



REQUEST FOR PROPOSALS

VANDUSEN & BLOEDEL

JOINT OPERATING AGREEMENT FACILITATOR

RFP No. PS20220185

Issue Date: February 25, 2022

Issued by: City of Vancouver (the “City”)

as represented by its Board of Parks and Recreation

SUMMARY

The City as represented by its Board of Parks and Recreation (Park Board) is seeking a qualified Consultant to lead the negotiation of a new Joint Operating Agreement (JOA) between the Park Board and the Vancouver Botanical Gardens Association (VBGA).

PART A INSTRUCTIONS AND INFORMATION

1.0 INSTRUCTIONS

- 1.1 The City is interested in selecting an entity (each, a **“Proponent”**) that submits a proposal (each, a **“Proposal”**) with the capability and experience to efficiently and cost-effectively meet the requirements described in this RFP. The City expects to select a Proponent to enter into contract negotiations.

However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.

- 1.2 **Proponents should submit their proposals on or before 3:00pm on the 21st day of March, 2022 (the “Closing Time”) by email in accordance with the following:**

- Subject of the file to be:
PS20220185 - VANDUSEN & BLOEDEL JOINT OPERATING AGREEMENT FACILITATOR – *your company name*
- Document formats for submissions are PDF and Excel
- Zip the files to reduce the size or email separately if needed.
- Send your submissions to **bids@vancouver.ca**
- Submitting the files via Drop box, FTP, or similar programs, is not acceptable.
- Due to cybersecurity concerns, the City of Vancouver will quarantine any inbound email with attachments not in PDF or Microsoft Office formats which will result in non-delivery to Supply Chain Management and will be deemed not submitted. Non-compliant file formats will be detected and quarantined even if they are compressed, zipped, renamed, and include password protected zipped files.
- The maximum number of attachments allowed in an email message is 250 attachments.
- The maximum size limit for an email message, including all attachments, is 20MB per message.

- 1.3 To be considered by the City, a Proposal must be submitted in the form set out in Appendix 1 (the **“Proposal Form”**), completed and duly executed by the relevant Proponent.
- 1.4 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time. Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 1.5 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City’s sole discretion.

Contact Person - Jason Charbonneau, Buyer
jason.charbonneau@vancouver.ca

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

Final questions are requested by March 14th at 3:00pm.

2.0 CHANGES TO THE RFP AND FURTHER INFORMATION

- 2.1 The City may amend the RFP or make additions to it at any time. It is the sole responsibility of Proponents to check the City's website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.

3.0 EVALUATION OF PROPOSALS

- 3.1 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine:

Evaluation Criteria	Evaluation Weighting
Technical	65%
Financial	30%
Sustainability (Environmental and/or Social)	5%
Total	100%

4.0 CITY'S DISCRETION

- 4.1 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Scope of Work or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a Proposal; (h) split the Scope of Work between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the City may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

5.0 LEGAL TERMS AND CONDITIONS

- 5.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in Appendix 2. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City. EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 2: (I) NO PART OF THE RFP CONSISTS OF AN OFFER BY THE CITY TO ENTER INTO ANY CONTRACTUAL RELATIONSHIP; AND (II) NO PART OF THE RFP IS LEGALLY BINDING ON THE CITY.

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

PART B

SCOPE OF WORK

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

1.0 Introduction and Purpose

The new JOA will define the roles and responsibilities of each organization as they relate to the operation of the VanDusen Botanical Garden (VanDusen) and the Bloedel Conservatory (Bloedel), and will have regard for the philosophies outlined in the approved [VanDusen & Bloedel Strategic Plan](#) and expected actions arising from the Strategic Plan.

The VanDusen & Bloedel Strategic Plan was recently developed by both parties and included shared values, vision, mission and goals, which are foundational to daily operations and the long-range planning of VanDusen and Bloedel and the associated facilities.

The development of the Strategic Plan included a significant amount of research and review of the current VanDusen & Bloedel JOA.

The Consultant will facilitate JOA negotiations and provide services to both Park Board and VBGA, reporting to the Project Manager Park - Board/neutral in consultation with the Garden Director - Park Board, and the Executive Director of VBGA.

The Consultant will act as a professional and neutral third-party facilitator and mediator at the meetings and create an inclusive environment for communication and discussion, capitalizing on the existing positive working relationship between Park Board and VBGA arising from the development of the Strategic Plan.

2.0 Background

In 1966 the VanDusen Botanical Gardens Association (now *Vancouver* Botanical Gardens Association – VBGA) successfully lobbied to establish a 55-acre botanical garden on the site of the existing Shaughnessy Golf Course.

VanDusen was designated as a public botanical garden under the exclusive jurisdiction of Park Board and operated jointly by Park Board and VBGA - a not for profit charitable organization governed by the BC Societies Act, and opened to the public in 1975.

An agreement between Park Board and the VBGA was established to govern the relationship between the two organizations in jointly operating the VanDusen.

In 1969 Bloedel was created and dedicated to creating a better appreciation and understanding of the world of plants'. The domed conservatory opened in Queen Elizabeth Park as a floral conservatory. In 2009/2010, Friends of Bloedel Association successfully worked to conserve the heritage structure, and the Friends of Bloedel later joined the VBGA.

The JOA between the two organizations (1994) was amended in 2013/2014 to include Bloedel.

The stewardship of these two community amenities is under the direction of the Park Board's Garden Director, in collaboration with the VBGA Executive Director.

A need to update and modernize this JOA was identified to:

- reflect the priorities of a new shared vision and mandate,
- precisely define roles and responsibilities; and
- improve operations.

A first step in the plan was to conduct a Strategic Business Review, which culminated in the 2021 VanDusen and Bloedel Strategic Plan. In support of this Strategic Plan, a review of the current state, governance, and financial model was completed.

The VanDusen & Bloedel Strategic Plan defines the future vision and mandate for VanDusen and Bloedel. This new vision and mandate align the efforts to maximize the potential of these two entities and enable long-term planning and investment that supports an approved future direction.

In late 2021 both the Vancouver Park Board and the VBGA approved the VanDusen & Bloedel Strategic Plan, which aligns with the bold moves outlined in [VanPlay](#), the Parks and Recreation Services Master Plan, as well as important directions for VBGA.

Key members of the working group for the VanDusen and Bloedel Strategic Plan will serve to negotiate the JOA.

Both properties are located on the unceded lands of the Musqueam, Squamish and Tsleil-Waututh Nations, so there is a need to contextualize VanDusen and Bloedel in relation to this Indigenous land. This work needs to continue to formulate the reconciliation vision, identify what decolonization looks like in the gardens, and develop relevant actions for the parks and conservatory.

3.0 Scope of Work

The interested professionals are required to provide a proposed detailed work plan and schedule along with techniques and methodologies that will be used to achieve the scope of work outlined below.

3.1 Project Familiarization and On-Boarding

- a. Hold discovery sessions with each organization of the Working Group (VBGA and Park Board) separately to discuss key issues and areas of concerns.
- b. Reporting to the Garden Director and the Executive Director of VBGA, the Project Manager and the Working Group, the Consultant will orient themselves to the Project, review relevant documents, and understand critical interests, milestones, and timelines. The Working Group is composed of 4 representatives from each organization, including 4 senior staff members of the Park Board, 3 Senior Board Members, and 1 senior staff member (Executive Director) from VBGA.
- c. Review and finalize JOA Negotiation Process

Guide the Park Board project manager (and Garden Director and VBGA Executive Director) on completing the process. The Project Working Group will approve the project process. This is to ensure that the proposed process will assist with reaching the project goal: updated and approved JOA.

- d. Develop and execute a Terms of Reference (TOR) for the Working Group
Work with the Park Board project manager to develop a TOR that will outline the working group member roles and responsibilities, decision-making process, and include the interface of the Working Group with the Consultant, the Garden Director, the VBGA Executive Director, Park Board project manager, the Subject Matter Experts (SMEs), and broader Park Board staff and VBGA designates and the Boards of both organizations. The TOR will require approval by the Working Group.

3.2 Leading JOA meetings

The Consultant will be responsible for planning, hosting, facilitating and leading the VanDusen & Bloedel JOA meetings, including preparing agendas and meeting minutes. The agenda and meeting minutes will be reviewed and approved by the Garden Director and the Executive Director of VBGA, in consultation with the Park Board Project Manager.

Staff or designates from both entities and other technical experts may be available at the meeting to advise, listen and respond to enquiries.

All materials will be provided well in advance of each meeting in order to facilitate informed discussions.

3.3 Assist with providing updates to the Park Board and VBGA Board

Park Board staff will provide updates to the Park Board Commissioners. VBGA designates will provide updates to VBGA Board Members as appropriate at key process stages.

The Consultant will be required to provide content from the JOA meetings and deliberations to the Park Board project manager and the VBGA designate for communications to the Park Board Commissioners and VBGA Board Members. This will include preparation of material, attendance and possible presentation at Park Board and VBGA Board meetings during evening hours.

3.4 Complete and provide a final proposed Joint Operation Agreement.

Mediate difficult issues and work with the Working Group to develop and update the existing JOA to outline involved parties' roles and responsibilities.

The Consultant will also need to communicate the mandate of this process, which includes creating an environment that promotes in-depth and respectful discussions and consistent participation of the interest parties throughout the entire project process.

4.0 Project Governance

The Project will be managed by the Park Board Project Manager, in consultation with the Garden Director and the Executive Director of VBGA, who will be the points of contact between the Consultant and Working Group and other subject matter experts who will be available to advise and listen throughout the VanDusen & Bloedel JOA updating process.

5.0 Acceptance Criteria

The Consultant team must include professional(s) who specialize in facilitating complex meetings, negotiation and conflict management, government and corporate disputes, having experience in local government projects, and managing high-profile projects.

The Consultant must be familiar with the concepts of the International Association of Public Participation (IAP2) and International Association of Facilitators (IAF); certification from one or both of the mentioned associations is preferred. The consulting team should have expertise in effective corporate communications for public sector clients and graphically represent the process and summarize the results into a report format.

Response to this RFP is to describe recommended detailed work plan, schedule, professional rates, examples of relevant public projects, list of references, and estimated costs. The proposal should include an outline of all proposed team members, including details on their proposed roles and details of their relevant experiences.

The Consultant will have demonstrated creative and collaborative ways of engaging the technical experts to create a comprehensive and successful agreement for a government body. A proven ability to bring together and mediate varying and divergent interests to a supportable conclusion will be a key attribute. A successful proposal will exhibit expertise, project experience, proposed timeline, and a clear connection between the work program and project approach.

Applicants must disclose their previous working relationships with either or both organizations.

6.0 Schedule and Timeline

Park Board and VBGA have an expected final approval of JOA content by Park Board Commissioners and VBGA Directors before July 2022; however, the desired ultimate outcome is a fair process to both parties. The proposed timeline from project start (estimated to be two weeks after the Closing Time of this RFP) to Finalized Summary Report on the revised recommendations will reflect this end-date.

The Consultant will prepare and lead a minimum of 10 (2 hours) meetings with the Working Group. The number and hours of sessions will be confirmed through further discussion with the Consultant.

The Consultant's proposal shall indicate whether they can meet the final submission target of before July 2022 and provide a timeline for the tasks below. If they are unable to meet the proposed schedule they must clearly state this in their submission and provide an alternate for consideration.

Tasks

- Project Familiarization and On-Boarding
 - a. Review documents
 - b. Confirm JOA Negotiation Process
 - c. Develop Terms of Reference
- Leading JOA Content Meetings

- Assist with providing content for the updates to the two Boards
- Complete a proposed Joint Operating Agreement

7.0 Deliverables and Responsibilities

The contract deliverables are as follows:

- 1) Finalized JOA Updating Process Framework
- 2) Terms of Reference (TOR)
- 3) Project Meetings
- 4) Draft JOA Content
- 5) Finalized JOA
- 6) Overseeing and preparing for Board's approval process (expected July 2022)

The Consultant is required to perform the following:

- Leading meetings virtually (one Project Initiation Meeting and a minimum of nine Project Component Progress meetings and/or bi-weekly phone calls as agreed upon with the Garden Director and the Executive Director VBGA, in consultation with the project manager).
- Discussions will include achievements to date, identifying problems to address, and proposed action plan;
- Prepare meeting agendas at least 10 business days before and distribute within 4 business days of each session and provide meeting notes within 72 hours of each meeting;
- Responding to project manager requests within one business day via phone or email;
- Preparing, coordinating, facilitating the JOA Sessions (agenda, minutes, and visual materials for a minimum of 8 meetings);
- Executing and leading the VanDusen & Bloedel JOA meetings;
- Providing graphic presentation material (e.g. PowerPoint presentations).

8.0 Park Board and VBGA Supplied Information

Park Board and VBGA staff will provide the following resources to the Consultant:

- VanDusen Bloedel Strategic Plan
- Engagement Report Summary (Including all engagement data)
- Draft Current State Report
- Joint Operating Agreement (1999/2013)
- VBGA Vision and Mission statement
- Review of VBGA organization
- Other documents to be determined

Complete, sign, and include the following form with your proposal.

APPENDIX 1 - PROPOSAL FORM
RFP No. PS20220185, VANDUSEN & BLOEDEL
JOINT OPERATING AGREEMENT FACILITATOR (the "RFP")

Proponent's Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____

E-mail: _____

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

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 2 to the RFP.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

PROPOSAL REQUIREMENTS

Address the following in your proposal:

Executive Summary

Summarize your understanding and comprehension of the project, covering scope, vision, purpose, values and timing.

Approach to Performing Scope of Work

Describe your proposed approach to providing the required services.

Timeline

Provide a timeline (or alternate) as specified in Section 6.0 Schedule and Timeline of Part B, Scope of Work

Key Personnel

Identify and provide professional biographical information for the key personnel that would perform the required services.

Innovation

The City welcomes innovative or novel approaches to the City's objectives and requirements and may consider value-creating Proposals that derogate from the Scope of Work. In your proposal, note any proposed innovative approaches to meeting the City's requirements.

Sustainability

Provide any information concerning the environmental sustainability of the services offered including any on-going efforts or plans that the vendors has, or steps that it has taken in the past, to improve energy efficiency, minimize pollution/toxicity, conserve natural resources, and reduce and/or divert waste.

References

Provide 3 references with the following information for each

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

Subcontractors

List all of the subcontractors that the Proponent proposes to use in carrying out the required services and described the scope of subcontracted work (or write "None" if no subcontractors are proposed).

Conflicts, Collusion, Lobbying

Make the declarations as detailed in Article 9 of Appendix 2 for instructions.

Pricing

Complete the attached pricing excel formatted table. All prices are to be quoted in in Canadian currency and exclusive of applicable sales taxes calculated upon such prices, but inclusive of all other costs.

Complete, sign, and include the following form with your proposal.

Declaration of Supplier Code of Conduct

The City of Vancouver expects each supplier of goods and services to the City to comply with the supplier performance standards set out in the City's Supplier Code of Conduct ("**SCC**") <<https://policy.vancouver.ca/AF01401P1.pdf>>, which defines minimum labour and environmental standards for City suppliers and their subcontractors. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration.

As an authorized signatory of _____ (*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, _____ (*vendor name*) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted below (include all violations/convictions that have occurred in the past three years as well as plans for corrective action). I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of _____ (*vendor name*).

Signature: _____

Name and Title: _____

Exceptions to Declaration:

If completed, include the following form with your proposal.

Supplier Diversity

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

In the space below, indicate the Proponent's company profile with regards to social value and economic inclusion supporting equity, diversity, inclusion and reconciliation, including social/environmental certifications, workforce diversity and/or if owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).

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

APPENDIX 2

LEGAL TERMS AND CONDITIONS OF RFP

1. APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 2 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent, or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2. DEFINITIONS

In this Appendix 2, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent's selection by the City in the City's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 2), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means Appendix 2 of the RFP, as completed and executed by the Proponent.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20220185, as amended from time to time and including all addenda.

3. NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 2 (except only Sections 7, 8.2 and 10 of this Appendix 2, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City's sole discretion.

4. NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or

tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

5. EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

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

5.2 Reservation of Complete Control over Process

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

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 2, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

5.4 Acceptance or Rejection of Proposals

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

6. PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 2, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

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

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 2, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

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

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 2), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

7. DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 2, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;
- (b) Section 6 of this Appendix 2 will: (i) bind the City, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

8. PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

- (a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.
- (b) The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal to the Proponent.

8.2 Proponent's Submission Confidential

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

8.3 All City Information Confidential

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

9. NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case,

except as set out, in all material detail, in the section titled “Conflicts; Collusion; Lobbying” in the Proposal Form.

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

9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

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

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

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

in each case, except as set out, in all material detail, in the section titled “Conflicts, Collusion, Lobbying” in the Proposal Form.

9.4 Declaration as to Lobbying

The Proponent confirms and warrants that:

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

in each case as set out, in all material detail, in the section titled “Conflicts, Collusion, Lobbying” in the Proposal Form.

10. GENERAL

- (a) All of the terms of this Appendix 2 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.
- (b) The legal invalidity or unenforceability of any provision of this Appendix 2 will not affect the validity or enforceability of any other provision of this Appendix 2, which will remain in full force and effect.
- (c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

**APPENDIX 3
FORM OF AGREEMENT**

Provided as an attachment



SERVICES CONTRACT

REFERENCES: OA# 46 _____
PS# PS _____

City of Vancouver (the “City”)

AND: <legal name of other party> (the “Contractor”)

having the following address:

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

Tel Number:
Email:

having the following address:

Tel Number:
Email:

Name of City Project Manager:

This contract for services is comprised of this cover page, the following parts A, B, C, D and E, the attached Services Contract Terms and Conditions, and any other attachments, schedules, appendices or annexes expressly referred to in the aforementioned parts A, B, C, D and E, and the signature blocks following Part F below. By signing below, the City and the Contractor hereby agree to be bound by the terms of this contract.

PART A - SERVICES:

The Services are further described in Schedule A.

Start date for the Services: (the “Start Date”)

The Contractor agrees to complete the Services by:

PART B - FEES AND EXPENSES:

Fees:

Expenses:

☐ Not reimbursable (included in fees)

Maximum Amount of Fees and Expenses (the “Maximum Amount”):

The fees and expenses are further described in Schedule B.

Billing Date(s): See Section 20 of the Services Contract Terms and Conditions

Definitions:

“GST” means the tax payable and imposed pursuant to Part IX of the *Excise Tax Act* (Canada), as amended or replaced from time to time.

“PST” means the provincial sales tax payable and imposed pursuant to the Provincial Sales Tax Act (British Columbia), as amended or replaced from time to time.

PART C: APPROVED SUBCONTRACTORS

PART D: INSURANCE

Without limiting any of its obligations or liabilities under this Services Contract, the Contractor will obtain and continuously carry and will cause its subcontractors to obtain and continuously carry during the term of the Services Contract at its own expense and cost, the following insurance coverages with minimum limits of not less than those shown in the respective items set out below:

- (a) Commercial general liability insurance with a limit of not less than \$2,000,000 per occurrence and a deductible of not more than \$5,000 or other such amounts as the City may approve from time to time, protecting the Contractor and the Contractor's personnel against all claims for bodily injury including death, personal injury, advertising liability, products liability, sudden & accidental pollution, completed operations, or property damage or loss, arising out of the operations of the Contractor or the actions of the Contractor or the Contractor's personnel. The policy will carry blanket contractual liability coverage, include a cross-liability clause in favour of the City, and will name the City and the City's officials, officers, employees and agents as additional insureds;

The Contractor and each of its subcontractors will provide at its own cost other lines of insurance coverages, endorsements, or increased limits of insurance as deemed necessary by the City and as a reasonable and prudent contractor would require to protect their operations or performance of services.

All insurance policies required by this Services Contract shall be with insurers duly authorized to carry on business in the Province of British Columbia, in a form and in amounts satisfactory from time to time and acceptable to the City's Director of Risk Management.

The required insurance shall not be cancelled or endorsed to reduce the limits of liability without thirty (30) days' written notice by registered mail to the City. Should the policy be endorsed to restrict coverage midterm, written notice of such restriction will be provided by registered mail to the City no later than the effective date of change; the exception is cancellation for non-payment of premiums in which case the applicable statutory conditions will apply. Notice must identify the contract title, number, policy holder, and scope of work.

The Contractor's insurance policy (policies) shall be primary with respect to all claims arising out of the operations of the Contractor. Any insurance or self-insurance maintained by or on behalf of the City or its officials, officers, employees, or agents will be excess of the Contractor's insurance and will not contribute to it.

Neither the providing of insurance by the Contractor 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 Contractor from any other provisions of the Services Contract with respect to liability of the Contractor or otherwise.

Prior to the Start Date, the Contractor will provide the City with evidence of all required insurance in the form of a certificate of insurance satisfactory to the City. The certificate of insurance will identify the contract title, number, policyholder, and scope of work. The Contractor will provide proof of insurance, in the form of a certificate of insurance or certified copies of all insurance policies to the Manager, Contracts and Administration at any time immediately upon request.

The Contractor will provide in its agreements with its subcontractors clauses in the same form as in this Part D. Upon request, the Contractor will deposit with the City detailed certificates of insurance for the policies it has obtained from its subcontractors and a copy of the applicable insurance clauses from its sub-contract agreements.

PART E: ADDITIONAL TERMS

The following are integral parts of this Services Contract:

The parties hereto have duly executed this Contract as of the <☐> day of <☐month>, 20<☐year>.

SIGNED AND DELIVERED on behalf of the City by its
authorized signatory(ies):

SIGNED AND DELIVERED on behalf of the Contractor by its
authorized signatory(ies):

Per: _____

Per: _____

SERVICES CONTRACT TERMS AND CONDITIONS

A. CONTRACTOR'S OBLIGATIONS

1. Performance of Services. The Contractor agrees to provide the City with the services described in PART A (and in any schedule referred to therein), including, without limitation, and to the extent not expressly described in PART A (or in any such schedule), all services necessary or incidental to the completion of the services contemplated and described therein (the "Services"), all in accordance with the Services Contract (this "Contract"). The Contractor must provide the Services commencing on the Start Date described in PART A and in accordance with the delivery schedule (if any) specified in PART A (or in any schedule referred to therein), regardless of the date of execution or delivery of this Contract. The Contractor must comply with the City's instructions in performing the Services, but unless otherwise specified herein, the Contractor shall at all times retain control over the manner in which those instructions are carried out.
2. Provision of Service Inputs. Unless otherwise specified herein, the Contractor must supply and pay for all labour, materials, permits and approvals (including from any relevant government authority) necessary or advisable to provide the Services.
3. Standard of Care and Applicable Laws. The Contractor must perform the Services to the standard of care, skill, and diligence prescribed herein, or where not prescribed herein, to the standard customarily maintained by persons providing, on a commercial basis, services similar to the Services, and in accordance 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 Contractor and its personnel and the Services.
4. Warranty. Without limitation to any additional warranties provided by the Contractor, whether indicated on the face of the this contract or otherwise provided, the Contractor warrants that: (a) all goods, provided by the Contractor in connection with its performance of the Services ("Goods"), shall be of merchantable quality and free from defects in workmanship and materials; (b) all Goods shall strictly conform to applicable samples, specifications and drawings; (c) all Goods and Services shall be fit for the purpose intended by the City; (d) all Goods shall be free and clear of all liens, charges and encumbrances; (e) the Goods and Services shall comply with the standards set forth by applicable federal, provincial, municipal and industry regulatory agencies; (f) the shipping and handling of any hazardous material will be made in accordance with all applicable laws and regulations; and (g) the Goods and Services shall comply with all applicable environmental protection laws and regulations.

Unless a longer warranty period is specified on the face of this Contract or is otherwise provided, the foregoing warranty shall be valid for one year from the date of acceptance of the Goods and Services by the City. If at any time prior to the expiration of any applicable warranty period, any weakness, deficiency, failure, breakdown or deterioration in workmanship or material should appear or be discovered in the Goods and Services furnished by the Contractor, or if the Goods and Services do not conform to the terms and conditions of this Contract, the City may at its option (a) require the Contractor to promptly replace, redesign or correct the defective and non-conforming Goods and Services at no expense to the City, or (b) the City may replace or correct the defective Goods and Services and charge the Contractor with all expenses incurred by the City. The Contractor agrees to indemnify and save harmless the City, its officials, officers, employees, assigns, agents, clients and the public from any liability, loss, cost and expense arising either directly or indirectly, from breach of any warranty given by the Contractor hereunder.
5. Contractor Personnel. The Contractor must ensure that all persons it employs or retains to perform the Services are competent to perform them and are properly trained, instructed,

and supervised, and that all such persons comply with the provisions of this Contract.

6. Reporting. The Contractor must, upon the City's request, fully report to the City on all work it does or has done in connection with providing the Services.
7. Deliverables. As a result of or as part of providing the Services, the Contractor may receive, create, produce, acquire or collect items including, without limitation, products, goods, equipment, supplies, models, prototypes and other materials; information and data; reports, drawings, plans, designs, depictions, specifications and other documentation (collectively, "Deliverables"). Deliverables do not include items that are: not required to be produced by the Contractor or supplied to the City as part of or together with the Services unless the City pays for such items; or specified in this Contract as being excluded from the Deliverables category; or items which pre-existed the effective date of this Agreement that are owned by a third party or that are used by the Contractor as part of the services provided to any of its other customers. All Deliverables will be owned solely by the City unless otherwise expressly provided herein and the City will have the complete right to use and deal with the Deliverables for its own benefit in any way it sees fit without limitation. The Contractor waives, in favour of the City, all moral rights in the Deliverables, transfers to the City, free of all liens and encumbrances, ownership of each Deliverable, and assigns all of its world-wide present and future rights, title and interest in and to each Deliverable, including copyright, effective as of the date of creation or acquisition of such Deliverable. The Contractor will permit the City to inspect and copy all Deliverables.
8. Confidentiality. The Contractor acknowledges that, in performing the Services required under this Contract, it may acquire information about matters which are confidential to the City, which information is the exclusive world-wide property of the City or its suppliers or citizens, as the case may be. The Contractor undertakes to treat as confidential all Deliverables and all information received by reason of its position as Contractor and agrees not to disclose the same to any third party either during or after the performance of the Services under this Contract, without the City's express prior written consent.
9. Insurance. The Contractor must provide, maintain and pay for, and cause all subcontractors to provide, maintain and pay for, the insurance coverage (if any) described in PART D (including the type and form of policy, the coverage amounts, and the amount of deductible). If no insurance coverage is specified in PART D, the Contractor must provide, maintain and pay for, and cause all subcontractors to provide, maintain and pay for, such insurance as would be obtained by a prudent consultant or contractor providing services similar to the Services. The Contractor must provide written proof of such insurance coverage upon the written request of the City.
10. WorkSafeBC. The Contractor agrees that it will procure and carry and pay for, full WorkSafeBC coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Contract. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafeBC coverage against any monies owing by the City to the Contractor. The City will have the right to withhold payment under this Contract until the WorkSafeBC premiums, assessments or penalties in respect of work done or services performed in fulfilling this Contract have been paid in full. The Contractor will provide the City with the Contractor's and each subcontractor's WorkSafeBC registration number and clearance letters from WorkSafeBC confirming that the contractor and each subcontractor is in good standing with WorkSafeBC prior to the City having any obligation to pay monies under this Agreement.

Whenever the Contractor is required or permitted to perform any Services on any City sites, the Contractor is now appointed and now accepts appointment as the "prime contractor" in connection with such Services and will fulfil its obligations as Prime

Contractor in accordance with the Workers Compensation Act (British Columbia), and the regulations thereunder, and the Contractor shall comply with all applicable health and safety laws.

11. City Business Licence. The Contractor will maintain a valid City of Vancouver business licence in good standing throughout the duration of this Contract.
12. Resolution of Disputes. This Contract will be governed by the laws of British Columbia and the parties now irrevocably attorn to the exclusive jurisdiction of, and agree to submit all disputes to, the courts of British Columbia for resolution. The Contractor shall continue performance of its obligations under this Contract notwithstanding the existence of a dispute.
13. Independent Contractor. This Contract is a contract for services and neither the Contractor nor the Contractor's personnel or permitted subcontractors, are, or deemed to be, partners, appointees, employees or agents of the City. The Contractor will not represent to anyone that the Contractor has any authority to bind the City or that the Contractor is an employee or agent of the City.
14. No Assignment or Subcontracting. The Contractor will not assign or subcontract (other than to persons listed in PART C (or a schedule referred to therein)), either directly or indirectly (including, without limitation, by way of any transfer of control of the shares or ownership interests in the Contractor), this Contract or any right or obligation of the Contractor under this Contract, without the prior written consent of the City, which consent may be arbitrarily withheld. No assignment or subcontract, whether consented to or not, relieves the Contractor from any obligations under this Contract. The Contractor must ensure that any assignee or subcontractor fully complies with this Contract in performing the Services and nothing in this Contract creates any contractual relationship between a subcontractor and the City.
15. Conflict of Interest. The Contractor must not provide any services to any person in circumstances which, in the City's reasonable opinion, could give rise to a conflict of interest between its duties to that person and its duties to the City under this Contract.
16. Release and Indemnification
 - a. Release
The Contractor now releases the City and the City's personnel from all losses including those caused by personal injury, death, property damage or loss, and economic loss, arising out of, suffered or experienced by the Contractor or the Contractor's personnel in connection with their performance of the Services.
 - b. Acceptance "As Is"
In undertaking the Services, the Contractor acknowledges that it has inspected the City's site(s), agrees to accept the site(s) "as-is" and undertakes to take all precautions necessary to ensure the safety of all the Contractor's personnel.
 - c. Indemnity
Despite any insurance which may be placed by the City, the Contractor now agrees to indemnify and save harmless the City and its officials, officers, employees, agents, successors, assigns and authorized representatives (in each case, an "Indemnified Party") from and against all costs, losses, claims, damages, actions and causes of action ("Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the completion of the Services or sooner cancellation of this Contract, that arise out of any act or failure to act of the Contractor or the Contractor's personnel, permitted assignees or subcontractors in connection with the performance of this Contract, including any Claims that arise out of or are in any way related to unpaid WorkSafeBC assessments or the failure to observe safety rules, regulations and practices of WorkSafeBC, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of an Indemnified Party.
 - d. Separate from Other Remedies and Rights
Nothing in this Contract (including this indemnity) will affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.

e. Survival of Release/Indemnity

This Section 16 will survive the expiry or sooner termination of this Contract.

B. CHANGES TO SERVICES

17. Changes. The City may, at any time and from time to time and without invalidating this Contract, require a change to the Services and/or to the schedule for the delivery of the Services. Should the Contractor consider that any such request or instruction constitutes a change warranting amendment of the Maximum Amount, another price or the schedule for the Services set forth in the Contract, the Contractor must advise the City in writing prior to acting on any such request or instruction, and in any event within five (5) City of Vancouver business days of such request or instruction. In that case, the Maximum Amount, other price and/or schedule will be adjusted, if/as agreed to by both parties in writing, and failing agreement, if/as the City may determine, acting reasonably. Failing any such adjustment, the Services provided pursuant to the request or instruction will be deemed to be included within the prices specified herein, and to be subject to the schedule prescribed herein.
18. Changes to Key Personnel. The City may from time to time request reasonable changes to the key personnel of the Contractor engaged in performing the Services, and the Contractor shall comply with any such request. The Contractor shall not change any of such key personnel without the prior written approval of the City, which approval will not be unreasonably withheld.

C. PAYMENT

19. Payment of Fees and Expenses. In consideration for the satisfactory performance of the Services, The City will pay to the Contractor the fees specified in PART B (as supplemented by any schedule referred to therein), subject to this Section C. In addition, if the parties have specified in PART B that the Contractor's expenses are reimbursable in accordance with this Contract, the City will reimburse the Contractor for all expenses that: (i) are approved by the City in writing (in accordance with the City's existing policies and procedures for expense reimbursement) prior to their being incurred by the Contractor; (ii) are necessary, in the opinion of the City, to perform the Services; and (iii) are supported by proper receipts or other documentation satisfactory to the City (acting reasonably), provided always that the City reserves the right to make arrangements through its service providers for any flights and/or accommodations required by the Contractor in connection with its performance of the Services. If a "Maximum Amount" is specified in Part B, then the City is not, and shall not be, obliged to pay to the Contractor more than such Maximum Amount on account of aggregate fees (and, if applicable, expenses). Payment terms are "net 30 days" from the date of receipt of a valid invoice.
20. Invoicing. The Contractor will, by the 25th day of each month, provide to the City's Project Manager (named on the cover page of this Contract) a draft invoice with an attached detailed account of all charges to be claimed by the Contractor for the preceding month. The City's Project Manager shall review the draft, raise any concerns with the Contractor within ten working days and, after settlement of any issues (in the Project Manager's discretion), approve the draft invoice. The Contractor, if so requested, will meet with the City's Project Manager to expedite and settle the draft invoice. The Contractor will submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APInvoice@vancouver.ca. Each invoice must contain:
 - Contractor name, address and telephone;
 - City purchase order number;
 - Name of the City's Project Manager;
 - Invoice number and date;
 - Details of any applicable taxes; and
 - Tax registration number(s).
21. Builders Lien Act. If the Services to be performed under this Contract are subject to the holdback requirements set out in the *Builders Lien Act* (British Columbia) (the "Lien Act"), the City will withhold and discharge the required holdback amounts in accordance with the requirements set out in the Lien Act.
22. Discharge of Liens and Withholding. The Contractor will, if applicable, make payment and take all other steps which may be necessary so that no lien claims, including lien claims made under the Lien Act, are made in connection with the provision of the

Services, and that the compensation payable to the Contractor by the City is not subject to attachment for debt, garnishing process or otherwise. In the event that any lien is filed in connection with the provision of the Services at any court or land title office, the Contractor shall immediately cause such lien to be discharged. The City may withhold from any payment due to the Contractor an amount sufficient to indemnify the City against any lien claim that could arise in connection with the provision of the Services, until such time as the lien has been discharged or other arrangements to satisfy such lien have been made by the Contractor.

23. Withholding for Non-Residents. If the Contractor is a non-resident of Canada, the City may withhold from any payment due to the Contractor such amounts as may be required to be withheld pursuant to the applicable provisions of the Canada *Income Tax Act* (the "ITA"). Any amount so withheld shall be remitted to the Receiver General for Canada or otherwise dealt with by the City strictly in accordance with the provisions of the ITA.
24. Record Keeping. The Contractor must maintain, and shall cause any subcontractors to maintain, time records and books of account, invoices, receipts, and vouchers of all expenses incurred, in form and content satisfactory to the City. The City or any of its authorized representatives will, for the purposes of audit and examination, have access and be permitted, upon reasonable notice to the Contractor, to inspect such records for review, copy and audit at any time and from time to time while this Contract is in effect and for a period of three years after the expiry or termination of this Contract for any reason.
25. Currency. Unless otherwise specified in this Contract, all references to money are to Canadian dollars.
26. Electronic Funds Transfer. The City expects to make payments by electronic funds transfer and the Contractor must provide banking information to the City in order to permit this.

D. GENERAL

27. Time for Performance. Time is of the essence in this Contract.
28. Amendments. No modification of this Contract is effective unless it is in writing and signed by all the parties.
29. Entire Agreement. This Contract constitutes the entire agreement between the parties as to performance of the Services, and replaces and supersedes any other agreements, correspondence or other discussions between the parties, whether or not any of the foregoing have been reduced to writing.
30. Conflict. If there is a conflict between a provision of a schedule to this Contract and the terms and conditions of this Services Contract, the provision in the relevant schedule is inoperative to the extent of the conflict unless it states that it operates despite a conflicting provision of this Contract.
31. Severability. If any provision of this Contract is determined to be void or unenforceable, in whole or in part, it shall not be deemed to affect or impair the enforceability or validity of any other provision of this Contract, and any such void or unenforceable provision may be severed from this Contract without affecting the remainder of the Contract.
32. Termination. The City may terminate this Contract:
 - a. Upon failure of the Contractor to comply with this Contract, immediately on giving written notice of termination to the Contractor, or
 - b. For any other reason, on giving at least 10 days' written notice of termination to the Contractor.If the City terminates this Contract under paragraph b. above, the City must pay the Contractor that portion of the fees and expenses described in PART B which equals the portion of the Services that was competed to the City's satisfaction before termination. That payment discharges the City from all liability to the Contractor under this Contract. If the Contractor fails to comply with this Contract, the City may terminate it and pursue other remedies as well.
33. Binding Effect. This Contract shall be binding on the Contractor's successors and permitted assigns and shall enure to the benefit of any successors and assigns of the City.
34. Voluntary Agreement. The Contractor acknowledges and declares that it has carefully considered and understood the terms of this

Contract, that it has either consulted legal counsel or waived such right, and that it is executing this Contract voluntarily.

35. Further Assurances. The Contractor agrees that upon any reasonable request of the City, the Contractor will make, do, execute or cause to be made, done or executed all such other acts as may be required to more fully give effect to the terms and conditions hereof.
36. Headings. The headings used in the Parts and sections of this Contract are for convenience of reference only, and shall not operate to expand, modify or interpret the language therein.
37. Counterparts. This Contract may be executed in one or more counterparts, including by facsimile or other electronic transmission, and each of such counterparts shall be deemed to be taken together to constitute one and the same original document.
38. Additional Terms: The additional terms set out in Part E (or in any schedule referred to therein) apply to this Contract. **END OF TERMS AND CONDITIONS OF SERVICES CONTRACT**