



## REQUEST FOR PROPOSAL

### ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN

Request for Proposal ("RFP") No. PS20120347

Issue Date: April 20, 2012

Issued By: Jing Fan, Buyer

City of Vancouver ("City")

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REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
TABLE OF CONTENTS

---

TABLE OF CONTENTS

<b>PART A - INTRODUCTION</b>	<b>Pages A-1 to A-2</b>
1.0 Overview of RFP	
2.0 Key Dates	
3.0 Contact Person	
4.0 Closing Time	
5.0 Delivery Address for Proposals	
<b>PART B- INSTRUCTION TO PROPONENTS</b>	<b>Pages B-1 to B- 9</b>
1.0 Overview	
2.0 Administrative Requirements	
3.0 Information Meeting and Site Visit	
4.0 Conduct of RFP - Inquiries and Clarifications	
5.0 Contract Requirements	
6.0 Pricing	
7.0 Submission of Proposals	
8.0 Proposal Format	
9.0 Bid	
10.0 Opening of Proposals	
11.0 Evaluation of Proposals	
12.0 Proposal Approval	
13.0 Alternate Solutions	
14.0 Freedom of Information and Protection of Privacy Act	
15.0 Non-Resident Withholding Tax	
16.0 No Obligation Assumed by City	
17.0 No Claim Against the City	
18.0 Indemnity	
19.0 Dispute Resolution	
20.0 Access/Ownership of Proposal Information	
21.0 Confidentiality	
22.0 No Promotion	
23.0 Survival/Legal Effect of Proposal Contract	
24.0 Definitions	

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
TABLE OF CONTENTS

---

**PART C - FORM OF PROPOSAL** **Pages C-1 to C- 12**

1.0 Introduction

PROPOSAL DECLARATION FORM

SUBMISSION INSTRUCTIONS FOR ENVELOPE ONE - COMMERCIAL PROPOSAL

1.0 Proposal Declaration Form

2.0 Pricing

3.0 Insurance Requirements [Certificate of Existing Insurance see APPENDIX 3]

4.0 WorkSafeBC

5.0 Deviations and Variations

SUBMISSION INSTRUCTIONS FOR ENVELOPE TWO - MANAGEMENT PROPOSAL

1.0 Company Profile

2.0 Key Personnel

3.0 References

4.0 Sub-Contractors

5.0 Requirements Overview

6.0 Sustainability

7.0 Project Timeline

8.0 Prime Contractor Requirements

**PART D - FORM OF AGREEMENT**

**Pages D-1 to D- 26**

APPENDIX A - Insurance Requirements

APPENDIX B - Proposal

APPENDIX C - RFP

SCHEDULE 1 - Scope of Work

SCHEDULE 2 - Project Schedule

SCHEDULE 3 - Pricing

SCHEDULE 4 - GENERAL CERTIFICATE OF INSURANCE

SCHEDULE 5 - PROFESSIONAL LIABILITY INSURANCE CERTIFICATE

SCHEDULE 6 - WorkSaveBC Clearance letters

SCHEDULE 7 - Prime Contractor Agreement

**PART E - APPENDICES**

**Pages E-1 to E- 7**

APPENDIX 1 - INFORMATIONAL MEETING ATTENDANCE FORM

APPENDIX 2 - CERTIFICATE OF EXISTING INSURANCE [to be included in COMMERCIAL PROPOSAL]

APPENDIX 3 - NON-DISCLOSURE AGREEMENT

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART A - INTRODUCTION

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1.0 OVERVIEW OF RFP

1.1 This Request for Proposal (“RFP”) is an opportunity to submit Proposals for the City’s review and, depending on the City’s evaluation, to negotiate with the City to finalize and execute a contract.

1.2 This RFP consists of 4 parts:

- (a) PART A - INTRODUCTION: This part sets out the key dates and contact information for the RFP process;
- (b) PART B - INSTRUCTION TO PROPONENTS: This part contains an overview of the project and the RFP process, including the terms and conditions governing the RFP process;
- (c) PART C - FORM OF PROPOSAL: This part contains the format and information requested by the City to be contained and submitted in the Proposal. The Proposal should be submitted in a two envelope system: Commercial Proposal and Management Proposal; and
- (d) PART D - FORM OF AGREEMENT: This part contains the City’s proposed terms and conditions for the Agreement that will be executed between the City and the successful Proponent, if any, (Please note that this is a sample form of agreement and is subject to change by the City prior to execution) and
- (e) PART E - APPENDICES: This part contains the INFORMATION MEETING ATTENDANCE FORM, CERTIFICATE OF EXISTING INSURANCE FORM and NON-DISCLOSURE AGREEMENT for proposal.

2.0 KEY DATES

2.1 Proponents should note the following key dates:

Event	Time/Date
Deadline for submission of Information Meeting and Site Visit Response form and Non-Disclosure Agreement	April 27 <sup>th</sup> , 2012
Information Meeting and Site Visit	May 1 <sup>st</sup> , 2012. 9:00 A.M to 10:00 A.M.
Deadline for Enquiries	June 4, 2012  Enquiries received after June 4, 2012 may not be processed and may not receive a response. The City’s Purchasing Services Office is open on Business Days from 8:30 am to 4:30 p.m. and closed Saturdays, Sundays, and holidays.
Closing Time	3:00 P.M. Tuesday June 12, 2012 at 3:00 P.M.

3.0 CONTACT PERSON

3.1 The Contact Person for this RFP is:

Jing Fan, Buyer

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART A - INTRODUCTION

---

Email: [purchasing@vancouver.ca](mailto:purchasing@vancouver.ca)

3.2 Proponents shall direct all enquiries, in writing, to the Contact Person. Telephone enquiries are not permitted.

4.0 CLOSING TIME

4.1 Proponents should submit their Proposals on or before the date and time as specified in Section 2.1 (the "Closing Time"). Closing Time and "Vancouver time" will be conclusively deemed to be the time shown on the clock used by the City's Purchasing Services Office for this purpose.

5.0 DELIVERY ADDRESS FOR PROPOSALS

5.1 Proponents shall submit their Proposals to the following address:

MAILING ADDRESS:

City of Vancouver

Purchasing Services

453 West 12<sup>th</sup> Avenue

Vancouver, BC, Canada, V5Y 1V4

FOR COURIER DELIVERY - drop off at:

Security Services Office

Main Floor, 453 West 12th Avenue

Vancouver, BC, Canada, V5Y 1V4

Proposals submitted by fax or email will not be accepted.

**PART B - INSTRUCTIONS TO PROPONENTS**

In this RFP, capitalized terms have the meanings set out in Section 24 (Definitions) of PART B - INSTRUCTIONS TO PROPONENTS and in PART D - FORM OF AGREEMENT, except where otherwise expressly provided or the context otherwise requires.

**1.0 OVERVIEW**

1.1 This RFP identifies a business opportunity for the successful Proponent (“Architect”) to provide professional services related to the design and construction of proposed renovations to the Gathering Place Community Centre including creation of a new entrance and lobby at street level in an existing City owned commercial space, subdivision of the existing lobby, improved connection to Level 2 through the addition of a new staircase, and enhanced flexibility of existing floor areas.

1.2 This Work would include Architect’s Basic Services including but not limited to the following:

- a) Design Development Phase;
- b) Construction Documents Phase;
- c) Pre-Qualification and Tender Bidding Phase;
- d) Construction Phase - Contract Administration; and
- e) Project Close Out.

1.3 The Architect will be the Managing Consultant, responsible for coordinating the work of all consultants engaged for the delivery of the project whether hired by the Architect or by the City and will act as Payment Certifier during the construction.

1.4 The Architect is required to put forward Proposals that include the following specialties:

- a) Structural;
- b) Mechanical; and
- c) Electrical.

1.5 The City will contract separately with the following consultants who will be managed by the Architect:

- a) Environmental; and
- b) Quantity Surveyor.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

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- 1.6 The Gathering Place Community Centre is located on the highly visible, north east corner of the intersection of Helmcken and Seymour Streets in Vancouver's Downtown South neighbourhood. Designed by Vancouver's Joe Y. Wai Architects in 1993 and constructed in 1994 - 95, the existing Centre is located in a two-storey, masonry-clad and strip window podium. A standard concrete frame high-rise residential tower with punched windows in stucco finish completes the complex.
- 1.7 The Gathering Place offers a variety of recreational and fitness programs, youth and personal support services as well as special 'community events' to patrons in this neighbourhood. Current activities include art and music classes, weight training, martial arts, and yoga, casual games, cards and TV as well as special 'out trips' for seasonal events. The Gathering Place also contains a Health Centre offering general health and wellness programs along with 'intervention' and life skills services. It depends heavily on volunteer services for many of their services, particularly the daily meal program. Sharing space on the ground floor with the Gathering Place is 'The Learning Centre', leased and operated separately by the Vancouver School Board to meet the continuing education and remedial needs of the local community.
- 1.8 The focus of the proposed redesign project is to create a new street level entrance for the Gathering Place. Patrons currently enter a small lobby on Helmcken Street which shares access to the underground parking garage. Access to the Level 2 floor area where many of the Centre's programs take place is via an enclosed exit stair. A new entrance to the Centre will be created by incorporating an existing City owned retail space located at the corner of Seymour and Helmcken Streets.
- 1.9 The Colborne Architectural Group was retained in 2011 to complete a Feasibility Study including conceptual design. Phase 1 renovations which saw an existing whirlpool and steam room converted to a Multi-Purpose Room and Staff Lounge are now complete. Phase 2 which includes a new street level entrance is the focus of this project.
- 1.10 A copy of the Feasibility Study is available to interested parties who complete, submit and receive approval to receive it per Appendix 2 Non-Disclosure Agreement.
- 1.11 The estimated construction cost for the Entrance Redesign is approximately \$1,000,000.
- 1.12 The preliminary estimates of approximate gross floor project areas are as follows:  
Existing Building: 4,288 square feet (398 square metres)  
The City is requesting Proposals from interested firms with expertise in renovations and community centre design. The Gathering Place must remain in operation and accessible to the public during construction.
- 1.13 The purpose of this RFP is to select a Proponent with the capability and experience to efficiently and cost-effectively satisfy and deliver all of the requirements described in this RFP.
- 1.14 The successful Proponent will be the Proponent who offers the best value which will be assessed in the City's sole and absolute discretion as a combination of experience, pricing, scope, duration and level of services offered, proposed innovative design, and operations and maintenance enhancements.
- 1.15 Sustainability
- (a) The City's Procurement Policy and related Supplier Code of Conduct found at <http://vancouver.ca/fs/bid/epp/index.htm> aligns the City's overall approach to procurement with its corporate social, environmental and economic sustainability

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

---

values and goals. It establishes a commitment to maximize benefits to the environment through product and service selection, to ensure safe and healthy workplaces, where human and civil rights are respected, and to support an environmentally sustainable local economy, whenever possible. In doing so, the Policy ensures incorporation of sustainability and ethical considerations as integral evaluation components in best-value supply selection.

- (b) Vendors are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Vendor supplies materials, and where such materials may cause adverse effects, the Proponent is to indicate the nature of the hazard in its Proposal. The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate the effects of any adverse conditions on the environment.

- 1.16 The requirements are as envisioned by the City at the time of writing, but may change or be refined in the course of the evaluation and award process.

## 2.0 ADMINISTRATIVE REQUIREMENTS

- 2.1 It is the sole responsibility of all Proponents to check the City's website at: <http://www.vancouver.ca/fs/bid/bidopp/openbid.htm> regularly for amendments, addenda, and questions and answers in relation to this RFP.

## 3.0 INFORMATION MEETING AND SITE VISIT

- 3.1 A Proponents' information meeting and site visit (the "Information Meeting and Site Visit") will be held:

Date: May 1<sup>st</sup>, 2012

Time: 9:00 A.M. to 10:00 A.M.

Location: 609 Helmcken Street

The Information Meeting and Site Visit will include an overview of the requirements and an overview of the background documents and process. This meeting will also enable Proponents to seek clarification on RFP issues in a communal forum.

- 3.2 Proponents are encouraged to read this RFP and submit any questions relating to this RFP document to the Contact Person prior to the Information Meeting and Site Visit.
- 3.3 All Proponents should pre-register for the Information Meeting by submitting an Information Meeting and Site Visit Attendance Form (Appendix 1) and Non-Disclosure Agreement (Appendix 3) by fax to 604-873-7057 or e-mail to [purchasing@vancouver.ca](mailto:purchasing@vancouver.ca) by April 27<sup>th</sup>, 2012.
- 3.4 The City will in good faith attempt to give accurate verbal responses to questions during the Information Meeting and Site Visit but Proponents are advised that they may only rely on the formal written response/summary to be issued by the City following the Information Meeting and Site Visit. The formal written response/summary will be issued by the City as soon as possible and will be posted to the City's website as outlined above.



REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

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4.0 CONDUCT OF RFP - INQUIRIES AND CLARIFICATIONS

- 4.1 The City's Director of Supply Management will have conduct of this RFP, and all communications shall be directed only to the Contact Person.
- 4.2 It is the responsibility of all Proponents to thoroughly examine these documents and satisfy themselves as to the full requirements of this RFP. Inquiries shall be in written form only, e-mailed to the Contact Person as set out in PART A - INTRODUCTION. If required, an addendum will be issued and posted on the City's website as outlined above.

5.0 CONTRACT REQUIREMENTS

- 5.1 Proponents should indicate the extent to which the FORM OF AGREEMENT is consistent with their Proposal. If the Proposal is inconsistent with the FORM OF AGREEMENT, the Proponent should provide alternative contractual language in their Proposal.
- 5.2 Where the head office of the successful Proponent is located within the City of Vancouver and/or where the successful Proponent is required to perform any work at a site located within the City of Vancouver, the successful Proponent is required to have a valid City of Vancouver business license prior to signing the Agreement.

6.0 PRICING

- 6.1 Pricing is to be submitted, as part of the Commercial Proposal, in a separate envelope/package from the Management Proposal.
- 6.2 Prices quoted are to be exclusive of HST but inclusive of all other costs including, without limitation, taxes (other than HST), overhead and profit.
- 6.3 Prices shall be quoted in Canadian currency.

7.0 SUBMISSION OF PROPOSALS

- 7.1 The submission instructions for Proposals are provided in Part C - FORM OF PROPOSAL. Proposals should be submitted in a two envelope/package system (Commercial Proposal and Management Proposal, as separate envelopes/packages) clearly marked with the *Proponent's Name, the RFP title and the RFP reference number. The Commercial Proposal and Management Proposal should be clearly identified and distinguishable.*
- 7.2 Proponents should submit three (3) hard copies of their Proposal in two parts as further described in PART C - FORM OF PROPOSAL (Management Proposal and Pricing Proposal) in three-ring binders, with each section tabbed and including all accompanying schedules, appendices and addenda. Proponents should also submit one (1) electronic copy of their Proposal in the same format described above on CD.
- 7.3 Only the English language may be used in responding to this RFP.
- 7.4 Proposals received after the Closing Time or in locations other than the address indicated in PART A - INTRODUCTION, may or may not be accepted and may or may not be returned.
- 7.5 Amendments to a Proposal should be submitted in writing in a sealed envelope(s) or package(s), marked with the Proponent's name and the RFP title and reference number.
- 7.6 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

---

- 7.7 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.
- 8.0 PROPOSAL FORMAT
- 8.1 Unnecessarily elaborate Proposals, beyond that sufficient to present a complete and effective response, are not required and unless specifically requested, the inclusion of corporate brochures and narratives are discouraged.
- 8.2 Proponents are requested to provide their Proposal in the format and including the content described in PART C - FORM OF PROPOSAL.
- 9.0 BONDING
- 9.1 No bonding is required since no irrevocable binding legal offer is made by submitting a proposal in response to this RFP.
- 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.
- 11.0 EVALUATION OF PROPOSALS
- 11.1 Proposals will be evaluated by representatives of the City on the basis of the overall best value to the City, based on quality, service, sustainability, price and any other relevant criteria as determined by the City in its sole and absolute discretion.
- 11.2 The City reserves the right to retain complete control over the RFP process at all times until the execution and delivery of the Agreement. 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. 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.
- 11.3 The City may, at any time prior to signing a contract, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 11.4 The City may elect to short list Proponents and evaluate the Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, which may include attending interviews, making a presentation, supplying sample drawings, performing demonstrations, furnishing additional technical data and proposing amendments to the FORM OF AGREEMENT. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate all or any one set of negotiations with the short-listed Proponents.
- 11.5 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. Proponents 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.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

---

- 11.6 The City may request that any or all Sub-contractors of the Proponent undergo the same evaluation process.
- 12.0 PROPOSAL APPROVAL
- 12.1 Proposal approval is contingent on funds being approved and the Proposal being approved by Vancouver City Council or its delegate. Only then may the successful Proponent and the City proceed to settle, draft and sign the Agreement.
- 12.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle and invite the Proponent to proceed with discussions to settle, draft and sign the Agreement.
- 12.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at any time.
- 12.4 Notwithstanding any other provision in the RFP documents, the City has in its sole discretion, the unfettered right to:
- (a) accept any Proposal;
  - (b) reject any Proposal;
  - (c) reject all Proposal;
  - (d) accept a Proposal which is not the lowest proposal;
  - (e) accept a Proposal that deviates from the Requirements or the conditions specified in this RFP;
  - (f) reject a Proposal even if it is the only Proposal received by the City;
  - (g) accept all or any part of a Proposal; and
  - (h) split the Requirements between one or more Proponents.
- 13.0 ALTERNATE SOLUTIONS
- 13.1 If in addition to proposing 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 Management Proposal. Any pricing impact of the alternate solution should be provided separately in the Commercial Proposal.
- 14.0 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
- 14.1 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 consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.
- 15.0 NON-RESIDENT WITHHOLDING TAX
- 15.1 Please 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

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

---

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.

**16.0 NO OBLIGATION ASSUMED BY CITY**

16.1 Unless expressly stated in this RFP, the City assumes no legal duty or obligation in respect of this RFP unless and until the City enters into the Agreement.

16.2 The Proponent agrees that the Proponent will bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP.

**17.0 NO CLAIM AGAINST THE CITY**

17.1 The Proponent acknowledges and agrees that the City will not be responsible for any costs, expenses, losses, damages (including damages for loss of anticipated profit) or liabilities incurred or alleged to be incurred by the Proponent and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim whatsoever.

**18.0 INDEMNITY**

18.1 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 any of the Proponent’s Sub-contractors or agents alleging or pleading:

- (a) any breach by the City or its officials or employees of the RFP;
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting this RFP process; or
- (c) liability on any other basis related to this RFP process.

**19.0 DISPUTE RESOLUTION**

19.1 Any dispute relating in any manner to this RFP process shall be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) the arbitrator will be selected by the City’s Director of Legal Services;
- (b) Section 17(Release) and Section 18 (Indemnity) will:
  - (i) bind the City, Proponent and the arbitrator; and
  - (ii) survive any and all awards made by the arbitrator; and
- (c) the Proponent will bear all costs of the arbitration.

**20.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION**

20.1 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.

20.2 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.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

---

**21.0 CONFIDENTIALITY**

- 21.1 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 or its delegate on the Proposal results or announcing the results of the Proposals to the Proponent(s), 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.
- 21.2 The Proponent 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.
- 21.3 The Proponent will not divulge or disclose to any third parties any information concerning the affairs of the City which may be communicated to the Proponent at any time (whether before or after the Closing Time). Recognizing the need for confidentiality of the City's data, files and other confidential information, the Proponent will not use, exploit or divulge or disclose to third parties any confidential or proprietary information of the City of which the Proponent may gain knowledge in connection with or in the course of discussions or negotiations with the City.
- 21.4 All material and information that has or will come into the Proponent's possession or knowledge in connection with this RFP process is confidential and may not be disclosed or utilized in any way except as expressly provided in the RFP.
- 21.5 The Proponent may not divulge any information respecting the RFP process to any third party without the prior written consent of the City, which consent may be arbitrarily withheld unless it is information which the City has already made public or has been required to disclose pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

**22.0 NO PROMOTION**

- 22.1 The successful Proponent must 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 successful Proponent to perform the successful Proponent's obligations under the terms of the Agreement).

**23.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT**

- 23.1 All of the terms of this PART B - INSTRUCTIONS TO PROPONENTS which by their nature require performance or fulfillment following the conclusion of the Proposal process will survive such issuance and will remain legally enforceable by and against the Proponent and City.

**24.0 DEFINITIONS**

- 24.1 For greater certainty, and without limitation to any of this City's rights set out in this RFP, when the terms "must", "shall", "will", "is to" or "are to" precede a requirement regarding

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART B - INSTRUCTIONS TO PROPONENTS

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the content or format of a Proposal, such requirement is not mandatory but is strongly recommended.

24.2 In this RFP, the following terms have the following meanings:

- (a) "Agreement" means the contract entered into between the City and the successful Proponent following the conclusion of the RFP process;
- (b) "FORM OF AGREEMENT" means the sample Agreement included in PART D-FORM OF AGREEMENT;
- (c) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (d) "Commercial Proposal" means those portions of the Proposal to be submitted in Envelope One as set out in PART C - FORM OF PROPOSAL;
- (e) "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);
- (f) "Management Proposal" means those portions of the Proposal to be submitted in Envelope Two as set out in PART C - FORM OF PROPOSAL, which expressly excludes any pricing information;
- (g) "Project" means the project described in RFP No. PS20120347, Architectural Services for The Gathering Place Entrance Redesign;
- (h) "Proponent" means those entities eligible to participate in this RFP process;
- (i) "Proposal" means a proposal submitted in response to the RFP;
- (j) "Proposal Declaration Form" means the form to be included in the Commercial Proposal substantially as set out in PART C - FORM OF PROPOSAL, or as otherwise acceptable to the City.
- (k) "RFP" means the documents issued by the City as Request for Proposal No. PS20120347 including all amendments, addenda; and
- (l) "Sub-contractors" means any or all sub-contractors identified in the Proponent's Proposal.

All other terms (capitalized or not) have the meanings given to them in the RFP.

**PART C - FORM OF PROPOSAL**

**1.0 INTRODUCTION**

- 1.1 This PART C - FORM OF PROPOSAL contains the format and information requested by the City to be contained in the Proponent's Proposal.
- 1.2 The Proponent's Proposal should be submitted in two (2) envelopes/packages:
- (a) Envelope One: Commercial Proposal, including the Proposal Declaration Form; and
  - (b) Envelope Two: Management Proposal.
- 1.3 The Commercial Proposal should contain the following sections, as more particularly described in this PART C - FORM OF PROPOSAL under the heading "Submission Instructions for Envelope One - Commercial Proposal":
- (a) Proposal Declaration Form;
  - (b) Pricing;
  - (c) Insurance;
  - (d) WorksafeBC; and
  - (e) Deviations and Variations.
- 1.4 The Management Proposal should contain the following sections, as more particularly described in this PART C - FORM OF PROPOSAL under the heading "Submission Instructions for Envelope Two - Management Proposal":
- (a) Company Profile;
  - (b) Key Personnel
  - (c) References;
  - (d) Sub-Contractors;
  - (e) Requirements Overview;
  - (f) Sustainability;
  - (g) Project Timeline;
  - (h) Environmental Responsibility; and
  - (i) Prime Contractor Requirements.

PROPOSAL DECLARATION FORM

[Proponent's Letterhead]

To: [Insert submission location]

Attention: [Insert contact person]

Capitalized terms have the definitions given them in the RFP.

In consideration of the City's agreement to consider Proposals in accordance with the terms of the RFP, the Proponent hereby submits its Proposal in accordance with the following:

**1.0 PROPOSAL**

The Proponent acknowledges that:

- (a) this Proposal Declaration Form has been duly authorized and validly executed;
- (b) the Proponent has received, read, examined and understood the entire RFP including all of the terms and conditions, all documents listed in the RFP "Table of Contents", and any and all Addenda; and
- (c) the City reserves the right to verify information in its Proposal and conduct any background investigations including criminal record investigations, verification of the Proposal, credit enquiries, litigation searches, bankruptcy registrations and taxpayer information investigations or other investigations on the Proponent, and by submitting a Proposal, the Proponent agrees that it consents to the conduct of all or any of those investigations by the City.

**2.0 NO CONFLICT OF INTEREST IN PROPOSAL EVALUATION**

The Proponent confirms that there is no officer, director, shareholder, partner or employee or other person related to the Proponent's or the Proponent's proposed 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.]*

**3.0 NO CONFLICT OF INTEREST IN PROJECT**



REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART C - FORM OF PROPOSAL

---

The Proponent confirms that neither the Proponent nor its proposed Sub-contractors are currently engaged in providing (or are proposing to provide architectural services for the Taylor Manor Redevelopment of any kind to the Federal Government, Provincial Government, the Greater Vancouver Regional District (Metro Vancouver), or any member local governments of Metro Vancouver such that entering into the Agreement pursuant to this RFP would create a conflict of interest or the appearance of conflict of interest between the Proponent's duties to the City and the Proponent's duties of loyalty to these other governmental organizations, 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.]*

4.0 NO COLLUSION OR FRAUD

The Proponent now confirms that its Proposal is in all respects a fair Proposal made without collusion or fraud and confirms that 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.]*

5.0 NO LOBBY STATUS

The Proponent now confirms that neither it nor any officers, directors, shareholders, partners, or employees of the Proponent or any of its proposed Sub-Contractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America, 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 lobbyist registrations of the type described above.]*

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

\_\_\_\_\_  
Authorized Signatory for the Proponent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (please print)

**SUBMISSION INSTRUCTIONS FOR ENVELOPE ONE - COMMERCIAL PROPOSAL**

The following describes the format and information to be provided by the Proponents in their Commercial Proposals. The paragraph titles and numbers in the Commercial Proposal should correspond to the paragraph titles and numbers below.

**1.0 PROPOSAL DECLARATION FORM**

1.1 Each Proponent should submit with its Commercial Proposal a signed Proposal Declaration Form substantially as set out in this PART C - Form of Proposal, or as otherwise acceptable to the City.

**2.0 PRICING**

2.1 The Proponent should provide the following information:

- (a) a total maximum fee for the services, inclusive of all disbursements and taxes (except HST, which is to be shown separately), showing all costs associated with the Project Tasks and deliverables as outlined in the PART B 1.0 and PART C 7.0;
- (b) the total charge out rates for Project team members;
- (c) a breakdown of the total maximum Project fee into the costs associated with each team member, inclusive of fees, disbursements and taxes (except HST);
- (d) a description of all disbursements, including a maximum amount for each;
- (e) a description of all costs associated with project team members and any consultants and/or contractors that are to be utilized outside of the project team; and
- (f) a description of all costs, organized as above, for any additional proposed scope of work related to this Project. For example, where additional meetings are requested by the City, describe how these would be charged to the City.

2.2 The Proponent should copy and customize the Pricing Table set out below for inclusion in their RFP submission:

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

---

Fees for Architect's Basic Services

Table 1: Fees for Design Development Phase

Work Task/Phase/ Deliverable	Team Members	Activity/Role	Proposed Fee	Estimated Disbursements
Design Development Phase		Architect/Managing Consultant	\$	\$
		Structural	\$	\$
		Mechanical	\$	\$
		Electrical	\$	\$
Total Price for Design Development Phase			\$	\$

Table 2: Fees for Construction Documents Phase

Work Task/Phase/ Deliverable	Team Members	Activity/Role	Proposed Fee	Estimated Disbursements
Construction Documents Phase		Architect/Managing Consultant	\$	\$
		Structural	\$	\$
		Mechanical	\$	\$
		Electrical	\$	\$
			\$	\$
			\$	\$
			\$	\$
Total Price for Construction Documents Phase			\$	\$

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

Table 3: Pre-Qualification and Tender Bidding Phase

Work Task/Phase/ Deliverable	Team Members	Activity/Role	Proposed Fee	Estimated Disbursements
Pre-Qualification and Tender Bidding Phase		Architect/Managing Consultant	\$	\$
		Structural	\$	\$
		Mechanical	\$	\$
		Electrical	\$	\$
			\$	\$
			\$	\$
			\$	\$
Total Price for Pre- Qualification and Tender Bidding Phase			\$	\$

Table 4: Construction Phase - Contract Administration

Work Task/Phase/ Deliverable	Team Members	Activity/Role	Proposed Fee	Estimated Disbursements
Construction Phase - Contract Administration		Architect/Managing Consultant	\$	\$
		Structural	\$	\$
		Mechanical	\$	\$
		Electrical	\$	\$
			\$	\$
			\$	\$
			\$	\$
Total Price for Construction Phase - Contract Administration			\$	\$

	PROPOSED FEE	ESTIMATED DISBURSEMENTS
Subtotal for Table 1	\$	\$
Subtotal for Table 2	\$	\$
Subtotal for Table 3	\$	\$
Subtotal for Table 4	\$	\$

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART C - FORM OF PROPOSAL

---

Maximum Fees/ Estimated Disbursements before HST	\$	\$
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**2.3 Terms of Payment**

The City's standard payment terms are net thirty (30) days after receipt of approved invoice, however and discounts or more favourable terms offered by the Proponent will be taken into consideration in the financial evaluation. Please indicate in your response if other than Net thirty (30).

Describe if Electronic Fund Transfer (EFT) is available.

**2.4 Alternative Pricing Solutions**

Proponents may offer alternative pricing options.

**3.0 INSURANCE REQUIREMENTS**

3.1 Proponents should submit with their Proposals a Certificate of Existing Insurance duly completed and signed by their insurance agent or broker as evidence of their existing insurance, along with a letter from their insurance broker or agent indicating whether or not (and if not then to what extent) they will be able to comply with the insurance requirements as set out in Section 8.0 of PART D - FORM OF AGREEMENT, should they be selected as the successful Proponent.

3.2 The successful Proponent will be required to file certificates of insurance with the City showing proof of all insurance requirements described utilizing the "Certificate of Professional Liability Insurance" attached as Schedule 5 and "Certificate of Insurance" attached as Schedule 4, of the FORM OF AGREEMENT. These certificates must be received and reviewed and approved by the City prior to or concurrently with the City entering into any Contract with the successful Proponent.

**4.0 WORKSAFEBC REQUIREMENTS**

4.1 Proponents should submit with their Proposals proof of valid WorkSafeBC registration. Such registration should be maintained as specified in Section 9.0 of PART D - FORM OF AGREEMENT.

**5.0 DEVIATIONS AND VARIATIONS**

5.1 Proponent(s) should detail any deviations and/or variations from the terms and conditions set out in this RFP and if applicable, detail proposed amendments.

5.2 Where the Proponent is proposing the use of contract language or clauses other than those set out in PART D - FORM OF AGREEMENT, including any and all Schedules, such revised language must be outlined in its Proposal. The City will assume such clauses are in addition to those in the FORM OF AGREEMENT unless otherwise indicated by the Proponent.

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

---

**SUBMISSION INSTRUCTIONS FOR ENVELOPE TWO - MANAGEMENT PROPOSAL**

The following describes the format and information to be provided by the Proponents in their Management Proposals. The paragraph titles and numbers in the Management Proposals should correspond to the paragraph titles and numbers below.

Proponents should note that the Management Proposal should contain no pricing information whatsoever.

**1.0 COMPANY PROFILE**

1.1 Provide a description of the 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.

1.2 Provide the following information:

Proponent's Name:			
	"Proponent"		
Mailing Address:			
Cheque Payable/Remit to Address:			
Telephone No.:		Fax No.:	
Key Contact Person:		E-mail:	
HST Registration No.:		Incorporation Date:	
City of Vancouver Business License Number:			
(If your office is located in Vancouver or N/A if not applicable)			
WorkSafeBC Account Number:			
Dunn and Bradstreet Number:			
( or N/A if not applicable)			

**2.0 KEY PERSONNEL**

2.1 Identify and provide resumes for the key personnel in the Proponent's proposed team and outline what their roles will be in servicing this Project.

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

2.2 Include an organization chart for the Proponent’s proposed Project team, identifying the team leader or Contractor’s project manager, and all roles and areas of responsibility.

2.3 Preference will be given to proponent’s consulting teams that demonstrate knowledge and experience involving renovation and rehabilitation of heritage buildings, zoning, and the design of supportive housing. Proponents must state the knowledge and experience of each proposed team member.

**3.0 REFERENCES**

3.1 The Proponent is to describe the Proponent’s relevant experience with similar engagements for similar work over the last two (2) years as well as references for same 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.

3.2 Submit a list of at least three (3) relevant and successfully completed projects, with references and telephone numbers for each. By submitting a Proposal, the Proponent consents to the City contacting these references at its discretion, and consents to the City also contacting any other organization for the purposes of evaluating the Proposal.

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

**4.0 SUB-CONTRACTORS**

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

4.2 The City reserves the right to object to any of the Sub-Contractors listed in a Proposal. If the City objects to a listed Sub-Contractor then the City will permit a Proponent to, within seven (7) calendar days, propose a substitute Sub-Contractor acceptable to the City. A Proponent will not be required to make such a substitution and, if the City objects to a listed Sub-Contractor, the Proponent may, rather than propose a substitute Sub-Contractor, consider its Proposal rejected by the City and by written notice withdraw its Proposal.

4.3 If no Sub-Contractors will be used, indicate “Not Applicable”.

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

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

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

**5.0 REQUIREMENTS OVERVIEW**

5.1 Schedules A of PART D - FORM OF AGREEMENT provides details on the scope, specifications and drawings related to the work to be completed by the successful Proponent. Appendix 3 - 8 of Part D - Form of Agreement provides details on specifications and drawings related to the work. As well:

- (a) Proponents should submit a task by task work plan that will ensure the delivery of the specified services and/or facilities. The work plan should be sufficient enough detail to demonstrate to the City that the Proponent fully understands and is committed to delivering to the requirements of the scope, specifications and drawings.
- (b) Although it is necessary that the Proponent submit a detailed response to the Requirements, including, but without limitation to, a work program and maximum total fee for the scope of services described in this RFP, the City is interested in proposals that will add value to the Project. Innovative ideas will be favourably considered in evaluating all proposals.

**6.0 SUSTAINABILTY**

6.1 The City is committed to preserving the environment. Proponents should provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Proponent supplies materials, and where such materials may cause adverse effects, the Proponent is to indicate the nature of the hazard in its Proposal. The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate the effects of any adverse conditions on the environment.

Sustainability Initiative	Description	Details	Response
a. Packaging Reduction	The City aims to reduce the packaging associated with acquiring various products. More and more suppliers are adopting innovative programs to reduce packaging.	Tell us about your proposed measures to reduce product packaging such as recycle ability, percentage of recycled content, return/collections programs and/or re-use. Examples include providing products in reusable packaging such as plastic totes, reducing unnecessary packaging such as shrink wrap or offering packaging that is made from recycled material.	
b. Greenhouse Gas/Carbon	The City aims to reduce its	Tell us how the design and use of your product or service takes into account	



REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

Sustainability Initiative	Description	Details	Response
Reduction	greenhouse gas/carbon emissions, where possible as part of its Climate Protection Program.	strategies to reduce its carbon footprint. Examples could include offering products with a limited amount of embedded carbon, having a strategy for limiting transportation-related to service provision and/or purchasing carbon credits to offset emissions	
c. Waste Reduction	The City aims to reduce waste where possible.	Tell us how your firm addresses waste minimization and diversion of waste from the landfill in the design of your product or service and its associated delivery, use and disposal. Examples include take-back programs you may have for your products at end-of-life or products that are made from recycled materials.	
d. Toxic Reduction	The City aims to reduce toxins and hazardous substances in the workplace where possible.	Tell us what steps your firm has taken to use 'design for environment' principles to reduce toxic and hazardous substances found in your products. Examples could include products that contain polyvinyl chlorides (PVCs) or volatile organic compounds (VOCs).	
e. Third Party Eco-labeling	The City aims to purchase, when possible, products that are eco-certified or eco-labeled by a recognized third party.	Describe and explain third party certification for the products to be supplied, which includes labeling requirements. State the type of testing performed, and the standards applicable to support biodegradable products completely breaking down in the landfills.	
f. Socio-economic Sustainability	Socio-economic sustainability is important to the City. As such, The City aims to do business with suppliers who are striving to advance social and economic wellbeing in the community.	Tell us about your firm's efforts with regards to socio-economic sustainability. Examples include, but are not limited to, broadening educational and professional development opportunities, supporting minority/youth groups, supporting low-threshold job programs for vulnerable people.	

REQUEST FOR PROPOSAL NO. PS20120347  
 ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
 PART C - FORM OF PROPOSAL

---

7.0 PROJECT TIMELINE

7.1 The Proponent should provide a detailed schedule, in GANTT or PERT format, based on the following milestones. The working schedule should be of sufficient detail to demonstrate the Proponents understanding of the work:

DESCRIPTION	TARGET DATE
START DATE	August 1 <sup>st</sup> , 2012
SUBMISSION OF DRAFT DOCUMENTS AT FIFTY PERCENT (50%) DESIGN DEVELOPMENT STAGE FOR REVIEW BY CITY	TBD by Architect 2012
SUBMISSION OF DRAFT DOCUMENTS AT NINETY FIVE PERCENT (95%) DESIGN DEVELOPMENT STAGE FOR REVIEW BY CITY	TBD by Architect 2012
SUBMIT FINAL DESGN DEVELOPMENT AND DESIGN SCOPE DOCUMENTS FOR REVIEW BY CITY	TBD by Architect 2012
SUBMISSION OF DRAFT DOCUMENTS AT FIFTY PERCENT (50%) CONSTRUCTION DOCUMENTS STAGE FOR REVIEW BY CITY	TBD by Architect 2012
SUBMISSION OF DRAFT DOCUMENTS AT NINETY FIVE PERCENT (95%) CONSTRUCTION DOCUMENTS STAGE FOR REVIEW BY CITY	TBD by Architect 2012
SUBMIT TENDER READY CONSTRUCTION DOCUMENTS	
ASSIST IN CONSTRUCTION CONTRACTOR PRE-QUALIFACTION AND EVALUATION	
ASSIST IN TENDER PROCESS AND AVAILABLE FOR TECHNICAL INFORMATION; ASSIST IN EVALUATION PROCESS AND DECISION FOR AWARD	
OVERSEE CONSTRUCTION	
SUBSTANTIAL COMPLETION OF CONSTRUCTION	

The final agreed to schedule should become the Contract Schedule for the successful Proponent.

8.0 PRIME CONTRACTOR REQUIREMENTS

8.1 Proponents should provide an overview to their approach to meet the requirements of Prime Contractor.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

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PART D - FORM OF AGREEMENT

This PART D - FORM OF AGREEMENT contains the City's proposed terms and conditions for the Agreement that will be executed between the City and the successful Proponent, if any.

[See Attached]



**PROFESSIONAL SERVICES AGREEMENT**  
**ARCHITECTURAL SERVICES FOR THE GATHERING PLACE**  
**COMMUNITY CENTRE ENTRANCE REDESIGN**

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

BETWEEN:

CITY OF VANCOUVER  
453 West 12<sup>th</sup> Avenue  
Vancouver, British Columbia  
V5Y 1V4

(the “City”)

OF THE FIRST PART

AND:

[CONSULTANT NAME]  
[address]

(the “Consultant”)

OF THE SECOND PART

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

**BACKGROUND:**

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

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

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

1.0 INTERPRETATION

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

- (a) "Agreement" means this Professional Services Agreement inclusive of all schedules, appendices or exhibits attached hereto, as amended from time to time;
- (b) "Applicable Laws" means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Consultant, any Sub-contractor and the Services, including the Vancouver Building By-law, the British Columbia Building Code, and the British Columbia Fire Code, all as may be in force from time to time;
- (c) "City's Site" means any land and/or premises owned by the City on which or in respect of which the Services are performed by the Consultant;
- (d) "City's Project Manager" means the City's employee, or his/her delegate, who is authorized in writing to deal with the Consultant on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- (e) "Confidential Information" has the meaning set out in Section 15.0
- (f) "Contract Documents" means this Agreement, including all Appendices;
- (g) "Deliverables" has the meaning set out in Section 17.0;
- (h) "HST" means the tax payable and imposed pursuant to Part IX of the *Excise Tax Act* (Canada), as amended, including any provincial component collected by Canada on behalf of British Columbia, and any successor legislation thereto;
- (i) "Project Team" has the meaning set out in subsection 2.2(c);
- (j) "Proposal" means the proposal submitted by the Consultant in response to the RFP, a copy of which is attached hereto as Appendix B;
- (k) "RFP" means Request for Proposal PS20120347 - ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN
- (l) , together with all addenda and questions and answers attached as Appendix C;
- (m) "Services" has the meaning set out in Section 2.1;
- (n) "Sub-contractor" has the meaning set out in Section 4.1; and
- (o) "Term" means the term of this Agreement as specified in Section 12.1.

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

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

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- 1.3 In this Agreement, including the recitals, schedules and appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:
- (a) the recitals and headings to sections, schedules and appendices are for convenience and reference only and will not affect the interpretation of this Agreement;
  - (b) the terms “this Agreement”, “hereof”, “herein”, “hereunder” and similar expressions refer, unless otherwise specified, to this Agreement taken as a whole (including any and all attached appendices) and not to any particular section, subsection or other subdivision;
  - (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
  - (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
  - (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
  - (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
  - (g) all references to money mean lawful currency of Canada;
  - (h) the word “written” includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and “in writing” has a corresponding meaning; and
  - (i) the words “include” and “including” are to be construed as meaning “including, without limitation”.
- 2.0 CONSULTANT'S SERVICES TO THE CITY
- 2.1 The Consultant will provide and be fully responsible for the following services (the “Services”):
- (a) the services described in the RFP;
  - (b) the services which the Consultant agreed to provide in the Proposal; and
  - (c) all services not specifically included in subsections 2.1(a) and 2.1(b), but which are necessary or incidental to the completion of the Services.
- 2.2 The Consultant will be fully responsible for:
- (a) coordinating the Services with the City’s Project Manager, or their delegate, and ensuring that the performance of the Services does not adversely impact the design or construction schedule for the project or the work and/or services provided by the City’s other consultants;
  - (b) taking all steps required in placing, effecting and maintaining insurance and providing evidence of insurance as set out in Appendix A - Insurance Requirements; and
  - (c) maintaining and supervising its employees and Sub-contractors (the “Project Team”) described in Section 3.1.
- 2.3 The Consultant represents and warrants to the City that the Consultant possesses the necessary skills, knowledge, qualifications and experience to perform the Services to the reasonable satisfaction of the City.
- 2.4 The Consultant will perform the Services:

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- (a) with that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered;
  - (b) in accordance with sound current professional practices and design standards; and
  - (c) in conformance with any and all Applicable Laws.
- 2.5 The Consultant will commence the Services promptly and will use every reasonable effort to carry out the Services in accordance with:
- (a) the requirements and appendices of this Agreement, or
  - (b) where no date is specified for the provision of any component of the Services by this Agreement, such completion dates as are reasonably specified from time to time by the City.
- 2.6 The Consultant will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to the City's Site or any other City property.
- 3.0 PROJECT TEAM**
- 3.1 Subject to Section 3.2, the Consultant will utilize only the Project Team members noted in the Proposal.
- 3.2 Except for substitutions required by circumstances not within its reasonable control, the Consultant may not make substitutions of Project Team members without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned.
- 3.3 For the purposes of this Section 3, "substitutions required by circumstances not within its reasonable control" means substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract, but expressly excludes situations where the Project Team member is called upon to perform services for another client of the Consultant, its Sub-contractor or their affiliates.
- 3.4 The City may, with stated reasons and acting reasonably, request that the Consultant replace a Project Team member. The Consultant will, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- 3.5 Regardless of whether or not the City consents to a substitution, or requests a substitution, the City will not be liable to pay additional compensation to the Consultant for any replacement Project Team member.
- 4.0 SUB-CONTRACTORS / PARTNERS / CONSORTIUM**
- 4.1 Unless expressly permitted pursuant to Section 3.0, the Consultant may not engage any contractor or consultant (in each case a "Sub-contractor") for the performance of any part of the Services, unless the Consultant has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 4.2 The Consultant will administer, coordinate, and manage all Services provided by any Sub-contractors, and will assume full responsibility to the City for all work performed by the Sub-contractors in relation to the Services and will pay all fees and disbursements of all Sub-contractors, subject to reimbursement by the City where the City has expressly agreed in this Agreement that such reimbursement is to be separate from and additional to the fees and disbursements payable to the Consultant.
- 4.3 Where a Sub-contractor is used by the Consultant under this Agreement, the Consultant will legally bind the Sub-contractor to comply with this Agreement.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

4.4 Nothing in this Agreement will create any contractual relationship between a Sub-contractor and the City.

5.0 BASIS OF PAYMENT TO THE CONSULTANT

5.1 In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms hereof, the City will pay the Consultant the fees and reimbursable expenses prescribed herein, plus HST, as applicable.

5.2 Subject to Section 5.3, payment to the Consultant will be based on hours worked by employees of the Consultant or by the Sub-contractors multiplied by the applicable hourly charge-out rates in the Proposal.

5.3 If there are limiting amounts for fees and disbursements indicated below for the Services or parts thereof, then notwithstanding anything to the contrary in this Agreement the maximum fees and disbursements to be paid by the City to the Consultant for the Services or portions of the Services will not exceed those amounts. Where additional fees are to be paid by the City to the Consultant for increases in the scope of the Services provided by the Consultant, they will not exceed the amount of said fees mutually agreed upon under Section 6.0. This limit on the fees to be paid by the City to the Consultant will in no way diminish the duties and obligations of the Consultant to provide the Services covered by this Agreement.

The fees for the Services are set out in **[reference section of the Proposal or schedule to this Agreement]**. Subject to Section 6.0, the total professional fees payable to the Consultant for the Services (not including HST or disbursements) will not exceed **[\$[insert amount]]**.

Subject to Section 6.0, the total disbursements for which the City will reimburse the Consultant in respect of the Services will not exceed **[\$[insert amount]]** (the "Fixed Disbursement Amount").

Notwithstanding anything to the contrary contained in this Agreement, save for Section 6.0, the maximum liability of the City hereunder (the "Maximum Fees and Disbursements") will be **[\$[insert amount]]**, plus HST, as applicable.

Subject to the Fixed Disbursement Amount, the City will reimburse the Consultant for disbursements reasonably incurred by the Consultant in the performance of the Services. Reimbursement of these expenses by the City will be at actual cost without any addition for overhead or profit. **[NTD: If there are specific monetary limits for specific categories of disbursements then modify this section accordingly.]**

5.4 If the Consultant has engaged Sub-contractors, then the Consultant will make full payment to said Sub-contractors for work performed in relation to the Services.

Subject to Section 5.3, the City will reimburse the Consultant for payments made to Sub-contractors at amounts equal to such actual payments without any additions for overhead and profit to the Consultant.

5.5 The Consultant will, by the 25<sup>th</sup> of the month, provide to the City's Project Manager a draft invoice with an attached detailed account of all charges to be claimed by the Consultant for the current month. The City's Project Manager shall review, raise any concerns with the Consultant within ten working days and, after settlement, if necessary, approve the draft invoice. The Consultant, if so requested, will meet with the City's Project Manager to expedite and settle of the draft invoice. The Consultant will submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, P.O. Box 7757, 349 West Georgia Street, Vancouver, BC, V6B 0L5 or by email to [APCentral@vancouver.ca](mailto:APCentral@vancouver.ca). The invoice must contain:

(a) Consultant name, address and telephone;

(b) City purchase order number;



REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- (c) City's Project Manager;
  - (d) invoice number and date; and
  - (e) HST registration number.
- 5.6 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning the Consultant's invoices, for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided however, the City will use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City will, if it approves the amount of such invoices, cause the respective invoices to be paid within 30 days of approval.
- 5.7 The Consultant will keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City will be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as will be reasonably necessary or advisable.
- 6.0 CHANGES TO SCOPE OF SERVICES
- 6.1 The City's Project Manager may, from time to time and at any time on prior written notice to the Consultant, vary the scope of Services to be provided by the Consultant. In that case and where this Agreement contains delivery dates and/or limits as to the Maximum Fees and Disbursements to be paid to the Consultant pursuant to Section 5.3 for all or any part of the Services, such delivery dates and/or limits will be adjusted as agreed to by both Parties in writing, and failing agreement, as reasonably determined by the City's Project Manager.
- 6.2 Should the Consultant consider that any request or instruction from the City's Project Manager constitutes a change in the scope of Services, the Consultant will provide the City's Project Manager with notice in writing within ten days of such request or instruction. If the Consultant does not deliver written notice to the City within the time period specified, the City will not be obligated to make any payments of additional fees, disbursements or out of pocket expenses to the Consultant.
- 6.3 The City's Project Manager will consider the Consultant's written notice within a further ten days of receipt of the Consultant's notice and determine and advise as to whether the request constitutes a change in the scope of the Services and, if necessary, the method by which the variation will be scoped and reimbursed. If the City determines that the professional fees payable to the Consultant should be increased due to an increase in the scope of the Services then any such increases will be based on the hourly rates set out in Section **[insert]** of the Proposal.
- 7.0 RELEASE AND INDEMNIFICATION
- 7.1 The Consultant now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Consultant, its Sub-contractors, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 7.2 In undertaking the Services, the Consultant acknowledges that the Consultant has inspected the City's Site, agrees to accept the City's Site "as-is" and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Consultant to perform the Services.
- 7.3 Despite the provision of insurance coverage by the City, the Consultant hereby agrees to indemnify and save harmless the City of Vancouver and its successors, assigns and authorized

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

representatives and each of them (in each case an “Indemnified Party”) from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as “Claims”) that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Consultant, its Sub-contractors, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of an Indemnified Party.

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

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

#### 8.0 INSURANCE

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

#### 9.0 WORKSAFEBC

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

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

9.3 Whenever the Consultant is required or permitted to perform any Services on any City sites, the Consultant is now appointed and now accepts appointment as the Prime Contractor in connection with such Services.

[NTD: If the types of services contemplated by this form of Agreement are to be performed in a multi employer workplace, a “Prime Contractor” agreement should be requested from Legal Services and should be executed by the Consultant.]

#### 10.0 CITY INFORMATION/APPROVALS

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

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

11.0 COMMUNICATION BETWEEN CONSULTANT AND CITY

- 11.1 The City appoints [insert name] [email address] as the City's Project Manager for the purposes of this Agreement.

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

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

- 11.2 The Consultant appoints [insert name] [email address] as its representative for the purposes of this Agreement (the "Consultant's Project Manager").
- 11.3 Unless otherwise agreed to in writing by the Parties, all material communication between the Consultant and the City regarding this Agreement, including performance of the Services, will be between the City's Project Manager and the Consultant's Project Manager.

12.0 TERM OF AGREEMENT

- 12.1 This Agreement will commence on the Effective Date and will expire on the completion of the Services, which Services must be completed by [insert date] (the "Term"). Further detail can be found in Schedule 2 - Project Schedule.

[Note: If specific phases must be completed by specific dates then insert a more detailed timetable or reference timetable in Proposal.]

13.0 TERMINATION

- 13.1 The City at any time, in its sole judgment, may, whether or not cause exists, terminate the services of the Consultant in whole or in part by giving ten days prior written notice to the Consultant. If termination is not for cause, the Consultant will be paid for all Services properly performed to the date of the delivery of the said notice (subject to the terms of this Agreement) plus all necessary and reasonable wind up costs incurred, if any, in closing out the Services or the part terminated.
- 13.2 Despite Section 13.1, in no event and under no circumstances will the Consultant's "necessary and reasonable wind-up costs incurred" pursuant to Section 13.1 exceed \$ <> (including all taxes).

14.0 ASSIGNMENT

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

- (a) reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction); and
- (b) a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform this Agreement.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

15.0 CONFIDENTIALITY

- 15.1 In the course of or for the purpose of performing the Services, the Consultant will obtain or have access to information, including but not limited to technical information, financial information and business information, which is confidential to the City, and is the exclusive, world-wide property of the City and/or its suppliers and customers (collectively “Confidential Information”). Excluded from the definition of Confidential Information is:
- (a) information which is in, or becomes part of, the public domain, not due to the Consultant’s breach of this Agreement or the Consultant’s actions;
  - (b) information which was previously in the Consultant’s possession and did not originate from the City; and
  - (c) information which lawfully becomes available to the Consultant from a third party not under an obligation of confidence to the City regarding such information.
- 15.2 The Consultant will not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Consultant will not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and restricted use provisions in this Section 15.0. The Consultant will take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.
- 15.3 If the Consultant is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Consultant shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that prior to any disclosure the Consultant will promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City’s request and expense, cooperate in obtaining a protective order or other assurance that confidential treatment and restricted use will be accorded such Confidential Information.
- 15.4 The City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City’s contractors to protect all personal information acquired from the City in the course of providing services to the City. The Consultant confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia) with respect to all personal information received from the City whether as part of the Confidential Information or otherwise.
- 15.5 The Consultant acknowledges that in the event of a breach by the Consultant or any of its employees of their respective confidentiality obligations pursuant to this Section 15.0, damages alone would not be an adequate remedy. The Consultant therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City will have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.
- 15.6 The Consultant shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:
- (a) completion of the Services;
  - (b) expiration or earlier termination of this Agreement; and
  - (c) written request of the City for return of the Confidential Information;

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

provided that the Consultant shall have the right to retain one copy of the Confidential Information solely for archival purposes or as otherwise may be required by law, subject to its ongoing confidentiality and restricted use obligations.

15.7 This Section 15.0 shall survive the expiration or earlier termination of this Agreement.

**16.0 NO PROMOTION OF RELATIONSHIP**

16.1 The Consultant will not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, websites, internet domain names, press releases, brochures or other written materials (the "Communications") without the express prior written consent of the City (except as may be necessary for the Consultant to perform its obligations under this Agreement).

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

**17.0 DELIVERABLES**

17.1 As a result of or as part of providing the Services, the Consultant may receive, create, produce, acquire or collect one or more of the following:

- (a) products, goods, equipment, supplies, models, prototypes and other materials;
  - (b) information and data;
  - (c) reports, drawings, plans, designs, depictions, specifications and other documentation; and
  - (d) any other items identified in this Agreement as deliverables;
- (collectively, the "Deliverables").

17.2 Deliverables are deemed not to include:

- (a) any item not required to be produced by the Consultant or supplied to the City as part of or together with the Services, provided that if the City has paid or is liable to pay for any portion of such item's creation, production, acquisition or collection then such item shall be deemed to be a Deliverable;
- (b) any item produced as a result of the Services, which is specified in this Agreement as being excluded from the Deliverables category; and
- (c) any item which pre-existed the effective date of this Agreement, that is owned by a third party or that is used by the Consultant as part of the services provided to any of its other customers (the "Pre-Existing Materials").

17.3 All Deliverables will be owned solely by the City unless otherwise expressly provided herein. The City shall have the complete and unfettered right to use and deal with the Deliverables for its own benefit in any way it sees fit without limitation, and without accounting in any way to the Consultant.

17.4 The Consultant will keep accurate records and provide regular reports to the City about the Deliverables as they are created or acquired, and grant to the City access to the Deliverables at all times on reasonable notice. The Consultant will treat each Deliverable as subject to the confidentiality provisions set out in Part B - Instructions to Proponents, Section 22.0 Confidentiality unless advised otherwise by the City.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- 17.5 Each Deliverable, as to the whole or that portion of the Deliverable then existing, will be delivered by the Consultant to the City on the earliest of each of the following events:
- (a) the date specified in this Agreement for the delivery of such Deliverable;
  - (b) immediately on the date of expiration or sooner termination of this Agreement; or
  - (c) the date specified by written notice of the City requesting delivery of all or any part of the Deliverable.
- 17.6 The Consultant transfers to the City, free of all liens and encumbrances, ownership of each Deliverable, and assigns all of its world-wide present and future rights, title and interest in and to each Deliverable, including copyright, effective as of the date of creation or acquisition of such Deliverable by the Consultant. The Consultant irrevocably waives, in favour of the City, all moral rights in the Deliverables. The Consultant will obtain from its employees and any independent contractors, all required assignments and releases of intellectual property, and waivers of moral rights, in the Deliverables. The Consultant will not assert any rights to or interests in, or apply for or register any copyright or other rights or interests in, the Deliverables, or assist any other person in doing so. The Consultant shall provide to the City, during and after the term of this Agreement, any reasonable assistance required for the City to obtain, perfect and enforce its ownership of and rights in the Deliverables, including without limitation execution of assignments and transfers of the Deliverables. This Section does not apply to Pre-Existing Materials.
- 17.7 The Consultant will not incorporate any Pre-Existing Materials in any Deliverable without first:
- (a) advising the City, in writing, of the nature of the Pre-Existing Materials and their proposed use and obtaining the City's written consent to do so;
  - (b) acquiring from each third-party owner of such Pre-Existing Materials, a fully paid-up, perpetual, non-exclusive license, in writing, for the City to use the Pre-Existing Materials as part of the Deliverable; and
  - (c) granting, in writing, to the City with respect to such Pre-Existing Materials that the Consultant owns, a fully paid-up, perpetual, non-exclusive license to use the Pre-Existing Materials as part of the Deliverable.
- 17.8 The Consultant represents and warrants that the Deliverables will not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The Consultant shall defend, indemnify and hold the City harmless from and against any and all damage, liability, cost and expense incurred by the City in connection with any claim by a third party that a Deliverable infringed, misappropriated or misused its copyright, patent, trade-mark, trade secret, or confidential or proprietary information.
- 18.0 NOTICES
- 18.1 Any notice required or permitted to be given to the Consultant will be sufficiently given if delivered in writing by the City's Project Manager to the Consultant's Project Manager personally or, if mailed, by registered mail to the last known address of the Consultant.
- 18.2 Any notice required or permitted to be given to the City will be sufficiently given if delivered in writing by the Consultant's Project Manager to the City's Project Manager personally or, if mailed, by registered mail to City of Vancouver at 453 West 12<sup>th</sup> Avenue, Vancouver, B.C., V5Y 1V4 (addressed to the attention of the City's Project Manager).
- 19.0 NO CONFLICT OF INTEREST
- 19.1 The Consultant agrees that during the Term the Consultant will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person, whether or not a client of the Consultant's. Without limiting the general scope of this

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- Section 19.1 and by way of example only, the Consultant is prohibited from and will not provide any services which assist or could be seen to be assisting any person in responding to a request for proposal or invitation to tender, or otherwise giving that person an unfair competitive advantage over other proponents or tenderers responding to a request for proposal or invitation to tender by the City. The Consultant now acknowledges that a breach of this Section 19.1 could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada, and accordingly, could be punishable as a crime (as well as a breach of contract).
- 19.2 The Consultant now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Consultant's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:
- (a) an elected official or employee of the City; or
  - (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration of this Agreement or the performance of the Services.
- 20.0 NON-RESIDENT WITHHOLDING TAX
- 20.1 If the Consultant is a non-resident of Canada as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation, unless a Canada Revenue Agency waiver has been provided to the City within the time limits required under the Canada Revenue Agency administrative guidelines as in effect from time to time and, in any event, prior to payment of an invoiced amount.
- 20.2 The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest will be payable by the City on sums withheld and later paid directly to the Consultant.
- 20.3 The Consultant shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.
- 21.0 COMPLIANCE WITH LAW
- 21.1 The Consultant will comply with the City of Vancouver License By-law and maintain a valid business license throughout the duration of this Agreement.
- 21.2 The Consultant agrees that it will during the Term comply with all Applicable Laws.
- 22.0 GOVERNING LAW AND RESOLUTION OF DISPUTES
- 22.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.
- 23.0 INDEPENDENT CONSULTANT
- 23.1 This Agreement is a contract for services and the Consultant, its permitted Sub-contractors, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and its permitted Sub-contractors are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City.
- 23.2 The Consultant will not represent to anyone that the Consultant has any authority to bind the City in any way or that the Consultant is an employee or agent of the City.

REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

24.0 INDEPENDENT LEGAL ADVICE

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

25.0 TIME FOR PERFORMANCE

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

25.2 Unavoidable Delay. Notwithstanding Section 25.0, except for the performance of obligations to pay money, the time periods for the City and the Consultant to perform under this Agreement will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this Section, an "Unavoidable Delay" means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, strikes/lockouts, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Consultant's lack of financial resources or insolvency or strikes, lockouts or other withdrawals of services arising out of a labour dispute (including a strike, lockout, or other labour dispute involving the Vancouver Board of Parks and Recreation and/or the City of Vancouver and their respective employees) or labour affiliations of the Consultant's employees or Sub-contractor's employees, or governmental action taken in the enforcement of law specifically against the Consultant or its Sub-Consultants. If an Unavoidable Delay occurs, the non-performing party will, as soon as possible after the occurrence of the Unavoidable Delay, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of its obligations under this Agreement.

26.0 GENERAL

26.1 No Waiver. No action or failure to act by the City shall constitute a waiver of any right or duty under this Agreement, or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing by the City.

26.2 Severability. The invalidity, illegality or unenforceability of any portion or provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken position.

26.3 Remedies Cumulative. The remedies of the Parties provided for in this Agreement are cumulative and are in addition to any remedies available to the Parties at law or in equity. No remedy will be deemed to exclude or restrict the right of a Party to any other remedies against the other Party and a Party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.

26.4 Further Assurances. Each Party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.

26.5 Entire Agreement. The Contract Documents constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.

26.6 Amendment. This Agreement shall not be amended except as specifically agreed in writing by both the City and the Consultant.



REQUEST FOR PROPOSAL NO. PS20120347  
ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN  
PART D - FORM OF AGREEMENT

---

- 26.7 Joint and Several Liability of Joint Venture Participants. If the Consultant is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the entities who comprise the Consultant shall be joint and several.
- 26.8 Schedules and Appendices. The schedules and appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 26.9 Set-Off. The City may at its option, withhold and set-off against any amount owing to the Consultant (whether under this Agreement or otherwise) any amounts payable by the Consultant to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Consultant, whether such claim is at law or in equity or tort or on any other basis.
- 26.10 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and the Consultant and their respective successors and permitted assigns.

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

CITY OF VANCOUVER

---

Authorized Signatory

---

Print Name and Title

[NAME OF CONSULTANT]

---

Authorized Signatory

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Print Name and Title

APPENDIX A - INSURANCE REQUIREMENTS

A1.1 Required Types/Amounts

Prior to commencing the Services, the Consultant will obtain at its own expense:

- (a) a Professional (Errors and Omissions) Liability insurance policy with limits of not less than two million dollars (\$2,000,000) per occurrence with an aggregate of not less than five million dollars (\$3,000,000) and a deductible of not more than fifty thousand dollars (\$50,000), protecting the Consultant against all claims for loss or damage arising out of any error or omission of the Consultant or the Consultant's Personnel in the performance of the Services; and
- (b) a Commercial General Liability insurance policy with limits of not less than two million dollars (\$2,000,000) per occurrence, and a deductible of not more than five thousand dollars (\$5,000), protecting the Consultant and the Consultant's Personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Consultant or the actions of the Consultant or the Consultant's Personnel. The policy will contain a cross liability clause in favour of the City and will name the City and the City's Personnel as additional insured.

A1.2 Required Policy Terms

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

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

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

A1.3 Insurance Certificate

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

A1.4 Sub-Consultant's Insurance

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

**A1.5 Insurance Requirements Additional to any other Requirements**

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

**A1.6 Insurance Requirements Independent of Agreement Obligations**

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

APPENDIX B - PROPOSAL

(to be attached upon award)

APPENDIX C - RFP

(to be attached upon award)

SCHEDULE 1 - SCOPE OF WORK

(to be attached upon award)

SCHEDULE 2 - PROJECT SCHEDULE

(to be attached upon award)

SCHEDULE 3 - PRICING

(to be attached upon award)





**GENERAL CERTIFICATE OF INSURANCE**

Section 8 b) – City staff to select the required # of days Written Notice before sending the certificate out for completion  
 Section 2 through 8 – to be completed and executed by the Insurer or its Authorized Representative

1. **THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12<sup>th</sup> Avenue, Vancouver, BC, V5Y 1V4  
*and certifies that the insurance policies as listed herein have been issued to the Named Insured(s) and are in full force and effect as of the effective date of the agreement described below.*
2. **NAMED INSURED:** *[must be the same name as the Permittee/Licensee or Party(ies) to Contract and is/are either an individual(s) or a legally incorporated company(ies)]*

MAILING ADDRESS: \_\_\_\_\_

LOCATION ADDRESS: \_\_\_\_\_

DESCRIPTION OF OPERATION, CONTRACT, AGREEMENT, LEASE, PERMIT OR LICENSE: \_\_\_\_\_

3. **PROPERTY INSURANCE** naming the City of Vancouver as a Named Insured and/or Loss Payee with respect to its interests and shall contain a waiver clause in favour of the City of Vancouver.  
**(All Risks Coverage including Earthquake and Flood)**

INSURER: _____ TYPE OF COVERAGE: _____ POLICY NUMBER: _____ POLICY PERIOD: From _____ to _____	<b>INSURED VALUES: (Replacement Cost)</b> Building and Tenants' Improvements: \$ _____ Contents and Equipment: \$ _____ Deductible Per Loss: \$ _____
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4. **COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**

Including the following extensions: <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Products and Completed Operations <input checked="" type="checkbox"/> Cross Liability or Severability of Interest <input checked="" type="checkbox"/> Employees as Additional Insureds <input checked="" type="checkbox"/> Blanket Contractual Liability <input checked="" type="checkbox"/> Non-Owned Auto Liability INSURER: _____ POLICY NUMBER: _____ POLICY PERIOD: From _____ to _____	<b>LIMITS OF LIABILITY: (Bodily Injury and Property Damage Inclusive)</b> Per Occurrence: \$ _____ Aggregate: \$ _____ All Risk Tenants' Legal Liability: \$ _____ Deductible Per Occurrence: \$ _____
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5. **AUTOMOBILE LIABILITY INSURANCE** for operation of owned and/or leased vehicles

INSURER: _____ POLICY NUMBER: _____ POLICY PERIOD: From _____ to _____	<b>LIMITS OF LIABILITY:</b> Combined Single Limit: \$ _____ <i>If vehicles are insured by ICBC, complete and provide Form APV-47.</i>
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6.  **UMBRELLA OR**  **EXCESS LIABILITY INSURANCE**

INSURER: _____ POLICY NUMBER: _____ POLICY PERIOD: From _____ to _____	<b>LIMITS OF LIABILITY: (Bodily Injury and Property Damage Inclusive)</b> Per Occurrence: \$ _____ Aggregate: \$ _____ Self-Insured Retention: \$ _____
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7. **OTHER INSURANCE** (e.g. Boiler & Machinery, Business Interruption, Crime, etc.) – Please specify Name of Insurer(s), Policy Number, Policy Period, and Limit

8. **POLICY PROVISIONS:**

*Where required by the governing contract, agreement, lease, permit or license, it is understood and agreed that:*

- a) *The 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 material change resulting in reduction of coverage with respect to any of the policies listed herein, either in part or in whole, will be given by the Insurer(s) 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 with respect to all claims arising out of the operation of the Named Insured. Any insurance or self-insurance maintained by the City of Vancouver shall be in excess of this insurance and shall not contribute to it.*

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE \_\_\_\_\_

Dated: \_\_\_\_\_

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



CITY OF VANCOUVER PROFESSIONAL LIABILITY INSURANCE CERTIFICATE

Section 4 – City staff to select the required # of days Written Notice before sending out for completion
Section 2, 3 & 4– to be completed and executed by the Insurer or its Authorized Representative

- 1. THIS CERTIFICATE IS ISSUED TO: City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4 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.
2. NAMED INSURED: [must be the same name as the Permittee/Licensee or Party(ies) to Contract and is/are either an individual(s) or a legally incorporated company(ies)]

MAILING ADDRESS:

LOCATION ADDRESS:

DESCRIPTION OF OPERATION/CONTRACT:

3. 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:

4. POLICY PROVISIONS:

Where required by the governing contract, agreement, permit or license, it is understood and agreed that SIXTY (60) days written notice of cancellation or material change resulting in 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 INSURER OR ITS AUTHORIZED REPRESENTATIVE

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

SCHEDULE 6  
WORKSAFE BC CLEARANCE LETTERS - upon Award of Contract

Prime Contractor Agreement



FINANCIAL SERVICES GROUP  
Supply Management

Request for Proposal No. PS20120347

**ARCHITECTURAL SERVICES FOR THE GATHERING PLACE COMMUNITY CENTRE ENTRANCE REDESIGN**

To acknowledge your intent to attend the Information Meeting and Site Visit being held and to ensure that you receive the required information, please submit this form to the person identified below before close of business day, as per Section 2.1.

Tamara Jackson, Supply Chain Management

Fax: 604-873-7057

Email: [purchasing@vancouver.ca](mailto:purchasing@vancouver.ca)

Your details:

Proponent's Name:			
	"Proponent"		
Address:			
Key Contact Person:			
Telephone:		Fax:	
E-mail:		Incorporation Date:	

Our company WILL  / WILL NOT  attend the Information Meeting and Site Visit for

"RFP No. PS20120347 - Architectural Services for The Gathering Place Entrance Redesign"

Name of Company (Please print)
Authorized Signatory
E-mail Address (Please print)
Date



**CERTIFICATE OF EXISTING INSURANCE  
TO BE COMPLETED AND APPENDED TO THE PROPOSAL/TENDER**

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

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

**BUSINESS TRADE NAME or DOING BUSINESS AS**

**BUSINESS ADDRESS**

**DESCRIPTION OF OPERATION**

**3. PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)**

INSURER _____	<b>Insured Values (Replacement Cost) -</b>
TYPE OF COVERAGE _____	Building and Tenants' Improvements \$ _____
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	<b>Limits of Liability (Bodily Injury and Property Damage Inclusive) -</b>
√ Cross Liability or Severability of Interest	Per Occurrence \$ _____
√ Employees as Additional Insureds	Aggregate \$ _____
√ Blanket Contractual Liability	All Risk Tenants' Legal Liability \$ _____
√ Non-Owned Auto Liability	Deductible Per Occurrence \$ _____

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

INSURER _____	<b>Limits of Liability -</b>
POLICY NUMBER _____	Combined Single Limit \$ _____
POLICY PERIOD From _____ to _____	<i>If vehicles are insured by ICBC, complete and provide Form APV-47.</i>

**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**

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

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

**8. OTHER INSURANCE**

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

**SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE**

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

APPENDIX 4 - NON-DISCLOSURE AGREEMENT

Proponents will need to submit the signed NON-DISCLOSURE AGREEMENT prior to the Information Meeting and Site Visit.

upon submitting an Information Meeting and Site Visit Attendance Form (Appendix 1) and the Non-Disclosure Agreement (Appendix 3), which specifically documents the obligations the Proponents are expected to meet for RFP PS20120347, the City will allow the Proponent to attend the Information Meeting and Site Visit and receive any SM (if applicable).

## Non-Disclosure Agreement (Sensitive Material)

WHEREAS, in response to the City's Request for Proposal ("RFP") #PS20120347 entitled "CONSULTING SERVICES FOR ARCHITECTURAL DESIGN AND CONSTRUCTION CONTRACT ADMINISTRATION" (the "RFP"), the City shall disclose to the Proponent, certain Sensitive Material of the City for the sole purpose of considering, evaluating, and responding to the RFP (the "Purpose") and on the terms and subject to the conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual premises and covenants herein, the receipt and sufficiency of which is hereby acknowledged, the City and the Proponent hereby agree as follows:

### 1.0 Definitions

- 1.1 "Affiliate" means an affiliate as defined in the Business Corporations Act (British Columbia), as may be amended.
- 1.2 "Agreement" means this Non-Disclosure Agreement.
- 1.3 "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter, and includes, but is not limited to, the Vancouver Police Board, the City's Board of Parks and Recreation, the Vancouver Fire and Rescue Service, and the Vancouver Library Board;
- 1.4 "Proponent's Recipient" means any person who is a member of the Proponent's RFP response team, whether such member is an employee, Sub-Contractor or agent of the Proponent, or any employee or agent of such person.
- 1.5 "Sensitive Material" means all information, in any form or medium, known or used by City or an Affiliate of the City which is not known to the general public, including, but not limited to, the know-how, trade secrets, strategic plans, technical information, product information, supplier information, customer information, financial information, marketing information and information as to business opportunities, methods and strategies and research and development of the City and its Affiliates. If and to the extent any Sensitive Material is included in any report, assessment, diagram, memorandum or other document or copied or reproduced in any other form or medium, such report, assessment, diagram, memorandum, document or Sensitive Material in such other form or medium will be deemed to be Sensitive Material.

### 2.0 Title

- 2.1 All right, title and interest in and to Sensitive Material will be and remain vested in the City. Nothing in this Agreement obliges the City to disclose Sensitive Material to the Proponent or grants the Proponent any license or right of any kind with respect to Sensitive Material, except the limited right to use such information solely for the purpose of responding to the RFP.

### 3.0 Proponent's Obligations

- 3.1 The Proponent will use Sensitive Material only as strictly required for the purpose of responding to the RFP and for no other purpose than to respond to the RFP and only in the manner and upon the terms specified in this Agreement.
- 3.2 The Proponent will deal in utmost good faith with the City in its use of the Sensitive Material provided by the City.



- 3.3 The Proponent will hold and keep, and will ensure that all of the Proponent's Recipients will hold and keep, the Sensitive Material in confidence and in trust for the City, using at least the same degree of care, but no less than a reasonable degree of care, as the Proponent uses to protect its own similar confidential information of like importance, and will,
- (a) prevent any access, reproduction, disclosure or use of the Sensitive Material not expressly authorized herein,
  - (b) disclose the Sensitive Material only to those of the Proponent's Recipients who have a definable need to know such information for the purpose of submitting to the RFP and who are informed of the confidential nature of such information and only to the extent strictly necessary in order to carry out the purpose of submitting to the RFP, provided that such Proponent's Recipients are bound by a confidentiality agreement with the Proponent no less restrictive than this Agreement, and in the event the employment or appointment of any such person is terminated, the Proponent agrees to use its best efforts to recover any of the Sensitive Material in such person's custody or control. The Proponent will be responsible for all damages arising from any disclosure of all or part of the Sensitive Material or any act in contravention of this Agreement by a person to whom such Sensitive Material was given by the Proponent as if the disclosure were made or the act performed directly by the Proponent,
  - (c) not, and will ensure that each of the Proponent's Recipients will not, copy or reproduce any of the Sensitive Material, except as strictly necessary in order to carry out the Authorized purpose of responding to the RFP, and
  - (d) promptly notify the City in writing of any unauthorized copying, reproduction, use or disclosure of the Sensitive Material of which the Proponent is or becomes aware, and such notice will include a detailed description of the circumstances of the copying, reproduction, use or disclosure and the parties involved.

#### 4.0 Exceptions to Confidentiality Obligations

- 4.1 This Agreement imposes no obligation upon the Proponent with respect to the City's Sensitive Material received hereunder that
- (a) the Proponent can promptly demonstrate with documentary evidence was already legitimately known to the Proponent without a duty of confidentiality prior to the disclosure thereof by the City,
  - (b) is lawfully received by the Proponent from a third party, other than a supplier introduced to the Proponent by the City, without a duty of confidentiality,
  - (c) has become general public knowledge through no act or fault on the part of the Proponent or the Proponent's Recipients, or
  - (d) the Proponent can promptly demonstrate with documentary evidence was independently developed by or for the Proponent without the use of any Sensitive Material.

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## 5.0 Legal Requirement to Disclose

- 5.1 If the Proponent or any of the Proponent's Recipients is or becomes legally required to disclose any Sensitive Material to a government body or court of law, the Proponent agrees, to the extent permissible by law, to give, and will ensure that the Proponent's Recipients give, the City sufficient advance notice to enable the City the opportunity to contest the disclosure or obtain a protective order.

## 6.0 Warranty Disclaimer

- 6.1 All Sensitive Material is provided on an "as is" basis, and all representations and warranties, express or implied, including as to its accuracy or completeness, fitness for purpose, merchantability, and non-infringement, are hereby disclaimed.

## 7.0 Injunctive Relief

- 7.1 The Proponent acknowledges and agrees with the City that
- (a) the secrecy of the Sensitive Material is of the utmost importance to the City, and the Sensitive Material is of a sensitive and confidential nature such that monetary damages alone may be inadequate to protect the City's interests against any actual or threatened breach of this Agreement
  - (b) the covenants and conditions of this Agreement are reasonable and necessary for the protection of the City's business and all defences to the strict enforcement thereof by the City are hereby waived by the Proponent to the fullest extent permitted by law, and
  - (c) a violation of any of the provisions of this Agreement will result in immediate and irreparable damage to the City, and so the City will, in addition to any other rights to relief, be entitled to the remedies of specific performance and injunctive or other equitable relief in respect of any actual or threatened breach of this Agreement, without proof of actual damages or the inadequacy of monetary damages.

## 8.0 General

- 8.1 Upon the request at any time of the City, the Proponent will promptly destroy all Sensitive Material and any copies or reproductions thereof in the Proponent's possession or under its control or in the possession or under the control of any of the Proponent's Recipients, and will certify in writing such destruction or return of all Sensitive Material. If compliance with the foregoing would violate any applicable law or regulation, then such information may be retained provided that it is not used for any purpose other than to evidence the Proponent's compliance with such law or regulation, and such retained information must be maintained in confidence as set forth in this Agreement.
- 8.2 Neither party has an obligation under this Agreement to enter into any other business relationship with the other party.
- 8.3 The Proponent will not, without the written consent of the City, disclose to any third party either the fact that discussions or negotiations are taking place concerning the Transactions or any of the terms, conditions or other facts with respect to the Transactions including the status thereof or the subject matter of this Agreement,

provided, however, that nothing herein will prevent the Proponent from making such disclosure

- (a) on a confidential basis to any of the Proponent's Recipients to the extent such person needs to know such information strictly for the purpose of responding to the RFP, or
- (b) in order to comply with the requirements of applicable securities or other laws.

8.4 No waiver, addition to or amendment of this Agreement will be effective unless made in writing signed by authorized signatories of the parties and expressly stated to be a waiver, addition to or amendment of this Agreement. This Agreement states the entire agreement between the parties as to its subject matter and merges and supersedes all previous communications with respect to their obligations hereunder, and the provisions hereof will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

8.5 This Agreement will be governed by and interpreted and construed in accordance with the laws prevailing in the Province of British Columbia and the Proponent irrevocably attorns to the exclusive jurisdiction of the courts of British Columbia and all courts having appellate jurisdiction thereover in relation to the interpretation and enforcement of this Agreement.

8.6 If the Proponent agrees to the terms and conditions of this Agreement the Proponent is required to sign this Agreement below before viewing Sensitive Material and commencing on the Information Meeting and Site Visit.

Signed by:

\_\_\_\_\_

\_\_\_\_\_

[Print name in full with title]

\_\_\_\_\_

[Print Proponent's company name in full]

\_\_\_\_\_