REQUEST FOR PROPOSALS

DIGITAL SIGNAGE MENU BOARDS FOR ORPHEUM THEATRE

RFP No. PS20200143

Issue Date: July 31, 2020

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

TABLE OF CONTENTS

PART A – INFORMATION AND INSTRUCTIONS 1
1.0 THE RFP 1
2.0 KEY DATES 2
3.0 CONTACT PERSON 2
4.0 SUBMISSION OF PROPOSALS 2
5.0 CHANGES TO THE RFP AND FURTHER INFORMATION 3
6.0 PROPOSED TERM OF ENGAGEMENT 4
7.0 PRICING 4
8.0 EVALUATION OF PROPOSALS 4
9.0 CITY POLICIES 5
10.0 LIVING WAGE EMPLOYER 5
11.0 CERTAIN APPLICABLE LEGISLATION 6
12.0 LEGAL TERMS AND CONDITIONS 6
APPENDIX 1 TO PART A 7

PART B – SCOPE OF WORK 1
1.0 SCOPE OF WORK 1

PART C – FORM OF PROPOSAL 1
APPENDIX 1 LEGAL TERMS AND CONDITIONS OF RFP 3
APPENDIX 2 QUESTIONNAIRE 8
APPENDIX 3 COMMERCIAL PROPOSAL 10
APPENDIX 4 PROPONENT'S REFERENCES 11
APPENDIX 5 CERTIFICATE OF INSURANCE 13
APPENDIX 6 DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE 14
APPENDIX 7 PERSONAL INFORMATION CONSENT FORM(S) 15
APPENDIX 8 SUBCONTRACTORS 16
APPENDIX 9 PROPOSED AMENDMENTS TO FORM OF AGREEMENT 18
APPENDIX 10 CONFLICTS; COLLUSION; LOBBYING 19
APPENDIX 11 PROOF OF WORKSAFEBC REGISTRATION 20

PART D – FORM OF AGREEMENT 1

SUMMARY

The City of Vancouver invites proposals from qualified vendors for the provision of a digital signage system which includes menu boards and vertical display screens, hardware, software, installation and services at the Orpheum Theatre.

PART A – INFORMATION AND INSTRUCTIONS

1.0 THE RFP

1.1 Except where expressly stated otherwise in Appendix 1 of Part C of the Request for Proposals ("**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.

1.2 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 8.0 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 Part C - 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:

(a) PART A – INFORMATION AND INSTRUCTIONS: This part is intended to serve as a guide to the RFP process for Proponents.

(b) PART B – SCOPE OF WORK: 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	Time and Date
Deadline for submission of Information Meeting registration form (Appendix 1 to this Part A)	3:00pm, Monday, August 17, 2020
Information Meeting	10:30am, Tuesday, August 18, 2020
Deadline for Enquiries	3:00pm, Tuesday, August 25, 2020
Closing Time	3:00pm, Tuesday, September 1, 2020

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:

Philip Lai, Buyer II
philip.lai@vancouver.ca

3.2 All enquiries must be made in writing and are to be directed only to the above contact person. In-person or telephone enquiries are not permitted. Any communication from potential Proponents to City staff other than the contact person regarding the content of this RFP may lead to disqualification of the Proponent from this RFP process, at the City's sole discretion.

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 on or before the time and date specified in the bottom row of the table in Section 2.1 above (the "**Closing Time**").

4.2 Each Proponent should submit its Proposal by email in accordance with the following:

- Subject of the file to be: PS# - Title – Vendor name.
- Document format for submissions:
  - RFP Part C in PDF format – 1 combined PDF file,
  - Appendix 3 (pricing tab) in Excel format, and;
  - Any other attachments if necessary
- Zip the files to reduce the size or email separately if needed.

- Send your submissions to Bids@vancouver.ca; do not deliver a physical copy to the City of Vancouver.

- If you did not receive an automated email within few minutes, check your junk folder first, and then contact Purchasing@vancouver.ca.

- Submitting the files via Drop box, FTP, or similar programs, is not acceptable.

4.3 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.

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

4.5 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.

4.6 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.

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

4.8 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium for the purpose of responding 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 contractor and use subcontractors as required.

4.9 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.

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: 601 Smithe St, Vancouver, BC V6B 3L4

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 philip.lai@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 for the delivery, installation and set-up of the hardware, software and necessary equipment. The software license (Navori) will only be for one (1) year . Further information can be found in Part B – Scope of Work.

7.0 PRICING

7.1 All prices quoted in any Proposal are to be exclusive of applicable sales taxes calculated upon such prices, but inclusive of all other costs.

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.

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:

Evaluation Criteria	Evaluation Weighting
Technical	45
Financial	50
Sustainability (Environmental and/or Social)	5%
Total	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 subcontractors 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 scope of work 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 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.

9.2 The City's Alcohol, Controlled Drugs and Medications Policy applies to all contractors doing work on behalf of the City and can be found at https://policy.vancouver.ca/ADMIN011.pdf . The policy is intended to set expectations regarding the use of alcohol, medication and controlled drugs that may render an employee unfit for work, impair performance or cause risk of harm to health and safety. The successful Proponent will be required to ensure compliance with the policy by its employees when doing work for the City.

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.

Please see the Living Wage for Families Campaign website for the current Living Wage for Vancouver:

http://www.livingwageforfamilies.ca/living_wages_in_bc_and_canada

The Living Wage 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 subcontractors 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 contractors 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 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.

APPENDIX 1 TO PART A

CITY OF VANCOUVER

FINANCE RISK AND BUSINESS PLANNING
Supply Chain Management

RE: REQUEST FOR PROPOSALS NO. PS20200143, DIGITAL SIGNAGE MENU BOARDS FOR ORPHEUM THEATRE

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:

Philip Lai
City of Vancouver
Email: philip.lai@vancouver.ca

Proponent's Name: _____

Address: _____

_____

Key Contact Person: _____

Telephone: _____

E-mail: _____

Our company WILL □ / WILL NOT □ attend the information meeting for Request for Proposals No. PS20200143, Digital Signage Menu Boards for Orpheum Theatre.

_____
Signature

_____
Name of Signatory

_____
E-mail Address

_____
Date

PART B – SCOPE OF WORK

The scope of work stated in this Part B (collectively, the "**Scope of Work**") is current as of the date hereof, but may change or be refined in the course of the evaluation of Proposals or otherwise.

Unless otherwise stated, if, and wherever, the Scope of Work states 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.

1.0 SCOPE OF WORK

Background

Vancouver Civic Theatre (VCT) operates the historic Orpheum Theatre. This complex is a central cultural hub for the City of Vancouver (CoV) and has exposure to over 600,000 patrons and a large number of community and international presenters each year. It is also the home of the Vancouver Symphony Orchestra who programs over 175 performances each season.

During performances one of our largest revenue streams is food and beverage (F&B). Current food and beverage offerings are displayed on signage that is either professionally printed on signs (semi-permanently) or written by hand onto a few chalk board signs.

Our goal is to provide patrons with a wide variety of F&B products that can be customized for the genres of performance or presentation. Digital signage menu boards would allow our team to market these customized products and provide our team with flexible pricing control to maximize our revenues. The menu boards can also be used for marketing and/or education purposes.

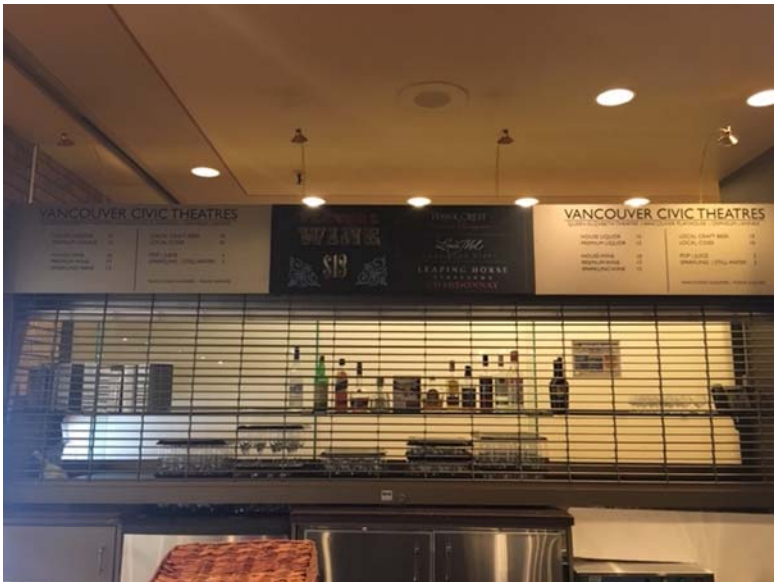
Engagement Scope and Deliverables

The needs of the Orpheum Theatre are itemized below. Vendors are to provide quotes for each of the described areas. The VCT has the right to award the project in phases based on each quoted area. Vendors are to outline displays needed for network connectivity (network drops, Wi-Fi connectivity or none)

NOTE: Proponents are asked to be creative and to keep the Orpheum's historical context into consideration with the design and/or millwork.

Orpheum Theatres Food and Beverage Concession areas

1. Smithe Bar at main entrance – 4 - 6 screens



Full Service Bar – high volume

2. Cappuccino Station (Beside Smithe Bar) - 2 screens required

3. West Coast Hall – 6-7 screens

Reception area and high volume location

4. Seymour Bar – 2 -3 screens

We ask the proposal to take in consideration the historical significance of the theatre and vendors can be creative in their design approach as this will be a high profile installation and activation.

- Ceiling mounted thin-bezel commercial grade menu boards; Professionally installed and activated
- Navori Software and Players for screens
- Potential future integration of POS system (not a must)

Deliverables and Scope

The following items are in scope for this project:

- Hardware (includes standard warranty, etc.)
- Installation
- Connectivity (Hardwired preferred)
- Activation
- Training for staff
- One year of software license (Navori), maintenance and managed services*
- Millwork and encasements to fit the historic look of the Orpheum

The current software license (Navori) for the Vancouver Civic Theatres expires in Sept 2021. Want to bundle the licenses as a single package for renewal.

Out of Scope

- Outdoor signage
- QET, Playhouse or Annex Signage

PART C – FORM OF PROPOSAL

RFP No. PS20200143, DIGITAL SIGNAGE MENU BOARDS FOR ORPHEUM THEATRE (the "RFP")

Proponent's Name:_____
"**Proponent**"

Address:_____

_____

Jurisdiction of Legal Organization:_____

Date of Legal Organization:_____

Key Contact Person:_____

Telephone:_____

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

APPENDICES

The Form of Proposal includes the following attached Appendices:

APPENDIX 1 Legal Terms and Conditions of RFP

APPENDIX 2 Questionnaire

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 Subcontractors

APPENDIX 9 Proposed Amendments to Form of Agreement

APPENDIX 10 Conflicts; Collusion; Lobbying

APPENDIX 10 Proof of WorkSafeBC Registration

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. PS20200143, as amended from time to time and including all addenda.

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 subcontractor 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.

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 subcontractors* (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:

(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 subcontractors 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 subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors 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;

(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 contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor'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 10.

(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 contractor 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 10.

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 subcontractors 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 subcontractors' 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 10.

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 10.

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 subcontractors 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 subcontractors 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 10.

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.

(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.

APPENDIX 2
QUESTIONNAIRE

Complete this Appendix 2 - Questionnaire in the form set out below.

Executive Summary

In the space below, provide a brief executive summary of your Proposal.

Proponent Overview

In the space below, provide a description of the Proponent's company, number of employees, purpose and history of successes. If the head office of the Proponent is located within the City of Vancouver or if the Proponent is to perform any work at a site located within the City of Vancouver, this section should also indicate whether the Proponent has a valid City of Vancouver business license (or, if available, a Metro West Inter-municipal Business License).

Scope of Work

In the space below, describe how your Proposal is responsive to the Scope of Work.

Key Personnel

In the space below, identify and provide professional biographical information for the key personnel that would perform the Proponent's work, outlining their intended roles in performing the Scope of Work. If appropriate, also attach to this Form of Proposal as an additional Appendix CVs and a complete organization chart, identifying all roles and areas of responsibility.

Work Plan

In the space below (or attached to this Form of Proposal as an additional Appendix clearly titled "Work Plan"), detail the sequential process by which the Proponent proposes to undertake the work, including a timeline as necessary. The Proponent's work plan should make reference to the Scope of Work as appropriate.

Innovation

Notwithstanding any other provision hereof, the City welcomes Proposals respecting innovative or novel approaches to the City's objectives and requirements and may consider value-creating Proposals that derogate from the Scope ow Work. In the space below, note any proposed innovative approaches to meeting the City's requirements.

Alternative Solutions

If, in addition to proposing services which meet the Scope of Work, the Proponent wishes to offer an alternative or alternatives, the alternative solution(s) should be described in the space provided below. Any pricing impact of the alternative solution(s) should also be provided.

Supplier Diversity

Please note that these Supplier Diversity questions are optional and will not form part of the evaluation of this RFP. Proponent answers to Supplier Diversity questions are for information gathering purposes only and will be kept confidential in accordance with the Legal Terms and Conditions of this RFP.

In the space below, 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).

Majority owned/controlled/ by:	**Workforce Diversity:**	**Social / Environmental Certifications**
☐ Women	% Women	☐ BCorp
☐ Indigenous Peoples	% Indigenous Peoples	☐ BuySocial
☐ Non-Profit/Charity (Social Enterprise)	% Ethno-cultural People	☐ Supplier Diversity Certification
☐ Coop	% People with Disabilities	☐ Fairtrade
☐ Community Contribution Corporation (3C/CCC)	% LGBTQ+	☐ Green Business Certification (ie. LEED, ClimateSmart)
☐ Ethno-cultural Persons	% Other: please indicate	☐ Other: please indicate
☐ People with Disabilities		
☐ LGBTQ+		
☐ Other: please indicate		

APPENDIX 3
COMMERCIAL PROPOSAL

Complete this Appendix 3 - Commercial Proposal in the form set out below.

Proponent to provide proposed pricing and payment terms, which should be in accordance with Part A, Section 7.0 of the RFP (as well as any other sections of the RFP imposing requirements as to pricing).

When submitting its Proposal by email, please ensure Appendix 3 – Commercial Proposal is provided as a separate file to the entire Proposal.

Hardware and Accessories (including installation)

Item	Location	Qty.	Screen Size (Approx)	Per Unit Cost	Accessories Per Unit Cost	Total
1	Smithe Bar at main entrance	4 - 6		$ -		$ -
	Full Service Bar – high volume	?		$ -		$ -
2	Cappuccino Station (beside Smithe Bar)	2 required		$ -		$ -
3	West Coast Hall	6 - 7		$ -		$ -
4	Seymour Bar	2 - 3		$ -		$ -
	Media player devices for screens			$ -		$ -
			TOTAL	$		-

Software and Maintenance

Item	Qty.	Description	Total
1		Software Package	$ -
2		Maintenance	$ -
3		Software License	$ -
4		Training	$ -
5		Hardware (Option for locations without internet access that may be require independent upload capability)	$ -
		TOTAL OF ITEMS	$ -

☐ **By colouring in this box, the Proponent hereby confirms that the above Commercial Proposal is based on the payment of wages to employees of the Proponent and Subcontractors 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.**

APPENDIX 4
PROPONENT'S REFERENCES

Complete this Appendix 4 - Proponents References in the form set out below with references that are relevant to the Scope of Work set out in this RFP.

Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

Client Name # 2	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

Client Name # 3	
Address (City and Country)	
Contact Name	

Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

APPENDIX 5
CERTIFICATE OF 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.)

CITY OF VANCOUVER

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

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

1. **THIS CERTIFICATE IS ISSUED TO:** **City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4**
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.

2. **NAMED INSURED** ***(must be the same name as the proponent/bidder and is either an individual or a legally incorporated company)***

_____

BUSINESS TRADE NAME or DOING BUSINESS AS

_____

BUSINESS ADDRESS

_____

DESCRIPTION OF OPERATION

_____

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

INSURER _____
TYPE OF COVERAGE _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Insured Values (Replacement Cost) -
Building and Tenants' Improvements $ _____
Contents and Equipment $ _____
Deductible Per Loss $ _____

4. **COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**

Including the following extensions:
√ Personal Injury
√ Property Damage including Loss of Use
√ Products and Completed Operations
√ Cross Liability or Severability of Interest
√ Employees as Additional Insureds
√ Blanket Contractual Liability
√ Non-Owned Auto Liability

INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____
Limits of Liability (Bodily Injury and Property Damage Inclusive) -
Per Occurrence $ _____
Aggregate $ _____
All Risk Tenants' Legal Liability $ _____
Deductible Per Occurrence $ _____

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

INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Limits of Liability -
Combined Single Limit $ _____
If vehicles are insured by ICBC, complete and provide Form APV-47.

6. ☐ **UMBRELLA OR** ☐ **EXCESS LIABILITY INSURANCE**

INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Limits of Liability (Bodily Injury and Property Damage Inclusive) -
Per Occurrence $ _____
Aggregate $ _____
Self-Insured Retention $ _____

7. **PROFESSIONAL LIABILITY INSURANCE**

INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Limits of Liability
Per Occurrence/Claim $ _____
Aggregate $ _____
Deductible Per Occurrence/Claim $ _____

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

8. **OTHER INSURANCE**

TYPE OF INSURANCE _____
INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Limits of Liability
Per Occurrence $ _____
Aggregate $ _____
Deductible Per Loss $ _____

TYPE OF INSURANCE _____
INSURER _____
POLICY NUMBER _____
POLICY PERIOD From _____ to _____

Limits of Liability
Per Occurrence $ _____
Aggregate $ _____
Deductible Per Loss $ _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

_____ Dated _____

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

_____

APPENDIX 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.

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) <https://policy.vancouver.ca/AF01401P1.pdf>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

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 subcontractors 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: _____

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

Reference #PS20200143

Title: Digital Signage Menu Boards for Orpheum Theatre
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

APPENDIX 8
SUBCONTRACTORS

Complete this Appendix 8 - Subcontractors in the form set out below by listing all of the subcontractors 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 subcontractors.

If selected to enter into an Agreement with the City, the Proponent may be limited to using subcontractors listed in its Proposal. If the City objects to a subcontractor listed in a Proposal, the City may permit a Proponent to propose a substitute Subcontractor acceptable to the City.

Subcontracted Scope		
Subcontractor		
Contact (name, title, email, telephone no.)		
Approximate Percent of the Work to be Subcontracted		
Social Value Business - shall mean 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-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).	In the space below, detail the Proponent's proposed use of Social Value Businesses as sub-contractors/consultants (if any) and provide brief company profiles of those Social Value Businesses and descriptions of how they qualify as Social Value Businesses.	
The Subcontractor'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:	

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 attached as Part D. 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

APPENDIX 10
CONFLICTS; COLLUSION; LOBBYING

Complete this APPENDIX 10 – 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)	

APPENDIX 11
PROOF OF WORKSAFEBC REGISTRATION

Attached as APPENDIX 11 to this Form of Proposal proof of valid WorkSafeBC registration.

PART D –
FORM OF AGREEMENT

SEE ATTACHED

SUPPLY AGREEMENT

BETWEEN:

<SUPPLIER NAME>

AND:

CITY OF VANCOUVER

RELATING TO <>

DATED <>

SAMPLE

SUPPLY AGREEMENT

THIS AGREEMENT is made as of <>

BETWEEN:

> **<SUPPLIER NAME>**, a <corporation> organized under the laws of <> and having an office at <>
>
> (hereinafter referred to as the "**Supplier**")

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**")

WHEREAS the Supplier is in the business of <>;

AND WHEREAS the City wishes to procure <> from the Supplier upon and subject to the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the parties hereto agree as set forth herein.

SAMPLE

TABLE OF CONTENTS

Page

ARTICLE 1 INTERPRETATION 4
1.1 Definitions 4
1.2 Headings 9
1.3 Extended Meanings 9
1.4 Schedules 10

ARTICLE 2 EFFECTIVENESS 10
2.1 Effective Date 10
2.2 Term 11

ARTICLE 3 SUPPLY; GENERAL TERMS 11
3.1 Supply 11
3.2 Application to Prior Acts 12
3.3 Sufficiency and Competence of Personnel 12
3.4 Standards and Requirements 12
3.5 Consents 12
3.6 Goods Orders 12
3.7 Delivery Requirements 13
3.8 Rejection of Defective goods or materials 13
3.9 Warranties 14
3.10 Relationship Between the Parties 14
3.11 Variations Requested by the City 15
3.12 Tests; Defects and Acceptance 15
3.13 Title and Risk 16
3.14 Living Wage 16

ARTICLE 4 PREFERRED SUPPLIERS 17
4.1 Procurement of Supplies 17
4.2 Information Concerning Alternative Suppliers 17
4.3 Use of Alternative Suppliers 17

ARTICLE 5 CONTRACT MANAGERS 18
5.1 City's Managers 18
5.2 Supplier's Managers 18
5.3 Designation of New Managers 18

ARTICLE 6 SUPPLIERS' WARRANTIES AND COVENANTS 19
6.1 General Representations and Warranties 19
6.2 General Health and Safety-Related Acknowledgements and Covenants 19
6.3 Covenants Regarding Violations of Health and Safety Requirements 20
6.4 Covenants Regarding the Environment 20
6.5 Further Covenants Regarding the Sites 21
6.6 Covenants Against Encumbrances 21
6.7 Absence of Conflicts of Interest 21

ARTICLE 7 PERSONNEL 22
7.1 Separate Personnel 22
7.2 Changes in Personnel 22
7.3 Key Project Personnel 22

ARTICLE 8 REPORTING 23
8.1 Progress Reports 23
8.2 Assistance regarding Reporting Requirements 23

ARTICLE 9 PAYMENT; AUDITS 24
9.1 Payment to the Supplier 24
9.2 Purchase Orders; Content of Invoices 24
9.3 Procedure for Invoices 25
9.4 Currency of Payment 25
9.5 Contested Claims for Payment 25
9.6 Audits 25
9.7 Set Off 26

ARTICLE 10 CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY 26
10.1 Scheduled Items 26
10.2 Other Information 26
10.3 Decisions in Writing 26
10.4 Access to the Site 26

ARTICLE 11 LIABILITY AND INSURANCE 27
11.1 Covenants of Indemnification by the Supplier 27
11.2 Contamination of Lands 28
11.3 Conduct of Claims 28
11.4 Insurance 30

ARTICLE 12 FORCE MAJEURE; TERMINATION 31
12.1 Force Majeure 31
12.2 City Suspension and Termination Rights 32
12.3 Supplier Termination Rights 32
12.4 Consequences of Termination 33
12.5 Other Surviving Rights and Liabilities of Parties 33

ARTICLE 13 ASSIGNMENT AND SUBCONTRACTING 34
13.1 Assignment 34
13.2 Subcontracting 34

ARTICLE 14 INTELLECTUAL PROPERTY 34
14.1 Assignment 34
14.2 Further Assistance 35
14.3 Supplier Undertakings and Representations and Warranties 35

SAMPLE

Page

14.4 Background Intellectual Property 36
14.5 Supplier Employees' and Subcontractors' Rights 36
14.6 No Additional Remuneration 36

ARTICLE 15PRIVACY; CONFIDENTIALITY..... 37
15.1 Freedom of Information and Protection of Privacy Act 37
15.2 No Promotion 37
15.3 Confidentiality Obligations 37
15.4 Disclosure to Representatives 37
15.5 Disclosures Required by Law 37
15.6 Other Disclosures by the City 37
15.7 Interpretation; Enforcement and Survival 38

ARTICLE 16TAXES 38
16.1 Taxes for Own Accounts 38
16.2 Withholding Taxes 38

ARTICLE 17DISPUTE RESOLUTION 39
17.1 Optional Procedure 39
17.2 Arbitration 39

ARTICLE 18MISCELLANEOUS 39

Page

18.1 Time of the Essence 39
18.2 Costs 39
18.3 Benefit of this Agreement 39
18.4 Entire Agreement 39
18.5 Amendments and Waiver 40
18.6 Notices 40
18.7 Governing Law and Jurisdiction 41
18.8 Further Assurances 41
18.9 Severance 41
18.10 Counterparts 41
18.11 Independent Legal Advice 41
18.12 Electronic Execution 42

SCHEDULE A - SCOPE OF GOODS AND SERVICES
SCHEDULE B - PRICES FOR SUPPLY
SCHEDULE C - ITEMS TO BE PROVIDED BY THE CITY
SCHEDULE D - TIME SCHEDULE FOR SUPPLY
SCHEDULE E - PREFERRED SUPPLIERS
SCHEDULE F - CITY POLICIES
SCHEDULE G - KEY PROJECT PERSONNEL
SCHEDULE H - SITE

SAMPLE

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

(a) "**Agreement**" means this agreement, including the schedules hereto, and all amendments made hereto or thereto by written agreement between the Supplier and the City;

(b) "**Background IP**" has the meaning ascribed thereto in Section 14.4;

(c) "**Business Day**" means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday;

(d) "**Change in Control**" means an occurrence whereby a person (or persons acting in concert) acquires control of the relevant entity;

(e) "**City Policies**" means any or all (as the context requires) of those procedures, standards and/or standard specifications, requirements, policies and the like listed in Schedule F or notified to the Supplier from time to time, as the same may be updated, modified, expanded, revised, supplemented and/or replaced from time to time by the City (as notified to the Supplier);

(f) "**City's Manager**" means a manager who at the relevant time carries such designation from the City under, or in accordance with, ARTICLE 5;

(g) "**Competent Authority**" means:

(i) any multinational, federal, provincial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, agency, commission, board or authority of any government or governmental body, domestic or foreign;

(ii) any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing; or

(iii) any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing;

(h) "**Confidential Information**" means all or any confidential information (however recorded or preserved) disclosed before, on or after the date of this Agreement by either Party or any of its Representatives to the other Party or its Representatives in connection with this Agreement, concerning:

(i) this Agreement; or

(ii) the affairs, operations, processes, know-how, suppliers, plans or intentions of the disclosing Party or of any member of the disclosing Party's Group, including, without limitation, any information which is not generally known to the public or which has been specifically identified as confidential or proprietary by the disclosing Party,

but does not include:

SAMPLE

(iii) any information that is or becomes generally available to the public or to industry professionals (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Agreement);

(iv) any information that was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;

(v) any information that was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement or other duty of confidentiality with or to the disclosing Party or a member of the disclosing Party's Group or otherwise prohibited from disclosing the information to the receiving Party;

(vi) any information that was known to the receiving Party before the information was disclosed to it by the disclosing Party or its Representatives and was not subject to a confidentiality agreement or other duty of confidentiality (including any obligation under this Agreement) with or to the disclosing Party or a member of the disclosing Party's Group;

(vii) any information that the Parties agree in writing is not confidential or may be disclosed; and

(viii) any information unrelated to this Agreement that is developed by or for the receiving Party independently of and without reference to the information disclosed by the disclosing Party;

(i) "**Consent**" means an approval, clearance, registration, franchise, right, privilege, certification, quota, consent, permit, licence, qualification, filing, exemption, certificate or permission and any such other matter or authorization whatsoever, including any condition thereof, that is lawfully and necessarily required under any Law or from any Competent Authority in connection with the Supply or the Site;

(j) "**Contract Price**" means the amounts payable (subject to and in accordance with the terms of this Agreement) by the City to the Supplier in return for the proper performance by the Supplier of its obligations under this Agreement, as detailed in Schedule B;

(k) "**Defect**" means any part of the Supply (or omission therefrom) which is defective, deficient or incomplete or does not otherwise comply with the requirements of this Agreement;

(l) "**Delivery**" means the completion of delivery of goods or products ordered in a particular purchase order, in accordance therewith and herewith;

(m) "**Delivery Date**" has the meaning ascribed to such term in Section 3.6(a);

(n) "**Delivery Location**" has the meaning ascribed to such term in Section 3.6(a);

(o) "**Documentation**" means calculations, computer programs and other software, drawings, designs, plans, manuals, records, reports, documents, papers, photos, typographical arrangements, models, contract documents, deliverables, agreements, tender/enquiry documents, and all other materials in whatever form, including but not limited to tangible copies and electronic forms, supplied either by or on behalf of the Supplier or generated collaboratively by the Parties in the course of the provision of the Supply under this Agreement;

(p) "**Effective Date**" has the meaning ascribed to such term in Section 2.1;

SAMPLE

(q) "**Encumbrance**" means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation;

(r) "**Environmental Law**" means any Law which imposes any obligations relating to:

(i) the protection, management, conservation or restoration of the natural environment;

(ii) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and

(iii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.

(s) "**Force Majeure**" means, exhaustively, any:

(i) war, hostilities (whether war is declared or not), invasion, act of foreign enemies;

(ii) rebellion, terrorism (or threat of terrorism), revolution, insurrection, military or usurped power or civil war;

(iii) riot, civil commotion or disorder, strike or lockout by persons other than the Supplier's personnel and other employees, Subcontractors or any other person for whom the Supplier is responsible;

(iv) natural catastrophe such as an earthquake, forest fire, landslide or flood; or

(v) change in Law or action by a Competent Authority, which makes it illegal or impossible for either Party to perform its obligations under this Agreement;

(t) "**Good Industry Practice**" means, in relation to the Supply or the performance of any other obligation under this Agreement, the practices, and the application of the skill, care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced international contractor carrying out or procuring equivalent services of similar type, scope and value, in the same or similar location and in similar circumstances to those pertaining to the Supplier;

(u) "**Group**" means:

(i) in respect of the Supplier, the group constituted from time to time by:

(A) the Supplier;

(B) all persons that directly or indirectly control or are controlled by the Supplier; and

(C) all persons that are directly or indirectly controlled by any person that directly or indirectly controls the Supplier; and

(ii) in respect of the City, the group constituted from time to time by:

SAMPLE

(A) the City; and

(B) all bodies corporate directly or indirectly controlled by the City.

(v) "**Hazardous Substance**" means any substance or material that is prohibited, controlled or regulated by any Competent Authority pursuant to any Environmental Law including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law;

(w) "**Intellectual Property Rights**" means any and all current and future proprietary rights provided under patent law, copyright law, design patent or industrial design law, or any other applicable statutory provision or common law principle, including trade secret law, that may provide a right in ideas, formulae, algorithms, concepts, inventions, know-how, computer software, database or design, or the expression or use thereof, whether registered or unregistered, together with any right to apply for or register any of the foregoing;

(x) "**Key Project Personnel**" means the persons named in Schedule G (Key Project Personnel) and any replacement(s) approved by the City in accordance with ARTICLE 7;

(y) "**Laws**" means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, determinations or awards of any Competent Authority whether or not having the force of law and any legal requirements or bases of liability under the common law or civil law, including all such Laws relating to Taxes, the environment, human health or safety, pollution and other environmental degradation, and hazardous materials , which affect or are otherwise applicable to the Supply, the Supplier, the Site or any other lands affected by the Supply;

(z) "**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;

(aa) "**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 Supplier in writing;

(bb) "**Living Wage Employee**" means any and all employees of the Supplier and Subcontractors of the Supplier that perform any part of the Supply 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;

(cc) "**OHS Requirements**" means all Laws applicable to the Supply and related to occupational health or safety, and all of the City Policies that relate to occupational health or safety, and includes without limitation the WCA;

(dd) "**Other City Entity**" means each of: the Vancouver Public Library Board, the Vancouver Police Board, the Vancouver Art Gallery Association and the Parking Corporation of Vancouver;

SAMPLE

(ee) "**Parties**" means the City and the Supplier and "**Party**" means one of them or either of them, as the context requires;

(ff) "**Permitted Purpose**" has the meaning ascribed thereto in Section 15.3;

(gg) "**Preferred Supplier**" means a person named in Schedule E;

(hh) "**Proposal**" means the Supplier's proposal dated <DATE>, submitted by the Supplier to the City in response to the RFP;

(ii) "**Release**" means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal;

(jj) "**Representative**" means a Group member of a Party, or an official, officer, employee, agent, subcontractor or other representative of a Party or any member of its Group, or any other person for whom the Party is responsible;

(kk) "**RFP**" means the City's Request for Proposal number PS<>;

(ll) "**Safety Incident**" means:

(i) a failure by the Supplier or any Subcontractor to comply with any OHS Requirements; or

(ii) any hazard, incident or accident caused by the Supplier or a Subcontractor.

(mm) "**Sales Tax**" has the meaning ascribed to such term in Section 16.1;

(nn) "**Site**" means a City building or other City worksite at which any part of the Supply shall be performed, which Sites are expected to include those listed in Schedule H.

(oo) "**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.

(pp) "**Student**" means an individual who is enrolled in a school, college, university or other educational institution and is employed by the Supplier or a Subcontractor, as the case may be, to obtain practical workplace experience as a requirement of or credit for their education;

(qq) "**Subcontractor**" means any person named in a schedule to this Agreement as a subcontractor, or any other person appointed by the Supplier, in accordance with this Agreement, to perform any part of the Supply;

(rr) "**Supplier's Manager**" means a manager who at the relevant time carries such designation from the Supplier under, or in accordance with, ARTICLE 5;

(ss) "**Supply**" means the provision of the goods, services and works described in Schedule A (or, as the context requires, the particular such goods, services or works provided or to be provided by the Supplier to the City at a particular time or times and in the particular combinations and quantities directed by the City in accordance herewith), and any other services to be provided by the Supplier pursuant to this Agreement;

SAMPLE

(tt) "**Taxes**" means all taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Competent Authority, including:

(i) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, import, customs, profits, windfall profits, environmental, carbon, emissions, pollution, payroll, employment, employer health, pension plan, anti-dumping, countervailing, or excise tax, duty, import, levy, assessment, tariff or other charge;

(ii) all withholdings on amounts paid to or by the relevant person;

(iii) all statutory remittances, employment insurance premiums and social security or pension plan contributions or premiums and Canada pension plan contributions;

(iv) any fine, penalty, interest or addition to tax;

(v) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency or fee; and

(vi) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;

(uu) "**Time(s) for Completion**" means the time(s) stated in Schedule D by which the Supply or any particular Supply or part thereof must be completed, as such time(s) may be adjusted (including in relation to a particular instance of Supply), strictly in accordance with this Agreement;

(vv) "**Variation**" has the meaning ascribed to such term in Section 3.11(a); and

(ww) "**WCA**" means the *Workers Compensation Act* (British Columbia) and the regulations thereunder.

1.2 Headings

This division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms "hereof", "hereunder" and similar expressions refer to this Agreement, including its schedules, and not to any particular article, section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to articles, sections and schedules are to articles, sections and schedules of this Agreement.

1.3 Extended Meanings

In this Agreement:

(a) words importing the singular include the plural and vice versa, words importing a gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, except where the context requires otherwise;

(b) any provision calling for "agreement" requires the relevant agreement to be recorded in writing and signed by both Parties;

SAMPLE

(c) the words “include”, “includes”, “including” and “included” shall be construed without implying limitation by the words which follow those words and without prejudice to the generality of the provisions to which such words relate, unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;

(d) each reference to a specific statute, regulation, law or any subordinate instrument or statutory or regulatory provision shall be construed as including any legal or regulatory provision which subsequently amends or replaces the same, and shall include any and all subordinate instruments, orders, rules, regulations and bylaws made thereunder or guidelines issued in respect thereof;

(e) each reference to a writing means a writing that is hand-written, type-written, printed or electronically made, and which results in a permanent un-editable record; and

(f) “control” when used to describe a relationship between one person and any other person, has the following meanings:

(i) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;

(ii) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;

(iii) the general partner of a limited partnership controls the limited partnership; and

(iv) a person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

1.4 Schedules

The following are the schedules hereto, each of which is deemed to be part hereof:

Schedule A	Scope of Goods and Services
Schedule B	Prices for Supply
Schedule C	Items to be provided by the City
Schedule D	Time Schedule for Supply
Schedule E	Preferred Suppliers
Schedule F	City Policies
Schedule G	Key Project Personnel
Schedule H	Site

ARTICLE 2
EFFECTIVENESS

2.1 Effective Date

This Agreement shall come into full force and effect on the date hereof (the “**Effective Date**”).

SAMPLE

2.2 Term

(a) Unless earlier terminated pursuant to ARTICLE 12 and subject to the below Section **Error! Reference source not found.**, this Agreement shall terminate on the third anniversary of the Effective Date or on such later date as the Parties may agree in writing.

(b) Subject to termination pursuant to ARTICLE 12, but notwithstanding Section 2.2(a), the term of this Agreement may be extended for up two successive one-year periods following the third anniversary of the Effective Date, at the option of the City, upon written notice from the City to the Supplier.

(c) Notwithstanding the foregoing, if the City and the Supplier continue to deal with each other in respect of the subject matter of this Agreement following the expiry of this Agreement, without any additional or other written agreement in respect thereof, this Agreement shall be deemed to have been renewed on a month-to-month basis on the same terms and conditions as before the expiry of the Agreement and it may be cancelled without cause by either party on thirty (30) days' prior written notice to the other.

ARTICLE 3
SUPPLY; GENERAL TERMS

3.1 Supply

(a) During the term of effectiveness of this Agreement, the Supplier shall provide the Supply to the City at the Sites directed by the City, at the times and in the quantities directed by the City, and otherwise in accordance with the directions of the City and in conformity with this Agreement.

(b) Notwithstanding any other provision hereof, any goods, services or works described in Schedule A shall be provided to the City only upon receipt by the Supplier of a purchase order from the City or another instruction given by the City pursuant to Section 5.1 relating to such Supply.

(c) The Supplier shall maintain at all times sufficient business capacity and inventories of the supplies necessary for the provision of the Supply, to meet the business plans and requirements of the City.

(d) In connection with the Supply, the Supplier shall provide to the City, without additional compensation, all services, conveniences, materials or features proposed in the Proposal that are not otherwise expressly provided for herein, as well as all other ancillary materials or services that are not expressly mentioned either herein or in the Proposal, but are reasonably inferable from the descriptions of the Supply herein or from the descriptions of proposed services, conveniences, materials or features in the Proposal.

(e) During the term of effectiveness of this Agreement, the City may also, from time to time, direct the Supplier to make Supply to one or more of the Other City Entities at the price(s) specified herein and otherwise on the terms and conditions stated herein, and the Supplier shall comply with each such direction. Moreover, the Supplier shall, upon the further request of the City, promptly enter into a Letter Agreement (or failing that shall be deemed to have entered into a Letter Agreement) with each relevant Other City Entity memorializing that the Supplier shall make Supply to such Other City Entity in accordance herewith.

SAMPLE

3.2 Application to Prior Acts

Insofar as the Supplier has commenced any part of the Supply prior to the Effective Date, such services shall, as of the Effective Date, be deemed to be performed under and subject to the terms of this Agreement, unless otherwise expressly agreed between the Supplier and the City.

3.3 Sufficiency and Competence of Personnel

(a) The Supplier 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 Supply within the times and in the manner required by the City.

(b) The Supplier warrants that it has (and its Subcontractors, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the Supply.

3.4 Standards and Requirements

The Supplier shall (and shall procure that its Subcontractors) provide the Supply and perform all other obligations under this Agreement in an expeditious manner and at all times in accordance with:

(a) all applicable Laws and Consents;

(b) the specific requirements of Schedule A (Scope of Goods and Services) and Schedule D (Time Schedule for Supply), and the instructions of the City;

(c) the City Policies; and

(d) where no higher standard is expressly required of the Supplier under this Agreement, Good Industry Practice,

and the Supplier shall comply with the standards and requirements in Sections 3.4(a)to 3.4(d) in the order of priority in which such standards or requirements are listed (with Section 3.4(a) being of highest priority).

3.5 Consents

The Supplier shall, at the Supplier's sole expense, obtain, maintain and comply with all Consents required by Law to enable it to perform its obligations under this Agreement, except to the extent otherwise expressly stated in the schedules hereto.

3.6 Goods Orders

(a) Notwithstanding any other provision hereof, the City shall not order any goods or materials hereunder except pursuant to a written purchase order, which must:

(i) be given in writing;

(ii) refer to this Agreement;

(iii) specify the goods and materials ordered; and

(iv) specify a date pre-agreed upon by the Supplier and the City by which the goods and materials ordered pursuant to the purchase order are to be delivered (the "**Delivery Date**"), and the location or address to which they are to be delivered (the "**Delivery Location**"), provided that the Delivery Location for each order must be a Site.

SAMPLE

3.7 Delivery Requirements

(a) The Supplier shall pack, transport and supply all goods and materials forming part of the Supply in accordance with all:

(i) manufacturer recommendations and requirements;

(ii) generally accepted industry standards and practices; and

(iii) applicable Laws.

(b) The Supplier shall ensure that all goods and materials are properly packed and secured in such manner as to enable them to reach their destination in good condition.

(c) The Supplier shall deliver all goods or materials ordered by the City hereunder to the applicable Delivery Location by the applicable Delivery Date.

(d) Delivery of the goods or materials specified in a purchase order shall be complete only upon the completion of their unloading at the Delivery Location and their installation and setup by the Supplier to the satisfaction of the City**.**

(e) Each shipment of goods or materials shall be accompanied by a delivery document from the Supplier showing the purchase order number, the date of the purchase order, the type and quantity of goods or materials included in the shipment, and, in the case of an order being delivered by instalments, the outstanding balance of goods or materials remaining to be delivered.

(f) If the Supplier requires the City to return any shipping containers, or other packaging or shipping materials, to the Supplier, that fact must be clearly stated on the delivery document accompanying the relevant goods or materials, and any such return shall be at the Supplier's expense.

(g) In respect of any goods or materials that originate outside Canada, the Supplier shall be responsible for all customs and import Taxes, costs, expenses, administrative duties and formalities.

3.8 Rejection of Defective goods or materials

(a) The Supplier shall test all goods and materials prior to their delivery to the City to confirm they function correctly, and as intended, except for goods and materials that are delivered directly to the City and are not configured by the Supplier.

(b) If any goods or materials delivered to the City do not comply with Schedule A or the Proposal, or are otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the City may have, the City may at any time reject those goods or materials and:

(i) require the Supplier to remove the rejected goods or materials from any facility or work site of the City at the Supplier's risk and expense within ten Business Days of being requested to do so;

(ii) require the Supplier to repair or replace the rejected goods or materials at the Supplier's risk and expense within 20 Business Days of being requested to do so; and

SAMPLE

(iii) claim damages for any costs, expenses or losses resulting from the Supplier's delivery of goods or materials that are not in conformity with the terms of this Agreement.

(c) The City's rights and remedies under this Section 3.8 are in addition to the rights and remedies available to it under other sections of this Agreement and applicable Laws.

(d) The terms of this Agreement shall apply to any repaired or replacement goods or materials supplied by the Supplier pursuant to Sections 3.8 or 3.9.

3.9 Warranties

(a) The Supplier warrants that the Supply shall be performed in accordance with this Agreement and to the best practice standards of diligence, skill, care and efficiency expected of a competent contractor performing work of a similar nature to the Supply.

(b) All goods or materials provided under the Agreement as part of the Supply shall be new and fully warranted for a period of <⌨> years from the time of delivery to the City, against defects in design, manufacturing, materials, workmanship and performance, and the Supplier affirms and covenants that such warranty is, and shall be, provided by the Supplier if and to the extent it is not fully and effectively provided to the City by third-party manufacturers or suppliers of the goods or materials.

(c) All goods, works and materials provided under the Agreement as part of the Supply shall be non-defective and fit for their intended purposes and shall function safely in all respects.

(d) All costs associated with warranty replacements or repairs shall be the responsibility of the Supplier, including repair, adjustment, and shipping costs, and replacements of goods or materials.

(e) If requested by the City, the Supplier shall handle and manage any claim on a manufacturer warranty for any defect in goods or materials provided as part of the Supply.

(f) The Supplier shall deliver to the City all such documentation as the City may require to evidence any warranty required by this Section 3.9 or to evidence the Supplier's compliance with this Section 3.9, and the Supplier shall assign all warranties, and do all other things necessary, to ensure that the City receives the full benefit of each warranty or other covenant set forth in this Section 3.9.

3.10 Relationship Between the Parties

(a) The Supplier in its provision of the Supply and its performance of its obligations under this Agreement shall at all times act as an independent contractor on its own account and shall have no authority to act as the City's agent unless expressly empowered to do so by the City. This Agreement shall not be deemed to create any relationship of partnership, agency, joint enterprise or other like relationship between the Parties, and the Supplier shall be solely responsible for all employment-related obligations in connection with its employees, its other Representatives and its Subcontractors and their employees.

(b) The City intends to use the Supplier as a preferred supplier of the goods, services and works described in Schedule A; however the City is not bound to treat the Supplier as its exclusive supplier of any goods or services.

SAMPLE

3.11 Variations Requested by the City

(a) Any instruction given by the City which constitutes or gives rise to a variation from the scope of the Supply expressed in Schedule A (Scope of Goods and Services) or a time expressed in Schedule D (Time Schedule for Supply), shall constitute a "Variation" and shall be governed by and subject to this Section 3.11.

(b) During the term of this Agreement, the City may at any time effect a Variation by notice in writing to the Supplier, and the Supplier shall not be entitled to refuse to implement any Variation unless the carrying out of such Variation would contravene any Law (in which case the Supplier shall promptly give notice to the City).

(c) If the Supplier is of the opinion that a Variation justifies an increase to the Contract Price or a change to any of the Time(s) for Completion, the Supplier must, as a condition to being entitled to any such increase to the Contract Price or change to the Time(s) for Completion, no later than 10 Business Days after the City gives notice of the Variation, submit a claim to the City which sets out the Supplier's assessment of the impact the Variation should have on the Contract Price due for such Supply and on the Time(s) for Completion for such Supply, and thereafter:

(i) the City shall consider that claim as soon as possible and may request the Supplier to supply such further evidence as is reasonably required to confirm the details of such claim (and, as soon as practicable after such further evidence is available to it, the Supplier shall provide it to the City); and

(ii) within ten Business Days after the receipt of all the information requested by the City, the Supplier and the City shall meet in order to agree any variations to the Contract Price for such Supply or the Time(s) for Completion for such Supply, which such agreement must be evidenced in writing.

(d) If no agreement is reached under 3.11(c)(ii) within 20 Business Days of the Parties' first meeting (or such other period as the Parties may agree), the Parties may then refer the matter for arbitration in accordance with ARTICLE 17.

(e) Notwithstanding the foregoing, the City shall be entitled to replace, revise, expand or modify the City Policies at any time upon notice to the Supplier, and no such change shall be considered to be a Variation.

3.12 Tests; Defects and Acceptance

(a) When, in the Supplier's judgement, any part of the Supply is complete in accordance herewith, the Supplier shall give written notice to that effect to the City. Thereafter, the City shall reasonably promptly perform such practical tests of the Supply as the City reasonably deems necessary, and the Supplier shall assist the City with all such tests, if and to the extent so requested by the City.

(b) If a Defect appears the testing described in the foregoing Section 3.12(a) reveals, in the judgement of the City, any Defects in the Supply, the City shall notify the Supplier accordingly.

(c) The Supplier shall remedy at its own cost and risk Defects in the Supply that the Supplier discovers or that are notified by the City, as soon as reasonably practicable following discovery or notification of such Defects, as the case may be.

SAMPLE

(d) If the Supplier fails to remedy any Defect in the Supply within a reasonable time, a date may be fixed by the City on or by which the Defect is to be remedied. The Supplier shall be given reasonable notice of this date.

(e) If the Supplier fails, without reasonable excuse, to remedy any Defect in the Supply by this notified date, the City may (at its option) elect to carry out the work itself or by others and shall be entitled to recover from the Supplier all direct, proper and reasonable costs of so doing (as a debt due on demand). The City's exercise of its election under this Section 3.12(e) shall in no event absolve the Supplier of its responsibility for remediation of other Defects or otherwise constitute a waiver by the City of its rights and remedies in relation to other Defects, nor shall it preclude or restrict the further exercise of such rights or remedies.

3.13 Title and Risk

(a) The Supplier warrants that title in each good, work or improvement supplied by the Supplier hereunder, when it passes to the City hereunder, shall be free and clear of Encumbrances.

(b) Title to any good, work or improvement supplied by the Supplier hereunder shall pass to the City upon the earlier of:

(i) payment therefor by the City;

(ii) its delivery and installation to any part of the Site>; and

(iii) its incorporation into a good or work supplied by the Supplier.

(c) The risk in goods, products or materials delivered to the City hereunder shall pass to the City on Delivery.

(d) The Supplier shall deliver to the City any documentation, including a bill of sale, which the City may reasonably require to evidence the transfer of title in and to goods to the City, free and clear of all Encumbrances.

(e) The Supplier must not enter any contract that reserves ownership of goods or materials supplied by the Supplier hereunder in favour of any third party and, at the request of the City, the Supplier must provide evidence that no such contract has been entered into.

(f) Notwithstanding the foregoing provisions of this Section 3.13, the Supplier is responsible for the care of, and bears all of the risk of loss or damage to, each good, work or improvements supplied hereunder and each material used in connection with the Supply, until the completion of the relevant Supply to the satisfaction of the City.

3.14 Living Wage

(a) Subject to Section 3.14(b), it is a condition of this Agreement that, for the duration of the Term the Supplier pays all Living Wage Employees not less than the Living Wage.

(b) Notwithstanding Section 3.14(a), the Supplier 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.

(c) The Supplier shall ensure that the requirements of Section 3.14(a) apply to all Subcontractors.

SAMPLE

(d) A breach by the Supplier of its obligations pursuant to Sections 3.14(a) and (c) shall constitute a material breach by the Supplier of this Agreement that shall entitle the City to terminate this Agreement in accordance with Section 12.2(c).

(e) The Supplier 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:

(i) the number of Living Wage Employees of the Supplier and each Subcontractor who were paid a Living Wage pursuant to this Section 3.12 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 Supplier pursuant to this Section 3.12; and

(ii) the total incremental costs incurred by the Supplier, including any amounts paid to Subcontractors, in order to fulfill its obligations pursuant to this Section 3.12 to pay a Living Wage to the Living Wage Employees described in Section 3.12(e)(i).

ARTICLE 4
PREFERRED SUPPLIERS

4.1 Procurement of Supplies

If so required as part of the Supply specified in Schedule A (Scope of Goods and Services), the Supplier shall procure, in the name of and on behalf of the City:

(a) those materials and/or services specified in Schedule E (Preferred Suppliers) (if any) as being required to be procured from a particular Preferred Supplier from such Preferred Supplier; and

(b) where no particular materials and/or services are specified in Schedule E (Preferred Suppliers) as being required to be procured from a particular Preferred Supplier, materials or services that are in any event required for purposes of the Supply in accordance with Good Industry Practice.

Such procurement shall be in accordance with the City Policies (if and insofar as applicable) and otherwise the provisions of this Agreement.

4.2 Information Concerning Alternative Suppliers

Exercising Good Industry Practice, the Supplier shall use all reasonable endeavours to submit to the City details of alternatives to each Preferred Supplier where:

(a) it would be more economical to purchase the relevant materials or services from an alternative supplier; or

(b) a better quality of materials or services may be obtained from an alternative supplier; or

(c) it would be more beneficial to the City to procure such materials or services from an alternative supplier.

4.3 Use of Alternative Suppliers

If the Supplier needs to procure any materials or services for which a Preferred Supplier is specified in Schedule E (Preferred Suppliers) and the Supplier wishes to procure such materials or services from an alternative supplier, the Supplier shall provide written notification to the City within a

SAMPLE

reasonable time so as not to delay the Time(s) for Completion. Such notice shall be in the form acceptable to the City and shall contain, as a minimum, the following information:

(a) the relevant materials or services to be procured;

(b) the name of the Preferred Supplier;

(c) the name of the alternative supplier;

(d) corporate, financial, technical, insurance and commercial information concerning the alternative supplier that is reasonably adequate to permit the City to evaluate the alternative supplier; and

(e) the Supplier's reason(s) for recommending that such materials or services be procured from the alternative source (supported by evidence).

The City shall provide its acceptance or rejection of such recommendation within a reasonable period so as not to delay the Time(s) for Completion. The City's decision shall be at its absolute discretion and shall be final and binding on the Parties.

ARTICLE 5
CONTRACT MANAGERS

5.1 City's Managers

(a) The City hereby designates each of <> and <> as a "City's Manager." Each City's Manager, including any additional City's Managers designated by the City in accordance herewith, has, for so long as he or she remains a City's Manager, full authority to act on behalf of the City in relation to all matters arising under this Agreement.

(b) Any instruction from the City to the Supplier pursuant to this Agreement shall be issued through an executive officer of the City or through a City's Manager and shall be effective if in writing or confirmed in writing within seven days of oral instruction. Failure to comply with this Section 5.1 shall render any purported City's instruction invalid, unless it is later ratified by the City. However, this restriction does not apply to any instruction issued in an emergency situation or which relates to a threat or potential threat to the life, health or safety of any individual.

(c) Notwithstanding the foregoing, each City's Manager may, in writing, delegate his or her authority hereunder to others.

5.2 Supplier's Managers

(a) The Supplier hereby designates each of <> and <> as a "Supplier's Manager." Each Supplier's Manager, including any additional Supplier's Managers designated by the Supplier in accordance herewith, has, for so long as he or she remains a Supplier's Manager, full authority to act on behalf of the Supplier in relation to all matters arising under this Agreement, and any instruction given by the City to either of them shall be deemed to be valid and effective.

(b) Each Supplier's manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the City.

5.3 Designation of New Managers

The City may designate new City's Managers, or remove that designation from any individual, and the Supplier may designate new Supplier's Managers, or remove that designation from any

SAMPLE

individual, from time to time, each at its own discretion, through notice to the other Party. In the case of the Supplier, any such designation or removal must be in writing to the City.

ARTICLE 6
SUPPLIERS' WARRANTIES AND COVENANTS

6.1 General Representations and Warranties

The Supplier represents and warrants that:

(a) the Supplier has the full right, power, and authority to enter into this Agreement and to perform the Supply;

(b) the Supplier is a <> duly organized, validly existing and in good standing under the laws of <> and is lawfully authorized to do business in the Province of British Columbia;

(c) the Supplier is not a party to or bound by any agreement (written or oral), indenture, instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement does or shall constitute or result in a violation or breach;

(d) the Supplier has a valid City of Vancouver business license or a Metro West Inter-Municipal business license that applies to all of the Supply;

(e) all statements made by the Supplier in its Proposal are true and accurate;

(f) the Supplier is fully experienced in the design and management of projects or works of a similar scope, purpose, complexity, size and technical sophistication as the Supply;

(g) the Supplier possesses a level of skill and expertise commensurate with Good Industry Practice, which it shall utilize in the performance of its obligations under this Agreement;

(h) the Supplier understands that the City is relying upon the skill, judgment and expertise of the Supplier and its Subcontractors (if any) in the carrying out of the Supply and the co-ordination and planning thereof;

(i) the Supplier's and any Subcontractors' employees are accredited to carry out the relevant portions of the Supply to the extent required by applicable Laws and all of them are appropriately skilled, competent and experienced and possess relevant qualifications having regard to the nature and extent of the Supply and the Sites;

6.2 General Health and Safety-Related Acknowledgements and Covenants

The Supplier shall:

(a) in the provision of the Supply, comply at all times with the OHS Requirements and take all reasonably necessary steps to ensure similar compliance from its Representatives and its Subcontractors, if any;

(b) if the Supply involves any type of manual labour, prior to their attendance at any Site, deliver to each of its Representatives and each of its Subcontractors, if any, and to their employees, if applicable, copies of the OHS Requirements relevant to the Site;

(c) at all times take all reasonable precautions to maintain the health and safety of workers;

SAMPLE

(d) be at all times registered and in good standing with the relevant workers' compensation insurance Competent Authorities, and provide to the City copies of any notices, correspondence or directions issued by any government or Competent Authority relating to workplace-related employment, human rights, labour, immigration policy, health, safety or environmental matters within 24 hours of the Supplier's receipt of such notice, correspondence or direction;

(e) appoint a qualified health and safety coordinator to ensure coordination of health and safety activities in the provision of the Supply;

(f) report (with full details) any accident, injury, illness or other incident relating to workplace health and safety or the environment to the City as soon as reasonably practicable, investigate the accident, injury, illness or other incident reasonably thoroughly (and in any event in accordance with any applicable OHS Requirements) and promptly report to the City the results of each such investigation;

(g) maintain such records and make such reports concerning health, safety and welfare of persons, and damage to property, or the natural, physical or biological environment, as the City may reasonably require; and

6.3 Covenants Regarding Violations of Health and Safety Requirements

Without prejudice to any remedies available to the City hereunder, if any Subcontractor or person employed or engaged by the Supplier (or by a Subcontractor) violates any OHS Requirement, the Supplier shall:

(a) ensure that the violation is promptly resolved;

(b) ensure the violation is promptly and appropriately reported to the City and to the applicable competent authorities (if and to the extent required by the OHS Requirements);

(c) promptly take all reasonable steps necessary to avoid recurrence of the violation;

(d) communicate to the City its plan to avoid recurrence of the violation; and

(e) without prejudice to the foregoing Section 6.3(c), promptly remove any person responsible for the violation from the provision of the Supply if reasonable to do so or if requested to do so by the City.

6.4 Covenants Regarding the Environment

(a) The Supplier shall:

(i) at all times, be conscious of the importance of the protection of the natural, physical and biological environment at and in the vicinity of the Sites;

(ii) conduct, and cause its Representatives to conduct, their respective activities that relate to the Supply in a manner that shall have the least possible adverse effect on the natural environment and in compliance with all Environmental Laws and Consents, all at the Supplier's expense;

(iii) perform the Supply with the least degree of environmental degradation during and as a result of such performance; and

(iv) without restricting the generality or application of any other provisions of this Agreement, comply, and cause its Representatives to comply, with all applicable

SAMPLE

Laws and Consents and with all plans and instructions contained in this Agreement or issued in writing by the City concerning the existence, Release, removal, handling, transport, storage, disposal and treatment of any Hazardous Substances or other materials that are or may be hazardous to the life or health of any person or that endanger the environment or that are regulated by applicable Law.

(b) During the term of this Agreement, the Supplier shall not bring or store or permit to be used at any Site, any Hazardous Substances unless such Hazardous Substances are (i) reasonably required to carry out the Supply, and (ii) brought or stored or permitted to be used at any Site in compliance with all Laws (including Environmental Laws). The Supplier shall not Release nor permit the Release of any Hazardous Substances into the environment. The Supplier is solely responsible for all Hazardous Substances introduced to the Sites or the environment by the Supplier or its Representatives or Subcontractors, and the Supplier shall promptly and fully remediate, to the City's satisfaction, any release of Hazardous Substances on or from any Site, or in the vicinity of any Site.

6.5 Further Covenants Regarding the Sites

The Supplier shall:

(a) at its sole cost, keep any portion of any Site used in connection with the Supply in a safe and tidy condition and to maintain and operate the Supplier's equipment in a good, workmanlike and safe manner; and

(b) not to do anything at any Site which is or may become a nuisance, danger or disturbance to the City or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon.

6.6 Covenants Against Encumbrances

(a) The Supplier shall keep each Site and the goods included in the Supply, and each part thereof, free of all Encumbrances filed pursuant to any Law or otherwise in respect of any such work or materials. In any event, if any Encumbrance has been filed in relation to the Site or any improvement thereon, or in relation to any goods included in the Supply, the Supplier shall cause any such Encumbrance to be discharged within 30 days after the Encumbrance has come to the notice of the Supplier.

(b) The Supplier acknowledges and agrees that, in the event the Supplier fails to discharge any Encumbrance contemplated in Section 6.6(a) within 60 days of written notice of such Encumbrance being given by the City, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge the Encumbrance by paying to the applicable Competent Authority, the amount claimed to be due or the amount due, together with a reasonable amount for costs and the amount paid by the City shall be paid by the Supplier to the City forthwith upon demand. In no case shall the City be required to investigate the validity of the Encumbrance prior to discharging the same in accordance with this Section 6.6(b).

6.7 Absence of Conflicts of Interest

(a) Neither the Supplier, nor any of its Representatives has given or shall give or offer to give to the City or any official, officer, employee or agent of the City any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement.

SAMPLE

(b) To the best of the Supplier's knowledge, the Supplier, its Subcontractors, and their respective directors, officers, employees and agents have no pecuniary interests or any other current or past interests or dealings, including with any officials, officers or employees of the City, that would cause any conflict of interest or be seen to cause a conflict of interest in respect of the Supply. Should such a conflict or perceived conflict arise during the term of this Agreement, the Supplier shall declare it immediately in writing to the City. The City may direct the Supplier to resolve any conflict or perceived conflict to the satisfaction of the City. The Supplier warrants that neither the Supplier nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association with any third party which would impair or be seen to impair or qualify the Supplier's provision of the Supply.

ARTICLE 7
PERSONNEL

7.1 Separate Personnel

(a) It is the intention of the Parties that any personnel utilized or supplied by the Supplier or any Subcontractor hereunder shall remain employees of the Supplier or Subcontractor, respectively, for the purposes of any applicable Law and no activity performed by such personnel shall be deemed to create or imply any employment or other like relationship between such personnel and the City. If contrary to this intention such personnel are treated as employees of the City for the purposes of any applicable Law, the Supplier shall indemnify the City against any loss, cost, expense, complaint, claim, levy, assessment, penalty or fine (including any Tax liability) resulting therefrom.

(b) Neither the City nor the Supplier shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, induce any employee of the other, who may work in connection with the Supply, to leave his or her current employer, and neither of them shall, and the Supplier shall ensure that none of its Representatives or Subcontractors shall, employ or make an offer of employment to any such employee of the other during the term of this Agreement or the period of 365 days after the termination of this Agreement without the express prior approval in writing of the employee's current employer.

(c) If any persons are brought by the Supplier into Canada for purposes of the Supply, the Supplier shall be responsible for all immigration matters, and for the expatriation and repatriation of such personnel, and the costs of the same shall be deemed included in the Contract Price.

7.2 Changes in Personnel

The City may request the removal or replacement of any personnel engaged by the Supplier or any Subcontractor in relation to any part of the Supply, provided that such request is made in writing stating the City's detailed reasons. The Supplier shall comply with such request as soon as reasonably practicable and shall bear the cost of replacement where the City is of the opinion that the personnel in question are guilty of misconduct, do not have acceptable qualifications or are otherwise unable or unfit to perform satisfactorily and safely. If the City requests a replacement for a reason other than the immediately aforementioned reasons, the City shall reimburse the Supplier its reasonable properly incurred costs of replacement.

7.3 Key Project Personnel

(a) Where there are Key Project Personnel the Supplier shall:

SAMPLE

(i) use best endeavours to retain Key Project Personnel for the duration of the provision of the Supply;

(ii) take reasonable steps to ensure that Key Project Personnel dedicate their time fully to the Supply (unless otherwise agreed or approved by the City in writing);

(iii) promptly inform the City should any of the Key Project Personnel leave, or give notice of an intention to leave the Supplier, and obtain a substitute or substitutes;

(iv) not reassign or allow the reassignment of the Key Project Personnel to other projects during the term of this Agreement without the City's prior written consent (such consent not to be unreasonably withheld or delayed); and

(v) take all reasonable steps to ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.

(b) If:

(i) the Supplier wishes to reassign or to replace an individual designated as Key Project Personnel; or

(ii) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury or personal hardship,

the Supplier shall provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and shall provide documentation to the City to establish such experience and qualifications.

(c) Key Project Personnel who are reassigned to other work shall, to the extent possible, remain available to the project team until completion of the Supply.

(d) All the Supplier's Key Project Personnel must be fluent in both spoken and written English, except as may be agreed to the contrary between the City and Supplier in relation to specific individuals or positions to be filled from time to time.

ARTICLE 8
REPORTING

8.1 Progress Reports

(a) Periodic progress reports shall be prepared by the Supplier and submitted to the City in a format reasonably acceptable to the City, each within seven days after the last day of the period to which it relates.

8.2 Assistance regarding Reporting Requirements

The Supplier shall, and shall cause its Representatives to, provide the City with reasonable assistance and information which is necessary to enable the City to comply with any Law.

SAMPLE

ARTICLE 9
PAYMENT; AUDITS

9.1 Payment to the Supplier

(a) Subject to ARTICLE 12 and Section 9.3, the City shall pay the Supplier for the Supply in accordance with Schedule B (Prices for Supply), following the receipt of invoices prepared and delivered in accordance with Section 9.2(b) and Section 9.3.

(b) Notwithstanding any other provision hereof, prior to making any payment under this Agreement, the City shall determine whether the *Builders Lien Act* (British Columbia) applies to this Agreement and, if so:

(i) payments made under this Agreement shall be subject to ten percent withholding, in the form of a lien holdback, to be held by the City in accordance with the provisions of the statute; and

(ii) the lien holdback shall be released by the City 56 days after the issuance of a certificate of completion in conformity with the *Builders Lien Act* (British Columbia)) in relation to the Supply if no liens then exist.

(c) If any lien claim based on the provisions of the *Builders Lien Act* (British Columbia) relating directly or indirectly to this Agreement exists at any time, the Supplier agrees to immediately take all steps and do all things necessary or required to remove, cancel and dismiss such lien and until such lien is removed, cancelled or dismissed (as appropriate, to the satisfaction of the City), or all further payments under this Agreement may be withheld by the City or, at the discretion of the City, amounts payable to the Supplier may be used by the City to obtain the removal, cancellation or dismissal of any such lien.

(d) Unless otherwise expressly stated in the schedules hereto, the Supplier shall pay any and all costs, including freight, marine and transit insurance, Taxes, and transportation and delivery charges on all equipment or things of whatsoever nature provided by the Supplier as required by it for the purposes of the Supply and any other incidental costs and all such costs shall be deemed to be included in the Contract Price.

(e) The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of Schedule B (Prices for Supply) and to have obtained all information and to have taken into account all circumstances, risks and other contingencies that may affect the cost of performing the Supply (including any circumstances, risks or contingencies that a contractor exercising Good Industry Practice would typically expect to encounter) and any other obligation under this Agreement. The Supplier shall not be entitled to any additional compensation beyond the Contract Price (including without limitation for escalation in the prices of goods, materials and labour) except as otherwise expressly stated in this Agreement.

(f) Notwithstanding any other provisions of this Agreement, the Supplier shall not be entitled to payment for any Supply that has not been performed in compliance with the provisions of this Agreement.

9.2 Purchase Orders; Content of Invoices

(a) The City shall from time to time issue purchase orders to the Supplier in relation to the Supply. These shall not have the effect of amending or waiving the application of any provision of this Agreement.

SAMPLE

(b) Each of the Supplier's invoices shall set out, as a minimum (and in such form or format as required by the City):

(i) the City purchase order number(s) relating to the particular Supply to which the invoice relates;

(ii) an itemized list of the amounts owing;

(iii) the invoice date and the time period to which the invoice relates;

(iv) a description of the portion of the Supply to which the invoice relates;

(v) the total amounts payable under the invoice and details of any applicable taxes;

(vi) all supporting documentation relating to disbursements; and

(vii) such other information as the City may require from time to time.

(c) Any terms or conditions proposed by the Supplier to govern the Supply that are contained in any invoice (or in any shipping document, packing list or similar document) are void and of no effect, notwithstanding any statement in such document concerning the means by which the City may accept or be deemed to accept such terms or conditions.

9.3 Procedure for Invoices

(a) The Supplier shall address each of its invoices to the City, Attention: Accounts Payable, and email it to APInvoice@vancouver.ca, or to such other address as is specified in an applicable purchase order. The City shall thereafter pay the invoice within 30 days, provided the other requirements of this Agreement have been satisfied and subject to the other provisions hereof.

(b) The City shall not be liable for any interest on any invoice amount in respect of any period for any reason.

(c) The City expects to make payments by electronic funds transfer and the Supplier shall provide banking information to the City to enable it to do so.

9.4 Currency of Payment

All currency amounts stated herein are denominated in, all invoices hereunder shall be stated in, and all payments hereunder shall be made in, Canadian dollars.

9.5 Contested Claims for Payment

If any item contained in an invoice submitted by the Supplier is contested by the City, the City shall give prompt notice thereof, together with reasons to the Supplier.

9.6 Audits

(a) The Supplier shall maintain up-to-date records and accounts which clearly document the provision of the Supply 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 Supplier (subject to reimbursement of the Supplier'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 Supply or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Supplier in accordance with this Section 9.6(a) shall be deemed to be Confidential Information;

SAMPLE

(b) Not later than three years after the completion of all of the Supply or earlier termination of this Agreement, the City can itself, on notice of not less than 14 days, require that a firm of accountants, surveyors or other auditors nominated by it audit any such records and accounts of the Supplier by attending during normal working hours at the office where the records are maintained. For avoidance of doubt, any records and accounts or other documents provided by the Supplier in accordance with this Section 9.6(b) shall be provided only subject to the accountants, surveyors or other auditors, and each of them, being subject to and agreeing to meet such of the Supplier's reasonable requirements as to confidentiality as the Supplier deems (at its sole discretion) to be appropriate in the circumstances; and

(c) Any overpayments by the City discovered during the course of any such audit pursuant to Section 9.6(b)shall be payable by the Supplier to the City within 30 days of such discovery, and if the overpayments have been caused by an act or omission of the Supplier and the amount of those overpayments is no less than one quarter of the total amount paid by the City to the Supplier in respect of the Supply, then the costs of the relevant audit shall be for the account of the Supplier.

9.7 Set Off

Notwithstanding any provision to the contrary in this Agreement and without prejudice to any other remedy which the City may have (whether in common law or equity), the City shall be entitled to deduct from and set off against any sum(s) otherwise due to the Supplier hereunder any sums which are due from the Supplier to the City or which the Supplier is liable to pay to the City under this Agreement or in connection herewith (including without limitation any monies overpaid to the Supplier under this Agreement or otherwise due and payable to the City by reason of any error in payment under this Agreement).

ARTICLE 10
CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY

10.1 Scheduled Items

The City shall make available, free of cost and without delay or in accordance with any agreed timetable or schedule set forth in Schedule C (Items to be Provided by the City), to the Supplier for the purpose of the Supply, the personnel, equipment, facilities, services (including services of third parties) and information described in such Schedule C (if any), and in accordance therewith.

10.2 Other Information

The City shall, within a reasonable time following a written request by the Supplier, provide to the Supplier free of cost such further information, which the City considers relevant to provision of the Supply and which is either already in its possession or reasonably within its power to obtain.

10.3 Decisions in Writing

On all matters properly referred to it in writing by the Supplier, the City shall (wherever practicable) give its decision in writing within a reasonable time having regard to the Time(s) for Completion and the Supplier's obligations with regard to the Supply.

10.4 Access to the Site

Except to the extent prohibited by applicable Law or any Consent, the City shall grant to the Supplier non-exclusive, timely and in accordance with any agreed schedule, access (as the City is reasonably able to provide) to all necessary areas of the Site on and from the Effective Date

SAMPLE

and such other non-exclusive access as is necessary or appropriate to perform the Supply and the Supplier's other obligations in accordance with this Agreement.

ARTICLE 11
LIABILITY AND INSURANCE

11.1 Covenants of Indemnification by the Supplier

(a) The Supplier shall indemnify and keep indemnified and hold the City, the Other City Entities and their respective officials, officers, employees and agents harmless against all losses, liabilities, claims, demands, costs and expenses (including legal fees), fines, penalties and charges (including those imposed by statute or otherwise imposed), arising out of or in connection with, or consisting of:

(i) any:

(A) damage to a Site or any part thereof, or any property whether located at a Site or otherwise, which occurs during the provision of the Supply;

(B) any claim by a Subcontractor under the *Builders Lien Act* (British Columbia);

(C) damage to the natural environment, including any remediation cost recovery claims;

(D) loss or damage arising from a claim by any third party concerning or arising out of the Supply, or by any employee or Subcontractor of the Supplier for any reason;

(E) occupational illness, injury or death of any person, whether at a Site or otherwise, which occurs during, or as a result of, the provision of the Supply;

(F) failure by the Supplier to fully comply with the provisions of this Agreement;

(G) breach by the Supplier or any Subcontractor of any Law in the course of, or as a result of, the provision of the Supply;

(H) actual or alleged infringement of any Intellectual Property Rights caused by the provision of the Supply or the use of any process, work, material, matter, thing or method used or supplied by the Supplier or any Subcontractor in the provision of the Supply; or

(I) breach of the warranties of the Supplier contained herein,

in each case to the extent that it is due to any act, omission or default, or any breach of Law or this Agreement, of the Supplier, a Subcontractor or any Representative of the Supplier or any employee, agent or contractor of any of them; or

(ii) any defect in a good, work or material provided as part of the Supply or any failure of any such good, work or material to function safely or to satisfy any applicable safety standard.

SAMPLE

(b) Nothing in this Section 11.1 nor otherwise in this Agreement shall limit or exclude any direct liability (whether in contract, tort, for breach of statutory duty or any other legal basis) of the Supplier to any person, including without limitation any liability for:

(i) the Supplier's default hereunder or fraud, fraudulent misrepresentation or reckless misconduct in the provision of the Supply; or

(ii) any loss or damage flowing from the termination of this Agreement.

(c) The Supplier appoints the City as the trustee of the Other City Entities and of their and the City's officials, officers, employees and agents in relation to the covenants of indemnification of the Supplier contained in this Section 11.1 and the City accepts such appointment.

11.2 Contamination of Lands

Without limiting any other provision hereof or any other remedy available to the City hereunder, the Supplier agrees and covenants that if, at any time during the term or following the expiry of this Agreement, the Site or any other lands affected by the Supply are found to be contaminated or polluted (as determined pursuant to Environmental Laws) as a result of or in connection with the Supply, the Supplier shall forthwith at its sole cost:

(a) undertake all necessary audits, investigations, tests and surveys to determine the nature and extent of the contamination or pollution;

(b) notify the City of the nature and extent of the contamination or pollution and any proposed or required work necessary to control, abate, dissipate or remove (as appropriate) the pollution or contamination as required by Environmental Laws; and

(c) undertake the work referred to in the foregoing paragraph (b).

11.3 Conduct of Claims

In the event of any claims, statutory fees, costs, charges, penalties (including without limitation any legal costs), contributions, compensations, cost recoveries, expenses or fines being levied or claimed from a person in respect of which an indemnity is provided by the Supplier pursuant to ARTICLE 11, the following provisions shall apply:

(a) subject to Sections 11.3(b), 11.3(c) and 11.3(d), where it appears that a person is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of a claim, such person entitled to indemnification may at its sole election and subject to:

(i) approval by any relevant insurers (without prejudice to Section 11.3(f); and

(ii) the Supplier providing the party entitled to indemnification with a secured indemnity to its reasonable satisfaction against all costs and expenses (including legal expenses) that it may incur by reason of such action,

permit or require the Supplier to dispute the claim on behalf of the person entitled to indemnification at the Supplier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations; provided that the person entitled to indemnification shall give the Supplier (provided at the Supplier's cost) all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;

(b) with respect to any claim conducted by the Supplier pursuant to Section 11.3(a):

SAMPLE

(i) the Supplier shall keep the person entitled to indemnification fully informed and consult with it about material elements of the conduct of the claim;

(ii) the Supplier shall not bring the name of the person entitled to indemnification (or any Group Member thereof) into disrepute; and

(iii) the Supplier shall not pay or settle such claims without the prior consent of the person entitled to indemnification, such consent not to be unreasonably withheld or delayed;

(c) a person entitled to indemnification shall be free to pay or settle any claim on such terms as it thinks fit (and without prejudice to its rights and remedies under this Agreement) if:

(i) the Supplier is not entitled to, or is not permitted or instructed, take conduct of the claim in accordance with Section 11.3(a); or

(ii) the Supplier fails to comply in any material respect with the provisions of Sections 11.3(a) or 11.3(b);

(d) the person entitled to indemnification pursuant to ARTICLE 11 shall be free at any time to give notice to the Supplier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which Section 11.3(a) applies. On receipt of such notice the Supplier shall promptly take all steps necessary to transfer the conduct of such claim to the person entitled to indemnification, and shall provide to the person entitled to indemnification all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;

(e) if the Supplier pays to the person entitled to indemnification an amount in respect of an indemnity and the person entitled to indemnification subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the person entitled to indemnification shall forthwith repay to the Supplier whichever is the lesser of:

(i) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out-of-pocket costs and expenses (including legal expenses) properly incurred by the person entitled to indemnification in recovering the same; and

(ii) the amount paid to the person entitled to indemnification by the Supplier in respect of the claim under the relevant indemnity,

provided that there shall be no obligation on the part of the person entitled to indemnification to pursue such recovery and that the Supplier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Supplier exceeds any loss sustained by the person entitled to indemnification;

(f) the Supplier shall inform the person entitled to indemnification of the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement and in relation to such the person entitled to indemnification shall issue instructions accordingly; and

(g) any person entitled to an indemnity from the Supplier must take all reasonable measures to mitigate any loss, damage or liability that it may suffer in respect of any such matter.

SAMPLE

11.4 Insurance

(a) The Supplier shall take out and maintain in force during the term of this Agreement, at its own cost, commercial general liability insurance with coverage of not less than $2,000,000 per occurrence and at least $5,000,000 of annual aggregate or other such amounts the City may approve from time to time, protecting the Supplier and Supplier's personnel against all claims for bodily injury including death, personal injury, advertising liability, completed operations, product liability, or property damage or loss arising out of the operations of the Supplier or the actions of the Supplier or Supplier's personnel. The policy must:

(i) name the City and the City's officials, employees and agents as additional insureds;

(ii) include a cross-liability or severability of interest clause or endorsement in favour of the City;

(iii) include blanket contractual liability coverage; and

(iv) Include non-owned auto liability coverage.

(b) The Supplier shall purchase and maintain during the entire term of this Agreement, at its own cost, automobile liability insurance on all licensed vehicle owned or leased to the Supplier with a limit of not less than $5,000,000 per occurrence or other such amount as the City may approve from time to time protecting against damages arising from bodily injury including death, and from claims for property damage arising from the operations of the Supplier or the Supplier's personnel.

(c) All required insurance policies specified in Sections 11.4(a) and 11.4(b) must remain in full force and effect at all times until completion of the Supply or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and must:

(i) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City, acting reasonably;

(ii) be primary insurance with respect to all claims arising out of the Supplier, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute to such policies; and

(iii) contain a provision that such insurance coverage will not be cancelled or endorsed to reduce the limits of liability without the insurer or their authorized representative giving the City at least 30 days' written notice by registered mail. Should the policy be endorsed to restrict coverage midterm, written notice of such restriction will be sent by registered mail to the City no later than the effective date change; the exception is cancellation for non-payment of premium in which case the applicable statutory conditions will apply.

(d) The Supplier shall ensure that any Subcontractors also maintain the same insurance as the Supplier, having regard to the obligations under this Agreement which they are contracted to fulfil.

(e) The Supplier and any Subcontractors will purchase and maintain, at its own cost, any additional insurance which it is required by law, or other lines of insurance coverages, endorsements or increased limits of insurance as deemed necessary by the City and as a reasonable and prudent distributor, vendor, manufacturer or similar supplier would require to protect their performance of Supply or their operations.

SAMPLE

(f) As a condition precedent to any payment from the City to the Supplier under this Agreement, the Supplier shall provide 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, Agreement number, policy holder, description of work, insurer name, insurer policy number, insurer policy period, and insurer limits. 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 at any time during the performance of the Supply immediately upon request.

(g) The Supplier's liabilities under this Agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 11.4.

(h) The cost of the insurances arising under this Section 11.4 shall be deemed to be incorporated into the prices specified in Schedule B.

ARTICLE 12
FORCE MAJEURE; TERMINATION

12.1 Force Majeure

(a) Neither Party shall be deemed to be in breach of this Agreement or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement reasonably due to Force Majeure.

(b) If either Party's performance of its obligations under this Agreement is affected by an event of Force Majeure, then:

(i) it shall give written notice to the other Party, specifying the nature and extent of the event of Force Majeure, within ten days after becoming aware of the event of Force Majeure;

(ii) performance of such obligation(s) shall be deemed suspended but only for a period equal to the delay reasonably caused by such event;

(iii) it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the event of Force Majeure;

(iv) the Time(s) for Completion shall be extended to take into account such delay; and

(v) within five days of the cessation of any Force Majeure event, the Party affected thereby shall submit a written notice to the other Party, specifying the actual duration of the delay of its obligations caused by the event of Force Majeure and the consequences resulting from such delay, and submit a specific plan to minimize and mitigate those consequences.

(c) The affected Party shall use all reasonable diligence in accordance with Good Industry Practice to mitigate the cause and the result of an event of Force Majeure and to remedy the situation and resume its obligations under this Agreement, including complying with any instructions from the City, as to how to do so.

(d) Notwithstanding the obligations of a Party affected by an event of Force Majeure pursuant to Sections 12.1(b) and 12.1(c), if the event of Force Majeure renders it impossible or impractical for the Supplier to provide the Supply in accordance with this Agreement for a period of at least 15 days, the City may terminate this Agreement upon

SAMPLE

notice delivered to the Supplier at any time following the expiration of such period of 15 days.

12.2 City Suspension and Termination Rights

The City shall have the following rights:

(a) The City may order the suspension of all or part of the Supply at any time and for such period as it determines, by notice with immediate effect to the Supplier, in the event of a Safety Incident; and upon receipt of any such notice of suspension, the Supplier shall immediately cease performing the Supply, minimise expenditure and comply with any reasonable instructions of the City relating to such Safety Incident, including any investigations.

(b) Without prejudice to Section 12.2(a), the City may suspend all or part of the Supply (for such period as its determines) or terminate this Agreement at any time (and for its convenience) upon 30 days' written notice to the Supplier, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Supply and to minimise expenditure, including complying with any instructions from the City as to how to do so.

(c) If the City reasonably considers that the Supplier is not discharging any of its material obligations under this Agreement, the City may inform the Supplier by notice stating the grounds for the notice. If evidence of remediation satisfactory to the City, is not received as soon as practicable or in any case within 14 days or such longer period as agreed by the Parties, the City may by a further notice to the Supplier of at least 14 days terminate this Agreement.

(d) The City may terminate this Agreement with immediate effect if:

(i) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed over it or any of its assets of undertaking, enters into any arrangement for the benefit of its creditors, becomes the subject of any moratorium or carries on business under a receiver, trustee, manager or arrangement for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events; or

(ii) a Change in Control of the Supplier occurs and the City reasonably considers that the Change in Control shall substantively affect the Supplier's ability to perform its obligations under this Agreement.

12.3 Supplier Termination Rights

After giving at least seven days' written notice to the City, the Supplier may terminate this Agreement, or at its discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Supply when:

(a) 90 days after the due date for payment of an invoice, it has not received payment of that part which has not by that time been contested in writing by the City and provided always that:

(i) the Supplier has issued a notice of reminder to the City following the due date for payment in relation to such unpaid sum; and

SAMPLE

(ii) the termination notice may not be issued until the expiry of 30 days following the issue of such reminder notice; or

(b) the City commits any material or persistent breach(es) of its obligations under this Agreement which render(s) performance by the Supplier of its obligations under this Agreement or a substantial part thereof impossible or significantly adversely affect(s) such performance of this Agreement as a whole and further which, remain(s) irremediable after 60 days.

12.4 Consequences of Termination

The following consequences shall apply upon a termination:

(a) On termination of this Agreement for any reason, the Supplier shall, as soon as reasonably practicable:

(i) deliver to the City all work and Documentation produced by or on behalf of the Supplier during the course of performing the Supply;

(ii) return (or destroy if otherwise directed by the City in writing) all Confidential Information provided to it for the purposes of this Agreement;

(iii) return all of the City's Site access cards, equipment and other items provided under this Agreement, failing which, the City may enter the relevant premises and take possession thereof, and, until any such access cards, equipment and other items have been returned or repossessed, the Supplier shall be solely responsible for its or their safe-keeping;

(iv) if so requested by the City, take reasonable steps to assign any Subcontractor contracts to the City and do all things and execute all documents necessary to give effect thereto; and

(v) otherwise comply with all reasonable requirements of the City arising from the cessation of the Supply or the continuing development of the Site.

(b) The Supplier shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 12.4(a) and its reasonable demobilization costs, up to a maximum of $100, in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a Safety Incident or a default by the Supplier in the provision of any part of the Supply, in which case all such costs shall be for the Supplier's own account.

(c) On termination of this Agreement for any reason, the Supplier shall be entitled to payment for any completed portion of the Supply rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B (Prices for Supply).

12.5 Other Surviving Rights and Liabilities of Parties

(a) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.

(b) After termination of this Agreement, the provisions of Sections 3.9 and 9.6, ARTICLE 11, ARTICLE 14, ARTICLE 15 and ARTICLE 17 shall remain in force.

SAMPLE

ARTICLE 13
ASSIGNMENT AND SUBCONTRACTING

13.1 Assignment

Neither Party shall assign, transfer, mortgage, charge or deal in any other manner with this Agreement or any of its rights and obligations under or arising out of the Agreement (or any document referred to herein), or purport to take any such action without the prior written consent of the other.

13.2 Subcontracting

(a) The Supplier shall not subcontract the whole or substantially all of the Supply.

(b) Without prejudice to the foregoing Section 13.2(a), save in the case of Subcontractor(s) whose role in the provision of the Supply is expressly provided for in the schedules hereto (and only to the extent so provided for), the Supplier may not subcontract any part of the Supply without the City's prior written consent.

(c) The Supplier shall include in each contract by which it engages a Subcontractor a provision allowing the benefit of such contract to be assigned by the Supplier to the City upon request.

(d) The Supplier shall not without the written consent of the City (which shall not be unreasonably withheld or delayed) initiate or terminate any contract with a Subcontractor.

(e) If the Supplier is unable to enter into a contract with a Subcontractor whose role in the provision of the Supply is expressly provided for in the schedules hereto, it shall as soon as reasonably practicable inform the City of the reason for such inability and procure the services of a replacement subcontractor that is acceptable to the City, acting reasonably.

(f) The Supplier shall be responsible for the acts, defaults or neglect or any omission of each Subcontractor, its employees and agents in all respects as if they were the acts and defaults or neglect or omission of the Supplier its employees or agents themselves.

ARTICLE 14
INTELLECTUAL PROPERTY

14.1 Assignment

The Supplier acknowledges and agrees that the City is the exclusive owner of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein. The Supplier shall assign and hereby assigns to the City all right, title, and interests in and to the Documentation, including, without limitation, all existing and future Intellectual Property Rights in and to the Documentation, effective upon their creation to the fullest extent permitted by Law. Insofar as such right, title, and interest do not so vest automatically or immediately in the City by operation of law or under this Agreement, subject to Section 14.2, the Supplier holds legal title of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in trust for the City and grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of such Documentation for any purpose. Such licence shall include the right to sub licence to any third party without restriction.

SAMPLE

14.2 Further Assistance

If and to the extent that any of the right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, is not assigned automatically or immediately to the City under Section 14.1, the Supplier undertakes, at the expense of the City and at any time either during or after this Agreement upon request from the City (notwithstanding that the City may do so in its own name and at its own cost), to execute all documents, make all applications, give all assistance and do all acts and things as may, in the reasonable opinion of the City, be necessary or desirable to vest all right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in the City and to register them in, the name of the City and otherwise to protect and maintain such right, title, and interest. The Supplier further agrees to cooperate fully with the City both during and after the termination of this Agreement, with respect to signing further documents and doing such acts and other things reasonably requested by the City to confirm the transfer of ownership of the Documentation or to obtain or enforce patent, copyright, trade secret, or other protection for the Documentation. The Supplier shall not receive any consideration or royalties in respect of such transfer of ownership, beyond the fees, provided that the expense of obtaining or enforcing intellectual property protection shall be borne by the City.

14.3 Supplier Undertakings and Representations and Warranties

(a) The Supplier undertakes:

(i) to notify the City in writing of the full details of Documentation promptly upon its creation;

(ii) whenever requested to do so by the City and in any event on the termination of this Agreement (as provided for in ARTICLE 12), promptly to deliver to the City all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any parts of the Documentation which are in its possession, custody or power;

(iii) that the Supplier shall not, either during the term of this Agreement or thereafter, directly or indirectly, contest, or assist any third party to contest, the City's ownership of the Documentation or of any Intellectual Property Rights related thereto, and

(iv) not to register nor attempt to register any Intellectual Property Rights in the Documentation unless requested to do so by the City.

(b) The Supplier represents and warrants to the City that:

(i) it has not given and shall not give permission to any Subcontractor or third party to use any of the Documentation, nor any of the Intellectual Property Rights in the Documentation, other than as provided for in this Agreement or otherwise in accordance with the instructions of the City;

(ii) it has not given, and shall not give, to the City, nor shall it use in the provision of the Supply, any confidential material or documents of any former client or customer of the Supplier or of any other third party, unless the Supplier has received prior written authorization to do so from the City and from the owner of the confidential material or documents;

(iii) it has the absolute right to make the assignments of the right, title, and interest in and to the Documentation contemplated in this Agreement and to grant the rights granted under this Agreement;

SAMPLE

(iv) it is unaware of any use by any third party or any unauthorized use by a Subcontractor of any of the Documentation or any Intellectual Property Rights in the Documentation; and

(v) the use of the Documentation or the Intellectual Property Rights in the Documentation by the City shall not, to the knowledge of the Supplier, infringe any Intellectual Property Rights of any third party.

14.4 Background Intellectual Property

Notwithstanding and superseding anything to the contrary in this ARTICLE 14, each Party retains title to all Intellectual Property Rights owned or possessed by it or any of its affiliates prior to or independent of performance of this Agreement and used by it in fulfilling its obligations under this Agreement, as well as any modifications or improvements made thereto in the course of performing this Agreement ("**Background IP**"). To the extent that one Party acquires any right, title, or interest in and to any aspect of the modifications or improvements to the Background IP of the other Party, such first Party shall assign such right, title, and interest to the second Party, immediately following such acquisition. If any of the Supplier's Background IP is included in or required to use the Documentation provided by the Supplier to the City, the Supplier hereby grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence (including the right to sub-licence only to members of the City's Group) to, itself and through contractors and agents, use, copy, amend, reproduce, modify, create derivative works of, use, commercialize, and otherwise exploit the Supplier's Background IP but only to the extent required to use such Documentation for the purpose (or any reasonably inferred purpose) for which it has been provided or for the provision of the Supply under this Agreement (excluding any software source code).

14.5 Supplier Employees' and Subcontractors' Rights

The Supplier:

(a) warrants that the Supplier's employees, Subcontractors and agents have waived or shall have waived in whole all moral rights (including, without limitation, any similar rights allowing the rights holder to restrain or claim damages for any distortion, mutilation, or other modification of works or any part thereof, and to restrain use or reproduction of works in any manner) they may have in the Documentation;

(b) indemnifies the City, its officers, agents, contractors and employees against any liability, cost, loss or damage (including legal costs on a solicitor-client basis) suffered or incurred that arises under any breach of the warranty contained in Section 14.5(a); and

(c) must do all things requested by the City, including signing or procuring the signature of particular forms, to give full effect to Section 14.5(a).

14.6 No Additional Remuneration

The Supplier acknowledges that, except as provided by Law, no further remuneration or compensation (beyond that expressly provided for in this Agreement) is or may become due to the Supplier in respect of the performance of its obligations under this ARTICLE 14.

SAMPLE

ARTICLE 15
PRIVACY; CONFIDENTIALITY

15.1 Freedom of Information and Protection of Privacy Act

The Supplier acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's contractors to protect all personal information acquired from the City in the course of providing any service to the City.

15.2 No Promotion

The Supplier shall not, and shall ensure that its Subcontractors shall not, disclose or promote any relationship with the City, including by means of any oral declarations, announcements, sales literature, letters, client lists, press releases, brochures or other written materials, without, in each case, the express prior written consent of the City. The Supplier shall not use the City's logo or any of the City's official marks without the express prior written consent of the City.

15.3 Confidentiality Obligations

Each Party shall keep the Confidential Information of the other Party confidential and each Party shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement or where, in the case of the City, otherwise necessary to pursue the public business of the City (a "**Permitted Purpose**"), or disclose the Confidential Information in whole or in part to any third party, except as expressly permitted by this ARTICLE 15.

15.4 Disclosure to Representatives

A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure, and at all times it is responsible for such Representatives' compliance with the confidentiality obligations set out in this ARTICLE 15.

15.5 Disclosures Required by Law

A Party may disclose Confidential Information to the extent required by any applicable Laws or by any Competent Authority provided that, where legally permitted, it notifies the other Party before doing so, gives the other Party a reasonable opportunity to take any steps that the Party considers necessary to protect the confidentiality of that information, and notifies the third person that the information is Confidential Information. In any event, a Party shall furnish only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to obtain a protective order or other reliable assurance that the Confidential Information shall be accorded confidential treatment.

15.6 Other Disclosures by the City

The City's obligations under this ARTICLE 15 are wholly subject to and qualified by, the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and, notwithstanding any other provision of this ARTICLE 15, the City may disclose Confidential Information in any manner compliant with such statute or otherwise in furtherance of its public role or duties, including in the course of publicly reporting to the Vancouver City Council.

SAMPLE

15.7 Interpretation; Enforcement and Survival

(a) Notwithstanding anything in this ARTICLE 15 to the contrary, nothing in this ARTICLE 15 shall affect the Parties' rights and obligations under ARTICLE 14.

(b) The Parties acknowledge that a breach of any of the obligations or provisions contained in this ARTICLE 15 could cause the other Party to suffer loss which may not be adequately compensated for by damages and that the other Party may, in addition to any other remedy or relief, enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual or special damage and notwithstanding that in any particular case damages may be readily quantifiable, and such breaching Party must not plead sufficiency of damages as a defence in the proceeding for such injunctive relief.

ARTICLE 16
TAXES

16.1 Taxes for Own Accounts

Unless otherwise expressly stated in this Agreement, any Taxes becoming due and payable by either Party pursuant to any applicable Laws as a result of the entering into, the performance of obligations under or the taking of payment pursuant to this Agreement, shall be for the account of that Party, and for greater certainty the Contract Price includes all such Taxes, except for applicable Taxes arising under all sales, excise and value added tax legislation (including, without limitation, the *Excise Tax Act* (Canada) and similar Canadian provincial legislation) (collectively, "**Sales Tax**") as a result of the sale of the Supply within Canada hereunder, unless it is clearly stated that they are intended to be Sales Tax-inclusive.

16.2 Withholding Taxes

(a) Notwithstanding any other provision to the contrary, if the City determines that it is necessary to satisfy its obligations under any Law relating to Taxes, the City may:

(i) withhold an amount from a payment made to the Supplier; and

(ii) pay the withheld amount directly to the relevant Competent Authority.

(b) If an amount withheld in accordance with Section 16.2(a) is paid by the City to the relevant Competent Authority, it is deemed to have been paid to the Supplier on the date on which the remainder of the payment to which it relates was paid to the Supplier.

(c) The Supplier agrees and acknowledges that it has no claim against the City for any amounts withheld and paid to the relevant Competent Authority in accordance with Section 16.2(a).

(d) If the City does not withhold an amount under Section 16.2(a) which it is required to withhold pursuant to any laws relating to Taxes, the Supplier agrees to pay that amount to the City, upon request by the City.

(e) The Supplier agrees that the City shall not be required to increase any payment to the Supplier by the amount withheld by the City under Section 16.2(a)

SAMPLE

ARTICLE 17
DISPUTE RESOLUTION

17.1 Optional Procedure

All claims, disputes or issues in dispute between the City and the Supplier in relation to this Agreement shall be decided by mediation or arbitration, if the Parties so agree in writing, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

17.2 Arbitration

In the event that Parties agree to arbitration pursuant to Section 17.1:

(a) the arbitration shall be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and shall be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the Parties, and failing agreement by the Parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia;

(b) the parties shall share equally the costs of the arbitration but shall be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements; and

(c) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

ARTICLE 18
MISCELLANEOUS

18.1 Time of the Essence

Time is of the essence of this Agreement, including without limitation in relation to the Time(s) for Completion.

18.2 Costs

Each of the Parties hereto shall pay their respective legal fees and other costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

18.3 Benefit of this Agreement

(a) This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties hereto.

(b) Except as expressly set forth in the foregoing Sections 18.3(a) or 11.1, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Supplier.

18.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms,

SAMPLE

conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties in relation to the subject matter hereof other than as expressly set forth in this Agreement.

18.5 Amendments and Waiver

Subject to Section 3.11, no modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, is limited to the specific breach waiver.

18.6 Notices

(a) Any order, demand, notice or other similar communication to be given to a Party in connection with this Agreement must be given in writing and shall be deemed to be validly given if given by personal delivery to a City's Manager or a Supplier's Manager, as applicable, or delivered by registered mail, by courier or by electronic transmission (with delivery confirmation or receipt of a reply email effectively acknowledging delivery), addressed to a City's Manager or a Supplier's Manager, as the case may be, or, in each case to such other individual as is designated in writing by the relevant recipient Party (including, as designated in writing hereinbelow) at the relevant address or facsimile number listed below:

(i) if to the Supplier:

<Supplier Name>
<address>

Attention: <>
Facsimile: <>
Email: <>

(ii) if to the City

City of Vancouver
<Department>
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Attention: <>
Facsimile: <>
Email: <>

or such other address or facsimile number as may be designated by notice given by either Party to the other, provided that, notwithstanding the foregoing, the Supplier's invoices shall be addressed as specified in Section 9.3 or as otherwise specified in the relevant City purchase order.

(b) Any order, demand, notice or other communication given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 18.6(a) shall be conclusively deemed to have been given:

(i) if given by personal delivery, on the day of actual delivery thereof;

(ii) if given by registered mail or courier, on the Business Day following confirmation by the postal service or the courier that the notice has been delivered; and

SAMPLE

(iii) if given by electronic transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

Notwithstanding the foregoing, if the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication must not be mailed but must be given by personal delivery, courier or electronic transmission.

18.7 Governing Law and Jurisdiction

(a) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.

(b) All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.

(c) This Agreement is subject to the exclusive jurisdiction of the courts in the Province of British Columbia except:

(i) as otherwise agreed by the Parties pursuant to ARTICLE 17; and

(ii) to the extent necessary to enforce, in another jurisdiction, any decision or award made pursuant to ARTICLE 17 or any judgment of any court in the Province of British Columbia.

18.8 Further Assurances

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

18.9 Severance

If any term or condition of this Agreement is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby. If any term or condition of this Agreement is found to be illegal, invalid ineffective, inoperable or otherwise unenforceable, but would not be so if some part of it were deleted, the term or condition shall apply with such modifications as may be necessary to make it enforceable.

18.10 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

18.11 Independent Legal Advice

THE SUPPLIER ACKNOWLEDGES THAT THE SUPPLIER HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS AGREEMENT.

SAMPLE

18.12 Electronic Execution

Delivery of an executed signature page to this Agreement by either Party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the Parties by their duly authorized signatories.

<SUPPLIER NAME>

Signature	Print Name and Title
Signature	Print Name and Title

CITY OF VANCOUVER

Signature	Print Name and Title
Signature	Print Name and Title

SAMPLE

SCHEDULE A -
SCOPE OF GOODS AND SERVICES

<The Scope of the Supplier's Supply, as finally negotiated and agreed, shall be clearly expressed in this Schedule A.>

ITEM	DESCRIPTION
<Good Name 1>	<Description 1.>
<Good Name 2>	<Description 2.>
<Good Name 3>	<Description 3.>
<Service 1 (e.g., installation)>	<Description 3.>
<Service 2 (e.g., maintenance) >	<Description 3.>

SAMPLE

SCHEDULE B -
PRICES FOR SUPPLY

<The contents of this schedule should be comprehensive, detailed and tied to the descriptions of Supply in Schedule A.>

ITEM	PRICE / UNIT
<Good Name 1>	$<> per <[unit type]>
<Good Name 2>	$<> per <[unit type]>
<Good Name 3>	$<> per <[unit type]>
<Service 1 (e.g., installation)>	$<> per <[unit type]>
<Service 2 (e.g., maintenance) >	$<> per <[unit type]>
All obligations of the Supplier described in the Agreement and not specifically listed above in this table, or for which no separate price is given.	None. (The cost of the discharge of such Supplier obligations is included in the prices set forth above.)

Notwithstanding any other provision hereof, if the Supplier is, at any time during the term of effectiveness of this Agreement, party to a contract with another customer pursuant to which the Supplier charges effective prices lower than the prices charged to the City for reasonably comparable services, the above-listed prices shall be adjusted, retroactively to the date of effectiveness of such other contract, so that the prices charged hereunder are at least as low as the effective prices charged pursuant to such other contract.

PAYMENT SCHEDULE

Description of Milestone	Percentage of contract price due

SAMPLE

SCHEDULE C -
ITEMS TO BE PROVIDED BY THE CITY

<NTD: List in as much detail as appropriate the personnel, equipment, facilities, services and information to be provided by the City.>

SAMPLE

SCHEDULE D -
TIME SCHEDULE FOR SUPPLY

<NTD: To describe the time for the completion of the Supply and any applicable milestones to be achieved by particular dates prior to the completion of the Supply.>

SAMPLE

SCHEDULE E -
PREFERRED SUPPLIERS

<✍NTD: Include details if applicable. If not, write "None.">

SAMPLE

SCHEDULE F -
CITY POLICIES

1. The City's Supplier Code of Conduct.

2. The City's Living Wage Policy.

SAMPLE

SCHEDULE G -
KEY PROJECT PERSONNEL

SAMPLE

SCHEDULE H -
SITE

SAMPLE