



REQUEST FOR PROPOSAL PS07057

SUPPLY AND INSTALLATION OF AN ASPHALT PLANT DRYER

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 the Closing Time: 3:00:00 P.M. City Hall Clock Time (as defined in Note 2 below), on the Closing Date: Tuesday, May 1, 2007, and registered at 11:00:00 A.M., Wednesday, May 2, 2007.

NOTES:

1. Proposals are to be in sealed envelopes or packages 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 used by the City's Security Office for this purpose.
3. DO NOT SUBMIT BY FAX.

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

**Linda Syvertsen, C.P.P.B.
Contracting Specialist,**

FAX: **604.873.7057** E-MAIL: purchasing@vancouver.ca

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PART A - INTRODUCTION

1.0 Introduction

- 1.1 The purpose of this Request for Proposal (“RFP”) is to assist the City of Vancouver (the “City”) in selecting a proponent with the capability and experience to efficiently and cost-effectively supply an asphalt plant dryer (“New Dryer”) for the City’s Engineering Department’s Kent Yard (each entity that submits a Proposal pursuant to this RFP, hereinafter a “Proponent”). The requirements stated in this RFP are as envisioned by the City at the time of writing, but may change or be refined in the course of the evaluation and negotiation process.

Capitalized terms used in this RFP, not otherwise defined, have the respective meanings noted in Section 1.2 of Attachment A - *Legal Terms and Conditions of Part D - Proposal Form*, unless the context clearly requires otherwise.

- 1.2 It is the City’s intent to award a Contract to a single Proponent who will perform and carry out the Requirements set out in this RFP.

- 1.3 A Proponents’ information meeting (the “Information Meeting”) will be held:

Date: Tuesday, April 17, 2007

Time: 11:00 AM (Local Vancouver Time)

Location: Kent Yard Asphalt Plant
900 East Kent Avenue, S.E.
Vancouver, B.C.

The Proponents’ Information Meeting will include: an overview of the RFP Requirements; the background documents and process and will also enable prospective Proponents to seek clarification on RFP issues in a communal forum.

Also, at this meeting, prospective Proponents will have the opportunity to confirm the dimensions of the existing asphalt plant dryer and the surrounding area. Please notify the contact person (the “Contact Person”) listed on the cover page of this RFP by Friday, April 13, 2007 if you wish to obtain measurements at this meeting.

- 1.4 Proponents are encouraged to pre-read this RFP and submit any questions relating to this RFP document to the Contact Person prior to the Information Meeting.

- 1.5 **All prospective Proponents are to pre-register for the Information Meeting by submitting an Information Meeting Attendance Form (Appendix 3) to the Contact Person by Friday, April 13, 2007.**

- 1.6 The City will in good faith attempt to give accurate verbal responses to questions during the Information Meeting but Proponents are advised that they may only rely on the formal written response/summary to be issued by the Contact Person following the Information Meeting. The formal written response/summary will be issued by the City as soon as possible as an Addendum to this RFP.

- 1.7 **Following the Information Meeting, all prospective Proponents who still intend to submit Proposals are to complete and then submit the Response Notification Form (Appendix 2) to the Contact Person prior to Friday, April 20, 2007.**

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PART A - INTRODUCTION**

2.0 Overview

2.1 The successful RFP Proponent will be required to provide the following products and services consisting of, but not limited to:

- A New Dryer based on the performance requirements set out in Schedule A - *Requirements*. The proven design of the dryer shall include data such as manufacturer specifications, general arrangement, structural drawings, performance calculations and contact information of previous/present owners of the proven design.
- Remove the existing dryer and supply and install the New Dryer in its entirety adhering to all federal, provincial and municipal laws and regulations, and construction and work safety standards for such work; provided, however, that the removal and install work may either be done:
 - (a) By City employees, under the supervision and direction of the Proponent; or
 - (b) By the Proponent's own employees, under the supervision and direction of the Proponent.
- Inspection during installation will be conducted by the City's Manager of Kent Yard (the "City Engineer").
- Acceptance testing will be conducted by the City Engineer and will be coordinated between the successful Proponent and City Engineer in accordance with the Performance Schedule (Schedule F).

2.2 Key dates to be noted are:

Event	Dates
Release of RFP	Wednesday, April 4, 2007
Deadline for Information Meeting Response Form	Monday, April 16, 2007
Information Meeting	Tuesday, April 17, 2007
Deadline for Response Notification Form	Friday, April 20, 2007
Deadline for inquiries	Friday, April 27, 2007
RFP closing	Tuesday, May 1, 2007
Evaluations	May, 2007
Recommendation of preferred Proponent to Council	Tuesday, May 29, 2007
Drafting of Contract and receipt/review of proposed insurance/WCB/performance security documents	May/June 2007

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PART A - INTRODUCTION**

Delivery of actual approved insurance/WCB/performance security, execution of Contract and completion all other Contract closing matters	May/June 2007
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3.0 Background and Scope

3.1 Background

The City of Vancouver has operated a Gencor 3 Ton asphalt batch plant at Kent Yard, 900 East Kent Ave. S.E. since 1999. This plant typically produces approximately 100,000 tonnes of hot mix asphalt for City streets and lanes annually. The City uses granite mineral aggregates in its production of hot mix asphalt.

The City of Vancouver Asphalt Plant can be viewed at:
<http://vancouver.ca/Greaterdot/video/00-asphaltplant.rm> .

The detailed specifications for the City's Kent Yard Asphalt Plant are set out in Schedule A - *Requirements*.

3.2 Scope

The successful Proponent will provide a new asphalt batch plant dryer according to the specifications listed in Schedule A - *Requirements* to fit the existing frame and operational characteristics of the City's asphalt plant. The successful Proponent will have the option to provide the expertise and supervision for the removal, installation and the commissioning of the New Dryer by City crews or to provide the expertise and supervision for the removal, installation and the commissioning of the New Dryer by a Proponent supplied crew. The successful Proponent must attend the City's asphalt plant prior to the manufacture of the New Dryer to confirm all necessary measurements. The successful Proponent must provide a commissioning plan and ensure the fit and the operation of the New Dryer.

3.3 City Engineer

The City Engineer will assist the City to:

- Review and evaluate the dryer design and installation proposals submitted by the Proponents,
- Inspect removal, installation and commissioning, and
- Conduct the acceptance testing of the New Dryer.

4.0 Objectives of the RFP

4.1 Objective

The objective of this RFP is to select a Contractor/Proponent who can supply a replacement plant dryer that fits the existing frame as described in Schedule A - *Requirements* and who will either supply the expertise and mandatory supervision required for the removal of the old dryer and installation and commissioning of the New Dryer by a Proponent supplied crew, or supply the expertise and mandatory supervision required for the removal of the old dryer and installation and commissioning of the New Dryer by City crews.

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PART A - INTRODUCTION

4.2 The objective of this RFP is to receive Proposals in compliance with the Requirements set out in this RFP from Proponents for the supply and installation of the New Dryer.

5.0 Insurance/Performance Security

Proponents are requested to review and ensure that they fully understand and have the ability to meet the City's insurance and performance security requirements as outlined in Part C - *Special Conditions*.

6.0 Requirements

In support of the RFP Objectives as outlined above, the City has identified specific Requirements within Schedule A - *Requirements*, Part C - *Special Conditions*, and Appendix 4 - Form of Agreement to which the Proponent should offer its solution(s) in the manner and format described in Part B - *Instructions to Proponents* utilizing Part D - *Proposal Form* and the various schedules included within this RFP.

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PART B - INSTRUCTIONS TO PROPONENTS

1.0 Administrative Requirements

- 1.1 Immediately after attending the Proponents' Information Meeting, or prior to the deadline shown above, the Proponents are to indicate whether or not they will be submitting a Proposal prior to the Closing Time by sending the Response Notification Form (Appendix 2). This will ensure that the Proponent receives pertinent information such as any questions and the respective answers, or any amendments or addenda relating to the RFP.
- 1.2 It is the sole responsibility of the Proponent to check the City's website at <http://www.vancouver.ca/bid/bidopp/openbid.htm> regularly for amendments, addenda, and questions and answers related to this RFP.
- 1.3 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 Contact Person, on behalf of the City's Manager - Materials Management, will have conduct of this RFP, and all communications are to be directed only to the Contact Person.
- 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 before the deadline date (April 27, 2007). If required, an addendum will be issued to all registered Proponents and posted on the City's website as noted in item 1.2 above.

3.0 Contract Requirements

- 3.1 The successful Proponent will be required to enter into a Contract substantially in the form set out in Appendix 4 – Form of Agreement. Proponents are to carefully review the Form of Agreement and ensure that they can comply with all insurance, security and other terms and conditions set out in it.
- 3.2 Where the head office of the successful Proponent(s) is located within the City of Vancouver and/or where the successful Proponent(s) is required to perform any Work at a site located within the City of Vancouver, the successful Proponent(s) is required to have a valid City of Vancouver business license prior to Contract execution.
- 3.3 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.

4.0 Pricing

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

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- 4.3 Proponents located in Canada may quote in Canadian Funds and where the product is imported from the USA or from other countries, prices may be quoted in the currency of the country from which they are imported. Proponents located outside Canada may quote prices in the monetary currency of their location or the jurisdiction from which the product is being obtained.

5.0 Consortium Proposals

- 5.1 Consortium or joint venture Proposals will not be considered in this RFP as only the short-listed proponents (and their proposed sub-contractors and material suppliers) are invited to submit Proposals.

6.0 Submission of Proposal

- 6.1 Proponents are to submit four (4) hard copies of their Proposal. Copies are to be 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 and 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.
- 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 attention of the Contact Person at the office of the Purchasing Department, 2nd Floor, City Hall, 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 is discouraged.
- 7.2 Proponents are to complete all forms included in this RFP attaching any additional appendices that may be required. Proposals are to be arranged as follows:

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

Table of Contents: Page numbers are to be indicated.

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PART B - INSTRUCTIONS TO PROPONENTS

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 is to complete the Proposal Form and attached Attachment A included in this RFP in accordance with the instructions.

Schedules: The Proponent is to complete and provide the information within the respective schedules (Schedule A to H inclusive) included in this RFP. If additional space is required to respond to the requirements as outlined, then additional pages can be attached.

Alternate Solutions: Proponents may submit alternative solutions and are to clearly identify same as separate additional appendices within their Proposal.

8.0 Bid and Performance Security

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

8.2 Performance security is required as set out in Part C - *Special Conditions*, Section 1.0 and in Section 45.0 of the Form of Agreement.

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 of the Proposal Form.

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 concluded 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 names of each Proponent will be publicly 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.

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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 relevant criteria set out herein 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) financial terms and performance security/insurance proposed;
 - (d) the Proponent's business and technical reputation and capabilities; experience and where applicable, the experience of its personnel; financial stability; track record; and references of current and former customers;
 - (e) equipment quality, configuration, age and condition (if applicable);
 - (f) environmental responsibility demonstrated by the Proponent;
 - (g) quality of submission; and
 - (h) any other criteria set out in the RFP or otherwise reasonably considered relevant.
- 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, supplying samples, performing demonstrations and/or furnishing additional technical data.
- 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, they 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(s) may be asked to provide annual financial reports or 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 services and business practices.

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 Proponent's 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 Proponent's Proposal, the City will assume that the Proponent is proposing full compliance with the Requirements and conditions of this RFP.

13.0 Proposal Approval

- 13.1 Proposal approval is contingent on approval by City Council. Only then may the successful Proponent and City proceed to settle, draft and sign the necessary legal agreement.
- 13.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle by City Council and invite the Proponent to proceed to settle, draft and sign the necessary legal agreement.

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13.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at any time.

14.0 Quantities - (intentionally omitted)

15.0 Brand Names

15.1 Unless otherwise stated, if, and wherever, the Requirements state 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 Product Specifications

16.1 Proponents are to clearly indicate any variances from the City's Requirements, 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.

16.2 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.

17.0 Environmental Responsibility

17.1 The City is committed to preserving the environment. Proponents are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Contractor supplies materials, and where such materials may cause adverse effects, the Proponent is to indicate the nature of the hazard in its Proposal.

17.2 The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate or offset the effects of any adverse conditions on the environment.

18.0 Freedom of Information and Protection of Privacy Act

18.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's 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 Proponents should note that upon submitting their Proposal Form, they will be legally bound to certain confidentiality obligations not to disclose any City information without the City's prior written consent.

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 No Promotion of Relationship

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- 20.1 The short-listed Proponents are not permitted to disclose or promote their relationship with the City as short-listed proponents, 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 to perform the Contractor's obligations under the terms of the Contract). The Contractor 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 Contractor undertakes not to disclose or promote its relationship with the City in any communication or matter whatsoever as a basis to create an association, express or implied, between the Contractor and the IOC, the Olympics or the Olympic Movement.

21.0 Special Conditions

- 21.1 Proponents should note that if the Special Conditions of this RFP (Part C) conflict with Parts A and B of this RFP, the Special Conditions are intended to, and will, govern over Parts A and B.

22.0 Non-Resident Withholding Tax

- 22.1 Proponents should note that the *Income Tax Act* (Canada) requires that payments to non-residents for any services performed in Canada are subject to a non-resident withholding tax of a specified percentage (depending on residency of the Contractor). Exemption from this withholding tax is available in some circumstances, but the non-resident must apply directly to the Canada Revenue Agency (CRA) at least thirty (30) days before commencing the service.

23.0 Work Permit/Visa Requirements

- 23.1 The successful Proponent that uses or contemplates using, for the performance within Canada of services contemplated by this RFP, persons who are not Canadian citizens, landed immigrants or otherwise already qualified to work in Canada, must make all arrangements required to enable such person to lawfully and timely perform such services in Canada. The Proponent will be solely liable and accountable for any failure to do so in a timely manner or to obtain, for whatever reason, all or any permissions and authorizations legally required, and for all consequences and liabilities resulting from any such failure.

24.0 Legal Terms and Conditions

- 24.1 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 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* to the Proposal Form.

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PART C - SPECIAL CONDITIONS

1.0 Performance Security

- 1.1 Concurrently with signing the necessary legal agreement, the successful Proponent will be required to deliver performance security so as to protect the City's financial investment in the New Dryer during installation and the Warranty Period. The performance security will consist of a clean, unconditional, irrevocable demand letter of credit in the amount of **\$25,000** (Cdn) (or such other amount as the City may request after evaluating a Proponent and its Proposal) such letter of credit to be issued in favour of the City by a Schedule I Canadian chartered bank or Schedule II Canadian chartered bank (as more particularly described in Appendix 4 - Form of Agreement, the "Letter of Credit").
- 1.2 The Letter of Credit must contain an automatic extension clause for the above-noted period of time, and may be drawn on by the City to reimburse the City for any Losses suffered by the City as the result of the successful Proponent's breach of the Agreement. All performance security must first be reviewed and approved as to terms and form by the City's Director of Legal Services.
- 1.3 The Proponent is to submit with its Proposal a letter from its lender confirming that they have been advised of the City's Letter of Credit requirements and that should the City enter into a contract to purchase the New Dryer from that Proponent, they would issue such a Letter of Credit to the City.
- 1.4 A key part of the evaluation of the Proposals will be the adequacy and quality of the letter(s) submitted pursuant to Section 1.3 above.

2.0 Insurance Requirements

- 2.1 The Proponent is advised to refer to Appendix 4 - Form of Agreement, Section 30 for the insurance requirements pertaining to this RFP should the Proponent be selected as the successful Proponent.
- 2.2 Proponents are to submit with their Proposals a Certificate of Insurance in the form set out in Appendix 1 as evidence of their existing insurance coverage. Appendix 1 should be amended where appropriate to add the types of insurance currently carried by the Proponent which are not currently referred to on the Certificate.
- 2.3 The City prefers Proponents who carry, in their ordinary course of their business,
 - (a) commercial general liability insurance of five million dollars (\$5,000,000.00),
 - (b) all risk builders risk and machinery insurance for all dryers and equipment being built or transported by the Proponent for the full replacement value of all dryers and equipment in the possession, care or control of the Proponent, and
 - (c) professional liability insurance in an amount of not less than five million dollars (\$5,000,000) insuring any claims resulting from the negligence of the Contractor in designing, manufacturing or fabricating asphalt plant dryers, and having a deductible of not more than ten thousand dollars (\$10,000) for each and every claim.
- 2.4 The Proponent is to submit with its Proposal a letter from its insurer or insurance broker confirming that they have been advised of the City's insurance requirements

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under Section 30 of the Form of Agreement attached to this RFP as Appendix 4, and that should the City enter into a contract to purchase the New Dryer from that Proponent, the Proponent would qualify for the type of insurance required by Section 30 of the Form of Agreement.

- 2.5 A key part of the evaluation of the Proposals will be the adequacy of the letter(s) submitted pursuant to Section 2.4 above.

3.0 Sub-Contractors/Suppliers/Bill of Materials

- 3.1 The Proponent is to name all sub-contractors and suppliers in Schedule D – *Sub-Contractors/Suppliers/Bill of Materials*.
- 3.2 Beside the name of each sub-contractor/supplier, the Proponent is to identify and list all labour, equipment and/or materials that will be supplied by that sub-contractor/supplier for the New Dryer.
- 3.3 For each item that is not manufactured by such sub-contractor/supplier, the Proponent shall indicate the manufacturer's name and address as well as the origin (factory or production facility name, address, province/state, country) of the actual item.

4.0 Commissioning and Acceptance Tests

- 4.1 The Proponent is to supply a commissioning plan and to fully describe and set out the proposed timeline for all acceptance tests and trials based on the City's available dates for shutting down the plant.
- 4.2 The timeline and delivery dates for the tests should be included in Schedule F - *Performance Schedule*.
- 4.3 The Proponent is to state what energy savings the City can reasonably expect to receive by installing and operating their dryer. Please see Schedule A- *Requirements* for the natural gas consumption ratio for the City's asphalt plant. The energy savings factor will become part of the evaluation of the Proposals.

5.0 Performance Schedule

- 5.1 The Proponent is to fully describe in Schedule F - *Performance Schedule* (denoting same in terms of weeks following signing of Contract) the proposed timeline and key payment, completion, delivery, testing and acceptance milestones for design, manufacture and delivery of the New Dryer.
- 5.2 Schedule F should be completed in the form of a Gantt chart.

6.0 Warranty

- 6.1 In Schedule G - *Warranty*, the Proponent shall describe the warranty period and terms, and extended warranty options, if any. Copies of actual warranty certificates and documents shall be provided so that the City can evaluate actual warranty terms and conditions relating scope of coverage, length of warranty, exclusions and inclusions, parts, labour, response time/service guarantees, travel costs, transportation costs, etc.
- 6.2 Pricing for warranty and any extended warranty shall be set out in Schedule B - *Pricing*.

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
PART C - SPECIAL CONDITIONS

- 6.3 All warranty information in Schedule G will be assumed by the City to be additional to the warranty set out in Section 24.0 of the Form of Agreement unless otherwise expressly indicated by the Proponent in Schedule C - *Deviations and Variations*.

7.0 Methodology and Work Program

- 7.1 In Schedule H, the Proponent shall describe its proposed methodology and work program.
- 7.2 Pricing for everything described in Schedule H is to be included within the pricing set out in Schedule B - *Pricing*.

8.0 Two-Phased Contract Structure

- 8.1 Proponents are to carefully note the Contract structure set out in Appendix 4 - Form of Agreement.
- 8.2 The Contract is structured so that the parties will sign and then proceed through the design approval phase of the Contract. However, in the event that the City and/or City Engineer are for any reason not satisfied with the Detailed Specification Documents and O&M Documents (as those terms are defined in Schedule A - *Requirements*) produced by the successful Proponent during this phase of the Contract, the City has the unfettered right to cancel the Contract without any further liability except to reimburse the successful Proponent for its out-of-pocket costs of producing the Documents and O&M Manuals up to a maximum amount as set out in Schedule B - *Pricing* (the "Exit Payment").
- 8.3 The Contract is also structured so that if the City or City Engineer require changes to the Requirements during the design approval phase which increase the cost to the successful Proponent such that the Contract Price must be increased over the fixed price quote set out in Schedule B - *Pricing* of this RFP, then the successful Proponent will have the right to cancel the Contract but will not be entitled under such circumstances to receive the Exit Payment.
- 8.4 Once the parties have agreed to proceed to the construction phase both become bound to the construction and payment obligations relating to same and become "locked in".

9.0 Value Added Services

- 9.1 Proponents should describe any value added services they are prepared to supply as part of the contract. Unless otherwise stated, it is understood that there are no extra costs for these services.

10.0 Trade-In

- 10.1 Proponents may offer a trade-in allowance for the existing dryer on the terms and conditions set out in Schedule A - *Requirements*. However, this is not a mandatory requirement of this RFP. The City reserves the right to dispose of the surplus asphalt plant dryer by other methods including, but not limited to, public auction, surplus offer or a combination of methods that will result in the best value to the City.

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SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PART D - PROPOSAL FORM**

Proponent's 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, now submits the following Proposal:

1.0 Required Documents

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
Letter of Assurance from Lender (as per Part C - Special Conditions, Section 1.3)	Yes	
Letter of Assurance from Proponent's insurer or broker (as per Part C - Special Conditions Section 2.4)	Yes	
Completed and signed Certificate of Existing Insurance (as per Part C - Special Conditions, Section 2.2) in the form set out in Appendix 1	Yes	
Sample Certificates of Warranty for all components warranted by third parties	Yes	

To be Initialled at Proposal Opening:

Manager, Materials Management or designate

Witness

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PART D - PROPOSAL FORM**

2.0 Compliance

By initialling each item, the Proponent acknowledges it has read and understands the Requirements, has submitted the required addenda, has identified deviations or alternatives, and has 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 B</u> Instructions to Proponents			
<u>Part C</u> Special Conditions			
<u>Part D</u> Proposal Form			
<u>Proposal Form - Attachment A</u> Legal Terms and Conditions			

3.0 Required Proposal Documents

By initialling each item, the Proponent confirms it has completed and enclosed the Proposal Form and the required Schedules and any required addenda, and has identified any deviations or items of non-compliance providing an explanation of where it does not comply.

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>The Proposal Form</u>		
<u>Letter from Lender</u> <u>Section 1.3 of Part C - Requirements</u>		
<u>Proposal Form, Attachment A, Legal Terms and Conditions</u>		
<u>Schedule A</u> Requirements		
<u>Schedule B</u> Pricing		

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PART D - PROPOSAL FORM**

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>Schedule C</u> Deviations and Variations		
<u>Schedule D</u> Sub-Contractors/Suppliers Bill of Materials		
<u>Schedule E</u> Acceptance Tests		
<u>Schedule F</u> Performance Schedule		
<u>Schedule G</u> Warranty		
<u>Schedule H</u> Methodology and Work Program		

4.0 Proponent's Declaration and Acknowledgement

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:

Authorized Signatory for the Proponent
Date

Name and Title (*please print*)

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PROPOSAL FORM - 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 this RFP and Proposal process. In no event will the legal terms and conditions of this Attachment A apply to the Contract formed between the City and the successful Proponent.

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 successful Proponent in the form of Appendix 4 to the RFP;
- (c) "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);
- (d) "Proponent" means the legal entity(ies) who has (have) signed and delivered this Proposal Form;
- (e) "Proposal" means the package of documents, consisting of the Proposal Form as well as this Attachment A and all Schedules, once completed and submitted to the City by a Proponent;
- (f) "Requirements" means the RFP requirements set out in Part C, Appendix 4 and Schedule A to the RFP, each as amended and supplemented by or with the City's approval;
- (g) "RFP" means the documents issued by the City as Request for Proposal No. PS07057, including all addenda.
- (h) "Sub-Contractors" includes any or all third parties listed in Schedule D of this Proposal Form.

2.0 GENERAL TERMS AND CONDITIONS OF RFP/PROPOSAL 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*

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

Confidential, and Section 5.5 - *Declaration of Confidentiality*, the City assumes no legal duty or obligation in respect of this RFP or this Proposal process unless and until the City enters into a Contract). This RFP and Proposal 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 process 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 or Proposal process; or
- (ii) any contract or tort law duty to preserve the integrity of the RFP or Proposal 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 and Proposal 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 and Proposal 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 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.

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

3.2 Reservation of Complete Control Over Process

The City reserves the right to retain complete control over the RFP and Proposal process at all times except only as otherwise expressly 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*, 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 any other Proponent or to allow such other 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 or Proposal process 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 and Proposal 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 the Contract or not enter into the Contract;
- (f) the Proponent(s), if any, with whom the City enters the Contract.

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

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 or Proposal process 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 or Proposal process, or
- (c) liability on any other basis related to this RFP or the Proposal process.

4.3 Limitation

In the event that, with respect to anything relating to this RFP or Proposal 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 Proposal 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*), 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 - 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.

5.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

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

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

- (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 Proponent, 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 submissions) 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 submissions) 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 date and time of this RFP process). 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 Proposal 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 Proposal 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).

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:

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SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

- (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:

[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].

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

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 to perform the Proponent's obligations under the terms of this Attachment A). The Proponent undertakes not to use "City of Vancouver", "VANOC", "Vancouver 2010", "2010 Games", "2010 Winter Olympics", or any official emblem, logo or mascot of any of the above 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 or VPD in any communication or matter whatsoever as a basis to create an association, express or implied, between the Proponent and the City, IOC, the Olympics or the Olympic Movement.

8.0 SECURITY CHECKS

8.1 The Proponent acknowledges that the City has developed a comprehensive security protocol for anyone providing goods or services to the City. The Proponent agrees that as a condition of submitting its Proposal to the City:

- (a) the City may at any time and from time to time and at any time prior to the award of the Contract, conduct criminal records searches, police history information searches and/or other background checks, investigations and searches (collectively, "Searches") pertaining to: (i) the Proponent; (ii) any principals, directors, managers, employees and agents of the Proponent being proposed, directly or indirectly, as having any involvement with this RFP or the anticipated Contract; (iii) the Sub-Contractor(s); or (iv) any principals, directors, managers, employees and agents of the Sub-Contractor(s) proposed to perform directly or indirectly, any part of the anticipated Contract which involves, or may involve, access to the New Dryer or design or other information (for the purposes of this section, (i) through (iv) are collectively, the "Proponent Personnel");
- (b) the Proponent will cause all Proponent Personnel, as a condition of participating in this RFP, to execute and deliver to the City, or on the request of the City, 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 City to perform such Searches; and
- (c) without limiting any other term of this Attachment A, the Proponent agrees that each of: (i) the failure of any Proponent Personnel to deliver any consent or authorization required hereunder; and (ii) receipt by the City of notice from the City that the outcome of any of the Searches is not satisfactory, may or may not result in the Proponent's Proposal being set aside.

9.0 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 Proposal process will survive such process and will remain legally enforceable by and against the Proponent and City.

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS**

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.

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

This Schedule identifies the Requirements to which the City is seeking a solution or a response. Proponents are to address, but are not limited in their response to, the respective issue(s). Background information and general instructions need not be included in the response, however all requests for information, questions, specific requirements, tables, etc. should be included and the same numbering sequence used.

1.0 Mandatory Requirements

All of the requirements listed in this Schedule A are mandatory. Failure to comply with or exceed such requirements may or may not result in a Proposal being set aside.

2.0 Introduction/Terminology

This Schedule A defines the design, functional performance, and other requirements for the replacement dryer (the "New Dryer").

This specification (along with the Proponent's response to same) will be expressly incorporated into and attached to the Contract anticipated to be signed by the City and the successful Proponent in substantially the form attached as Appendix 4 - *Form of Agreement*.

For ease of incorporation of such attachment to the anticipated Contract, this Schedule A refers to the "successful Proponent" as the "Contractor" and utilizes the same defined terms as are set out in Appendix 4 - *Form of Agreement*.

3.0 General Requirements

3.1 Overall Responsibility

The Contractor shall be responsible for all aspects of the design, construction, testing and delivery of the New Dryer and shall ensure that the delivered New Dryer meets all of the Requirements.

3.2 General Functional Requirements

The New Dryer is required to operate effectively and efficiently within the following Kent Yard Asphalt Plant operational parameters:

The specifications for the Asphalt Batch Plant located at 900 East Kent Ave. S.E. are as follows:

- (a) Liquid asphalt grade
 - PG 64-22
 - PG 58-22

- (b) Gencor burner
 - 77 million BTU's
 - 24 foot flame length
 - natural gas (diesel fuel as an option)
 - average production consumption: 0.50 Giga Jewel per ton

- (c) Stack temperature
 - 160 degrees Fahrenheit

- (d) Flow rate

REQUEST FOR PROPOSAL NO. PS07057
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SCHEDULE A - REQUIREMENTS

- maximum flow rate is 200 tons per hour

- (e) Aggregate specification
 - 1/2" minus crushed aggregate
 - 3/4" clear crushed aggregate
 - 3/8" minus sand
- (f) The average moisture content of the aggregate stockpile is as follows:
 - 1/2" minus crushed aggregate - 3.6 %
 - 3/4" clear crushed aggregate - 1.0 %
 - 3/8" minus sand - 5.16%
- (g) The average consumption ratio in typical asphalt production is as follows:
 - 1/2" minus crushed aggregate - 60%
 - 3/4" clear crushed aggregate - 25%
 - 3/8" minus sand - 10 - 15%

3.3 Environmental Conditions

The New Dryer will be designed, constructed and installed so as to properly operate within the following ranges of environmental conditions:

- Ambient Air Temperature: Max. 35°C, Min. -25°C,
- Humidity: Max. 100%, Min. 40%
- Winds of up to 100 knots.

3.4 Proven Design

The New Dryer shall be based on an existing proven design with at least 3 years of service. A similar dryer shall be available to the City/City Engineer for evaluation, if requested.

References and technical data shall be provided for the New Dryer design as part of the RFP Proposal in support of these Requirements.

3.5 New Dryer Requirements

The New Dryer and related Work will comply with the following specifications:

- (a) The Proponent will supply a New Dryer to fit the existing frame and operating system.
- (b) The Proponent will either:
 - (i) provide all necessary and ancillary work crews and their supervision and equipment to remove the existing asphalt plant dryer and install and commission the New Dryer, including without limitation, tires and trunnions; or
 - (ii) direct and supervise City supplied crews during the removal of existing asphalt plant dryer and the installation and setting up of the New Dryer, including without limitation, tires and trunnions.

**REQUEST FOR PROPOSAL NO. PS07057
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SCHEDULE A - REQUIREMENTS**

- (c) In order to complete the decommissioning of the current asphalt plant dryer and allow the installation and start up of the New Dryer, the City and the successful Proponent will need to shut down the Kent Yard Asphalt Plant. The scheduled time for the shut down is set out in Schedule F - *Performance Schedule* and the Proponent will comply in all respects with Schedule F - *Performance Schedule*.
- (d) The successful Proponent will provide a New Dryer that meets or exceeds the operational performance of the existing dryer and will also provide all training and warranty services set out in Schedule G – *Warranty* and Schedule A - *Requirements*.
- (e) The New Dryer will not cause flailing burner flame or disrupt optimum air flow and combustion efficiency. The New Dryer will not operate with any vibration and must run true on the current operating system and frame.
- (f) The New Dryer will comply with the following:

[Note: Should there be insufficient space to address the respective elements, the Proponent may respond on a separate sheet, using the same sequence as set out in this Schedule A - *Requirements*.]

Description <i>(Proponent's do not write in this section)</i>	Make:		
	Model No.		
	Year:		
	Proponent to indicate whether they meet or exceed requirements. Explain in detail.		
ASPHALT DRYER to meet: <ul style="list-style-type: none"> • a dimension of 89 inches in diameter and 32 feet long • a shell thickness of ½ inches • plate steel INX 50 • a minimum Brinell hardness of 143 • a minimum tensile strength of 65,000 psi • a maximum production volume of 200 tons per hour • a maximum dryer temperature of 450 degrees Fahrenheit 	Meets Requirements		Explain in Detail
	YES	NO	
			Signature

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS**

Description <i>(Proponent's do not write in this section)</i>	Make:		Proponent to indicate whether they meet or exceed requirements. Explain in detail.
	Model No.		
	Year:		
	Meets Requirements		Explain in Detail
	YES	NO	
Spiral, veiling, combustion flights and sweep components and their mounting hardware <ul style="list-style-type: none"> • minimum Brinell hardness 250 • minimum steel type AR 250 			
			Signature
2 new tires, trunnions and all mounting hardware <ul style="list-style-type: none"> • minimum Brinell hardness 300 for trunnions and 450 for tires • minimum steel type AR 350 			
			Signature

- (g) The Proponent confirms that the following solution for maximizing energy efficiency and alternative technology options is as follows for the following:
- dryer shell liners:
 - dryer shell insulation:
 - dryer shell steel thickness:
 - flighting styles and lengths:
- (h) The City's asphalt batch plant uses granite mineral aggregates in its production of hot mix asphalt. The Proponent now confirms that the expected operational life (years) of the New Dryer (including without limitation the flights) using granite mineral aggregates is as follows:
- (i) The Proponent now recommends the following methods to obtain the optimum wear from the New Dryer and flights using granite mineral aggregates:
- (j) Where the City has entered into a Contract with a successful Proponent (now the "Contractor") the Contractor's proposal to buy same for salvage, the Contractor will haul the old dryer away, at the Contractor's sole risk and expense, but only after full payment has been made by the Contractor to the City of the Sale Price (as defined in Section 14 below).

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

- (k) The Contractor will be responsible for ensuring that, during its fabrication and installation of the New Dryer, modifications to the proven design required to customize the New Dryer for this Proposal will be kept to a minimum and not adversely affect the Contractor's ability to comply with these Requirements.
- (l) The evaluation, testing, approval or acceptance of the similar dryers by the City/City Engineer shall in no way constitute or be deemed to constitute a waiver or modification of any of these Requirements and the Contractor remains liable for compliance with these Requirements (as may be refined by the Proposal and Contract) regardless of whether or not the similar dryers of proven design are accepted by the City/City Engineer.

3.6 Noise

The noise levels produced by the New Dryer when operating at maximum capacity must be below 80 dB(A).

4.0 Standards

- 4.1 The Contractor shall be responsible for obtaining and paying for any and all certificates required by Canadian laws and regulations, and for posting the same and will be responsible for all related fees. The Contractor will also be responsible for obtaining all required City building, electrical and other permits.
- 4.2 The New Dryer shall be designed and built according to sound engineering principles and according to standard proven dryer building and installation methods. It is the responsibility of the Contractor to ensure that the New Dryer is "fit for purpose" and that the completed New Dryer meets all the performance requirements.
- 4.3 The Contractor shall be certified to CSA W47.1 and CSA W178.2, respectively, and welding shall only be carried out by certified personnel. The types and size of welds shall be in accordance with CSA W59 standards.

5.0 Design/O&M Documents

- 5.1 The following design, operating and maintenance documents shall be provided by the Contractor to the City/City Engineer in order to review the adequacy of design and post-construction documentation:
 - Detailed Dryer Specification,
 - General Arrangement Drawing including
 - Trunnions, Tires, Flights plan,
 - Machinery arrangement,
 - Shell Plan,
 - Structural Drawings,
 - Welding Schedule,
 - Weight Estimate,
 - Electrical Diagram,
 - Capacity/Power Calculations,
 - Equipment Makers List,
 - Approximate Piping Systems,
 - Paint Schedule,(collectively, the "Detailed Specification Documents"),

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

- Scheduled maintenance package including a check-off style preventative maintenance schedule checklist as recommended by the Contractor to ensure full and satisfactory service life.
- Operating and maintenance manuals including: parts manual, service manual (or secured access to manufacturer's website where the above information is available at all times), operator manual, repair manual and electrical schematics (collectively, the "O&M Manuals").

5.2 The Detailed Specification Documents and O&M Manuals shall be reviewed and approved by the City/City Engineer before fabrication/manufacture of the New Dryer commences. Once the New Dryer is completed these documents shall be updated by the Contractor to as-built status and delivered to the City/City Engineer for review and approval.

6.0 Commissioning

The Contractor shall supply the City with a commissioning plan with its Proposal in accordance with Part D - *Proposal Form*. During the commissioning of the New Dryer, the Contractor will prove the New Dryer's compliance with these Requirements, before acceptance by the City/City Engineer.

The Contractor will be responsible to correct any defects found during the commissioning of the New Dryer. The City will not be liable to accept the New Dryer until the Contractor has successfully completed the commissioning of the New Dryer as per the accepted plan at Kent Yard to the satisfaction of the City/City Engineer.

The minimum commissioning tests shall consist the following:

- New Dryer maximum production volume to confirm capability to produce 200 tons per hour
- Heat testing to confirm capability to operate at dryer temperature of 450 degrees Fahrenheit
- Testing of all electrical and electronic systems
- Testing of vibration

A commissioning report shall be prepared by the Contractor and submitted to the City/City Engineer within one week of the commissioning of the New Dryer. The Contractor shall undertake a full program of tests and trials to prove the New Dryer's compliance with these Requirements, before acceptance by the City/City Engineer.

The Contractor shall supply all fuel and oil required for these tests. Any defects found during the trials shall be corrected and re-tested by the Contractor. The City will not be liable to accept the New Dryer until the Contractor has successfully completed the factory and Kent Yard trials to the satisfaction of the City/City Engineer.

6.1 Factory Trials

Factory trials shall be completed prior to post-installation trials in order to verify the correct performance of all machinery, electrical systems, and anything else reasonably capable of being tested prior to shipping. The Contractor shall submit a factory trials program to the City/City Engineer prior to the factory trials. The City/City Engineer will review the program and will indicate the factory trials that require the presence of the City Engineer/City. The Contractor shall complete the documentation of factory

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

trials prior to commencing post-installation trials. Factory trials shall include, but not be limited to, the following:

- Electrical and electronics systems throughout the New Dryer
- Tensile strength tests
- Hydrostatic tests of tanks, hoses, and systems

6.2 Post-Installation Trials

The Contractor shall submit to the City/City Engineer a proposed post-installation acceptance testing program for review and approval not later than one week prior to the post-installation acceptance testing. The Contractor shall carry out the trials in accordance with the program approved by the City/City Engineer, and shall provide all equipment and personnel to complete the program to the City/City Engineer's satisfaction. The City Engineer and at least one other representative of the City shall be present during the post-installation acceptance testing. The minimum post-installation acceptance testing shall consist of the following:

- New Dryer maximum production volume to confirm capability to produce 200 tons per hour
- Heat testing to confirm capability to operate properly at dryer temperature of 450 degrees Fahrenheit
- Testing of all electrical and electronic systems
- Noise measurement

A post-installation acceptance testing report shall be prepared by the Contractor and submitted to the City/City Engineer within one week of the post-installation acceptance testing.

7.0 Spares

The Contractor shall provide adequate spare parts for all mechanical equipment and shall list the parts that will be included in its Proposal.

8.0 Delivery

All compartments, tanks, and spaces throughout the New Dryer shall be thoroughly cleaned of all dunnage and dirt, and all painted surfaces shall be cleaned and touched up as required at time of delivery of the New Dryer.

The New Dryer shall be delivered in fully compliant condition, at the City's Kent Yard Asphalt Batch Plant, and ready for service in every respect. All equipment shall be in place and properly secured, and all systems in operating order.

At time of delivery, the Contractor shall also deliver three (3) copies of the as-built Detailed Specification Documents and O&M Documents (as defined in Section 6.0 - *Detailed Specification Documents*):

Delivery shall be FOB Destination, freight prepaid to: 900 East Kent Avenue, S.E. Vancouver, British Columbia.

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

9.0 Warranty

The Contractor will warrant the New Dryer on the terms set out in Section 24.0 - *Warranty* of the Form of Agreement as supplemented by the warranties set out in Schedule H of the Contractor's Proposal.

10.0 Training

The Contractor will provide a full training session on the operation of the New Dryer (including without limitation all electronics and routine maintenance procedures) for a minimum of one full day between the times of 07:00 to 18:00 for a minimum of two (2) City personnel at a mutually agreed upon date.

11.0 Coordination with City Engineer

The City Engineer will be the City's representative for the administration of the Contract except as otherwise stated in the Contract.

12.0 Proponent Information

Key determinants 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. All are important factors on which the Proponent will be evaluated. Proponents are to address, at a minimum, the following elements.

12.1 Company Profile

Provide a brief description of Proponent's company, purpose and history of successes including; number of years in business, major projects, and what is most responsible for the Proponent's success to date. Include a company brochure or resume for each member of any consortium as well as each key personnel employed by any named proposed Sub-contractor to the Proponent.

12.2 Client List

Attach a published client list and include any letters of recommendation that may be appropriate to these units.

12.3 Key Personnel

Identify key personnel to be assigned to this Contract, setting out their names, responsibilities and relevant experience.

13.0 References

The Proponent is to provide at least three references for similar goods and/or equipment 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.

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS**

Name and Address of Company Providing Reference	Contact Name & Telephone Number	Brief Description of Equipment Provided by Proponent

14.0 Trade-In/Salvage of Existing Dryer

[Note: These terms and conditions will only apply where the Proponent has offered to buy the existing dryer in its Proposal (by inserting a price for same in Schedule B - *Pricing*) and City has included same in the Contract (see Section 45 thereof) with the successful Proponent]

- (a) The Contractor will agree to purchase the existing dryer on an "as is where is" basis for the price (the "Sale Price") indicated in the pricing worksheet, section 2.1, Item 9 of Schedule B - *Pricing*. The City makes no representations or warranties of any kind as to the suitability, merchantability, fitness for purpose, or any other quality or characteristic of the existing dryer (except to warrant that the City has clear title to same).
- (b) The Contractor will be required to acknowledge that it had full opportunity to inspect the existing dryer as part of the RFP process.
- (c) The Contractor will be responsible for the provision of insurance to protect the City's interests and Workers Compensation Board ("WCB") coverage for their workers and any subcontractors while working on City property to haul the existing dryer away. The Contractor will also ensure compliance with occupational health, safety, and environmental regulations, for the protection of their workers, City staff in the surrounding areas, and City property. The Contractor will be required to accept appointment as the "prime contractor" under WCB legislation for any and all work associated with hauling the existing dryer away. For certainty, all work of removing the existing dryer will be agreed to be Work under the Contract and all other insurance, WCB, and release and indemnity provisions of the Contract will apply to such Work.
- (d) The Contractor will be required to release the City from any or all Losses arising in any way from this sale whether in the nature of personal injury, death, property loss,

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF NEW ASPHALT PLANT DRYER
SCHEDULE A - REQUIREMENTS

damage or destruction, or economic loss resulting from the Contractor's entry onto City premises and/or removal of the existing dryer or subsequent use, operation, or further re-sale of same. The Contractor will be required to also agree to indemnify and save the City harmless from and against any and all Losses arising from such events.

- (e) A deposit will not be required.
- (f) Payment of the Sale Price will be made within five (5) working days of signing the Contract. Certified cheque, money order, electronic funds transfer, or bank draft that is recognized in Canada are acceptable payment methods.
- (g) The Provincial Sales Tax (7%) will be charged unless an exemption certificate is provided or the Contractor is able to comply with regulations for an out of province sale. Federal Goods and Services Tax is not payable.
- (h) The City will not be liable for Losses from any cause whatsoever of the equipment sold, but should any equipment be lost or destroyed during the period allowed for removal and prior to its actual removal (except where caused by the Contractor doing the Work), the City will refund to the Contractor any money paid on account of the Sale Price.
- (i) The Contractor will not assign or transfer its equipment sale contract for the existing dryer without the written consent of the City.
- (j) In the event that the Contractor fails to remove the equipment within the time specified in Schedule F - *Performance Schedule*, the City will be entitled to, without prejudice to any other remedies, cancel the equipment sale contract for the existing dryer and resell the equipment at such price and on such terms as the City may deem advisable and hold the Contractor responsible for all Losses including all expenses incurred by the City through the default, but without any obligation on the part of the City to account to the Contractor for the proceeds of such resale. The City will be entitled to retain any amount paid on the account of the equipment until the amount of any such resale (including the expenses referred to) have been ascertained.

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE B - PRICING**

1.0 Vendor Instructions

- 1.1 Prices are to be quoted FOB Destination, including freight, unloading at destination, import duties, brokerage, royalties, handling, overhead, profit, insurance and all other costs included.
- 1.2 Federal Goods and Services Tax and Provincial Sales Taxes are to be excluded.
- 1.3 Proponents located in Canada may quote in Canadian Funds and where the product is imported from the USA or from other countries, prices may be quoted in the currency of the country from which they are imported. Proponents located outside Canada may quote prices in the monetary currency of their location or the jurisdiction from which the product is being obtained.
- 1.4 The Proponent having reviewed all terms, conditions and Requirements set out in this RFP and all Schedules and Appendices, proposes to supply the New Dryer for the Contract Price set out below. The Contract Price is to be broken down to allow for analysis as further set out below.

2.0 Contract Price Table

- 2.1 Proponent is to state its proposed Contract Price associated with the removal of the existing plant and supply and installation of the New Dryer by using, adapting and completing the table set out below.

Item	Qty.	Description	Indicate Make, Model Year and No. and include compliance or deviations with specifications below.	Unit Price
1	1	ASPHALT DRYER to meet: <ul style="list-style-type: none"> • a dimension of 89 inches in diameter and 32 feet long • a shell thickness of ½ inch • plate steel INX 50 • minimum tensile strength of 65,000 psi • a maximum production volume of 200 tons per hour • a maximum dryer temperature of 450 degrees Fahrenheit • 		\$_____
2	1	Spiral, veiling, combustion flights and sweep components		\$_____
3	1	2 new tires, trunnions and all mounting hardware		\$_____

**REQUEST FOR PROPOSAL NO. PS07057
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SCHEDULE B - PRICING**

Item	Qty.	Description	Indicate Make, Model Year and No. and include compliance or deviations with specifications below.	Unit Price
4		List any available Parts and their cost.		\$ _____
5	1	Removal of the old system from Kent Yard location using a crew supplied by the Contractor.		\$ _____
6	1	Removal of the old system from Kent Yard location providing expertise and field supervision of a crew supplied by the City.		\$ _____
7	1	Installation of the ASPHALT PLANT DRYER in the existing location at Kent Yards, 900 East Kent Avenue SE, Vancouver, B.C. using a crew supplied by the Contractor.		\$ _____
8	1	Installation of the ASPHALT PLANT DRYER in the existing location at Kent Yards, 900 East Kent Avenue SE, Vancouver, B.C. providing expertise and field supervision of a crew supplied by the City.		\$ _____
9		Indicate any offer or trade-in for the asphalt plant dryer and any parts that are being removed from service.		\$ _____
10		Daily charge out rate for field supervision		\$ _____
11		Cost to provide Letter of Credit (\$25,000)		\$ _____

2.2 Reimbursable Expenses

Reimbursable expenses are to be charged at cost, without any adjustment or mark-up.

**REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE B - PRICING**

2.3 Options:

Proponents to provide descriptions and details of other options that are suitable, meet requirements and would benefit the City of Vancouver.

Item	Qty.	Description	Unit Price	Total
a.		5/8" Dryer Shell	\$ _____	\$ _____
b.			\$ _____	\$ _____
c.			\$ _____	\$ _____
TOTAL:				\$ _____

3.0 Fixed Price Contract

3.1 The intent of this RFP is to seek fixed price proposals from Proponents based on their understanding of the Requirements as at the time of submitting their Proposals.

3.2 As per Section 4.3 of Appendix 4 - *Form of Agreement* if at the conclusion of the Design Approval Phase of the Contract the Contractor determines it cannot construct and deliver the New Dryer for the quoted Contract Price (and the City does not agree to any proposed adjustment in the Contract Price) then the Contract may be cancelled by the Contractor without liability.

4.0 Payment Terms

4.1 Proponents are to carefully review Appendix 4 - *Form of Agreement* and the payment terms set out there. It will be assumed that such payment terms are agreed to and built into the pricing set out in this Schedule B unless specifically noted otherwise by the Proponent in Schedule C - *Deviations and Variations*.

4.2 Proponents are to insert here their proposed amount of the "Exit Payment" referred to in Section 4.3(l) of Appendix 4 - *Form of Agreement*.

"Exit Payment": \$ _____

5.0 Warranties

Proponents should include here the cost of all equipment warranties, including extended warranties, that are in addition to the equipment costs stated above.

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE C - DEVIATIONS AND VARIATIONS

Further to Part 'D', Section 2 - *Compliance*, Proponents are to use this Schedule C to detail any deviations and/or variations from the terms and conditions set out in this RFP and, if applicable, detail proposed amendments.

**REQUEST FOR PROPOSAL NO. PS07057
 SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
 SCHEDULE D - SUB-CONTRACTORS/SUPPLIERS/BILL OF MATERIALS**

The Sub-Contractors shown below are the Sub-Contractors that the Proponent proposes to use to carry out the Requirements. The City requires that the Proponent will engage the listed Sub-Contractors and no others in their stead, without prior written authorization of the City.

Corporate Name, Address of Sub-Contractor or Supplier	Contact Name and Telephone Number	Manufacturer's Name, Address, Contact Name and Number (if different from Sub-Contractor or Supplier of that item)	Detailed Description of Labour, Equipment and/or Materials

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE E - ACCEPTANCE TESTS

- 1.1 The Proponent is to fully describe all factory tests and post-installation acceptance testing in this Schedule E.
- 1.2 Proposed timelines are to be set out in Schedule F - *Performance Schedule*.
- 1.3 The Proponent is to include sample factory and post-installation acceptance test reports with this Schedule (attach as appendices).

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE F – PERFORMANCE SCHEDULE

- 1.1 The Proponent is to fully describe in Schedule F - *Performance Schedule* (denoting same in terms of weeks following signing of Contract) the proposed timeline and key payment, completion, delivery, testing and acceptance milestones for design, manufacture and delivery of the New Dryer.
- 1.2 This Schedule F should be completed in the form of a Gantt chart.
- 1.3 The date for delivery of the pre-installation Detailed Design Documents/O&M Documents should be at least 4 weeks before the installation date.
- 1.4 Where Proponent is offering to buy the existing dryer on the terms set out in Section 14.0 of Schedule A - *Requirements*, the Proponent should set out the latest date on which the existing dryer will be hauled away by the Proponent.
- 1.5 The City's asphalt plant will be shut down in July, 2007 for this work. The Proponent is to set out a removal and installation schedule that ensures that no work on site is required to take place outside of the month of July, 2007. The Proponent is to set out the removal and installation time required and Contractor's crew availability (if required).

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE G - WARRANTY

- 1.1 Proponent shall describe the warranty period and terms, and extended warranty options, if any.
- 1.2 Copies of actual warranty certificates and documents shall be provided so that the City can evaluate actual warranty terms and conditions relating scope of coverage, length of warranty, exclusions and inclusions, parts, labour, response time/service guarantees, travel costs, transportation costs, etc.
- 1.3 Pricing for warranty and any extended warranty shall be set out in Schedule B - *Pricing*.
- 1.4 All warranty information set out in this Schedule G will be assumed by the City to be additional to the warranty set out in Section 24 of the Form of Agreement unless otherwise expressly indicated by the Proponent in Schedule C - *Deviations and Variations*.

REQUEST FOR PROPOSAL NO. PS07057
SUPPLY AND INSTALLATION OF A NEW ASPHALT PLANT DRYER
SCHEDULE H - METHODOLOGY AND WORK PROGRAM

In completing this Schedule H, the Proponent shall:

- (a) Provide a detailed plan of approach and description, including details of the goods and services that the Proponent intends to obtain by using Sub-Contractors/Suppliers which have not already been set out in Schedule D - *Sub-Contractors/Suppliers/Bill of Materials*.
- (b) Provide an itemized work program grouped by items of work (tasks) envisioned by the Proponent, with a description of each task. Activities in this section shall be carried forward (as applicable) to the other Schedules of the Proposal.
- (c) Indicate those activities the City is expected to undertake in the description of the task along with the level of support that the Proponent will provide.
- (d) Describe the methods to be employed to perform and coordinate the work and to control the scope, quality, schedule and cost of the supplying the New Dryer.



**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



CERTIFICATE OF INSURANCE
Professional Liability Insurance

THIS CERTIFICATE IS ISSUED TO: City of Vancouver

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

NAMED INSURED:

MAILING ADDRESS:

LOCATION ADDRESS:

DESCRIPTION OF OPERATION/CONTRACT:

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: _____

POLICY PROVISIONS:

Where required by the governing contract, agreement, permit or license, it is understood and agreed that THIRTY (30) days written notice of cancellation or reduction of coverage with respect to the policy listed herein, either in part or in whole, will be given by the Insurer to the Holder of this Certificate. The exception is cancellation for non-payment of premiums in which case the applicable statutory conditions will apply.

SIGNED BY THE NAMED INSURED (Contractor/Consultant)

_____ Dated: _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

_____ Dated: _____

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



CORPORATE SERVICES GROUP
Materials Management
Purchasing Services

Request for Proposal
Supply and Installation of New Asphalt Plant Dryer
No. PS07057

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 close of business day, April 20, 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
"PS07057 - Design, Manufacture and Delivery of a New Dryer"
by the Closing Date (May 1, 2007 at 3:00:00 P.M.).

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. PS07057 Supply and Installation of Asphalt Plant Dryer

To acknowledge your intent to attend the Information 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, April 16, 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 Information Meeting for
 "RFP PS07057 - Supply and Installation of Asphalt Plant Dryer" on Tuesday, April 17, 2007.

 Authorized Signatory and Name of Company (Please print)

 E-mail Address (Please print)

 Date

THIS AGREEMENT dated the _____ day of _____, 200_____

BETWEEN: **THE 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

(herein after called the "City")

AND: < Name of Contractor >, a corporation incorporated pursuant to the laws of <jurisdiction of incorporation > and having office(s) at:

< address of Contractor >

(herein called the "Contractor")

BACKGROUND:

- A. Pursuant to the Request for Proposals, No. PS07057 (as more particularly defined below, the "RFP") the City invited proposals from qualified Proponents for the supply and installation of a new asphalt plant dryer that meets the requirements set out in the RFP;
- B. In response to the RFP, the Contractor submitted the Contractor's Proposal (defined below) proposing to perform the requirements set out in the RFP as supplemented by the Contractor's Proposal;
- C. The City has agreed to retain the Contractor for the performance of the Requirements (defined below) on the terms as set out in this Agreement and the RFP, as supplemented by the Contractor's Proposal, and the Contractor has agreed to perform the Requirements on those same terms.

THE CITY AND THE CONTRACTOR NOW AGREE as follows:

1.0 Definitions

The following words and terms, unless the context otherwise requires, have the meanings set out below:

"Agreement" or "Contract" means the agreement between the City and the Contractor as set out in the Contract Documents;

"Business Days" means any day that is not a Saturday, Sunday, or "holiday" as that term is defined by the *Interpretation Act* (British Columbia);

"City" means the City of Vancouver, a municipal corporation continued pursuant to the *Vancouver Charter*, as represented by its Council;

"City Engineer" means the City engineer appointed by the City to act on the City's behalf under this Contract and includes the successors, assigns and replacements of same from time to time;

"Contract Documents" means the documents listed in Section 2.0 hereof, including any and all amendments or addenda agreed to in writing between the parties;

"Contract Price" has the meaning set out in Section 6.1 hereof;

"Contractor" means the entity defined as such on the front page of this Agreement;

"Contractor's Proposal" means the proposal submitted in response to the RFP by the Contractor;

"Construction Phase" means the phase of this Agreement starting with the issuance by the City Engineer of written approval of the Detailed Specification Documents and O&M Manuals and ending on delivery and acceptance of the New Dryer by the City/City Engineer.

"Detailed Specification Documents" means the documents defined as such in Section 5.1 - *Design/O&M Documents* of Schedule "A" - *Requirements*.

"Design Approval Phase" means the phase of this Agreement starting with the Effective Date and ending with the issuance by the City Engineer of written approval of the Detailed Specification Documents and O&M Manuals.

"Director of Legal Services" means the City's Director of Legal Services or her delegate.

"Effective Date" means the date on which the contract between the City and the Contractor takes legal force and effect and is the date set out on the first page of this Agreement;

"Exit Payment" means the sum set out in Section 4.3(I) hereof;

"Factory" means the work site owned or controlled by the Contractor where any of the Requirements are to be performed;

"GST" means the goods and services tax administered under the *Excise Tax Act* (Canada) and any successor tax or levy therefor in force from time-to-time;

"Letter of Credit" means a clean, unconditional irrevocable demand letter of credit in the amount of **[\$25,000]** issued in favour of the City by a Schedule I Canadian chartered bank or Schedule II Canadian chartered bank and on terms satisfactory to the City's Director of Legal Services, including those contained in Sections 24.8 and 24.9 below;

"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);

"New Dryer" means the new asphalt plant dryer to be supplied pursuant to the Contract Documents;

"O&M Manuals" means the documents defined as such in Section 5.1 - *Design/O&M Documents* of Schedule "A" - *Requirements*.

"Prime Contractor" has the meaning set out in Section 31.1(b) hereof;

"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;

"Purchase Order" means a purchase order issued by the City to the Contractor pursuant to this Agreement;

"Requirements" means all of the specifications, requirements and services set out in the Contract Documents, that describe the requirements that the New Dryer, Work and all related services, goods, materials and equipment must meet and the Contractor must provide;

"RFP" means Request for Proposal No. PS07057 including, but not limited to: Part A - *Introduction*; Part B - *Instructions to Proponents*; Part C - *Special Conditions*; Part D - *Proposal Form* (with Attachment A - *Legal Terms and Conditions*); Schedules A to H; Appendices 1 - 6; any additional attachments listed in its Table of Contents; and any amendments, addenda, and/or clarifications pertaining to the RFP;

"Sale Price" in respect of the City's existing dryer is defined in Section 45 hereof;

"Schedule" means any one of Schedules A to H to the RFP, as amended or supplemented by the Contractor's Proposal or otherwise, provided such amendment or supplement is first accepted by the City;

"Security Clearance" means the security clearance level required of the City from time to time for personnel being allowed access to security sensitive equipment or information;

"Sub-Contractor" means all sub-contractors, suppliers and agents of the Contractor;

"Unavoidable Delay" has the meaning set out in Section 9.0 hereof;

"Warranty Period" means the period of time starting on the effective date and expiring one year after the New Dryer is accepted by the City Engineer;

"WHMIS Legislation" is the laws governing the information that must be provided on labels of packaging containing hazardous materials;

"WCB" means the Workers Compensation Board of British Columbia and includes WorkSafeBC and any successor or related organizations;

"WCB Legislation" means the *Workers Compensation Act* (British Columbia) and all regulations enacted pursuant to the *Workers Compensation Act* (British Columbia), all as amended and re-enacted from time to time;

"Work" means all the labour, materials, equipment, supplies, services and other items necessary for the execution, completion and fulfilment of the Requirements;

"Work Site" means any site(s) owned or controlled by the City where any of the Requirements are to be performed.

2.0 Contract Documents

2.1 The terms and conditions of the Contract Documents, whether or not actually attached to this Form of Agreement will govern the terms of 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 any of the terms and conditions within these Contract Documents, the provisions of the Contract Documents will take precedence and govern in the following priority from highest to lowest:

- (a) this Form of Agreement, excluding its Schedules;
- (b) any addenda to the RFP issued by the City;
- (c) the RFP; and
- (d) the Contractor's Proposal.

3.0 Notices

3.1 Addresses for Notice

Any notice required or permitted to be given by one party to another pursuant to this Agreement must be delivered or sent by e-mail or fax as follows:

TO CITY:

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

Attention: < Name / Position >
< Phone/Fax # >
< E-mail >

with a copy to:

City Engineer:
Attention: < Name / Position >
< Phone/Fax # >
< E-mail >

Attention: Manager of Materials Management
Fax: (604) 873-7057
E-mail: larry.berglund@vancouver.ca

Attention: Director of Legal Services
Fax: (604) 873-7445
E-mail: francie.connell@vancouver.ca

TO CONTRACTOR:

< Name of Contractor >
Contractor's address
Contractor's address

Attention:
< Phone/Fax # /E-mail Address>

or such other person, position, address as one party may advise the other from time to time or at any time, by delivery and any notice given in accordance with this or any other more specific provision of this Agreement is deemed to be received as at the time of delivery or receipt of fax or e-mail confirmation as applicable. Only where expressly authorized by this Agreement may notice be given verbally or by telephone.

3.2 Notice of Actions against Contractor

The Contractor will notify the City immediately upon the written threat or commencement of any actions brought against the Contractor or any of the Contractor's affiliates or Sub-Contractors, 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.

4.0 **Conduct of the Contract/Documentation and Submittal Requirements**

4.1 Administration of Contract

- a) The City's Manager of Materials Management in consultation with the City Engineer (represented by Peter Bremner/Larry Fidler) on behalf of the City will have conduct of this Contract for the City.
- b) _____ will have conduct of the Contract for the Contractor.

4.2 Conditions to Contract

- a) Prior to or concurrently with the execution of this Contract, the Contractor will provide the following:
 - (i) Letter of Credit (see Sections 24.8 and 24.9 below).
 - (ii) Evidence of full compliance with WCB Legislation.
 - (iii) Certificate(s) of Insurance pursuant to Section 30.0 hereof.
 - (iv) Valid business licence for city within which Contractor's Factory is located; and
 - (v) Authorization to perform Work in Canada, if required by anyone to be involved in delivering the Requirements.
- (b) All documents and agreements must be reviewed and approved by the City Engineer and Director of Legal Services prior to the City signing the Contract.
- (c) Upon the Director of Legal Services giving written notice of the completion of the above, the Contractor will sign and deliver this Contract to the City and the City will then promptly enter the Effective Date in the Contract concurrently with signing and delivering this Contract to the Contractor. The Design Approval Phase of this Contract will then commence.

4.3 Design Approval Phase of Contract

- a) The Contractor will, as of and from the Effective Date and in accordance with the Performance Schedule, deliver for the City's and its City Engineer's review the following:
- i) Detailed Specification Documents,
 - ii) O&M Manuals, and
 - iii) all quotes, sub-contracts and other financial or technical information relating to the proposed New Dryer as may be reasonably requested by the City Engineer.
- b) The City Engineer will then have ten (10) Business Days from receipt of all items referred to in paragraphs i) and ii) above to review and comment, including any time taken to review same with City representatives.
- c) Where requested by the City Engineer, items set out in paragraph iii) above will be supplied within two (2) Business Days of their being requested and the City Engineer will have seven (7) Business Days to review and comment on same provided that such period does not extend the review period set out in (b) above by more than ten (10) additional Business Days.
- d) Where the City Engineer requires changes to any submittal from the Contractor, the Contractor shall make such changes within three (3) Business Days and re-submit to the City Engineer who will have three (3) Business Days for the second review and if further changes are required, the three (3) Business Day time limit will continue to apply until approved.
- e) Failure by the City Engineer to respond within the above time limits at any time during the Design Approval Phase will not be deemed to constitute acceptance but will entitle the Contractor to adjust the Contract Price and Performance Schedule to cover any and all direct out-of-pocket costs and any and all delays to the Performance Schedule incurred by the Contractor as a result of such delay by the City Engineer. However, in no event will the City be liable to pay such costs or agree to such delay unless (1) the Contractor gives reasonably detailed notice (within three (3) Business Days of the event causing same) of such cost and delay impacts and the City Engineer agrees in writing that such amounts are in accordance with this Contract, and (2) the Contract proceeds to the Construction Phase pursuant to (g)(1) below.
- f) Failure by the Contractor to meet the above time limits during the Design Approval Phase (except where caused by an Unavoidable Delay) will entitle the City to cancel this Contract without liability to the Contractor for any Losses and for further certainty, the City will not be liable to pay the Exit Payment.
- g) Upon or before the expiry of the time allotted in the Performance Schedule for completion of the Design Approval Phase, the City Engineer and Director of Legal Services will jointly sign and deliver to the Contractor a written notice setting out either that (1) the City has (a) approved the Detailed Specification Documents, O&M Manuals, and other information provided to the City Engineer during the Design Approval Phase, and (b) the City Engineer has not received any notices of increased cost or delay under paragraph (e) above (or if the City Engineer has received such, that the City Engineer has carefully reviewed and accepted same as appropriate and attaches a detailed revised Contract Price

and Performance Schedule signed by the Contractor to the notice), or (2) the City has not approved same.

- h) Where (g)(1) applies, the Construction Phase will commence effective the date set out in the original Performance Schedule (or agreed upon revised Performance Schedule for same) and for the Contract Price (or agreed upon revised Contract Price for same).
- i) Where (g)(2) applies, the Construction Phase will not commence and the Contract will be cancelled effective the date of delivery of the notice and the City will have no further liability to the Contractor except that upon receipt of proper invoices and approval of same by the City Engineer the City will within thirty (30) days of such cancellation, pay the Exit Payment to the Contractor.
- j) Despite paragraphs h) and i) above, the Contractor has the right to give written notice at any time (as long as it is delivered at least three (3) Business Days prior to the City's issuance of a notice under (g)(1)) indicating that, based on further changes or information supplied by the City Engineer, the Contractor cannot supply the New Dryer for the Contract Price and wishes to cancel the Contract whereupon the Contract will be cancelled (unless the parties can subsequently agree in writing to a mutually agreeable adjustment to the Contract Price) and neither party will have any further liability to the other and for further certainty, the City will not be liable to pay the Contractor the Exit Payment.
- k) As of the effective date of any notice of cancellation without cause given under this Section 4.3, the Contract will be cancelled and the parties will have no further obligations to each other in respect to same and the City will not be liable under any circumstances to pay for any products ordered or supplied to the Contractor at any time prior to the effective date of the cancellation, except for those obligations which by their nature are intended to survive the expiry or sooner cancellation of this Agreement such as the obligation to pay the Exit Payment, or the release from same, as the case may be.
- l) Where the City is liable to pay the Exit Payment, it will be the lesser of \$[_____] and the Contractor's direct out-of-pocket costs of actually preparing and submitting the documents referred to in this Section 4.3, but for further certainty expressly excludes any and all Losses on account of administrative overhead, opportunity costs, lost profits, lost revenue, indirect or consequential Losses, or any other Losses.

4.4 Construction Phase of Contract

- a) Upon commencement of the Construction Phase, and subject to the terms of this Contract, the Contractor will become liable to construct the New Dryer and the City will become liable to pay for the New Dryer in accordance with the terms of this Contract.
- b) The Contractor will remove (or supervise the removal of) the existing dryer and fabricate/manufacture, test, deliver and install the New Dryer in accordance with the Requirements, within the times set out in the Performance Schedule and for the Contract Price.

4.5 Contract Administration During Construction Phase

a) City Engineer Review of All Contractor's Purchase Orders

All purchase orders from the Contractor to (and including if requested, all underlying sub-contracts and supply contracts with) any Sub-Contractor, supplier, or any other manufacturer or distributor of a component of the New Dryer from to time to time in the possession of the Contractor shall be provided to the City Engineer for recording and review prior to their issuance (if a purchase order) and (if a contract) prior to or within seven (7) Business Days of their execution.

b) City Engineer Review of All Invoices

All invoices issued to the Contractor in respect to the New Dryer shall be submitted to the City Engineer for review prior to payment.

c) City and City Engineer Access to Factory/Office

Access to the Contractor's Factory, offices and all financial records relating to the New Dryer shall be granted by the Contractor to the City/City Engineer during Business Hours upon twenty four (24) hours telephone or e-mail notice.

d) Failure by City Engineer to Respond

Failure by the City Engineer to respond within any given time limit will not be deemed to be approval of the submittal. However, the Contractor will be entitled to an extension of the Performance Schedule in direct proportion to any delay caused by the City Engineer in failing (except where caused by Unavoidable Delay) to respond within the required time.

e) City Engineer Right to Stop Work

In the event of any dispute, the City/City Engineer has the right to stop the Work under the Contract and upon a written notice from the City Engineer to do so, the Contractor will immediately stop work until the dispute is resolved and the Contractor is so notified by the City Engineer, and the Contractor will have no claim for delay damages, lost profit or any other Losses on account of the work stoppage.

f) Non-Destructive/Destructive Testing

The City Engineer has the right to demand both destructive and non-destructive testing of the New Dryer. If the results show there are no faults, the cost of the testing (and cost of restoration of destroyed/damaged part(s), if any) shall be borne by the City. Should the results show faults during testing, the cost of testing (and cost of restoration of destroyed/damaged part(s), if any) shall be borne by the Contractor.

g) Changes During Construction Phase

Changes during the Construction Phase will be made in accordance with Sections 10 and 11 below.

4.6 Construction Phase Submittals/Documents

- a) Within three (3) Business Days of the start of the Construction Phase, the Contractor will as a pre-condition to receiving the first Construction payment, complete and deliver to the City Engineer the following:

- i) Evidence of continued compliance with WCB Legislation.
- ii) Updated Certificate(s) of Insurance pursuant to Section 30.0 hereof.
- iii) Updated valid business licence for city within which Contractor's Factory is located, and
- iv) All purchase orders from the Contractor to (and including if requested, all underlying sub-contracts and supply contracts with) any Sub-Contractor, supplier, or any other manufacturer or distributor of a component of the New Dryer then in the possession of the Contractor (for recording and review).

4.7 Final Set of Construction Phase Documents/Submittals

- a) Upon completion and concurrently with acceptance by the City of the New Dryer, the Contractor will complete and deliver to the City Engineer, the following:
 - i) Detailed Specification Documents in "as-built" format;
 - ii) O&M Manuals in "as-built" format;
 - iii) Statutory Declaration of a Director of the Contractor declaring under oath pursuant to the *Canada Evidence Act* that all payments in relation to the building of the New Dryer have been made by the Contractor and that there are, to the best of the deponent's knowledge, no claims on the New Dryer other than the City's claims;
 - iv) Warranties, as applicable, and
 - v) Legal Bill of Sale transferring the full legal and beneficial title in and to the New Dryer from the Contractor to the City free and clear of all liens, charges, encumbrances or other limitations or restrictions on title.
- (b) All above documents must be reviewed and approved by the City Engineer and Director of Legal Services prior to or concurrently with acceptance of the New Dryer. Approval of the above documentation will be additionally contingent on the Director of Legal Services conducting such searches (which the City must cause to be conducted within two (2) Business Days of receipt of the above documents from the Contractor) as she wishes regarding title, encumbrances and otherwise in respect of the New Dryer, provided that this will not relieve the Contractor of its obligation to ensure that the New Dryer is in fact delivered free of any encumbrance or limitation on title.
- (c) The Contractor will pay all costs related to the above other than the costs of conducting the searches described in (b) above.

5.0 Requirements

- 5.1 The Contractor will perform the Requirements and anything and everything else necessary for or incidental to the Requirements including supplying all labour, supervision, management, overhead, materials, supplies and all other things necessary for or incidental to the Requirements and will perform the Work with care, skill, due

diligence and efficiency.

- 5.2 The Requirements have been prepared by the City to describe in general terms the criteria that the Work must satisfy. However, if there is any discrepancy in the description of the Requirements or any omission of criteria which would be detrimental to the benefits intended to be provided to the City by the Requirements, the Contractor will rectify such a discrepancy or omission to the satisfaction of the City without further compensation.

6.0 Contract Price

- 6.1 Subject to Sections 4.3 and 10 hereof, the all-inclusive price (the "Contract Price") for the New Dryer is as set out in Schedule B - *Pricing*.
- 6.2 Despite any other term of this Contract (except Sections 4.3 and 10 hereof), the Contract Price is fixed and may not be changed without the prior written agreement of the City and the Contractor.
- 6.3 Prices agreed upon are to be exclusive of GST and PST, with all costs relating to freight, handling, import duties, brokerage, royalties, handling, overhead, profit and any and all other costs included as negotiated within this Agreement.
- 6.4 The Contract Price is payable in accordance with Section 36.0 below.

7.0 Legal Effect

- 7.1 This Agreement takes legal force and effect on the Effective Date and, unless sooner cancelled in accordance with its terms, will remain in effect until the expiry of the Contractor's obligations under this Contract.
- 7.2 Despite any other term of this Contract, the RFP or the Contractor's Proposal, nothing in this Agreement is intended to grant the Contractor any rights of exclusivity or any other right to be the sole supplier to the City of any product or service, to supply a specified or minimum quantity of any product or service to the City or any other similar right and the Contractor now acknowledges and agrees to same.

8.0 Cancellation of Contract

- 8.1 The Contractor may only cancel this Agreement without cause in the circumstances set out in Section 4.3.
- 8.2 The City may only cancel this Agreement without cause in the circumstances described in Section 4.3.

9.0 Unavoidable Delay

- 9.1 Except for the performance of obligations to pay money, time periods for the City and the Contractor's performance under the Contract will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this section, an "Unavoidable Delay" means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Contractor's lack of financial resources or insolvency, strikes, lockouts or labour affiliations of the Contractor's employees or Sub-Contractors'

employees, or governmental action taken in the enforcement of law specifically against the Contractor or its Sub-Contractors.

10.0 Changes in Requirements

- 10.1 The City may on prior written notice require the Contractor to make changes to the New Dryer (both during the Design Approval Phase as well as the Construction Phase). Section 4.3 will apply to all changes requested and made during the Design Approval Phase. All changes requested during the Construction Phase will be subject to adjustment as agreed by the parties in a written change order or failing agreement will be carried out promptly by the Contractor after which the Performance Schedule and Contract Price will be adjusted pursuant to Section 10.3 below.
- 10.2 For any and all changes to which Section 10.1 does not apply, the City may, by giving written notice to the Contractor, request amendments to the Requirements. Upon receipt of such notice, the Contractor will, as soon as practicable and in no event later than twenty (20) days after receipt of such notice, inform the City's Manager of Materials Management of any adjustments to the Contract Price, either increasing or decreasing the Contract Price, and Performance Schedule that would be necessitated by such change in the Requirements, or alternatively, will notify the City's Manager of Materials Management that no adjustment is necessary. If adjustments to the Contract Price and Performance Schedule are necessary and the City's Manager of Materials Management confirms in writing that such adjustments are acceptable to it, the Requirements, Contract Price, and Performance Schedule will then be deemed to be amended as agreed by the City's Manager of Materials Management. If the City determines that such adjustments, or no adjustments, to the Contract Price and/or Performance Schedule are unacceptable and the City's Manager of Materials Management and the Contractor are unable to agree, the City's Manager of Materials Management shall be entitled to elect whether to proceed under Section 10.3 or alternatively may elect to proceed with the Contract without the proposed change.
- 10.3 Where the City's Manager of Materials Management elects to proceed under this Section 10.3, the matters in dispute will automatically be referred to arbitration (pursuant to Section 34.0 below to determine the appropriate amendments to the Contract Price and Performance Schedule to reflect the change in Requirements directed by the City and carried out by the Contractor.

11.0 Disputes as to Requirements

- 11.1 All orders or instructions with respect to the Requirements issued by the City Engineer or Manager of Materials Management to the Contractor will be obeyed, performed and complied with by the Contractor promptly, efficiently and to the satisfaction of the City. However, if the Contractor is of the opinion that such orders or instructions are not authorized under the provisions of the Contract Documents or involve a change in the Requirements, it must promptly notify the City in writing before proceeding to carry them out and, in any event, within two (2) days of the receipt of such orders or instructions. The giving of such notice to and receipt by the City or City Engineer will not constitute an acknowledgement by the City as to the validity of the Contractor's claim, and the City now reserves all rights to contest or dispute the Contractor's claim. If the Contractor does not so notify the City or City Engineer within the time so limited, it will not be entitled to later claim that the orders or instructions were not so authorized or involved a change in the Requirements. In any event, the giving of such notice to the City will not relieve the Contractor of its obligation to carry out and to obey such orders or instructions.

12.0 Sub-Contractors

- 12.1 All Sub-Contractors are the responsibility of the Contractor.
- 12.2 The Contractor will be held as fully responsible to the City for the acts and omissions of its Sub-Contractors and of persons directly or indirectly employed by the Contractor, as for the acts and omissions of persons directly employed by it, and the Contractor will indemnify and hold harmless the City for any Losses resulting from the same.
- 12.3 Nothing contained in any of the Contract Documents will create any contractual relationship between the Sub-Contractors and the City.
- 12.4 The Contractor agrees to ensure compliance by every Sub-Contractor with the terms and requirements of the Contract Documents.

13.0 Permitted Sub-Contractors

- 13.1 No Sub-Contractors will be permitted except those expressly named by the Contractor in Schedule D - *Sub-Contractors* and then only for the goods and services set out beside their names in that Schedule or subsequently permitted in writing by the City pursuant to Section 15.0 below.

14.0 Independent Contractor

- 14.1 The Contractor, its Sub-Contractors, the officers, directors, shareholders, partners, personnel, affiliates and agents of the Contractor and its Sub-Contractors are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City of Vancouver.

15.0 Assignment/Sub-Contracting

- 15.1 Subject to Sections 13.1 and 15.2 hereof, the Contractor will not assign, sublet, subcontract or let out as task work any part of the Work or any of the Contractor's obligations under the Contract Documents to any third party, and will not assign or otherwise transfer any of the rights of payment under the Contract Documents to any third party, without in each case the prior written consent of the City which consent the City may arbitrarily withhold. If the City consents to any such assignment, subletting or letting out as task work of all or any part of the Work, the Contractor will in no way be relieved from its responsibility for the fulfilment of the Work, but will continue to be responsible for the same pursuant to Section 12.0 above.
- 15.2 Despite Section 15.1 above, the Contractor may utilize those Sub-Contractors expressly permitted pursuant to Section 13.0 above, provided always that the Contractor may not substitute or replace those Sub-Contractors, or permit those Sub-Contractors to further assign, sub-let, sub-contract or let out as task work their obligations under the Contract Documents, except in accordance with Section 15.1 above.

16.0 Time of the Essence

- 16.1 For all obligations of the Contractor pursuant to this Agreement, time is of the essence. The acceptance of a late performance, with or without objections or reservations by the City, will not waive the City's right to claim damages for such breach nor constitute a waiver of the City of the requirement of timely performance of any obligation remaining to be performed.

- 16.2 The Contractor will perform all of its obligations within the times set out for same as set out in Schedule F - *Performance Schedule*.

17.0 Compliance with Laws, Permits and Regulations

- 17.1 In carrying out its obligations, the Contractor will familiarize itself and comply with all applicable laws, bylaws, regulations, ordinances, codes, specifications and requirements of all regulatory authorities, and will obtain all necessary licenses, permits and registrations as may be required by applicable law.
- 17.2 If the Contractor uses or contemplates using, for the performance within Canada of the Work, persons who are not Canadian citizens, landed immigrants or otherwise already legally entitled and qualified to work in Canada, the Contractor must make all arrangements required to enable such person(s) to lawfully and timely perform such services in Canada. The Contractor will be solely liable and accountable for any failure to do so in a timely manner or to obtain, for whatever reason, all or any permissions and authorizations legally required, and for all consequences and liabilities resulting from any such failure. For greater certainty, in no case will any consequence of any failure to do so, amount to an Unavoidable Delay on the Contractor's part.

18.0 Delivery/WHMIS Legislation

- 18.1 Delivery must be made by the Contractor, at its sole risk and expense to the exact location designated by the City, and only between 10:00 a.m. and 3:00 p.m. on a Business Day, unless other arrangements have been agreed in writing and otherwise in compliance with the Requirements.
- 18.2 A material safety data sheet ("MSDS") must accompany all shipments containing products regulated under WHMIS Legislation.

19.0 Inspection

- 19.1 The New Dryer and Work will be subject to inspection and test by and must meet the approval of the City and its City Engineer as further set out in Schedule A - *Requirements*.
- 19.2 In the event that the New Dryer or Work or any portion of the New Dryer or Work does not comply with the Requirements or the Contractor's warranty (expressed or implied), the City will have the right either to reject the New Dryer or Work or to require correction and the Contractor will reimburse the City any costs incurred as a result of such non-compliance.
- 19.3 Acceptance or rejection of the New Dryer and Work will be made as promptly as practical, but failure to inspect and accept or reject the Product will not relieve the Contractor from responsibility for such Work that is not in accordance with the Requirements.
- 19.4 The City and City Engineer will be the final judge of the New Dryer in respect of both quality and quantity and its decisions of all questions in dispute will be final. Materials, goods or equipment not accepted will be returned to the Contractor at the Contractor's expense.
- 19.5 Under no circumstances will the City be deemed to have accepted the New Dryer or Work by virtue of a partial or full payment for them.

20.0 Quality of Workmanship and Materials

- 20.1 The Contractor will perform the Work with the degree of care, skill and diligence normally applied in the performance of services of a similar nature and in accordance with sound current professional practices and the Requirements.
- 20.2 Materials, goods and equipment incorporated into the New Dryer will be from suppliers or manufacturers of established reputation engaged in the supply or manufacture of such materials or equipment.
- 20.3 Materials are to be applied in accordance with the manufacturer's directions and the Contractor will use the techniques and applications best suited for the type of material being used.

21.0 Handling and Storage

- 21.1 All components of the New Dryer will be adequately packaged to protect them from damage during handling, shipment and storage, prior to being incorporated into the New Dryer.
- 21.2 The New Dryer shall be fully protected from the elements during fabrication, transportation and installation.

22.0 Handling and Storage Records

- 22.1 The Contractor will institute a policy and procedure which facilitates immediate recognition of defective or non-compliant components or parts during construction of the New Dryer.
- 22.2 The Contractor must fully inspect all materials, equipment and other items upon receipt and upon request, provide the City's City Engineer with full access to the Contractor's inspection records, process and place of inspection.

23.0 Non- Exclusivity - Alternative Sourcing

- 23.1 The Contractor acknowledges that this Agreement is not an exclusive supplier contract.
- 23.2 The City reserves the right to purchase products of the same type as those required to be provided under this Agreement from other sources whether or not it deems that the product or services offered by the Contractor do not meet the quality standards; or are deemed to be inferior or unacceptable for use; or that the Contractor cannot supply as specified.

24.0 Warranty

- 24.1 The Contractor warrants that for the Warranty Period, the New Dryer and Work will be in full conformity with the Requirements as well as samples, if any, and if so, then this is a sale by sample as well as by description within the meaning of the *Sale of Goods Act* (British Columbia). However, under no circumstances will any reference dryers inspected by the City or City Engineer pursuant to Section 3.4 - *Proven Design* of Schedule A - *Requirements* be or be deemed to be a sample.
- 24.2 The Contractor further warrants that for the Warranty Period, the Product and Work will be of merchantable quality, fit for the intended use and will perform according to the Requirements.

- 24.3 Equipment and materials used in the New Dryer and Work must be new, free and clear of all liens, charges and encumbrances, the latest model and delivered complete with all necessary accessories for operation.
- 24.4 The Contractor warrants that its employees and Sub-Contractors have the qualifications, experience, knowledge, skills and abilities necessary for the fulfilment of this Agreement.
- 24.5 In the event that, at any time during the Warranty Period, any part of the New Dryer or Work does not meet the Requirements then the Contractor will:
- (a) at the Contractor's sole expense, repair, correct, or replace the defect, on location at the City's Kent Yard Asphalt Plant;
 - (b) where the defect totally prevents the use of the New Dryer for its intended purposes, ensure that the New Dryer is not out of commission for more than one (1) Business Day following written notice from the City that warranty work is required;
 - (c) where the defect materially impairs but does not prevent the use of the New Dryer for its intended purposes, ensure that the defect is rectified within five (5) Business Days following written notice from the City that warranty work is required; and
 - (d) where the defect does not materially impair nor prevent the use of the New Dryer for its intended purposes ensure that the defect is rectified within ten (10) Business Days following written notice from the City that warranty work is required.
- 24.6 The Warranty Period will be extended by a period of time equal in the aggregate to all periods of time referred to in Sections 24.5(b) and (c) calculated from the time the City calls in the warranty service request to the time of its rectification.
- 24.7 Subject always to the other terms of this Section 24.0,
- (a) any defect warranted by the Contractor may be repaired or replaced at the Contractor's sole option, and
 - (b) repaired or replaced defects will be warranted for the balance of the original Warranty Period.
- 24.8 The Letter of Credit must be valid for at least a one (1) year period and perpetually renewable until such time as the financial institution issuing it gives at least thirty (30) days' prior written notice to the City of its impending cancellation. The Letter of Credit will secure the Contractor's performance of the Requirements during the Warranty Period and accordingly, it is a condition of the Requirements that the Letter of Credit be replaced with a replacement Letter of Credit at least thirty (30) days prior to the expiry of the existing Letter of Credit at all times so that at all times during the Warranty Period, the City is in possession of a valid and current Letter of Credit. If at any time, the Contractor fails to replace a Letter of Credit at least thirty (30) days prior to its expiry, such failure will be a breach of the Agreement and entitle the City to exercise all of its rights and remedies under the current Letter of Credit. Upon expiry of the Warranty Period (and provided that the Contractor is not then in default under the Agreement), the City will return the then current Letter of Credit to the Contractor.

- 24.9 Any and all defaults by the Contractor during the Warranty Period, will entitle the City to exercise any and all remedies both at law and in equity, in contract and in tort, and will entitle the City to make draws on the Letter of Credit to compensate the City for Losses suffered as a result of such default(s) all and in any order that the City chooses and without prejudice to any of the City's other rights and remedies.
- 24.10 The City's rights and remedies under this Section 24.0 are in addition to and not in lieu of all the City's rights and remedies as set out in Schedule G - *Warranty*.
- 24.11 The City's rights and remedies under this Section 24.0 and Schedule G - *Warranty* are the City's sole rights and remedies in respect to physical defects in the New Dryer and the Contractor makes no other warranty expressed or implied other than is set out in this Section 24.0 and Schedule G - *Warranty*. For further certainty, nothing in this Section 24.0 limits or modifies the Contractor's liability for any breach of its other obligations under this Agreement which are separate from its obligations to supply the New Dryer free from defects.

25.0 Protection of Person and Property

- 25.1 The Contractor will use due care that no persons are injured, no property damaged or lost and no rights are infringed in supply of the New Dryer or the performance of the Work, and the Contractor will be solely responsible for all Losses in respect of any injury to persons, damage of property or infringement of the rights of others incurred in the supply of the New Dryer, performance of the Work or caused in any other manner by the Contractor, Sub-Contractors or their respective employees or agents.
- 25.2 The Contractor will effectively warn and protect the public and other personnel from any danger as a result of the Work being done.

26.0 Rectification of Damage and Defects

- 26.1 The Contractor will rectify any loss or damage for which, in the opinion of the City, the Contractor is responsible, 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 the loss or damage and deduct such estimated amount from the amount owing to the Contractor.

27.0 Clean Up

- 27.1 The Contractor will at all times conduct the Work in an orderly and reasonably tidy manner, and will at suitable intervals remove any accumulation of rubbish or refuse materials. At no time will any person employed by the Contractor or by any of its Sub-Contractors discard any litter or garbage on or adjacent to any City Work Site, except into a suitable container.

28.0 Passage of Title and Risk

- 28.1 Despite any other term of this Agreement, title, as well as risk of loss or damage to the New Dryer or Work performed, will remain with the Contractor until the acceptance of the New Dryer in accordance with Section 4.7 hereof and Section 6.0 - *Acceptance Tests* of Schedule A - *Requirements*, after which title to the New Dryer will pass to the City.

29.0 Indemnification

- 29.1 The Contractor will indemnify and hold and save harmless the City from and against all Losses made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to:
- (a) any injury, including death, property loss or damage arising from any (i) defect in the New Dryer, or (ii) act or omission of the Contractor, its employees, officers, volunteers, Sub-Contractors or any other persons for whom the Contractor has assumed responsibility in the performance or purported performance of the Work, or (iii) any breach of this Agreement;
 - (b) 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* (British Columbia), or to any attachment for debt, garnishee process or otherwise; or
 - (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 *Personal Property Security Act* (British Columbia), or to any attachment for debt, garnishee process or otherwise; or
 - (d) the Contractor's failure to pay all royalties and license fees or on account of suits or claims of infringement by the Contractor, its Sub-Contractors, or the New Dryer or Work of trademarks, patents, copyright or any other infringement of third party intellectual property rights.

30.0 Insurance Requirements

- 30.1 Without limiting any of its obligations or liabilities under the Contract, the Contractor and its Sub-Contractors will obtain and continuously carry during the term of the Contract at their 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

Commercial general liability insurance in sufficient amounts and description to protect the Contractor, its Sub-Contractors, the City of Vancouver, the City Engineer and their respective officers, directors, officials, employees and agents against claims for damages and personal injury including death, bodily injury and property damage, which may arise under this Contract.

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

The policy of insurance shall:

- i. be on an occurrence form;
- ii. add the City of Vancouver, City Engineer and their respective officials, officers, directors, 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) Third Party Legal Liability Insurance

Third party legal liability Insurance for any and all vehicles owned and/or operated by the Contractor or Sub-Contractors in connection with the Contract in an amount not less than \$5,000,000 per occurrence.

(c) All Risk Builder's Risk & Machinery Insurance

All risk builder's risk & machinery Insurance with a minimum limit of not less than the full value of the New Dryer including all accessory equipment and communication systems with a deductible of not more than \$5,000 protecting the City, the Contractor, its Sub-Contractors and their respective officials, officers, directors, employees and agents from all claims for loss or damage to the New Dryer including all accessory equipment and communication systems arising out of ownership or operation of the Contractor or its Sub-Contractors during construction, installation, storage or while it is being tested on during trials and transported until delivery at the City's designated site and acceptance by the City. This policy shall jointly name the City, City Engineer and the Contractor as the Named Insured and loss payees for their interests and shall contain a Waiver of Subrogation as set out below.

(d) Protection and Indemnity Insurance

Protection and indemnity insurance to cover all claims for bodily injury including death, property damage or loss arising out of the activities conducted by the Contractor, the Sub-Contractors, or their employees, agents or subcontractors, including not limited to third party liability claims arising out of transportation or testing activities, with a minimum limit of not less \$5,000,000 per occurrence and a deductible of not more than \$5,000. This policy shall name the City of Vancouver, City Engineer and their respective officials, officers, employees and agents as an additional insured or co-insured.

(e) Professional Liability (Errors and Omissions) Insurance

Professional liability insurance in an amount of not less than \$5,000,000 in the aggregate and not less than \$2,000,000 per claim, insuring any claims resulting from the negligence of the Contractor or its Sub-Contractors in designing, manufacturing or fabricating, if and to the extent applicable, and commissioning, the New Dryer, and having a deductible of not more than \$10,000 for each and every claim.

(f) Installation Floater Insurance

Installation floater insurance for the full value of the services and Work performed pursuant to the Contract.

- 30.2 All insurance policies will be in a form and in amounts satisfactory from time-to-time and with insurers acceptable to the City's Director of Risk and Emergency Management and will provide the City's Director of Risk and Emergency Management with 60 days prior written notice of (i) lapse, (ii) reduction in coverage, either in part or in whole, and (iii) cancellation, other than in the case of cancellation for non-payment of premiums, in which case the applicable statutory conditions will apply. Notice must identify the Contract title, number, policy holder, and scope of work.

- 30.3 The Contractor and each of its Sub-Contractors will provide at its own cost any additional insurance which it is required by law to provide or which it considers necessary.
- 30.4 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.
- 30.5 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.
- 30.6 All property insurance policies will contain a waiver of subrogation in favour of the City of Vancouver, City Engineer and their respective officials, officers, employees and agents.
- 30.7 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 the Certificates of Insurance attached to this Contract as Schedule (1), supported by a certified copy(s) of the policy(s). The Contractor's Certificate(s) of Insurance will identify the Contract title, number, policyholder and scope of work and must not contain any qualifications or disclaimers. Proof of insurance, in the form of the attached Certificates of Insurance or certified copies of all insurance policies will be made available to the City's Director of Risk and Emergency Management at any time during the term of the Contract immediately upon request.
- 30.8 The Contractor will provide in its agreements with its Sub-Contractors clauses in the same form as in this Agreement. 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 Sub-Contractors and a copy of the applicable insurance clauses from its sub-contract agreements.
- 30.9 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.

31.0 WCB Compliance

- 31.1 Prior to commencing any services on a City Work Site, the Contractor must provide evidence that it is in good standing under all WCB Legislation. The Contractor is responsible for having the site secured in accordance with WCB safety regulations and ensure that no danger shall befall the public at any time during the performance of the Services.
- (a) *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 any work or service which is the subject of this Contract. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WCB coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WCB's premiums,

assessments or penalties in respect of work done or service performed in fulfilling this Contract had been paid in full.

- (b) *Designation of Contractor as Prime Contractor* - The City now designates the Contractor as the Prime Contractor, and the Contractor now acknowledges and agrees to its designation as the Prime Contractor, for the purposes of the WCB Legislation (the "Prime Contractor").
- (c) *Prime Contractor's Obligations* - Without in any way limiting the Contractor's obligations under the WCB Legislation, and by way of example only, the Contractor will:
 - (i) Appoint and provide a qualified coordinator for the purpose of ensuring the coordination of health and safety activities for the Factory, and
 - (ii) Provide and receive and respond to all information required to be given, received or relayed by the Contractor (both as an employer and as the Prime Contractor) pursuant to the WCB Legislation.
- (d) *General WCB Obligations* - In addition to, and not in lieu of, the Contractor's obligations as the Prime Contractor, the Contractor will have a safety program acceptable to the WCB and will ensure that all WCB safety policies, rules and regulations are observed during performance of this Contract, not only by the Contractor but by all Subcontractors, workers, material suppliers and others engaged in the performance of this Contract.
- (e) *Initial Proof of WCB Registration/Good Standing* - Prior to the Effective Date, the Contractor will provide the City with the Contractor's and all Sub-Contractor's WCB registration numbers.
- (f) *Special Indemnity Against WCB Non-Compliance* - The Contractor will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to:
 - (i) Unpaid WCB assessments of the Contractor or any other employer for whom the Contractor is responsible under this Contract,
 - (ii) The acts or omissions of any person engaged directly or indirectly by the Contractor in the performance of this Contract, or for whom the Contractor is liable pursuant to the Contractor's obligations as the Prime Contractor, and which acts or omissions are or are alleged by the WCB to constitute a breach of the WCB Legislation or other failure to observe safety rules, regulations and practices of WCB, including any and all fines and penalties levied by the WCB, or
 - (iii) Any breach of the Contractor's obligations under this Section 31.0.

32.0 Character of Workers/Security Clearance

32.1 Removal of Workers on Request

On the written request of the City or the City Engineer, the Contractor will remove any employee, Sub-Contractor or agent involved in the Work for any reason including but not limited to the following:

- (a) Intoxication;
- (b) Use of foul, profane, vulgar or obscene language or gestures;
- (c) Solicitation of gratuities or tips from any person for services performed under the Contract;
- (d) Willful, negligent or reckless action in disregard of safety or sanitary requirements or regulations;

- (e) Loss of or failure to obtain appropriate or required Security Clearance; or
- (f) Any action which may constitute a public nuisance or disorderly conduct.

32.2 Security Checks

The Contractor acknowledges that City has developed a comprehensive security protocol for anyone supplying goods and services to the City or having access to City information. The Contractor agrees that as a condition of entering into this Agreement:

- (a) the City may at any time and from time to time during the term of this Agreement, 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 Work; (iii) the Sub-Contractor(s); or (iv) any principals, directors, managers, employees and agents of the Sub-Contractor(s) performing, directly or indirectly, any part of this Agreement which involves, or may involve, access to security sensitive areas or information (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 this Agreement which involves, or may involve, access to security sensitive areas or information, to execute and deliver to the City on request, 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 City 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 from the City of notice 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, requiring the Contractor to remove any Contractor Personnel from participation in the Work of from work site of the New Dryer and ensure that no security sensitive information passes to such removed Contractor Personnel.

33.0 **City's Right to Remedy**

- 33.1 Should the Contractor neglect to execute the Work properly or fail to perform any provision of the Contract, the City may, without prejudice to any other right or remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment due to the Contractor.

34.0 **Dispute Resolution**

- 34.1 All claims, disputes or issues in dispute between the City and the Contractor will be decided by mediation or arbitration, if the parties agree, or failing agreement, in a court of competent jurisdiction within British Columbia and be governed by the laws of British Columbia.

- 34.2 Subject to Section 34.7, in the event that (i) the parties agree to arbitration pursuant to the above, or (ii) the matter is referred to arbitration by the City's Manager of Materials Management, pursuant to Section 10.3, 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 with the Province of British Columbia.
- 34.3 In the event that the parties agree to arbitration, the arbitration shall take place in the Lower Mainland, British Columbia and be governed by the laws of British Columbia.
- 34.4 The procedure set out in this section is not meant to preclude or discourage informal resolution of disagreements between the City and the Contractor.
- 34.5 Despite Section 34.1, the laws of British Columbia will govern this Agreement and the courts of British Columbia will have exclusive jurisdiction over all disputes arising under this Agreement unless and until the parties agree in writing to mediate or arbitrate any specific dispute.
- 34.6 All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- 34.7 No arbitration pursuant to Section 34.2 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.

35.0 Cancellation

- 35.1 The City may, by written notice to the Contractor, immediately cancel the whole or any part of this Agreement in any one of the following circumstances:
- (a) if the Contractor fails to make delivery of the New Dryer or to perform the Work within the time specified, or fails to perform any other provisions, terms or conditions of the Contract within the time specified, or within a reasonable time if no time is specified;
 - (b) if the Contractor performs any act or does anything which causes the City to incur any legal liability whatsoever;
 - (c) if the Contractor fails to meet the safety requirements of the Contract;
 - (d) if any creditor of the Contractor causes a writ of execution or similar writ or court order to be served upon the City requiring the City to pay any portion due to the Contractor under the Contracts;
 - (e) if the Contractor is adjudged bankrupt or if it makes a general assignment for the benefit of creditors or if it becomes insolvent or if it should take the benefit of any Act that may be in force for bankrupt or insolvent debtors; or
 - (f) if the Contractor breaches any other term of this Agreement.

35.2 Upon cancellation of the Contract, the City will have no obligation to the Contractor except to pay for such portion of the New Dryer or Work properly delivered or performed prior to the date of the cancellation of the Contract.

35.3 Upon cancellation of the Contract in whole or in part, the City may procure similar goods and/or services and the Contractor will be liable to the City for any excess costs for such similar goods and/or services.

36.0 Payments and Security for Payment

36.1 The Contractor will be paid net thirty (30) days from receipt by the City of each invoice duly issued in accordance with this Section 36.0.

36.2 The City will pay for the Contractor’s performance of the Requirements in accordance with the following payment schedule and payment terms:

Payment Event/Deliverables	Payment Amount Expressed as Percentage of Contract Price
Completion of New Dryer to satisfaction of City Engineer in accordance with Factory Trials procedure set out in Schedule A - <i>Requirements</i>	\$12,500
Delivery, Installation and Post-Installation Acceptance Testing completed to satisfaction of City Engineer in accordance with procedure set out in Schedule A - <i>Requirements</i>	70% of remaining balance
Delivery/completion of Final Set of Construction Phase Documents/Submittals in accordance with Section 4.7(a) and satisfactory lien searches under Section 4.7(b)	Balance of Contract Price
Total Contract Price 100%	

36.3 Invoices shall be addressed and delivered to:

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

Attention: Larry Fiddler, Kent Construction Supplies and Services

36.4 Upon receipt of each invoice and provided the Manager of Materials Management has received the reporting documentation from the City Engineer confirming the completion of the pre-conditions to the milestone payment referred to in that invoice, the invoice will be paid by the City in accordance with Section 36.1 above.

37.0 Taxes

37.1 Unless otherwise provided herein, the City will, to the extent applicable, pay GST and PST on the Contract Price to the Contractor and the Contractor will timely account for and remit the same to the appropriate government authority.

37.2 Invoices must separately show the appropriate amounts for GST and PST.

38.0 Contract Management - Intentionally Deleted (Now Part of Section 4.0)

39.0 No Promotion of Relationship

39.1 The Contractor 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 to perform the Contractor's obligations under the terms of this Agreement). The Contractor undertakes not to use "City of Vancouver", "VANOC", "Vancouver 2010", "2010 Games", "2010 Winter Olympics", or any official emblem, logo or mascot of any of the above or any reference or means of promotion or publicity, without the express prior written consent of the City. Furthermore, the Contractor undertakes not to disclose or promote its relationship with the City or City in any communication or matter whatsoever as a basis to create an association, express or implied, between the Contractor and the City, City, IOC, the Olympics or the Olympic Movement.

40.0 Set-off

40.1 The City may at its option, withhold and set-off against any amount owing to the Contractor (whether under this Agreement or otherwise) 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.

41.0 Joint Venture or Partnership

41.1 If a joint venture or partnership, the Contractor represents and warrants that all members of the joint venture or partnership are as indicated on the execution page of this Agreement and have duly executed same. The obligations and liabilities of the members of a joint venture or partnership executing this Agreement as the Contractor will be joint and several.

42.0 Entire Agreement

42.1 The Contract Documents constitute the entire agreement between the parties and supersede all previous communications, representations and agreements whether verbal or written between the parties with respect to their subject matter. The Contractor now acknowledges that it is not relying on any representations of the City as to the performance of the Requirements, except as expressly stated in the RFP.

43.0 Failure to Enforce

43.1 Any failure by the City to enforce or require the strict keeping and performance of any of the terms and conditions contained in the Agreement will not constitute a waiver of such terms and conditions, and will not affect or impair such terms and conditions in

any way or the City's right at any time to avail itself of such remedies as the City may have for any breach or breaches of such terms and conditions.

44.0 Successors and Assigns

44.1 This Agreement will benefit and bind each party and its successors and permitted assigns.

45.0 Trade-In/Salvage of Existing Dryer

[Note: This Section will only apply where the Contractor has offered to buy the existing dryer in its Proposal]

- (a) The Contractor now agrees to purchase the existing dryer on an "as is where is" basis for the price (the "Sale Price") indicated in the pricing worksheet, section 2.1, Item 9 of Schedule B - *Pricing*. The City makes no representations or warranties of any kind as to the suitability, merchantability, fitness for purpose or any other quality or characteristic of the existing dryer (except to warrant that the City has clear title to same).
- (b) The Contractor now acknowledges that it had full opportunity to inspect the existing dryer as part of the RFP process.
- (c) The Contractor is responsible for the provision of insurance to protect the City's interests and WCB coverage for its workers and any Sub-Contractors while working on City property to haul the existing dryer away. The Contractor will also ensure compliance with occupational health, safety, and environmental regulations, for the protection of its workers, City staff in the surrounding areas, and City property. The Contractor now accepts appointment as the "prime contractor" under WCB Legislation for any and all work associated with hauling the existing dryer away. For certainty, all work of removing the existing dryer is agreed to be Work under the Contract and all other insurance, WCB, and release and indemnity provisions of the Contract will apply to such Work.
- (d) The Contractor now releases the City from any or all Losses arising in any way from this sale whether in the nature of personal injury, death, property loss, damage or destruction, or economic loss resulting from the Contractor's entry onto City premises and/or removal of the existing dryer or subsequent use, operation, or further re-sale of same. The Contractor also agrees to indemnify and save the City harmless from and against any and all Losses arising from such events.
- (e) A deposit is not required.
- (f) Payment of the Sale Price will be made within five (5) working days of signing the Contract. Certified cheque, money order, electronic funds transfer, or bank draft that is recognized in Canada are acceptable payment methods.
- (g) The PST (7%) will be charged unless an exemption certificate is provided or the Contractor is able to comply with regulations for an out of province sale. GST is not payable.
- (h) The City will not be liable for Losses from any cause whatsoever of the equipment sold, but should any equipment be lost or destroyed during the

period allowed for removal and prior to its actual removal (except where caused by the Contractor doing the Work), the City will refund to the Contractor any money paid on account of the Sale Price.

- (i) The Contractor will not assign or transfer this equipment sale contract for the existing dryer without the written consent of the City.
- (j) In the event that the Contractor fails to remove the equipment within the time specified in Schedule F - *Performance Schedule*, the City may, without prejudice to any other remedies, cancel this equipment sale contract for the existing dryer and resell the equipment at such price and on such terms as the City may deem advisable and hold the Contractor responsible for all Losses including all expenses incurred by the City through the default, but without any obligation on the part of the City to account to the Contractor for the proceeds of such resale. The City will be entitled to retain any amount paid on the account of the equipment until the amount of any such resale (including the expenses referred to) have been ascertained.

TO CONFIRM THEIR AGREEMENT to the terms set out above, the parties have each signed this document and delivered a signed copy to the other.

SAMPLE

CITY OF VANCOUVER

BY: _____
Frances J. Connell, Director of Legal Services

BY: _____
Tom Timm, City Engineer

< Name of Contractor >

BY: _____

Name: _____

Title: _____



SCHEDULE (1) TO FORM OF AGREEMENT

CERTIFICATE OF INSURANCE

Section 1 & 8 - to be completed by City staff
Section 2, 3, 4, 5, 6 & 7 - 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) 871-6971
Email

And certifies that the insurance policy (policies) as listed herein has been issued to the Named Insured and is/are in full force and effect as of the effective date of the asphalt plant dryer supply and installation agreement entered into between the insured and the City of Vancouver pursuant to RFP PS07057.

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) P

Naming City of Vancouver as a Named Insured and/or Loss Payee with respect to its interests
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:
C Personal Injury
C Property Damage including Loss of Use
C Products and Completed Operations
C Cross Liability or Severability of Interest
C Employees as Additional Insureds
C Blanket Contractual Liability
C Non-Owned Auto Liability
INSURER
POLICY NUMBER
POLICY PERIOD From to
Limits of Liability (Bodily Injury and Property Damage Inclusive) -
Per Occurrence \$
Aggregate \$
All Risk Tenant's Legal Liability \$
Deductible Per Occurrence \$

5. AUTOMOBILE LIABILITY INSURANCE for operation of owned and/or leased vehicles

INSURER
POLICY NUMBER
POLICY PERIOD From to
Limits of Liability -
Combined Single Limit \$
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
POLICY NUMBER
POLICY PERIOD From to
Per Occurrence \$
Aggregate \$
Self-Insured Retention \$

7. OTHER REQUIRED INSURANCE

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

8. POLICY PROVISIONS

Where required by the governing contract, agreement, lease, permit or license, it is understood and agreed that:
a) City of Vancouver, its officials, officers, employees, servants and agents have been added as Additional Insureds with respect to liability arising out of the operation of the Named Insured pursuant to the governing contract, agreement, lease, permit or license.
b) SIXTY (60) days written notice of cancellation or reduction of coverage with respect to any of the policies listed herein, either in part or in whole, will be given by the Insurer to the Holder of this Certificate; the exception is cancellation for non-payment of premiums in which case the applicable statutory conditions will apply.
c) The insurance policy (policies) listed herein shall be primary. Any insurance or self-insurance maintained by City of Vancouver shall be in excess of this insurance and not contribute to it.

SIGNED BY THE NAMED INSURED (Contractor)

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE Dated

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



CITY OF VANCOUVER

CERTIFICATE OF INSURANCE
Professional Liability Insurance

THIS CERTIFICATE IS ISSUED TO: City of Vancouver

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

NAMED INSURED:

MAILING ADDRESS:

LOCATION ADDRESS:

DESCRIPTION OF OPERATION/CONTRACT:

SAMPLE

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: _____

POLICY PROVISIONS:

Where required by the governing contract, agreement, permit or license, it is understood and agreed that THIRTY (30) days written notice of cancellation or reduction of coverage with respect to the policy listed herein, either in part or in whole, will be given by the Insurer to the Holder of this Certificate. The exception is cancellation for non-payment of premiums in which case the applicable statutory conditions will apply.

SIGNED BY THE NAMED INSURED (Contractor/Consultant)

_____ Dated: _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

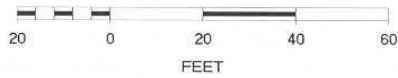
_____ Dated: _____

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

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SCALE 1 : 436



The information contained in VanMap is supplied on an AS IS WHERE IS basis. The City makes no warranty as to the accuracy or completeness of VanMap information.



SCALE 1 : 1,334

