settle, draft and sign the Contract.
- 13.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at anytime.

14.0 Quantities

- 14.1 The quantities stated herein are the City's best estimates of its requirements and should not be relied on. Actual quantities may vary.

15.0 Brand Names

- 15.1 Unless otherwise stated, if, and wherever, this RFP refers to a brand name, make, name of manufacturer, trade name, or vendor catalogue number, it is for the purpose of establishing a grade or quality of material only. It is not intended to rule out competition from equal brands or makes. If, however, a product other than that specified is offered, it is the Proponent's responsibility to name such a product in its Proposal. Evidence of equality in the form of samples may be requested.

16.0 Alternates and/or Variations to Specifications

- 16.1 Except where stated otherwise herein, the Requirements describe what is considered necessary to meet the performance requirements of the City and Proponents should bid in accordance with such Requirements, or if the Proponent cannot meet the Requirements, the Proponent may offer an alternative which they believe to be the equivalent.

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- 16.2 Proponents shall clearly indicate any variances from the Requirements or conditions no matter how slight. The attachment of descriptive literature from which variations may be gleaned will not be considered as a sufficient statement of variations.
- 16.3 If in addition to proposing goods and/or services which meet the Requirements, the Proponent wishes to offer an alternative, the alternative solution is to be submitted separately as an appendix within the Proposal.
- 16.4 The City will, during its evaluation process determine what constitutes allowable or acceptable variations or alternatives.

17.0 Environmental Responsibility

- 17.1 The City is committed to preserving the environment. The Proponent should propose the use of environmentally sensitive products or services wherever possible. Where there is a requirement that the Proponent use a particular product or employ a particular technique, and where such product or technique may cause adverse environmental effects, the Proponent will indicate the nature of the adverse effects in its Proposal.
- 17.2 The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate the effects of any adverse conditions on the environment.

18.0 Freedom of Information and Protection of Privacy Act

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

19.0 Confidentiality

- 19.1 The Proponent should note that upon submitting its Proposal, it will be legally bound to certain confidentiality obligations not to disclose any City information without City's prior written consent, as set out in Attachment A - *Legal Terms and Conditions*.
- 19.2 This RFP is the property of the City. Except for the purpose of submitting a Proposal, copies may not be made or distributed without the prior written approval of the City's Manager of Materials Management.

20.0 Special Conditions

- 20.1 If Part C - *Special Conditions* of this RFP conflicts with Parts A and B of this RFP, the Part C - *Special Conditions* will govern over Parts A and B.

21.0 Legal Terms and Conditions

- 21.1 No part of Part A - Introduction, this Part B - Instructions to Proponents, nor Part C - Special Conditions will be legally binding on the City or the Proponent. All legal terms and conditions of the process contemplated by this RFP are contained in Part D - Proposal Form, including without limitation, Attachment A - *Legal Terms and Conditions*.

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PART C - SPECIAL CONDITIONS

1.0 Contract Award

- 1.1 Due to the broad nature of the Requirements of this RFP, the City's preference is to award a Contract to one Proponent who has the capability to perform the Services in respect of all of the Facilities, however the City reserves the right to enter into different contracts with different contractors for each Facility.

2.0 Value Added Services

- 2.1 In its Proposal the Proponent may offer and describe any innovative solutions or value added services, products or items above and beyond the Requirements that the Proponent is prepared to supply as part of the Contract. This is the opportunity for Proponents to differentiate themselves and highlight strategic options available to the City.
- 2.2 Unless otherwise stated by the Proponent, it is understood that there will be no extra costs for such innovative solutions or value added services, products or items, however, if there are any additional costs pertaining hereto, the summary and explanation of those costs should be appended to Schedule B - *Pricing*.

3.0 Insurance Requirements

- 3.1 Proponents should review the insurance requirements for the Contract set out in Section 11 of Appendix 10 - *Form of Agreement*.
- 3.2 Proponents are to submit with their Proposals a Certificate of Existing Insurance in the form set out in Appendix 11 as evidence of their existing insurance coverage.

4.0 Performance Security

- 4.1 Proponents should review the performance security requirements for the Contract set out in Section 21 of Appendix 10 - *Form of Agreement*. Proponents are to submit with their Proposal a letter from a bank listed in Schedule I or Schedule II of the *Bank Act* (Canada) confirming that the bank will issue a letter of credit in the amount of \$50,000 in favour of the City if the Proponent is selected to enter into a Contract with the City.

5.0 Fidelity Bond

- 5.1 Proponents should review the fidelity bond requirements in Section 11.1(d) of Appendix 10 - *Form of Agreement*. Proponents are to submit with their Proposal a letter from their insurer or insurance broker confirming that they will be able to provide the required fidelity bond if selected to enter into a Contract with the City.

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PART D - PROPOSAL FORM**

Proponent's Legal Name: _____
"Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Attach additional pages immediately behind this page for Sub-Contractors, if applicable.

To the City of Vancouver Materials Management Department,

The Proponent, having carefully examined and read the RFP, including the Form of Agreement and its Schedules, now submits the following Proposal:

1.0 Required Documents

1.1 If the documents listed below do not accompany the Proposal at the time of opening, the Proposal may or may not be put aside and given no further consideration.

Description	Required	Received
Certificate of Existing Insurance (see Part C - Special Conditions, Section 3.2)	Yes	
Bank letter confirming Proponent is eligible for a letter of credit as required by Section 21 of Appendix 10 - <i>Form of Agreement</i> (see Part C - Special Conditions, Section 4.1)	Yes	
Letter from Proponent's Insurer or insurance broker confirming that Proponent will be eligible for a fidelity bond as required by Section 11.1(d) of Appendix 10 - <i>Form of Agreement</i> (see Part C - Special Conditions, Section 5.1)	Yes	
Schedule E - Cleaning Products and Supplies List	Yes	

To be Initialled at Proposal Opening:

Manager, of Materials Management or designate

Witness

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2.0 Compliance

2.1 By initialling each item, the Proponent acknowledges that it has read and understands the respective portion of the RFP, has submitted the required documents, has identified deviations or alternatives, and provided an explanation of where it does not comply with the Requirements. If additional space is required, detail deviations and/or suggested amendments in Schedule C - Deviations and Variations.

Section Title	Understand, Will Comply	Does Not Comply	Variations, Alternatives or Explanation for Non-Compliance
<u>Part A</u> Introduction			
<u>Part B</u> Instructions to Proponents			
<u>Part C</u> Special Conditions			
<u>Part D</u> Proposal Form			
<u>Part D - Attachment A</u> Legal Terms and Conditions			

3.0 Required Proposal Documents

3.1 By initialling each item, the Proponent confirms it has completed and enclosed the required forms or Schedules and any required addenda in its Proposal and has identified any deviations or items of non-compliance providing an explanation of where it does not comply. If additional space is required, detail deviations and/or suggested amendments in Schedule C - Deviations and Variations.

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>Part D</u> Proposal Form		
<u>Part D - Attachment A,</u> Legal Terms and Conditions		
<u>Schedule A</u> Requirements		
<u>Schedule B</u> Pricing		

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Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>Schedule C</u> Deviations and Variations		
<u>Schedule D</u> Sub-Contractors		
<u>Schedule E</u> Cleaning Products and Supplies List		

4.0 Proponent's Declaration and Acknowledgment

4.1 The undersigned Proponent confirms that it has read and agreed to the Legal Terms and Conditions attached as Attachment A and agrees to be bound by the same.

IN WITNESS TO THE ABOVE, the Proponent has executed this Proposal Form and submits same with the attached schedules:

 Name of Proponent (corporate name if a company)

 Authorized Signatory for the Proponent

 Date

 Name and Title (*please print*)

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PART D - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

1.0 LEGAL TERMS AND CONDITIONS OF PROPOSAL PROCESS:

1.1 Application of These Terms and Conditions

These legal terms and conditions set out the City's and Proponent's/Sub-Contractors' legal rights and obligations only with respect to the RFP process. In no event will the legal terms and conditions of this Attachment A apply to the Contract formed between the City and the Contractor following the signing of the Contract (if any).

1.2 Definitions

In this Attachment A, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the *Vancouver Charter*.
- (b) "Contract" means the legal agreement, anticipated to be formed between the City and the successful Proponent separate from the contract formed by this RFP and this Attachment A - Legal Terms and Conditions.
- (c) "Contractor" means a successful Proponent who enters into a Contract with the City;
- (d) "Proposal" means the package of documents required to be submitted by the Proponent in response to the RFP, consisting of this Proposal Form as well as all Schedules, once completed and submitted to the City by the Proponent, and "proposal" means any proposal submitted by any other Proponent, excluding or including the Proponent, depending on the context.
- (e) "Proponent" means the legal entity(ies) who has (have) signed and delivered this Proposal Form, and "proponent" means any proponent responding to the Instructions to Proponents, excluding or including the Proponent, depending on the context.
- (f) "Losses" means in respect of any matter all
 - (i) direct or indirect, as well as
 - (ii) consequential,claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (g) "RFP" means the documents issued by the City as Request for Proposals No. PS07035 including all addenda thereto.
- (h) "Services" means all work to be performed by the Contractor under and pursuant to the Contract.
- (i) "Sub-Contractors" includes any or all third parties listed in Schedule D of this Proposal Form.

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PART D - ATTACHMENT A - LEGAL TERMS AND CONDITIONS**

2.0 GENERAL TERMS AND CONDITIONS OF RFP PROCESS

2.1 No Legal Obligation Assumed by City

Despite any other term of this Proposal Form (except only (where applicable) Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*, the City assumes no legal duty or obligation in respect of this RFP or this process unless and until the City enters into a Contract). This RFP process is at all times contingent on funds being approved by the Vancouver City Council and a Contract being signed by the City and the successful Proponent.

2.2 Legal Rights and Obligations Suspended

Despite any other term of this Proposal Form (except only (where applicable) Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*, the City and Proponent agree that all of their respective rights and obligations at law and in equity, in contract and in tort, in all matters relating to the RFP and this Proposal will be absolutely and unconditionally subject to Section 4.0 - *Protection of City Against Lawsuits*, and the following:

(a) No Duty

The City has no legally enforceable duty or obligation to the Proponent unless and until the City signs a Contract.

(b) Proponent's Risk

The Proponent acknowledges that the City is a public body required by law to act in the public interest. Accordingly, in no event does the City owe to the Proponent (as opposed to the public):

- (i) a contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process; or
- (ii) any contract or tort law duty to preserve the integrity of the RFP process,

and the Proponent now waives and releases the City from all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

(c) Proponent's Cost

The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

3.0 EVALUATION OF PROPOSALS

3.1 Compliance/Non-Compliance

Any Proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or

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expectations of the RFP or, which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion.

3.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and RFP process at all times except only as otherwise stipulated in any Contract. Accordingly, the City is not legally obligated to review, consider or evaluate the Proposals and need not necessarily review, consider or evaluate the Proposals in accordance with the procedures set out in this RFP and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation process on any or all Proposals at any time without further explanation or notification to any of the Proponents subject only to the express legal terms and conditions which bind the City, which terms and conditions are expressly limited to those set out in Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*.

3.3 Discussions/Negotiations

The City may, at any time prior to or after signing a Contract, discuss/negotiate changes to the scope of the RFP, or any of the terms or conditions of the RFP with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of discussions or negotiations with other proponents or changes to the RFP, and, without limiting the general scope of Section 4.0 - *Protection of City Against Lawsuits*, and by way of example only, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

4.0 PROTECTION OF CITY AGAINST LAWSUITS

4.1 Release

Except only and to the extent that the City is in breach of Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*, the Proponent now releases the City from all liability for any Losses in respect of:

- (a) any alleged (or judicially imposed) breach by the City of the RFP (it being acknowledged and agreed that to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City occurring in the course of conducting this RFP process;
- (c) the Proponent preparing and submitting its Proposal;
- (d) the City accepting or rejecting its Proposal or any other submission;
- (e) the manner in which the City:
 - (i) reviews, considers, evaluates or negotiates any Proposal,
 - (ii) deals with or fails to deal with any Proposal or Proposals, or
 - (iii) decides to enter into a Contract or not enter into any Contract;

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- (f) the Proponents, if any, with whom the City enters a Contract.

4.2 Indemnity

Except only and to the extent that the City breaches the Contract, Section - 5.2 - *Proponent's Submission Confidential* or Section 5.5 - *Declaration of Confidentiality*, the Proponent 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 Proponent or any of its Sub-Contractors or agents alleging or pleading

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

4.3 Limitation

In the event that, with respect to anything relating to the RFP or this RFP process (except only and to the extent that the City breaches the Contract, Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*), the City or its officials, officers, agents or employees are found to have breached any duty or obligation of any kind to the Proponent or its Sub-Contractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its Sub-Contractors 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.

4.4 Dispute Resolution

Any dispute relating in any manner to this RFP or the RFP process (except only and to the extent that the City breaches the Contract, Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*, and also excepting any disputes arising between the City and any Proponent with whom the City has entered a 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, Manager, of Materials Management.
- (b) This Section 4.0 - *Protection of the City from Lawsuits* will:
 - (i) bind the City, Proponent and the arbitrator; and
 - (ii) survive any and all awards made by the arbitrator.
- (c) The Proponent will bear all costs of the arbitration.

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5.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

5.1 Proposal Documents Remain/Proposal Becomes - City's Property

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

5.2 Proponent's Submission Confidential

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

The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other proposals) and now agrees that under no circumstances will it make any application to the City for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other proposals) including, without limitation, records relating only to the Proponent.

5.3 All City Data/Information is Confidential

The Proponent will not divulge or disclose to any third parties any information concerning the affairs of the City which may be communicated to the Proponent at any time (whether before or after the Closing Time). Recognizing the need for confidentiality of the City's data, files and other confidential information, the Proponent will not use, exploit or divulge or disclose to third parties any confidential or proprietary information of the City of which the Proponent may gain knowledge in connection with or in the course of discussions or negotiations with the City.

All material and information that has or will come into the Proponent's possession or knowledge in connection with this RFP process is confidential and may not be disclosed or utilized in any way except in accordance with the Instructions to Proponents and this Proposal Form.

5.4 Disclosure Requires Prior Consent

The Proponent may not divulge any information respecting the RFP process to any third party without the prior written consent of the City, which consent may be arbitrarily withheld unless it is information which the City has already made public or has been required to disclose pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

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5.5 Declaration of Confidentiality

The Proponent now declares and agrees that, except for the information disclosed by the City in the course of publicly reporting to the Vancouver City Council or any public proposal opening:

- (a) the information supplied by the Proponent in response to the RFP is expressly provided in strict confidence;
- (b) any records made of the evaluation of this Proposal and all other submissions will be the property of, and private to, the City and will not be disclosed to the Proponent nor anyone else;
- (c) the disclosure of the information in items (a) and (b) above to anyone outside of the City's staff would reveal the Proponent's trade secrets or proprietary commercial information concerning its private business affairs; and
- (d) the disclosure of the information in items (a) and (b) above could reasonably be expected to harm the Proponent's competitive position, harm the City's ability to engage in competitive procurement of goods and services, and result in undue financial loss to the Proponent and/or the City.

6.0 DECLARATION - NO CONFLICT OF INTEREST / NO COLLUSION

6.1 Declaration as to Conflict of Interest

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

- (a) an elected official or employee of the City; or
- (b) related to or has any business or family relationship with any elected official or employee of the City, such that there would be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of this Proposal by the City, except as set out below:

[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any or all relationships which might give rise to a conflict of interest or an appearance of a conflict of interest].

6.2 Declaration as to Collusion

The Proponent now confirms and warrants that

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

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[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any and all affiliations or relationships which might give rise to collusion or an appearance of collusion].

7.0 NO PROMOTION OF RELATIONSHIP

The Proponent will not disclose or promote its relationship with the City, including by means of any verbal declarations or announcements and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials without the express prior written consent of the City (except as may be necessary for the Proponent to perform the Proponent's obligations under the terms of this Attachment A). The Proponent undertakes not to use "VANOC", "Vancouver 2010", the official emblem, logo or mascot of the 2010 Games or any reference or means of promotion or publicity, without the express prior written consent of the City. Furthermore, the Proponent undertakes not to disclose or promote its relationship with the City in any communication or manner whatsoever as a basis to create an association, express or implied, between the Proponent and the IOC, the Olympics or the Olympic Movement.

8.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT

All of the terms of this Attachment A to this Proposal Form which by their nature require performance or fulfilment following the conclusion of the RFP process will survive such issuance and will remain legally enforceable by and against the Proponent and City.

AS EVIDENCE OF THE PROPONENT'S INTENT TO BE LEGALLY BOUND BY THIS ATTACHMENT A, THE PROPONENT HAS EXECUTED AND DELIVERED THIS ATTACHMENT A AS AN INTEGRAL PART OF THIS PROPOSAL FORM IN THE MANNER AND SPACE SET OUT ABOVE.

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SCHEDULE A - REQUIREMENTS**

This Schedule identifies the requirements to which the City is seeking a solution or a response from the Proponent and along with Appendices 1 through 7 will form the "Services" to be performed by the Contractor under the Contract. Proponents should address or respond to each requirement in this Schedule A by either providing the information requested or if no information is requested, by indicating that they will comply with the requirement if they are selected to enter into a Contract with the City. The Proponent should provide details and explanations where necessary. Proponents may submit their response on a separate sheet; however, the same numbering sequence is to be used.

1.0 Proponent Information

Key determinates of how well the successful Proponent will be able to meet the Requirements include the Proponent's profile, experience, key personnel who will be servicing the City, and references.

1.1 Company Profile

Provide a description of the Proponent's company, including full legal name, purpose and history of successes including, number of years in business, annual sales, and what factor is most responsible for the Proponent's success to date.

1.2 Experience

Describe the Proponent's relevant experience with similar contracts for similar work during the last three (3) years.

1.3 Key Personnel

Identify the Proponent's personnel who will be assigned to this Contract, setting out their names, responsibilities and relevant experience. The Proponent should also provide confirmation that each such employee has received training and graduated in accordance with Section 5.8 of this Schedule A and the details of such training including the technical or vocational institute attended by each employee.

2.0 References

The Proponent is to provide at least three (3) references for similar goods and/or services it has supplied to customers by completing the table below. The Proponent may, at its own discretion, expand on the number of references and information that it deems necessary to support its Proposal. By submitting a Proposal, the Proponent consents to the City contacting these references, and consents to the City also contacting any other organization for the purposes of evaluating the Proponent's company and Proposal.

Name and Address of Company	Contact Name and Telephone Number	Brief Description of Work and Date Performed

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SCHEDULE A - REQUIREMENTS**

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3.0 Contract Administration and Billing

- a) The Contractor will electronically supply reports of activities, invoices, log books, and damaged materials to the City, on request, at no additional charge. The Proponent will confirm that it can comply with this requirement.
- b) The Proponent will confirm and describe its ability to provide separate billing for each Facility, as well as summary billing to one central source at the City as required, to verify and authorize payment of all related services.
- c) The Proponent will describe the various payment options available to the City.
- d) The City intends to pay the Contractor on a monthly basis for services rendered the previous month. The Proponent will confirm whether this billing cycle is acceptable.

4.0 Environmental Commitment and Action

4.1 Continuous Improvement: The City is seeking evidence of leadership and commitment to improve the environmental performance of the Contractor's business.

- The Proponent will provide a statement of its commitment toward continuous improvement around environmental health, pollution prevention and efficient energy use. For example: A policy statement signed by the company's owner/manager that includes details of the Proponent's use of eco-friendly cleaning supplies, consumables and techniques and methods of reducing waste and toxics.
- The City encourages the use of renewable resources, while the use of non-renewable resources should be minimized. The Proponent will provide a list of all cleaning products and supplies used by the Proponent in Schedule E.
- The Proponent will provide details about programs to reduce the use of disposable packaging and the maximization of re-usable packaging in the course of shipment, handling and storage.

5.0 General Requirements

5.1 Performance Requirements

The Contractor will undertake the Services in accordance with this Schedule A and Appendices 1 through 7. This Schedule A sets out the minimum performance specifications for the Services and Appendices 1 to 7 set out the specific work required at each Facility and the frequency that each item of work is to be performed. If there are any work items listed in Appendices 1 through 7 which do not have a corresponding performance specification in this Schedule A then the Contractor will be required to undertake such work in accordance with current industry best practices using products and equipment appropriate for the work, in each case, as determined by the City in its sole and absolute discretion. In the event of any inconsistencies or conflicts between the performance specifications in this Schedule A and the requirements of Appendices 1 through 7, the City's determination of same will be final and binding on the Contractor.

5.2 Contractors Responsibility

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- 5.2.1 The Contractor shall remove all obstructions which may arise or be found during the execution of the Services and shall repair, restore, or make good all places and things disturbed and shall clear away from the site all accumulated rubbish. At the completion of the Services the Contractor shall leave the work and the site in a clean and presentable condition, free from all obstruction and ready for use in accordance with the instructions and to the satisfaction of the City's designated representative for each Facility (the "Facility Representative").
- 5.2.2 The Contractor shall not post any site signs, nor release any publicity reports, photographs or other information regarding the Facilities or the Services, orally or in writing without the prior written approval of the City.
- 5.2.3 Any furniture that is moved for the convenience of cleaning must be returned to its original place. Chairs, stools, and waste paper baskets, etc. must not be placed on desks, filing cabinets, etc. The Contractor will not step or stand on furniture to reach high surfaces including windows.

5.3 Scheduling Work Hours

- 5.3.1 The Contractor will perform the Services at each Facility in a manner which causes minimal interference to the users and occupants of each Facility. The frequency that each item of work must be performed at each Facility is set out in Appendices 1 to 7. The Contractor will perform the Services during the "Hours of Cleaning" for each Facility as set out in Appendices 1 to 7. The exact start and finish times for the Services at each Facility will be agreed upon between the City and the Contractor.
- 5.3.2 The Services will be performed with the least inconvenience to City personnel. Full consideration must be given where offices are occupied and the Contractor must arrange its work schedule accordingly.
- 5.3.3 All work shall be started and completed at approximately the same time in each time period, unless otherwise specified or agreed to by the City.
- 5.3.4 Specific cleaning schedules and any variations to the schedule must be approved by the City in writing in advance of the variation.

5.4 Identification

- 5.4.1 The Contractor will cause its employees to wear uniforms which display the Contractor's logo while working at the Facilities. All personnel shall carry photo identification cards and wear them in a visible and conspicuous manner while working in the Facilities. Photo identification cards shall include the company name of the Contractor, the name of the individual bearing the card and the start and end date of the contract period. The City reserves the right to request the Contractor to change its uniforms if the City determines, acting reasonably, that they are inappropriate.
- 5.4.2 The cost of the photo identification cards is to be borne by the Contractor. The format of the photo identification cards must be approved in advance by the City.

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5.5 Personnel

- 5.5.1 The Contractor will provide the City with written notice of permanent staff changes a minimum of one week prior to the effective date and include with such notice information about replacement staff including a description of experience, resumes and training information as required by Section 5.8 of this Schedule A.
- 5.5.2 If staff changes are made, new personnel must be accompanied by experienced personnel for a minimum of one full shift, to become familiar with the particular Facility.
 - a) The Facilities shall not be used as training areas for Contractor's personnel unless specifically authorized by the City.
 - b) To verify that the specified hours are worked, the Contractor will cause each employee to complete a daily log and will provide such log to the particular Facility Representative, upon request.
 - c) NEITHER THE CONTRACTOR NOR ITS EMPLOYEES WILL PERMIT ANY VISITOR TO ENTER ANY FACILITY AT ANY TIME.
- 5.5.3 All of the Contractor's employees performing the Services will be certified as building service workers pursuant to Section 5.8 of this Schedule A.

5.6 Alarm Systems and Building Security

- 5.6.1 The Contractor will meet with the Facility Representative for each Facility to become familiar with the functions of the alarm system. The Contractor will then instruct his staff on the alarm system and will be solely responsible for arming and disarming the alarm system during the times that the Contractor is on site at the Facilities.
- 5.6.2 The Contractor will be required to pay all the response fees of Vancouver Fire & Rescue Services for any false alarms at the Facilities caused by the Contractor or its employees.
- 5.6.3 The Contractor will be responsible for the security of the Facilities during the periods in which the Contractor is on site. The Contractor will be responsible for locking all exterior doors and windows and turning out lights as required at the completion of each day's duties.
- 5.6.4 The City will provide the Contractor with one copy of any keys that are required to access the Facilities. The Contractor will sign to acknowledge receipt of all keys and will return them to the Facility Representative upon the expiry or earlier termination of the Contract. Where applicable, the main set of keys is to remain at the Facility in a locked secure key box when not in use. At no time will the Contractor have additional keys cut.
- 5.6.5 All keys will be the responsibility of the Contractor. The cost of any lost keys, or locks or the cost of re-keying resulting from keys lost by the Contractor will be borne by the Contractor. All keys shall be assigned and recorded to specific individuals.

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5.6.6 Supervisor, superintendent office doors are to be closed after cleaning.

5.7 Access to the Premises

5.7.1 The Contractor will not grant access to the Facilities to any person other than its designated employees.

5.7.2 The Contractor will provide the Facility Representative with the names and Social Insurance Numbers of all of the Contractor's employees who will be performing the services and will update such information as personnel changes.

5.8 Qualifications of Contractor and Workers

5.8.1 The Services will be performed by the Contractor's employees who have graduated from a recognized technical or vocational institute, approved by the City, in a building service worker program and who are thoroughly experienced with the material and methods specified in this Contract. The Contractor will provide the City with certificates of graduation in respect of each of its employees immediately upon request.

5.8.2 The City may, in its sole discretion, accept in house training and or certification programs equivalent to building service worker programs offered by approved technical or vocational institutions.

5.9 Inspections

5.9.1 The City through its Facility Representatives or through third party inspection services may conduct unscheduled inspections of the Facilities to confirm compliance with the terms of the Contract. Performance assessments will be shared with the Contractor to ensure service levels are being met.

5.10 Storage

5.10.1 If available, the City will provide the Contractor with locked storage at each Facility for the Contractor to store cleaning supplies, materials and equipment. The Contractor will responsible for any and all of the Contractor's cleaning supplies, materials and equipment stored at the Facilities. The City will not provide any security for the Contractor's cleaning supplies, materials or equipment stored at the Facilities nor will the City be responsible for the loss, theft, damage or destruction of same.

5.10.2 Unless authorized by the City in writing, specialized equipment used periodically by the Contractor shall not be kept in the Facilities, and the Contractor shall not use any Facility for the storage of materials, supplies or equipment for use in other locations, nor shall any other operations of the Contractor be directed from the Facilities.

5.11 Equipment

5.11.1 All of the Contractor's equipment will be modern, industrial type suitable for the performance of the Services and the nature of the Facilities such that the equipment does not damage or cause any wear and tear to the surfaces, finishings or equipment in the Facilities. The equipment will be kept clean and in safe repair and will be replaced by the Contractor at its cost when worn out.

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5.12 WHMIS

- 5.12.1 The Contractor will comply with the "WHMIS" provisions (the "WHMIS Requirements") of the *Workers Compensation Act, Occupational Health and Safety Regulation* in the performance of the Services. The Contractor will supply, use and store all cleaning products and chemicals in accordance with the WHMIS Requirements. Where the Contractor wishes to use a product that does not have a current material safety data sheet ("M.S.D.S."), the Contractor must obtain the prior written approval of such product from the Facility Representative and that written approval must be in the M.S.D.S. binder.
- 5.12.2 All substances governed by the WHMIS Requirements will be delivered to the Facilities in their original containers bearing the supplier's current Workplace Hazardous Material Information Systems labels. The Contractor will maintain and store at each Facility (and if necessary at multiple locations at each Facility) current M.S.D.S. for each cleaning product and chemical in a binder labeled "M.S.D.S.". These binders will be located in each area where cleaning products and/or chemicals are stored or dispensed. Breaking down of quantities into small or larger containers must be done in accordance with the WHMIS Requirements and all containers clearly marked in accordance with the WHMIS Requirements.

5.13 Cleaning Products, Supplies and Consumables

- 5.13.1 The Contractor will only use cleaning products, supplies and Consumables (as defined below) which have been approved in advance by the City. Unless otherwise approved by the City, all cleaning products, supplies and Consumables used by the Contractor will be "Green Seal" certified. For more information on "Green Seal", see <http://www.greenseal.org/>
- 5.13.2 For the purposes of this Contract, "Consumables" will mean all consumable products used at the Facilities, whether supplied by the Contractor or the City, and includes, without limitation, toilet paper, hand towels, feminine hygiene products, hand soap, urinal pucks, deodorizers and other similar products consumed at the Facilities from time to time.
- 5.13.3 Without limiting any other provision of this Schedule A, no solvent seals or finish, butyl contained products, bleach, hydrochloric or sulphuric acid, ammonia, powdered cleansers or parazine blocks will be used or stored in the Facilities.
- 5.13.4 The Contractor will discontinue using any cleaning products, materials or equipment which in the reasonable opinion of the City, may cause any damage to the Facilities or pose any health risk to the users of the Facilities.

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5.14 Workmanship

5.14.1 The Contractor will perform the Services in accordance with the requirements of this Schedule A, Appendices 1 to 7 and the terms of the Contract, in a good and workman like manner and in accordance with the latest industry standards, techniques and best practices for work of a similar nature.

6.0 Contract Management

6.1 The Contractor will prepare and provide to the City for approval a written strategy for the management of the Contract by the Contractor including a description of the Contractor's strategy for transition and implementation of the Contract terms.

7.0 Cleaning Requirements

The Contractor will clean the Facilities according to the requirements and specifications in this Section 7.0 and the specifications and frequencies set out in Appendices 1 through 7.

7.1 Receptacles and Containers

a) The Contractor will:

- i) empty and clean all waste holding receptacles and containers. The use of a daily replacement of liners is required for all washrooms, medical and staff-break area receptacles. Separate or special liners may be utilized for recyclables; and
- ii) empty and clean ashtrays, cigarette sand urns and replace sand therein. Cigarette and cigar butts will be removed from sand urns and sand urns will be maintained in clean appearance at all times. All debris will be cleaned from the base of sand urns and chrome parts will be clean and polished. For fire and safety reasons, ashtray contents will be disposed of in special metal ash bins and not in regular waste containers.

b) All waste and recyclable holding receptacles and containers, ashtrays & urns will be returned to their original location once emptied and cleaned. No waste or recyclable holding containers or baskets will be placed upon desks, tables or chairs during cleaning operations.

7.2 Furnishings

The Contractor will:

- a) clean and polish all furniture framing and trim, plastic, wood, vinyl, leather, and upholstered seats and will spot clean fabric as required. Furniture includes, audio visual equipment, credenzas, book cases, desks, file cabinets, tables, furniture glass, desk lamps, chairs, frames and all client accessories excluding personal items such as ceramics, ornaments, free standing pictures, electronic equipment (computers, keyboards, typewriters, printers) etc. which will not be the responsibility of the Contractor;

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SCHEDULE A - REQUIREMENTS

- b) ensure that all furniture, fixtures, telephones, glass tops, desks, accessories, vinyl, Plexiglas, leather etc. are free of finger marks, spots, stains, dust and soil with no streak marks present. Any such furniture and equipment moved during cleaning operations will be returned to their correct locations;
- c) clean all ear and mouth pieces of telephones with a germicidal solution and using clean cloths;
- d) clean window sills, partition ledges, baseboards and all other surfaces, including blackboard brushes, blackboard ledges, cleared blackboards, cleared whiteboards, wall louvers, moldings, radiators, etc.; and
- e) clean water fountains with a germicidal solution and ensure that all surfaces of the water fountains are free of spots, stains and streaks. Walls and floors around the drinking fountains will be cleaned and free from debris, spots and water marks.

7.3 Horizontal Surfaces

- a) The Contractor will clean all counter tops, including splash backs, fronts and sides, all cupboard doors, hardware, exposed plumbing and sinks. Restock dispensers with Consumables approved by the City; empty and clean waste containers and replace plastic liners.
- b) All surfaces to be clean and free of stains, dust, finger marks, streaks, spots, and free of odors.
- c) The Contractor will clean metal and metal painted surfaces, such as chrome, stainless steel, brass and similar finishes - such items as door knobs, push bars, kick plates, door grilles, vents, handrails, railings, doors, exteriors of refrigerators and microwaves.
- d) Surfaces to be clean and free of streaks, finger marks, bright, and in a condition equal to that of the intended finish of the surface. Cover-up spray polishes shall not be used. Clean polish/where applicable, such surfaces as brass.

7.4 Vertical Surfaces (other than walls)

- a) The Contractor will clean all vertical surfaces, including doors/frames, ledges, picture frames, charts, graphs, wall louvers, exposed pipes, and clocks. Vertical surfaces other than walls, high cleaning down to window sills, partition ledges.

7.5 Washrooms, Changing Rooms and Shower Facilities

- a) Sink Areas
 - i) The Contractor will thoroughly clean all counters, ledges, mirrors, sinks, plumbing fixtures and chrome fittings using a germicidal solution.
- b) Toilets/Urinals

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SCHEDULE A - REQUIREMENTS**

The Contractor will:

- i) thoroughly clean all partitions, walls, enamel surfaces, doors, ledges, railings, chrome fittings, plumbing, sanitary dispensers and towel dispensers using germicidal solution;
- ii) thoroughly clean toilet bowls and urinals (interior and exterior);
- iii) deodorize toilets; and
- (iv) clean and polish stainless steel fixtures.

c) Dispensers

The Contractor will:

- i) refill dispensers with Consumables approved by the City; and
- ii) thoroughly clean interior and exterior of all dispensers using germicidal solution.

d) Floors

The Contractor will:

- i) damp mop floors with germicidal solution, including under the sinks, toilets, and urinals; and
- ii) machine scrub entire floor, including under the sinks, toilets, and urinals.

7.6 Stairways

The Contractor will:

- a) thoroughly dust and clean handrails, ledges, railings, appurtenances, banisters, walls and appurtenances such as doors, trim, moldings, ledges, radiators, and grilles;
- b) wash the walls, ceilings and appurtenances of stairways. Surfaces of walls, ceilings and appurtenances (including doors, frames, glass, wood and metal), will be free of finger marks and spots of any kind. The Contractor will ensure that there are no streaks or lines where portions of the walls, ceilings or appurtenances are washed separately. Walls will be uniformly cleaned all over and any water spillage on floor will be wiped dry immediately;
- c) vacuum carpeted stairs and wet mop washable surfaced stairs including the cleaning of risers. After vacuuming or wet mopping, as applicable, the stairs, landings and risers will be clean and free of loose and caked soil and surface stains and will present an overall appearance of cleanliness.
- d) extract water from carpeted areas, including carpeted staircases. Following

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SCHEDULE A - REQUIREMENTS

extraction, carpets will have an even clean appearance, free of soil, spots, grit and dust, with the pile evenly laid in the same direction, where applicable.

7.7 Floors

Without limiting the Contractor's obligations in Section 7.5(d) above, the Contractor will clean the following floor surfaces to the following specifications:

7.7.1 Soft and hard surface flooring including vinyl, terrazzo, ceramic, hardwood, linoleum

- a) Soft Surface Floors (i.e. vinyl, linoleum)
 - Damp mop stains, spills, remove any gum
 - Dust/damp mop entire area
 - Spray clean/bluff
 - Strip and re-finish
 - Scrub and re-apply finish

- b) Hard Surface Floors (i.e. ceramic/porcelain tile, sealed concrete)
 - Damp mop stains, spills, remove any gum
 - Dust/damp mop entire area
 - Machine scrub
 - Strip and re-finish (ceramic tile)
 - Strip and re-finish concrete floor

7.8 Carpets and Matting

Without limiting the Contractor's obligations in Section 7.5(d) above, the Contractor will clean the following floor surfaces to the following specifications:

- 7.8.1 vacuum all carpets, rugs and mats so that they are free of dust and other debris. Following vacuuming the nap on carpets and rugs to be laid in one direction. Chair 'T' mats to be damp cleaned. No debris or other soil matter shall be left in corners, around the edges of carpet or 'T' mats, under furniture, tables, chairs, bookcases, between file cabinets, behind doors, along baseboards and/or free standing radiators. All light weight furniture and equipment moved during vacuuming operation to be returned to their original locations;

- 7.8.2 spot clean carpets, rugs and mats including stairs;

- 7.8.3 pre-spray and spin clean all carpeted areas including high traffic areas. Prior to pre-spraying and spin cleaning the carpets must be dry vacuumed and pile lifted to relieve matting conditions and to raise the pile to permit good cleaning of individual tufts;

- 7.8.4 scrub carpets, rugs and mats to remove deep, embedded dirt and extract all excess water following scrubbing. The Contractor will avoid use of excess water thereby, preventing unnecessary penetration to the backing; and

- 7.8.5 shampoo carpets, rugs and mats including stairs.

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7.9 Ceilings and Walls

The Contractor will clean ceiling and wall surfaces to the following specifications:

7.9.1 Ceilings, walls, transoms and other fixtures and fittings attached to walls and ceilings

- Dust all surfaces. Following dusting, all surfaces will be free of dust marks and streaks
- Wash all washable surfaces. Washable surfaces include vinyl, sealed and painted surfaces.
- Spot clean and remove smudges from walls, doors, woodwork, glass partitions and other similar surfaces. No marks to be visible; any spots that cannot be removed by normal means to be reported to the City.

7.10 Window Coverings

The Contractor will clean window coverings to the following specifications:

7.10.1 Venetian Blinds both vertical and horizontal.

- Dust and damp clean slats on both sides and window sills
- Remove completely and professionally clean (including tapes)
- Re-install and leave in working condition

7.10.2 Drapes and curtains

- Vacuum and spot clean stains
- Remove, inspect for repairs, professionally dry clean draperies and reinstall. After professional dry cleaning or professional washing of drapes/curtains to be re-hung after rods, casing, and pulls have been washed.

7.11 Light Fixtures, Parabolics, Air And Wall Vents

The Contractor will:

- a) dust light lenses including ceiling areas and air and wall vents. Following dusting, fixtures and vents are to be free of dust, debris and bugs/insects. No dust/debris to be left on furniture or floors beneath fixtures.
- b) clean complete light fixtures, air and wall vents. Following cleaning all surfaces are to be clean and free of stains and streaks, etc. and the fixtures properly reassembled.
- c) Lights must be kept to a minimum and only to be used when working in specific areas.

7.12 Windows and Plexiglas

7.12.1 The Contractor will spot clean reachable entrances glass inside and outside

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including frames, sashes sills, vestibules, glass doors, display cases, partitions and moldings.

7.12.2 The Contractor will wash the interior and exterior of all windows as required in Appendices 1 to 7.

7.13 Storage Areas

The Contractor will ensure that all surface areas in storage areas, basements and supply vaults are free of soil, dust and debris and will dust all light fixtures, overhead beams, ledges, pipes etc.

7.14 Janitor's Rooms and Contractors' Space

The Contractor will ensure that the janitor's room and Contractor's space, if any, at each Facility is tidy at all times with all equipment, materials, paper products, chemicals clean and stored neatly. The Contractor will not leave any soiled mops or cleaning cloths at the Facilities and will remove and launder same on an as used basis. If required, waste will be neatly stored. The Contractor will damp mop the floors and ensure waste containers are emptied and clean a free of offensive odors.

7.15 Safe Equipment

7.15.1 All cleaning equipment, ladders and other tools used by the Contractor in the performance of the Services will be inspected regularly and maintained in accordance with manufacturer's specifications, the Worker's Compensation Board, the Canadian Standards Association and all applicable laws.

8.0 Exterior Areas

8.1 The Contractor will pick up litter and other waste items from the exterior of the Facilities including, without limitation, in parkades, stairwells and entry ways as required in Appendices 1 to 7.

9.0 Reports

9.1 The Contractor will provide quarterly usage reports to the Facility Representative on Consumables and cleaning products and supplies supplied and/or used at each Facility.

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SCHEDULE B - PRICING**

The Proponent is required to complete the information in the fields provided and include with their Proposal.

- 1.0 Prices are to be quoted in Canadian funds for each Facility.
- 2.0 GST and Provincial Sales Taxes are not to be included in the pricing.
- 3.0 Monthly Fees

Please insert into the cells in Table B1 the total monthly fees (excluding GST and PST) that you will charge to perform the Services described in Schedule A and Appendices 1 to 7 in respect of each of the Facilities listed below. For Manitoba Works Yard, National Works Yard, and Kent Avenue Yard please provide separate pricing for each building as noted in Table B1. The monthly fees will include all of your costs to complete the Services including without limitation, labour, supervision, management, equipment, tools, materials, cleaning supplies, fuel, overhead and office costs but will exclude GST and PST and the cost of Consumables as set out in Section 5 of this Schedule B.

Table B1

	Insert total price per month for first year of the Contract (excluding GST and PST)	Insert total price per month for second year of the Contract (excluding GST and PST)	Insert total price per month for third year of the Contract (excluding GST and PST)
<u>COAL HARBOUR COMMUNITY CENTRE</u> (See Appendix 1)	\$	\$	\$
<u>ROUNDHOUSE COMMUNITY ARTS & CENTRE</u> (See Appendix 2)	\$	\$	\$
<u>EVANS SERVICE YARD</u> (See Appendix 3)	\$	\$	\$
<u>MANITOBA WORKS YARD</u> (See Appendix 4)	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////
Operations	\$	\$	\$
Equipment	\$	\$	\$
Quick Service Lane	\$	\$	\$
Central Stores	\$	\$	\$

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SCHEDULE B - PRICING**

	Insert total price per month for first year of the Contract (excluding GST and PST)	Insert total price per month for second year of the Contract (excluding GST and PST)	Insert total price per month for third year of the Contract (excluding GST and PST)
Relay	\$	\$	\$
<u>NATIONAL WORKS YARD</u> (See Appendix 5)	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////
Administration	\$	\$	\$
TEOB Stores	\$	\$	\$
Radio Shop	\$	\$	\$
Gas Bar Washrooms	\$	\$	\$
Parking Operations	\$	\$	\$
<u>KENT AVENUE YARD</u> (See Appendix 6)	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////	//////////////////////////////////// //////////////////////////////////// //////////////////////////////////// //////////////////////////////////// ////////////////////////////////////
Trucker's Washrooms	\$	\$	\$
Foreman's Trailer	\$	\$	\$
Asphalt Plant Washrooms	\$	\$	\$
Scale Houses	\$	\$	\$
Lab	\$	\$	\$
Pre-Cast	\$	\$	\$
<u>VANCOUVER SOUTH TRANSFER STATION</u> (See Appendix 7)	\$	\$	\$

4.0 Hourly Charge Out Rates

Pursuant to Section 3 of Appendix 10 - *Form of Agreement*, the City may wish to change the scope of the Services, including adding new City of Vancouver or Park Board facilities to the Contract. As a basis for determining the fees you will charge for changes to the scope of the Services, please provide pricing for scope changes by inserting into the cells in Table B2 your hourly charge out rates for each of the three years of the Contract and for each category of

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SCHEDULE B - PRICING**

employee (i.e. janitor, supervisor etc.) that will be involved in the performance of the Services. In the spaces provided below Table B2 please indicate the fixed percentage surcharge amounts that you will charge on top of the hourly charge out rates for (i) cleaning supplies, equipment and materials costs and (ii) management and overhead costs, in each case expressed as a percentage of the hourly charge out rates. Fees for increases to the scope of the Services pursuant to Section 3 of Appendix 10 - *Form of Agreement*, including the inclusion of additional facilities, will be based on the hourly charge out rates provided in Table B2 and the surcharge rates below Table B2.

Table B2

Insert employee Category (i.e. janitor, supervisor etc.)	Insert hourly charge out rate for first year of the Contract (excluding GST and PST)	Insert hourly charge out rate for second year of the Contract (excluding GST and PST)	Insert hourly charge out rate for third year of the Contract (excluding GST and PST)
1.	\$	\$	\$
2.	\$	\$	\$
3.	\$	\$	\$
4.	\$	\$	\$
5.	\$	\$	\$

Fixed percentage surcharge for supplies, equipment and materials costs (excluding the cost of Consumables as per Section 5.0, below) _____%

Fixed percentage surcharge for management and overhead costs: _____%

5.0 Consumable Products

The Park Board intends to supply Consumables and stock the Roundhouse Community Arts & Recreation Centre, the Coal Harbour Community Centre and Evans Service Yard with Consumables.

The City currently purchases and stocks Consumables for the Manitoba Works Yards, National Works Yard, Kent Avenue Yard and the Vancouver South Transfer Station. The City may continue to supply and stock such Consumables or the City may wish to purchase Consumables directly from the Contractor if the Contractor can provide the Consumables to the City at competitive rates. If the City purchases Consumables from the Contractor, then the City proposes to do so on a "cost plus" basis. This means that the Contractor will charge the City its cost of purchasing the Consumables from its supplier(s) plus a fixed mark-up amount (expressed as a percentage) to compensate the Contractor for overhead and administration costs associated with supplying the Consumables.

Accordingly, please provide the City with a list of the Consumables available to you from your supplier(s) and the current unit price that you pay to your supplier(s) for each such item excluding taxes. For each Consumable item, indicate whether or not it is "Green Seal" certified.

Please indicate the fixed mark-up amount (expressed as a percentage) which you will charge for supplying the Consumables to the City: _____%.

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SCHEDULE C - DEVIATIONS AND VARIATIONS

Proponents shall use this Schedule to detail any deviations and/or variations from the terms and conditions set out in this RFP and if applicable, detail proposed amendments.

Where the Proponent is proposing the use of contract language or clauses other than those set out in the Form of Agreement, such clauses should be attached to this Schedule C. The City will assume such clauses are in addition to those in the Form of Agreement unless otherwise indicated by the Proponent.

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SCHEDULE D - SUB-CONTRACTORS**

The Sub-Contractors shown below are the Sub-Contractors that the Proponent proposes to use to carry out the Requirements. The City expects that the Proponent will engage the listed Sub-Contractors and no others in their stead, without prior written authorization of the City. (For contractual requirements, Proponents should note the relevant sections of the Form of Agreement.)

If no Sub-Contractors will be used, indicate "Not Applicable".

Company Name, Address	Contact Name and Telephone Number	Area of Responsibility

**REQUEST FOR PROPOSAL NO. PS07035
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SCHEDULE E - CLEANING PRODUCTS AND SUPPLIES LIST**

Please provide a list of all cleaning products and supplies (including brand names and descriptions if necessary) that you will use to perform the Services if you are selected to enter into a Contract with the City. In each case indicate whether or not the product is "Green Seal" certified.



Request for Proposal
No. PS07035
Janitorial Services

To acknowledge your intent to attend the Informational Meeting being held as per Part A, Introduction, and to ensure that you receive the required information, please submit this form to the person identified below before 5:00 P.M., Monday, March 19, 2007.

Phillip Lo
Administrative Assistant
City of Vancouver
Fax: (604) 873-7057
Email: purchasing@vancouver.ca

Your details:

Proponent's Name: _____
"Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Our company WILL / WILL NOT attend the informational meeting (Session 1 & 2) for
"RFP PS07035 - Janitorial Services" on March 21 and March 22, 2007.

Authorized Signatory and Name of Company (Please print)

E-mail Address (Please print)

Date



CORPORATE SERVICES GROUP
 Materials Management
 Purchasing Services

Request for Proposal
 No. PS07035
 Janitorial Services

To acknowledge your intent to submit a Proposal, and to ensure that you receive the required information, please submit this form to the person identified below before 5:00 P.M., Tuesday, April 3, 2007.

Philip Lo
 Administrative Assistant
 City of Vancouver
 Fax: (604) 873-7057
 Email: purchasing@vancouver.ca

Your details:

Proponent's Name: _____
 "Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Our company WILL / WILL NOT submit a Proposal for
 "RFP PS07035 - Janitorial Services"
 By the closing date (Tuesday, April 10, 2007, at 3:00:00 P.M.)

 Authorized Signatory and Name of Company (Please print)

 E-mail Address (Please print)

 Date

SERVICES AGREEMENT

THIS AGREEMENT made as of _____, 2007,

BETWEEN:

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

AND:

CITY OF VANCOUVER as represented by its BOARD OF PARKS AND RECREATION, 2099 Beach Avenue, Vancouver, British Columbia, V6G 1Z4

(together, the "City")

AND:

(the "Contractor")

WHEREAS:

- A. By way of the Request for Proposals PS06045 (the "RFP") the City invited responses from respondents to perform the services that are the subject matter of this Agreement;
- B. In response to the RFP, the Contractor submitted the Contractor's response on _____, 2007 (the "Response");
- C. After evaluating the Response and other respondent's responses, City Council authorized City staff to enter into negotiations with the Contractor for a legal agreement based on both the RFP and the Response and on such other terms and conditions considered acceptable to the City and the Contractor; and
- D. The City and the Contractor have now completed those negotiations and have agreed to the following terms and conditions.

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

1. Definitions and Interpretation.

1.1 Definitions. In this Agreement, the following words and terms, unless the context otherwise requires, shall have the meanings set out below:

- (a) "Additional Compensation" has the meaning set out in Section 3.2;

- (b) **"Agreement"** means this agreement inclusive of all schedules, appendices or exhibits attached hereto, as amended from time to time;
- (c) **"Applicable Laws"** means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Contractor, any Subcontractor and the Services, all as may be in force from time to time;
- (d) **"Business Day"** means a day other than a Saturday, Sunday or statutory holiday observed in British Columbia;
- (e) **"Claims"** means third party claims, counterclaims, complaints, demands, causes of action, liabilities, obligations, damages, losses, including any consequential losses, legal fees, liens, awards, costs, expenses and disbursements (including without limitation reasonable legal fees and court costs on a solicitor and own client basis) of any nature or kind, whatsoever and howsoever arising, whether known or unknown, whether in law or in equity or pursuant to contract or statute, and whether in any court of law or equity or before any arbitrator or other body, board or tribunal;
- (f) **"Contract Administrator"** is the person designated by each of the parties to administer this Agreement on their behalf and is named in Section 17 of this Agreement, and is subject to change in accordance with Section 17.5 of this Agreement;
- (g) **"Contract Documents"** means this Agreement, the Response, the RFP and such other documents as listed in this Agreement, including all amendments or addenda agreed between the parties;
- (h) **"Deemed Extension Term"** has the meaning set out in Section 2.3;
- (i) **"Effective Date"** means the first day of the Initial Term;
- (j) **"Event of Default"** has the meaning set out in Section 15.2 of this Agreement;
- (k) **"Extension Term"** has the meaning set out in Section 2.3;
- (l) **"Facilities"** means the facilities set out in Section 2.2 of Part A of the RFP, which Facilities may be changed in accordance with Section 3.1 of this Agreement;
- (m) **"GST"** means the tax payable and imposed pursuant to Part IX of the *Excise Tax Act* (Canada), as amended, and any successor legislation thereto;
- (n) **"Initial Term"** has the meaning set out in Section 2.3;
- (o) **"Proceedings"** means third party actions, suits, proceedings and hearings of any nature and kind in any court of law or equity or before any arbitrator or other body, board or tribunal;
- (p) **"PST"** means provincial sales tax administered under the *Social Services Act* (British Columbia) and any successor tax or levies therefor in force from time-to-time;
- (q) **"Response"** has the meaning set out in Recital B;
- (r) **"RFP"** has the meaning set out in Recital A;
- (s) **"Services"** has the meaning set out in Section 2.1;

- (t) "Standard of Work" means the highest of:
 - (i) the standard imposed by law;
 - (ii) the standard prescribed by the professional and regulatory bodies in the applicable profession, field or discipline;
 - (iii) the standard set forth in the Response;
 - (iv) the standard set forth in the RFP; and
 - (v) the standard otherwise prescribed in this Agreement;
- (u) "Subcontractors" means the independent consultants, agents, associates, subcontractors and other third parties retained by the Contractor to assist in the performance of the Services;
- (v) "Term" means the Initial Term and any Extension Term and any Deemed Extension Term, as applicable;
- (w) "WCB" has the meaning set out in Section 10.1; and
- (x) "WCB Legislation" means the *Workers Compensation Act* (British Columbia) and all regulations enacted pursuant to the *Workers Compensation Act* (British Columbia).

1.2 Interpretation. In this Agreement, including the recitals, Schedules and appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:

- (a) the recitals and headings to Sections and Schedules are for convenience and reference only and will not affect the interpretation of this Agreement;
- (b) each reference in this Agreement to "Section" or "Schedule" is to a Section of and a Schedule to, this Agreement;
- (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
- (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
- (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
- (g) all references to money mean lawful currency of Canada;
- (h) the word "written" includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and "in writing" has a corresponding meaning; and

- (i) the words "include" and "including" are to be construed as meaning "including, without limitation".

1.3 Contract Documents. The terms and conditions of the Contract Documents, whether or not attached to this Agreement, will be deemed to be incorporated into this Agreement. The Contract Documents are complementary, and what is called for by any one will be as binding as if called for by all. In the event of any inconsistency or conflict between or among any of the Contract Documents, the Contract Documents will be interpreted in the following order from highest to lowest:

- (a) this Agreement including any amendments to this Agreement;
- (b) the schedules and appendices attached hereto including any amendments to the schedules and appendices attached hereto;
- (c) the Response; and
- (d) the RFP.

2. Services.

2.1 Description of Services. The Contractor will provide and be fully responsible for the following services (collectively, the "Services"), as may be modified or amended pursuant to the terms of this Agreement:

- (a) the services described in Schedule "A" and Appendices 1 through 7 attached hereto;
- (b) the services which the Contractor agreed to provide in the Response;
- (c) the services described in the RFP; and
- (d) any services not specifically covered in (a), (b) or (c) above, but reasonably inferable therefrom, or reasonably necessary for the safe and efficient completion of the Services.

2.2 Provision of Service Inputs and Personnel. The Contractor shall provide all labour, supervision, management, facilities, equipment, tools, supplies and materials necessary, appropriate or incidental to the proper and complete execution of the Services. The requirements in Schedule "A" and Appendices 1 through 7 describe in general terms how the Contractor is to perform the Services. However, if there is any discrepancy in the description of the requirements or any omission of criteria, whether or not identified by the City, which would be detrimental to the benefits intended to be provided to the City by this Agreement then the Contractor will rectify such discrepancy or omission to the satisfaction of the City without further compensation.

2.3 Term. The Contractor shall, between [_____, 2007] and [_____, 2010] (the "Initial Term") perform and complete the Services, subject to extension or earlier termination in accordance with the provisions of this Agreement. The City reserves the option at its sole discretion to extend the Agreement on a year by year basis for up to a further two (2) years, to a total of a five (5) year contract term (to [_____, 2012]). If this Agreement is extended for one or more further 1 year periods (in each case an "Extension Term"), the terms and conditions of this Agreement will continue to apply during each Extension Term except that the fee for the Services during each Extension Term will be agreed upon by the parties.

Notwithstanding any other term of this Agreement, if the City and the Contractor continue to deal with each other following the expiry of the Term or an Extension Term, as the case may be, without entering into a written extension of this Agreement, then this Agreement will be deemed to be renewed on a year-to-year basis (a "Deemed Extension Term") on the terms and conditions of this Agreement. In the absence of a written agreement between the parties, the fees for the Services during such Deemed Extension Terms will be the rates effective under the immediately preceding Initial Term or Extension Term as the case may be.

- 2.4 Standard of Care. The Contractor shall exercise such degree of care, skill, diligence and efficiency in the performance of the Services as is required by the Standard of Work. The Contractor represents and warrants that it has all the skills, qualifications, certifications and experience necessary to perform the Services to the Standard of Work as contemplated by this Agreement and acknowledges that its skills, qualifications, certifications and experience were a major factor in the selection of the Contractor for the work set out in this Agreement. The parties shall act with utmost good faith towards each other in connection with this Agreement.
- 2.5 Remedy for Deficient Services. Without limiting any other remedy which the City may have under this Agreement or at law, the Contractor at its sole cost upon written request of the City shall rectify any of the Services which have not been performed in accordance with the care, skill, diligence and efficiency set out in Section 2.4 or which have not otherwise been performed in accordance with the terms of this Agreement, and shall do all such things that may be reasonably required by the City to satisfy the City that the Services have been duly performed or rectified in accordance with the terms of this Agreement.
- 2.6 Cooperation and Coordination Regarding Performance of Services. The Contractor shall cooperate, and coordinate the performance of the Services with the City's personnel and the City's contractors, subcontractors, consultants and suppliers, with a view to optimizing efficiency, achieving cost reductions, ensuring safety, and minimizing inconvenience to City personnel and the general public. Notwithstanding the foregoing, the Contractor shall have no liability for the acts or omissions of any persons for whom it is not responsible under the terms of this Agreement or at law.
3. **Changes to Services.**
- 3.1 Right to Make Changes. The City may at any time, upon written notice to the Contractor, increase, reduce or modify the scope of the Services and may make any changes to the Facilities included in this Agreement including adding or removing Facilities from the scope of this Agreement, and the Contractor shall, subject to the provisions of Sections 3.2 and 3.3, accept and perform such increased, decreased or modified scope of Services.
- 3.2 Change Order Process for Increases in Scope of Services. If the City requests an increase to the scope of Services, or if the Contractor reasonably believes that any modification to the Services requested by the City constitutes additional work or services that would entitle the Contractor to additional fees and/or reimbursable expenses ("Additional Compensation") if that work or service was performed, the Contractor shall, prior to undertaking the work or service, deliver to the City a written notice setting out the Additional Compensation to which it believes it is entitled, which Additional Compensation will be determined based on the rates and methodology set out in Section 2.0 of Schedule "B" attached hereto. If the City accepts the Contractor's claim for Additional Compensation, it shall deliver written notice of such acceptance to the Contractor which shall constitute an approved change order and the Contractor's authorization to proceed with the work. In the event that the City does not accept the Contractor's claim for Additional Compensation, acting reasonably, the City may direct the Contractor in writing to carry out the disputed work or services and the Contractor shall carry out the work or services so directed without prejudice to any right it may have to assert a claim for Additional Compensation after completion of the Services.

3.3 Change Order Process for Decreases in Scope of Services. If the City requests a decrease to the scope of the Services, or if any modification to the Services requested by the City constitutes a reduction in scope that it would be reasonable to conclude entitles the City to a reduction in the compensation payable hereunder, the parties will negotiate an equitable reduction to the compensation payable in respect of the Services, and shall execute a change order to reflect such change in compensation. In the event the parties are unable to agree upon the amount of reduction to the compensation payable in respect of the reduced scope of Services, the City may direct the Contractor to carry out the reduced scope of services and will pay the Contractor such reduced compensation as the City determines is equitable, without prejudice to any right the Contractor may have, after completion of the Services, to assert a claim for all or any portion of the compensation withheld by the City in reliance on this Section 3.3 (provided that the Contractor's claim shall not include any amount for loss of revenue or loss of profit).

3.4 Personnel. The City may from time to time request reasonable changes to the personnel of the Contractor, and the Contractor shall comply with any such request. The Contractor shall not change any of the personnel without the prior written approval of the City, which approval will not be unreasonably withheld.

4. Compensation.

4.1 Fees. Subject to the terms and conditions of this Agreement, and in consideration for the satisfactory performance of the Services, the City shall pay to the Contractor the fees on the basis set out in Schedule "B".

The Contractor acknowledges and agrees that the prices set out in Schedule "B" include all of the Contractor's profit and all of the Contractor's costs of performing the Services, including, labour, supervision, management, equipment, tools, materials, cleaning supplies, fuel, overhead and office costs.

4.2 Manner of Payment. The Contractor shall be paid on the basis and at the times set out in Schedule "B" and in accordance with Section 9 of this Agreement.

4.3 No Additional Compensation unless Pre-Approved. No Additional Compensation whatsoever shall be payable by the City for work performed by the Contractor which has not been approved in accordance with Section 3.2 hereof.

5. Subcontractors.

5.1 Use of Subcontractors. The Contractor may retain Subcontractors to assist in the performance of the Services, provided that:

- (a) the Contractor shall not subcontract all or substantially all of the Services to a Subcontractor;
- (b) the Contractor shall require that the terms of this Agreement apply to the Subcontractors; and
- (c) the Contractor shall be wholly responsible for the professional standards, performance, acts, defaults and neglects of such Subcontractors.

5.2 Standard of Care of Subcontractors. The Contractor represents to the City that all Subcontractors are competent and have the qualifications, designations, experience and capabilities necessary to carry out the Services to the Standard of Work. The Contractor shall

cause all Subcontractors to exercise the degree of care, skill, diligence and efficiency in the performance of the Services as is required by the Standard of Work.

5.3 Subcontractor Approvals. The Contractor shall only retain Subcontractors approved by the City in writing.

5.4 Subcontractor Changes. The Contractor shall not change any Subcontractor without the prior written approval of the City. The City may from time to time, where it reasonably believes performance to the Standard of Work is not being met by any Subcontractor(s), request changes to the Contractor's Subcontractors, and the Contractor shall comply with any such request.

6. Compliance with Laws and Taxes.

6.1 Compliance with Laws. In carrying out its obligations hereunder, the Contractor shall comply with, and shall cause all Subcontractors to comply with, all Applicable Laws.

6.2 Regulatory Compliance. The Contractor shall upon request by the City provide certificates of compliance from regulatory bodies or other evidence of compliance, including as pertaining to any of the Subcontractors. The Contractor accepts full and exclusive responsibility and liability, and shall cause all Subcontractors to accept full and exclusive responsibility and liability, for payment of federal and provincial payroll taxes and for contributions for employment insurance, old age pensions, retirement annuities, workers' compensation, health and hospitalization plans and other benefits expressed under any provision of any law or any agreement to which the Contractor and the Subcontractors are subject.

6.3 Permits and Licenses. The Contractor represents and warrants that it has obtained and is in compliance with all requisite permits, professional designations, authorizations and licenses necessary for the Contractor to supply and provide the Services.

6.4 The Contractor represents and warrants that it has a valid City of Vancouver business licence and will maintain such business licence in good standing for the Term.

7. Policies, Rules and Regulations.

7.1 Rules and Procedures. The City may prescribe, and the Contractor will comply with (and cause any person for whom it is responsible at law or pursuant to the provisions of this Agreement to comply with) all rules, regulations, policies and procedures from time to time for:

- (a) matters pertaining to safety and security, including data and network security and issuance of passes, vehicle operating permits, keys, badges, and like devices;
- (b) environmental matters;
- (c) accessibility matters;
- (d) sustainability matters;
- (e) tendering and procurement matters;
- (f) the use of specific materials, goods or services;
- (g) public information and communications; and
- (h) such other matters as the City may from time to time deem necessary or desirable in its reasonable determination.

- 7.2 Changes to Rules and Procedures. The City may at any time upon notice to the Contractor amend the rules, regulations, policies and procedures relating to the Services, and may at any time prescribe specific stipulations regarding the Services applicable to the Contractor and its Subcontractors.
- 7.3 Security. The Contractor agrees that, as a condition of working with the City:
- (a) the Vancouver Police Department (“VPD”) or any other provincial, federal, regional, or municipal police force, police department or other law enforcement bodies (collectively, “Law Enforcement Agencies”) may at any time and from time to time during or after the Term, conduct criminal records searches, police history information searches and/or other background checks, investigations and searches (collectively, “Searches”) pertaining to: (i) the Contractor; (ii) any principals, directors, managers, employees and agents of the Contractor performing, directly or indirectly, any part of the Services which involves, or may involve, access to the Facilities; (iii) the Subcontractor(s); or (iv) any principals, directors, managers, employees and agents of the Subcontractor(s) performing, directly or indirectly, any part of the Services which involves, or may involve, access to the Facilities (for the purposes of this section, (i) through (iv) are collectively, the “Contractor Personnel”);
 - (b) the Contractor will cause all Contractor Personnel, as a condition of having access to or performing, directly or indirectly, any part of the Services which involves, or may involve, access to the Facilities, to execute and deliver to the VPD, or on the request of the VPD, to any other Law Enforcement Agencies, a consent document setting out the individual’s consent and authorization to conduct any Searches, including without limitation consent to the collection and submission of such personal data and information as may be required to enable the VPD or other Law Enforcement Agencies to perform such Searches; and
 - (c) without limiting any other term of this Agreement, the Contractor agrees that each of: (i) the failure of any Contractor Personnel to deliver any consent or authorization required hereunder; and (ii) receipt by the City of notice from the VPD that the outcome of any of the Searches is not satisfactory, shall constitute a default under this Agreement and in such event the City may, but will not be obligated to, exercise any right or remedy that the City may have under this Agreement or at law, including without limitation, terminating this Agreement or denying access to any Contractor Personnel to the Facilities.
- 7.4 Safety. The Contractor acknowledges the City’s commitment to a superior standard of workplace safety. In addition to complying with all of the Contractor’s health and safety obligations specified in this Agreement or otherwise prescribed by Applicable Law, the Contractor agrees to provide support for the City’s safety objectives by making efforts to elevate the priority it places on the creation of a safe work environment and embedding health and safety principles into its work.
8. Relationship of the Parties.
- 8.1 Status. The Contractor is engaged as an independent consultant / contractor to the City for the sole purpose of providing the Services. Neither the Contractor nor any of the Contractor’s personnel is engaged as an official, officer, employee, servant or agent of the City, and neither the Contractor nor any of the Contractor’s personnel shall enter into or purport to enter into any contract or subcontract on behalf of the City. All Subcontractors shall be consultants, agents, associates or subcontractors, as the case may be, of the Contractor and shall not be consultants, agents, associates or subcontractors of the City. It is understood and agreed that the Contractor will act as an independent consultant / contractor to the City and that no joint

venture, partnership or principal-and-agent relationship exists between them in connection with this Agreement or otherwise, and the parties covenant that they will not assert otherwise. It is further understood and agreed that the Contractor is entitled to no other benefits or payments whatsoever other than those specified in this Agreement.

8.2 No Acceptance of Advantages or Benefits. Neither the Contractor, nor any of its agents or employees (including any Subcontractors) shall give or offer to give to the City or any official, officer, employee or agent of the City any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement or the Services. Contravention of this provision shall be deemed an Event of Default (as defined in Section 15.2) and will permit the City to terminate this Agreement pursuant to Section 15.1(b).

8.3 No Conflicts of Interest. The Contractor declares that to the best of its knowledge the Contractor and its Subcontractors, and their respective directors, officers, employees and agents, have no pecuniary interest or any other current or past interest or dealings, including with any officials, officers or employees of the City, that would cause a conflict of interest or be seen to cause a conflict of interest in carrying out the Services. Should such a conflict or potential conflict arise during the term of this Agreement, the Contractor shall declare it immediately in writing to the City. The City may direct the Contractor to resolve any conflict or potential conflict to the City's satisfaction. The Contractor warrants that neither the Contractor nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association with any third party which would impair or qualify the provision of the Services

8.4 No Third Party Rights. Except as expressly set forth herein, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Contractor.

9. Payment.

9.1 Submission of Invoices. The Contractor shall submit invoices to the City in respect of the performance of the Services by the Contractor in accordance with the fees set forth in Schedule "B". Each invoice shall be clearly itemized to show this contract number, the work performed, the charges broken out by Facility, the reimbursable expenses, if applicable, the GST and PST, if applicable, and the Contractor's GST registration number. The Contractor shall also provide to the City all receipts, bills, invoices or other evidence in support of each invoice. The City may require the Contractor to provide separate invoices for each Facility, or for those Facilities comprised of more than one building, separate invoices for each building.

9.2 Address for Invoices. All invoices shall be directed to the following address:

City of Vancouver
[insert address for receipt of invoices]

or such other address as the City may communicate to the Contractor from time to time.

9.3 Time For Payment. Except for any amounts which the City is in good faith disputing, any set off which the City may claim, any amounts in respect of which the City has requested and not received supporting evidence under Section 9.4, and any holdback required to be made under Applicable Law, the City shall pay invoices submitted to it for the Services within 30 days of receipt thereof.

9.4 Maintenance of Records. The Contractor shall keep, and shall cause any Subcontractors to keep, books, records, documents, invoices, receipts and other evidence relevant to the

provision of the Services in accordance with generally accepted accounting principles and practices consistently applied. The City or any of its duly authorized representatives shall, for the purpose of audit and examination, have access to and be permitted, upon reasonable notice to the Contractor, to inspect such books, records, documents and other evidence for review, copying and audit at any time and from time to time while this Agreement is in effect and for a period of three years after the expiry or termination of this Agreement for any reason.

10. Workers' Compensation Board Compliance

10.1 Prior to commencing the Services, the Contractor must provide evidence that it is in good standing with the Workers' Compensation Board of British Columbia (the "WCB").

10.2 *Payment of WCB 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 WCB coverage for itself and all workers, employees, servants and others engaged in or upon the Services. The Contractor agrees that the City has the unfettered right to set off the amount of any unpaid premiums and assessments for such WCB coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Agreement until the WCB premiums, assessments or penalties in respect of the Services have been paid in full.

(a) *Initial Proof of WCB Registration/Good Standing* - Within five (5) Business Days of the Effective Date, the Contractor will provide the City with the Contractor's and all Sub-Contractor's WCB registration numbers and with written confirmation from the WCB that the Contractor and all Subcontractors are registered and in good standing with the WCB and that all premiums, assessments and penalties have been paid to date.

(b) *Subsequent Proof of WCB Registration/Good Standing* - Within five (5) Business Days of a request by the City the Contractor will provide the City with written confirmation from the WCB that the Contractor and all Subcontractors are registered and in good standing with the WCB and that all premiums, assessments and penalties have been paid to date.

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

(i) Unpaid WCB assessments of the Contractor or any other employer for whom the Contractor is responsible under this Agreement;

(ii) The acts or omissions of any person engaged directly or indirectly by the Contractor in the performance of the Services, or for whom the Contractor is responsible at law and which acts or omissions are or are alleged by the WCB to constitute a breach of the WCB Legislation or any other failure to observe the safety rules, regulations and practices of WCB, including any and all fines and penalties levied by the WCB, or

(iii) Any breach of this Section 10.

This indemnity will survive the expiry or earlier termination of this Agreement.

10.3 The Contractor agrees that for the purposes of this Agreement and the WCB Legislation, while on any City property, the Service Provider will be designated as the "prime contractor" in respect of its employees and its Subcontractors in the performance of the Services.

11. Insurance and Indemnity.

11.1 Contractor's Insurance. Without limiting any of its obligations or liabilities under this Agreement, the Contractor will obtain and continuously carry and will cause its Subcontractors to obtain and continuously carry during the term of the Agreement at its own expense and cost, the following insurance coverages with minimum limits of not less than those shown in the respective items set out below:

- (a) Commercial General Liability insurance in sufficient amounts and description to protect the Contractor, its Subcontractors, the City of Vancouver and its officers, officials, employees, and agents against claims for damages, personal injury including death, bodily injury and property damage which may arise under this Agreement.

The limit of commercial general liability insurance will be not less than \$5,000,000 per occurrence, or such higher amount as the City may require from time to time, inclusive for personal injury, death, bodily injury or property damage and in the aggregate with respect to products and complete operations. The deductible will not exceed \$5,000 per occurrence.

The policy of insurance shall:

- (i) be on an occurrence form;
- (ii) add the City of Vancouver and the Vancouver Board of Parks and Recreation and their respective officials, officers, employees and agents as additional insureds;
- (iii) contain a cross-liability or severability of interest clause;
- (iv) extend to cover non-owned automobile, contingent employer's liability, blanket contractual liability, contractor's protective liability, broad form property damage, broad form completed operations and operations of attached machinery.
- (b) Automobile insurance covering all vehicles owned, leased or operated by the Contractor in connection with the Agreement including Third Party Legal Liability Insurance in an amount not less than \$2,000,000 per occurrence, or such higher amount as the City may require from time to time.
- (c) Property insurance, in an amount acceptable to the City's Director of Risk and Emergency Management, covering all supplies, equipment and other property of the Contractor which may be stored or kept at the Facilities by the Contractor from time to time. Such policy will include a waiver of subrogation against the City of Vancouver and the Vancouver Board of Parks and Recreation.
- (d) A fidelity bond in an amount not less than \$50,000 for any one loss, protecting the City of Vancouver and the Vancouver Board of Parks and Recreation and their respective officers, officials, employees and agents against claims for loss of money, securities and other property that the City of Vancouver or the Vancouver Board of Parks and Recreation or other third parties may suffer, resulting directly from fraudulent acts committed by the Contractor, its Subcontractors or their respective employees or agents.

11.2 All insurance policies required by this Agreement will be in a form, in amounts and with insurers acceptable to the City's Director of Risk and Emergency Management. All policies will

provide that the insurer will provide the Manager, Materials Management with sixty (60) days prior written notice of any material change, lapse or cancellation of the policy. Notice must identify the contract title, number, policy holder, and scope of work.

- 11.3 The Contractor and each of its Subcontractors will provide at its own cost any additional insurance which it is required by law to provide or which it considers necessary.
- 11.4 Neither the providing of insurance by the Contractor in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing will be held to relieve the Contractor from any other provisions of the Contract Documents with respect to liability of the Contractor or otherwise.
- 11.5 The insurance coverage 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 the Contractor's insurance and will not contribute with it.
- 11.6 Prior to the Effective Date, the Contractor will provide the City with evidence of all required insurance to be taken out in the form of a "Certificate of Insurance" (on the City's form) and supported by a certified copy(s) of the policy(s). The Certificate of Insurance will identify the contract title, number, policyholder and scope of work and must not contain any qualifications or disclaimers. The Contractor will provide proof of insurance, in the form of a Certificate of Insurance or certified copies of all insurance policies to the Manager, Materials Management at any time during the Term immediately upon request.
- 11.7 The Contractor will provide in its agreements with its Subcontractors clauses in the same form as in this Section 11. Upon request, the Contractor will deposit with the City's Director of Risk and Emergency Management detailed certificates of insurance for the policies it has obtained from its Subcontractors and a copy of the applicable insurance clauses from its sub-contract agreements.
- 11.8 The Contractor will ensure that the required insurance is provided only by a company duly registered and authorized to conduct insurance business in the Province of British Columbia.
- 11.9 Responsibility and Liability. The Contractor hereby assumes the entire responsibility and liability for all damage and injury of any kind and nature whatsoever, caused by, resulting from, arising out of, incidental to, or accruing in connection with any wilful misconduct or negligent act, error or omission of the Contractor or any person for whom the Contractor is responsible at law or pursuant to the terms of this Agreement.
- 11.10 Indemnity. The Contractor shall defend, indemnify and hold harmless the City and all of its past and present directors, officers, officials, employees, agents and representatives from and against all Claims and Proceedings, whether direct or indirect, of any nature or kind whatsoever, either before or after the expiration or termination of this Agreement, arising out of or in connection with:
- (a) any wilful misconduct or any negligent act, error or omission of the Contractor or any person for whom the Contractor is responsible at law or pursuant to the provisions of this Agreement, including without limitation, injury or death to anyone, loss or damage to property of any person, any claim or matter in dispute between the Contractor and any Subcontractor, and any failure or deficiency by the Contractor or any Subcontractor in providing the Services;
 - (b) any infringement or alleged infringement of any copyright, patent, trademark, industrial design, trade secret or other intellectual property rights of any person, or of any obligation of confidentiality, in connection with the Services; and

- (c) any claim which may be made for a lien or charge at law or in equity or to any claim or liability under the *Builders Lien Act*, or to any attachment for debt, garnishee process or otherwise.

This indemnity will survive the expiry or earlier termination of this Agreement.

- 11.11 Rectification of Damage. The Contractor will rectify any loss or damage caused by the Contractor in the performance of the Services at no charge to the City and to the satisfaction of the City. Alternatively, the City may repair the loss or damage and the Contractor will then pay to the City the costs of repairing the loss or damage promptly upon demand from the City. Where, in the opinion of the City, it is not practical or desirable to repair the loss or damage, the City may estimate the cost of repairing the loss or damage and deduct such estimated amount from any amount owing to the Contractor.

12. Freedom of Information and Protection of Privacy Act.

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

13. No Promotion

- 13.1 No Promotion of Relationship. The Contractor will not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials (the "Communications") without the express prior written consent of the City (except as may be necessary for the Contractor to perform the Contractor's obligations under the terms of this Agreement).

The Contractor undertakes not to disclose or promote its relationship with the City in any Communications in a manner which could suggest or create an association, express or implied, between the Contractor and the International Olympic Committee, the 2010 Olympic and Paralympic Winter Games, the Olympic Movement or the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (also known as "VANOC"). Without limiting the generality of the foregoing, the Contractor will not refer to "VANOC", "Vancouver 2010", the "2010 Games", the "Games", "Host City", "Olympic" or "Olympics", and will not use any official emblem, logo or mascot of the 2010 Games or the City, in any Communications, without the express prior written consent of the City, which consent may be withheld.

14. Sustainability

- 14.1 The Contractor acknowledges the City's commitment to sustainability as set out in the RFP. The Contractor agrees that it will not use any products, cleaning supplies, chemicals or consumables in the course of performing the Services which have not been approved in writing by the City.

15. Termination.

- 15.1 Rights of Termination. This Agreement may be terminated before completion of the Services and before the expiry of the Term, anything to the contrary herein notwithstanding, as follows:

- (a) by the City, at its option and for any reason in its sole discretion, upon 15 Business Days' notice to the Contractor; or

- (b) by the City, at its option, at any time after the happening of an Event of Default.
- 15.2 Events of Default. For the purposes hereof, an "Event of Default" shall be deemed to occur if:
- (a) the Contractor is in breach of any covenant, obligation or representation hereunder and such breach persists unremedied for a period of ten (10) Business Days after the City has provided the Contractor with written notice of and particulars of the breach or alleged breach, provided that the City may terminate without providing a cure period with respect to actions of the Contractor that are part of a continuing course of conduct in respect of which prior written notice has been given;
 - (b) there occurs or, in the reasonable opinion of the City, there exists a threat of, a strike, lockout, work slowdown, labour disturbance, or refusal to work by the employees or Subcontractors of the Contractor;
 - (c) the Contractor is adjudged bankrupt, becomes insolvent or unable to discharge its liabilities as they become due, makes an assignment for the benefit of its creditors, is subject to the appointment of a receiver, or a petition of bankruptcy is made against it; or
 - (d) any Subcontractor becomes insolvent or unable to discharge its liabilities as they become due or makes an assignment for the benefit of its creditors or a petition of bankruptcy is made against it, and such situation will, in the City's reasonable determination, have an adverse impact on the delivery of the Services.
- 15.3 Termination Payment. Where this Agreement is terminated under Section 15.1, the City shall pay to the Contractor such part of the compensation as the City, acting reasonably, determines has been earned by the Contractor to the date of termination less any amounts held by the City on account of damages, losses or costs resulting from an Event of Default. Payment pursuant to this Section will not include any amounts for lost revenue or lost profit of the Contractor. Upon the termination of this Agreement and payment as required hereunder, the City shall have no further obligation or liability to the Contractor with respect to compensation payable to the Contractor hereunder and may as a condition of final payment under this Agreement require the Contractor to execute and deliver a release and discharge in favour of the City in relation to the compensation payable to the Contractor hereunder.
- 15.4 Remedy for Default. In the case of an Event of Default or if the Contractor fails to supply and provide the Services or any part thereof in accordance with this Agreement, the City may, without limiting any other rights it may have, remedy any deficiency and may engage others to do so, and may charge against the Contractor all extra costs and expenses in doing so. The City will be under no obligation to remedy any failure or deficiency on the part of the Contractor and will not incur any liability to the Contractor for any action or omission in the course of its remedying or attempting to remedy any such failure or deficiency.
- 15.5 Effect of Termination. Termination of this Agreement for any reason shall not prejudice, limit or affect any claim or matter outstanding prior to termination or obligations consequent upon termination or which by their nature survive termination as provided for herein.
- 15.6 Suspension of Services. The City may, at any time and from time to time by delivery of notice in writing to the Contractor, suspend the performance of the Services for the period of time specified in such notice. In that event the City shall pay to the Contractor such part of the compensation as can reasonably be considered to have been earned by the Contractor to the date of the suspension, and any costs or expenses directly incurred and not reasonably avoidable as a result of such suspension. The Contractor shall have no claim against the City

for any costs, expenses, damages or other liabilities suffered or incurred by the Contractor as a result of any suspension hereunder unless otherwise agreed by the City in writing.

16. Assignment.

16.1 No Assignment by Contractor without Consent. The Contractor shall not assign this Agreement, in whole or in part, or any payments due or to become due under this Agreement, either voluntarily, involuntarily or by operation of law, without the express prior written consent of the City, which consent may be unreasonably or arbitrarily withheld.

16.2 Change of Control. If the Contractor is a company, then any change in the control of the company shall be deemed to constitute an assignment for the purposes of Section 16.1.

16.3 Effect of Assignment. No assignment permitted by the City shall relieve the Contractor from any obligation under this Agreement or impose any liability upon the City.

16.4 Assignment by the City. The City may at any time and from time to time assign this Agreement, in whole or in part, upon notice to (and without the consent of) the Contractor.

17. Contract Administration.

17.1 City Contract Administrator. For the purposes of this Agreement, the City designates as its Contract Administrator:

[Insert name and contact information for City's Contract Administrator.]

17.2 Contractor Contract Administrator. For the purposes of this Agreement, the Contractor designates as its Contract Administrator:

[Insert name and contact information for Contractor's Contract Administrator.]

17.3 The Contract Administrator will be the primary point of contact for each party in the administration of this Agreement.

17.4 The Contractor's Contract Administrator will meet with the City's Contract Administrator on a regular basis and at the time and place requested by the City to address any issues which may arise under this Agreement.

17.5 Changes in Contract Administrator. Either party may change its Contract Administrator and/or its Contract Administrator's address, telephone and/or fax number by written notice to the other party given in accordance with Section 18.1 of this Agreement.

17.6 Facility Representatives. In addition to the City's Contract Administrator, the City may appoint a representative ("Facility Representative") for each Facility who will administer this Agreement in respect of the performance of the Services at the particular Facility. The Facility Representative will be the primary contact on behalf of the City, in respect of the particular Facility, for day to day operational and service level issues which may arise under the Contract.

18. Notices.

18.1 Addresses for Notice. Any notice required or permitted to be given by one party to another pursuant to this Agreement must be in writing and will be validly given if delivered,

transmitted by facsimile or mailed in British Columbia by pre-paid registered post to the parties as follows:

TO CITY:

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

Attention: [insert name of Contract Administrator]

Attention: Manager, Materials Management
Fax: (604) 873-7057

Attention: Director of Legal Services
Fax: (604) 873-7445

TO CONTRACTOR:

[insert name and mailing address of Contractor]

Attention: [insert name of Contract Administrator]
Phone: (604) _____

or to such other person or address as one party may advise the other in writing from time to time. Any notice given in accordance with this or any other provision of this Agreement is deemed to be received on the day of delivery or transmission by facsimile if a Business Day and if not a Business Day then on the next Business Day or if mailed, on the third Business Day following the posting thereof, provided that if there is a postal strike, dispute or slowdown, notices will only be effective if delivered or transmitted by facsimile.

18.2 Notice of Actions against Contractor. The Contractor will provide written notice to the City immediately upon the written threat or commencement of any actions brought against the Contractor or any of its Subcontractors or their respective affiliates, the outcome of which may affect the rights of the City or the ability of the Contractor to comply with its obligations under this Agreement.

19. Time for Performance.

19.1 Time of the Essence. Time shall be of the essence of this Agreement.

19.2 Force Majeure. Notwithstanding Section 19.1, neither the City nor the Contractor shall be deemed to be in default for delays in performance (other than delays in payment) caused by circumstances beyond the reasonable control of the non-performing party. For the purposes hereof, such circumstances include, but are not limited to, extreme weather conditions, flood, earthquake, fire, epidemic, war, riot and other civil disturbance, sabotage, judicial restraint and inability to procure permits, licenses or authorizations from any local, provincial or federal agency for any of the supplies, materials, accesses or services required to be provided by either the City or the Contractor under this Agreement. If any such circumstances occur, the non-performing party shall, as soon as possible after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

20. Dispute Resolution.

- 20.1 All claims, disputes or issues in dispute between the City and the Contractor in relation to this Agreement will be decided by mediation or arbitration, if the parties agree, or failing agreement, by the courts pursuant to Section 20.5.
- 20.2 Subject to Section 20.7, in the event that (i) the parties agree to arbitration pursuant to Section 20.1, the arbitration will be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and will be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the parties, and failing agreement by the parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia. The parties will share equally the costs of the arbitration but will be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements.
- 20.3 If the parties agree to arbitration, the arbitration shall take place in Vancouver, British Columbia and will be governed by the laws of British Columbia.
- 20.4 The procedure set out in this section is not meant to preclude or discourage informal resolution of disagreements between the City and the Contractor.
- 20.5 The laws of British Columbia will govern all disputes under this Agreement and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement unless and until the parties agree in writing to mediate or arbitrate any specific dispute.
- 20.6 All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- 20.7 No arbitration pursuant to Section 20.2 will be binding on the City (but will, at the City's option be binding on the Contractor) until the Contractor has permitted the City to conduct an audit of the Contractor's records pursuant to generally accepted auditing standards.

21. Performance Security

- 21.1 Concurrently with the execution and delivery of this Agreement, the Contractor will deliver to the City a clean, unconditional, irrevocable, demand letter of credit (the "Letter of Credit") payable in the amount of \$50,000.00 and issued in favour of the City by a bank listed in Schedule I or Schedule II of the *Bank Act* (Canada) and on terms satisfactory to the City's Director of Legal Services.
- 21.2 The Letter of Credit must contain an automatic extension clause for the Term of this Agreement and may be drawn on by the City to reimburse the City for any costs, losses or damages suffered by the City as a result of the Contractor's breach of this Agreement.
- 21.3 Upon the expiry or earlier termination of this Agreement the City will return the Letter of Credit, or that portion of the Letter of Credit not drawn down by the City pursuant to Section 21.2, to the Contractor.

22. General.

- 22.1 No Waiver. No action or failure to act by the City shall constitute a waiver of any right or duty under this Agreement, or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing by the City.
- 22.2 Severability. The invalidity, illegality or unenforceability of any portion or provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken position.
- 22.3 Governing Law. This Agreement shall be construed under and according to the laws of the Province of British Columbia and the parties agree to irrevocably attorn to the jurisdiction of the Courts of the Province of British Columbia.
- 22.4 Remedies Cumulative. The remedies of the parties provided for in this Agreement are cumulative and are in addition to any remedies available to the parties at law or in equity. No remedy will be deemed to exclude or restrict the right of a party to any other remedies against the other party and a party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.
- 22.5 Further Assurances. Each party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 22.6 Entire Agreement. The Contract Documents constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.
- 22.7 Amendment. This Agreement shall not be amended except as specifically agreed in writing by both the City and the Contractor.
- 22.8 Joint and Several Liability of Joint Venture Participants. If the Contractor is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the Contractor shall be joint and several.
- 22.9 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and the Contractor and their respective heirs, executors, legal representatives, administrators, successors and permitted assigns.
- 22.10 Schedules and Appendices. The Schedules and appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 22.11 Representation. By executing this Agreement, the Contractor represents that it has carefully examined this Agreement, acquainted itself with all conditions relevant to the Services, made all evaluations and investigations necessary for a full understanding of any difficulties which may be encountered in performing the Services, and been given the opportunity to receive independent legal advice. The Contractor further acknowledges that this Agreement is sufficient for the proper and complete execution of the Services.

22.12 Set-Off. The City may at its option, withhold and set-off against any amount owing to the Contractor (whether under this Agreement or otherwise) any amounts payable by the Contractor to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Contractor, whether such claim is at law or in equity or tort or on any other basis.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the parties by their duly authorized officers.

CITY OF VANCOUVER,
by its Authorized Signatory(ies)

Manager, Materials Management

Director of Legal Services

CITY OF VANCOUVER
as represented by its
BOARD OF PARKS AND RECREATION
by its Authorized Signatory(ies)

[THE CONTRACTOR]
By its Authorized Signatory(ies)

Authorized Signatory

Authorized Signatory



CERTIFICATE OF EXISTING INSURANCE
TO BE COMPLETED AND SUBMITTED ALONG WITH PROPOSAL

Section 1 - to be completed by City staff
Section 2, 3, 4, 5, 6, 7 & 8 - to be completed by the Insurer or its Authorized Representative

1. THIS CERTIFICATE IS ISSUED TO: City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
Attn _____
Tel (604) _____ Fax (604) _____
Email _____

And certifies that the insurance policy (policies) as listed herein has been issued to the Named Insured and is in full force and effect as of the effective date of the agreement described below.

2. NAMED INSURED

BUSINESS TRADE NAME or DBA DOING BUSINESS AS _____

BUSINESS ADDRESS _____

DESCRIPTION OF OPERATION, CONTRACT, AGREEMENT, LEASE, PERMIT OR LICENSE _____

3. PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)
INSURER _____ Insured Values (Replacement Cost) -
TYPE OF COVERAGE _____ Building and Tenants Improvement \$ _____
POLICY NUMBER _____ Contents and Equipment \$ _____
POLICY PERIOD From _____ to _____ Deductible Per Loss \$ _____

4. COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)
Including the following extensions: INSURER _____
• Personal Injury POLICY NUMBER _____
• Property Damage including Loss of Use POLICY PERIOD From _____ to _____
• Products and Completed Operations Limits of Liability (Bodily Injury and Property Damage Inclusive) -
• Cross Liability or Severability of Interest Per Occurrence \$ _____
• Employees as Additional Insureds Aggregate \$ _____
• Blanket Contractual Liability All Risk Tenant's Legal Liability \$ _____
• Non-Owned Auto Liability Deductible Per Occurrence \$ _____

5. AUTOMOBILE LIABILITY INSURANCE for operation of owned and/or leased vehicles
INSURER _____ Limits of Liability -
POLICY NUMBER _____ Combined Single Limit \$ _____
POLICY PERIOD From _____ to _____ *If vehicles are insured by ICBC, complete and provide Form APV-47.*

6. UMBRELLA OR EXCESS LIABILITY INSURANCE Limits of Liability (Bodily Injury and Property Damage Inclusive) -
INSURER _____ Per Occurrence \$ _____
POLICY NUMBER _____ Aggregate \$ _____
POLICY PERIOD From _____ to _____ Self-Insured Retention \$ _____

7. PROFESSIONAL LIABILITY INSURANCE Limits of Liability
INSURER _____ Per Occurrence/Claim \$ _____
POLICY NUMBER _____ Aggregate \$ _____
POLICY PERIOD From _____ to _____ Deductible Per Occurrence/Claim \$ _____

If the policy is in a "Claims Made Form", please specify the applicable Retroactive Date: _____

8. OTHER REQUIRED INSURANCE
TYPE OF INSURANCE _____ Limits of Liability
INSURER _____ Per Occurrence \$ _____
POLICY NUMBER _____ Aggregate \$ _____
POLICY PERIOD From _____ to _____ Deductible Per Loss \$ _____

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

SIGNED BY THE NAMED INSURED (Contractor/Tenant/Lessee/Permittee/Licensee)

_____ Dated _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

_____ Dated _____

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