



REQUEST FOR PROPOSAL

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

RFP No. PS20120986

Issue Date: October 30, 2012

Issued By: City of Vancouver

REQUEST FOR PROPOSAL NO. PS20120986
CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

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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; and
- (d) PART E - 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.

2.0 KEY DATES

2.1 Proponents should note the following key dates:

Event	Time/Date
Deadline for submission of Information Meeting Response form	November 9, 2012 at 3:00 pm
Information Meeting	November 13, 2012 at 9:00am - 951 Boundary Road, Vancouver, BC
Deadline for Enquiries	November 20, 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	November 27, 2012

3.0 CONTACT PERSON

3.1 The Contact Person for this RFP is:

Linda Roussy

Contracting Specialist

Fax: 604-871-7057

Email: purchasing@vancouver.ca

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PART A - INTRODUCTION

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

Rotunda (Information Desk)
453 West 12th Avenue
Vancouver, B.C.
V5Y 1V4

Proposals submitted by fax or email will not be accepted.

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PART B - INSTRUCTIONS TO PROPONENTS

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

Taylor Manor is a City-owned, heritage Class “B” designated, Tudor Revival style building. It was originally constructed in 1915 and previously functioned as a long term care facility. The existing 2 story wood frame and partial concrete basement structure has remained largely vacant since 2000 with the exception of periodic short-term rentals to the film industry.

The proposed design has the existing heritage building accommodating approximately 17 dwelling units plus other programmatic requirements and the new addition or annex building will house approximately 39 new units for a combined total of 56 supportive housing units. Typical units would be standard, studio type apartments of approximately 320 ft² (29.7 m²) including a bathroom and kitchenette. The estimated construction budget is \$8,000,000.00.

The facility will include user amenities such as: a common dining area including a commercial type kitchen, lounge/TV room, library/reading areas, computer alcoves, operator administration areas, restrooms, decontamination sauna, laundry facility, bicycle storage, building storage, maintenance and janitor rooms. The exterior spaces will include an interior courtyard, barbecue deck, community garden and parking at grade.

The project includes the retention of a majority of the existing heritage exterior and interior elements, the addition of a new annex to the west of the existing building creating a large, “secure”, central courtyard for user activities. The preliminary estimates of approximate gross areas are as follows:

Site Area:	117,600 sq. ft. (10,925 sq. m)
Existing Building:	19,926 sq. ft. (1,851 sq. m)
New Annex Building:	21,004 sq. ft. (1,951 sq. m)
Total combined Building:	40,930 sq. ft. (3,802 sq. m)

Building Condition Report for Taylor Manor, Feasibility Study and Schematic Design have been completed by Merrick Architecture and their team of consultants. An Environmental Site assessment has been completed and a UST has been removed from the site.

Merrick Architecture has been awarded the contract to complete the Design and provide Construction Administration services for the project. Hazardous Materials consultant - Sure Hazmat and Testing, has been contracted directly by the City for Design and Construction Administration for Hazmat abatement.

- 1.1 The purpose of this RFP is to select a Proponent with the capability and experience to efficiently and cost-effectively satisfy and deliver all of the requirements described in this RFP.
- 1.2 The successful Proponent will be the Proponent who offers the best value which will be assessed in the City’s sole and absolute discretion as a combination of experience, pricing,

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scope, duration and level of services offered, proposed innovative design, and operations and maintenance enhancements.

1.3 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 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.

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

2.0 ADMINISTRATIVE REQUIREMENTS

2.1 It is the sole responsibility of all Proponents to check the City's website at: <http://www.vancouver.ca/fs/bid/bidopp/openbid.htm> regularly for amendments, addenda, and questions and answers to this RFP. Documents will be pass word protected for pre-qualified vendors only.

3.0 INFORMATION MEETING

3.1 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: 951 Boundary Road, Vancouver, BC

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.

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

3.3 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 604-871-7057 or e-mail to purchasing@vancouver.ca by November 9, 2012.

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- 3.4 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.
- 4.0 CONDUCT OF RFP - INQUIRIES AND CLARIFICATIONS
- 4.1 The City's Director of Supply Management will have conduct of this RFP, and all communications shall be directed only to the Contact Person.
- 4.2 It is the responsibility of all Proponents to thoroughly examine these documents and satisfy themselves as to the full requirements of this RFP. Inquiries shall be in written form only, e-mailed 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.
- 5.0 CONTRACT REQUIREMENTS/DEVIATIONS AND VARIATIONS
- 5.1 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.
- 5.2 Where the head office of the successful Proponent is located within the City of Vancouver and/or where the successful Proponent is required to perform any work at a site located within the City of Vancouver, the successful Proponent is required to have a valid City of Vancouver business license prior to signing the Agreement.
- 6.0 PRICING
- 6.1 Pricing is to be submitted, as part of the Commercial Proposal, in a separate envelope/package from the Management Proposal.
- 6.2 Prices quoted are to be exclusive of HST but inclusive of all other costs including, without limitation, freight, unloading at destination, import duties, taxes (other than HST), brokerage fees, royalties, handling, overhead and profit.
- 6.3 Prices shall be quoted in Canadian currency.
- 7.0 SUBMISSION OF PROPOSALS
- 7.1 The submission instructions for Proposals are provided in Part C - FORM OF PROPOSAL. Proposals should be submitted in a two envelope/package system (Commercial Proposal and Management Proposal, as separate envelopes/packages) clearly marked with the *Proponent's Name, the RFP title and the RFP reference number. The Commercial Proposal and Management Proposal should be clearly identified and distinguishable.*
- 7.2 Proponents should submit one (1) "original" hard copy of their Proposal in two parts as further described in PART C - FORM OF PROPOSAL (Management Proposal and Pricing Proposal) secured with a bull clip, no staples, no punch holes and on letter size white paper, with each section tabbed and including all accompanying schedules, appendices and addenda. Proponents should also submit one electronic copy of their Proposal in the same format described above on one (1) CD or flash drive. The original hard copy will take precedence.

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- 7.3 Only the English language may be used in responding to this RFP.
- 7.4 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.
- 7.5 Amendments to a Proposal should be submitted in writing in a sealed envelope(s) or package(s), marked with the Proponent's name and the RFP title and reference number before the Closing Time.
- 7.6 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 7.7 All costs associated with the preparation and submission of the Proposal, including any costs incurred by the Proponent after the Closing Time, will be borne solely by the Proponent.
- 8.0 PROPOSAL FORMAT
- 8.1 Unnecessarily elaborate Proposals, beyond that sufficient to present a complete and effective response, are not required and unless specifically requested, the inclusion of corporate brochures and narratives are discouraged.
- 8.2 Proponents are requested to provide their Proposal in the format and including the content described in PART C - FORM OF PROPOSAL.
- 9.0 BID SECURITY
- 9.1 No bid security is required since no irrevocable binding legal offer is made by submitting a proposal in response to this RFP.
- 10.0 OPENING OF PROPOSALS
- 10.1 The City reserves the right to open all Proposals in a manner and at the time and place determined by the City.
- 11.0 EVALUATION OF PROPOSALS
- 11.1 Proposals will be evaluated by representatives of the City on the basis of the overall best value to the City based on quality, service, sustainability, price and any other criteria set out in this RFP including, but not limited to:
- (a) the Proponent's ability to meet the CM scope of work requirements and provide value for CM services;
 - (b) innovative concepts presented by the proponent;
 - (c) the Proponent's skills, knowledge and experience in delivering CM services on similar projects;
 - (d) the proposed methodology for achieving a cost effective project schedule and how the project constraints will be incorporated into the schedule;
 - (e) the Proponent's ability to meet the City's insurance requirements;
 - (f) Proponents ability to effectively deal with all environmental issues affecting the project;

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- (g) quality of Proposal;
 - (h) experience and qualification of Project Manager on similar projects;
 - (i) experience and qualification of proposed Site Superintendent
 - (j) demonstration of ability to provide quality assurance & quality control processes throughout construction
 - (k) interview of CM and key personnel for this project
- 11.2 The City reserves the right to retain complete control over the RFP process at all times until the execution and delivery of the Agreement. Accordingly, the City is not legally obligated to review, consider or evaluate the Proposals and need not necessarily review, consider or evaluate the Proposals in accordance with the procedures set out in this RFP. The City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation process on any or all Proposals at any time without further explanation or notification to any of the Proponents subject only to the express legal terms and conditions which bind the City.
- 11.3 The City may, at any time prior to signing a contract, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 11.4 The City may elect to short list Proponents and evaluate the Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, which may include attending interviews, making a presentation, supplying sample drawings, performing demonstrations, furnishing additional technical data and proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate all or any one set of negotiations with the short-listed Proponents.
- 11.5 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. Proponents may be asked to provide annual financial reports or a set of financial statements prepared by an accountant and covering the Proponent's last two fiscal years.
- 11.6 The City may request that any or all Sub-contractors of the Proponent undergo the same evaluation process.
- 12.0 PROPOSAL APPROVAL
- 12.1 Proposal approval is contingent on funds being approved and the Proposal being approved by Vancouver City Council. Only then may the successful Proponent and the City proceed to settle, draft and sign the Agreement.
- 12.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle and invite the Proponent to proceed with discussions to settle, draft and sign the Agreement.
- 12.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at any time.

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- 12.4 Notwithstanding any other provision in the RFP documents, the City has in its sole discretion, the unfettered right to:
- (a) accept any Proposal;
 - (b) reject any Proposal;
 - (c) reject all Proposal;
 - (d) accept a Proposal which is not the lowest proposal;
 - (e) accept a Proposal that deviates from the Requirements or the conditions specified in this RFP;
 - (f) reject a Proposal even if it is the only Proposal received by the City;
 - (g) accept all or any part of a Proposal; and
 - (h) split the Requirements between one or more Proponents.
- 13.0 ALTERNATE SOLUTIONS
- 13.1 If in addition to proposing services which meet the Requirements, the Proponent wishes to offer an alternative, the alternative solution is to be submitted separately as an appendix within the Management Proposal. Any pricing impact of the alternate solution should be provided separately in the Commercial Proposal.
- 14.0 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
- 14.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.
- 15.0 NON-RESIDENT WITHHOLDING TAX
- 15.1 Please note that the *Income Tax Act* (Canada) requires that payments to non-residents for any services performed in Canada are subject to a Non-resident Withholding Tax of a specified 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.
- 16.0 NO OBLIGATION ASSUMED BY CITY
- 16.1 Unless expressly stated in this RFP, the City assumes no legal duty or obligation in respect of this RFP unless and until the City enters into the Agreement.
- 16.2 The Proponent agrees that the Proponent will bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP.
- 17.0 NO CLAIM AGAINST THE CITY
- 17.1 The Proponent acknowledges and agrees that the City will not be responsible for any costs, expenses, Losses, damages (including damages for loss of anticipated profit) or liabilities

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incurred or alleged to be incurred by the Proponent and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim whatsoever.

18.0 RELEASE AND INDEMNITY

18.1 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.

19.0 DISPUTE RESOLUTION

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

- (a) The 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 17.0 (No Claim) and Section 18.0 (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.

20.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

20.1 All RFP packages and addenda provided to the Proponent by the City remain the property of the City and must be returned to the City upon request.

20.2 The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal.

21.0 CONFIDENTIALITY

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

21.2 The Proponent irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the

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City for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

- 21.3 The Proponent will not divulge or disclose to any third parties any information concerning the affairs of the City which may be communicated to the Proponent at any time (whether before or after the Closing Time). Recognizing the need for confidentiality of the City's data, files and other confidential information, the Proponent will not use, exploit or divulge or disclose to third parties any confidential or proprietary information of the City of which the Proponent may gain knowledge in connection with or in the course of discussions or negotiations with the City.
- 21.4 All material and information that has or will come into the Proponent's possession or knowledge in connection with this RFP process is confidential and may not be disclosed or utilized in any way except as expressly provided in the RFP.
- 21.5 The Proponent may not divulge any information respecting the RFP process to any third party without the prior written consent of the City, which consent may be arbitrarily withheld unless it is information which the City has already made public or has been required to disclose pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).
- 22.0 NO PROMOTION
- 22.1 The successful Proponent must not disclose or promote its relationship with the City, including by means of any verbal declarations or announcements and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials, without the express prior written consent of the City (except as may be necessary for the successful Proponent to perform the successful Proponent's obligations under the terms of the Agreement).
- 23.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT
- 23.1 All of the terms of this PART B - INSTRUCTIONS TO PROPONENTS which by their nature require performance or fulfillment following the conclusion of the Proposal process will survive such issuance and will remain legally enforceable by and against the Proponent and City.
- 24.0 DEFINITIONS
- 24.1 For greater certainty and without limitation to any of this City's rights set out in this 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.
- 24.2 In this RFP, the following terms have the following meanings:
- (a) "Agreement" means the contract entered into between the City and the successful Proponent following the conclusion of the RFP process 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;

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- (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 project described in RFP No. PS20120271 Construction Management Services for PNE Livestock Building - Phase 1 - Roof Replacement;
- (h) "Proponent" means those entities eligible to participate in this RFP process;
- (i) "Proposal" means a proposal submitted in response to the RFP;
- (j) "Proposal Declaration Form" means the form to be included in the Commercial Proposal substantially as set out in PART C-FORM OF PROPOSAL, or as otherwise acceptable to the City;
- (k) "Requirements" means the City's requirements for the work to be performed by the successful Proponent as set out in Schedules 1, 2 and 3 - Scope, Specifications and Drawings, respectively, of the Form of Agreement;
- (l) "RFP" means the documents issued by the City as Request for Proposal No. PS20120271 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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PART B - INSTRUCTIONS TO PROPONENTS

APPENDIX 1 - PART B



FINANCIAL SERVICES GROUP
Supply Management

Request for Proposal No. PS20120986 - Construction Management Services for Taylor Manor
Redevelopment

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.

Linda Roussy

Contracting Specialist

Fax: 604-871-7057 Email: purchasing@vancouver.ca

Your details:

Proponent's Name:

"Proponent"

Address:

Key Contact Person:

Telephone:

Fax:

E-mail:

Incorporation Date:

Our company WILL / WILL NOT attend the information meeting for "RFP No. PS20120986
Construction Management Services for Taylor Manor Redevelopment"

Name of Company (Please print)

Authorized Signatory

E-mail Address (Please print)

Date

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PART C - FORM OF PROPOSAL

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) Sub-Contractors;
- (d) Requirements Overview;
- (e) Project Timeline;
- (f) Environmental Responsibility; and

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.

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PART C - FORM OF PROPOSAL

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 this PART D - PROPOSAL DECLARATION FORM, or as otherwise acceptable to the City.

2.2 Pricing

Fixed Fees

2.2.1 Pre-Construction Services

Proponents are to provide (in a separate sealed envelope) a fixed all-inclusive fee for providing all of the Phase One Pre-Construction Services outlined in Schedule A - Requirements and further detailed in the CMSA.

2.2.2 Construction Services

Proponents are to also provide (in a separate sealed envelope) a fixed all-inclusive fee for the Construction Manager's components of the Construction Contract for the Project (based on the estimated Construction Budget set out in this RFP) as follows:

- Construction Manager's own forces work (detailing what is included and excluded from this category)
- Construction Management Fee
- 50% Performance Bond and Labour & Material Payment Bond
- Commercial General Liability Insurance
- Professional Liability Insurance
- Builders Contingency
- Total Construction Management and General Conditions Fee for all work, bonds and insurance not provided by sub-contractors

The above pricing is to be based on competitively procured prices from at least 3 reputable sub-contractors for each sub-trade for all sub-contractors' work with no hidden fees, contingencies, or additions included in such sub-contractor bids. The estimated construction budget is \$8,000,000.00.

2.2.3 Hourly Rates/Breakdown of Fees

Proponents are to also provide the following:

1. Schedule of Hourly Rates for all Construction Manager and sub-contractor personnel for changes (increases and decreases) in Project Scope.
2. Budget estimate for disbursements with a breakdown for each project component and a breakdown for each sub-contractor.
3. List of typical disbursements anticipated and the % administrative overheads applied.

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2.2.4 Adjustment Formula

The stipulated lump sum price for the Construction Contract, including all amounts payable to the Construction Manager, is currently estimated to be \$6million, based on the Project information presently available. It is anticipated that the Construction Contract will contain provisions for the adjustment of the Construction Management fee and General Conditions cost in the event that the stipulated lump sum price for the Construction Contract exceeds \$6 million. Such provisions will provide that the total amount payable to the Construction Manager will be adjusted in the manner set out by the Proponent in this Part C, 2.2 - Pricing of the Proposal. Proponents are to therefore propose a formula or other basis on which to adjust their Phase Two Fee in this event.

2.3 **Alternative Pricing Solutions:**

2.3.1 Proponents may offer alternative pricing options and payment plan. However, these should be offered in addition to and not in lieu of the pricing requested.

The City's standard payment terms are net 30 days after receipt of approved invoice, however and discounts or more favorable 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.

2.3.2 *Alternative Pricing Solutions*

Proponents may offer alternative pricing options.

2.4 **Insurance Requirements**

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

2.4.3 The successful Proponent will be required to file certificates of insurance with the City showing proof of all insurance requirements described utilizing the "Certificate of Professional Liability Insurance" attached as Appendix A 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.

2.5 **WorkSafeBC Requirements**

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

2.6 **Deviations and Variations**

2.6.2 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.

2.6.3 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

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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.

3 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.

3.3 Company Profile

3.3.2 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.

3.3.3 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)

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 CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
 PART C - FORM OF PROPOSAL

3.4 Key Personnel

- 3.4.2 Identify and provide resumes for the key personnel in the Proponent’s proposed team and outline what their roles will be in servicing this Project.
- 3.4.3 Include a list of at least three relevant and successfully completed projects, with references and telephone numbers for each. By submitting a Proposal, the Proponent consents to the City contacting these references at its discretion, and consents to the City also contacting any other organization for the purposes of evaluating the Proposal.
- 3.4.4 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.
- 3.4.5 Preference will be given to proponent’s consulting teams that demonstrate knowledge and experience involving Contract Management. 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.

3.5 Sub-Contractors

- 3.5.2 The Sub-Contractors shown below are the Sub-Contractors (if any) that the Proponent proposes to use to carry out the Phase One Pre-Construction Services Requirements. The COV expects that the Proponent will engage the listed Sub-Contractors (if any) and no others in their stead, without prior written authorization of the COV. (For contractual requirements, Proponents should note the relevant sections of the Construction Management Services Agreement.) If no Sub-contractors will be used, indicate “Not Applicable”.

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

3.6 Requirements Overview

- 3.6.2 Schedules 1 to 3 - Requirements, Scope and Reference Material of the Form of Agreement provided the Requirements and scope for the work to be completed by the successful Proponent:
 - 3.6.2.1 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, specifications and drawings.
 - 3.6.2.2 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 favorably considered in evaluating all Proposals.

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PART C - FORM OF PROPOSAL

3.7 Project Timeline

In the Proposal, the Proponent should provide the following:

- Proponents are requested to provide a detailed schedule which reflects their scheduling strategies including a breakdown of the sub-tasks necessary to complete each of the deliverables required and a detailed plan of approach and description of the services proposed,
- The working schedule should include outlining of milestone dates for completion of each sub-task and each deliverable as well as all dates of meetings, workshops and consultations described in this RFP or referred to in the Proponent's proposal. The work schedule should incorporate a three week review time for the COV staff to provide comments on draft versions of all deliverables.

3.8 Deviations and Variations

Proponent(s) shall use Appendix B – Proposal, to detail any deviations and/or variations from the terms and conditions set out in this RFP and if applicable, detail proposed amendments.

Where the Proponent is proposing the use of contract language or clauses other than those set out in the Professional Services Agreement, such clauses should be attached to Appendix B - Proposal.

REQUEST FOR PROPOSAL NO. PS20120986
 CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
 PART C - FORM OF PROPOSAL

To the COV,

The Proponent(s), having carefully examined and read the RFP, including the Construction Management Services Agreement and its Schedules, now submits the following Proposal:

1.0 Required Documents

If the documents listed below do not accompany the Proposal, the Proposal may or may not be put aside and given no further consideration:

Description	Required	Received
Certificate of Existing Commercial General Liability Insurance Policy	Yes	
SECTION 2.0 Compliance	Yes	
SECTION 3.0 Required Proposal Documents	Yes	
WCB Registration Numbers for each corporate entity comprising the Proponent	Yes	

To be initialled at Proposal Opening:

 City Clerk

 Contracting Specialist

REQUEST FOR PROPOSAL NO. PS20120986
 CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
 PART C - FORM OF PROPOSAL

2.0 Compliance

By initialling each item, the Proponent acknowledges it has read and understands the Requirements, has submitted the required addenda, has identified deviations or alternatives, and provided an explanation of where it does not comply with the Requirements.

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

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 CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
 PART C - FORM OF PROPOSAL

3.0 Required Proposal Documents

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

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>Proposal Form, Part C,</u> Legal Terms and Conditions		
<u>Schedule 1</u> Requirements		
<u>Part C</u> Pricing		
<u>Part C</u> Project Schedule		
<u>Part C</u> Deviations and Variations (including express confirmation of acceptance or detailed response to CMSA, and Construction Contract)		
<u>Part C</u> Sub-Contractors		

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CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
PART C - FORM OF PROPOSAL

4.0 Proponent's Declaration and Acknowledgment

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

IN WITNESS TO THE ABOVE, the Proponent has executed this Proposal Form and the attached Schedules:

Authorized Signatory for the Proponent	Date
--	------

Name and Title (*please print*)

REQUEST FOR PROPOSAL NO. PS20120986
CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
PART D - 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.]

REQUEST FOR PROPOSAL NO. PS20120986
CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
PART D - PROPOSAL DECLARATION FORM

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) Construction Management Services for PNE Livestock Building - Phase 1 - Roof Replacement 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)

REQUEST FOR PROPOSAL NO. PS20120986
CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT
PART E - FORM OF AGREEMENT

PART E - FORM OF AGREEMENT

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

See Attached

APPENDIX A1 - EXISTING INSURANCE

APPENDIX A2 - GENERAL INSURANCE

APPENDIX B - PROPOSAL

SCHEDULE 1 - CM REQUIREMENTS

SCHEDULE 2 - SCOPE OF WORK

SCHEDULE 3 - SPECIFICATIONS AND DRAWINGS (REFERENCE MATERIAL ONLY)

(SEE ATTCHED)

NO. PS20120986

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT



CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

FOR

NO. PS20120986

**CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR
REDEVELOPMENT**

Standard Construction Document - CCA 5 - 1998 (Modified)

this agreement made this 10 day of August in the year 2012.

BETWEEN: CITY OF VANCOUVER

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

hereinafter called the "Owner"

AND:

hereinafter called the "Construction Manager"

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

witness: that the parties agree as follows

ARTICLE A-1 INTERPRETATION

In this Agreement, the following terms will have the following meanings:

- (a) “Consultant” means the firm Merrick Architecture - Borowski Sakumoto Fligg Limited retained by the Owner and who shall be responsible for the development of the design of the Project. The prime consultant services, duties and responsibilities are separately described in an Agreement between the Owner and prime consultant.
- (b) “Construction Contract” means the contract anticipated to be agreed upon and signed by the Owner and Construction Manager as further described in A-5 THE SCOPE OF THE PROJECT/SERVICES.
- (c) “Construction Manager” means the person, firm or corporation identified as such in the Agreement.
- (d) “Construction Phase” means the phase of the Project starting on the date on which the Construction Contract is signed.
- (e) “Place of the Project” means Vancouver, British Columbia.
- (f) “Pre-Construction Phase” means the phase of the Project prior to the Owner and Construction Manager agreeing upon and signing the Construction Contract. It is during the Pre-Construction Phase that the Construction Manager will provide the Services set out in this Agreement.
- (g) “Project” means the construction of Hastings Park Livestock Building as generally described in Appendix “A” to this Agreement.
- (h) “Services” means the services to be provided by the Construction Manager to the Owner as set out in A-3 THE CONSTRUCTION MANAGEMENT TEAM, A-4 THE CONSTRUCTION MANAGER AS AGENT, and A-5 THE SCOPE OF THE

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

PROJECT/SERVICES.

ARTICLE A-2 SERVICES AND RESPONSIBILITIES

- (a) The Construction Manager now agrees to provide the Services.
- (b) The Owner shall be responsible for the development of the design of the Project and has retained the Construction Manager to carry out this task.

ARTICLE A-3 THE CONSTRUCTION MANAGEMENT TEAM

- (a) The Construction Manager, along with the Owner and the Consultant, shall form the “Construction Management Team” which will work from the commencement of the Pre-Construction Phase through to the start of the Construction Phase.
- (b) The Construction Manager shall provide leadership to the Construction Management Team on all matters relating to construction.

ARTICLE A-4 THE CONSTRUCTION MANAGER AS ADVISOR

- (a) The Construction Manager represents that he is knowledgeable and experienced in the management of the type of construction required for the Project. The Construction Manager acknowledges that he is being retained by the Owner because of his knowledge and expertise in that regard.
- (b) The Owner appoints the Construction Manager his agent to act in his name in accordance with the terms of this Agreement but only for the purposes of representing the Owner's interests on construction matters to the Consultant and under no circumstances is the Construction Manager authorized to act as the agent for or to represent the Owner to any other third parties, including without limitation, prospective sub-trades unless and until the Construction Contract is agreed upon and signed (and then only as set out in the Construction Contract).

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

ARTICLE A-5 THE SCOPE OF THE PROJECT

The scope of the Project is as generally described in Schedule 2 - Scope of Project.

Phase One: Pre-construction Services

The Construction Manager is to provide Phase One Pre-Construction services for a fixed fee including:

- a) Work with the Prime Consultant and sub-consultants to review design and construction drawings and specifications including but not limited to proposed details, materials, systems, etc. as they relate to constructability and the construction budget throughout the design development and construction documentation phases of the project with particular emphasis placed on this service during the cost estimate phases of the work.
- b) Produce one (1) class 'A' cost estimate at 98% construction documentation.
- c) Assist Supply Chain Management in procuring bids from trade contractors for the work – provide confirmation that no additional management fees have been added as contingencies or other such additions to sub-contract prices.
- d) The contract for Phase One Pre-Construction Services will be Construction Management Services Agreement attached as Part E to this RFP: CCA 5 - 1998 (Modified).

Phase Two: Construction Services

If a Construction Contract is successfully concluded between the COV and the Construction Manager (as further set out in the CMSA), then the Construction Manager will then act as the General Contractor to build the Project on a stipulated price basis as set out in the 2 - 2008 & modified Supplemental General Conditions provided to the Proponents as an addendum to this RFP.

As set out in the CCDC2 - 2008 & modified Supplemental General Conditions, the Construction Manager/General Contractor will be solely and fully responsible for:

- a) Coordinating all trade sub-contractors
- a) Providing cost control and detailed billing
- b) Providing site supervision and coordinating the construction site with the

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

ongoing operations of the COV

- c) Providing a fully complete Project that meets the requirements of the Construction Documents including all COV general requirements
- d) Providing and complying with the warranty obligations

The Construction Manager and Owner acknowledge their intent to negotiate the Construction Contract as a stipulated price lump sum contract using:

1. The Supply Chain Management and sub-trade bids obtained and approved by the Owner and Construction Manager.
2. An allowance for the Construction Manager's own forces work.
3. The Contractor's fee and cost of General Conditions.
4. Other reimbursable costs.

Moreover, the Construction Contract is expected to include in the stipulated lump sum price the following components:

1. General Conditions costs, including Labour and Material Payment and Performance Bonds, Insurance, and all other items as per the Construction Manager's proposal totalling \$1,08,550.00 for Phase 1, based on 5 months. Phase 2 monthly fee of \$21,250.00.
2. Construction Management fee totalling \$45,000.00 for Phase 1 and \$65,000.00 for Phase 2 inclusive of all ancillary costs.
3. The total Construction Management fee and General Conditions cost payable to the Construction Manager will not exceed the agreed upon fixed price currently estimated to be \$168,550.00 for Phase 1.

The stipulated lump sum price for the Construction Contract, including all amounts payable to the Construction Manager, is currently estimated to be up to \$8 million, divided into two or more phases based on the Project information presently available.

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

It is anticipated that the Construction Contract will contain provisions for the adjustment of the Construction Management fee and General Conditions cost in the event that the stipulated lump sum price for the Construction Contract exceeds \$8 million. Such provisions will provide that the total amount payable to the Construction Manager will be adjusted in the manner set out in Part C - Pricing of the Proposal.

Despite any other term of this Agreement, neither party will be bound to agree upon or sign the Construction Contract unless both parties agree to the terms and conditions of same. With respect to the Construction Phase of this Project, the Owner reserves the complete and unfettered right to cancel the Project at any time, reduce or increase the scope of the Project, modify the Project in any way and either start, stop or modify its negotiations with the Construction Manager for the Construction Contract at any time prior to signing the Construction Contract, including without limitation issuing a Request for Proposals or Invitation to Tender on the Construction Contract or any portion of same to third party construction managers and either including or excluding the Construction Manager in such processes.

Under no circumstances will the Owner be liable to the Construction Manager for any of the Construction Manager's costs of providing the Services nor for the Construction Manager's costs of negotiating or preparing anything in contemplation of signing a Construction Contract except as set out in A-6 CONTRACT FEE and A-9 PAYMENT and the Construction Manager now releases the Owner from all costs and liability in connection with the Project accordingly. This release will not apply to the Owner's obligations under the Construction Contract once the parties have agreed upon and signed same.

ARTICLE A-6 CONTRACT FEE

- (a) The Owner agrees to pay the Construction Manager as compensation for the Services the fixed price of _____ in Canadian funds (the "Pre-Construction Fee").
- (b) Payment of the Pre-Construction Fee will be made in accordance with the provisions of ARTICLE A-9 PAYMENT.

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

ARTICLE A-7 REIMBURSABLE EXPENSES

The Pre-Construction Fee is all-inclusive and the Construction Manager will not be separately compensated for any disbursements or other out-of-pocket costs of any kind.

ARTICLE A-8 OWN FORCES WORK

DELETED - NOT APPLICABLE

ARTICLE A-9 PAYMENT

(a) The Construction Manager will invoice the Owner on the 15th day of each month following the month in which the Services have been delivered. Such invoice will be reasonably detailed so as to provide sufficient evidence to the Owner that the Services required for the month have been delivered and performed in accordance with this Agreement. The Owner will pay each correct invoice within 30 days of its receipt. The Services are expected to be delivered over the anticipated two month period representing the Pre-Construction Phase and so the parties anticipate that each invoice will likely be issued for approximately _____ for each of the two months.

(b) If the Owner fails to make payments to the Contractor as they become due under the terms of this Agreement, interest at ONE per cent (1%) above the prime rate per annum as of the date payment became due on such unpaid amounts shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly. Prime rate, for the purposes of this Agreement, means the lowest rate of interest quoted by the Royal Bank of Canada from time to time in the Owner of Vancouver to the most creditworthy borrowers for prime business loans.

ARTICLE A-10 RIGHTS AND REMEDIES

(a) The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a substitution for

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

any duties, obligations, rights and remedies otherwise available by law.

- (b) No action or failure to act by the Owner or Construction Manager shall constitute a waiver of any right or duty afforded either of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

ARTICLE A-11 RECEIPT OF AND ADDRESSES FOR NOTICES

Communication in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered by hand to the individual or to a member of the firm or to an officer of the corporation for whom they are intended or if sent by post or telegram, to have been delivered within five (5) days of the date of mailing, dispatch or delivery to the telegram company when addressed as follows:

The Owner at: 453 W. 12th Avenue
 Vancouver, B.C. V5Y 1V4
 Attention:
 Telephone:
 Email:

The Construction Manager at :

 Attention:
 Telephone:
 Email:

ARTICLE A-12 LAW OF THE CONTRACT

The law of the Place of the Project shall govern the interpretation of the Contract and the courts of the Place of the Project will have exclusive jurisdiction over all disputes arising under it.

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

ARTICLE A-13 LANGUAGE OF THE CONTRACT

When this Agreement is prepared in the English language.

This Agreement is drawn in English at the request of all parties hereto.

ARTICLE A-14 GENERAL

The general Owner consulting agreement contractual provisions will apply to this Agreement as set out in Appendix B.

ARTICLE A-15 PRIOR TO NEGOTIATIONS, REPRESENTATIONS OR AGREEMENTS

This Agreement supersedes all prior negotiations, representations or agreements, either written or oral.

ARTICLE A-16 SUCCESSION

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

ARTICLE A-17 DISCOUNTS, REBATES AND REFUNDS

DELETED - NOT APPLICABLE

In witness hereof the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto authorized.

SIGNED, SEALED AND DELIVERED

In the presence of:

CITY OF VANCOUVER

signature

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

Signature

signature

Name (please print)

N.B. Where legal jurisdiction, local practice, or Owner or Construction Manager requirement calls for proof of authority to execute this document, proof of such authority in the form of a certified copy of a resolution naming the person or persons in question as authorized to sign the Agreement for and on behalf of the corporation or partnership, parties to this Agreement, should be attached.

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

PART E – FORM OF AGREEMENT

Owner's General Contractual Provisions

1.0 TAXES/CURRENCY

The Pre-Construction Fee is expressed and payable in Canadian dollars and is exclusive of the Harmonized Sales Tax.

2.0 CANCELLATION OF AGREEMENT

The Owner may cancel this Agreement without cause at any time, but only if the Owner first gives at least 5 days' prior written notice of cancellation. As of the effective date of such a notice of cancellation, this Agreement will be cancelled as to all or those specified Services and the parties will have no further obligations to each other in respect to same except that the Owner will remain liable to pay for those Services already ordered and performed prior to the effective date of the cancellation, and except for those obligations which by their nature are intended to survive the expiry or sooner cancellation of this Agreement.

3.0 OWNERSHIP, COPYRIGHT, CUSTODY AND CONTROL OF CERTAIN PROPRIETARY INFORMATION

All reports and other documents or products produced and delivered by the Construction Manager to the Owner as a result of the provision of the Services (the "Reports") will be the sole property of the Owner, and the Owner will have the right to utilize all of the Reports for its benefit in any way it sees fit without limitation.

For further certainty, the Construction Manager now acknowledges that Owner retains legal custody and control over all plans, data and other information supplied by the Owner to the Construction Manager ("Owner-Related Data") for the purposes of the *Freedom of Information and Protection of Privacy Act* (British Columbia).

CONSTRUCTION MANAGEMENT SERVICES FOR TAYLOR MANOR REDEVELOPMENT

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Any and all Reports prepared but not yet delivered to the Owner will be delivered by the Construction Manager to the Owner immediately on the expiration or sooner termination of this Agreement. The Owner may, at any time or times prior to the expiration or sooner termination of this Agreement, give written notice to the Construction Manager requesting delivery by the Construction Manager to the Owner of all or any particular Reports (whether completed or not) in which event the Construction Manager will promptly comply with such request.

The Construction Manager now transfers title in and to the Construction Manager's Owner-Related Data and the Reports and assigns to the Owner sole copyright in the Reports and the Construction Manager's Owner-Related Data. The Construction Manager agrees that title to the Construction Manager's Owner-Related Data and the Reports is to be considered to have been transferred, and any copyright in the Construction Manager's Owner-Related Data and the Reports is to be considered to have been assigned by the Construction Manager to the Owner upon creation of the Construction Manager's Owner-Related Data and the Reports. The Construction Manager now irrevocably waives, in favour of the Owner, the Construction Manager's moral rights in respect of the Construction Manager's Owner-Related Data and the Reports. The Construction Manager will obtain in writing, from its personnel, its permitted sub-contractors or from any other source used, all required assignments, waivers, including waivers of moral rights, releases of interest and acknowledgements necessary to transfer title to and copyright in the Construction Manager's Owner-Related Data and the Reports to the Owner.

The Construction Manager represents and warrants that the Construction Manager's Owner-Related Data and the Reports will not infringe any patent or copyright or any other industrial or intellectual property rights including trade secrets.

4.0 RELEASE AND INDEMNIFICATION

4.1 Release

The Construction Manager hereby releases the Owner, its 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,

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suffered or experienced by the Construction Manager, its officers, employees and agents in connection with their performance of the Services.

4.2 Acceptance "As Is"

In undertaking the Services, the Construction Manager acknowledges that it has inspected the Owner's site(s), agrees to accept the site(s) "as is" and undertakes to take all precautions necessary to ensure the safety of all personnel employed or contracted by the Construction Manager to perform the Services.

4.3 Indemnity

Despite any insurance which may be placed by the Owner, the Construction Manager now agrees to indemnify and save harmless the Owner, its successors, assigns and authorized representatives and each of them from and against all losses, claims, damages, actions, and causes of actions (collectively, the "Claims") that the Owner may sustain, incur, suffer or be put to at any time either before or after the expiry or sooner termination of this Agreement, that arise out of errors, omissions or negligent acts of the Construction Manager or its sub-Construction Managers, 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 the Owner, its other Construction Managers, assigns and authorized representatives or any other persons. This indemnity will not affect or prejudice the Owner from exercising any other rights that may be available to it at law.

4.4 Survival of Release/Indemnity

This Section 12.0 will survive the expiry or sooner cancellation of this Agreement.

5.0 INSURANCE

5.1 Required Types/Amounts

Prior to commencing the Services, the Construction Manager will obtain at its own expense,

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- (a) a Comprehensive General Liability insurance policy with limits of not less than \$5,000,000 per occurrence, and a deductible of not more than \$20,000, protecting the Construction Manager against all claims for personal injury, death, bodily injury or property damage arising out of the operations of the Construction Manager or the actions of the Construction Manager or its personnel. The policy will contain a cross liability clause in favour of the Owner and will name the Owner and its officials, employees and agents as additional insured.

5.2 Required Policy Terms

All required insurance policies will remain in full force and effect at all times during the Term and for a period of not less than 2 years following the completion of the Services and will,

- (a) be obtained and issued by insurance companies authorized to carry on business in British Columbia, on terms satisfactory to the Owner's Director of Risk Management,
- (b) be primary insurance in respect to the Owner and any insurance or self-insurance maintained by the Owner will be in excess of this insurance and will not contribute to such policies,
- (c) contain a provision that such insurance coverage will not be cancelled or materially altered without the insurer giving the Owner at least 30 days' prior written notice by registered mail,

5.3 Insurance Certificate

Prior to commencing the Services, and at any time requested by the Owner's Director of Risk Management, the Construction Manager will provide evidence of all required insurance to be taken out in the form of a detailed certificate of insurance and the

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insurance certificate will not contain any disclaimer whatsoever. If required by the Owner, the Construction Manager will provide certified copies of the policies signed by the insurers.

5.4 Sub-Contractor's Insurance

If the Construction Manager hires a sub-contractor to perform any work related to the Services, the Construction Manager will cause such sub-contractor to obtain the same type, amount and terms of coverage as is required of the Construction Manager under this Agreement and will be required to provide evidence of same to the Owner's Director of Risk Management in the same manner as is required of the Construction Manager.

6.0 WORKERS' COMPENSATION BOARD

6.1 Maintain Coverage - General

The Construction Manager will carry and pay for full Workers' Compensation Board ("WCB") coverage for itself and all personnel engaged in or on the Services, failing which the Owner has the unfettered right to set off the amount of any unpaid premiums and assessments for such WCB coverage against any amounts owing by the Owner to the Construction Manager. The Owner will have the right to withhold payment under this Agreement until the WCB premiums, assessments or penalties in respect of the Services have been paid in full.

6.2 Provide Evidence of Coverage - General

The Construction Manager will provide the Owner with the Construction Manager's WCB registration number and a letter from the WCB confirming that the Construction Manager is registered in good standing with the WCB and that all assessments have been paid to date prior to the Owner having any obligation to pay any invoice under this Agreement. The Construction Manager will indemnify the Owner and hold harmless the Owner from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WCB assessments owing from any person or corporation engaged in the performance of the Services or arising

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out of or in any way related to the failure to observe safety rules, regulations and practices of the WCB, including penalties levied by the WCB.

6.3 Special WCB Requirements Where Services Are Provided on Owner Sites

- (a) Prior to commencing any Services on the Owner's sites, the Construction Manager must provide evidence to the EH&S Manager that it is in good standing with the WCB ("WCB"). The Construction Manager is responsible for having such site secured in accordance with the WCB OHS Regulation and ensure the safety of the site during the performance of the Services on the Owner's sites.
- (b) The Construction Manager is now appointed and now accepts appointment as the Prime Contractor for the purpose of this Agreement and as such, has the responsibility to
 - (i) ensure the Services are performed in a safe manner that complies with all WCB OHS Regulations,
 - (ii) direct and coordinate the work activities related to the health and safety of all of the Construction Manager's personnel and any other workers within the work site,
 - (iii) obtain from the Owner written information on hazards and conditions and the methods to address the hazards and conditions and circulate this information to all workers within the work site.
- (c) Prior to commencing any Services on the Owner's sites, the Construction Manager must,
 - (i) have its own safety program and have written safe work procedures specific to the Services being performed available at the work site, and
 - (ii) ensure the safety program meets the requirements of the WCB OHS Regulation.
- (d) The Construction Manager must also,
 - (i) advise the Owner of any accidents or incidents at the Owner's site that

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must be reported to the WCB, and

- (ii) inform all personnel performing the Services on the Owner's site of the health and safety requirements at that workplace.

- (e) At all times the Construction Manager will ensure that its personnel, and all other workers engaged or indirectly engaged by the Construction Manager coming onto the Owner's site will comply with
 - (i) the WCB OHS Regulation,
 - (ii) the Construction Manager's safety program, and
 - (iii) all work site safety requirements.

7.0 SECURITY CLEARANCE AND OTHER CONDUCT STANDARDS

On the written request of the Owner, the Construction Manager will immediately cease the use of any individual for the performance of the Services which the Owner has reason to believe is unsuitable for the performance of the Services including but not limited to,

- (a) the loss of or failure by that individual to obtain the required Security Clearance,

- (b) intoxication,

- (c) use of foul, profane, vulgar or obscene language or gestures,

- (d) solicitation of gratuities or tips from any person for services performed under this Agreement,

- (e) willful, negligent or reckless action in disregard of safety or sanitary requirements or regulations, or

- (f) any action which may constitute a public nuisance or disorderly conduct.

The Construction Manager will promptly comply with each such request and will satisfy

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the Owner that the individual has been removed from further involvement with the performance of the Services. For the purposes of this Section, “Security Clearance” means the security clearance criteria applied by the Owner from time to time to Owner and third party personnel who, as part of their duties, require access to security restricted areas or facilities.

8.0 SET-OFF

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

9.0 JOINT VENTURE OR PARTNERSHIP

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

10.0 ENTIRE AGREEMENT

The Contract Documents constitute the entire agreement between the parties and supersede all previous communications, representations and agreements whether verbal or written between the parties with respect to their subject matter. The Construction Manager now acknowledges and agrees that the Owner has made no representations or promises to the Construction Manager within the RFP or otherwise on which the Construction Manager may rely except only for the information which describes the addresses of the various sites at which the Requirements must be fulfilled.

11.0 FAILURE TO ENFORCE

Any failure by the Owner to enforce or require the strict keeping and performance of

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any of the terms and conditions contained in the Agreement will not constitute a waiver of such terms and conditions and will not affect or impair such terms and conditions in any way or the Owner's right at any time to avail itself of such remedies as the Owner may have for any breach or breaches of such terms and conditions.

12.0 SUCCESSORS AND ASSIGNS

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

13.0 OWNER APPROVALS

No reviews, approvals or inspections carried out or information supplied by the Owner or its employees or sub-Construction Managers will derogate from the duties and obligations of the Construction Manager to comply with this Agreement, and all responsibility related to the performance of the Services will be and remain with the Construction Manager.

14.0 OWNER BUSINESS LICENSE

The Construction Manager will conform to the Owner of Vancouver License By-law and maintain a valid Owner of Vancouver business license throughout the Term.

15.0 INDEPENDENT CONSTRUCTION MANAGER

This Agreement is a contract for services and the Construction Manager, its permitted sub-contractors, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Construction Manager and its permitted sub-contractors are not, nor are they to be deemed to be partners, appointees, employees or agents of the Owner (except as set out in Article A-2 above).

16.0 ASSIGNMENT

The Construction Manager will not, without the prior written consent of the Owner, assign, either directly or indirectly, this Agreement or any right of the Construction

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Manager under this Agreement.

17.0 COMPLIANCE WITH LAWS

The Construction Manager agrees to comply with all applicable laws and regulations in carrying out the Construction Manager’s obligations under this Agreement.

18.0 INDEPENDENT LEGAL ADVICE

The Construction Manager acknowledges that both parties are entitled to seek independent legal advice before executing this Agreement.

CCDC 2 - 2008 & Modified Supplementary Conditions

THE SUPPLEMENTARY GENERAL CONDITIONS FOR CCDC2-2008

CONTRACT DOCUMENTS ARE MODIFICATIONS OF CCDC 2 -2008

- 1.1.1 The Agreement, Definitions and General Conditions of Standard Construction Document CCDC 2 - Stipulated Price Contract, 2008 edition (“CCDC 2”), available for download at <http://www.ccdc.org/downloads/index.html>, are amended by these Supplementary General Conditions as set forth below. Any reference in the Contract Documents or the Tender Documents to “General Conditions” or “GC” means the General Conditions contained in the CCDC 2 as amended by these Supplementary General Conditions. Whenever there is a conflict between these Supplementary General Conditions and the other Contract Documents or wherever the Contract Documents are silent and these Supplementary General Conditions speak to a particular issue or matter, the provisions of these Supplementary General Conditions shall take precedence.
- 1.1.2 Unless the context dictates otherwise and to the extent not otherwise defined in the Contract Documents, defined terms in these Supplementary General Conditions adopt the meanings given thereto in the CCDC 2.
- 1.1.3 To the extent that the *Lien Act* expressly forbids parties from contracting out of all or some of the provisions of the *Lien Act* then, with respect to but only to the extent that, those provisions of the *Lien Act* are deemed to apply to any provisions of these Supplementary Conditions then the provisions set out in the *Lien Act* shall overrule any provision of the Contract Documents that is

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determined to contradict or contravene the *Lien Act* but only to the extent of such contradiction or contravention.

AMENDMENTS TO THE FORM OF AGREEMENT (CCDC 2)

Delete Pages 1 to 6 of CCDC 2 consisting of the “Agreement between Owner and Contractor”.

AMENDMENTS TO THE DEFINITIONS

The following definitions from CCDC 2 are amended:

Add the following at the end of the paragraph 5:

5. Contract

The Contract supersedes all prior negotiations, representations or agreements, either written or oral, except to the extent included in the Contract Documents or expressly incorporated by reference into the Contract by an actual reference to same in Article A-3 of the Agreement - CONTRACT DOCUMENTS.

Delete paragraph 6 and replace with the following:

6. Contract Documents

The Contract Documents consist of those documents listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS, those documents expressly incorporated by reference into the Contract by an actual reference to same in Article A-3 of the Agreement - CONTRACT DOCUMENTS, amendments agreed upon in writing between the parties together with all other documents, schedules and additions mutually agreed to or settled by the parties from time to time in respect of this Contract.

Add the following at the end of the paragraph 12:

12. Owner

...and expressly excludes the Owner while acting in its capacity as a municipal regulatory authority.

Add the following definition of “Owner Caused Event” as a new paragraph 12.A

12A. Owner-Caused Event

An Owner-Caused Event is a wrongful act or omission of the Owner, the Consultant or anyone employed or engaged by them directly or indirectly, which is contrary to the express provisions of the Contract Documents, but for

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further certainty any event which is beyond the reasonable control of the Owner, the Consultant or anyone employed or engaged by them directly or indirectly is deemed to be an Excusable Event and not an Owner-Caused Event.

Delete the definition of Substantial Performance of the Work at paragraph 20 and replace with the following:

20. Substantial Performance of the Work

Substantial Performance of the Work shall have the same meaning as “completed” in the *Lien Act* including as interpreted by section 1(3) thereof and shall be determined as provided therein and herein.

Delete the definition of Work at paragraph 25 and replace it with the following:

25. Work

Work means the total construction and related services required by the Contract Documents or property inferable therefrom.

The following definitions shall be added to and will apply in the Contract Documents:

27. Applicable Laws

Applicable Laws means all applicable federal, provincial and municipal laws, bylaws, codes, rules, regulations, policies and requirements applicable to the Work and the Project.

28. Applicable Permits

Applicable Permits means all necessary approvals, permits, licences and consents required for the performance of the Work.

29. Certificate of Completion

Certificate of Completion means the certificate under section 7 of the *Lien Act* stating that work under a contract or subcontract has been completed (see definition of Substantial Performance of the Work) and includes an order made under section 7(5) of the *Lien Act*.

30. Environmental Law

Environmental Law means any applicable law relating to the protection of the environment or occupational health and safety including those pertaining to (a) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or release, or the threat of the same, of Hazardous Substances, and (b) the generation, manufacture, processing, distribution, use, re-use, treatment, storage, disposal, transport, labeling, handling and the like of Hazardous Substances.

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31. Excusable Event

An Excusable Event means an event or circumstance (i) that is beyond the reasonable control of the Contractor, and its Subcontractors and Suppliers, and could not reasonably have been foreseen by the Contractor or its Subcontractors and Suppliers, and (ii) the impact of which could not have been avoided or substantially avoided by the exercise by them of commercially reasonable measures, but for greater certainty includes (subject to items (i) and (ii) above and subject also to items (v) through (viii) below) any (iii) acts of God, storm, earthquake, flood, fire, lightning, war (declared or undeclared), hostilities, national emergency, civil disturbance or commotion, insurrection, embargo, blockade, import restriction, epidemic, landslide, explosion, and (iv) government order, or regulation or other act of the public authority (except where the order or act results from a party's own acts or omissions or its failure to comply with Applicable Laws or Applicable Permits), but for greater certainty excludes in any event (v) any Site Labour Disturbance, (vi) temperature, precipitation, wind or other weather condition which, in any four week period, differs from the statistical average for that condition in that period by more than one standard deviation, calculated based on relevant data available from Environment Canada, (vii) a circumstance or cause resulting from the fault or negligence or omission of the Contractor or its Subcontractors or Suppliers, or their failure to perform the Contractor's obligations under this Contract including a failure to properly plan or carry out the Work in accordance with the terms hereof, or (viii) an event or circumstance which by the exercise of reasonable diligence could have been avoided or the effect of which could have been mitigated or which arises from a lack of funds.

32. Final Certificate for Payment

Final Certificate for Payment means the certificate issued on Total Performance of the Work.

33. Hazardous Substance

Hazardous Substance means any contaminant, waste, hazardous substance, hazardous waste, or dangerous goods in such quantities and concentrations as contravene applicable limitations under Environmental Law and that may impair the Environment, injure or damage property or plant or animal life or harm or impair the health of any individual.

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34. Holdback Amount

Holdback Amount means the holdback required by the *Lien Act*.

35. Lien or Liens

Lien or Liens means a lien under the *Lien Act*.

36. *Lien Act*

Lien Act means the *Builders Lien Act* (British Columbia) and any additional successor or replacement legislation which may be passed that is applicable to the Site.

37. Owner's Site Construction Rules

Owner's Site Construction Rules means all applicable policies, standards, protocols, rules and directions of Owner with regard to the Project and completion of the Work including those identified in the Scope of Work or other Contract Documents.

38. Site

Site means the construction location and boundaries shown on the Drawings.

39. Site Labour Disturbance

Site Labour Disturbance means any strike, lock-out or labour disturbance, including those resulting from any jurisdictional or non-affiliation issues, involving employees, whether or not members of a trade union, of the Contractor, any Subcontractor, any Supplier, or any of their respective subcontractors of any tier, which delays or in any way adversely affects the performance and completion of Work at the Site.

40. Total Performance of the Work

Total Performance of the Work means the entire Work has been satisfactorily performed and is so certified by the Consultant.

41. Trade Union Council

Trade Union Council means a council or association of trade unions of which employees of the Contractor or a Subcontractor are members

42. WorkSafe BC Rules

WorkSafe BC Rules means the *Workers Compensation Act* (British Columbia) including without limitation the *WorkSafe BC Occupational Health and Safety Regulation* (British Columbia), and all amendments made to such act and regulations and in force from time to time, and to any statute or regulation that may be passed which supplements or supersedes such regulations

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ALTERATION OF GENERAL CONDITIONS AND ADDITIONAL CONDITIONS

GC1.1 CONTRACT DOCUMENTS

GC1.1.7 is deleted in its entirety and replaced as follows:

If there is a conflict within the Contract Documents, the order of priority of documents, from highest to lowest, shall be:

- these Supplementary Conditions
- the Special Conditions
- the Agreement between the Owner and the Contractor
- the Definitions, Form CCDC2 - 2008
- the General Conditions, form CCDC2 - 2008
- Instructions to Bidders
- Amendments, Addenda, Questions and Answers during Bid Process
- Tender Form
- Schedules submitted with Tender Form
- Specifications
- Drawings
- Owner's Site Construction Rules

GC1.5 ADVERTISING

GC1.5.1 is added as follows:

The Contractor will obtain the Owner's prior written approval for any public advertising, press release or other general publicity matter, in which the name or trademarks of the Owner or any other person are mentioned or used or in which words are used from which any connection with the Owner name or trademarks may be inferred. The Contractor will not allow or permit any public ceremony in connection with the Work without the permission of the Owner provided in writing. The Contractor will not erect or permit the erection of any sign or advertising without the prior written approval of the Owner.

GC2.2 ROLE OF THE CONSULTANT

GC2.2.5 is deleted in its entirety and replaced with the following:

The Consultant will be the Payment Certifier pursuant to the *Lien Act*. Based on the Consultant's observations and evaluation of the Contractor's application

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for payment and review of the status of the Work including the Schedule of Work, the Consultant will approve progress draws and will issue the Certificate of Completion and the Final Certificate for Payment.

GC2.2.19 is added as follows:

Notwithstanding GC2.2.13, the Contractor shall be responsible for requesting any required instructions or clarifications from the Consultant which are needed for the performance of the Work and shall request such instructions or clarifications in time to avoid any delay of the Work.

GC2.2.20 is added as follows:

Nothing in GC2.2 shall derogate from or affect the terms and provisions of any contractual or other legal relations between the Owner and the Consultant, and such contractual and other legal relations shall in all cases take precedence over GC2.2 in the event of a conflict.

GC2.3 REVIEW AND INSPECTION OF THE WORK

GC2.3.1 is amended by deleting the first sentence of the paragraph and replacing it with the following:

The Owner and the Consultant and their authorized representatives shall have access to the Work at all times.

GC2.3.2 is amended by deleting the first sentence of the paragraph and replacing it with the following:

If work is designated for review, tests, inspections or approvals in the Contract Documents, or by the Consultant's instructions, or by the laws or ordinances of the Place of the Work, the Contractor shall give the Consultant reasonable notification of when the work will be ready for review and inspection.

GC2.3.4 is deleted in its entirety and replaced with the following:

If the Contractor covers, or permits to be covered, work that has been designated for review, tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the Contractor shall, if so directed, uncover such work, have the review, inspections or tests satisfactorily completed, and make good covering work at the Contractor's expense

GC2.3.8 is added as follows:

The Consultant may:

- .1 review and monitor the Contractor's performance of any aspects of the Work for conformance with the requirements of the Contract, including

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review and monitor the following:

- (a) Contractor's submittals; and
- (b) any and all construction activities;

.2 perform or arrange for the performance of any tests, checks, and inspections of the Work as the Owner may reasonably request whether or not specifically required by the Contract Documents.

Should the Consultant be required to make more than one review of rejected work or should the Consultant perform additional reviews due to failure of the Work to comply with the application status of completion made by the Contractor, the Contractor is required to compensate the Owner for such additional Consultant services including expenses incurred. Adjustment for such compensation should be made as outlined under PART 6 - CHANGES IN THE WORK.

GC2.3.9 is added as follows:

Review, monitoring and/or approval by the Consultant or Owner of the Contractor's performance of the Contract shall not relieve the Contractor of its sole responsibility and liability for the proper performance of the Contract strictly in accordance with its terms.

GC2.3.10 is added as follows:

Acceptance of the Work by the Owner does not free the Contractor from correcting deficiencies as provided in GC2.4 - DEFECTIVE WORK - which are missed at the time of drawing up the deficiency list or are hidden deficiencies.

GC2.4 DEFECTIVE WORK

GC2.4.1 is amended by adding the following to the end of the paragraph:

...of the Contractor. In the event that work or materials are found to be condemned then if the Contractor does not remove such condemned materials or work within the time fixed by written notice, the Owner may remove them and may store such materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within 5 calendar days thereafter, the Owner may, upon 10 days written notice sell such materials with the proceeds thereof, if any, after deducting all the costs and expenses that should have been borne by the Contractor, being returned to the Contractor.

GC2.4.3 is deleted in its entirety and replaced with the following:

If in the opinion of the Consultant it is not expedient to correct defective work

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or work not performed as provided in the Contract Documents, the Owner may deduct from the amount otherwise due to the Contractor the difference in value between the work as performed and that called for by the Contract Documents or, at the option of the Owner, the cost or value of such work as would have been necessary to correct such non-compliance with the Contract Documents. If the Owner and the Contractor do not agree on the difference in value, they shall refer the matter to the Consultant for a determination.

GC3.1 CONTROL OF THE WORK

GC3.1.3 is added as follows:

The Contractor shall, and shall ensure that each Subcontractor shall, employ competent and skilled workmen and apprentices and shall employ proper equipment in good condition. The Contractor shall have complete control over its employees and Subcontractors and shall enforce discipline and order among its employees and assure discipline and order by its Subcontractors including, in all cases, without limiting the foregoing, compliance with and enforcement of Owner's Site Construction Rules and requirements of WorkSafe BC Rules.

GC3.1.4 is added as follows:

The Contractor shall be familiar with, and its performance of this Contract shall be governed by and comply with, all Applicable Laws and Applicable Permits which exist at present or which may be respectively enacted or obtained after the date hereof by bodies or tribunals having jurisdiction or authority over the Work, and with Owner's Site Construction Rules.

GC3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

GC3.2.2 is amended by deleting the first sentence and replacing it with the following:

When separate contracts are awarded for other parts of the Project, or when work is performed by the Owner's own forces, the Contractor shall:

GC3.2.2.2 is deleted in its entirety.

GC3.2.3.3 is amended by adding the following to the end of the paragraph:

Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of the other contractors or the Owner's own forces work except those of which the Contractor was not reasonably aware.

GC3.2.7 is added as follows:

The Contractor acknowledges that the Site generally and portions of the

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Project will continue to be used by the Owner and others as described in the Owner's Site Construction Rules and Special Conditions. The Contractor will work simultaneously and harmoniously with others using the Site and use all efforts not to interfere with or delay others.

GC3.5 CONSTRUCTION SCHEDULE

GC3.5.1.1 is deleted in its entirety and replaced with the following:

... prepare and submit to the Owner and the Consultant within 10 Working Days of Issuance of the Notice of Award, a construction schedule that indicates the timing of the major activities of the Work and provides sufficient detail of the critical events and their inter-relationship to demonstrate the Work will be performed in conformity with the Contract Time;

GC3.5.1.3 is amended by adding the following to the end:

... indicating the results expected from the resulting change in schedule.

GC3.5.2 is added as follows:

The Contractor will regularly monitor the progress of the Work and advise the Owner and the Consultant of any revisions to, or any slippage in, the Schedule of Work and any extensions of the Contract Time as a result of Change Orders issued hereunder.

GC3.5.3 is added as follows:

The Contractor will submit to the Consultant and the Project Manager Alicja Gorska monthly updates and provide comments on adherence to the Schedule of Work, and details of any remedial actions being undertaken to improve schedule slippages.

GC3.5.4 is added as follows:

If the Schedule of Work is not adhered to, the Contractor will use all reasonable means to accelerate the Work, without additional compensation, to comply with the Schedule of Work.

GC3.6 SUPERVISION

GC3.6.3 is added as follows:

Any superintendent or foreman whose work is unsatisfactory to the Consultant, or to whom the Consultant may have any reasonable objection, shall be dismissed from the Work upon written notice of the Consultant. No superintendents or foremen's will be substituted or replaced, except at the request, or with the written consent, of the Owner or as a result of such employee's voluntary termination of employment or incapacity and any

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replacement will have comparable or superior qualifications and experience.

GC3.7 SUBCONTRACTORS AND SUPPLIERS

GC3.7.2 is deleted in its entirety and replaced as follows:

The Contractor shall indicate in writing those Subcontractors or Suppliers whose bids have been received by the Contractor which the Contractor would be prepared to accept for the performance of a portion of the Work. Should the Owner not object before signing the Contract, the Contractor shall employ those Subcontractors or Suppliers so identified by the Contractor in writing for the performance of that portion of the Work to which the bid applies. No change of Subcontractors shall be made without cause or written consent of the Consultant and Owner, which consent will not be unreasonably withheld.

GC3.7.7 is added as follows:

In every subcontract the Contractor shall specify that the Consultant shall be the person responsible for payment certification under that subcontract for the purposes of the *Lien Act*. With every request to the Consultant for a determination whether a subcontract has been completed, the Contractor shall furnish a detailed description of the scope of work covered by the subcontract and a complete reconciliation of the subcontract account. In this GC3.7.7, the word “subcontract” shall have the meaning it has when used in the *Lien Act*.

GC3.8 LABOUR AND PRODUCTS

GC3.8 is deleted in its entirety and replaced with the following:

3.8.1 Union Contractors

(a) Open Site

The Site and adjacent work areas associated with the Project are, or are part of, an “open site” and the Work will be performed on a “no strike/no lockout” basis. Accordingly, the Contractor and its Subcontractors, as well as the Owner and other contractors, may employ labour at the Site who are members of a trade union, including a trade union affiliated with a Trade Union Council or who are members of another trade union, or who are not members of a trade union.

(b) Labour Disruptions

The Contractor will use its best commercial efforts to ensure that no Site Labour Disturbance shall occur and the Contractor:

- (i) will only retain Subcontractors for the Work whose employees

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are either:

- (1) certified in British Columbia to be represented by a trade union and subject to a collective agreement which does not expire until after the date of Total Performance of the Work; or
- (2) not so certified; and

require such Subcontractors to only retain subcontractors and suppliers whose employees are either certified in British Columbia to be represented by a trade union and subject to a collective agreement which does not expire until after the date of Total Performance of the Work or are not so certified; and

- (ii) represents and warrants that, with respect to any employees of the Contractor who may work at or near the Site and who are certified in British Columbia to be represented by a trade union and subject to a collective agreement, such collective agreement to which such employees are subject does not expire until after the date of Total Performance of the Work;

but if any Site Labour Disturbance occurs and does or may adversely impact on the Owner, the Work or the Contract Time, the Contractor will use its best commercial efforts to ensure that the length and extent of such impact is minimized (including without limitation by cooperating with the Owner in any measures they may take to ameliorate such impact) and the Contractor will be liable to the Owner for any such impact.

(c) Required for Union Contractors

Without limiting the generality of Section (b) above, if the Contractor, or any Subcontractor, proposes to employ labour at the Site who are members of a trade union, including a trade union that is affiliated with a Trade Union Council authorized to bind its member trade unions, then the Contractor must first submit to the Consultant:

- (i) a waiver of all non-affiliation or reservations rights under applicable collective agreements, including renewals or replacements thereof, effective for the duration of the Contract and executed by the Trade Union Council on behalf of all trades,

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or executed by the particular trade unions whose members will be so employed; and

- (ii) an agreement that there will be no Site Labour Disturbance at or affecting the Site and/or the progress of the Work, effective for the duration of the Contract, and executed by the Trade Union Council on behalf of all trades, or executed by the particular trade unions whose members will be so employed.

(d) Fair Wages

The Contractor shall pay or cause to be paid to every person employed on the Work not less than the wages or remuneration generally accepted as current at that time.

- 3.8.2 The Contractor shall provide and pay for labour, Products, tools, Construction Equipment, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the Work in accordance with the Contract.
- 3.8.3 Unless otherwise specified in the Contract Documents, Products provided shall be new. Products which are not specified shall be of a quality consistent with those specified and their use acceptable to the Consultant.
- 3.8.4 The Contractor shall maintain good order and discipline among the Contractor's employees engaged on the Work and shall not employ on the Work anyone not skilled in the tasks assigned. The Owner shall have the right, by written notification to the Contractor, to require the removal from the Project of any employee of the Contractor or a Subcontractor of the Contractor who is incompetent, untrained, acts in an unsafe manner, is disorderly or is otherwise unsatisfactory or who breaches the Owner's Site Construction Rules or the terms of this Contract. Any such employee shall be immediately removed from the Site by the Contractor and shall not be employed again on the Project without the prior written approval of the Owner.
- 3.8.5 All materials shall be delivered, stored, handled and applied in strict accordance with the manufacturer's instructions, and shall be delivered with type, grade and brand name clearly identifiable and with seals intact.

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GC3.9 DOCUMENTS AT THE SITE/DAILY RECORD

GC3.9.1 is deleted in its entirety and replaced with the following:

The Contractor shall keep one copy (as opposed to the originally executed set) of current Contract Documents, Shop Drawings, Change Orders, Change Directives, diary record set out in GC. 3.9.2 below, submittals, reports, and records of meetings at the Place of the Work, in good order, properly indexed, and available at all regular working hours on Working Days to the Owner and the Consultant.

GC3.9.2 is added as follows:

The Contractor shall, from the date of commencement of the Work, maintain a careful diary record of the progress of the Work. This record shall be open to the Consultant's inspection at all reasonable times and delivered to the Consultant on completion of the Work. The diary shall include:

1. daily weather conditions;
2. commencement, progress and completion of various portions of the work;
3. dates of all meetings and their purpose; and
4. dates of visits or inspections by government authorities, inspectors, utility companies, etc.

GC3.10 SHOP DRAWINGS

GC3.10.2 is amended by adding the following to the end:

... or as the Consultant may reasonably request.

GC3.10.13 is added as follows:

The Contractor represents and warrants that it has reviewed all Tender Documents and inspected and examined the Site and the Project to the extent it considers necessary and in accordance with prudent practice and satisfied itself as to the nature and extent of the conditions, including the physical and climatic conditions which may be encountered in the performance of the Work and to the extent possible to establish the state and quality of the existing construction. The Contractor further acknowledges that it will be required to share the Site with the Owner and others, all as described in the Owner's Site Construction Rules and Special Conditions.

GC3.12 CUTTING AND REMEDIAL WORK

GC3.12.3 is amended by adding the following to the end:

... unless the Owner elects to do the work or retain other contractors, after

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having given the contractor written notice of the work to be performed. Such work shall be performed in accordance with GC3.2.

GC4.1 CASH ALLOWANCES

GC4.1.1 is deleted in its entirety and replaced as follows:

The Contract Price includes the cash allowances, if any, stated in the Contract Documents. Except to the extent specifically described in the Contract Documents, the scope of work or costs included in such cash allowances will:

- (a) cover the net out-of-pocket cost of the Contractor for services, products, construction machinery and equipment, freight, unloading, handling, storage, installation and other authorized expenses incurred in performing the work stipulated under the cash allowances, and
- (b) will not cover labour or installation, unless (and then only to the extent):
 - (i) specifically stated in the Specifications or Drawings as being included in the cash allowance, or
 - (ii) specifically designated as an itemized or separate price, and is therefore included as an itemized or separate price item, and otherwise will be deemed to be included in the Contract Price.

GC4.1.2 is deleted in its entirety and replaced as follows:

The Contract Price, and not the cash allowances, includes the Contractor's and Subcontractors' overhead and profit in respect to such cash allowances. Unless noted otherwise, none of the work included in the Drawings and Specifications is intended to be paid for by the cash allowances. The cash allowances are for the Owner's use, at the Owner's sole discretion.

GC4.1.3 is amended by adding the following to the end of the paragraph:

The Consultant may require that cash allowance Work proceed only after competitive tenders or proposals are sought and received by the Contractor for all or any part of such Work. The Contractor shall provide full disclosure to the Consultant of all such tenders or proposals. The Contractor shall not accept any such tenders or proposals without the prior consent of the Consultant. The Contractor shall maintain at the Site, or such other location as the Consultant may approve, accurate and complete records and accounts documenting all costs incurred under cash allowances. These records and accounts shall be available for inspection by the Consultant and the Owner at all reasonable times, and the Consultant and the Owner may take copies thereof.

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PART 5 PAYMENT

GC5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

GC5.1 (including the heading) is deleted in its entirety and replaced with the following:

GC5.1 GENERAL FINANCIAL/PAYMENT PROVISIONS

5.1.1 The Owner shall, at the request of the Contractor, before signing the Contract, and promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Contractor now acknowledges that Owner's financial statements as published pursuant to the Financial Information Act (British Columbia) constitute full satisfaction of this requirement and satisfactory evidence of the Owner's ability to fulfill its obligations under this Contract.

5.1.2 The Owner shall give the Contractor Notice in Writing of any material change in the Owner's financial arrangements to fulfill the Owner's obligations under the Contract during the performance of the Contract.

5.1.3 The Owner shall pay to the Contractor for the proper and timely performance and completion of the Work the Contract Price, consisting of:

- (i) if all or part of the Work is designated as Unit Price Work in the Schedule of Prices, the product of each Unit Price stated in the Schedule of Prices, multiplied by the measured and actual quantity of each corresponding item of Work necessary for the proper performance and completion of the Work;
- (ii) if all or part of the Work is designated as Lump Sum Work in the Schedule of Prices, the aggregate of Lump Sum Prices stated in the Schedule of Prices;
- (iii) the aggregate of all Cash Allowances, if any, specified in the Schedule of Prices; and
- (iv) if all or part of the Work is designated as Cost Plus Work, the cost reasonably and necessarily incurred by the Contractor in performing and completing such Work, such cost to be determined in accordance with [GC FOR Cost Plus Work], plus a percentage or fixed fee, as stated in the Schedule of Prices.

5.1.4 The Contract Price is subject to adjustment only in accordance with the Contract Documents.

5.1.5 The Contract Price is expressed and payable in Canadian dollars.

5.1.6 Subject to the provisions of the Contract Documents and in accordance

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with the Lien Act in respect of Holdbacks, the Owner shall:

- .1 make progress payments to the Contractor on account of the Contract Price when due, based
 - (i) on the value of the Work completed and Products and materials incorporated into the Work as certified by the Consultant, and
 - (ii) Products and materials delivered to the Site but not yet incorporated into the Work, as agreed to by the Owner,together with the Value Added Taxes as are applicable;
- .2 upon issuance of a Certificate of Completion in respect of a subcontract to which the Contractor is a party, and where 55 calendar days have elapsed since the issuance of the Certificate of Completion without any Liens having been filed which arose under the subcontract, pay the Holdback Amount to the Contractor in respect to the subcontract;
- .3 upon issuance of the Certificate of Completion (in respect to Substantial Performance of the Work), and where 55 calendar days have elapsed since the issuance of the Certificate of Completion without any Liens or other liens having arisen with respect to this Contract, pay the balance of the Holdback Amount to the Contractor in respect to this Contract;
- .4 upon issuance of the Final Certificate for Payment (in respect to Total Performance of the Work), and provided no Liens or other liens have arisen in respect to this Contract, pay the balance of the Contract Price to the Contractor.

5.1.7 If either party fails to pay when due an amount owing to the other under this Contract, that amount will bear interest at the Bank Rate plus 2%, calculated daily from the due date to the date of payment. For this purpose, the "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada advances short term loans to Canadian chartered banks.

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- 5.1.8 If the Work suffers any loss or damage, as a result of which an amount is paid under any policy of insurance provided by the Owner under the Contract, then such amount shall be paid to the Owner and advanced to the Contractor in monthly progress payments as the Contractor performs and completes repair or restoration Work in respect of such loss or damage.

GC 5.1A BASIS OF PAYMENT:

5.1A.1 Basis of Payment for Unit Price Work

- .1 Unit Price Work: Payment for Unit Price Work, if any, shall be based on the Unit Prices set out in the Schedule of Prices.
- .2 Measurement: The Contractor shall measure the Work and the Consultant will verify such measurements to determine payment to the Contractor in accordance with the measurement provisions of the Contract Documents.

5.1A.2 Basis of Payment for Lump Sum Work

- .1 Lump Sum Work: Payment for Lump Sum Work, if any, shall be based on the Lump Sum Prices set out in the Schedule of Prices.

5.1A.3 Basis of Payment for Cost Plus Work

- .1 Cost Plus Work: Payment for Cost Plus Work, if any, shall be based on the cost of such Work, as provided in GC5.1A.3.2, plus a fixed fee or percentage fee calculated as a percentage of the cost of such Work, for the Contractor's overhead and profit. The fixed fee or percentage fee shall be as provided in the Schedule of Prices, except in the case of the valuation of changes in the Lump Sum Work on a cost-plus basis, in which case the applicable percentages shall be limited to the percentages stipulated in GC5.1A.4. In any event, any percentage fee, whether specified in the Schedule of Prices or in this GC5.1A.3.1 shall not be applied to the cost of Construction Equipment for which rates are provided in the Schedule of Construction Equipment Rates or labour for which rates are provided in the Schedule of Labour Rates.

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.2 Cost of the Work: The cost of Cost Plus Work and Work done under a Change Directive or Change Order on a cost-plus basis, except as otherwise specified in the Contract Documents, shall be at rates prevailing in the locality of the Site and, subject to GC5.1A.5, shall include the following cost elements as applicable to such Work:

- (v) wages and benefits paid for labour in the direct employ of the Contractor under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the Consultant and the Contractor;
- (vi) salaries, wages, and benefits of the Contractor's personnel, when stationed at the field office, in whatever capacity employed; or personnel at shops or on the road, engaged in expediting the production or transportation of materials or equipment;
- (i) contributions, assessments, or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada Pension Plan, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the Contractor and included in the cost of the Work as provided in paragraphs (i) and (ii);
- (viii) travel and subsistence expenses of the Contractor's personnel described in paragraphs (i) and (ii);
- (ix) the cost of all Products, including the cost of transportation thereof;
- (x) the cost of Construction Equipment, Temporary Work, and hand tools not owned by the workers, including transportation, and maintenance thereof, which are consumed in the performance of the Work, at cost less salvage value on such items used but not consumed, which remain the property of the Contractor;
- (xi) the cost of all tools and Construction Equipment,

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exclusive of hand tools used in the performance of the Work, whether rented from or provided by the Contractor or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery cost thereof;

- (xii) deposits lost;
- (xiii) the amounts of all subcontracts;
- (xiv) the cost of quality assurance such as independent inspection and testing services;
- (xv) charges levied by authorities having jurisdiction at the Site;
- (xvi) any adjustment in premiums for all bonds and insurance which the Contractor is required by the Contract Documents to purchase and maintain;
- (xvii) any adjustment in Value Added Taxes, other than taxes on income or capital, for which the Contractor is liable;
- (xviii) charges for long distance telephone and facsimile communications, courier services, expressage, and petty items incurred in relation to the performance of the Work;
- (xix) the cost of removal and disposal of waste products and debris; and
- (xx) cost incurred due to emergencies affecting the safety of persons or property.

.3 Approval Required: The Contractor shall obtain the Consultant's approval prior to subcontracting or entering into other agreements for Cost Plus Work or Work done under a Change Directive or Change Order on a cost-plus basis.

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- .4 Rejection of Costs: The Consultant may refuse to certify payment for all or part of the cost of any item under any cost element, where the item in question was unsuitable, unnecessary or the cost was otherwise improperly incurred in the performance of the Work.
- .5 Records: The Contractor shall keep full and detailed accounts and records necessary for the documentation of the cost of Cost Plus Work and Work done under a Change Directive or Change Order on a cost-plus basis, and shall provide the Consultant with copies thereof when requested.
- .6 Access to Records: The Owner, the Consultant and the Owner Representative shall be afforded reasonable access to all of the Contractor's books, records, correspondence, instructions, drawings, receipts, vouchers, and memoranda related to the cost of Cost Plus Work and Work done under a Change Directive or Change Order on a cost-plus basis, and for this purpose the Contractor shall preserve such records for a period of one year after the date of Substantial Performance of the Work.

5.1A.4 Cost Plus Contract Rates and Mark Ups

When Cost Plus Work is performed or a change in the Work is valued on a cost-plus basis, then:

- (i) the costs of labour will be determined by the labour rates specified in the Schedule of Labour Rates, without mark up, unless otherwise specified therein;
- (ii) the costs of Construction Equipment will be determined by the construction equipment rates specified in the Schedule of Construction Equipment Rates, without mark up, unless otherwise specified therein;
- (iii) in the case of changes in Lump Sum Work valued on a cost-plus basis, the amount of subcontracts specified will be subject to a mark up of 5% for overhead and profit, but all other costs specified in GC5.1A.3.2 will be subject to a mark up of 10%; and

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- (iv) for further certainty, to the extent that any changes involve changes in the estimated quantities of Unit Price Work such changes will be determined solely by the Unit Prices, without mark-up, unless otherwise specified therein.

5.1A.5 Cost Plus Maximum under Change Order

When a change in Lump Sum Work is valued on a cost plus basis, the Consultant may require that the aggregate amount incurred under the corresponding Change Order shall not exceed a maximum amount acceptable to the Owner, acting reasonably, and specified in the Change Order, as such amount may be revised from time to time by subsequent written authorization of the Consultant. The Contractor shall not be entitled to payment in excess of such applicable maximum amounts in respect of any such Change Orders.

5.1A.6 Daily Records for Cost Plus Work under Change Order

When a change in Lump Sum Work is valued on a cost plus basis, the Contractor shall prepare and submit to the Owner Representative on a daily basis a report of costs incurred in performing Work under the corresponding Change Orders. The report must identify all such open Change Orders, and summarize on a current basis costs incurred, allocated to the cost of labor, Material and Construction Equipment, and otherwise in such reasonable detail as the Owner Representative may direct.

GC5.2 APPLICATIONS FOR PROGRESS PAYMENT

GC5.2 is deleted in its entirety and replaced with the following:

- 5.2.1 Applications for payment shall be submitted on or before the last day of each calendar month, dated as of the last day of the month, and be in respect to the Work completed prior to the application being signed (the “payment period”).
- 5.2.2 The amount claimed shall be for the value, proportionate to the amount of the Contract, of Work performed and Products delivered to the Place of the Work as of the last day of the payment period.
- 5.2.3 The Contractor shall submit to the Consultant, at least 15 calendar days before the first application for payment, a schedule of values for the parts of the Work, aggregating the total amount of the Contract Price, so as to facilitate evaluation of applications for payment. A second schedule, stating the anticipated monthly progress payments, is

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to be submitted upon request.

- 5.2.4 The schedule of values shall be made out in such form and supported by such evidence as the Consultant may reasonably direct and when accepted by the Consultant, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.5 When making applications for payment, the Contractor shall submit a statement based upon the schedule of values. Claims for Products delivered to the Site but not yet incorporated into the Work shall be supported by such evidence as the Consultant may reasonably require to establish the ownership, value and delivery of the Products. The Owner has the right to refuse payment for Products delivered to the Site but not incorporated in the Work. The Contractor shall obtain the Owner's written permission prior to invoicing for such Products.
- 5.2.6 Each application for payment shall:
 - .1 be in such form and detail as the Consultant shall require and submitted consistently in such form and detail unless otherwise advised by the Consultant;
 - .2 be attached to a statement or statutory declaration sworn by an officer of the Contractor which verifies the accuracy and completeness of the information contained therein, and for each application following the first application also include in addition to the foregoing and not in lieu of same, a current CCDC 9A Statutory Declaration of Progress Payment Distribution by Contractor which shall be completed and sworn before a Notary Public or Commissioner for Oaths for the Province of British Columbia;
 - .3 relate the Work for which payment is claimed to the Construction Schedule and the schedule of values provided and provide such back-up invoices and other materials as may be reasonably necessary for the Consultant to review such application;
 - .4 verify that there are no Liens or other liens relating to the Contractor, the Work or the Products registered against the Owner, the Project or the Site or the Owner's interest therein or against the Holdback Amount, by signing and submitting the appended "Statement Regarding Outstanding Claims";
 - .5 attach the documents required under GC10.4 demonstrating compliance by the Contractor and each Subcontractor with WorkSafe BC Rules;
 - .6 attach the monthly update contemplated by GC3.5.3; and

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.7 provide a comprehensive list of items which remain to be completed and any defective items which remain to be corrected and the Contractor's estimate of the costs and time to complete or correct such items.

5.2.7 The Contractor shall deliver a complete application as provided in GC5.2.6 and if such application is not complete, the Consultant may reject all or the applicable portions of same by promptly (and in any event within 5 calendar days of its receipt) notifying the Contractor of the deficiencies in the application. The Contractor will promptly supply to the Consultant such further certification or information as may be necessary to remedy the deficiencies in the application.

5.2.8 An application for payment shall be deemed to be received by the Consultant only if and when submitted in full conformity with GC 5.2.6.

GC5.3 PROGRESS PAYMENT

GC5.3.1.2 is amended by adding the following to the end:

If, after a certificate of payment has been issued to the Owner (and prior to payment by the Owner), the Consultant determines on the basis of new information that the amount certified for payment is incorrectly high or low relative to the Work being certified, then the Consultant shall issue a revised certificate.

GC5.3.1.3 is amended by deleting the words "Article A-5 of the Agreement and replacing with "this GC5".

GC5.3.2 is added as follows:

Subject to the provisions of the Lien Act, the Owner may retain a deficiency holdback from progress draws prior to Substantial Performance of the Work to ensure that sufficient money is withheld to fund the deficiency holdback at Substantial Performance of the Work

GC5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

GC5.4 (including the heading) is deleted in its entirety and replaced with the following:

GC5.4 SUBSTANTIAL PERFORMANCE OF THE WORK/CERTIFICATE OF COMPLETION

5.4.1 When the Contractor considers that Substantial Performance of the Work has been achieved, or if permitted by the Lien Act the Contractor wishes to apply for a Certificate of Completion in respect to a subcontract with a Subcontractor, the Contractor shall, within one Working Day, deliver to the Consultant and to the Owner an application for a Certificate of Completion of same (a "Completion Certificate Application") in conformity with GC5.4.4.

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- 5.4.2 The Consultant will review the Work to verify the validity of the application and shall promptly, and in any event, no later than 20 calendar days after receipt of the Contractor's list and application:
- .1 advise the Contractor in writing that the Work or the designated portion of the Work is not "completed" (as that term is used in the Lien Act) and give reasons why, or
 - .2 issue a Certificate of Completion in respect to the Work or subcontract stating on the certificate the date of issuance in accordance with the Lien Act and issue a copy of that certificate to each of the Owner and the Contractor.
- 5.4.3 Immediately following the issuance of the Certificate of Completion for the Work, the Contractor, in consultation with the Consultant, shall establish a reasonable date for Total Performance of the Work (which date will be deemed to be the date for same set out in the Construction Schedule if such date is specified).
- 5.4.4 The Completion Certificate Application referred to in GC5.4.1 shall consist of the following:
- .1 a cover letter stating that the submittal is an application for a Certificate of Completion as well as an application for payment, and clearly identifying the Work or subcontract for which the Certificate of Completion is being sought;
 - .2 all of the certifications and information required on an application for payment as set out in GC5.2.6;
 - .3 with respect to the Work or subcontract, as applicable, all deliverables, including copies of all manufacturer's warranties, called for in the Contract Documents which are or should be available at the time of the Completion Certificate Application including without limitation and by way of example only all operation manuals, service manuals, warranty certificates, maintenance contracts, service contracts, software licenses, inspection reports, and other applicable manuals, contracts, certificates, guarantees and warranties.
- 5.4.5 Failure to include an incomplete or defective item on Completion Certificate Application or the Consultant's issuance of a Certificate of Completion or certificate of payment in respect to same does not alter the responsibility of the Contractor to complete the Contract.
- 5.4.6 Subject to the requirements of the Lien Act relative to the date of issuance by the Consultant of the Certificate of Completion of the Work pursuant to GC5.4.2.2:
- .1 the Consultant shall issue to the Owner and copy to the Contractor a certificate of payment for an amount equal to the Contract Price less:
 - .1 three times the value of any deficiencies shown on the

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comprehensive list of items to be completed or corrected, as determined by the Consultant,

- .2 the value of incomplete work as determined by the Consultant, and
 - .3 the amounts of all previous certificates of payment;
- .2 the Owner shall then make payment to the Contractor in accordance with the provisions of GC 5.3.1.3 provided always that a Completion Certificate Application shall be deemed received only if and when submitted in accordance with GC 5.2.6 as well as GC5.4.4.

GC5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

GC5.5 is deleted in its entirety and replaced with the following:

5.5.1 After the issuance of the Certificate of Completion evidencing Substantial Performance of the Work, the Contractor shall:

- .1 submit an application for payment of the Holdback Amount,
- .2 submit a current CCDC 9A Statutory Declaration of Progress Distribution by Contractor, as well as a current CCDC 9B Statutory Declaration of Progress Distribution by Subcontractor from each of the Subcontractors, which in every case shall be fully and properly completed and sworn before a Notary Public or Commissioner for Oaths for the Province of British Columbia;
- .3 verify that there are no Liens or other liens relating to the Contractor, the Work or the Products registered against the Owner, the Project or the Site or the Owner's interest therein or against the Holdback Amount, by signing and submitting the appended "Statement Regarding Outstanding Claims";
- .4 attach the documents required under GC10.4 demonstrating compliance by the Contractor and each Subcontractor with WorkSafe BC Rules; and
- .5 attach copies of a current title search of the Site confirming that no Liens have been registered prior to the time the release of the Holdback Amount is due.

5.5.2 After the receipt of and approval of the application documents described in GC 5.5.1, the Consultant will issue a certificate for payment of the Holdback Amount (less any previous releases of the Holdback Amount on account of subcontract Certificates of Completion).

5.5.3 The Contractor now acknowledges that the Owner is exempt under the regulations of the *Lien Act* from the requirement to keep the Holdback Amount in a separate holdback account.

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5.5.4 The Holdback Amount is due and payable as set out in GC 5.1.6.4. The Owner may retain out of the Holdback Amount any sums required by law to satisfy any Liens or other liens against the Contract, Work, Site, or Owner's interest in the Site or, if permitted by the *Lien Act*, other third party monetary claims against the Contractor which are enforceable against the Owner. Except to the extent expressly prohibited by the *Lien Act*, the Owner may retain out of the Holdback Amount any deficiency holdbacks provided for in the Contract Documents.

5.5.5 [Intentionally Deleted]

GC5.6 PROGRESSIVE RELEASE OF HOLDBACK

GC5.6.1 is deleted in its entirety and replaced with the following:

Any portion of the Holdback Amount in respect to a Subcontractor or Supplier subcontract is due and payable as set out in GC 5.1.6.3. The Owner may retain out of the subcontract portion of the Holdback Amount any sums required by law to satisfy any Liens or other liens against the Contract, Work, Site, or Owner's interest in the Site or, if permitted by the Lien Act, other third party monetary claims against the Contractor which are enforceable against the Owner. Except to the extent expressly prohibited by the Lien Act, the Owner may retain out of the Holdback Amount any deficiency holdbacks provided for in the Contract Documents.

GC5.6.2 is deleted in its entirety.

GC5.6.3 is amended by deleting the words "final certificate for payment" and replacing with "Final Certificate for Payment".

GC5.7 FINAL PAYMENT

GC5.7.1 is deleted in its entirety and replaced as follows:

5.7.1 When the Contractor considers that Total Performance of the Work has been achieved, the Contractor shall submit its final application for payment. The application for payment on attaining Total Performance of the Work shall consist of the following:

- .1 all of the certifications and information required on an application for payment as set out in GC5.2.6, all appropriately amended to clearly confirm that the Work is fully completed, all Products have been delivered, and all Lien periods have expired with no Liens or other liens having been filed;
- .2 a current CCDC 9A Statutory Declaration of Progress Distribution by Contractor, as well as a current CCDC 9B Statutory Declaration of Progress Distribution by Subcontractor from each of the Subcontractors, which in every case shall be fully and properly completed and sworn before a Notary Public or Commissioner for Oaths for the Province of British Columbia;

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- .3 copies of a current title search of the Site confirming that no Liens have been registered as at the date of application for Final Certificate for Payment; and
- .4 all deliverables called for in the Contract Documents which were not delivered at the time of Substantial Performance of the Work.

GC5.7.3 is amended by deleting the words “final certificate for payment” and replacing with “Final Certificate for Payment”.

GC5.7.4 is deleted in its entirety and replaced as follows:

Subject to paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and the *Lien Act*, the Owner shall, no later than 21 calendar days after the issuance of a Final Certificate for Payment, pay the Contractor as provided in GC5.1.6.4

GC6.1 OWNER'S RIGHT TO MAKE CHANGES

GC6.1.3 is added as follows:

Change Orders, contemplated Change Orders, and Change Directives shall be on printed forms supplied by the Owner or Consultant and may include:

- .1 job site instructions or site memo forms, for immediate authorization on Site in order not to delay the performance of the Work and for changes of a minor nature with no price variation, shall be issued on site on the signature of the Consultant only;
- .2 contemplated Change Orders issued by the Consultant for purposes of the Contractor's response on method of adjustment and extent of adjustment to Contract Price and Time shall be signed by the Consultant only;
- .3 Change Orders authorizing the Contractor to proceed with the Work as set out by the Consultant and Contractor in the contemplated Change Order shall be signed by the Owner and Contractor.

GC6.1.4 is added as follows:

The Unit Prices, if any, set out in the Schedule of Prices are firm and fixed, and shall not be subject to adjustment as a result of any difference between the estimated quantities shown in such schedule and the corresponding actual quantities whether or not any Change Orders or Change Directives are issued.

GC6.3 CHANGE DIRECTIVE

GC6.3.3 is deleted in its entirety.

GC6.3.5 is deleted in its entirety.

GC6.3.6 is deleted in its entirety and replaced as follows:

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Subject to GC6.3.13, the adjustment in the Contract Price for a change in the Work carried out by way of a Change Directive shall be on the basis of the Contractor's actual and properly documented expenditures and savings attributable to the change. If a change in the Work results in expenditures only, the change in the Work shall be valued as Cost Plus Work in accordance with GC5A. - BASIS OF PAYMENT. If a change in the Work results in savings only, the amount of the credit shall be the actual cost savings to the Contractor, without deduction for overhead or profit. If a change in the Work results in both expenditures and savings, overhead and profit on the Work shall be payable only on the net increase in expenditures, if any, with respect to that change in the Work.

GC6.3.7 is deleted in its entirety.

GC6.3.8 is deleted in its entirety.

GC6.3.9 is deleted in its entirety.

GC6.3.10 is deleted in its entirety.

SC47 GC6.4 CONCEALED OR UNKNOWN CONDITIONS

GC6.4.1 is deleted in its entirety and replaced as follows:

If the Contractor discovers conditions at the Place of the Work which are subsurface or otherwise concealed physical conditions at the Site which existed before the commencement of the Work, could not reasonably have been discovered by proper investigation by the Contractor under GC3.10.13, and which differ materially from those disclosed in the Contract Documents, including any geotechnical report, environmental assessment, or other report included or referenced in the Contract Documents or provided or made known to the Contractor before the commencement of the Work; then the Contractor shall give Notice in Writing to the Consultant of such conditions before they are disturbed and in no event later than 5 Working Days after first observance of the conditions.

GC6.4.1A is added as follows:

The Contractor must give notice under GC6.4.1 within 5 Working Days after discovery of the conditions or the time when the Contractor by reasonable diligence could have discovered the conditions, failing which the Contractor may not make or enforce any claim against the Owner, whether for a change in the Contract Price or other compensation or for an extension of the Contract Time arising from those conditions.

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GC6.4.4 is deleted in its entirety and replaced as follows:

If such concealed or unknown conditions relate to Hazardous Substances, artifacts and fossils, or mould, the parties will be governed by the provisions of GC9.2 - TOXIC AND HAZARDOUS SUBSTANCES, GC9.3 - ARTIFACTS AND FOSSILS and GC9.5 - MOULD.

GC6.5 DELAYS

GC6.5 is deleted in its entirety and replaced as follows:

6.5.1 Delay Claims Limited

The Contractor shall be entitled to an extension of the Contract Time and/or an adjustment to the Contract Price or other compensation for delay, howsoever caused, if and to the extent only expressly permitted under this GC6 or in respect of a change in the Work, in each case as authorized only by a Change Order and in no event will these provisions apply to delays arising directly or indirectly from the Contractor's Shut-Down-Obligations (as defined in Part F - Special Conditions).

6.5.2 Excusable Event

If the Contractor is delayed in the performance or completion of the Work by an Excusable Event, then, subject to the other conditions of this GC6.5, the Contract Time shall be extended for such reasonable time as the Consultant determines, after consultation with the Contractor, as being required to accommodate the anticipated impact on the Contract Schedule of the Excusable Event. Any such time extension shall be confirmed by Change Order under GC6.1. The Contractor shall not be entitled to make or enforce any claim against Owner for any change in the Contract Price or other compensation as a result of an Excusable Event.

6.5.3 Owner-Caused Event

If the Contractor is delayed in the performance or completion of the Work by a Owner-Caused Event, then subject to the other conditions of this GC6.5, the Contract Time shall be extended for such reasonable time as the Consultant determines, after consultation with the Contractor, as being required to accommodate the anticipated impact on the Contract Schedule of the Owner-Caused Event, and the Contract Price shall be adjusted to compensate the Contractor for the reasonable direct costs incurred, or anticipated to be

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incurred, by it as a result of the delay.

6.5.4 Claim Conditions

The right of the Contractor to an extension of the Contract Time, and/or an adjustment of the Contract Price under this GC6.5 is subject to the conditions that:

6.5.4.1 Timely Notice: the Contractor gives the Owner prompt written notice of the delay, the nature of the Excusable Event or the Owner-Caused Event, as the case may be, and its intent to submit a claim for time extension and/ or adjustment of the Contract Price, and in any event, such notice must be given not later than 5 Working Days after the occurrence of the Excusable Event or the Owner-Caused Event;

6.5.4.2 Claim Details: the Contractor promptly gives the Owner details of its claim, including the time required to accommodate the anticipated impact on the Contract Schedule, and if applicable, the costs incurred, or anticipated to be incurred, by the Contractor as a result of the delay, and in any event such details must be given not later than 14 Working Days after the occurrence of the Excusable Event or the Owner-Caused Event;

6.5.4.3 Mitigation Measures: the Contractor has taken, and continues to take, all reasonable measures, including those, if any, recommended by the Owner to minimize the impact of the delay on the Contract Schedule, and in the case of a claim for adjustment of the Contract Price, all reasonable measures, including those, if any, recommended by the Owner, to minimize the costs incurred, or anticipated to be incurred, by the Contractor as a result of the delay;

6.5.4.4 Critical Path Impacted: no extension of time and/or adjustment of the Contract Price or other financial compensation will be granted, unless the Excusable Event or the Owner-Caused Event, as the case may be, has an adverse impact on the critical path established by the Contract Schedule;

6.5.4.5 Concurrent Delays: if there are concurrent delays and impacts, some of which entitle the Contractor to relief under this GC6.5 and some of which do not, the Contractor is not entitled to relief under this GC6.5, the Contractor shall be entitled to an extension of the Contract Time, and if applicable an adjustment of the Contract Price in respect of a Owner-Caused Event, only to the extent that the delays entitling

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the Contractor to relief under this GC6.5 exceed those that do not so entitle the Contractor to such relief; and

6.5.4.6 No Cumulative Impact Claims: each claim under this GC6.5 based in whole or in part on a particular event must be submitted and will be considered and assessed separately, and the Contractor may not make or enforce any claim under this GC6.5 or otherwise for the cumulative impact on schedule or on cost of two or more such events.

6.5.5 Acceleration/Suspension of the Work:

- (a) Notice: The Contractor shall give the Owner notice of any delay in the performance of the Work, however caused, and any event or circumstance that could reasonably be expected to cause such delay. The notice shall be given promptly after the delay, event or circumstance is known to the Contractor. The notice shall be accompanied by details of the Contractor's plan to avoid or mitigate the duration and adverse impact of the delay.
- (b) Acceleration Order: If there is a delay, or threatened delay, in the performance of the Work, or if the Owner wishes to accelerate the Work for its convenience, the Consultant, after consultation with the Contractor, may order the Contractor to accelerate the Work, including by way of the provision of additional labour, including overtime work, and Construction Equipment. Each acceleration order must be in writing and signed by the Consultant. The Contractor shall comply promptly with any order given under this GC6.5.5(b).
- (c) Cost Allocation: If the delay, or threatened delay, in respect of which an order is made under GC6.5.5(b) does not entitle the Contractor to an extension of the Contract Time under GC6.4, including any delay or threatened delay caused by the Contractor, or any Subcontractor, Supplier or other person for whose acts and omissions the Contractor is responsible under the Contract, then all costs incurred by the Contractor in complying with the order will be for the Contractor's account. If the delay, or threatened delay, would entitle the Contractor to an extension of the Contract Time under GC6.4, then the Consultant, in lieu of granting such extension in whole or in part, shall issue a Change Directive and/or a Change Order under GC6.1, and the

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Contract Price will be adjusted accordingly.

- (d) Owner's Right to Suspend the Work : The Owner, at any time and from time to time, may suspend the performance of the Work, in whole or in part, for a period not exceeding 90 days as to any one suspension, by notice to the Contractor. The Contractor shall comply promptly with any notice given under this GC6.5.5, and shall resume full performance of the Work promptly on notice from Owner to do so. Owner shall pay to the Contractor the documented costs reasonably incurred by it as a consequence of the suspension, such cost to include the incremental costs of demobilization and remobilization, Construction Equipment rental or standby charges, Materials storage, bonding and insurance costs, overhead and similar costs payable by the Contractor to Subcontractors, but excluding any allowance for profit or loss of profit, all such costs to be certified by the Consultant and confirmed by Change Order. The Contractor shall use all commercially reasonable efforts to avoid or minimize such costs, including following any reasonable written directions given by Owner for that purpose.

6.5.6 Protect Work During the Delay

During any delay or suspension of the Work, the Contractor shall maintain adequate surveillance of the Work and undertake such maintenance and protection of the Work as may be reasonable to maintain public safety and to protect materials, plant and equipment already installed in the Work or delivered to the Place of Work, and shall provide any other protective measures as may be described in the Contract Documents.

GC7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

GC7.1.5.2 is amended by deleting the words "final certificate for payment" and replacing with "Final Certificate for Payment".

GC7.1.7 is added as follows:

7.1.7 The Owner may terminate the Contract at any time for the convenience of the Owner by notice given to the Contractor. If the Contract is terminated under this GC7.1.7, then:

- (a) the Contractor shall suspend performance of the Work and shall not incur further cost or expense in relation to the Work, except

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- (i) as necessary to protect the Work and the safety of persons, or
 - (ii) as authorized or directed in writing by the Owner;
- (b) the Contractor shall remove from the Site its personnel and all Construction Equipment and other material that is owned or leased by the Contractor, except as otherwise required to comply with GC7.1.7(a)(i) and (ii); and the Owner shall pay the Contractor for all Work performed, including the cost of complying with GC7.1.7(a)(i) and (ii), in accordance with the terms and conditions of payment set out in the Contract, together with the documented and reasonable cost of terminating subcontracts with Subcontractors and Suppliers and demobilizing the Contractor's personnel and Construction Equipment, all as certified by the Consultant, and upon such payment being made, the Contractor shall have no further or other claim against the Owner for, or in connection with, termination of the Contract.

GC7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE CONTRACT

GC7.2.2 is amended by replacing the number "20" where it appears in the first sentence with the number "30" and by revising the first sentence to read:

Except for the period during which an Owner-initiated suspension under GC6.5.5(d) is in effect or subsequently takes effect,

GC7.2.3 is amended by adding the following to the beginning of the first sentence:

If the default cannot be corrected in 5 Working Days or in such other time as may be subsequently agreed in writing by the parties,

GC7.2.3.1 is deleted in its entirety.

GC7.2.3.4 is deleted in its entirety and replaced with the following:

the Owner violates the requirements of the Contract to a substantial degree and the Consultant, except for GC 5.1 - GENERAL FINANCIAL/PAYMENT PROVISIONS, confirms by written statement to the Contractor that sufficient cause exists.

GC7.2.4 is amended by revising the second line to read:

corrected within 14 Working Days

GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

GC8.2.1.1 is deleted in its entirety and replaced as follows:

.1 within 30 Working Days after the Contract was awarded, or

GC8.2.1.2 is deleted in its entirety and replaced as follows:

.2 if the parties neglected to make an appointment within the 30 Working

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Days, within 20 Working Days after either party by Notice in Writing requests that the Project Mediator be appointed.

GC8.2.3 is amended by adding the following to the end:

However, the Owner and the Contractor nonetheless irrevocably and unconditionally attorn to the jurisdiction of the courts of British Columbia, and courts to which appeals therefrom may be taken, in respect of any dispute or claim arising under or relating to the Contract. The Owner and the Contractor acknowledge and agree that such courts have jurisdiction, but not necessarily exclusive jurisdiction in respect of any such dispute or claim. If a dispute arises under or in relation to this Contract, and the dispute cannot be resolved by the Owner's Project Manager and the Contractor's principal representative on Site within 3 Working Days after the dispute arises, or the Owner's Project Manager is not authorized to resolve the dispute, then:

- (a) the dispute will be referred to the Owner's Director of Facilities and the Contractor's project manager for resolution, and if they cannot resolve the dispute within 3 Working Days after referral to them, then
- (b) the dispute will be referred to a senior executive of the Owner designated by it and a senior executive of the Contractor designated by it, for resolution, and if they cannot resolve the dispute within 3 Working Days after referral to them, then
- (c) either party may take such further legal proceedings as they consider necessary for the resolution of the dispute either concurrently with or in lieu of the process outlined in GC8.2.4 - 8.2.9.

GC8.2.4 is amended by revising the second line to read:

...the parties may request the Project Mediator...

GC8.2.6 is amended by revising the second line to read:

...either party may request referral of the dispute...

GC8.2.7 is deleted in its entirety and replaced as follows:

If a Notice in Writing is not given under paragraph 8.2.6 within the required time or the other party does not reply and agree to binding arbitration, the parties may refer the unresolved dispute to the courts or to any other form of

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dispute resolution, including arbitration, which they have agreed to use

GC8.2.9 is added as follows:

Where references are made in the Contract Documents to “the time of bid closing”, it is intended by the parties that this shall mean the effective date of the contract.

GC9.1 PROTECTION OF WORK AND PROPERTY

GC9.1.1 is deleted in its entirety and replaced with the following:

The Contractor shall protect the Work, Products delivered to the Site and the Owner’s property and property on or adjacent to the Site from theft and damage which may arise as the result of the Contractor’s operations under the Contract, and shall be responsible for such theft and damage, except theft and damage which occurs as the result of:

- .1 errors in the Contract Documents;
- .2 acts or omissions by the Owner, other contractors, their agents and employees.

GC9.1.4 is amended by revising the first line to read:

Should damage to the Work, Products delivered to the Site, the Place of Work, the Owner’s property ...

GC9.1.5 is added as follows:

The Contractor is responsible for protection of the Work during shutdown, including shutdowns caused by strikes.

GC9.2 TOXIC AND HAZARDOUS SUBSTANCES

GC9.2.1 is deleted in its entirety and replaced with the following:

For the purposes of the Contract, the Owner shall be deemed to have control and management of the Place of the Work with respect to the condition of the Place of the Work prior to the commencement of the Work in relation to applicable Environmental Law and the presence of any Hazardous Substances.

GC9.2.2 is deleted in its entirety and replaced with the following:

Prior to the Contractor commencing the Work, the Owner shall:

- .1 take reasonable steps to determine whether the Place of the Work contains any Hazardous Substances and, if so, whether the condition of the Place of the Work is in compliance with applicable Environmental Law; and
- .2 provide the Consultant and the Contractor with a written list of any such Hazardous Substances that the Owner knows to exist on, and their

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locations within, the Place of the Work.

GC9.2.3 is deleted in its entirety and replaced with the following:

Unless the Contract expressly provides otherwise, the Owner shall be responsible for taking such steps as may be necessary, in accordance with applicable Environmental Law to dispose of, store or otherwise deal with Hazardous Substances so as to cause the Place of the Work to comply with the requirements of applicable Environmental Law before the Contractor commences the Work.

GC9.2.4 is deleted in its entirety and replaced with the following:

Except as previously disclosed in writing by the Owner or as otherwise known by the Contractor, if the Contractor:

- .1 encounters Hazardous Substances at the Place of the Work; or
- .2 has reasonable grounds to believe that Hazardous Substances are present at the Place of the Work which were not brought to the Place of the Work by the Contractor or anyone for whom the Contractor is responsible or which were disclosed but have not been dealt with as required under paragraph 9.2.3, the Contractor shall:
 - .1 take reasonable steps, including stopping the Work, to ensure that no person's exposure to any Hazardous Substance at the Place of the Work exceeds any applicable levels contrary to the requirements of applicable Environmental Law, and
 - .2 immediately report the circumstances to the Consultant and the Owner by Notice in Writing.

GC9.2.5 is deleted in its entirety and replaced with the following:

If the Owner and the Contractor, acting reasonably, fail to agree on whether the condition of the Place of the Work is in compliance with applicable Environmental Law prior to the commencement of the Work or whether Hazardous Substances were brought on to the Place of the Work by the Contractor or anyone for whom the Contractor is responsible, or whether the Contractor or anyone for whom the Contractor is responsible caused the release of Hazardous Substances on the Place of the Work, the Owner shall retain an independent qualified expert to investigate and report on the subject of the dispute. Subject to paragraph 9.2.6, the Owner shall pay for the cost of the expert's investigation and report. The Owner will provide a copy of the expert's report to the Contractor.

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GC9.2.6 is deleted in its entirety and replaced with the following:

If the expert's report under paragraph 9.2.5 determines that the Place of the Work was in compliance with applicable Environmental Law prior to the commencement of the Work or that Hazardous Substances were brought onto the Place of the Work by the Contractor or any for whom the Contractor is responsible, or that the Contractor or anyone for whom the Contractor is responsible caused the release of a Hazardous Substance on the Place of the Work, the Contractor shall pay for the cost of the expert's investigation and report.

GC9.2.7 is deleted in its entirety and replaced with the following:

If the Owner and the Contractor agree, or if the expert's report under paragraph 9.2.5 concludes, that the Contractor or anyone for whom the Contractor is responsible brought a Hazardous Substance onto, or caused the release of a Hazardous Substance on, the Place of the Work, the Contractor shall promptly at the Contractor's expense:

- .1 take such steps as are necessary to safely and in compliance with Environmental Law remove, transport and dispose of such Hazardous Substance and to remediate the Place of the Work to such extent as is required to cause the Place of the Work to comply with all applicable Environmental Law;
- .2 make good any damage to the Work, the Owner's property and any property affected by any migration of the Hazardous Substance as provided in paragraph 9.1.3 of GC9.1 - PROTECTION OF WORK AND PROPERTY;
- .3 reimburse the Owner for all resultant costs and expenses reasonably incurred by the Owner; and
- .4 indemnify the Owner as required by GC 12.1 - INDEMNIFICATION

GC9.2.8 is deleted in its entirety and replaced with the following:

If the Owner and the Contractor agree, or if the expert's report under paragraph 9.2.5 concludes, that the Contractor or anyone for whom the Contractor is not responsible for bringing a Hazardous Substance onto, or for causing the release of a Hazardous Substance on, the Place of the Work, the Owner shall promptly at the Owner's expense:

- .1 take such steps as are necessary to safely and in compliance with Environmental Law remove, transport and dispose of such Hazardous

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Substance and to remediate the Place of the Work to such extent as is required to cause the Place of the Work to comply with all applicable Environmental Law;

- .2 reimburse the Contractor for all resultant costs and expenses reasonably incurred by the Contractor;
- .3 extend the Contract time for such reasonable time as the Consultant may recommend in consultation with the Contractor and the expert referred to in paragraph 9.2.5 and reimburse the Contractor for reasonable cost incurred as a result of the delay, and
- .4 indemnify the Contractor as required by GC12.1 - INDEMNIFICATION.

GC9.2.9 is amended by deleting the words “Part 8 of the General Conditions - Dispute Resolution” from the second line and replacing with “Part 8 - DISPUTE RESOLUTION”.

GC9.2.10 is added as follows:

The Contractor shall, and shall ensure that anyone for whom the Contractor is responsible shall, at all times comply with all applicable Environmental Law and ensure that all Work is conducted in compliance with all applicable Environmental Law.

GC 9.3 ARTIFACTS AND FOSSILS

GC9.3.1 is deleted in its entirety and replaced with the following:

If the Contractor or anyone for whom the Contractor is responsible discovers fossils coins, articles of value or antiquity, structures and other remains or things of scientific, cultural or historical interest at the Place of the Work (in GC9.3 called, “Historical Items”), the Contractor shall immediately give Notice in Writing thereof to the Owner and the Consultant. As shall, as between the Owner and the Contractor, all Historical Items shall be, and shall be deemed to be, the absolute property of the Owner and the Contractor hereby irrevocably waives and disclaims any right, title or interest therein.

GC9.3.2 is deleted in its entirety and replaced with the following:

The Contractor shall take all reasonable precautions, and shall comply with all reasonable directions from the Consultant, to prevent removal or damage to Historical Items as identified in paragraph 9.3.1 or as otherwise known to be present on the Place of the Work.

GC9.3.3 is deleted in its entirety and replaced with the following:

The Consultant will investigate the impact on the Work of the discovery of any

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Historical Item identified in paragraph 9.3.1. If conditions are found that would cause an increase or decrease in the Contractor's cost or time to perform the Work, the Consultant, with the Owner's approval, will issue appropriate instructions for a change in the Work as provided in GC6.2 - CHANGE ORDER or GC6.3 - CHANGE DIRECTIVE.

GC9.4 CONSTRUCTION SAFETY

The above heading for GC9.4 is amended by adding " & WORKSAFE BC RULES" to the end.

GC9.4.2 is added as follows:

The Contractor hereby accepts and assumes all responsibilities, obligations and liabilities of a Prime Contractor under the WorkSafe BC Rules with respect to the Project and those portions of the Site occupied for the performance of the Work for the duration of the Work. The Contractor will be entitled to instruct the Owner and its employees with respect to the use of the Site in carrying out the Contractor's duties as Prime Contractor and the Owner will require its employees to comply with the proper requirements of the Prime Contractor.

GC9.4.3 is added as follows:

Subject to GC 9.4.2 above, the Contractor shall indemnify and save harmless the Owner from any and all damages, liabilities, cost, fines, penalties, fees and expenses whatsoever including, without limitation, legal fees, charges and disbursements as between a solicitor and his own client, related to or arising out of the assignment to the Contractor, and the Contractor's assumption, of the responsibilities, obligations and liabilities of the Prime Contractor under the WorkSafe BC Rules with respect to the place of the Work.

GC9.4.4 is added as follows:

The Contractor agrees that it shall at its own expense procure and carry or cause to be procured and carried and paid for, full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Contract.

GC9.4.5 is added as follows:

The Contractor agrees that the Owner has the unfettered right to set off the amount of the unpaid premiums and assessments for such Workers' Compensation Board coverage against any monies owing by the Owner to the Contractor. The Owner shall have the right to withhold payment under this Contract until the Worker's Compensation Board premiums, assessments or

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

GC9.4.6 is added as follows:

Without in any way limiting the Contractor's obligations under the WorkSafe BC Rules, and by way of example only, the Contractor will:

- .1 appoint and provide a qualified coordinator for the purpose of ensuring the coordination of health and safety activities for the Site,
- .2 provide and receive and respond to all information required to be given, received or relayed by the Contractor (both as an employer and as the Prime Contractor) pursuant to the WorkSafe BC Rules, and
- .3 within 10 Business Days of the City delivering the Notice of Award to the Contractor, sign and deliver to the Owner, the "Prime Contractor/Qualified Coordinator Agreement" in the form attached to this Contract.

GC9.4.7 is added as follows:

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

GC9.4.8 is added as follows:

Prior to commencement of construction, the Contractor will:

- .1 complete and file a "Notice of Project" with the Workers' Compensation Board in compliance with Section 20.2 of the WorkSafe BC Rules, and
- .2 post the Notice of Project at the Site, and
- .3 will provide a copy of the Notice of Project to the Owner and confirm in writing that the Notice of Project has been posted at the Site.

GC9.4.9 is added as follows:

Within 10 Business Days of the City delivering the Notice of Award to the Contractor, the Contractor will provide the Owner with the Contractor's and all Subcontractor's Workers' Compensation Board registration numbers.

GC9.4.10 is added as follows:

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Within 10 Working Days of the Owner delivering the Notice of Award to the Contractor, and concurrently with making any application for payment under this Contract, the Contractor will provide the Owner with written confirmation that the Contractor and all Subcontractors are registered in good standing with the Workers' Compensation Board and that all assessments have been paid to date of the Notice of Award or date of application for payment, as applicable.

GC9.4.11 is added as follows:

The Contractor may or may not have received, as part of the Contract Documents, a "Pre-Contract Hazard Assessment" prepared by or for the Owner pursuant to the Owner's statutory obligations under the WorkSafe BC Rules (Section 119 of the Act) as an "owner of a workplace". Despite the Owner's statutory obligations, the Prime Contractor now acknowledges and agrees that the Contractor may not rely on the "Pre-Contract Hazard Assessment" and now agrees to assume by the terms of this Contract full responsibility for carrying out the Owner's obligations under Section 119 of the Act, including without limitation and by way of example only, conducting all due diligence inquiries of all applicable Owner staff and departments in order to ascertain what, if any, information is known or has been recorded by Owner staff about the Site that is necessary to identify and eliminate or control hazards to the health or safety of persons at the Site. The Owner now agrees to make all reasonable efforts to assist the Contractor in obtaining timely access to Owner staff and Owner records for this purpose. Within 10 Working Days of the Owner delivering the Notice of Award to the Contractor, the Contractor will start conducting such due diligence inquiries and must complete and deliver written confirmation of the completion of such inquiries to the Consultant prior to the Owner being obligated to issue the Notice to Proceed.

GC9.4.12 is added as follows:

The Contractor will indemnify the Owner and hold harmless the Owner from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to:

- .1 unpaid Workers' Compensation Board assessments of the Contractor or any other employer for whom the Contractor is responsible under this Contract,
- .2 the acts or omissions of any person engaged directly or indirectly by the Contractor in the performance of this Contract, or for whom the

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Contractor is liable pursuant to the Contractor's obligations as the Prime Contractor, and which acts or omissions are or are alleged by the Workers' Compensation Board to constitute a breach of the WorkSafe BC Rules or other failure to observe safety rules, regulations and practices of Workers' Compensation Board, including any and all fines and penalties levied by the Workers' Compensation Board, or

.3 any breach of the Contractor's obligations under Clause GC9.1

GC9.4.13 is added as follows:

The Contractor agrees to retain a full-time construction safety officer for projects governed by Section 1.8 and Sub-section 1.10.5 of the Vancouver Building By-law. The construction safety officer shall be in written proof of qualification satisfactory to the City of Vancouver's Director of Permits and Licenses.

GC9.5 MOULD

GC9.5.1 is deleted in its entirety and replaced with the following:

If the Contractor or the Owner observes or reasonably suspects the presence of mould of the nature and quantity at the Place of the Work such that special handling and precautions are required under Environmental Law or that otherwise may reasonably present a hazard to the health and safety of persons, the remediation of which has not been separately arranged by the Owner or is not expressly part of the Work,

.1 the observing party shall promptly report the circumstances to the other party by Notice in Writing;

.2 the Contractor shall promptly take all reasonable steps, including stopping all or such portions of the Work as may be necessary to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould; and

.3 if the Owner and the Contractor do not agree on whether any mould discovered is of the nature and quantity such that special handling and precautions are required under Environmental Law or whether such mould may otherwise reasonably present a hazard to the health and safety of persons or with respect to what steps are appropriate to be taken to deal with the mould, or as to the cause of the presence of the mould, the Owner shall retain an independent qualified expert to investigate and report on the subject of the dispute. Subject to

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paragraph 9.5.2, the Owner shall pay for the cost of the expert's investigation and report. The Owner will provide a copy of the expert's report to the Contractor.

GC9.5.2 is deleted in its entirety and replaced with the following:

If the expert's report under paragraph 9.5.1.3 determines that the mould does not require special handling and precautions in compliance with Environmental Law or does not otherwise reasonably present a hazard to the health and safety of persons, the Contractor will pay for the cost of the expert's investigation and report. If the expert's report under paragraph 9.5.1.3 determines that the mould was caused as the result of the acts or omissions of the Contractor or anyone for whom the Contractor is responsible, the Contractor shall promptly, at the Contractor's expense:

- .1 take such steps as are necessary to safely and in compliance with Environmental Law remove, transport and dispose of such mould and to remediate the Place of the Work to such extent as is required to cause the Place of the Work to comply with all applicable Environmental Law;
- .2 make good any damage to the Work, the Owner's property and any property affected by the mould as provided in paragraph 9.1.3 of GC9.1 - PROTECTION OF WORK AND PROPERTY;
- .3 reimburse the Owner for all resultant costs and expenses reasonably incurred by the Owner; and
- .4 indemnify the Owner as required by GC12.1 - INDEMNIFICATION.

GC9.5.3 is deleted in its entirety and replaced with the following:

If the Owner and the Contractor agree, or if the expert's report under paragraph 9.5.1.3 concludes, that the presence of mould on the Place of the Work requires special handling or precautions under Environmental Law or otherwise presents a hazard to the health or safety of persons, and that the Contractor or anyone for whom the Contractor is responsible is not responsible for the presence of such mould, the Owner shall promptly at the Owner's expense:

- .1 take such steps as are necessary to safely and in compliance with Environmental Law remove, transport and dispose of such mould and to remediate the Place of the Work to such extent as is required to cause the Place of the Work to comply with all applicable Environmental Law;
- .2 reimburse the Contractor for the cost of taking the steps under

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paragraph 9.5.1.2 and making good any damage to the Work as provided in paragraph 9.1.4 of GC9.1 - PROTECTION OF WORK AND PROPERTY;

.3 extend the Contract Time for such reasonable time as the Consultant may recommend in consultation with the Contractor and the expert referred to in paragraph 9.5.1.3 and reimburse the Contractor for reasonable costs incurred as a result of the delay, and

.4 indemnify the Owner as required by GC12.1 - INDEMNIFICATION.

GC10.1 TAXES AND DUTIES

GC10.1.1 is deleted in its entirety and replaced as follows:

The Contractor shall allow for the payment by the Contractor of all federal, provincial and municipal taxes, rates, levies, assessments and duties, both refundable and non-refundable, and all deposits, (temporary crossings, excavations, etc.). The Contractor agrees that the Owner shall not be liable for any of the said items and agrees to indemnify and save harmless at all times the Owner from and against all claims which may be made with respect thereto. The Owner will pay the Contractor the amount of the Value Added Taxes as indicated in ARTICLE A-4 CONTRACT PRICE of the AGREEMENT but its cost shall be excluded from the Contract Price.

GC10.1.2 is amended by revising the first line to read:

...in such included taxes, duties and rebates...

GC10.1.3 is added as follows:

Where an exemption or recovery of government sales taxes, customs duties or excise taxes is applicable to the Contract, the Contractor shall submit for the Owner's review the exemption or recovery application and the supporting invoices of the actual quantities of materials incorporated in the Work prior to applying for the rebate. The Owner will then issue a certificate verifying the application. The Contractor acknowledges its submission of its Tender Form and agreement to the Contract Price on the basis that the Contractor will be entitled to all such rebates.

GC10.2 LAWS, NOTICES, PERMITS AND FEES

GC10.2.2 is deleted in its entirety and replaced as follows:

The Contractor shall, except as set out below in this GC10.2.2 and unless otherwise specified in the Contract Documents, obtain and all permits, licences, and certificates and pay all fees required for the performance of the Work, and obtain all necessary access and storage rights for areas outside of

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the Site (including with out limitation and by way of example only, parking for its wor kers, swing arc of any co nstruction cra ne required for the W ork, or storage of materials) but this shall not include the dev elopment permit and building permit which h ave been obtained by the Consultant, paid for by the Owner, and issued to the Owner, nor shall it include the obligation to obtain easements or other access rights over the actual Site.

GC10.2.3 deleted in its entirety and replaced as follows:

The Contractor shall be responsible for the procurement of permits, licences, inspections, and certifi cates, which are necessary for the performance of the Work and customarily obtained by contractors in the jurisdiction of the Place of the Work after the issuance of the building permit The Contract Price includes the cost of all permits (except building and development permits but including occupancy permits), licences, inspections and c ertificates and their procurement. The Contractor will a rrange for all ins pections and testing required b y such perm its. The Contractor shall provid e to the Consultant copies of all permits and inspection reports from the various authorities as soon as they are received.

GC10.2.5 is amended by revising the first sentence to read:

The Contractor shall be responsible to provide reasonable verification that the Contract Documents ...

GC10.4 WORKERS' COMPENSATION

GC10.4 is deleted in its entirety.

PART 11 INSURANCE AND CONTRACT SECURITY

GC11.1 INSURANCE (including the heading) is deleted in its entirety and replaced as follows:

GC11.1 GENERAL INSURANCE REQUIREMENTS

11.1.1 The Contractor and Subcontractors shall be required to file with the Owner within 10 W orking Days of issuance of the Notice of Awa rd, a Certificate of Insurance, and where required by the Owner's Director of Risk Manag ement, certified copies of all insurance policies an d endorsements evidencing the place ment and e ndorsement of insuranc e in accordance with this GC11.

11.1.2 The Contractor and Subcontractor shall be required to file evidence of renewal of the insuran ce policies required u nder this GC11 with the

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owner at least 15 calendar days prior to their expiry.

- 11.1.3 In addition to the specific requirements below, all policies of insurance shall
- .1 be endorsed so as to provide for 30 calendar days' prior notice to the Owner of cancellation, lapse or material change,
 - .2 if property insurance (as opposed to liability) insurance, contain a waiver of subrogation in favour of the Owner Insurance Group (as defined below) and all employees and agents of the Owner Insurance Group,
 - .3 specifically name (a) the City of Vancouver, (b) the City of Vancouver, as represented by its Board of Parks and Recreation, and (c) the Consultant, as additional insureds (all of (a), (b), and (c) being collectively referred to in this GC11 as the "Owner Insurance Group"),
 - .4 be issued by a company or companies authorized to issue insurance policies in British Columbia, and
 - .5 be issued on a policy form acceptable to the Owner's Director of Risk Management.

11.1.4 Unless otherwise specified, insurance shall be continuously maintained from no later than the 10 Working Days after issuance of the Notice of Award through to the date of Total Performance of the Work.

GC11.2 SPECIFIC INSURANCE COVERAGE is added as follows:

11.2.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, and despite the limits of liability set out in GC 12.1 - INDEMNIFICATION, the Contractor shall provide at the Contractor's expense the following types of insurance:

- (a) Wrap Up Liability Insurance protecting the Owner Insurance Group, the Contractor, and their respective agents and employees against damages arising from personal injury (including death) and claims for property damage which may arise out of the operations of the Contractor, its Subcontractors, or their respective agents or employees in connection

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with the Work.

The policy shall be placed prior to commencement of the Work and shall specifically cover liability arising out of the performance of this Contract and shall cover all liability assumed by the Contractor under any contract or agreement, including the indemnity provisions of this Contract. The policy shall also include products and 24 month completed operations coverage and shall extend to liability arising out of non-owned automobiles and where such further risk exists:

1. shoring, blasting, excavating, underpinning, demolition, removal, pile-driving and grading, as applicable;
2. hoist liability; and
3. operation of attached machinery.

This insurance shall be for an amount of not less than \$5,000,000 inclusive per occurrence, and shall include a standard form of severability of interests and cross-liability clause. The deductible per occurrence shall not exceed \$5,000.00.

- (b) Commercial General Liability Insurance protecting the Contractor, and their agents and employees against damages arising from personal injury (including death) and claims for property damage which may arise out of the operations of the Contractor, its subcontractors, or their respective agents and employees.

Subject to industry standard exclusions contained in such policy, the policy shall cover the liability assumed by the Contractor under any contract or agreement, including the indemnity provisions of this Contract. The policy shall also include products and 24 month completed operations coverage and shall extend to liability arising out of non-owned automobiles.

The policy shall be maintained continuously from commencement of the Work until Total Performance of the Work and then for a period of 2 years thereafter.

This insurance shall be for an amount of not less than \$5,000,000 inclusive per occurrence, and shall include a standard form of cross-liability clause and name the Owner Insurance Group as additional

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insureds. The deductible per occurrence shall not exceed \$50,000.00.

- (c) Automobile Liability Insurance to be carried at all times on all licensed vehicles owned by or leased to the Contractor, protecting against damages arising from bodily injury (including death), and from claims for property damage arising from the operations of the Contractor, its agents or employees. This insurance shall be for a minimum amount of \$5,000,000 inclusive per accident.
- (d) Property and Boiler Insurance:
- (1) All-Risks Insurance in the joint names of the Contractor and the Owner Insurance Group, covering the Work and all property of every description to be used in the performance of the Work. This insurance shall be primary, and be of an amount of not less than the sum of the Contract Price. The deductible per occurrence shall not exceed \$20,000.00.
- (2) Boiler Insurance insuring the interests of the Contractor and the Owner Insurance Group for not less than the replacement value of boilers and pressure vessels forming part of the Work. This insurance shall be maintained continuously from commencement of use or operation of the property insured and until ten (10) Working Days after the date of Total Performance of the Work, as set out in the certificate of Total Performance of the Work.
- (3) Occupancy by Owner Where the Owner wishes to use or occupy part or all of the Work prior to Total Performance of the Work, it shall give the requisite written to the Contractor pursuant to GC 13 - Occupancy and if requested the Contractor shall promptly notify the Owner in writing of the additional premium cost, if any, to maintain property and boiler insurance, which shall be at the Owner's expense.
- If, because of such use or occupancy, the Contractor is not requested to or is requested to but is unable to provide coverage, the Owner upon written notice from the Contractor and prior to such use or occupancy shall provide, maintain and pay for property and boiler insurance insuring the full value of

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the Work, as in subparagraphs (1) and (2), including coverage for such use or occupancy and shall provide the Contractor with proof of such insurance. The Contractor shall refund to the Owner the unearned premiums applicable to the Contractor's policies upon termination of coverage.

- (4) Owner to be Loss Payee The policy shall provide that, in the event of loss or damage, payment shall be made to the Owner. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of the Contract Time relative to the extent of the loss or damage as the Consultant may decide in consultation with the Contractor.
- (5) Payment for Loss or Damage:

The Contractor shall be entitled to receive from the Owner, in addition to the amount due under the Contract, the amount at which the Owner's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds and in accordance with the requirements of GC 5.3 - APPLICATIONS FOR PAYMENT and GC 5.4 - PROGRESS PAYMENTS. In addition the Contractor shall be entitled to receive from the payments made by the insurer the amount of the Contractor's interest in the restoration of the Work.
- (6) Deductibles The Contractor shall be responsible for payment of all deductible amounts.
- (7) Loss Caused by Other Contractor In the event of loss or damage to the Work arising from the work or act of the Owner or another Contractor, then the Owner, shall pay the Contractor the cost of restoring the Work as the restoration of the Work proceeds and in accordance with the requirements of GC 5.3 - APPLICATIONS FOR PAYMENT and GC 5.4 - PROGRESS PAYMENTS.
- (e) Contractor's Equipment Insurance covering all equipment owned or rented by the Contractor and its agents or employees against all risks of loss or damage with coverage sufficient to allow for immediate

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replacement.

GC11.3 FAILURE TO INSURE is added as follows:

11.3.1 If the Contractor fails to provide evidence of the required insurance under this GC11 as and when required by the Contract Documents, then the Owner shall have the right to do so and then give evidence of same to the Owner and Consultant and the cost of doing so will then be payable by the Contractor to the Owner or at the Owner's option may be deducted from the Contract Price by Change Directive.

GC11.2 CONTRACT SECURITY

GC11.2 (including the heading) is deleted in its entirety and renumbered as follows:

GC11.4 CONTRACT SECURITY

11.4.1 The Contractor shall pay for and deliver to the Owner, within 10 working Days of issuance of the Notice of Award, a performance bond and a labour and material payment bond, which shall each be for 50% of the Contract Price and shall include, but shall not be limited to:

- .1 payment of any Consultant's and legal expenses incurred by the Owner in determining the extent of the Work executed and Work still to be executed, and any additional Work required as a result of the interruption of the Work,
- .2 payment of additional expenses caused to the Owner for watchmen's services, light, heat, power, etc. incurred to the Owner during the period between the default of the original Contract and the commencement of the new Contract,
- .3 extended guarantee periods, corrections after final payment, and warranty obligations, and
- .4 coverage of the faithful performance of all terms and conditions of the Contract Documents including all additions and revisions thereto permitted under the Contract.

11.4.2 Such bonds shall be issued by a duly licensed surety company authorized to transact the business of a surety in British Columbia and the bonds shall be maintained in good standing until the issuance of the Final Certificate for Payment and the expiry of the warranty. Subject to the requirements of this GC11.4, the bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

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11.4.3 The Contractor will give the Owner Notice in Writing of any material change in the surety within 5 calendar days of the occurrence.

GC12.1 INDEMNIFICATION

GC12.1.1 is deleted in its entirety and replaced as follows:

The Contractor now indemnifies and shall defend, indemnify and hold harmless Owner, the Consultant, the Project Manager and their respective directors, officers, employees, agents, consultants or advisors (collectively, the “Indemnitees”) from and against all claims, demands, losses, costs, damages, actions, suits or proceedings (“Liability”), whether founded in equity or at law including contract, tort or statute and howsoever caused, arising from or in any way connected with any wrongful or negligent act, error or omission of, or defective goods supplied by, the Contractor, Subcontractors, Suppliers or their respective employees or agents when attending the Site or in the performance of the Work, whether or not any one or more of the Indemnitees are contributorily negligent. Expressly excluded from this indemnity is any Liability caused solely and directly by the wrongful act or negligence of an Indemnitee.

GC12.1.2 is deleted in its entirety and replaced as follows:

The obligation of the Contractor to indemnify hereunder shall be limited to \$5,000,000 per occurrence from the commencement of the Work until Substantial Performance of the Work and thereafter to an aggregate limit of \$5,000,000. However, despite any other term of this Contract, in no event will this limitation apply in any way to reduce or limit the indemnity or recovery by either party under any insurance policy or bond required by the Contract Documents and in no event will this limit apply to the Contractor’s or Owner’s obligations to indemnify under GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES, GC9.4 CONSTRUCTION SAFETY & WORKSAFE BC RULES, GC9.5 -MOULD and GC10.3 - PATENT FEES.

GC12.1.3 is deleted in its entirety and replaced as follows:

The obligation of the Contractor to indemnify hereunder shall be inclusive of interest and all legal costs.

GC12.1.4 is deleted in its entirety and replaced as follows:

The Owner and the Contractor shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES, GC9.4 CONSTRUCTION SAFETY & WORKSAFE BC

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RULES, GC9.5 -MOULD and GC10.3 - PATENT FEES

GC12.1.5 is deleted in its entirety.

GC12.1.6 is deleted in its entirety and replaced as follows:

In respect to any claim for indemnity or to be held harmless by the Owner or the Contractor:

- .1 Notice in Writing of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
- .2 should any party be required as a result of its obligation to indemnify another to pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

GC 12.1.7 is added as follows:

GC 12.1 - INDEMNIFICATION shall govern over the provisions of paragraph 1.3.1 of GC 1.3 -RIGHTS AND REMEDIES.

GC12.2 WAIVER OF CLAIMS

GC12.2.1 is deleted in its entirety and replaced as follows:

Waiver of Claims by Owner: As of the date of the Final Certificate for Payment, the Owner expressly waives and releases the Contractor from all claims against the Contractor including without limitation those that might arise from the negligence or breach of Contract by the Contractor except one or more of the following:

- .1 those made in writing prior to the date of the Final Certificate for Payment and still unsettled;
- .2 those arising from the provisions of GC12.1 - INDEMNIFICATION or GC12.3 - WARRANTY;
- .3 those arising from the provisions of GC 9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS, GC9.4 CONSTRUCTION SAFETY & WORKSAFE BC RULES, GC9.5 -MOULD and GC10.3 - PATENT FEES and those arising from the Contractor bringing or introducing any toxic or hazardous substances and materials to the Place of the Work after the Contractor commences the Work; and
- .4 those arising from any liability of the Contractor for damages resulting

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from the Contractor's performance of the Contract with respect to substantial defects or deficiencies in the Work for which the Contractor is proven responsible.

GC12.2.2 is deleted in its entirety and replaced as follows:

As of the date of the final certificate for payment, the Contractor expressly waives and releases the Owner from all claims against the Owner including without limitation those that might arise from the negligence or breach of Contract by the Owner except:

- .1 those made in writing prior to the Contractor's application for Final Payment and still unsettled; and
- .2 those arising from the provisions of GC9.3 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS or GC10.3 - PATENT FEES.

GC12.2.3 is deleted in its entirety and replaced as follows:

GC12.2 - WAIVER OF CLAIMS shall govern over the provisions of paragraph 1.3.1 of GC1.3 - RIGHTS AND REMEDIES.

GC12.2.4 is deleted in its entirety.

GC12.2.5 is deleted in its entirety.

GC12.2.6 is deleted in its entirety.

GC12.2.7 is deleted in its entirety.

GC12.2.8 is deleted in its entirety.

GC12.2.9 is deleted in its entirety.

GC12.2.10 is deleted in its entirety.

GC12.3 WARRANTY

GC12.3.1 is deleted in its entirety and replaced as follows:

The Contractor shall perform the Work in a good and workmanlike manner.

GC12.3.2 is deleted in its entirety and replaced as follows:

The Contractor now warrants that the Work (and all Products) will be free from all defects arising from faulty construction, manufacturing, installation, materials, equipment or workmanship in any part of the Work (or Products) for a period of 1 year commencing from the issuance of the Certificate of Total Performance of the Work and for any Work and Products warranted by a Subcontractor or Supplier for a period of longer than 1 year after Total Performance of the Work, the Contractor now warrants that it has fully and effectively assigned such warranty to the Owner and that the Owner may enforce same to the same extent and in the same manner as if the warranty

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had been issued directly to the Owner by that Subcontractor or Supplier.

GC12.3.3 is deleted in its entirety and replaced as follows:

For the purposes of this GC12.3, the phrase, “defects arising from faulty construction, manufacturing, installation, materials, equipment or workmanship in any part of the Work (or Products)”

- (a) expressly excludes any and all defects arising from or contributed to by the acts or omissions of the Consultant in the design and specification of the Work as set out in the Drawings, Specifications, or other written instructions or directives issued by the Consultant under this Contract, but only to the extent of the Consultant’s defective design or specification, and
- (b) expressly includes all defects or deficiencies that arise even if the Work is carried out in a good and workmanlike manner.

GC12.3.4 is deleted in its entirety and replaced as follows:

During the warranty period, the Contractor will promptly repair and correct all defects at no cost to the Owner. If the Contractor fails to repair or correct any defect during the warranty period within 10 calendar days of written notice of its existence, the Owner may but is not obligated to make the repairs or corrections itself and the actual out-of-pocket costs of such repairs or corrections made by the Owner will be payable by the Contractor to the Owner within 7 calendar days of receiving an invoice from the Owner for same. In the event of an emergency where, in the opinion of the Owner, delay could cause serious loss or damage, or inconvenience to the public, the repairs or corrections may be made without prior notice being sent to the Contractor.

GC12.3.5 is deleted in its entirety and replaced as follows:

Where, pursuant to GC13.1 - Occupancy, the Owner commences the use of the Work and Products for their intended purposes prior to the issuance of the Certificate of Total Performance of the Work, the warranty period will be deemed to commence from the issuance date despite such prior use, but only with respect to those portions of the Work and Products so used by the Owner.

GC12.3.6 is deleted in its entirety and replaced as follows:

Issuance of the Certificate of Total Performance of the Work will not extinguish any of the Contractor’s obligations under this Contract and the Contractor will remain liable to perform and complete all Work and carry out all obligations required under this Contract

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GC13.1 OCCUPANCY

GC13.1 is added as follows:

The Owner reserves the right to take possession of and use any completed or partially completed portion of the Work, regardless of the time of completion of the Work, providing it does not interfere with the Contractor's Work determined by the Consultant.

GC13.1.2 is added as follows:

Such taking possession or use of such Work or part thereof as described in GC 13.1.1 shall not be construed as final acceptance of the Work or any part thereof, or an acknowledgement of fulfilment of the Contract.

-END OF SUPPLEMENTARY GENERAL CONDITIONS-

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Construction Management Services Agreement and Construction Contract

1.1 The Proponent is to review and include as part of Appendix B - Proposal - *Deviations and Variations* either a confirmation of its agreement with, or a detailed response to, the form of contract attached as Part E to this RFP.

1.2 The Proponent is to review and include as part of Appendix B - Proposal - *Deviations and Variations* either a confirmation of its agreement with, or a detailed response to, the CCDC2 -2008 & modified General Conditions Construction Contract.

2.0 Pricing

2.1 Each Proponent is required to submit pricing in a separate sealed envelope and as outlined in Schedule B - *Pricing*. Failure to follow these instructions may result in the Proposal being deemed to be non-compliant or incomplete, and may or may not result in its disqualification.

3.0 Mandatory Requirements

3.1 The Proponent must be able to comply with the Project Schedule as set out in Schedule C. The successful Proponent must intend to agree as Construction Manager to be contractually bound in the CMSA to deliver each deliverable on time and on budget.

3.2 The Proponent must supply with its Proposal a certificate of its existing commercial general liability insurance so that the COV can verify as part of its evaluation of the Proposal that the Proponent carries sufficient insurance to comply with both the CMSA and the CCDC2-2008 Construction Contract and Modified Supplemental General Conditions.

3.3 The Proponent must also supply its WCB registration number so that the COV can verify as part of its evaluation of the Proposal that the Proponent is duly registered with WCB.

NO. PS20120986

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Schedule 1

CM Requirements

Incorporated by reference

NO. PS20120986

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Schedule 2

Scope of Project

Incorporated by reference

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Appendix A1

Insurance Requirements

See Attached

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Appendix B

Proposal

See Attached

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Appendix C

RFP

Incorporated by reference