



ARCHITECT AGREEMENT

ARCHITECT:
[Insert name]

PROJECT:
[Insert name]

FACILITIES PLANNING AND DEVELOPMENT

[Insert date]

REQUEST FOR QUOTATIONS NO. PS20191180
WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
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ARCHITECT AGREEMENT

THIS ARCHITECT AGREEMENT is made as of [\[Insert date\]](#)

BETWEEN:

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

(the "City" (as further defined herein))

AND:

[\[INSERT ARCHITECT NAME\]](#), a [\[corporation/limited partnership/general partnership\]](#) formed under the laws of [\[Insert jurisdiction\]](#) and having an office at [\[Insert address\]](#), Vancouver, British Columbia, [\[Insert postal code\]](#)

(the "Architect")

WHEREAS:

- A. The City is undertaking tenant improvements to the West Annex (3rd and 4th Floor) at 515 West 10th Avenue in Vancouver, British Columbia (the "Project") and wishes to engage the Architect to provide design services and construction administrative services therefor; and
- B. The Architect has agreed to provide to the City the services it requires on the terms and conditions set out herein,

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

ARTICLE 1.0 DEFINITIONS

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

- 1.1 "Additional Services" means the Services listed under the heading "Additional Services" within Schedule A.
- 1.2 "Agreement" means this Architect Agreement between the City and the Architect, including the following schedules and appendices, which are integral parts hereof, and all amendments made hereto by written agreement between the City and the Architect:

Schedule A	Basic and Additional Services
Schedule B	Fees for Basic and Additional Services
Schedule C	Construction Budget and Project Schedule
Schedule D	Reports and City-Provided Items
Schedule E	Key Employees and Architect's Consultants
Appendix 1	Request for Proposals
Appendix 2	Architect's and Architect's Consultants' Proposals

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Appendix 3	WorkSafeBC Registration Confirmation
Appendix 4	Certificate of Professional Liability Insurance
Appendix 5	Certificate of Commercial General Liability Insurance

- 1.3 “**Architect’s Consultant**” means a person, firm or company retained, with the approval of the City, and compensated by the Architect, to provide consulting services for the Project, as listed under “Architect’s Consultants” in Schedule E.
- 1.4 “**Architect’s Quotation**” means the Architect’s quotation submitted to the City on **[Insert date]** and entitled **[Insert title of quotation]** in response to the RFQ, not attached but incorporated by reference.
- 1.5 “**Basic Services**” means the Services listed under the heading “Basic Services” within Schedule A and the services set forth in this Agreement, excluding the schedules and appendices hereto.
- 1.6 “**Business Day**” means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday.
- 1.7 “**City**” means the City of Vancouver acting as a corporate entity and as owner of the Project Site and expressly excludes the City while acting in its capacity as a municipal regulatory authority.
- 1.8 “**City’s Consultant**” means a person, firm or company retained and compensated by the City to provide consulting services for the Project, other than the Architect.
- 1.9 “**City’s Project Manager**” means the individual employee of the City or a City’s Consultant who is authorized to give instructions to the Architect on behalf of the City with respect to the Project.
- 1.10 “**Claims**” has the meaning set out in Section 5.6.
- 1.11 “**Confidential Information**” has the meaning set out in Section 5.2.
- 1.12 “**Construction Budget**” means the budget available for total Construction Cost, determined or approved in writing by the City; provided that, as at the time of signing this Agreement, the Construction Budget (the “preliminary Construction Budget”) is as set out in Schedule C.
- 1.13 “**Construction Cost**” means the contract price (expected to be specified in a Construction Contract), net of applicable taxes, to complete the Construction Work, as estimated by the Cost Consultant and agreed to by the City and the Architect, acting reasonably, based on the market rates expected to prevail at the time scheduled for the Construction Work, plus, if the City is to provide any labour or material for the Construction Work, the market value of that work or material; for the avoidance of doubt, “Construction Cost” shall not include the compensation to be paid to the Architect, the Architect’s Consultants or the City’s Consultants in connection with the Project or the cost of land, City of Vancouver development cost charges or development cost levies or other costs which are the responsibility of the City (except for labour and materials for the Construction Work).
- 1.14 “**Construction Contract**” means each written agreement between the City and a Construction Contractor for Construction Work.
- 1.15 “**Construction Contract Documents**” means all documents that shall make up a Construction Contract.

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- 1.16 “**Construction Contractor**” means the person, firm, or corporation (or more than one such persons, firms or corporations) contracting with the City to provide labour, materials and equipment for the performance of Construction Work.
- 1.17 “**Construction Work**” means the total construction services to be performed by the Construction Contractor to complete the construction of the Project.
- 1.18 “**Cost Consultant**” means the person, firm or company, retained and compensated by the City (unless otherwise expressly provided herein), to provide Construction Cost estimates for the Project.
- 1.19 “**Deliverables**” has the meaning set out in Section 5.3.
- 1.20 “**General Review**” means site visits to the Project Site at intervals appropriate to the stage of construction, and field reviews and tests as the Architect considers necessary, for purposes of checking the progress and quality of the Construction Work, as it is carried out, and to determine whether the Construction Work is in conformity with the requirements of the Construction Contract Documents.
- 1.21 “**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.
- 1.22 “**Indemnified Party**” has the meaning set out in Section 5.6.
- 1.23 “**Project Budget**” means the City’s estimate of the total cost to it for the Project, including, but not limited to, the Construction Cost, the Architect’s fees hereunder, other professional fees, land costs and all other costs to the City for the Project.
- 1.24 “**Project Schedule**” means the time schedule for the Project, which at the time of signing this Agreement is as set out in Schedule C.
- 1.25 “**Project Site**” means [\[Insert location\]](#).
- 1.26 “**RFQ**” means Request for Quotations No. PS20191180 – West Annex Renovation of North and East Side 4L, together with all related amendments, addenda and questions and answers issued by the City, all of which are not attached but incorporated by reference.
- 1.27 “**Services**” means all of the services the Architect is to perform for the City pursuant to this agreement, including the Basic Services and any Additional Services.
- 1.28 “**Substantial Performance of the Construction Work**” means that the Construction Work (under the Construction Contract) has been “completed” as such term is defined in the *Builders’ Lien Act* (British Columbia).
- 1.29 “**Total Performance of the Construction Work**” shall have been reached when the entire Construction Work has been performed to the requirements of the Construction Contract Documents, and is so certified by the Architect.
- 1.30 “**WCB**” has the meaning set out in Section 5.8.
- 1.31 “**WCB Legislation**” has the meaning set out in Section 5.8.

ARTICLE 2.0 ARCHITECT'S RESPONSIBILITIES

2.1 Basic Services and Additional Services

- 2.1.1 The Architect shall provide the Basic Services, including basic architectural services, mechanical and electrical engineering services, construction administration services and other basic consulting services, as necessary, all in accordance with any instructions given by the City from time to time.
- 2.1.2 The Basic Services required to be provided by the Architect include the coordination required to integrate all parts of the Services to be provided by the Architect, the Architect's Consultants, the City and any City's Consultants. The Architect shall also work closely, and consult, with City representatives in performing the Basic Services.
- 2.1.3 The Basic Services required to be provided by the Architect include all services not specifically referred to in this Agreement, but which are necessary or incidental to the completion of other Basic Services.
- 2.1.4 The Architect shall provide the particular Additional Services that are from time to time requested in writing by the City subsequent to the date hereof, if any, and, in providing such Additional Services, the Architect shall comply with any specific instructions given by the City from time to time.
- 2.1.5 Except as otherwise expressly set out herein (including in Schedule D hereto), any information the City provides to the Architect in respect of the Project, including, without limitation, any studies, reports, plans, drawings, measurements or specifications, is provided for information purposes only and the Architect is not entitled to rely on such information as a basis for making professional decisions in performing the Services.
- 2.1.6 The Architect acknowledges the time constraints set out in the Project Schedule for the Project and shall provide the Services in accordance with the Project Schedule to facilitate the issuance of an occupancy permit for the Project by [\[Insert date\]](#) and completion of all of the Services by [\[Insert date\]](#), unless otherwise agreed in writing between the City and the Architect. The City may, acting reasonably, refine the Project Schedule from time to time, and the Architect shall assist the City, at the City's request, in making such refinements. In the event of a suspension and resumption of the Project or other event reasonably requiring an adjustment to the Project Schedule, the City shall make such adjustments to the Project Schedule as are reasonable in the circumstances.
- 2.1.7 Unless otherwise specifically provided in this Agreement, the Architect shall have no responsibility for:
- (a) the discovery, reporting, analyses, evaluation, presence, handling, removal or disposal of;
 - (b) advice in respect of; or
 - (c) the exposure of persons, property or the environment to
- Hazardous Substances at the Project Site that have not been introduced to the Project Site by the Architect or anyone for whom the Architect is responsible under this Agreement.

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2.2 Construction Budget and Construction Cost Estimates

- 2.2.1 The Architect shall review and provide its professional advice to the City regarding the Construction Budget and assist the Cost Consultant with the preparation of Construction Cost estimates pursuant to this Agreement.
- 2.2.2 Neither the Architect nor the City has control over the cost of labour, materials or equipment, over general contractors' methods of determining bid prices, or over competitive bidding, market, or negotiating conditions and therefore the Architect cannot and does not warrant or represent that bids or any negotiated price for a Construction Contract shall not vary from any Construction Cost estimate.
- 2.2.3 In producing design development and construction documents for the Project and carrying out other Services, the Architect shall at all times take the necessary steps to ensure that the design is consistent with all City-approved Project requirements, the most recent City-approved Construction Budget, and all relevant information furnished by the Cost Consultant or (other) City's Consultants.

2.3 Adjustment of Construction Budget

- 2.3.1 If, prior to the conclusion of the construction documents phase of the Services, the Construction Cost is agreed to be higher than the then Construction Budget, the City shall increase the Construction Budget and/or give directions as to how to revise the Project scope or quality to satisfy the Construction Budget;
- 2.3.2 If the bidding or negotiation phase has not commenced within three months after the Architect submits the construction documents to the City, the Construction Budget shall be adjusted by the City to reflect changes in the general level of prices in the construction industry between the date of submission of the construction documents to the City and the date on which bids or proposals are sought (as such change is determined by the Cost Consultant).
- 2.3.3 If the lowest bona fide Construction Work bid or lowest negotiated Construction Work proposal exceeds the latest-approved Construction Budget, the City may do one or more of the following:
 - (a) give written approval of an increase in the Construction Budget;
 - (b) authorize re-solicitation of bids or proposals, or negotiation or renegotiation of a price;
 - (c) give instructions to the Architect to revise the Project scope or quality as necessary to reduce the Construction Cost; and
 - (d) terminate this Agreement in accordance with Section 5.9.
- 2.3.4 If the City chooses to proceed under Section 2.3.3(c), the Architect shall, under the direction of the City acting reasonably, modify the construction documents or provide other services necessary to reduce the Construction Cost to the latest approved Construction Budget. Such modifications or other necessary services requested to reduce the Construction Cost shall be deemed to be Basic Services and shall not be subject to additional charge only if: (a) the lowest bona fide Construction Work bid or lowest negotiated Construction Work proposal referred to in Section 2.3.3 exceeded the relevant Construction Budget by more than 10 percent; and (b) such excess did not

result from extraordinary market conditions or other factors reasonably not foreseen by or under the control of the Architect, and, even when such two conditions are satisfied, such modifications or services shall be deemed to be Basic Services only up to the point at which the Construction Cost is reduced to within 10 percent of such relevant earlier Construction Budget. In each other case (and in each case of work within such 10 percent buffer), the modifications or other necessary services shall be treated as Additional Services.

2.4 Construction Contract Requirements

- 2.4.1 The Architect's issuance of a certificate for payment for Construction Work performed under the Construction Contract shall constitute a representation by the Architect to the City, based on General Review and on review of the Construction Contractor's application for payment that the Construction Work for which payment is sought has been performed, that to the best of the Architect's knowledge, information and belief, such Construction Work is in conformity with the Construction Contract Documents, and that the Construction Contractor is entitled to payment in the amount certified, subject to any specific reservations or qualifications stated in the certificate for payment.
- 2.4.2 The issuance of a certificate for payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Construction Contractor has used the monies paid to it under the Construction Contract, or that the Construction Contractor has discharged the obligations imposed on it by law under the *Workers' Compensation Act*, or other applicable statutes.
- 2.4.3 The Architect shall act as, and fulfill the role of, the "Consultant" under the Construction Contract for the Project.

ARTICLE 3.0 CITY'S RESPONSIBILITIES

3.1 Provision of Information

The City shall provide:

- 3.1.1 all reasonably necessary information regarding the requirements for the Project including a program setting forth the City's Project objectives, constraints, schedules, and criteria, including:
 - (a) spatial and functional requirements and relationships;
 - (b) flexibility and expandability;
 - (c) special equipment and systems;
 - (d) site requirements; and
 - (e) sustainability requirements;
- 3.1.2 revisions to the Construction Budget, as required hereby or as otherwise determined by the City; and
- 3.1.3 the information, surveys, reports and services set out in Schedule D.

3.2 Other City Responsibilities

The City shall:

- 3.2.1 examine documents submitted by the Architect and give the Architect decisions and approvals as necessary;
- 3.2.2 except to the extent otherwise agreed herein, obtain all required consents, approvals, licenses and permits from authorities having jurisdiction, and pay the cost of all such required consents, approvals, licenses and permits, irrespective of whether the Architect or the City obtains them;
- 3.2.3 immediately notify the Architect in writing if the City observes or otherwise becomes aware of any fault or defect in the Project or any non-conformity with the requirements of the Construction Contract;
- 3.2.4 promptly fulfill the City's responsibilities expressly stated in the Agreement for the orderly progress of the Services and of the Construction Work;
- 3.2.5 authorize in writing a person to act on the City's behalf and define that person's scope of authority with respect to the Project, in each case when necessary; and
- 3.2.6 using the City's standard form of legal, insurance and bonding documents as a basis and in consultation with the City's Director of Legal Services and the City's Director of Risk Management, prepare the invitations to tender (or similar solicitations) and Construction Contract Documents for the Construction Work, provided that the Architect shall be responsible for:
 - (a) the preparation of all design, specification and other tender and contract documentation that does not form part of the legal terms and conditions of the documents;
 - (b) the review of all legal terms and conditions to ensure logical consistency (as opposed to legal compatibility) of the Architect's work with those legal terms and conditions; and
 - (c) the review and incorporation of such requirements and refinements as are requested by the City's Director of Legal Services and the City's Director of Risk Management.

ARTICLE 4.0 PAYMENTS TO THE ARCHITECT

4.1 Payments

- 4.1.1 The City shall pay professional fees and reimbursable expenses to the Architect as set forth in this ARTICLE 4.0 and Schedule B.
- 4.1.2 Payments of fees for the Basic Services, the Additional Services and reimbursable expenses shall be made monthly upon submittal and approval of the Architect's invoices (as described below) for Services rendered and expenses incurred, and, in relation to the Basic Services, shall be in proportion to the Basic Services performed within each phase of the Services described in Schedule B.
- 4.1.3 If any amounts are to be charged by the Architect for work done in a given calendar month, the Architect shall, by the 25th day of the following month, provide to the

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City's Project Manager a draft invoice, in a form acceptable to the City's Project Manager, including a detailed account of all charges to be claimed by the Architect for the relevant month (including statements as to percentages of completion of the Architect's own work and the Architect's Consultants' work and including supporting documentation, such as Architect's Consultants' invoices or statements of account). The City's Project Manager shall review the draft, raise any concerns with the Architect within ten working days and, after settlement of any issues (in the City's Project Manager's discretion), approve the draft invoice. The Architect, if so requested, shall meet with the City's Project Manager to expedite and settle of the draft invoice. The Architect shall submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APInvoice@vancouver.ca. The invoice must contain:

- (a) the Architect's name, address and telephone number;
- (b) the City purchase order number;
- (c) the name of the City's Project Manager;
- (d) the invoice number and date;
- (e) details of any applicable taxes; and
- (f) tax registration number(s).

4.1.4 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Architect's invoices, for whatever reason, the City shall not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided however, the City shall use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City shall, if it approves the amount of such invoice, cause the respective invoice to be paid within 30 days of approval by electronic funds transfer to the bank account indicated by the Architect.

4.1.5 The Architect shall keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City shall be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Architect and by such other means as shall be reasonably necessary or advisable.

4.1.6 The Architect shall not take a mark-up on amounts charged to the Architect by the Architect's Consultants.

4.1.7 The Architect shall provide bank account information to the City to enable the City to make payments by electronic funds transfer, as contemplated hereby.

4.2 Reimbursable Expenses

The following expenses, when incurred by the Architect, or the Architect's employees, in the interest of the Project, are reimbursable by the City:

4.2.1 reasonable, documented travel expenses in connection with the Project for travel that has been expressly pre-authorized in writing by the City; however, expenses for travel

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within the Lower Mainland of British Columbia and to and from persons' residences shall not be included as reimbursable expenses;

- 4.2.2 reasonable, documented communication and shipping expenses (e.g., for long distance telephone calls, courier service, and postage);
- 4.2.3 reasonable, documented expenses for the reproduction of plans, sketches, drawings, graphic representations, specifications and other documents, excluding reproductions for the Architect's office use or for the use of the Architect's Consultants;
- 4.2.4 reasonable, documented expenses for renderings, plotting of computer-generated drawings, models, and mock-ups specifically requested by the City and not forming part of the Basic Services;
- 4.2.5 documented fees, levies, duties or taxes for permits, licenses or approvals that are specific to the Project and are required to be paid by authorities having jurisdiction; and
- 4.2.6 over-time services costs, for over-time authorized in advance by the City, to the extent that the cost of such services exceeds normal direct personnel expenses, where "direct personnel expenses" refers to the salaries of the Architect's or the Architect's Consultant's personnel engaged on the Project plus the cost of such mandatory and customary contributions and employee benefits as employment taxes and other statutory benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

4.3 Changes and Adjustments

- 4.3.1 Except to the extent otherwise expressly provided herein or agreed in writing, the Architect agrees that the City may assume that all services are Basic Services unless the City expressly requests Additional Services in a writing expressly acknowledging that the requested services are Additional Services or the Architect notifies the City in writing and in advance that an Additional Service is required by the Architect or an Architect's Consultant, or has been requested by the City, and the City then agrees in writing and expressly authorizes the performance of the Additional Service.
- 4.3.2 If and to the extent that the Construction Contract time initially established in the Construction Contract is exceeded or extended through no fault of the Architect and the Architect is required to provide ongoing contract administration services, incremental services required for such extended period of the Construction Contract administration shall be treated as Additional Services but shall be paid only upon and in accordance with the prior agreement of the City.

4.4 Project Suspension or Abandonment

If the Project is suspended or abandoned in whole or in part for more than a total of 90 consecutive days, the Architect shall be paid within 30 days of the date that an invoice is submitted for all services performed and reimbursable expenses incurred to date. If the Project is resumed after being suspended or abandoned in whole or in part for more than a total of 60 days whether consecutive or not, the Architect's fees shall be adjusted by the City to reasonably compensate the Architect for the increased costs incurred by the Architect as a direct result of the suspension or abandonment.

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4.5 Taxes

- 4.5.1 In the event that new or additional taxes in respect of the services included in this Agreement are required to be paid by the Architect by federal or provincial legislation enacted after the Agreement is executed, the fees payable under this Agreement shall be adjusted to include such new or additional taxes.
- 4.5.2 Except as stated in Section 4.5.1, the prices stated herein include all taxes and government levies, except for the federal goods and services tax arising under the *Excise Tax Act* (Canada) as a result of the sale of the Services within Canada hereunder.
- 4.5.3 If the Architect is a non-resident of Canada as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation, unless a Canada Revenue Agency waiver has been provided to the City within the time limit required under the Canada Revenue Agency administrative guidelines as in effect from time to time and, in any event, prior to payment of an invoiced amount. The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest shall be payable by the City on sums withheld and later paid directly to the Architect.
- 4.5.4 The Architect shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Architect's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.
- 4.5.5 The foregoing Section 4.5.4 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 5.0 GENERAL CONDITIONS

5.1 Architect's Consultants and Employees

- 5.1.1 The Architect shall be responsible for retaining and paying all the Architect's Consultants and employees. However, the City now acknowledges that, unless otherwise expressly set forth herein, it shall be responsible for retaining and paying for the Cost Consultant and (other) City's Consultants, including any of the City's Consultants engaged to perform the work referred to in Schedule D.
- 5.1.2 The Architect hereby assumes full responsibility to the City for all work performed by the Architect's Consultants under this Agreement. Nothing in this Agreement shall create any contractual relationship between the City and any of the Architect's Consultants.
- 5.1.3 The Architect shall only utilize:
 - (a) its employees; and
 - (b) its Architect's Consultants approved in writing by the Cityto perform the Services under this Agreement.
- 5.1.4 Except in the event of circumstances beyond the Architect's control, the Architect may not make substitutions or changes to its employees primarily responsible for the performance of the Services, and it must ensure that its Architect's Consultants do not

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make substitutions or changes to their employees primarily responsible for the performance of the Services, in each case as such employees are listed under the heading "Key Employees" within Schedule E, and in each case without the prior written consent of the City, which consent shall not be unreasonably withheld, delayed, or conditioned.

- 5.1.5 Notwithstanding the foregoing Section 5.1.4, in no event may the Architect or an Architect's Consultant replace any professionally-registered staff with staff that is not so registered, and the Architect shall ensure that the Architect's Consultants do not do so.
- 5.1.6 For the purposes of the above Section 5.1.4, "circumstances beyond the Architect's control" means an illness, death, injury, pregnancy, medical leave, or termination of employment or contract but expressly excludes situations where an employee is called upon to perform services for another client of the Architect or its affiliates.
- 5.1.7 The City may, with stated reasons and acting reasonably, request that the Architect replace an employee assigned to the Project or cause an Architect's Consultant to replace an employee assigned to the Project. The Architect shall and shall cause each Architect's Consultant to, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace any such individual with someone of substantially similar competency and experience.

5.2 Confidentiality

- 5.2.1 In the course of or for the purpose of performing the Services, the Architect shall obtain or have access to information, including but not limited to technical information, financial information and business information, which is confidential to the City, and is the exclusive, world-wide property of the City and/or its suppliers and customers (collectively "**Confidential Information**"). Excluded from the definition of Confidential Information is:
 - (a) information which is in, or becomes part of, the public domain, not due to the Architect's breach of this Agreement or the Architect's actions;
 - (b) information which was previously in the Architect's possession and did not originate from the City; and
 - (c) information which lawfully becomes available to the Architect from a third party not under an obligation of confidence to the City regarding such information.
- 5.2.2 The Architect shall not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Architect shall not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees and its Architect's Consultants who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and use-restriction provisions in this Section 5.2. The Architect shall take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.

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- 5.2.3 If the Architect is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Architect shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that, prior to any disclosure, the Architect shall promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City's request and expense, co-operate in obtaining a protective order or other assurance that confidential treatment and restrictions on use shall be accorded such Confidential Information.
- 5.2.4 The City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's contractors to protect all personal information acquired from the City in the course of providing services to the City. The Architect confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia) with respect to all personal information received from the City whether as part of the Confidential Information or otherwise.
- 5.2.5 The Architect acknowledges that in the event of a breach by the Architect or any of its employees of their respective confidentiality obligations pursuant to this Section 5.2, damages alone would not be an adequate remedy. The Architect therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City shall have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.
- 5.2.6 The Architect shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:
- (a) completion of the Services;
 - (b) expiration or earlier termination of this Agreement; and
 - (c) written request of the City for return of the Confidential Information;
- provided that the Architect shall have the right to retain one copy of the Confidential Information solely for archival purposes or as otherwise may be required by law, subject to its ongoing confidentiality and restricted use obligations.
- 5.2.7 This Section 5.2 shall survive the expiration or earlier termination of this Agreement.

5.3 Deliverables

- 5.3.1 As a result of or as part of providing the Services, the Architect may receive, create, produce, acquire or collect one or more of the following:
- (a) products, goods, equipment, supplies, models, prototypes and other materials;
 - (b) information and data;
 - (c) reports, designs, models, plans, sketches, drawings, graphic representations, documents and specifications; and
 - (d) any other items identified in this Agreement as deliverables;

(collectively, the “Deliverables”).

5.3.2 Deliverables are deemed not to include:

- (a) any item not required to be produced by the Architect or supplied to the City as part of or together with the Services, provided that if the City has paid or is liable to pay for any portion of such item's creation, production, acquisition or collection then such item shall be deemed to be a Deliverable; and
- (b) any item produced as a result of the Services, which is specified in this Agreement as being excluded from the Deliverables category.

5.3.3 The Architect shall keep accurate records and provide regular reports to the City about the Deliverables as they are created or acquired, and grant to the City access to the Deliverables at all times on reasonable notice. The Architect shall treat each Deliverable as subject to the confidentiality provisions for the benefit of the City set out in Section 5.2 unless advised otherwise by the City.

5.3.4 A copy of each Deliverable, as to the whole or that portion of the Deliverable then existing, shall be delivered by the Architect to the City on the earliest of each of the following events:

- (a) the date specified in, or inferable from, this Agreement for the delivery of such Deliverable;
- (b) immediately on the date of expiration or sooner termination of this Agreement; or
- (c) the date specified by written notice of the City requesting delivery of all or any part of the Deliverable.

5.3.5 The Architect represents and warrants that the Deliverables shall not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The Architect shall defend, indemnify and hold the City harmless from and against any and all damage, liability, cost and expense incurred by the City in connection with any claim by a third party that a Deliverable infringed, misappropriated or misused its copyright, patent, trade-mark, trade secret, or confidential or proprietary information.

5.3.6 The Architect hereby grants to the City, and shall procure that each Architect's Consultant shall grant to the City, automatically and without additional consideration, an irrevocable, perpetual, royalty-free and unfettered license to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of all Deliverables that are reports, designs, models, plans, sketches, drawings, graphic representations, documents or specifications for any purpose in connection with the Project (including in connection with the City's use and occupancy of the Project, and any future alterations, additions or reconstruction of the Project), and the City may retain copies of all of the same for such purpose.

5.3.7 The Architect irrevocably waives, in favour of the City, all moral rights in the Deliverables.

5.3.8 The Architect shall obtain from its employees and contractors and, as required, third parties (and shall require that its contractors obtain from their employees and

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contractors), all required licenses, including rights to sublicense, all assignments and all releases of intellectual property, and waivers of moral rights, respecting the Deliverables so as to give full effect to the provisions of this Section 5.3, including the unfettered license referred to in Section 5.3.6. The Architect shall moreover provide to the City, during and after the term of this Agreement, any reasonable assistance required for the City to obtain, perfect and enforce its rights in the Deliverables or to receive the full benefit of the Deliverables for purposes of the Project.

5.3.9 This Section 5.3 shall survive the expiration or earlier termination of this Agreement.

5.4 Project Identification

The Architect shall be entitled, at the Architect's expense, to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building. The location, size and design of the sign or inscription and the duration of the signage shall be subject to approval by the City.

5.5 Dispute Resolution

5.5.1 Any claim, dispute or issue in dispute between the City and the Architect in relation to this Agreement shall be decided by mediation or arbitration, if the City and the Architect so agree in writing in relation to the specific claim, dispute or issue in dispute, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

5.5.2 In the event that parties agree to arbitration pursuant to Section 5.5.1:

- (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.

5.5.3 This Section 5.5 shall survive the expiration or earlier termination of this Agreement.

5.6 Release and Indemnification

5.6.1 Notwithstanding any other provision hereof, it is agreed that the Architect shall not be liable for damages, interest, costs or any other expenses arising out of the failure of any manufactured product or any manufactured or factory-assembled system of components to perform in accordance with the manufacturer's written specifications on which the Architect relied in the preparation of the design, construction or supplementary documents, unless the Architect could reasonably have anticipated such failure.

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- 5.6.2 The Architect now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Architect, its contractors or consultants, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement (excepting any caused by the non-performance by the City of its obligations hereunder, or any gross negligence or wilful misconduct by the City).
- 5.6.3 In undertaking the Services, the Architect acknowledges that the Architect has inspected the Project Site, and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Architect to perform the Services.
- 5.6.4 Despite any insurance coverage of the City, the Architect hereby agrees to indemnify and save harmless the City of Vancouver and its successors, assigns, official, employees, agents and authorized representatives and each of them (in each case an "Indemnified Party") from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Architect, its contractors or consultants, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are primarily caused by errors, omissions or negligent acts of an Indemnified Party.
- 5.6.5 The foregoing Section 5.6.4 shall not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.
- 5.6.6 This Section 5.6 shall survive the expiry or sooner termination of this Agreement.
- 5.7 **Insurance**
- 5.7.1 The Architect shall, purchase and maintain, at its own cost, professional liability insurance with a limit of not less than \$2,000,000 per claim and \$3,000,000 in aggregate and a deductible of not more than \$50,000 or other such amounts as the City may approve from time to time, protecting the Architect against all claims for loss or damage arising out of any error or omission of the Architect or Architect's personnel in the performance of the Services.
- 5.7.2 The Architect shall purchase and maintain during the entire term of this Agreement, at its own cost, a commercial general liability insurance policy with a limit of not less than \$2,000,000 per occurrence \$2,000,000 in aggregate and a deductible of not more than \$5,000 or other such amounts as the City may approve from time to time, protecting the Architect and the Architect'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 Architect or the actions of the Architect or the actions of the Architect or the Architect's personnel. The policy must:
- (a) name the City and the City's officials, employees and agents as additional insureds;
 - (b) include a cross-liability or severability of interest clause or endorsement in favour of the City;

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- (c) Include blanket contractual liability coverage; and
 - (d) Include non-owned auto liability coverage.
- 5.7.3 The Architect 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 Architect 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 Architect or the Architect's personnel.
- 5.7.4 The Architect shall purchase and maintain during the entire term of this Agreement, at its own cost all-risk contractor's equipment or property insurance covering all property or equipment owned or rented by the Architect and its agents or personnel against all risks of loss or damage with coverage sufficient to allow for immediate replacement. This insurance must include a clause that waives the insurer's right of subrogation against the City and the City's officials, employees and agents.
- 5.7.5 All required insurance policies specified in Sections 5.7.1, 5.7.2, 5.7.3, and 5.7.4 must remain in full force and effect at all times until completion of the Services or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and must:
 - (a) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City, acting reasonably;
 - (b) be primary insurance with respect to all claims arising out of the Architect, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute with such policies; and
 - (c) contain a provision that such insurance coverage will not be cancelled 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.
- 5.7.6 The Architect shall cause the Architect's Consultants to each carry insurance clauses in the same form as in this Agreement; provided that the per-claim and annual aggregate coverage limits applicable to the Architect's Consultants' professional liability insurance shall vary based on the prices of the services being provided to the Architect by each Architect's Consultant. In particular, if an Architect's Consultant's fees payable by the Architect are less than \$100,000, the per-claim limit must be no lower than \$1,000,000 and there must be at least \$2,000,000 in annual aggregate coverage; if the fees are between \$100,000 and \$249,999, the per-claim limit must be no lower than \$2,000,000 and there must be at least \$3,000,000 in annual aggregate coverage; if the fees amount to \$250,000 or more, the per-claim limit must be no lower than \$2,000,000 and there must be at least \$5,000,000 in annual aggregate coverage.
- 5.7.7 Prior to signing, and immediately following the signature of, this Agreement, the Architect shall have provided, or shall provide, the City's Project Manager with evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance. The certificate(s) of insurance will identify the Agreement

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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's Project Manager at any time during the performance of the Services immediately upon request.

- 5.7.8 Upon request, the Architect shall deposit with the City certificates of insurance for the policies required to be obtained by the Architect's Consultants or copies of the insurance-related clauses from its agreements with them.
- 5.7.9 The Architect and each of the Architect's Consultants 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 architect, consultant, engineer or other professional would require to protect their performance of services similar to the Services outlined.
- 5.7.10 Neither the providing of insurance by the Architect or the Architect's Consultants in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing, will be held to relieve the Architect from any other provisions of this Agreement with respect to liability of the Architect or otherwise.

5.8 WorkSafeBC Coverage

- 5.8.1 The Architect agrees that it shall procure and carry at its expense and shall cause each of the Architect's Consultants to procure and carry at their expense full WorkSafeBC ("WCB") coverage as required by the *Workers Compensation Act* (British Columbia) and the regulations thereunder including all amendments thereto from time-to-time (the "WCB Legislation") for their respective employees, contractors and agents engaged in the performance of the Services under this Agreement. The Architect agrees that, notwithstanding any other provision of this Agreement, the City has the unfettered right to set off the amount of the unpaid premiums, assessments and penalties for such WCB coverage against any monies owing by the City to the Architect. The City shall have the right to withhold payment under this Agreement until the WCB premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.
- 5.8.2 Prior to commencing any services under this Agreement and thereafter as and when requested by the City, the Architect shall provide the City with the Architect's and each Architect's Consultant's WCB registration numbers and with written confirmation from the WCB that the Architect and all of the Architect's Consultants are registered and in good standing with the WCB and that all premiums, assessments and penalties have been paid to date.
- 5.8.3 The Architect shall indemnify and hold harmless the City from and against all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to:
 - (a) unpaid WCB assessments of the Architect or any other employer for whom the Architect is responsible under this Agreement;
 - (b) the acts or omissions of any person engaged directly or indirectly by the Architect in the performance of the Services, or for whom the Architect is

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responsible at law and which acts or omissions are or are alleged by the WCB to constitute a breach of the WCB Legislation or any other failure to observe the safety rules, regulations and practices of WCB, including any and all fines and penalties levied by the WCB, and

(c) Any breach of Section 5.8.2.

5.8.4 The foregoing Section 5.8.3 shall survive the expiry or sooner termination of this Agreement.

5.9 Term and Termination

5.9.1 Unless earlier terminated pursuant to the remaining provisions of this Section 5.9, this Agreement shall expire at such date at which both: (a) three years have elapsed since Substantial Performance of the Construction Work; and (b) Total Performance of the Construction Work has been achieved; provided that if the City and the Architect continue to deal with each other in relation to the Project following such date, this Agreement shall be deemed to be renewed on a month-to-month basis until such time as their dealings cease.

5.9.2 The City may terminate this Agreement at any time (and for its convenience) upon 30 days' written notice to the Architect, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Services and to minimize expenditure, including complying with any instructions from the City as to how to do so.

5.9.3 If the City reasonably considers that the Architect is not discharging any of its material obligations under this Agreement, the City may inform the Architect 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 Architect of at least 14 days terminate this Agreement.

5.9.4 The City may terminate this Agreement with immediate effect if the Architect 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.

5.9.5 After giving at least 14 days' written notice to the City, the Architect 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 Services 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 Architect has issued a notice of reminder to the City following the due date for payment in relation to such unpaid sum; and

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- (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 Architect 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.

5.9.6 The following consequences shall apply upon the termination of this Agreement:

- (a) The Architect shall, as soon as reasonably practicable:
 - (i) deliver to the City all work and Deliverables produced by or on behalf of the Architect during the course of performing the Services;
 - (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 Project Site access cards, equipment and other items provided by the City in connection with 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 Architect shall be solely responsible for its or their safe-keeping;
 - (iv) if so requested by the City, take reasonable steps to assign any Architect's Consultant 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 Services or the continuing development of the Project Site.
- (b) The Architect shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 5.9.6(a) and its reasonable demobilization costs, up to a maximum of \$1,000, in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a default by the Architect in the provision of any part of the Services, in which case all such costs shall be for the Architect's own account.
- (c) The Architect shall be entitled to payment for any completed portion of the Services rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B.
- (d) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.

5.10 Law Governing this Agreement

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the parties now irrevocably agree that, unless the parties agree to arbitration pursuant to Section 5.5, the courts of the Province of British Columbia

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shall have exclusive jurisdiction in all matters arising out of or in any way relating to this Agreement, except to the extent necessary to enforce, in another jurisdiction, any decision or award made by an arbitrator pursuant to Section 5.5 or any judgment of any court in the Province of British Columbia.

5.11 Successors and Assigns

The City and the Architect, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. However, neither the City nor the Architect shall assign or transfer an interest in this Agreement without the written consent of the other.

5.12 Extent of Agreement

This Agreement represents the entire and integrated Agreement between the City and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both the City and the Architect.

5.13 Notices

5.13.1 Any notice required or permitted to be given by one party to another pursuant to this Agreement must be in writing and shall be validly given if delivered by personal delivery or courier, transmitted by electronic means (with delivery confirmation or an email reply effectively acknowledging delivery) or mailed in British Columbia by registered mail to the respective party at its address as follows:

(a) **City of Vancouver**

Facilities Planning and Development
300-515 West 10th Avenue
Vancouver, British Columbia V5Z 4A8

Attention: [Insert name], Project Manager
Email address: [Insert email address]

(b) [Insert name]
[Insert address]

Attention: [Insert name and title]
Email: [Insert email address]

or to such other person or address as one party may advise the other in writing from time to time, provided that, notwithstanding the foregoing, the Architect's invoices shall be addressed as specified in Section 4.1.3 or as otherwise specified in the relevant City purchase order.

5.13.2 Any notice given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 5.13.1 shall be conclusively deemed to have been given:

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

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

5.14 No Promotion

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

5.15 Compliance with Law

The Architect shall comply and shall cause the Architect's Consultants to comply with all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Architect, the Architect's Consultants and the services to be performed under this Agreement, all as may be in force from time to time.

5.16 Precedence of Documents

In the event of any conflict or inconsistency between this Agreement (excluding Appendix 2) and the Architect's Quotation, this Agreement (excluding Appendix 2) shall take precedence.

5.17 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.

5.18 Time of the Essence

Time is of the essence of this Agreement.

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5.19 No Waiver

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

5.20 Remedies Cumulative.

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

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5.21 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.

5.22 Independent Legal Advice

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

5.23 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.

CITY OF VANCOUVER

by its authorized signatory:

By: _____
Signature

Print Name and Title

[INSERT ARCHITECT LEGAL NAME]

by its authorized signatories:

By: _____
Signature

Print Name and Title

By: _____
Signature

Print Name and Title

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APPENDIX 3 - FORM OF AGREEMENT
SCHEDULE A - BASIC AND ADDITIONAL SERVICES

SCHEDULE A - BASIC AND ADDITIONAL SERVICES

1) **BASIC SERVICES**

The following are Basic Services requirements:

a) **Basic Pre-Design Services**

Confirm existing site conditions. Examine existing base building mechanical, electrical and fire protection system capacity to confirm scope of work.

b) **Basic Schematic Design Services**

Within the schematic design phase of the Project, the Architect shall perform, as Basic Services, the following services and such additional schematic design phase services as are indicated in the RFQ or the Architect's Quotation:

- i) summarizing findings and recommendations from the pre-design phase and/or other preceding work in a written, illustrated document, which establishes the scope for the design;
- ii) reviewing the requirements furnished by the City, and the characteristics of the Project Site;
- iii) reviewing and commenting on the Construction Budget and Project Schedule in relation to the City's requirements;
- iv) reviewing with the City alternative approaches to the design of the Construction Work and the types of construction contracts;
- v) reviewing applicable statutes, regulations, codes and by-laws and where necessary, reviewing the same with the authorities having jurisdiction;
- vi) providing the Cost Consultant with information necessary to prepare estimates of the Construction Cost;
- vii) [\[Insert\]](#);
- viii) [\[Insert\]](#); and
- ix) [\[other services indicated to be Basic Services under the "Schematic Design" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A\]](#).

c) **Basic Design Development Services**

Within the design development phase of the Project, the Architect shall perform, as Basic Services, the following services and such additional design development phase services as are indicated in the RFQ or the Architect's Quotation, taking into account the most recent City-approved Construction Budget and the most recently approved estimate of Construction Cost:

- i) preparing, for the City's review and approval, design development documents consisting of drawings and other documents appropriate to the scale of the Project to describe the size and character of the entire Project, including the architectural, mechanical, and electrical

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SCHEDULE A - BASIC AND ADDITIONAL SERVICES

systems, sustainability measures, code compliance, materials and such other elements as may be appropriate, including but not limited to:

- (1) site plans;
 - (2) plans;
 - (3) sections;
 - (4) elevations;
 - (5) project briefs, including information from the Architect and each Architect's Consultant detailing area calculations, all building systems, sustainability measures and all the parameters that shall guide the work in the next phase; and
 - (6) presentation materials as required for the public meetings and presentations to municipal boards and authorities, as required by City of Vancouver by-laws for the Project;
- ii) reviewing and commenting upon the cost estimates prepared by the Cost Consultant, and investigating alternate solutions to problem areas and generally consulting with the City and the Cost Consultant to the extent necessary for the Cost Consultant to be able to confirm the design is consistent with the Construction Budget;
 - iii) continuously reviewing and ensuring compliance with applicable statutes, regulations, codes and by-laws as the design phase of the Project progresses;
 - iv) [\[Insert\]](#);
 - v) [\[Insert\]](#); and
 - vi) [\[other services indicated to be Basic Services under the "Design Development" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A\]](#).
- d) **Basic Construction Documents Services**
- Within the construction documents phase of the Project, the Architect shall perform, as Basic Services, the following services and such additional construction documents phase services as are indicated in the RFQ or the Architect's Quotation, taking into account the most recent City-approved Construction Budget and the most recently approved estimate of Construction Cost:
- i) preparing, for the City's review and approval, construction documents consisting of drawings and standard-format specifications setting forth in detail the requirements for the construction of the Project;
 - ii) providing the necessary documents for the City to obtain pre-tender estimates of Construction Cost from the Cost Consultant;
 - iii) coordinating with the City in preparing the City's tender or other solicitation package;
 - iv) reviewing the City's form of Construction Contract for information and coordination purposes;

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v) reviewing statutes, regulations, codes and by-laws applicable to the design and where necessary reviewing the same with the authorities having jurisdiction in order that all required consents, approval, licenses and permits necessary for the Project may be obtained, and obtaining the following required consents, approvals, licenses and permits on the City's behalf:

(1) a building permit (including the provision of all required schedules and letters of assurance; and

(2) [Insert];

vi) [Insert];

vii) [Insert]; and

viii) [other services indicated to be Basic Services under the "Construction Documents" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A].

e) **Basic Bidding or Negotiation Services**

Within the bidding or negotiation phase of the Project (which shall be managed by the City), the Architect shall perform, as Basic Services, the following services and such additional bidding or negotiation phase services as are indicated in the RFQ or the Architect's Quotation:

i) participating in the preparation of requirements for tendering or other solicitation documents that are to be posted by the City as part of the Construction Contract bid processes;

ii) reviewing the tender submissions and participating in qualification or selection processes for a Construction Contractor;

iii) attending bidder site reviews or meeting, and addressing technical questions from bidders;

iv) assisting and advising the City on obtaining bids or negotiated proposals and in awarding and preparing the Construction Contract; and

v) preparing, or contributing to City-issued addenda, amendments and other technical information as required;

vi) [Insert];

vii) [Insert]; and

viii) [other services indicated to be Basic Services under the "Bidding or Negotiation" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A].

f) **Basic Construction Contract Administration Services**

Within the construction contract administration phase of the Project, the Architect shall perform, as Basic Services, the following services and such additional construction contract administration phase services as are indicated in the RFQ or the Architect's Quotation:

i) being a representative of the City acting as the "Consultant" as defined in the Construction Contract and doing all things required of it thereunder;

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- ii) acting on the City's behalf to the extent provided in the Construction Contract Documents;
- iii) reviewing the Construction Work at all appropriate times when it is in preparation or progress;
- iv) acting as the coordinating registered professional for the Project, which role shall include without limitation, providing overall liaison, control, coordination and communication between all parties for the Project (except as limited by the Construction Contract);
- v) forwarding all instructions from the City to the Construction Contractor;
- vi) carrying out the General Review of the Construction Work and coordinating field review from all disciplines;
- vii) examining, evaluating and reporting to the City upon representative samples of the Construction Work;
- viii) keeping the City informed of the progress and quality of the Construction Work, and reporting to the City defects and deficiencies in the Construction Work observed during the course of site reviews;
- ix) attending regularly scheduled construction meetings at the Project Site;
- x) determining the amounts owing to the Construction Contractor under the Construction Contract based on the Architect's observations and evaluation of the Construction Contractor's applications for payment;
- xi) issuing certificates for payment under the Construction Contract for Construction Work performed;
- xii) interpreting the requirements of the Construction Contract Documents and communicating to the City and, as necessary, the Construction Contractor its opinions as to the performance thereunder by both the City and the Construction Contractor;
- xiii) rendering interpretations in written and graphic form as may be required with reasonable promptness on the written request of either the City or the Construction Contractor (in conformity with the Construction Contract);
- xiv) rendering written findings, as required within a reasonable time (and in conformity with the Construction Contract), on all claims, disputes and other matters in question between the City and the Construction Contractor relating to the execution or performance of the Construction Work or the interpretation of the Construction Contract Documents;
- xv) rejecting, in conformity with the Construction Contract, work which does not conform to the Construction Contract Documents;
- xvi) whenever required by the Construction Contract or necessary or advisable, in the Architect's opinion, for the implementation of the Construction Contract Documents, requiring special inspections or testing of work (in conformity with the Construction Contract), whether or not such work has been fabricated, installed or completed;
- xvii) reviewing, and taking other appropriate actions with reasonable promptness upon, the Construction Contractor's submittals such as shop drawings, product data, and samples, in conformity with the Construction Contract;

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- xviii) preparing, in conformity with the Construction Contract, contemplated change orders, change orders, and change directives for the City's approval and signature in accordance with the Construction Contract Documents;
- xix) directing, in conformity with the Construction Contract, minor adjustments in the Construction Work which are consistent with the intent of the Construction Contract Documents, when these do not involve an adjustment in the Construction Contract price or an extension of the Construction Contract time;
- xx) furnishing, in conformity with the Construction Contract, supplemental instructions to the Construction Contractor with reasonable promptness or in accordance with a schedule for such instructions agreed to by the Architect and the Construction Contractor;
- xxi) determining the date of Substantial Performance of the Construction Work in accordance with the Builders' Lien Act and the Construction Contract and issuing a certificate of completion in respect thereof;
- xxii) determining the dates for substantial completion of subcontracts in accordance with the progressive release provisions of the Builders' Lien Act and the Construction Contract and issuing certificates of completion therefor;
- xxiii) determining the date of Total Performance of the Construction Work and issuing a written certificate of same in accordance with the Construction Contract;
- xxiv) verifying the validity of the Construction Contractor's application for final payment and issuing a certificate of final payment;
- xxv) receiving from the Construction Contractor, reviewing on behalf of the City for Construction Contract compliance, and, when compliant, forwarding to the City, written warranties and related documents;
- xxvi) reviewing and confirming that operation manuals prepared by the Construction Contractor are in accordance with the Construction Contract, and forwarding the same (which compliant) to the City;
- xxvii) preparing a Project close-out report , including at a minimum a summary of each of the design phases, all monthly reporting and site reviews during construction, a final budget summary, including all change orders, a final schedule summary, including any adjustments, the certificate of completion, the final certificate for payment, the occupancy permit, and a summary commentary explaining any major issues and deviations from expectations
- xxviii) [preparing record drawings showing changes in the Construction Work made during construction based on marked-up as-built drawings, and other data furnished by the Construction Contractor to the Architect, and sending to the City two paper copies and four electronic copies on disk of each such drawing, provided that the accuracy of such information shall be the sole responsibility of the Construction Contractor];
- xxix) prior to the end of the period of one year following the date of Substantial Performance of the Construction Work, reviewing any defects or deficiencies which have been reported or observed during that period, and notify the Construction Contractor in writing of those items requiring attention by the Construction Contractor to complete the Construction Work in accordance with the Construction Contract;

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xxx) preparing and providing all schedules required under the City of Vancouver Building Bylaw for issuance of an occupancy permit;

xxxi) [other services indicated to be Basic Services under the "Construction Contract Administration" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A].

g) **Basic Post-Construction Services**

Within the post-construction phase of the Project, the Architect shall perform, as Basic Services, the following services and such additional post-construction phase services as are indicated in the RFQ or the Architect's Quotation:

i) [Insert];

ii) [Insert]; and

iii) [other services indicated to be Basic Services under the "Post-Construction" heading in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A].

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SCHEDULE A - BASIC AND ADDITIONAL SERVICES

2) ADDITIONAL SERVICES

The following are, each to the extent they are not required as Basic Services, Additional Services, and they shall be provided to the City by the Architect if the City requests them in writing:

- a) Providing more exhaustive or continuous on site review or representation than is required as a Basic Service.
- b) Providing financial feasibility, Project Budget or other special costing studies.
- c) Providing site evaluations, planning surveys, or comparative studies of prospective sites.
- d) Providing special surveys, environmental studies and submissions and other related services required for approval by authorities having jurisdiction over the Project.
- e) Providing services relating to future facilities, systems and equipment.
- f) Providing services to investigate existing conditions or facilities such as preparing measured drawings or verifying the accuracy of drawings or other information furnished by the City.
- g) Providing detailed estimates of Construction Cost, detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.
- h) Providing graphic design, signage and other similar services.
- i) Providing tenant layout and design services.
- j) Preparing architectural renderings specifically commissioned by the City.
- k) [\[Preparing documents for alternative, separate or sequential bids or providing extra services in connection with bidding, negotiations, or construction prior to the completion of the construction documents phase.\]](#)
- l) Coordinating construction work performed by separate construction contractors or by the City's own forces and coordinating the services required in connection with construction performed and equipment supplied by the City.
- m) Providing services after expiry of the period of three years following the date of Substantial Performance of the Construction Work.
- n) Revising or providing additional drawings, specifications or other documents which are:
 - i) caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
 - ii) caused by an interpretation by the authorities having jurisdiction which differs from the Architect's interpretation of statutes, regulations, codes or by-laws, which difference the Architect could not have reasonably anticipated; or
 - iii) due to changes required as a result of the City's failure to render decisions in a timely manner.

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SCHEDULE A - BASIC AND ADDITIONAL SERVICES

- o) Providing services in connection with evaluating substitutions proposed by the Construction Contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them.
- p) Making investigations, inventories of materials and equipment, valuations and detailed appraisals of existing facilities.
- q) Providing services made necessary by the material default of the Construction Contractor, by major defects or deficiencies in the Construction Work of the Construction Contractor, or by a material failure of performance by either the City or Construction Contractor under the Construction Contract.
- r) Providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work.
- s) Providing services in evaluating an extensive or unreasonable number of claims submitted by the Construction Contractor or others in connection with the Construction Work.
- t) Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.
- u) Attending, presenting or speaking as the City's representative at any public hearing, mediation, arbitration proceedings, or legal proceedings except as required as a Basic Service.
- v) Providing for services of consultants other than the Architect's Consultants.
- w) Translating documents into a language other than English.
- x) Providing or arranging for any services not otherwise provided for in this Agreement, or which the Agreement states are to be treated as Additional Services.
- y) [Providing other services indicated to be Additional Services in the "Sequence and Scope of Services Chart" attached at the end of this Schedule A.]

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APPENDIX 3 - FORM OF AGREEMENT
SCHEDULE A - BASIC AND ADDITIONAL SERVICES

<If applicable, attach the "Sequence and Scope of Services Chart" here.>

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 APPENDIX 3 - FORM OF AGREEMENT
 SCHEDULE B - FEES FOR BASIC AND ADDITIONAL SERVICES

SCHEDULE B - FEES FOR BASIC AND ADDITIONAL SERVICES

1) **BASIC SERVICES**

The following are the professional fees the City shall pay to the Architect for the Basic Services performed by the Architect and by the Architect's Consultants:

	DELIVERABLE	ESTIMATED HOURS	FEES SUB-TOTAL (\$)	DISBURSEMENTS (\$)	EXTENDED (\$)
1.	Design Development				\$0.00
2.	Building Permit Documents				\$0.00
3.	Construction Documents and Tendering				\$0.00
4.	Contract Administration				\$0.00
5.	Construction: As-Built Drawings				\$0.00
6.	Total Hours and Disbursements	0	\$0.00	\$0.00	\$0.00
7.	Total Fees and Disbursements (including all costs, fees and applicable PST, but excluding GST)				\$0.00
8.	GST (at 5%)				\$0.00
9.	Total Fees and Disbursements (including all costs and GST)				\$0.00

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SCHEDULE B - FEES FOR BASIC AND ADDITIONAL SERVICES

2) ADDITIONAL SERVICES

The City and the Architect shall discuss and seek to agree the fees for Additional Services, which shall be fixed fees, per-service, and shall be recorded in writing; provided that if the City and the Architect do not agree the fees for a particular Additional Service, the following are the fees the City shall pay for the Additional Service:

- a) Fees for authorized Additional Services not included in Basic Services, excluding those provided by the Architect's Consultants, shall be calculated on a time-worked basis at the hourly rates set out on page [\[Insert\]](#) of the Architect's Quotation in Appendix 2.
- b) Fees for authorized Additional Services provided by the Architect's Consultants shall be invoiced to the Architect by the Architect's Consultants according to the hourly rates agreed to in advance in writing by the City and the Architect, and then shall be re-invoiced by the Architect to the City. However, in no event shall these rates exceed the hourly rates set out in the Architect's Quotation.

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APPENDIX 3 - FORM OF AGREEMENT
SCHEDULE C - CONSTRUCTION BUDGET AND PROJECT SCHEDULE

SCHEDULE C - CONSTRUCTION BUDGET AND PROJECT SCHEDULE

C1 The preliminary Construction Budget is \$[Insert], comprised of the following:

[Insert]	\$[Insert]
[Insert]	\$[Insert]
[Insert]	\$[Insert]
[Insert]	\$[Insert]
[Insert]	\$[Insert]
Total:	\$[Insert]

C2 The Project Schedule, up until the issuance of an occupancy permit, is as follows, with the work to be started on the date of this Agreement and the occupancy permit to be issued by [Insert]:

PROJECT MILESTONES	
MILESTONE	COMPLETION DATE
Consultant Start	Mid November, 2019
Schematic Design (Building Code Review)	Third week of November 2019
Design Development 75%	Third week of Dec 2019
Commissioning Services Provider (Review and Comments)	Early Jan 2020
Design Development (100%)- PB Application	Second week of Jan 2020
Contract documents completion	Third week of Jan 2020
Issue for Tender	Third week of Jan 2020
Construction Start	Early March 2020
Substantial Completion	Late April 2020

[The expected time for completion of post-construction services is [Insert]. (This time forms part of the Project Schedule.)]

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APPENDIX 3 - FORM OF AGREEMENT
SCHEDULE D - REPORTS AND CITY-PROVIDED ITEMS

SCHEDULE D - REPORTS AND CITY-PROVIDED ITEMS

- 1) The City shall provide the following documents for the Architect's information only, and not for reliance:
 - a) [Insert]; and
 - b) [Insert].
- 2) The City shall provide the following additional documents, which may be relied upon by the Architect for accuracy, but not for completeness. The Architect is solely responsible for any inferences drawn from the specific information in these documents:
 - a) [subsurface investigation reports, including the following information or the results of the following tests: test borings, test pits, soil bearing values, percolation tests, a list of and evaluations of toxic or hazardous substances or materials present at the Project Site, ground corrosion and resistivity tests, necessary operations for anticipating subsoil conditions, and appropriate professional recommendations]; and
 - b) [Insert].
- 3) The City shall provide the following additional documents, which may be relied upon by the Architect for accuracy and completeness (completeness meaning that they do not, together, omit to state any material information that would reasonably be deemed to be necessary to completely describe the matters within the intended scope of such documents):
 - a) [a survey or surveys describing the physical characteristics and legal limitations for the Project Site, and a written legal description of the site and adjoining properties, as necessary, showing the following, as applicable: grades and lines of streets, alleys, pavements and adjoining properties and structures; adjacent drainage, rights-of-way; restrictions; easements; encroachments; zoning; deed restrictions; the boundaries and contours of the site; locations and dimensions of existing buildings and other improvements and trees];
 - b) [information available to the City concerning utility services, both public and private, above and below grade, including inverts and depths];
 - c) [air and water pollution tests, tests for toxic or hazardous substances or materials, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as the City determines are required by the Architect, the Architect's Consultants, the authorities having jurisdiction or the Construction Contract Documents]; and
 - d) [Insert].
- 4) The City shall provide the following additional items:
 - a) [Cost Consultant Services for the Project]; and
 - b) [Enhanced commissioning services for the Project.]

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APPENDIX 3 - FORM OF AGREEMENT
SCHEDULE E - ARCHITECT'S KEY EMPLOYEES AND ARCHITECT'S CONSULTANTS

SCHEDULE E -
KEY EMPLOYEES AND ARCHITECT'S CONSULTANTS

Key Employees

The following are the key employees of the Architect and of Architect's Consultants, who shall be primarily responsible for performing the Services:

- [Insert]
- [Insert]
- [Insert]

Architect's Consultants

The following Architect's Consultants have been approved by the City:

Company Name, Address	Contact Name and Telephone Number	Area of Responsibility
[Insert name of company] [Insert address]	Name: [Insert] Phone: [Insert]	[Insert]
[Insert name of company] [Insert address]	Name: [Insert] Phone: [Insert]	[Insert]
[Insert name of company] [Insert address]	Name: [Insert] Phone: [Insert]	[Insert]

REQUEST FOR QUOTATIONS NO. PS20191180
WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
APPENDIX 1 - REQUEST FOR PROPOSALS

APPENDIX 1 - REQUEST FOR QUOTATIONS

The Request for Quotations dated for reference [\[insert\]](#) is not attached hereto but incorporated by reference.

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WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
APPENDIX 2 - ARCHITECT'S AND ARCHITECT'S CONSULTANTS' PROPOSALS

APPENDIX 2 - ARCHITECT'S AND ARCHITECT'S CONSULTANTS' QUOTATIONS

The Architect's and the Architect's Consultants' quotations dated [insert] are not attached hereto but incorporated by reference.

REQUEST FOR QUOTATIONS NO. PS20191180
WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
APPENDIX 3 - WORKSAFEBC REGISTRATION CONFIRMATION

APPENDIX 3 - WORKSAFEBC REGISTRATION CONFIRMATION

[To be finalized with successful vendor, if any, at contracting stage]

REQUEST FOR QUOTATIONS NO. PS20191180
WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
APPENDIX 4 - CERTIFICATE OF PROFESSIONAL LIABILITY INSURANCE

APPENDIX 4 - CERTIFICATE OF PROFESSIONAL LIABILITY INSURANCE

[To be finalized with successful vendor, if any, at contracting stage]

REQUEST FOR QUOTATIONS NO. PS20191180
WEST ANNEX RENOVATION OF NORTH AND EAST SIDE 4L
APPENDIX 3 - FORM OF AGREEMENT
APPENDIX 5 - CERTIFICATE OF COMMERCIAL GENERAL LIABILITY INSURANCE

APPENDIX 5 - CERTIFICATE OF COMMERCIAL GENERAL LIABILITY INSURANCE

[To be finalized with successful vendor, if any, at contracting stage]