



REQUEST FOR PROPOSAL

Professional Services for Integrated Stormwater Management Plan

RFP No. PS20120849

Issue Date: September 10th, 2012

Issued By: City of Vancouver

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Professional Services for Integrated Stormwater Management Plan
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PART A - INTRODUCTION

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 an Agreement, as defined in this RFP.

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;

Proponents are responsible for obtaining all information required for the preparation of Proposals. A DVD containing relevant reports, and electronic data listed under Attachment 3 of Appendix 3 to Part C will be available for pick-up at the Purchasing Services Office at the 4th Floor of City Hall, 453 West 12th Avenue, Vancouver, BC. This DVD will be also distributed to the Proponents during the Information Meeting. The Proponents can either pick up the DVD from the Purchasing Service Office or at the Information Meeting.

- (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. This is a sample form of agreement and is subject to change by the City prior to execution.

2.0 KEY DATES

2.1 Proponents should note the following key dates:

Event	Time/Date
Deadline for submission of Information Meeting Response Form	September 14 th , 2012
Information Meeting	September 18 th , 2012, 9:30 AM to 10:30 AM
Deadline for Enquiries	October 2 nd , 2012 Enquiries received five [5] days before the Closing Time may not be processed and may not receive a response. The City’s Purchasing Services Office is open on Business Days from 8:30am to 4:30pm and closed Saturdays, Sundays, and holidays.
Closing Time	3:00 PM, Tuesday, October 9 th , 2012

3.0 CONTACT PERSON

3.1 The Contact Person for this RFP is:

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Yuyi Liu, Buyer

Email: 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 Main Floor Rotunda Information Desk computer clock.

5.0 DELIVERY ADDRESS FOR PROPOSALS

5.1 Proponents shall submit their Proposals to the following address:

City of Vancouver Purchasing Services Office

453 West 12th Avenue

Vancouver, British Columbia, Canada, V5Y 1V4

For Courier/In Person Delivery, drop off at the:

Information Desk, Main Floor Rotunda

City of Vancouver, City Hall

453 West 12th Avenue

Vancouver, British Columbia, Canada, V5Y 1V4

Proposals submitted by fax or email will not be accepted.

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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 E - 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 to produce an Integrated Stormwater Management Plan ("ISMP") for each of the Musqueam Creek watershed area in ("Project 1") and for the city-wide area of ("Project 2") the City of Vancouver. The ISMPs is intended to fulfill the City's obligations under the Metro Vancouver Integrated Liquid Waste Resource Management Plan (ILWRMP) Goal 3 and more importantly to provide long-term guidance to the City for stormwater management.

1.2 The City is requesting Proposals from interested civil engineering consulting firms with expertise in stormwater management engineering and with histories of completing of ISMPs within the Metro Vancouver area. Areas of experience and expertise expected of Proponents responding to this RFP include, without limitation, water resources, riparian/stream assessment, water quality, public engagement and facilitation, hydraulics and hydrology.

1.3 The purpose of this RFP is to select a Proponent or Proponents with the capability and experience to efficiently and cost-effectively satisfy and deliver all of the requirements described in this RFP. The City has a strong preference for both Projects to be carried out by one Proponent, and therefore it is the City's preference to award a single contract for both Projects to a single Proponent, provided it is in the City's best interest to do so. It is contemplated that a contract, if any, with a single Proponent would provide that the required services are to be performed in two phases, with Project 1 to be carried out and completed first in stages as provided for herein by November 30, 2013 and with Project 2, if and only after the City by written notice explicitly authorizes it, to be carried out and completed second, in stages as provided for herein by May 31, 2014. The City will retain the right to award a separate contract for Project 2 to whichever Proponent(s) or other person(s) the City in its sole discretion determines is best able to deliver the appropriate breadth and quality of services required.

1.4 A successful Proponent will be one 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.

1.5 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 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

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such materials may cause adverse effects, the Proponents 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.

- 1.6 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 GENERAL SCOPE OF CONTRACT

- 2.1 Summary: there are two components to professional services which are the subject of this RFP: (1) the Musqueam Creek watershed area ISMP ("Project 1"); and (2) the citywide area ISMP ("Project 2").

Project 1 is the creation of an ISMP for the Musqueam Creek watershed in the City of Vancouver using for guidance of the Metro Vancouver ISMP Template.

Project 2 is the creation of an ISMP for the Vancouver citywide area (excluding the Musqueam Creek and Still Creek watershed areas) which will be a master document to guide City departments in their ongoing stormwater management actions and policy work in the future. The approach for Project 2 will need to be at a higher level study than typical creek focused ISMPs.

A consultation and engagement framework for each Project and each ISMP should be developed and utilized to consider what, when, where and how stakeholder participation can achieve the most effective result. Proponents should elaborate on the tools and techniques they intend to use in the engagement process of communication, learning, consultation and exchange between City staff and external stakeholders.

- 2.2 Detailed Service Requirements are within Part C - Form of Proposal, Appendix 3 - Services.

3.0 ADMINISTRATIVE REQUIREMENTS

- 3.1 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 to this RFP.

4.0 INFORMATION MEETING

- 4.1 A Proponents' information meeting (the "Information Meeting") will be held:

Date: as specified in Section 2.1 of Part A

Time: as specified in Section 2.1 of Part A

Location: 507 West Broadway, Vancouver, meeting room 511

The participants should report to the reception desk at the 5th floor no later than 9:25 AM and will be escorted to the meeting room.

The Information Meeting 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.

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- 4.2 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.
- 4.3 All Proponents should pre-register for the Information Meeting by submitting an Information Meeting Attendance Form (Appendix 1 to this Part B) by fax to 604-873-7057 or e-mail to purchasing@vancouver.ca by September 14th, 2012.
- 4.4 The City will in good faith attempt to give accurate verbal responses to questions during the Information Meeting but Proponents are advised that they may only rely on the formal written response/summary to be issued by the City following the Information Meeting. 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.

5.0 CONDUCT OF RFP - INQUIRIES AND CLARIFICATIONS

- 5.1 The City's Director of Supply Management will have conduct of this RFP, and all communications shall be directed only to the Contact Person.
- 5.2 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 or faxed 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.

6.0 CONTRACT REQUIREMENTS/DEVIATIONS AND VARIATIONS

- 6.1 Proponents should indicate in their Commercial Proposal 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 proposed alternative contract language in their Commercial Proposal under the heading DEVIATIONS AND VARIATIONS which may or may not be considered by the City at its sole discretion.
- 6.2 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.

7.0 PRICING

- 7.1 Pricing is to be submitted, as part of the Commercial Proposal, in a separate envelope/package from the Management Proposal.
- 7.2 Prices quoted are to be exclusive of HST but inclusive of all other costs including, without limitation, freight, unloading at destination, import duties, taxes (other than HST), brokerage fees, royalties, handling, overhead and profit.
- 7.3 Prices shall be quoted in Canadian currency.

8.0 SUBMISSION OF PROPOSALS

- 8.1 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.*

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- 8.2 Proponents should submit three 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.
- 8.3 Only the English language may be used in responding to this RFP.
- 8.4 Proposals, including any Proposal amendments, 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.
- 8.5 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 before the Closing Time.
- 8.6 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 8.7 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.
- 9.0 PROPOSAL FORMAT**
- 9.1 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.
- 9.2 Proponents are requested to provide their Proposal in the format and including the content described in PART C - FORM OF PROPOSAL.
- 10.0 BID SECURITY**
- 10.1 No bid security is required since no irrevocable binding legal offer is made by submitting a proposal in response to this RFP.
- 11.0 OPENING OF PROPOSALS**
- 11.1 The City reserves the right to open all Proposals in a manner and at the time and place determined by the City.
- 12.0 EVALUATION OF PROPOSALS**
- 12.1 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 criteria set out in this RFP including, but not limited to:
- (a) the Proponent's ability to meet the Requirements and the cost/expense for same;
 - (b) the Proponent's ability to deliver the Requirements when and where required;
 - (c) the Proponent's skills, knowledge and previous experience;
 - (d) the proposed plan of approach and work schedule;

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- (e) the Proponent's business reputation and capabilities;
 - (f) the Proponent's ability to meet the City's insurance requirements;
 - (g) proposed methodology and approach to the professional services to be provided in this RFP; the tools and techniques intended to be used for developing the ISMPs;
 - (h) environmental issues considered by the Proponent; preference may be given to Applicants offering environmentally beneficial products or services;
 - (i) quality of Proposal, including any innovative concepts;
 - (j) quality of written samples submitted; and
 - (k) any other criteria set out in this RFP or otherwise reasonably considered relevant.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 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 fiscal years.
- 12.6 The City may request that any or all Sub-contractors of the Proponent undergo the same evaluation process.
- 13.0 PROPOSAL APPROVAL**
- 13.1 Proposal approval is contingent on funding and a Proposal or Proposals being approved by Vancouver City Council. Only then may the successful Proponent(s) and the City proceed to settle, draft and sign the Agreement.
- 13.2 If so approved by Vancouver City Council, the City will notify the successful Proponent(s) in writing that the Proposal has been approved in principle and invite the Proponent(s) to proceed with discussions to settle, draft and sign the Agreement(s).

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- 13.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at any time.
- 13.4 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 Proposals;
 - (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.
- 14.0 **ALTERNATE SOLUTIONS**
- 14.1 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.
- 15.0 **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**
- 15.1 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.
- 16.0 **NON-RESIDENT WITHHOLDING TAX**
- 16.1 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 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 30 days before commencing the service.
- 17.0 **NO OBLIGATION ASSUMED BY CITY**
- 17.1 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.
- 17.2 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.

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18.0 NO CLAIM AGAINST THE CITY

18.1 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.

19.0 RELEASE AND INDEMNITY

19.1 The Proponent now releases from all liability of any losses and further indemnifies and will protect and save the City harmless from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of the Proponent's Sub-contractors or agents alleging or pleading:

- (a) any alleged (or judicially imposed) breach by the City or its officials or employees of the RFP;
- (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.

20.0 DISPUTE RESOLUTION

20.1 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 dispute will be decided by a single arbitrator, the arbitrator will be selected by the City's Director of Legal Services and the arbitration will take place in Vancouver;
- (b) Section 18.0 (No Claim) and Section 19.0 (Release and 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.

21.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

21.1 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.

21.2 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.

22.0 CONFIDENTIALITY

22.1 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 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)

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in confidence in substantially the same manner as it treats its own confidential material and information.

- 22.2 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.
- 22.3 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.
- 22.4 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.
- 22.5 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).

23.0 NO PROMOTION

- 23.1 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).

24.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT

- 24.1 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.

25.0 DEFINITIONS

- 25.1 For greater certainty and without limitation to any of this City's rights set out in this Agreement when the term "must" precedes a requirement regarding the content or format of a Proposal such a requirement is mandatory. When the terms "should", "shall", "will", "is to" or "are to" precede a requirement regarding the content or format of a Proposal, such requirement is not mandatory but is strongly recommended.
- 25.2 In this RFP, the following terms have the following meanings:

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- (a) **“Agreement”** means the contract entered into between the City and the successful Proponent following the conclusion of the RFP process which contract will be substantially the same form as the Form of Agreement;
- (b) **“City”** means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (c) **“Commercial Proposal”** means those portions of the Proposal to be submitted in Envelope One as set out in PART C - FORM OF PROPOSAL;
- (d) **“Form of Agreement”** means the sample Agreement included in PART E - FORM OF AGREEMENT;
- (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 Integrated Stormwater Management Plan projects described in this RFP No. PS20120849 Professional Services for Integrated Stormwater Management Plan; and **“Project 1”** means the Musqueam Creek watershed area ISMP described in this RFP; and **“Project 2”** means the Citywide area ISMP described in this RFP;
- (h) **“Proponent”** means those entities eligible to participate in this RFP process who submit Proposals;
- (i) **“Proposal”** means a proposal submitted in response to this 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) **“Services”** means the City’s service requirements for the work to be performed by the successful Proponent as set out in both of Appendix 3 of Part C - Form of Proposal and Part D - Form of Agreement;
- (l) **“RFP”** means the documents issued by the City as Request for Proposal No. PS20120849 including all addenda; and
- (m) **“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.

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APPENDIX 1 TO PART B



FINANCIAL SERVICES GROUP
Supply Management

Request for Proposal No. PS20120849

Professional Services for Integrated Stormwater Management Plan

To acknowledge your intent to attend the Information Meeting 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

Your details:

Proponent's Name: _____

"Proponent"

Address: _____

Key Contact Person: _____

of participants: _____

Telephone: _____

Fax: _____

E-mail: _____

Incorporation Date: _____

Our company WILL / WILL NOT attend the information meeting for

"RFP No. PS20120849 Professional Services for Integrated Stormwater Management Plan"

Name of Company (Please print)

Authorized Signatory

E-mail Address (Please print)

Date

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 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 and Sample of work;
 - (d) Sub-Contractors;
 - (e) Requirements Overview;
 - (f) Sustainability;
 - (g) Project Timeline; and
 - (h) Environmental Responsibility.
- 1.5 There are three Appendixes to this Part C.

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2.0 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.

2.1 Proposal Declaration Form

2.1.1 Each Proponent must submit with its Commercial Proposal a signed Proposal Declaration Form substantially as set out in Appendix 1 of this PART C - PROPOSAL DECLARATION FORM, or as otherwise acceptable to the City.

2.2 Pricing

2.2.1 The Proponent must provide the following pricing information, with each of Project 1 and Project 2 dealt with separately from the other:

(a) a table for 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 Appendix 3 of Part C - Services:

- the hourly charge out rates for Project team members;
- a breakdown of the total maximum Project fee into the costs associated with proposed activities for each team member in different phases/deliverable for both projects 1 and 2, inclusive of fees, disbursements and taxes (except HST);
- a description of all disbursements, including a maximum amount for each;
- a description of all costs associated with Sub-contractors; and
- 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.

(b) a table for provisional sum for innovation and exploration for Project 1 and 2, as described in the Scope of work under 3.1.1 and 3.2.1 of Appendix 3 to Part C-Services . The Proponent should include the amount for innovation and exploration associate with the activities in the table of maximum project fee, as described in above Section (a), and also provide a summary on this provision in a separate table.

2.2.2 The Proponent must copy and customize the Pricing Tables set out below for inclusion in their RFP submission:

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(a) **Estimated fees/disbursements:** instructions see above Section 2.2.1 (a)

Phase/ Deliverable	Description by activities or milestone*	Team Members	Team Member Activity Role	Estimated Hours	Hourly Rate	Estimated Disbursements	Sub-total
Project 1							
Part 1							
Part 2							
Part 3							
Part 4							
Sub-total of Project 1:							
Project 2							
Part 1							
Part 2							
Part 3							
Part 4							
Sub-total of Project 2:							
Grant total for Project 1 & 2 - Maximum Fees before HST:							

*note: the Proponent should list out the proposed activities in this column.

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(b) **Provisional Sum on Innovation & Exploration:** instructions see above Section 2.2.1 (b)

PROJECT	PROVISIONAL SUM (\$)
Project 1	
Project 2	
TOTAL:	

2.2.3 Terms of Payment

The City's standard payment terms are net 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. Proponents should indicate in their Proposals if they require other than Net 30 days payment.

Proponents should describe if Electronic Fund Transfer (EFT) is available.

2.2.4 Alternative Pricing Solutions

Proponents may offer alternative pricing options.

2.3 Insurance Requirements

2.3.1 Proponents must submit with their Proposals a Certificate of Existing Insurance, as attached in Appendix 2 to Part C - Form or Proposal, duly completed and signed by their insurance agent or broker as evidence of their existing insurance, along with a letter of Undertaking of Insurance 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 Appendix A of the Form of Agreement, should they be selected as the successful Proponent.

2.3.2 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" and "Certificate of Insurance" attached as Appendix A 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.

2.4 WorkSafeBC Requirements

2.4.1 Proponents must submit with their Proposals proof of valid WorkSafeBC registration. Such registration should be maintained as specified in Section 9.0 of the Form of Agreement.

2.5 Deviations and Variations

2.5.1 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.

2.5.2 Where the Proponent is proposing the use of contract language or clauses other than as set out in the Form of Agreement, including any and all Schedules, such proposed revised language must be outlined in its Proposal and this language may or may not be considered by the City at its sole discretion. The City will assume such clauses are in addition to those in the Form of Agreement unless otherwise indicated by the Proponent.

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3.0 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.

3.1 Company Profile

3.1.1 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.

3.1.2 Provide the following information:

Proponent's Name: _____
"Proponent"

Mailing Address: _____

Cheque Payable/Remit to Address: _____

Telephone No.: _____ Fax No.: _____

Key Contact Person: _____ E-mail: _____

GST/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)

3.2 Key Personnel

3.2.1 The Proponent should propose a Project Team in servicing this Project with roles and responsibilities of each team member identified. The Proponent should provide resumes or CVs

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for the Key Personnel in the proposed Project Team and outline their roles in this Project. The Proponent will only utilize the Project Team members noted in the Proposal. Please refer to Section 3.0 of the Agreement for detailed requirements on Project Team.

- 3.2.2 Include a list of at least three relevant and successfully completed projects of the Key Personnel, 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.
- 3.2.3 Include an organization chart for the Proponent’s proposed Project team, identifying the team leader or project manager, and all roles and areas of responsibility.
- 3.2.4 Preference will be given to Proponent’s consulting teams that demonstrate knowledge and experience in stormwater engineering and completion of ISMPs within the Metro Vancouver area. Experience and expertise expected of the Proponent includes without limitation to water resources, riparian/stream assessment, water quality, public engagement and facilitation, hydraulics and hydrology. Proponents must state the knowledge and experience of each proposed team member. For team members with limited or no knowledge and experience, proponents must describe these team members’ roles in the Project, and how the rest of the team will support these team members.

3.3 References

- 3.3.1 The Proponent is to describe the Proponent’s relevant experience with similar engagements for similar work over the last eight 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.

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

- 3.3.2 The Proponent should, with permissions from their clients, provide the following samples in their Proposal. Samples should be submitted in a CD along with the Proposal.
 - ISMP Samples: preferably the full report or a table of Contents;
 - Writing Samples: Studies and/or Reports with significant stakeholder and consultative components

3.4 Sub-Contractors

- 3.4.1 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.)

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3.4.2 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 calendar days, propose a substitute Subcontractor 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.

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

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

3.5 Requirements Overview

3.5.1 Appendix 3 - Services in Part C Form of Proposal provided the scope and specifications for the work to be completed by the successful Proponent:

- (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 full understands and is committed to delivering to the Requirements of the scope and specifications.
- (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.

3.6 Sustainability

3.6.1 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.

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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 Reduction	The City aims to reduce its greenhouse gas/carbon emissions, where possible as part of its Climate Protection Program.	Tell us how the design and use of your product or service takes into account 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.	

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3.7 **Project Timeline**

3.7.1 The Proponent must provide a detailed schedule, in GANTT or PERT format, based on the milestones in the following table. The working schedule developed by the Proponent should be of sufficient detail to demonstrate the Proponents understanding of the work, and to fits their proposed methodology and meets the following constraints:

- Kickoff Meeting to be scheduled within 3 weeks upon the Agreement signing
- Following the submission of each Draft, there should be a 3 week review period
- Following Submission 4.0, the Proponent is to allow 8 weeks of internal staff review

Projects	Deliverables	Deadline
Project 1		
Part 1	Submission 1.3 - final version	April 30, 2013
Part 2	Submission 2.2 - final version	June 30, 2013
Part 3 & 4	Submission 3.2 - final version	Sept 30, 2013
Final Report	Submission 5.0 - final version	November 30, 2013
Project 2 (if authorized)		
Part 1	Submission 1.1 - final version	May 31, 2013
Part 2	Submission 2.1 - final version	October 1, 2013
Part 3 & 4	Submission 3.1 - final version	March 30, 2014
Final Report	Submission 5.0 - final version	May 31, 2014

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

APPENDIX 1 TO PART C - 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:

I. 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" including, without limitation, the Form of Agreement 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.

II. 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.]

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III. NO CONFLICT OF INTEREST IN PROJECT

The Proponent confirms that neither the Proponent nor its proposed Sub-contractors are currently engaged in providing (or are proposing to provide) professional services for Integrated Stormwater Management Plan 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.]

IV. 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.]

V. 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)

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APPENDIX 2 TO PART C - CERTIFICATE OF EXISTING INSURANCE

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 12th 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 _____	Insured Values (Replacement Cost) -
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	Limits of Liability (Bodily Injury and Property Damage Inclusive)	
-		
√ Cross Liability or Severability of Interest	Per Occurrence	\$ _____
√ Employees as Additional Insureds	Aggregate	\$ _____
√ Blanket Contractual Liability	All Risk Tenants' Legal Liability	\$ _____
√ Non-Owned Auto Liability	Deductible Per Occurrence	\$ _____

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

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

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

Dated _____

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

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APPENDIX 2 TO PART C -UNDERTAKING OF INSURANCE

To: City of Vancouver

Re: RFP PS20120849 - PROFESSIONAL SERVICES FOR INTEGRATED STORMWATER MANAGEMENT PLAN

Dear Sirs:

We, the undersigned have completed, signed and attached the "Certificate of Existing Insurance" enclosed with this undertaking and now also do hereby undertake and agree that if _____ (the "Proponent") is awarded the Contract, we will insure the Consultant in accordance with the requirements of the Professional Service Agreement, a copy of which is included in the RFP Documents and will form part of the Contract Documents.

Dated at _____, British Columbia, this _____ day of _____ 20_____.

By: _____

Title: _____

Full Corporate Name of Insurer:

The "Certificate of Existing Insurance" provided with the RFA should be completed and signed and enclosed with this Letter both of which are to be signed by the Insurance Company or an authorized Broker on behalf of the Insurance Company. A SEPARATE FORM (AND CERTIFICATE OF EXISTING INSURANCE) SHOULD BE SIGNED FOR EACH POLICY IF TENDERER HAS MORE THAN ONE INSURER OR BROKER FOR ITS POLICIES.

APPENDIX 3 TO PART C - SERVICES

1. BACKGROUND

The City of Vancouver was developed without the guidance or philosophy of integrated stormwater management. Stormwater was considered a nuisance to be conveyed as quickly as possible to the Fraser River, False Creek or Burrard Inlet. Combined sewers were the order of the day and built accordingly. Only two of the City's original creeks remain functional from a stormwater perspective. The remainder of the City was served with combined sewers.

With an eye towards the future, the Sewers and Drainage Design Branch began undertaking a long-term programme to transition from a combined to a separated sewer system. This direction was approved in the first Metro Vancouver Liquid Waste Management Plan (LWMP), and continues to be the Branch's focus in the LWMP's successor, the Metro Vancouver Integrated Liquid Waste Resource Plan (ILWRM). A key component of these plans is the creation of the Integrated Stormwater Management Plan (the "ISMP") for each watershed within Metro Vancouver.

2. INTRODUCTION

The City is to hire the Consultant to produce the Musqueam Creek and Citywide ISMPs. These documents are to fulfill the City's obligations under the Metro Vancouver Integrated Liquid Waste Resource Management Plan (ILWRMP) Goal 3 and more importantly provide long-term guidance to the City to when it comes to managing stormwater. The ISMPs are comprehensive in their scope, and are summarized best by Goal 3 itself quoted below:

ILWRMP:

Goal 3: Effective, affordable and collaborative management

Strategy 3.4: Provide resilient infrastructure to address risks and long-term needs. Metro Vancouver and municipalities will identify risks which threaten the continued integrity of liquid waste management operations and infrastructure and create more resilient and adaptable systems which address these risks to contribute to the overall goal of a resilient region. The actions in the strategy require integration and collaboration. This is essential to developing and interpreting scenarios as well as developing management plans such as integrated stormwater management plans. Climate change, Fraser River freshet, demographic change and aging infrastructure are examples of uncertainties and factors which continue to be assessed and assimilated into scenarios that assist Metro Vancouver and municipalities in identifying options that increase long-term resiliency and manage risks.

Action: Develop and implement integrated stormwater management plans at the watershed scale that integrate with land use to manage rainwater runoff. Plans by 2014.

3. SERVICES

The scope of work for the consulting services is to develop integrated stormwater management plan in two stages for:

- Project 1 - Musqueam Creek ISMP
- Project 2 - Citywide ISMP

3.1. PROJECT 1: MUSQUEAM CREEK ISMP

The Musqueam Creek Watershed covers an area of approximately 770 hectares and is shown in Attachment 4 of this Appendix. Located at the south western edge of the City of Vancouver, land use in the watershed is predominantly undeveloped with single family residential use within the

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City's boundary. Most of the watershed area is comprised of Pacific Spirit Park which is jurisdiction of Metro Vancouver Parks.

Musqueam Creek is very special because it is one of the only two remaining streams in the City capable of supporting salmonid populations. Today, its capacity is limited; but, the potential to improve its health through a thoughtful and well executed ISMP is exceptional.

There are several governing stakeholders of the Musqueam Creek Watershed. The natural assets within the watershed and the land surrounding it are governed by The Musqueam Indian Band, Metro Vancouver, and the Provincial Ministry of Community, Sport and Cultural Development as represented by the University Endowment Lands Manager, and the City of Vancouver.

In addition to governing stakeholders, there are a large number of community stakeholders with interests in the well-being of the watershed. A preliminary list is included in Attachment 1 of this Appendix.

3.1.1. Scope of Work

Create an ISMP for the Musqueam Creek Watershed, illustrated in Attachment 4, using the guidance of the Metro Vancouver ISMP Terms of Reference:

<http://www.metrovancouver.org/services/wastewater/sources/Pages/StormwaterManagement.aspx>

To create an effective ISMP for the area, stakeholders must be partners in the development and implementation of the plan. The consultant will be expected to develop a consultation and engagement framework for each of the 4 parts of the ISMP as described below. This framework is to consider what, when, where and how stakeholder participation can achieve the most effective result for each part and for the plan overall.

It is expected that the consultant will assemble a team of professionals with demonstrated experience including but not limited to the following fields:

- Rainwater and stormwater engineering
- Stakeholder and public process development, engagement, and facilitation
- Hydrology
- Hydrogeology
- Habitat biology
- Public finance
- Public policy

In developing the methodology, the consultant must include in-person review meetings with City staff at milestones appropriate to the methodology.

The ISMP is to be generally divided into four parts:

Part 1 - "What do we have?" - Review and assessment of existing data, and conditions

The consultant is to propose an assessment framework and execute that assessment of the watershed's existing health. The assessment is to provide a baseline condition upon which the vision is built. This comprehensive assessment should consider, at a minimum, biological, hydrological, and hydraulic components.

This assessment will be used for the following sections of the ISMP as a basis moving forward, and to provide background and information to stakeholders.

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The consultant will be provided with existing information as listed in Attachment 1, 2 and 3. This is an incomplete list, as the City understands that there may be additional studies available from project stakeholders. It will be the consultant's responsibility to research and acquire any additional information and assess its applicability to the ISMP as a component of Part 1.

It is expected that there is insufficient existing information to undertake a baseline assessment. Consequently, the consultant will be required to review and assess the existing information and propose a "worst-case" investigation work plan and costs to complete the data required to undertake the baseline assessment.

The investigations work should include, but not be limited to the followings tasks:

- Flow monitoring
- Water quality testing
- Ground truth field work, and topographic survey
- Biological and habitat assessments
- Hydrogeological/geological assessments

Part 2 - "What do we want?" - VISION process; the vision should reflect the desired state of the watershed as well as the long-term relationship between the stakeholders and the watershed

The consultant is to propose a consultation process that will eventually lead to a long-term vision for the watershed. It will answer the question: "What will a healthy Musqueam Creek Watershed look like?"

Create and execute the consultation process with stakeholders. Propose an engagement methodology and process to solicit views and opinions using range of methods designed to evoke meaningful participation by all levels of stakeholders. These may include but are not limited to:

- Workshops
- Public meetings
- Neighbourhood distribution
- Personal interviews
- Walking tours
- Setup in shops/sidewalks
- Internet survey / webpages

City of Vancouver stakeholders will include but not be limited to staff representing:

- Engineering Services
 - Design Branches
 - Operations Branches
- Community Services Group
 - Planning
 - Licenses and Inspections
 - Environmental Protection
- Parks Board
- Sustainability Group

Part 3 -" How do we get there and by when?"

Once the vision has been finalized, the consultant is to develop a plan to implement the watershed vision, and a timeline over which the health in the watershed is expected to improve.

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The development of the implementation plan will also include a process that ensures all stakeholders' commitment to their responsibilities and to the implementation process. The implementation plan is expected to consider and/or incorporate the following items:

- The long-term health of the watershed
- Engagement/concurrence with City staff and stakeholders financial sustainability and responsibility
- Action effectiveness and value
- Milestones / benchmarks of improvement
- Consideration of existing policy framework
- Recommendations for policy and by-law amendments if required
- Detailed action plans and Class "C" cost estimates
- Expected roadblocks and solutions

Part 4 - "How do we stay on target" - Adaptive Management Framework - Monitoring and Assessment

The consultant is to develop a monitoring and assessment programme. This programme will be used to evaluate the progress of the implementation plan, and provide feedback to Staff and the public on implementation of the watershed vision. This plan will identify a comprehensive set of qualitative, quantitative indicators to be used in to illustrate the degrees of success and areas where more effort is required.

It is expected that over time, as knowledge and experience increase, that "course-corrections" will be required. Consequently, it is vital that an adaptive framework be created that takes feedback from the monitoring and assessments and uses it to make improvements to the implementation plan.

The implementation plan is expected to consider and/or incorporate the following ideas:

- What are the milestones to success?
- What are the indicators that we're making positive changes?
 - Physical watershed changes
 - Public perception/knowledge
 - Which ones are the most important?
- How frequently should we "check-in"
 - How much will it cost?
 - How long will it take?
 - What indicators should we check?
- How will we evaluate how well we're doing?
 - What might be classified as good, satisfactory, poor?
 - What is the next course of action depending on the evaluation?

Innovation and Exploration

It is expected that there will be the discovery and synthesis of many innovative and worthy ideas, processes, technologies, etc. The consultant is to include a provisional sum, to be used at the sole discretion of the City's Project Manager, for the purpose of further exploring these ideas, processes, technologies, etc. The work may include but not be limited to the following:

- Desktop research
- Additional consultations with internal and/or external stakeholders
- Field investigations such as survey, soils, water quality, ecology, etc.
- Computer modeling

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Should the City's Project Manager decide to utilize this provisional sum, the City's Project Manager will request, in writing, an estimate for the work from the consultant. The consultant is to provide an estimate based on the hourly rates in Part C - Form of Proposal. Only upon express written acceptance of the estimate will the consultant undertake the work.

This work is to be a supplement to the ISMP. The ISMP is to be complete without any of the work as result of this provisional item.

The results of this work are to be incorporated into the appropriate Part of the ISMP.

3.1.2. Deliverables

Part 1

Submission 1.1 - Initial Assessment and Work Proposal

Including but not limited to:

- Compiled list of existing information and information to be obtained through additional work by the consultant.
- Proposed work plan of investigation to undertake the watershed assessment.

Submission 1.2 - Part 1 - Draft Report

Including but not limited to:

- Summary and description of existing conditions of watershed, watercourses, habitat and relevant infrastructure. This is to include figures, tables, and photos and all relevant data to communicate the health of the watershed to professional staff and the public.
- Watershed health assessment to include any and all biological, hydrological, and/or hydraulic components as proposed in final methodology.
- Summary fact sheet showing existing health of watershed to be distributed publicly.

Submission 1.3 - Part 1 - Final Report

Part 2

Submission 2.1 - Part 2 - Draft Vision

Including but not limited to:

- Public summary of the ultimate vision of the watershed describing what it will look like in 50 years.
- Staff summary is to include additional detail for staff and knowledgeable stakeholders to gain further understanding of what healthy watershed will be.
- Maps, figures and supporting documents showing watercourses, habitat areas, and areas of opportunity and concern as required to illustrate and support the Vision
- An information package to be used by staff to communicate the watersheds vision to the public.

Submission 2.2 - Final Vision

Parts 3 and 4

Submission 3.1 - Part 3 and 4 Draft Report

Including but not limited to:

- Prioritized implementation plan describing specific actions by the City including a discussion of the required resources, constraints, benefits of each action.
- Maps, figures, etc. as required illustrating the implementation plan.
- Discussion of future potential funding strategies for actions.

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- Summary of how actions relate to and support the City's Greenest City Action Plan and the broader sustainability context in Vancouver.
- Adaptive Management Framework and workflow

Submission 3.2 - Parts 3 and 4 Final Report

Final Report

Submission 4.0 - DRAFT Musqueam Creek ISMP

Submission 5.0 - Final Musqueam Creek ISMP

Format

All submissions up to and including 3.2 are to be submitted electronically in PDF, Microsoft Office, CAD, and JPEG formats as required or approved the City's Project Manager. Submissions 4.0 and onwards are to be submitted electronically as previous submissions but are to also include 8 bound colour hardcopies.

3.2. PROJECT 2: CITYWIDE ISMP

While most ISMPs are focused on a natural watercourse, in Vancouver there are only two remaining: Still Creek and Musqueam Creek. Still Creek's ISMP is complete, and Musqueam's will be underway. Developing an ISMP for the areas excluding these two creeks requires a different approach. This approach will need to be at a higher level study than typical creek focused ISMPs. It will need to embrace the principles of rainwater and stormwater management, support the alignment of City by-laws, policies and practices, and then to provide a principle framework for the development of neighbourhood-scale plans, and to implement appropriate technologies at the time of property re-development and/or infrastructure renewal.

The Citywide ISMP will apply to the remaining ~10,000 ha of land not managed by existing and in-progress ISMPs. While there are creek and pond fragments and a historical record of where original creeks were located, the area lacks significant watercourses and tracts of riparian land around which to develop a traditional ISMP. Moreover, with rare exception, all of Vancouver's development is re-development or brown-field, and zoning and land use plans have been in place for decades. It is with these circumstances in mind that the City seeks to re-frame this ISMP as a higher level document than typical.

The Citywide ISMP will be a master document which will guide City departments in their ongoing actions and policy work into the foreseeable future. It will serve as a platform on which to implement integrated stormwater management techniques as infrastructure is renewed, and as neighbourhoods undergo community planning processes and are affected by re-zonings and re-development.

3.2.1. Scope of Work

The Citywide ISMP is to consider all of the area exclusive of the Still Creek and Musqueam Creek Watersheds as shown in Attachment 4.

This project and all of its phases requires extensive teamwork and collaboration across City of Vancouver departments. Staff from at least the following departments and their sub-units will be engaged:

- Engineering Services

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- Community Services Group
- City Manager's Office
- Vancouver Board of Parks and Recreation

Communication, learning, and exchange between City staff, and the Consultant will be critical to achieving success. As such, the Consultant will facilitate this process with the City's Project Manager. It is expected that workshops, meetings, and other types of engagement processes will be used. The Consultant shall elaborate on the tools and techniques they intend to use. Moreover, the Consultant shall illustrate in their methodology how well these tools and techniques will contribute to the ISMP.

The ISMP should be informed by consultation with an advisory group comprised of City staff and external stakeholders that have a city-wide focus/interest including representatives from academia, Vancouver Coastal Health, other relevant regulatory bodies, and non-profit advocacy groups. The consultant shall draft a list of stakeholders for consideration by the City.

The ISMP is to be generally divided into four parts.

Part 1 - "What do we have?" - Policy/paper Framework

This will be a comprehensive review, and collection of the physical, paper, and resource assets of the City that form the framework for managing stormwater in the City of Vancouver. This review is to include but not be limited to the following:

- City Business Unit Organization Charts
- By-laws
- Vancouver Charter
- Neighbourhood, community planning documents
- Landscape and Design guidelines
- Greenest City Action Plan
- Provincial, and Federal Legislation
- Metro Vancouver policy and by-laws
- Climate Change Adaptation Plan

Using this information, the existing framework of stormwater management will be inferred and illustrated by the Consultant. The Consultant is to show the relationship between various groups, the layers of responsibility, crossover, ownership, funding sources, relationships to the public, etc. This will provide Staff with an understanding of the existing state of stormwater management in the City.

A. Physical Inventory

As previously noted, wide-scale stream daylighting opportunities are limited within the Citywide boundaries. However, it is recognized that there are niches of existing opportunity to undertake feature initiatives like habitat improvement, creek daylighting, restoration, rainways, greenstreets, etc. The Consultant is to explore these possibilities with staff, and create a map and inventory showing these existing opportunities.

B. Innovative Opportunity Inventory

Part of the challenge of working within the City of Vancouver is practical non-existence of green-field development. This poses certain challenges but also provides an opportunity to innovate. The Consultant is to explore the evolving science, engineering and social environments for innovative opportunities to manage stormwater. These can cover a broad range of the City's function including but not limited to engineering design and construction, planning and finance, policy/by-laws and social policy. It is also to consider the opportunities to partner with other bodies such as the School Board, post-secondary institutions, community groups, BIAs and the like.

Part 2 - What do we want? The Vision - What the future City of Vancouver looks and works like

The Consultant, in consultation, and engagement with internal and external stakeholders is to develop a vision of rainwater and stormwater management in Vancouver which will include but not be limited to the following objectives:

- Reduce stormwater discharge to receiving waters (volume and frequency)
- Improve the quality of stormwater discharge to receiving waters
- Increase resilience to possible climate change outcomes
- Improve health of remaining natural drainage areas and receiving waters
- Increase opportunities for re-introducing open water courses in the urban environment

and incorporate the achievement of the related City interests including but not limited to:

- Reducing reliance on drinking water for non-potable uses
- Eliminating Combined Sewer Overflows
- Increasing opportunities for low-carbon energy generation from sewers
- Increasing access to naturalized environments
- Recognize historic watercourses where applicable/appropriate

Moreover, it is predicted that a myriad of other related City interests will be revealed during the consultative phase of the project in Part 2. Relevant interests are to be included in the appropriate part of the ISMP as determined by the Consultant.

Typically, a public stakeholder process supports addressing these questions. But, without a specific watershed focus such a process is seen to be unwieldy and would drown out neighbourhood level concerns amongst the diverse input from across the City. However, community visions have been developed for several neighbourhoods across the City. This planning process has been heavily reliant on public process; the consultant will distill the vision for water from each community vision plan and other related plans.

Part 3 - How do we get there?

The Consultant develop an implementation plan and investigate the tools available and required to, over time, achieve the Vision as established in Part 2.

A. Toolbox

The Consultant will describe the tools at the City's disposal. These include but are not limited to by-laws, regulations, operations, and design that can be used to affect stormwater management in the City. The Consultant is to discuss each tool in detail. This discussion is to include the following but not be limited to the following:

- Evaluation of pros and cons
- Overall effectiveness in achieving watershed vision
- Financial implications short and long-term
- Current City capacity to undertake
 - Required resources
 - Responsible work unit
- Barriers to implementation
 - Possible solutions

B. Implementation Plan

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Implementing the Vision is expected to take several decades, staff time and financial resources. The Consultant is to lay out a plan that considers a four to five decade long implementation period with an emphasis on actions and the expected results.

The implementation plan should arise from a process that includes the relevant stakeholders and that ensures stakeholder commitment to implementation. Consequently, the plan will assign action responsibility to relevant stakeholders and provide instructions to execute those actions. The implementation plan will illustrate the critical path that includes precedent and antecedent activities. It must also indicate achievement milestones and goals. The implementation plan must include a mechanism to ensure that every stakeholder has appropriate ability, and responsibility for actions and reporting outcomes.

Part 4 - How do we stay on track?

The consultant is to provide monitoring and assessment plan that will instruct the City on how to evaluate the progress of the implementation plan and keep it on course. This must be an adaptive process whereby results of monitoring and assessment are used to modify the implementation plan to ensure success.

A. Monitoring Progress, and tracking implementation

The Consultant is to answer:

- What are the milestones to success?
- How will we evaluate how well we're doing?
- What are the indicators that we're making positive changes?
- How frequently should we "check-in"
- What are the things we should be measuring and what are they now?

The Consultant will develop a framework of monitoring, metrics and milestones to track the progress of implementing the Vision. This framework needs to be comprehensive in its scope including items such as water quality parameters, and design standards and bureaucratic steps such as modification or creation of by-laws. It is to consider not only the end state but the steps required to reach it.

B. Adaptive Management

It is expected that over time, as knowledge and experience increase, that "course-corrections" will be required. Consequently, it is vital that an adaptive framework be created that takes feedback from the monitoring and uses it to make improvements to the implementation plan.

The Consultant will develop an adaptive management plan tied into the implementation plan. Using the results of the monitoring as input, the adaptive management plan will direct any changes to the implementation plan to achieve the Citywide vision within the implementation period.

Innovation and Exploration

It is expected that there will be the discovery and synthesis of many innovative and worthy ideas, processes, technologies, etc. The consultant is to include a provisional sum, to be used at the sole discretion of the City's Project Manager, for the purpose of further exploring these ideas, processes, technologies, etc. The work may include but not be limited to the following:

- Desktop research
- Additional consultations with internal and/or external stakeholders
- Field investigations such as survey, soils, water quality, ecology, etc.

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- Computer modeling

Should the City's Project Manager decide to utilize this provisional sum, the City's Project Manager will request, in writing, an estimate for the work from the consultant. The consultant is to provide an estimate based on the hourly rates in Part C - Form of Proposal. Only upon express written acceptance of the estimate will the consultant undertake the work.

This work is to be a supplement to the ISMP. The ISMP is to be complete without any of the work as result of this provisional item.

The results of this work are to be incorporated into the appropriate Part of the ISMP.

3.2.2. Deliverables

Submission 0.9

Stakeholder Engagement Plan

- List of stakeholders
- Engagement strategy
- Required resources
- Schedule

Part 1

Submission 1.0 - Draft

Submission 1.1 - Final

Part 2

Submission 2.0 - Draft

Submission 2.1 - Final

Part 3 and 4

Submission 3.0 - Draft

Submission 3.1 - Final

Final report

Submission 4.0 - Draft Citywide ISMP

Submission 5.0 - Final Citywide ISMP

Format

All submissions up to and including 3.1 are to be submitted electronically in PDF, Microsoft Office, CAD, and JPEG formats as required or approved the City's Project Manager. Submissions 4.0 and onwards are to be submitted electronically as previous submissions but are to also include 8 bound colour hardcopies.

4. CITY PROVIDED

The City will provide, on request, data and information as listed in Appendices B and C. The data is considered as-is and will be the responsibility of the Consultant to assess its accuracy and/or relevance to their work.

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The City will provide meeting rooms at the City Hall Campus and at the request of the Consultant. The Consultant is to provide the City with at least 5 working days of notice for meetings in excess of 12 persons. Meetings are to be scheduled between the hours of 9:00 AM and 16:30 PM.

5. PERFORMANCE REVIEW

The Consultant's performance of the work will be reviewed regularly by the City's Project Manager. Performance will be reviewed with regard to the following criteria:

- Compliance with the proposed schedule and submission deadlines notwithstanding any changes approved by the City Project Manager;
- Completeness and quality of the submissions as per the proposal and methodology;
- Client services as related to regular communication of project status, project budget, upcoming action items, outstanding items, forecasted issues, and other project management issues and satisfactory collegial and professional working relationship.

6. ATTACHMENTS

6.1. Attachment 1: Preliminary Stakeholder List

6.1.1. External Groups

Dunbar Residents Association
Dunbar Business Association
Musqueam Ecosystem Conservation Society
Musqueam Indian Band
Point Grey Golf Course
University Endowment Lands
Metro Vancouver
Metro Vancouver Parks
DFO
Pacific Spirit Park Society
UBC Golf Course
Camosun Bog Restoration Group
FREMP
Ministry of Transportation and Infrastructure
Wreck Beach Preservation Society
Southlands Elementary
St. Georges School

6.1.2. Internal City Staff Groups

Engineering Services Design and Operations
Community Services Group - Planning, Licenses and Inspections, Building Group
Sustainability Branch

6.2. Attachment 2: City of Vancouver Documents and Plans

Available at www.vancouver.ca :

- Green City Action Plan
- Engineering Services Strategic Plan
- City of Vancouver Zoning By-Laws
- Large Site Rezoning Policy
- City Neighbourhood and Community Plans

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- Heritage Management Plans
- City District Design Guidelines
- Sewer and Watercourse By-law
- Landuse and Development Guidelines
- Rezoning Policy
- Street Restoration Manual
- Vancouver Building By-Law (VBBL) (*Purchase only at www.bccodes.ca*)

Available upon award:

- Detailed sewer CAD/GIS Data (sizes, locations, inverts, outfalls and related appurtenances)
- Contour mapping (1m intervals)
- Aerial Photography

6.3. Attachment 3: Electronic data and reports available on DVD, as described under Sub-section 1.2 C.

- Musqueam and Cutthroat Creek Stage, Temp and Discharge Data - Sept 2000 to June 2002 Still Creek ISMP - City of Vancouver
- Still Creek Enhancement Plan - City of Vancouver
- Street Water Infiltration System (SWIS) Design Manual - City of Vancouver
- Streetscape Design Guidelines (Draft) - City of Vancouver
- Sewer Design Manual -City of Vancouver
- State of the Watershed Report on the hydrology and biological productivity of the Musqueam Creek Watershed - FSCI Biological Consultants
- Proposal to Construct Biofiltration Wetland to Treat Stormwater Entering Musqueam Creek - Musqueam Creek Committee
- Construction of a Biofiltration Wetland to Treat Stormwater Entering Musqueam Creek (FINAL) - Markus Eymann R.P. Bio

6.4. Attachment 4: Figure - ISMP Watersheds, available on DVD as described under Sub-section 1.2 C.

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PART D - FORM OF AGREEMENT

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.



PROFESSIONAL SERVICES AGREEMENT

PROFESSIONAL SERVICES FOR INTEGRATED
STORMWATER MANAGEMENT PLAN

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

BETWEEN:

CITY OF VANCOUVER
453 West 12th 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.

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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 Contract Documents, 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 Professional Services Agreement, the RFP and the Proposal, including all Appendices, Schedules and other attachments;
- (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 PS20120849 Professional Services for Integrated Stormwater Management Plan, together with all addenda and questions and answers attached as Appendix C;
- (a) **"Services"** has the meaning set out in Section 2.1;
- (b) **"Sub-contractor"** has the meaning set out in Section 4.1; and
- (c) **"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 Professional Services Agreement will be deemed to be incorporated into this Agreement. The

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

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 as approved by the City; and

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- (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:
- (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;
 - (c) in conformance with any and all Applicable Laws;
 - (d) with a high level of customer service including regular updates to work progress, outstanding items, upcoming events, budget updates, and other project related requests by the City's Project Manager;
 - (e) with an acceptable quality of delivered work related to completeness and the meeting of expectations based on the approved proposal.
- 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 schedule approved by the City and the submission deadlines;
 - (b) the requirements and appendices of this Agreement, or
 - (c) 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 Services are to be performed in two phases as follows, with the second phase being conditional on the City giving to the Consultant, as provided for below herein, an explicit written authorization to proceed with it:
- (a) Project 1 will be carried out and completed in stages as provided for in the Contract Documents by no later than November 30, 2013; and

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- (b) Project 2 will be commenced and carried out only if and after the City, on or before January 5, 2013, gives to the Consultant a written notice explicitly authorizing the Consultant to commence and carry out Project 2, in which case Project 2 will be carried out and completed in stages as provided for in the Contract Documents by no later than May 31, 2014.
- 2.7 If the City does not at any time on or before January 5, 2013, as provided for in the Agreement, give the Consultant a written notice explicitly authorizing the Consultant to commence and carry out Project 2, the Consultant will not at any time perform any Services for or in relation to Project 2, in which case the Services the Consultant will be required to perform under the Agreement will be limited solely to the Services required to carry out and complete Project 1 by itself in accordance with the Agreement and the fees and other monies payable to the Consultant under the Agreement for the Services will be limited to those payable in respect of Services performed in the carrying out and completion of Project 1 by itself as provided for in the Contract Documents, and in such circumstances the City will be entitled to engage any other person(s) that it in its sole discretion may choose to carry out and complete Project 2 without being in any way obligated to pay the Consultant any compensation of any kind in connection therewith.
- 2.8 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**
- 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.

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- 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.
- 4.4 Nothing in this Agreement will create any contractual relationship between a Sub-contractor and the City.
- 5.0 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 of the Agreement, the City will pay the Consultant fees for the Services and reimbursable expenses incurred in the performance of the Services ("disbursements"), plus HST, as applicable, as prescribed in the Agreement.
- 5.2 Subject to the other provisions of this Section 5.0, payment to the Consultant for professional fees will be based on hours worked by the Consultant and employees of the Consultant and by Sub-contractors multiplied by the applicable hourly charge-out rates in the Agreement.
- 5.3 The fees to be paid for the Services are set out in **[reference section of the Proposal or schedule to this Agreement]**, and, subject to the Fixed Disbursement Amounts, 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.
- 5.4 If the Consultant engages Sub-contractors, then the Consultant will make full payment to said Sub-contractors for work performed in relation to the Services, and, subject to the other provisions of this Section 5.0, 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. All such payments will be Consultant disbursements under the provisions of this Section 5.0.
- 5.5 If anywhere in the Agreement there are limitations for fees and disbursements for the Services or parts thereof, then notwithstanding anything to the contrary in this Agreement the maximum amounts to be paid by the City to the Consultant for fees and disbursements for the Services or portions of the Services will not exceed the limited amounts. Where additional fees and/or disbursements 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.
- 5.6 Notwithstanding anything else in the Agreement, but subject to Section 6.0:
- (a) the total professional fees payable to the Consultant for the Services (not including HST or disbursements) will not exceed:
- (i) for Project 1: **[\$[insert amount]]**; and

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- (ii) for Project 2, if authorized by the City in accordance with Section 2.6: **[\$insert amount]**; and
- (b) the total disbursements for which the City will reimburse the Consultant (“Fixed Disbursement Amounts”) will not exceed:
- (i) for Project 1: **[\$insert amount]**; and
- (ii) for Project 2, if authorized by the City in accordance with Section 2.6: **[\$insert amount]**.
- 5.7 Notwithstanding anything to the contrary contained in this Agreement, but subject to Section 6.0, the maximum liability of the City to the Consultant under the Agreement (the “Maximum Fees and Disbursements”) will be:
- (a) for Project 1: **[\$insert amount]**, plus HST, as applicable; and
- (b) for Project 2, if authorized by the City in accordance with Section 2.6: **[\$insert amount]**, plus HST, as applicable.
- 5.8 The Consultant will, by no later than the 10th of the month, provide to the City’s Project Manager a draft invoice with the attached detailed account of all charges, to be claimed by the Consultant for the previous 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 the draft invoice. The Consultant will submit the 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. The invoice must contain and include:
- (a) Consultant name, address and telephone;
- (b) City purchase order number;
- (c) City Project Manager and department;
- (d) invoice number and date; and
- (e) HST registration number;
- (f) the names, hours worked and hourly (or daily) rates of all Consultant’s Personnel that have provided Services for each Deliverable that month;
- (g) the total amount of previous payments made by the City for each Deliverable;
- (h) the percentage completion for each Deliverable; and
- (i) the applicable amount of the HST; and
- (j) attached copies of:
- (i) invoices for all expenses claimed, categorized according to Deliverable;
- (ii) confirmation of payments made to Sub-Consultant(s) for the previous month for each Deliverable; and

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(iii) a brief report detailing work completed to date, work completed during the month covered by the invoice and work outstanding to complete each Deliverable.

5.9 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.

5.10 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.

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- 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 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.
- 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,

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plans, drawings, or specifications, is provided to the Consultant for information purposes only and may not be relied upon by the Consultant.

11.0 COMMUNICATION BETWEEN CONSULTANT AND CITY

11.1 The City appoints Andrew Ling [andrew.ling@vancouver.ca] as the City's Project Manager for the purposes of this Agreement.

In the event of the revocation in writing of Andrew Ling's appointment as the City's Project Manager by the City, Andrew Ling 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 Andrew Ling, 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 in accordance with this Agreement (the "Term").

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 \$1,000.00 (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:

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- (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.

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.

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- 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;
- 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;

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- (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 Section [insert] unless advised otherwise by the City.
- 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.

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- 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 12th 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 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.

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- 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.
- 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

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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.

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.

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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

Nick Kassam
Director, Supply Chain Management

Peter Judd
General Manager, Engineering Services

[NAME OF CONSULTANT]

Authorized Signatory

Print Name and Title

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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 \$2,000,000 per claim, an aggregate of not less than \$3,000,000 and a deductible of not more than \$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 \$2,000,000 per occurrence, an aggregate of not less than \$2,000,000 and a deductible of not more than \$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,

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 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.

A1.4 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.

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A1.5 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.

A1.6 Insurance Certificates

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 two Certificates of Insurance. The Certificates 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 Certificates 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.

The Commercial General Liability Insurance Certificate and Professional Liability Insurance Certificate are attached right after this Appendix A and should be completed by the Consultant within five days upon receipt of the Notice of Award.

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PROFESSIONAL LIABILITY INSURANCE CERTIFICATE

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:

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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

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

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LIABILITY INSURANCE CERTIFICATE

Section 2 through 7 – 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 (policies) as listed herein has/have been issued to the Named Insured and is/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)]

BUSINESS TRADE NAME OR DOING BUSINESS AS

BUSINESS ADDRESS

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

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3. COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)

Including the following coverages:

Personal Injury

Check Additional Extensions where applicable and

included:

Cross Liability or Severability of Interest

Work below ground level over 3 metres

Employees as Additional Insureds

Excavation, shoring, underpinning, pile driving or caisson

Blanket Contractual Liability

Demolition, removal or weakening of support of property

Broad Form Products and Completed Operations

Blasting

Broad Form Property Damage including Loss of Use

Operation of hoist or attached machinery

Non-Owned Auto Liability

24 months Completed Operations

INSURER: _____ POLICY NUMBER: _____

POLICY PERIOD: FROM: _____ To: _____

LIMITS OF LIABILITY (Bodily Injury and Property Damage Inclusive):

Per Occurrence \$ _____ Aggregate \$ _____

Deductible Per Occurrence \$ _____ All Risk Tenants' Legal Liability \$ _____

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

INSURER: _____

LIMITS OF LIABILITY:

POLICY NUMBER: _____

Combined Single Limit: \$ _____

POLICY PERIOD: From _____ to _____

If vehicles are insured by ICBC, complete and provide

Form APV-47.

5. 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 \$ _____

6. OTHER INSURANCE (e.g. Contractors Equipment, Crime, etc.) – Please specify Name of Insurer(s), Policy Number, Policy Period, and Limit

7. 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 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 liability 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

Date _____

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

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APPENDIX B - PROPOSAL
(TO BE ATTACHED IF AWARDED THE CONTRACT)

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APPENDIX C - RFP