



REQUEST FOR PROPOSALS

CONSULTANT FOR BUILDING SCIENCE AND RESTORATION PROGRAM

RFP No. PS20180156

Issue Date: September 26, 2018

Issued by: City of Vancouver (the "City")

**REQUEST FOR PROPOSALS NO. PS20180156
CONSULTANT FOR BUILDING SCIENCE AND RESTORATION PROGRAM
PART A - INFORMATION AND INSTRUCTIONS**

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PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

- 1.1 This Request for Proposals (the “RFP”) provides an opportunity to submit proposals for review by the City and, depending on the City’s evaluation of proposals, among other factors, to potentially negotiate with the City to enter into a contract. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C OF THE RFP: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE CITY TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE CITY.**
- 1.1 The RFP concerns the City’s interest in receiving proposals from qualified consulting firms to provide a consulting services program for the audit, design and construction management of all roofing, building envelope for heritage and non-heritage structures and traffic membrane replacement. The City intends to do a 2-stage RFP process that will, first, shortlist approximately three (3) consulting firms based on their qualifications, capacity, methodology, and program execution. The second stage will be to request pricing based on the methodology outlined in the first stage. The City’s objective is to identify a single entity able to deliver a full range of disciplines necessary to provide consulting services for various projects that will be identified within the contract duration. To clarify, the City is not looking to replace its current asset management program. Details of the City’s requirements to which the RFP relates are set out in Part B of the RFP. The City welcomes proposals that are responsive to this RFP (“Proposals”) respecting innovative or novel approaches to the City’s objectives and requirements.
- 1.2 The City is interested in selecting an entity, which is not, by the terms hereof, barred from submitting a Proposal, and which does submit a Proposal (each such entity, a “Proponent”) with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The City currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of a contract between the Proponent and the City (such a contract, an “Agreement”). However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.
- 1.3 The City currently intends that Proposals will be evaluated by the City in relation to their overall value, which will be assessed in the City’s sole and absolute discretion. In assessing value, the City expects to consider the factors described in Section 8 below, among others.
- 1.4 **NO BID SECURITY IS REQUIRED FROM PROPONENTS IN CONNECTION WITH THE SUBMISSION OF PROPOSALS BECAUSE NO PROPOSAL WILL BE DEEMED TO BE AN IRREVOCABLE OR OTHERWISE BINDING LEGAL OFFER BY A PROPONENT TO THE CITY. THE LEGAL OBLIGATIONS OF A PROPONENT THAT WILL ARISE UPON THE SUBMISSION OF ITS PROPOSAL WILL BE LIMITED TO THE TERMS AND CONDITIONS STATED UNDER THE HEADING “LEGAL TERMS & CONDITIONS” IN APPENDIX 1 TO THE FORM OF PROPOSAL.**
- 1.5 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.
- 1.6 The RFP consists of four parts, plus appendices:

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- (a) **PART A - INFORMATION AND INSTRUCTIONS:** This part is intended to serve as a guide to the RFP process for Proponents.
- (b) **PART B - CITY REQUIREMENTS:** This part describes the subject matter of the RFP, in respect of which the City invites Proposals.
- (c) **PART C - FORM OF PROPOSAL:** This is the form in which the Proposal should be submitted.
- (d) **PART D - FORM OF AGREEMENT:** This part contains a model Agreement (the “**Form of Agreement**”). Any Agreement resulting from the RFP is expected to be substantially in the form of the Form of Agreement.

2.0 KEY DATES

2.1 Potential Proponents should note the following key dates:

Event	Target Time and Date
Issue Date of Stage 1 RFP	September 26, 2018
Information Meeting	2:00 - 3:00pm on October 4, 2018
Deadline for enquiries	October 18, 2018
Closing time	3:00pm on October 25, 2018
Shortlisted proponents' interviews/presentations	November 13 - 16, 2018
Notice to shortlisted Proponents for 2 nd stage RFP	November 20, 2018
Submission of pricing proposal (Stage 2 RFP) from shortlisted Proponents (if required)	3:00pm on November 27, 2018
Bid Committee decision	December 13, 2018
Notification of lead Proponent	December 14, 2018
Contract signed	December 20, 2018
Commencement of contract	January 2, 2019

2.2 All references to time in the RFP are references to the time in the City of Vancouver, as indicated in the electronic timestamp the Proposal receives upon delivery to the email address specified herein, which is in turn synchronized to Network Time Protocol (NTP) provided by the National Research Council of Canada adjusted to local Pacific Time Zone.

3.0 CONTACT PERSON

3.1 All enquiries regarding the RFP must be addressed to:

Donabella Bersabal
donabella.bersabal@vancouver.ca

3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

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3.3 IF A POTENTIAL PROPONENT BELIEVES THAT THE CITY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE CITY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER.

4.0 SUBMISSION OF PROPOSALS

4.1 Proponents should submit their Proposals for Stage 1 of the RFP on or before the time and date specified in the table in Section 2.1 above (the “Closing Time”). Similarly, shortlisted Proponents will be requested to submit their pricing to fulfill Stage 2 of the RFP on or before the time and date specified in Section 2.1.

4.2 Each Proponent should submit its Proposal by email to bids@vancouver.ca, with the Proponent’s name and the RFP title and number in the “subject” line (“Consultant for Building Science and Restoration Program; PS20180156 Stage 1 or 2” (whichever applies at time of submission)).

4.3 Proposals must not be submitted by fax.

4.4 To be considered by the City, a Proposal must be submitted in the form set out in Part C (the “Form of Proposal”), completed and duly executed by the relevant Proponent.

4.5 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.

4.6 Proposals are revocable and may be withdrawn at any time before or after the Closing Time. Notwithstanding, Proposals shall remain valid and open for acceptance by the City for a period of ninety (90) calendar days following the Closing Time.

4.7 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.

4.8 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.

4.9 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium solely for the purpose of submitting a joint Proposal in response to the RFP, provided that they disclose the names of all members of the consortium and all members complete and sign the first page of the Form of Proposal. Nonetheless, the City has a strong preference for Proposals submitted by a single Proponent, including a Proponent that would act as a general Consultant and use sub-consultants as required.

4.10 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City’s sole discretion.

5.0 CHANGES TO THE RFP AND FURTHER INFORMATION

5.1 The City may amend the RFP or make additions to it at any time.

5.2 It is the sole responsibility of Proponents to check the City’s website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.

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5.3 Proponents must not rely on any information purported to be given on behalf of the City that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2.

5.4 An information meeting (the “Information Meeting”) will be held to enable Proponents to seek clarification with respect to any aspect of the RFP in a group forum. The details are as follows:

Date: as specified in Section 2.1 above.

Time: as specified in Section 2.1 above.

Location: Rm. 116, Main Floor Town Hall, 453 West 12th Avenue, Vancouver, BC V5Y 1V4

5.5 Potential Proponents are encouraged to read the RFP and submit any questions relating to the RFP to the Contact Person prior to the Information Meeting.

5.6 Potential Proponents interested in attending the Information Meeting should pre-register for the Information Meeting by completing and submitting the form contained in Appendix 1 to this Part A, by e-mail to donabella.bersabal@vancouver.ca on or before the time and date specified in Section 2.1 above.

5.7 The City will in good faith attempt to give accurate oral responses to questions posed during the Information Meeting but Proponents are advised that they may only rely on the written information contained herein or in documents posted to the City’s website, as described in Section 5.1 above.

6.0 PROPOSED TERM OF ENGAGEMENT

6.1 The term of any Agreement is expected to be for 3-years with 2 possible 1 year extensions, for a maximum total term of 5 years.

7.0 PRICING

7.1 All prices quoted in any Proposal must be inclusive of any provincial sales tax payable by the City under the *Provincial Sales Tax Act*, S.B.C.2012, c.35 (“PST”), but exclusive of any tax calculated upon such prices under the Excise Tax Act, R.S.C., 1985, c. E-15 (“GST”) or under any other sales tax legislation. GST and any such other sales tax (but not PST) should be described separately in each Proposal.

7.2 Prices must be quoted in Canadian currency and **fixed prices must be quoted for the full term** of the Proponent’s proposed agreement.

7.3 Prices are to be quoted CIP, destination (Incoterms, 2010). For the avoidance of doubt, freight, insurance, unloading at the destination designated by the City, import duties, brokerage, royalties, handling, overhead, profit and all other similar costs are to be included in quoted prices.

8.0 EVALUATION OF PROPOSALS

8.1 The City may open or decline to open Proposals in such manner and at such times and places as are determined by the City.

8.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine not only financial terms, but also (i) Proponents’ skills,

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knowledge, reputations and previous experience(s), including experience(s) with the City (if any); (ii) Proponents' capabilities to meet the City's Requirements (as defined in Part B) as and when needed, (iii) quality and service factors, (iv) innovation, (v) environmental or social sustainability impacts; and (vi) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.

<u>Evaluation Criteria for Stage 1 RFP</u>	<u>Evaluation Weighting</u>
Technical	100%
➤ Proponent Qualifications, Relevant Experience and Proven Performance	35%
➤ Project Personnel and Capacity	25%
➤ Approach and Methodology	35%
○ Proposed approach and methodology	15%
○ Sound pricing methodology	10%
○ IT tools (for planning and monitoring efficiency)	10%
➤ Sustainability (Environmental and/or Social)	5%

<u>Evaluation Criteria for Stage 2 RFP (Pre-Qualified Consultants only)</u>	
Commercial	100%

- 8.3 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.
- 8.4 The City may, at any time prior to signing an Agreement, 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.
- 8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or 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 any or all negotiations.
- 8.6 The City may also require that any proposed sub-consultants undergo evaluation by the City.
- 8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Requirements or the conditions specified in the 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; (h) split the Requirements between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any

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time. Without limiting the foregoing, the City may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

9.0 CITY POLICIES

9.1 The City's Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx> align the City's approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the City's commitment to maximize benefits to the environment and the community through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.

10.0 LIVING WAGE EMPLOYER

10.1 Effective May 1, 2017, the City of Vancouver became a "Living Wage Employer". As such, the City requires all firms that are contracted by the City to provide services on City-owned and leased properties to pay employees who perform those services on City property a Living Wage as calculated by the Living Wage for Families Campaign. As of the date of issuance of this RFP, the Living Wage for Vancouver is \$20.62, which includes the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits.

The Living Wage for Families has created a Living Wage Calculator to assist with the calculation of an employee's hourly rate with benefits. The Living Wage Calculator can be found at the following website:

<http://www.livingwageforfamilies.ca/employers/living-wage-calculator/>

Proponents should refer to the Form of Agreement attached as Part D to this RFP for the specific requirements related to the Living Wage, which include:

- (a) paying the Living Wage to all employees who perform services pursuant to the Agreement on City property during the term of the Agreement; and
- (b) ensuring that all sub-consultants pay the Living Wage to their employees who perform services on City property during the term of the Agreement.

Failure to comply with the Living Wage requirement will entitle the City to terminate the Agreement.

11.0 CERTAIN APPLICABLE LEGISLATION

11.1 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 Consultants to protect all personal information acquired from the City in the course of providing any service to the City.

11.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing

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themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

12.0 LEGAL TERMS AND CONDITIONS

- 12.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in this Appendix 1 to the Form of Proposal. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City.

POTENTIAL PROPONENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING A PROPOSAL.

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APPENDIX 1 TO PART A



FINANCE, RISK AND SUPPLY CHAIN MANAGEMENT
Supply Chain Management

RE: REQUEST FOR PROPOSALS NO. PS20180156 - CONSULTANT FOR BUILDING SCIENCE AND RESTORATION PROGRAM

To acknowledge your intent to attend the Information Meeting and to ensure that you receive the required information, please submit this form to the person identified below in accordance with the RFP:

Donabella Bersabal
City of Vancouver
Email: donabella.bersabal@vancouver.ca

Proponent's Name: _____

Address: _____

Key Contact Person: _____

Telephone: _____ Fax: _____

E-mail: _____ Incorporation Date: _____

Our company WILL / WILL NOT attend the information meeting for Request for Proposals No. PS20180156, Consultant for Building Science and Restoration Program.

Signature

Name of Authorized Signatory

E-mail Address

Date

PART B - CITY REQUIREMENTS

The requirements stated in this Part B (collectively, the “Requirements”) are current as of the date hereof, but they may change or be refined in the course of the evaluation of Proposals or otherwise.

Unless otherwise stated, if, and wherever, the Requirements state a brand name, a make, the name of a manufacturer, a trade name or a vendor catalogue number; it is for the purpose of establishing a grade or quality of materials, goods or equipment only. It is not intended to rule out the use of other equivalent materials, goods or equipment. If, however, products other than those specified are proposed in any Proposal, the Proposal must explicitly include under the heading “Alternative Solutions” the names of such products and their manufacturers, any trade names and any applicable vendor catalogue numbers, and the City may request that the Proponent provide specific evidence of equivalency. Evidence of quality in the form of samples may also be requested.

To the extent that the Requirements express estimates of volume of services expected to be required by the City, the City cannot offer any assurances that such volumes will in fact be required.

1.0 BACKGROUND

1.1 The Capital Maintenance group under the Real Estate and Facilities Management Department currently manages all systems and envelope services for approximately 600 City-owned structures including heritage buildings.

1.2 Presently, the City uses a model that allows City staff to select from a roster of consultants, through competitive bidding, for each project. Selection is based on price, capacity and skills required for the service. The entire process takes approximately two (2) months from when a Request for Proposal is issued until a contract is signed. With the increasing demand for more services and a desire for improved lead times to engage a consultant, the City prefers a relationship with a consultant company on long-term partnership/engagement to allow for adequate planning, assignment of resources and to explore a more cost effective means to address the City’s requirements.

1.3 In the last 2 years, the City has spent approximately \$500,000 per year in total spend with single projects ranging from \$5,000 to \$134,000 per project. The services required are mostly consulting on building enclosures, roofing systems, waterproofing, and traffic membrane. Future spend is expected to increase as the City consolidates its portfolios.

2.0 REQUIREMENTS

2.1 Categories of Services

2.1.1 The qualified and selected firm (“Consultant”) will provide consulting services for building science and restoration services with in-house specialties in the following:

- a. Roofing;
 - i. Heritage buildings
 - ii. Non-heritage buildings
- b. Building Enclosures/Waterproofing;
 - i. Heritage buildings
 - ii. Non-heritage buildings
- c. Traffic membrane replacement

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2.2 General Qualifications:

The Proponent should have:

- 2.2.1 at least five (5) years of experience in providing consulting services for roofing, building envelope and traffic membrane replacement;
- 2.2.2 knowledge and experience in the design, details, and specifications of roofing systems, building envelope and traffic membrane;
- 2.2.3 should be a legal entity under the BC Registrar of Companies;
- 2.2.4 should hold a valid Business License in the City of Vancouver or a Metro-West Inter Municipality Business License (IMBL), prior to performing any services; and
- 2.2.5 should be able to provide a minimum professional liability insurance of \$2 million and minimum commercial general liability insurance of \$5 million making the City an additional insured party.

2.3 Specific Qualifications:

2.3.1 Roofing Consultant minimum qualifications:

- a. The company shall be a professional engineering firm with engineers registered with the Engineers and Geoscientists of BC (EGBC) practicing primarily in Building Enclosure Engineering.
- b. Has a minimum five (5) years of experience as Coordinating Registered Professional for Roofing projects in British Columbia.
- c. Can demonstrate a minimum of five (5) years of continuous specialized experience in the investigation, design, testing, and consulting services related to roofing systems for new and existing structures.
- d. Firm is an “accepted inspection firm” by the Roofing Consultants Association of BC (RCABC).
- e. Firm has a minimum of two (2) full time staff, with the following qualifications:
 - i. “Accepted Inspector” under the RCABC Roofstar Guarantee Program
 - ii. Registered Roof Observer (RRO), via RCI Inc.
- f. Ability to identify roof compositions.
- g. Design team to have in house expertise to accommodate sloped glazing/skylight remediation or replacement.
- h. Design team to have in house expertise to assess R-values and to assess dew point risks within the envelope assembly.
- i. Having experience with seismic roof upgrades is beneficial.
- j. Having experience with fall protection system design and certification is beneficial.
- k. Has demonstrated successful experience completing the Vancouver Building By-law (VBBL) “Energy Checklist” when applying for Development and/or Building Permit

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2.3.2 Building Envelope Consultant minimum qualifications:

- a. The company shall be a professional engineering firm with engineers registered with the Engineers and Geoscientists of BC (EGBC) practicing primarily in Building Enclosure Engineering.
- b. Has minimum five (5) years of experience as Coordinating Registered Professional for Building Enclosure projects in British Columbia.
- c. Thorough knowledge of the type of exterior wall(s) and their interface with adjacent wall and roof construction, including window and door penetrations, flashing, roofs, foundations, and building science to ensure building performance.
- d. Minimum of two (2) Professional Engineers on staff specializing in the Building Enclosure area of practice.
- e. Has demonstrated successful experience completing the Vancouver Building By-law (VBBL) "Energy Checklist" when applying for Development and/or Building Permit.

2.3.3 Traffic Membrane Consultant minimum qualifications:

- a. Can demonstrate a minimum of five (5) years of continuous specialized experience in the investigation, design, testing, and consulting services related to vehicle traffic deck coating systems for new and existing structures. Experience must include in-house consulting expertise for:
 - i. Structural assessment and remediation design of concrete slab delamination or other failures.
 - ii. Expansion joint assessment and remediation.
 - iii. Polyurethane system installation experience.
 - iv. Epoxy and urethane crack injection repair systems.

2.3.4 Heritage Consultant minimum qualifications:

- a. Can demonstrate successfully completed building enclosure projects with Heritage components. Also, experience in applying and successfully obtaining a Heritage Alteration Permit from City of Vancouver Heritage Conservation Area and Official Development Plan.

3.0 GENERAL SCOPE OF WORK

3.1 The Proponent is expected to complete a 3-year program that includes:

- 3.1.1 Detailed visual inspection of identified Capital Maintenance-managed systems including analysis of the condition and performance of existing systems;
- 3.1.2 Identification of the system's condition based on the five (5) priorities described below;
- 3.1.3 Detailed design of rehabilitation works and repair/replacement for identified systems;
- 3.1.4 Providing assistance to the City's Supply Chain Management in preparing technical tender documents (specifications and drawings) in National Master Specification (NMS) format;
- 3.1.5 Admin and consulting support during constructions including site inspections or other type of inspections to ensure proper construction procedures and standards are performed by the Contractor.

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3.2 All recommendations will need to be mindful of budget limitations and will need to be prioritized based on urgency and relevancy to the systems.

3.3 A project schedule will be discussed and agreed with the successful Proponent.

4.0 DETAILED SCOPE OF WORK PER TASK

There are four main tasks included in the scope which may or may not be required of the Consultant at all times. The City may request Task A for specific locations and based on priority after the visual inspection, may not require Tasks B, or C, or D immediately. Similarly, the City may request Tasks B, or C, or D without doing Task A, and so on.

4.1 Task A - Audit

The purpose of the audit program is to investigate the current condition of the systems, to be determined by the City's Representative, and provide recommendations for correction.

4.1.1 For Roofing:

- a. To inspect the current roofing system, through destructive testing if required, but not be limited to related parapet or curb flashings
- b. Compare with previous inspections (if available);
- c. Identify and observe defects/anomalies;
- d. Update the previous inspections reports (if available) or create a new one. Document findings with photos, video (if required), and detailed field notes;
- e. Provide a Class C cost estimate for correcting the defects and/or anomalies;
- f. Provide updated maintenance, repair and replacement recommendations.

If fall protection is required,

- g. Review the fall protection directly related to the roof areas and provides an audit. Fall protection must meet standards of Part 11, WCB and Work Safe. This may require a fall protection upgrade to the building. Separate price for review, audit, design, overseeing construction, structural sign off, and related documents (fall protection plan, manual, checklist, and laminate roof plan at each roof access).

4.1.2 For Building Enclosures:

- a. To investigate current exterior walls, roof, exterior windows, skylight, exterior doors, canopies, penetrations through walls and roof, gutters, downpipes, flashing and caulking, etc;
- b. Compare with previous inspections (if available);
- c. Map and evaluate interior damages to help plan exterior investigation;
- d. Determine as-built conditions. This may involve invasive investigative openings, moisture probing, and non-destructive moisture scanning. Compare with as-designed details;
- e. Determine all water and air leakage paths through the enclosure. Include field testing if required;
- f. Update the previous inspections reports (if available) or create a new one. Document findings with photos, video (if required), and detailed field notes;
- g. Provide a Class C cost estimate for correcting the defects and/or anomalies;
- h. Provide updated maintenance, repair and replacement recommendations.

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- 4.1.3 For Traffic Membrane:
- a. To inspect the current traffic membrane.
 - b. Compare with previous inspections (if available);
 - c. Identify and observe defects/anomalies through visual and intrusive inspections;
 - d. Update the previous inspections reports (if available) or create a new one. Document findings with photos, video (if required), and detailed field notes;
 - e. Provide a Class C cost estimate for correcting the defects and/or anomalies;
 - f. Provide updated maintenance, repair or replacement recommendations;
 - g. Repair intrusive inspections.
- 4.1.4 As a result of these investigations, the Consultant shall document the investigations done and document in a report that includes:
- a. Description of the structure;
 - b. Background information on the structure and its materials;
 - c. Inspection methodology including updating the previous inspection reports and drawings;
 - d. Detailed visual inspection of the structural components with a description of the structure;
 - e. Identification of defects including updated photographs of all defects and the specified elements and classified under the degrees of priority listed below;
 - f. Estimate of remaining service life;
 - g. Recommended diagnostic testing or another type of testing if required];
 - h. Maintenance and replacement cost estimate;
 - i. A summary of the most pertinent issues and recommendations for each structure. For every deficiency identified, develop a cost effective means of mitigation (a required action). Each requirement will include a preliminary budget and priority for the work.
- 4.1.5 Each requirement identified from the detailed visual inspection report shall be prioritized in the following manner:
- a. Priority 1: Currently Critical (work to be done immediately or as requested by the City).
Conditions in this category require immediate action to:
 - i. Correct a cited safety or health hazard
 - ii. Provide for the safety, health and welfare of building occupants
 - iii. Stop accelerated deterioration
 - iv. Return the facility to full operation
 - b. Priority 2: Potentially Critical (work to be scheduled by the City's Representative following the Priority 1 list)
Conditions in this category, if not corrected expeditiously, will become critical within a year. Situations within this category include:
 - i. Conditions that result in intermittent operations

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- ii. Systems or equipment is experiencing rapid deterioration
- iii. Potential life safety hazards may occur
- c. Priority 3: Necessary but not yet critical (work to be scheduled by the City's Representative following the Priority 2 list)

Conditions in this category require appropriate attention to preclude predictable deterioration, potential downtime and associated damage, or higher costs if deferred. Completion recommended within the next 3 years in order to mitigate the risk of impact on building operations.
- d. Priority 4: Recommended (work to be scheduled by the City's Representative following the Priority 3 list)

Conditions in this category include items that represent a sensible improvement to the performance of the related equipment or systems that will promote effective and efficient operations. While not required to support critical building operations, Priority 4 projects will improve the overall usability and aesthetics and reduce long term maintenance costs. These projects should be scheduled for completion within the next 3 to 6 years.
- e. Priority 5: Does not meet current codes/standards ("Grandfathered")

Conditions in this category include items that do not conform to existing codes, but are "grandfathered" in their current condition. No action is required at this time, but should substantial work/renovations be undertaken, upgrades may be triggered by permit application:

 - i. The Proponent shall provide a prioritized schedule for the identified actions.
 - ii. Provide an assessment of life/safety code compliance deficiencies illustrating the level of funding required upgrading the buildings to meet current needs.
 - iii. Provide at least one digital photograph to document each identified action above.

4.2 Task B - Detailed Design/Specifications and Construction Tender Services

- 4.2.1 For systems identified to be scheduled for construction services, the Consultant is expected, but not limited, to:
 - a. Review the original drawings;
 - b. Prepare a scope of work considering on-site conditions;
 - c. Prepare specifications according to industry standard NMS format;
 - d. Attend two (2) meetings to discuss specific design of the new system as per site specifics, to refine the design, and to explain design elements. The Consultant will also prepare meeting minutes after these meetings outlining the content of the discussion and the results for any follow up work such as recommendations.
 - e. Prepare project drawings including a site plan, project locations, section drawings that reference the scope of work. Detail locations are to include 2-D and 3-D details (if necessary) to describe design requirements;
 - f. Provide the required information for the City of Vancouver to prepare the front end tender documents;
 - g. Attend bidders' site meetings to explain the scope of work;

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- h. Provide answers as necessary on design and/or technical aspects of the scope of work, specifications and detailed drawings during the tendering period. The City will process the questions and answers and addendum;
- i. Bear the cost of any additional inspections that will be required as a result of incomplete or erroneous specifications and/or scope of work.

4.3 Task C - Construction Services during Construction

The Consultant shall provide support as required during construction/installation to help ensure general conformance of the work and that the construction contract requirements are met. Consulting services shall include, but are not be limited to:

- 4.3.1 Attendance to pre-construction/installation meetings as coordinated by the City;
- 4.3.2 Responding to Requests for Information and questions that go through the Supply Chain Management procurement representative.
- 4.3.3 Providing design clarifications.
- 4.3.4 Review and approval of construction Change Order, Site Instructions, or Change Directives (CDs) as required and approved by the City.
- 4.3.5 Review and approve progress/draws and claims.
- 4.3.6 Review of extra work orders and provide recommendation to the City.
- 4.3.7 Conduct regular site inspections and issue reports (must include digital photos).
- 4.3.8 Provide any field design modifications (if any).
- 4.3.9 Conduct substantial completion and final inspections.
- 4.3.10 Prepare inspection reports and deficiency lists.
- 4.3.11 Coordinate project close out (as-built drawings, warranties, permits, etc.).

4.4 Task D - Post Construction Scope of Work and Monitoring Inspections

The Consultant shall provide closeout documents and a comprehensive maintenance manual (2 hard copies and 1 electronic copy) that includes at a minimum:

- 4.4.1 Project directory;
- 4.4.2 Warranties;
- 4.4.3 Substantial completion certificate;
- 4.4.4 Summary of work;
- 4.4.5 As-built drawings and details;
- 4.4.6 Inspection reports;
- 4.4.7 Project photos (before and after);
- 4.4.8 Product data sheets;
- 4.4.9 Maintenance schedule, instructions and schedule.

5.0 DELIVERABLES

- 5.1 The successful Consultant is expected to provide the following list of deliverables per project or as required by the City's Representative:

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- 5.1.1. Audit reports as a result of Task A including project schedule. This report shall include an Excel database, which may be generated from a report, of the inspected structure for ease of monitoring and updating.
- 5.1.2. Issued for Tender (IFT) design and specifications and other supporting documents required for each tender as per Task B;
- 5.1.3. Progress reports based on construction activities per project;
- 5.1.4. Regular updates to the inspection reports or the project schedule;
- 5.1.5. Project close out documents and comprehensive maintenance manual per project;
- 5.2 The successful Consultant shall schedule a series of planning sessions with the Capital Maintenance manager or his designates.

- 6.0 TERMS OF PAYMENT**
- 6.1 The price structure for each Terms Agreement shall be based on any of the following:
 - 6.1.1. hourly and daily rates for services rendered on a time-and-materials basis where applicable;
 - 6.1.2. maximum disbursements, setting out limits on disbursement claims such as mileage, courier expense, long distance phone calls, etc., and clearly providing exclusions, such as lodging and per diem; and
 - 6.1.3. fixed price as mutually agreed on by the City and the Consultant for projects where the scope of work can be clearly defined.
- 6.2 For systems covered under Task A, payment will be based on a capped time and materials rate. For systems covered under Task B, C and D, payment will be based on fixed price with maximum disbursements.
- 6.3 The successful Consultant shall send the invoice as stated in the agreement attached to this RFP as Part D, Form of Agreement.
- 6.4 Disbursements will be paid at cost. Invoices should include all supporting documents for disbursements. Typically includes all transportation cost (travel time, gas transportation, and parking passes) to and from the project site, and all administration costs (paperwork, courier, and long distance phone calls).
- 6.5 Invoices submitted by the Consultant shall include project title, a description of the work completed and a billing summary. This summary shall include the tasks completed and percentage invoiced to date and the total of these amounts for each task.

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SCHEDULES (PART B - CITY REQUIREMENTS)

SCHEDULES LIST

Schedule 1 - Key Personnel and Sub-consultants

Schedule 2 - Process for Project Execution

Schedule 3 - High-level Sample Scope of Work for Past Projects

Schedule 4 - Consultant Assessment

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SCHEDULE 1 (PART B - CITY REQUIREMENTS)**

SCHEDULE 1 - KEY PERSONNEL AND SUB-CONSULTANTS

1. The Proponent shall have and maintain at all times and in accordance with all applicable Laws, sufficient numbers of fit, skilled, qualified and experienced personnel to carry out the provision of the services within the times and in the manner required by the City.
2. The Proponent warrants that it has (and its Sub-consultants, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the service as described in Section 2.2 and 2.3 of Part B of this RFP.
3. Consulting team members identified shall remain with the project until completion. Any changes to the consulting team shall be communicated to the City's Representative.
4. If the Proponent wishes to propose deviations to its key personnel, it must first notify the City's Contact Person immediately and submit professional biographical information of the individuals proposed by the Proponent to perform the Work. The City may or may not accept deviations to Key Personnel. For greater clarity, the City will only accept replacement individuals that possess equal or greater skill and experience to the originally named personnel.
5. The City reserves the right to engage other consultants in any event the Consultant is not able to perform or meet the project schedule and deliverables as requested.

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SCHEDULE 2 (PART B - CITY REQUIREMENTS)**

SCHEDULE 2 - PROCESS FOR CONTRACT EXECUTION

Coverage:

1. This contract covers individual projects with an estimated contract value below \$500,000 that may or may not comprise of various sites. A Consultant representative shall be assigned by the Consultant before the contract is signed.
2. This Consultant representative shall be the single point of contact to manage the City's account and coordinate the entire project engagement between the City's Representative and the Consultant's project team.
3. In accordance with section 2.2 of the Agreement, a Terms Agreement signed by both parties shall form the basis of each specific project.
4. Any single project above an estimated value of \$500,000 will follow the City's procurement policy on issuing a publically open Request for Proposal. The Consultant team will be eligible to compete with other interested Proponents.
5. Effective date of the contract is January 2, 2019 and will cover all new projects from that date until the termination of this agreement. Projects completed and contracts signed before the effective date will continue as is.

Process:

1. City's Representative will initiate the request for a Consultant by sending the Consultant the Terms Agreement through email, stating information about the Site and Scope of Work among others.
2. The Consultant will return the Terms Agreement with the necessary information including the project schedule, pricing based on the agreed rates in the main agreement and a list of personnel.
3. The City Representative will review and if everything's in order, will have the Terms Agreement signed by the authorized signatory on the City's behalf.
4. The Consultant will sign likewise and commence the project based on the agreed project schedule. Signed copies of the Terms Agreement will be kept by the City's Representative and the Consultant's representative for reference.

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SCHEDULE 3 (PART B - CITY REQUIREMENTS)

SCHEDULE 3 - HIGH-LEVEL SAMPLE SCOPE OF WORK FROM PAST PROJECTS

1. Roofing and Building Envelope - Audit/Design Package
 - a. Auditing of roofing systems at selected City locations. These roofing systems will consist mainly of sloped and flat roofs, canopies, skylights, awnings, roofing penetrations, gutters, downpipes, and flashings.
 - b. Roofing consultant services (design, construction documents, tendering assistance, construction management, post construction and disbursements) to re-roof the existing flat and sloped roof systems and provide new related flashings. Site scope of work and effort required will vary from site to site.
 - c. Complete building envelope audits at selected City locations. This audit will consist of visual inspections of exterior walls, exterior windows, exterior doors, canopies, awnings, penetrations through walls and roof, gutters, downpipes, flashing and caulking. The audit will also consist of destructive testing as required. Design will be based upon the results of the building envelope audit.
2. Assessment and Design Services of a skylight system
 - a. Review existing site conditions and available record drawings.
 - b. Undertake all necessary field investigations and evaluate glazing components of the skylight system.
 - c. Identify opportunities to save energy and reduce operating
3. Traffic membrane audit services to prevent water ingress.
 - a. Completion of a traffic membrane audit at each site location
 - b. Visual and intrusive inspections of the traffic membrane
 - c. Determining the existing traffic membrane compositions through intrusive inspections
 - d. Determining the existing condition of the traffic membranes
 - e. Providing photos and descriptions of existing deficiencies on the relevant site (the photographs must have captions detailing the deficiencies as well as an identifier that links back up to the plan)
 - f. Providing a plan for the existing traffic membrane
 - g. Providing recommendations for all issues/deficiencies identified in the audit, and developing a cost effective means of mitigation (a required action) which shall entail a description of methods and materials necessary to conduct the work. Each requirement shall include a preliminary budget and priority for the work.
 - h. Providing all findings in a formal report.
 - i. Repairing intrusive inspections.

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SCHEDULE 4 (PART B - CITY REQUIREMENTS)**

SCHEDULE 4 - CONSULTANT ASSESSMENTS

1. Every year or as discussed and agreed with the City's Representative, the Consultant will be evaluated based on the following criteria:
 - a. Reliability and accuracy of the report as a result of the visual inspections done in Task A;
 - b. Timely response to requests for services through the Terms of Agreement form by the City;
 - c. Timely resolution of questions and issues with the Consultant;
 - d. Compliance to social procurement commitment (as applicable).
2. Specific times required for the criteria listed above shall be discussed and finalized with the City's Representative.

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PART C - FORM OF PROPOSAL

PART C - FORM OF PROPOSAL

RFP No. PS20180156, CONSULTANT FOR BUILDING SCIENCE AND RESTORATION PROGRAM
(the "RFP")

Proponent's Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____ Fax: _____

E-mail: _____

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the City's website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 1 to this Form of Proposal.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

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PART C - FORM OF PROPOSAL**

APPENDICES

The Form of Proposal includes the following attached Appendices:

- APPENDIX 1 Legal Terms and Conditions of RFP
- APPENDIX 2 Technical Proposal
- APPENDIX 3 Commercial Proposal
- APPENDIX 4 Proponents References
- APPENDIX 5 Certificate of Insurance
- APPENDIX 6 Declaration of Supplier Code of Conduct Compliance
- APPENDIX 7 Personal Information Consent Form(s)
- APPENDIX 8 Sub-consultants
- APPENDIX 9 Proposed Amendments to Form of Agreement
- APPENDIX 10 Proof of WorkSafeBC Registration
- APPENDIX 11 Conflicts; Collusion; Lobbying

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PART C - FORM OF PROPOSAL**

**APPENDIX 1
LEGAL TERMS AND CONDITIONS OF RFP**

1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent, or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2 DEFINITIONS

In this Appendix 1, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent's selection by the City in the City's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20180156, as amended from time to time and including all addenda.
- (h) "Social Value Business" means a business that has a recognized environmental or social certification and/or is majority owned/controlled by an equity-seeking demographic, including but not limited to, non-profits, cooperatives, women, Indigenous Peoples, Ethno Cultural people (minorities, newcomers, immigrants), persons with disabilities and LGBTQ+ persons.

3 NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 10 of this Appendix 1, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed sub-Consultant in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City's sole discretion.

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4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed sub-consultants* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

5 EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

5.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the City is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

5.4 Acceptance or Rejection of Proposals

The City has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the City; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

6 PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

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- (a) any alleged (or judicially determined) breach by the City or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially))
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process,
- (c) the Proponent preparing and submitting the Proposal;
- (d) the City accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the City: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the City enters any agreement respecting the subject matter of the RFP.

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed sub-consultants or agents alleging or pleading:

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

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 1), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its sub-consultants or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its sub-consultants or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

7 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;

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(b) Section 6 of this Appendix 1 will: (i) bind the City, the 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.

8 PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

(a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.

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

8.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the City's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Vancouver City Council about the RFP, the City will treat the Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

8.3 All City Information Confidential

(a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.

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

9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

(a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or Consultant of the Proponent or of any of its proposed sub-consultants, or any other person related to the Proponent's or any proposed subConsultant's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal in accordance with the form set out in Part C - Appendix 14.

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- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former Consultant of the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 14.

9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed sub-consultants is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent’s duties to the City and the Proponent’s or its sub-consultants’ duties to such third party, except as set out, in all material detail, in a separate section titled “Conflicts; Collusion; Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 14.

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

- (a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 14.

9.4 Declaration as to No Lobbying

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed sub-consultants is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed sub-consultants has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case, except as set out, in all material detail, in a separate section titled “Conflicts, Collusion, Lobbying” in the Proposal in accordance with the form set out in Part C - Appendix 14.

10 GENERAL

- (a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.

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- (b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

11 INDEPENDENT LEGAL ADVICE

THE PROPONENT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SUBMITTING ITS PROPOSAL FORM, INCLUDING THIS APPENDIX 1.

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**APPENDIX 2
TECHNICAL PROPOSAL**

Proponents are encouraged to provide succinct and clear answers organized in the same manner and order as items listed below and containing all the requested information.

A. Proponent Capability, Qualifications and Relevant Experience

To assess the Proponent's qualifications to partner with the City on a project contemplated in this RFP and demonstrate their capability to manage multiple projects.

1. The Proponent shall provide the following:
 - 1.1 A description of the Proponent's corporate organization, corporate structure including size of organization and number of employees;
 - 1.2 Location of head office and branch offices in Metro Vancouver where services will be offered from. If the head office or service offices are outside Metro Vancouver, indicate how services will be performed at no additional cost to the City;
 - 1.3 Relevant knowledge and experience in relation to the qualifications listed in Part B Section 2.2 and 2.3 of this RFP.
 - 1.4 List of services offered and identify the areas of expertise. Indicate the number of clients and contract value. Describe recent contracts of similar or equal or greater magnitude as required in this RFP including duration of each contract.
2. If this project comes into fruition, what percentage of the Proponent's business will this contract represent?
3. The City prefers a Proponent that will prioritize the City's projects through this program. Can the Proponent ensure that this project will be given priority? Please describe how.

B. Proposed Key Personnel and Sub-Consultants

To assess the Proponent's capacity to provide the appropriate resources for this project with the right skills and qualifications and to ensure there is back-up as required.

1. List key personnel and that of your sub-consultants, if any, which would perform the Proponent's work including biographical information and intended role in the project, or state that the Proponent does not propose to use any sub-consultants. If selected to enter into an Agreement with the City, the Proponent may be limited to using subconsultant listed in its Proposal.
2. Each Proponent should make clear in its Proposal the relevant knowledge and experience of its proposed personnel and that of its sub-consultants on the listed categories of services. As part of its team, the Proponent should identify a single point of contact for City's projects (Account Manager) who has the necessary authority to make timely business decisions within the Proponent's organization as are required by a contract such as the one proposed in this RFP.
3. Indicate availability and commitment of proposed project team members during the required time frame and information on back-up personnel with the same or higher qualification.

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C. Proposed Approach and Methodology

For the City to evaluate proposals against what is required of this RFP, the Proponent shall:

1. Demonstrate its understanding of this project. The Proponent must articulate its proposal, intentions and expectations indicating how it will fulfill the requirements of this RFP.
2. Provide an outline of the work program detailing all suggested steps in the process with an estimate of time and personnel required to complete each step.
3. Provide a pricing methodology based on tasks listed in Part B of this RFP. The Proponent should be able to demonstrate to the City that its pricing methodology provides consistent and competitive pricing and long-term value to the City through this contract.
4. Notwithstanding any other provision hereof, the City welcomes Proposals respecting innovative and/or alternative solutions to the City's objectives and requirements and may consider value-creating Proposals that derogate from the Requirements. Indicate the impact on price of this solution.
5. Proponents should provide details as to what it perceives to be special challenges or considerations to the successful completion of the project as described, as well as its strategy to overcome these challenges.

D. Sustainability (Environmental and/or Social)

The City's directive is to promote green initiatives to support the Greenest City 2020 action plan and encourage Social Value Business.

1. How can the Proponent support this initiative?
2. Does the Proponent have a way to monitor the outcomes of this action plan through the services that it provides?
3. Indicate the Proponent's company profile with regards to social value and economic inclusion supporting equity, diversity, inclusion and reconciliation, including social/environmental certifications, workforce diversity and/or if owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).
4. How will you improve economic independence and social outcomes that support advancing reconciliation, equity, inclusion diversity and well-being for everyone in our community?

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**APPENDIX 3 (STAGE 2 of RFP)
COMMERCIAL PROPOSAL**

1. This Appendix 3 - Commercial Proposal shall be completed only by the shortlisted Proponent as fulfillment of Stage 2, after it has been notified of the selection.
2. Proponent shall provide proposed pricing in accordance with Part A, Section 7 of the RFP (as well as any other sections of the RFP imposing requirements as to pricing).

LIVING WAGE:

By checking this box, the Proponent hereby confirms that the above Commercial Proposal is based on the payment of wages to employees of the Proponent and Sub-consultants that comply with the City's Living Wage Policy as described in Section 10.0 of Part A and in the Form of Agreement attached hereto as Part D. For Commercial Proposals submitted electronically, please color in the box.

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**APPENDIX 4
PROPONENT'S REFERENCES**

Complete this Appendix 4 - Proponents References in the form set out below. Please include clients/projects in the last 5 years only that are relevant to this project. Use a separate sheet if necessary.

Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Name and Summary – please provide details of the project such as scope, challenges and outcome.	

Client Name # 2	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Name and Summary – please provide details of the project such as scope, challenges and outcome.	

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Client Name # 3	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Project Name and Summary – please provide details of the project such as scope, challenges and outcome.	

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**APPENDIX 5
CERTIFICATE OF EXISTING INSURANCE**

Appendix 5 is to be duly completed and signed by the Proponent's insurance agent or broker as evidence of its existing insurance, along with a letter from its insurance broker or agent indicating whether or not (and, if not, then to what extent) it will be able to comply with the insurance requirements set out in the Form of Agreement, should the Proponent be selected as a successful Proponent. (Any successful Proponent will also be required to provide proof of the satisfaction of all insurance requirements prior to or concurrently with the City entering into any Agreement.)

Please use attached certificate template.

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Insert cert

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**APPENDIX 6
DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE**

Complete this Appendix 6 - Declaration of Supplier Code of Conduct Compliance in the form set out below.

Purpose:

All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the Supplier Code of Conduct.

The City of Vancouver expects each supplier of goods and services to the City to comply with the supplier performance standards set out in the City's Supplier Code of Conduct (SCC) <http://vancouver.ca/policy_pdf/AF01401P1.pdf>. The SCC defines minimum labour and environmental standards for City suppliers and their sub-consultants.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest or quotation to the City, or have a plan in place to comply within a specific period of time. The City reserves the right to determine an appropriate timeframe in which suppliers must come into compliance with these standards. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorized signatory of _____ (*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, _____ (*vendor name*) and its proposed sub-consultants have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted in the table below (*include all violations/convictions that have occurred in the past three years as well as plans for corrective action*).

Section of SCC / title of law	Date of violation /conviction	Description of violation / conviction	Regulatory / adjudication body and document file number	Corrective action plan

I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of _____ (*vendor name*).

Signature: _____

Name and Title: _____

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APPENDIX 7
PERSONAL INFORMATION CONSENT FORM(S)

Complete one copy of this Appendix 7 - Personal Information Consent Form(s), in the form set out below, for each key personnel for whom a CV or other information regarding employment history and qualifications has been included in the Proposal.

PERSONAL INFORMATION CONSENT FORM

RFP

Reference #PS20180156

Title: Consultant for Building Science and Restoration Program

With the provision of my signature at the foot of this statement I, _____

_____ (Print Name)

consent to the indirect collection from _____

_____ (Print Name of Proponent)

of my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the City for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City, will be handled by the City in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

_____))
Signature) Date

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**APPENDIX 8
SUB-CONSULTANTS' REFERENCES**

Complete this Appendix 8 - Sub-Consultants in the form set out below by listing all of the sub-consultants that the Proponent proposes to use in carrying out its work under an Agreement, or state that the Proponent does not propose to use any sub-consultants.

If selected to enter into an Agreement with the City, the Proponent may be limited to using sub-consultants listed in its Proposal. If the City objects to a subconsultant listed in a Proposal, the City may permit a Proponent to propose a substitute subconsultant acceptable to the City.

Subcontracted Scope		
Sub-consultant		
Contact (name, title, email, telephone no.)		
Approximate Percent of the Work to be Subcontracted		
The Sub-consultant's Relevant Experience (identify at least three similar projects within the last five years, including the client)	1. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	
	2. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	
	3. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	

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**APPENDIX 9
PROPOSED AMENDMENTS TO FORM OF AGREEMENT**

Complete this Appendix 9 - Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement. If no amendments to the Form of Agreement are proposed, state "none". It is at the City's sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

Section / General Condition	Proposed Amendment	Rationale and Benefit

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**APPENDIX 10
PROOF OF WORKSAFEBC REGISTRATION**

Attached as Appendix 10 to this Form of Proposal proof of valid WorkSafeBC registration. It is the Prime Consultant's responsibility to ensure that all sub-consultants provide this certification.

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**APPENDIX 11
CONFLICTS; COLLUSION; LOBBYING**

Complete this Appendix 11 - Conflicts; Collusion; Lobbying in the form set out below by setting out any exceptions to the declarations in Section 9 of the Legal Terms and Conditions attached as Appendix 1 to this Part C - Form of Proposal or indicate that there are no exceptions, as applicable.

Exceptions to Declaration as to no Conflict of Interest in RFP Process (Section 9.1 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Conflict of Interest Respecting Proposed Supply (Section 9.2 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Collusion (Section 9.3 of Legal Terms and Conditions)	
Exceptions to Declarations as to No Lobbying (Section 9.4 of Legal Terms and Conditions)	



STANDING OFFER PROFESSIONAL SERVICES AGREEMENT

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

BETWEEN:

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

(the "City")

OF THE FIRST PART

AND:

[CONSULTANT NAME]
[address]

(the "Consultant")

OF THE SECOND PART

(the City and the Consultant are hereinafter sometimes referred to individually as "Party" and collectively as "Parties")

BACKGROUND:

- A. The Consultant wishes to provide consulting services for building science and restoration services for various City-owned and managed structures within the City of Vancouver and may be contacted by the City from time to time; and
- B. The City wishes to engage the Consultant so that the City can procure such professional services from the Consultant from time to time, subject to the terms and conditions set out herein.

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

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1.0 INTERPRETATION

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

- (a) **“Agreement”** means this Standing Offer Professional Services Agreement inclusive of all schedules, appendices, exhibits or other documents attached hereto or incorporated herein by reference, as amended from time to time, and inclusive of all Terms Agreements;
- (b) **“Applicable Laws”** means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Consultant, any Sub-Consultant and the Services, including the Vancouver Building By-law, the British Columbia Building Code, and the British Columbia Fire Code, all as may be in force from time to time;
- (c) **“City Site”** means any land and/or premises owned by the City on which or in respect of which any Services are performed by the Consultant;
- (d) **“City’s Representative”** means the City’s employee, or his/her delegate, who is authorized in writing to deal with the Consultant on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- (e) **“Confidential Information”** has the meaning set out in Section 15.1
- (f) **“Contract Document”** refers to each of the individual documents composing the Agreement, including this Professional Services Agreement (exclusive of the documents attached hereto or incorporated herein by reference) and each schedule, appendix, exhibit or other document attached to this Professional Services Agreement or incorporated into the Agreement by reference, including all Terms Agreements;
- (g) **“Deliverables”** has the meaning set out in Section 17.1;
- (h) **“GST”** means the tax payable and imposed pursuant to Part IX of the Excise Tax Act (Canada), as amended or replaced from time to time;
- (i) **“Living Wage”** means the hourly wage established by the Living Wage Certifier from time to time during the Term, which, as of the Effective Date, is \$20.62 per hour, which includes: (i) direct wages; and (ii) the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits;
- (j) **“Living Wage Certifier”** means the Living Wage for Families Campaign, any successor entity, or, in the event the Living Wage for Families Campaign ceases to carry on operations, such other living wage certification entity designated by the City to the Consultant in writing;
- (k) **“Living Wage Employee”** means any and all employees of the Consultant and all Sub-consultants of the Consultant that perform any part of the Services on a property owned by or leased to the City, including all streets, sidewalks and other public rights of way, for at least one consecutive hour, but excluding Students, volunteers and employees of Social Enterprises;

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- (l) “**Project Team**” has the meaning set out in subsection 2.2(c);
 - (m) “**PST**” means the provincial sales tax payable and imposed pursuant to the *Provincial Sales Tax Act* (British Columbia), as amended or replaced from time to time;
 - (n) “**RFP**” means Request for Proposal **PS20180156 Consulting for Building Science and Restoration Services RFP**, together with all addenda and questions and answers attached hereto, or incorporated by reference herein by operation of, Appendix C;
 - (o) “**Services**” has the meaning set out in Section 2.1;
 - (p) “**Social Enterprise**” means a business that: (i) is owned by a non-profit organization or community services co-operative; (ii) is directly involved in the production and/or selling of goods and services for the combined purpose of generating income and achieving social, cultural, and/or environmental aims; and (iii) has a defined social and/or environmental mandate;
 - (q) “**Student**” means an individual who is enrolled in a school, college, university or other educational institution and is employed by the Consultant or a Sub-Consultant, as the case may be, to obtain practical workplace experience as a requirement of or credit for their education;
 - (r) “**Sub-consultant**” has the meaning set out in Section 4.1;
 - (s) “**Term**” means the term of this Agreement as specified in Section 12.1; and
 - (t) “**Terms Agreement**” means a document substantially in the form of Appendix B setting out in relation to the particular Services to be provided thereunder:
 - (i) the particular Services and Deliverables to be completed by the Consultant;
 - (ii) the time schedule, including the Time(s) for Completion therefor;
 - (iii) the Project Team therefor;
 - (iv) any specific City Site therefor; and
 - (v) the fees to be paid by the City therefor, including the Maximum Fees, Fixed Disbursement Amount and Maximum Fees and Disbursements (if any).
- 1.2 The Contract Documents are complementary and what is called for by any one will be as binding as if called for by all. In the event of any conflict or inconsistency between or among any of the Contract Documents, the Contract Documents will be interpreted in the following order of priority, from highest to lowest:
- (a) this Agreement, excluding Appendices B, C and D;
 - (b) any and all Terms Agreement;
 - (c) the Application; and
 - (d) the RFP.
- 1.3 In this Agreement, including the recitals, schedules and appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:

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- (a) the recitals and headings to sections, schedules and appendices are for convenience and reference only and will not affect the interpretation of this Agreement;
- (b) the terms “this Agreement”, “hereof”, “herein”, “hereunder” and similar expressions refer, unless otherwise specified or the context otherwise requires, to this Agreement taken as a whole (including any and all attached schedules and appendices) and not to any particular section, subsection or other subdivision;
- (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
- (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
- (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
- (g) all references to money mean lawful currency of Canada;
- (h) the word “written” includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and “in writing” has a corresponding meaning; and
- (i) the words “include” and “including” are to be construed as meaning “including, without limitation”.

2.0 CONSULTANT'S SERVICES TO THE CITY

2.1 The Consultant will provide and be fully responsible for the following services (the “**Services**”):

- (a) the services described in each Terms Agreement, which services shall be consistent with the manner of providing the services described in the RFP and the Proposal; and
- (b) all services not specifically included in subsection 2.1(a), but which are necessary or incidental to the completion of such other Services.

2.2 The City and the Consultant shall adhere to the following procedure in respect of specific Services:

- (a) First, the City may identify a need for Services and, if it does so, it may complete a draft of the Terms Agreement and send the draft to the Consultant. The City will leave the fees blank, but may include proposed Maximum Fees, Fixed Disbursement Amount and Maximum Fees and Disbursements.
- (b) Second, the Consultant, upon receipt of a draft Terms Agreement, shall promptly complete the fee provisions of the draft Terms Agreement (provided that the fee provisions must be completed consistently with the hourly rates set out in the Proposal), including any proposed modifications to the City’s proposed Maximum Fees, Fixed Disbursement Amount and Maximum Fees and Disbursements, and otherwise

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amend and complete the Terms Agreement, have it executed on behalf of the Consultant, and return it to the City.

- (c) Third, the City shall review Consultant's finalized Terms Agreement, including fees, and if it approves of the Terms Agreement, it shall have it executed on behalf of the City by the City's Representative and return it to the Consultant. If it does not approve, the City may in its discretion cease discussions with the Consultant in relation to the particular Services or request that the Consultant propose a varied Terms Agreement.
- 2.3 The City makes no representations, warranties or covenants hereunder respecting the volume of Services, if any, to be procured from the Consultant.
- 2.4 The Consultant will be fully responsible for:
- (a) coordinating the Services with the City's Representative, or his/her delegate, and ensuring that the performance of the Services does not adversely impact any design or construction schedule for any project or work and/or services provided by the City's other consultants, in each case to which the Services relate;
 - (b) taking all steps required in placing, effecting and maintaining insurance and providing evidence of insurance as set out in Appendix A - Insurance Requirements; and
 - (c) maintaining and supervising its employees and Sub-consultants (the "Project Team") described in Section 3.1.
- 2.5 The Consultant represents and warrants to the City that the Consultant possesses the necessary skills, knowledge, qualifications and experience to perform the Services to the reasonable satisfaction of the City.
- 2.6 The Consultant will perform the Services:
- (a) with that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered;
 - (b) in accordance with sound current professional practices and design standards; and
 - (c) in conformity with any and all Applicable Laws.
- 2.7 The Consultant will commence the Services promptly upon the execution of the Terms Agreement to which those Services relate and will use every reasonable effort to carry out the Services in accordance with:
- (a) the requirements and appendices of this Agreement and the applicable Terms Agreement, or
 - (b) where no date is specified for the provision of any component of the Services by the applicable Terms Agreement, such completion dates as are reasonably specified from time to time by the City.
- 2.8 The Consultant will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to the City Site or any other City property.

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3.0 PROJECT TEAM

- 3.1 Subject to Section 3.2, the Consultant will utilize only the Project Team members noted in the applicable Terms Agreement, which shall be consistent with the Application.
- 3.2 Except for substitutions required by circumstances not within its reasonable control, the Consultant may not make substitutions of Project Team members without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned.
- 3.3 For the purposes of this Section 3, “substitutions required by circumstances not within its reasonable control” means substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract, but expressly excludes situations where the Project Team member is called upon to perform services for another client of the Consultant, its Sub-Consultant or their affiliates.
- 3.4 The City may, with stated reasons and acting reasonably, request that the Consultant replace a Project Team member. The Consultant will, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- 3.5 Regardless of whether or not the City consents to a substitution, or requests a substitution, the City will not be liable to pay additional compensation to the Consultant for any replacement Project Team member.

3A Living Wage

- 3A.1 Subject to Section 3A.2, it is a condition of this Agreement that, for the duration of the Term, the Consultant pays all Living Wage Employees not less than the Living Wage.
- 3A.2 Notwithstanding Section 3A.1, the Consultant has up to 6 months from the date on which any increase in the Living Wage is published by the Living Wage Certifier to increase wages for all Living Wage Employees such that all Living Wage Employees continue to be paid not less than the Living Wage.
- 3A.3 The Consultant shall ensure that the requirements of Section 3A.1 apply to all Sub-consultants.
- 3A.4 A breach by the Consultant of its obligations pursuant to Sections 3A.1 and 3A.3 shall constitute a material breach by the Consultant of this Agreement that shall entitle the City to terminate this Agreement with immediate effect if the Consultant has not remedied such breach within the time period specified by the City in writing to the Consultant.
- 3A.5 The Consultant shall maintain up-to-date records and accounts which clearly document its satisfaction of the requirements of this Article 3A and shall make the same available to the City upon request. The City may request copies of all such records and accounts which shall be provided to the City by the Consultant (subject to reimbursement of the Consultant’s reasonable copying costs and any other direct costs and expenses, if any) at any time prior to the expiry of 365 days after completion of all of the Services or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Consultant in accordance with this Section 3A.5 shall be deemed to be Confidential Information.
- 3A.6 The Consultant shall prepare and submit to the City in a format reasonably acceptable to the City before January 31 of each calendar year of the term or, for each partial calendar year of the term, within 30 days of the expiry of the term a living wage report setting out:

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- (a) the number of Living Wage Employees of the Consultant and each Sub-Consultant who were paid a Living Wage pursuant to this Section 3A during the previous calendar year or portion thereof that would not have received a Living Wage for substantially similar work but for the obligations of the Consultant pursuant to this Section 3A; and
- (b) the total incremental costs incurred by the Consultant, including any amounts paid to Sub-consultants, in order to fulfill its obligations pursuant to this Section 3A to pay a Living Wage to the Living Wage Employees described in Section 3A.6(a).

4.0 SUB-CONSULTANT

- 4.1 Unless expressly permitted pursuant to Section 3.0, the Consultant may not engage any Consultant or consultant (in each case a “**Sub-consultant**”) for the performance of any part of the Services, unless the Consultant has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 4.2 The Consultant will administer, coordinate, and manage all Services provided by any Sub-Consultants, and will assume full responsibility to the City for all work performed by the Sub-Consultants in relation to the Services and will pay all fees and disbursements of all Sub-Consultants, subject to reimbursement by the City where the City has expressly agreed in this Agreement that such reimbursement is to be separate from and additional to the fees and disbursements payable to the Consultant.
- 4.3 Where a Sub-consultant is used by the Consultant under this Agreement, the Consultant will legally bind the Sub-consultant to comply with this Agreement.
- 4.4 Nothing in this Agreement will create any contractual relationship between a Sub-consultant and the City.

5.0 BASIS OF PAYMENT TO THE CONSULTANT

- 5.1 In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms hereof, the City will pay the Consultant the fees and reimbursable expenses prescribed in the relevant Terms Agreement, plus GST and PST as applicable to the sale made to the City hereunder.
- 5.2 Subject to Section 5.3, payment to the Consultant will be based on hours worked by employees of the Consultant or by the Sub-consultants multiplied by the applicable hourly charge-out rates stated in the Application.
- 5.3 If there are maximum, lump sum or other limiting amounts for fees or disbursements indicated herein for the Services set out in a particular Terms Agreement, then notwithstanding anything to the contrary in this Agreement the maximum fees or disbursements to be paid by the City to the Consultant for those Services will not exceed those stated amounts, except as mutually agreed in writing. Any limit on the fees or disbursements to be paid by the City to the Consultant will in no way diminish the duties and obligations of the Consultant to provide the Services covered by the relevant Terms Agreement.
- 5.4 Subject to any “Fixed Disbursement Amount” set out in a Terms Agreement, or any other limit on disbursements stated in the relevant Terms Agreement, the City will reimburse the Consultant for disbursements reasonably incurred by the Consultant in the performance of the Services. Reimbursement of these expenses by the City will be at actual cost without any addition for overhead or profit.

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- 5.5 If the Consultant has engaged Sub-consultants, then the Consultant will make full payment to said Sub-consultants for work performed in relation to the Services. Subject to any “Fixed Disbursement Amount” defined in the applicable Terms Agreement, or any other limit on disbursements stated in the applicable Terms Agreement, the City will reimburse the Consultant for payments made to Sub-consultants at amounts equal to such actual payments without any additions for overhead and profit to the Consultant.
- 5.6 The Consultant will, by the 25th day of each month in which the Consultant performs any Services, provide to the City’s Representative a draft invoice with an attached detailed account of all charges to be claimed by the Consultant for the preceding month (if any). The City’s Representative shall review the draft, raise any concerns with the Consultant within ten working days and, after settlement of any issues (in the City’s Representative’s discretion), approve the draft invoice. The Consultant, if so requested, will meet with the City’s Representative to expedite and settle of the draft invoice. The Consultant will submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APInvoices@vancouver.ca . The invoice must contain:
- (a) the Consultant’s name, address and telephone number;
 - (b) the City purchase order number;
 - (c) the name of the City’s Representative;
 - (d) the invoice number and date;
 - (e) details of any applicable taxes (with each tax shown separately); and
 - (f) tax registration number(s).
- 5.7 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Consultant’s invoices, for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided however, the City will use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City will, if it approves the amount of such invoice, cause the respective invoice to be paid within 30 days of approval by electronic funds transfer to the bank account indicated by the Consultant.
- 5.8 The Consultant will keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City will be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as will be reasonably necessary or advisable.
- 5.9 The Consultant shall provide bank account information to the City to enable the City to make payments by electronic funds transfer, as contemplated hereby.
- 6.0 CHANGES TO SCOPE OF SERVICES**
- 6.1 The City’s Representative may, from time to time and at any time on prior written notice to the Consultant, vary the scope of Services to be provided by the Consultant. In that case and where the applicable Terms Agreement contains delivery dates and/or limits as to fees or disbursements (or a defined “Maximum Fees and Disbursements”) for all or any part of the applicable Services, such delivery dates and/or limits will be adjusted as agreed to by both

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Parties in writing, and failing agreement, as reasonably determined by the City's Representative.

- 6.2 Should the Consultant consider that any request or instruction from the City's Representative constitutes a change in the scope of Services, the Consultant will provide the City's Representative with notice in writing within ten days of such request or instruction. If the Consultant does not deliver written notice to the City within the time period specified, the City will not be obligated to make any payments of additional fees, disbursements or out of pocket expenses to the Consultant.
- 6.3 The City's Representative will consider the Consultant's written notice (if any) within a further ten days of receipt of the Consultant's notice and determine and advise as to whether the request constitutes a change in the scope of the Services and, if necessary, the method by which the variation will be scoped and reimbursed. If the City determines that the professional fees payable to the Consultant should be increased due to an increase in the scope of the Services then any such increases will be based on the hourly rates set out in the Application.

7.0 RELEASE AND INDEMNIFICATION

- 7.1 The Consultant now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Consultant, its Sub-consultants, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 7.2 Despite any insurance coverage of the City, the Consultant hereby agrees to indemnify and save harmless the City of Vancouver and its successors, assigns, official, employees, agents and authorized representatives and each of them (in each case an "Indemnified Party") from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Consultant, its Sub-consultants, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of an Indemnified Party.
- 7.3 This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.
- 7.4 The release and indemnity set out above will survive the expiry or sooner termination of this Agreement.

8.0 INSURANCE

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

9.0 WORKSAFEBC

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

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to withhold payment under this Agreement until the WorkSafeBC premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.

- 9.2 The Consultant will provide the City with the Consultant's and each Sub-Consultant's WorkSafeBC registration number and clearance letters from WorkSafeBC confirming that the Consultant and each Sub-Consultant are registered in good standing with WorkSafeBC and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this Agreement. The Consultant will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged by the Consultant in the performance of this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.
- 9.3 Whenever the Consultant is required or permitted to perform any Services on any City sites, the Consultant is now appointed and now accepts appointment as the "prime Consultant" (as defined in the WorkSafeBC regulations) in connection with such Services.

10.0 CITY INFORMATION/APPROVALS

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

11.0 COMMUNICATION BETWEEN CONSULTANT AND CITY

- 11.1 The City appoints Sam Bachra, sam.bachra@vancouver.ca as the City's Representative for the purposes of this Agreement.

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

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

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

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12.0 TERM OF AGREEMENT

12.1 This Agreement will commence on the Effective Date and will expire on the later of: (i) the 3rd anniversary of the Effective Date; and (ii) if there are Services ongoing pursuant to a Terms Agreement on the 3rd anniversary of the Effective Date, the date on which those Services have been completed by the Consultant (the “Term”).

13.0 TERMINATION

13.1 The City at any time, in its sole judgment, may, whether or not cause exists, terminate the services of the Consultant in whole or in part by giving ten days’ prior written notice to the Consultant. If termination is not for cause, the Consultant will be paid for all Services properly performed to the date of the delivery of the said notice (subject to the terms of this Agreement) plus all necessary and reasonable wind-up costs incurred, if any, in closing out the Services or the part terminated.

13.2 Despite Section 13.1, in no event and under no circumstances will the Consultant’s “necessary and reasonable wind-up costs incurred” pursuant to Section 13.1 exceed \$1,000 (including all taxes).

14.0 ASSIGNMENT

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

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

15.0 CONFIDENTIALITY

15.1 In the course of or for the purpose of performing the Services, the Consultant will obtain or have access to information, including but not limited to technical information, financial information and business information, which is confidential to the City, and is the exclusive, world-wide property of the City and/or its suppliers and customers (collectively “Confidential Information”). Excluded from the definition of Confidential Information is:

- (a) information which is in, or becomes part of, the public domain, not due to the Consultant’s breach of this Agreement or the Consultant’s actions;
- (b) information which was previously in the Consultant’s possession and did not originate from the City; and
- (c) information which lawfully becomes available to the Consultant from a third party not under an obligation of confidence to the City regarding such information.

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- 15.2 The Consultant will not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Consultant will not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and use-restriction provisions in this Section 15.0. The Consultant will take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.
- 15.3 If the Consultant is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Consultant shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that prior to any disclosure the Consultant will promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City's request and expense, cooperate in obtaining a protective order or other assurance that confidential treatment and restrictions on use will be accorded such Confidential Information.
- 15.4 The City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's Consultants to protect all personal information acquired from the City in the course of providing services to the City. The Consultant confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia) with respect to all personal information received from the City whether as part of the Confidential Information or otherwise.
- 15.5 The Consultant acknowledges that in the event of a breach by the Consultant or any of its employees of their respective confidentiality obligations pursuant to this Section 15.0, damages alone would not be an adequate remedy. The Consultant therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City will have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.
- 15.6 The Consultant shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:
- (a) completion of the Services;
 - (b) expiration or earlier termination of this Agreement; and
 - (c) written request of the City for return of the Confidential Information;
- provided that the Consultant shall have the right to retain one copy of the Confidential Information solely for archival purposes or as otherwise may be required by law, subject to its ongoing confidentiality and restricted use obligations.
- 15.7 This Section 15.0 shall survive the expiration or earlier termination of this Agreement.
- 16.0 NO PROMOTION OF RELATIONSHIP**
- 16.1 The Consultant will not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, websites, internet domain names, press releases, brochures or other written materials

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(the “**Communications**”) without the express prior written consent of the City (except as may be necessary for the Consultant to perform its obligations under this Agreement).

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

17.0 DELIVERABLES

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

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

(collectively, the “**Deliverables**”).

17.2 Deliverables are deemed not to include:

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

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

17.4 The Consultant will keep accurate records and provide regular reports to the City about the Deliverables as they are created or acquired, and grant to the City access to the Deliverables at all times on reasonable notice. The Consultant will treat each Deliverable as subject to the confidentiality provisions set out in Section 15.0 unless advised otherwise by the City.

17.5 Each Deliverable, as to the whole or that portion of the Deliverable then existing, will be delivered by the Consultant to the City on the earliest of each of the following events:

- (a) the date specified in the applicable Terms Agreement for the delivery of such Deliverable;

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- (b) immediately on the date of expiration or sooner termination of this Agreement; or
 - (c) the date specified by written notice of the City requesting delivery of all or any part of the Deliverable.
- 17.6 The Consultant transfers to the City, free of all liens and encumbrances, ownership of each Deliverable, and assigns all of its world-wide present and future rights, title and interest in and to each Deliverable, including copyright, effective as of the date of creation or acquisition of such Deliverable by the Consultant. The Consultant irrevocably waives, in favour of the City, all moral rights in the Deliverables. The Consultant will obtain from its employees and any independent Consultants, all required assignments and releases of intellectual property, and waivers of moral rights, in the Deliverables. The Consultant will not assert any rights to or interests in, or apply for or register any copyright or other rights or interests in, the Deliverables, or assist any other person in doing so. The Consultant shall provide to the City, during and after the term of this Agreement, any reasonable assistance required for the City to obtain, perfect and enforce its ownership of and rights in the Deliverables, including without limitation execution of assignments and transfers of the Deliverables. This Section does not apply to Pre-Existing Materials.
- 17.7 The Consultant will not incorporate any Pre-Existing Materials in any Deliverable without first:
- (a) advising the City, in writing, of the nature of the Pre-Existing Materials and their proposed use and obtaining the City's written consent to do so;
 - (b) acquiring from each third-party owner of such Pre-Existing Materials, a fully paid-up, perpetual, non-exclusive license, in writing, for the City to use the Pre-Existing Materials as part of the Deliverable; and
 - (c) granting, in writing, to the City with respect to such Pre-Existing Materials that the Consultant owns, a fully paid-up, perpetual, non-exclusive license to use the Pre-Existing Materials as part of the Deliverable.
- 17.8 The Consultant represents and warrants that the Deliverables will not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The Consultant shall defend, indemnify and hold the City harmless from and against any and all damage, liability, cost and expense incurred by the City in connection with any claim by a third party that a Deliverable infringed, misappropriated or misused its copyright, patent, trade-mark, trade secret, or confidential or proprietary information.
- 18.0 NOTICES**
- 18.1 Any notice required or permitted to be given to the Consultant will be sufficiently given if delivered in writing by the City's Representative to the Consultant's Project Manager personally or, if mailed, by registered mail to the last known address of the Consultant.
- 18.2 Any notice required or permitted to be given to the City will be sufficiently given if delivered in writing by the Consultant's Project Manager to the City's Representative personally or, if mailed, by registered mail to City of Vancouver at 453 West 12th Avenue, Vancouver, B.C., V5Y 1V4 (addressed to the attention of the City's Representative).

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19.0 NO CONFLICT OF INTEREST

- 19.1 The Consultant agrees that during the Term the Consultant will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person, whether or not a client of the Consultant's. Without limiting the general scope of this Section 19.1 and by way of example only, the Consultant is prohibited from and will not provide any services which assist or could be seen to be assisting any person in responding to a request for proposal or invitation to tender, or otherwise giving that person an unfair competitive advantage over other proponents or tenderers responding to a request for proposal or invitation to tender by the City. The Consultant now acknowledges that a breach of this Section 19.1 could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada, and accordingly, could be punishable as a crime (as well as a breach of contract).
- 19.2 The Consultant now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Consultant's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:
- (a) an elected official or employee of the City; or
 - (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration of this Agreement or the performance of the Services.

20.0 NON-RESIDENT WITHHOLDING TAX

- 20.1 If the Consultant is a non-resident of Canada as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation, unless a Canada Revenue Agency waiver has been provided to the City within the time limit required under the Canada Revenue Agency administrative guidelines as in effect from time to time and, in any event, prior to payment of an invoiced amount.
- 20.2 The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest will be payable by the City on sums withheld and later paid directly to the Consultant.
- 20.3 The Consultant shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.

21.0 COMPLIANCE WITH LAW

- 21.1 The Consultant will comply with the City of Vancouver License By-law and maintain a valid business license throughout the duration of this Agreement.
- 21.2 The Consultant agrees that it will during the Term comply with all Applicable Laws.

22.0 GOVERNING LAW AND RESOLUTION OF DISPUTES

- 22.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this

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Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.

23.0 INDEPENDENT CONSULTANT

23.1 This Agreement is a contract for services and the Consultant, its permitted Sub-consultants, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and its permitted Sub-consultants are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City.

23.2 The Consultant will not represent to anyone that the Consultant has any authority to bind the City in any way or that the Consultant is an employee or agent of the City.

24.0 INDEPENDENT LEGAL ADVICE

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

25.0 TIME FOR PERFORMANCE

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

25.2 **Unavoidable Delay.** Notwithstanding Section 25.1, except for the performance of obligations to pay money, the time periods for the City and the Consultant to perform under this Agreement will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this Section, an “**Unavoidable Delay**” means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Consultant’s lack of financial resources; the Consultant’s insolvency ; strikes, lockouts or other withdrawals of services arising out of any labour dispute involving the City, the Consultant or a Sub-Consultant; or governmental action taken in the enforcement of any law specifically against the Consultant or its Sub- Consultants. If an Unavoidable Delay occurs, the non-performing party will, as soon as possible after the occurrence of the Unavoidable Delay, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of its obligations under this Agreement.

26.0 GENERAL

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

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

26.3 **Remedies Cumulative.** The remedies of the Parties provided for in this Agreement are cumulative and are in addition to any remedies available to the Parties at law or in equity. No

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remedy will be deemed to exclude or restrict the right of a Party to any other remedies against the other Party and a Party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.

- 26.4 **Further Assurances.** Each Party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 26.5 **Entire Agreement.** The Contract Documents constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.
- 26.6 **Amendment.** This Agreement shall not be amended except as specifically agreed in writing by both the City and the Consultant.
- 26.7 **Joint and Several Liability of Joint Venture Participants.** If the Consultant is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the entities who comprise the Consultant shall be joint and several.
- 26.8 **Schedules and Appendices.** The schedules and appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 26.9 **Set-Off.** The City may at its option, withhold and set-off against any amount owing to the Consultant (whether under this Agreement or otherwise) any amounts payable by the Consultant to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Consultant, whether such claim is at law or in equity or tort or on any other basis.
- 26.10 **Enurement.** This Agreement shall enure to the benefit of and be binding upon the City and the Consultant and their respective successors and permitted assigns.
- 26.11 **Execution.** This Agreement may be executed in one or more counterparts each of which will constitute an original and together will constitute one and the same Agreement. This Agreement may be executed by the Parties electronically or by facsimile and if so executed and transmitted, this Agreement will be for all purposes as effective as if the Parties had delivered an executed original Agreement.

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

CITY OF VANCOUVER

Authorized Signatory

Print Name and Title

[NAME OF CONSULTANT]

Authorized Signatory

Print Name and Title

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APPENDIX A - INSURANCE REQUIREMENTS

A1.1 Required Types/Amounts Prior to commencing the Services, the Consultant will obtain at its own expense:

- (a) a professional (errors and omissions) liability insurance policy with limits of not less than \$2,000,000 per claim and not less than \$2,000,000 in aggregate and a deductible of not more than \$50,000, protecting the Consultant against all claims for loss or damage arising out of any error or omission of the Consultant or the Consultant's personnel in the performance of the Services; and
- (b) a commercial general liability insurance policy with a limit of not less than \$5,000,000 per occurrence, and a deductible of not more than \$5,000, protecting the Consultant and the Consultant's personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Consultant or the actions of the Consultant or the Consultant's personnel. The policy must contain a cross-liability clause in favour of the City and will name the City and the City's officials, employees and agents as additional insureds.

A1.2 Required Policy Terms

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

- (a) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City's Director of Risk Management, acting reasonably;
- (b) be primary insurance in respect to the City, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute with such policies; and
- (c) contain a provision that such insurance coverage will not be cancelled without the insurer giving the City at least 30 calendar days' prior written notice.

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

A1.3 Insurance Certificate

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

A1.4 Sub-consultants' Insurance

The Consultant will provide in its agreements with its Sub-consultants insurance clauses in the same form as in this Agreement. Upon request, the Consultant will deposit with the City's

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Representative detailed certificates of insurance for the policies of its Sub-consultants (or copies of the policy(ies) themselves, if requested) and a copy of the applicable insurance clauses from its Sub-Consultant agreements.

A1.5 Insurance Requirements Additional to any other Requirements

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

A1.6 Insurance Requirements Independent of Agreement Obligations

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

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APPENDIX B
FORM OF TERMS AGREEMENT PER PROJECT

TERMS AGREEMENT

THIS TERMS AGREEMENT is made as of <[redacted]>, 20<[redacted]>

BETWEEN:

<[redacted] **CONSULTANT NAME**>, a <[redacted] corporation> organized under the laws of <[redacted]> and having an office at <[redacted]>

(hereinafter referred to as the “Consultant”)

AND:

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

(hereinafter referred to as the “City”)

PURSUANT AND SUBJECT TO that certain Professional Services Standing Offer Agreement between the Consultant and the City dated as of <[redacted]> (the “Agreement”).

1. Capitalized terms used herein but not defined herein have the respective meanings ascribed thereto in the Agreement.
2. The Services to which this Terms Agreement applies, and the Deliverables to be delivered by the Consultant in relation thereto are the following:

SCOPE OF WORK:

DELIVERABLES:

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SCHEDULE AND TIME(S) FOR COMPLETION:

[NOTE: Describe above the time for the completion of the Services and any applicable milestones to be achieved by particular dates prior to the completion of the Services.]

PROJECT TEAM:

[NOTE: List project team for the Services, if applicable. If none, write "None".]

APPROVED SUB-CONSULTANTS:

[NOTE: List approved sub-consultants. If none, write "None".]

City Site(s):

[Insert City properties at which the Services will be performed. If none, write "None"].

In undertaking the Services, the Consultant acknowledges that the Consultant has inspected the above City Site(s), agrees to accept the City Site(s) "as-is" and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Consultant to perform the Services set out in this Terms Agreement.

FEES:

[Insert fees for Services described in this Terms Agreement. Delete below provisions if not applicable.]

Notwithstanding anything to the contrary contained in the Agreement, save as otherwise mutually agreed in writing subsequent to the date of this Terms Agreement (or pursuant to Section 6.0 of the Agreement), the total professional fees payable to the Consultant for the Services set out in this Terms Agreement (not including GST AND PST or disbursements) will not exceed \$**[insert amount]**. (the "Maximum Fee").

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Notwithstanding anything to the contrary contained in the Agreement, save as otherwise mutually agreed in writing subsequent to the date of this Terms Agreement (or pursuant to Section 6.0 of the Agreement), the total disbursements for which the City will reimburse the Consultant in respect of the Services set out in this Terms Agreement will not exceed \$[insert amount] (the “Fixed Disbursement Amount”).

Notwithstanding anything to the contrary contained in the Agreement, save as otherwise mutually agreed in writing subsequent to the date of this Terms Agreement (or pursuant to Section 6.0 of the Agreement), the maximum liability of the City in respect of the Services set out in this Terms Agreement (the “Maximum Fees and Disbursements”) will be \$[insert amount], plus GST and PST as applicable to the sale made to the City hereunder.

3. Consultant’s Offer

Subject to the terms and conditions of the Agreement and any additional terms and conditions set out in this Terms Agreement, the Consultant hereby offers to perform the Services described above, upon the terms and conditions described above, and for the fees specified above.

Signature on behalf of the Consultant:

Date: _____

4. City’s Acceptance

Subject to the terms and conditions of the Agreement, including any additional terms and conditions set out in this Terms Agreement, the Consultant is hereby directed to promptly proceed with the Services described above, upon the terms and conditions described above, and for the fees described above.

Signature of the City’s Representative:

Date: _____

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APPENDIX C - CONSULTANT'S PROPOSAL

To be attached before contract is finalized.

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APPENDIX D - RFP

To be attached before contract is finalized.