

Invoice Summary

Colin Fenby
 City of Vancouver
 453 West 12th Ave
 Vancouver BC
 Canada V5Y 1V4

January 14, 2010
 Invoice No. 7222400
 Matter No. 421683.0002
 DUE UPON RECEIPT

PROFESSIONAL SERVICES

CAD

City of Vancouver - DVD Project 21,000.00

Total Before GST	21,000.00
GST @ 5%	1,050.00
Total Due this Period	CAD 22,050.00

SERVICES AGREEMENT

BETWEEN:

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

(the "City")

AND:

FTI CONSULTING CANADA ULC
dba FD ELEMENT
500-900 West Hastings Street
Vancouver, British Columbia
V6C 1E5

(the "Services Provider")

BACKGROUND:

- A. The City requires the "Service" described below, and desires to engage the Services Provider to perform the Services.
- B. The Services Provider has agreed to perform the Services in accordance with the terms and conditions in this Agreement.

PART A AGREEMENT DETAILS

1.0 PROJECT MANAGERS

- 1.1 The City's Project Manager for this Agreement is:

Colin Fenby
Assistant Director, Integrated Marketing and Communications
City of Vancouver
453 W 12th Ave
Vancouver, British Columbia
V5Y 1V4

Email: colin.fenby@vancouver.ca
Phone: 604-871-6106

1.2 The Services Provider's Project Manager for this Agreement is:

Mike Wilson
 Vice President
 FTI Consulting Canada ULC, dba FD element
 500-900 West Hastings Street
 Vancouver, BC V6C 1E5

Email: mike.wilson@fd.com
 Phone: 604-696-5574

2.0 SERVICES

The Services will consist of creating several presentations in video/DVD formats suitable to be used at events such as the UN Climate Change Conference COP15, namely the following "Deliverables":

- (a) **Task #1:** Shoot and edit of pro-Vancouver, upbeat video for Mayor Robertson to be shown at the Mayor's summit. This will include "Green Capital", but not as the exclusive focus.
- (b) **Task #2:** Shoot and edit a video of a specific business piece about "Green Capital". This involves an interview with Mayor Robertson on November 30th and specific information provided by the City.
- (c) **Task #3:** Create a sustainable brochure/DVD sleeve that will include the Green Capital logo, Mayor Robertson's picture and a short note.
- (d) **Task #4:** Produce 100 DVDs with three videos on each disk (two videos resulting from Tasks 1 and 2, and a third video created previously in the summer 2009).
- (e) **Task #5:** Provide a copy of both the finished and working files in high definition broadcast resolution, standard digital format.

3.0 DELIVERABLES/AGREEMENT PRICE

The following sets out the maximum fees for each Deliverable:

Deliverables	Maximum Fees for Deliverable (fixed dollar amount)
Task #1	\$7,500
Task #2	\$8,500
Tasks #3, 4 and #5	\$5,000
"Agreement Price" (Maximum Fees) excluding GST/PST	\$21,000

4.0 SERVICES SCHEDULE

The following Services Schedule will apply to the Services and Deliverables:

- (a) **Thursday, December 3rd:** Rough cut of videos ready for client review. City feedback due end of day Thursday.

- (b) **Friday, December 4th:** Fine cut for videos ready for client review. City feedback due end of day Friday.
- (c) **Monday, December 4th:** City feedback due on fine cut end of day Monday. Final cut completed and sent for DVD duping.
- (d) **Wednesday, December 9th:** DVDs packaged and delivered to City.
- (e) **Friday, December 18th:** Provide copies of the finished and working files to the City.

PART B SERVICES TERMS AND CONDITIONS

1.0 INTERPRETATION

1.1 Defined Terms

In this Agreement, the following words and phrases have the following meanings:

- (a) **“Agreement”** means this agreement as set out in Parts A and B, and any attachments, all as may be amended from time to time as contemplated hereby;
- (b) **“Agreement Price”** has the meaning set out in Part A, Section 3.0 and Part B, Section 2.1;
- (c) **“Business Day”** means any day other than a Saturday, Sunday or “holiday” as defined in the *Interpretation Act* (British Columbia);
- (d) **“City”** means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter;
- (e) **“City’s Personnel”** means the City’s officials, officers, employees, agents, licensees and invitees, and includes where the context permits, the Vancouver Police Board, Vancouver Public Library Board, Vancouver Board of Parks and Recreation, and all officials, officers, employees and other agents of each of the same;
- (f) **“City’s Project Manager”** means the City’s employee or representative (or any replacement or delegate of that person) who is authorized to deal with the Services Provider on behalf of the City in connection with the Services and to make decisions in connection with this Agreement, as identified in Part A, Section 1.0;
- (g) **“Deliverable”** means the Services deliverables specifically identified as such in Part A, Section 2.0;
- (h) **“Event of Force Majeure”** means acts of God, public enemy, wars, civil commotions, fires, floods, strikes or lockouts, freight embargos or power failures, provided that any such event is beyond the reasonable control of a party, does not arise from the neglect or default of a party, and results in a material delay or failure by a party in carrying out its obligations under this Agreement, but which does not mean or include any delay caused by a lack of funds or financial condition;
- (i) **“GST”** means the goods and services tax administered under the *Excise Tax Act* (Canada) and any successor tax or levy in force from time-to-time;
- (j) **“Losses”** means all:
 - (i) direct and indirect, as well as

- (ii) consequential,
- (iii) claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and expenses, interest, penalties and amounts paid in settlement, whether from a third person or otherwise);
- (k) “**Services Schedule**” means the schedule for delivery of the Services as set out in Part A, Section 4.0;
- (l) “**PST**” means the provincial sales tax administered under the *Social Services Tax Act* (British Columbia) and any successor tax or levy in force from time-to-time;
- (m) “**Services**” means the services described in Part A, Section 2.0;
- (n) “**Services Provider**” means FTI Consulting Canada ULC, a company incorporated pursuant to the *Business Corporations Act* (British Columbia) under #BC0837353;
- (o) “**Services Provider’s Personnel**” means the Services Provider’s partners, principals, directors, officials, officers, employees, agents, licensees, shareholders and invitees;
- (p) “**Services Provider’s Project Manager**” is the Services Provider’s employee or representative (or any replacement or delegate of that person) who is authorized to deal with the City on behalf of the Services Provider in connection with the Services and to make decisions in connection with this Agreement, as identified in Part A, Section 1.0;
- (q) “**WorkSafeBC**” means the Workers Compensation Board (British Columbia) an entity created pursuant to the *Workers Compensation Act* (British Columbia) and any reference to “**WorkSafeBC**” requirements includes a reference to that Act as well as all regulations and directives enacted or issued from time to time pursuant to that Act, all as amended or replaced from time to time.

1.2 Effective Date

This Agreement will take effect and become legally binding on the parties once it is signed and delivered by both the City and the Services Provider.

2.0 AGREEMENT PRICE AND PAYMENT

2.1 Agreement Price

This Agreement is a “fixed price” contract. Accordingly, despite any other term of this Agreement (except for Part B, Section 3.2), the maximum fees payable by the City to the Services Provider for the Services are the amounts set out in Section 3.0 of Part A.

2.2 Basis of Payment

In consideration of the Services performed by the Services Provider to the satisfaction of the City and in strict conformity with the terms of this Agreement, the City will pay the Services Provider the Agreement Price.

2.3 Expenses

All expenses incurred by the Services Provider in supplying the Services and Deliverables are included in the Services Provider's fees as the Agreement Price, and will not be reimbursed by the City.

2.4 Invoices

The Services Provider will submit invoices to the City's Project Manager after each of the Deliverables has been delivered. Each invoice will show separately the applicable amount of the GST. Attached to each invoice will be a brief report detailing the Services completed and the Deliverable(s) covered by the invoice.

2.5 Payment Conditional on Delivery

Despite anything to the contrary in this Agreement, the City will not be obligated to pay any fees allocated to a Deliverable until after such Deliverables has been delivered in accordance with the terms and conditions of this Agreement and accepted by the City's Project Manager.

2.6 Review of Invoice

If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning the Services Provider's invoice(s), for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided that the City will use reasonable efforts to have the review, audit or clarification resolved within a sixty (60) day period. The City will, if it approves the amount of such invoices, cause the respective invoices to be paid within thirty (30) calendar days of approval.

2.7 Taxes/Currency

The Agreement Price is expressed and payable in Canadian dollars and is exclusive of any applicable GST and PST.

3.0 SERVICES

3.1 Supply of Services

The Services Provider shall provide and be fully responsible for the Services as required by the Agreement.

3.2 Change in Services

Should the Services Provider consider that any request from the City's Project Manager to change the scope of Services or alteration of the Deliverables warrants amendment of the Agreement Price or Services Schedule, the Services Provider must advise the City in writing prior to acting on any such request, and in any event within three (3) Business Days of such request, otherwise such changes will be deemed to be included within the Agreement Price and be subject to the Services Schedule.

3.3 Quality of Service

The Services Provider represents and warrants that, it has the necessary skill, ability, experience, personnel and other resources to perform the Services, and that it will perform the Services:

- (a) with the degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to the Services;
- (b) in accordance with a standard of quality customary in the video editing and production industry for first class productions; and
- (c) in accordance with the requirements of this Agreement, and any requests or instructions of the City's Project Manager made/given pursuant hereto.

3.4 Service Provider's Personnel

The Services Provider will furnish all personnel required to perform the Services, and all such personnel will be competent and qualified to perform the Services.

3.5 Services Schedule

The Services Provider will commence the Services promptly and will carry out the Services in accordance with the Services Schedule.

4.0 APPROVAL OF CONTENT AND PRODUCTION

4.1 Content

The City shall have final approval over all content, media and formats used for the Deliverables. Any requested screen credits, and their location, are subject to the prior review and approval of the City prior to their inclusion in or on the Deliverables.

4.2 DVD Production

Before the Service Provider starts production of the DVDs, it must provide the final video productions to the City for its review and receive its approval.

5.0 OWNERSHIP AND COPYRIGHT

- 5.1 All Deliverables, including the videos, brochures and DVD sleeves, produced, or delivered by the Services Provider as a result of the Services will be the sole property of the City, which will have the right to use, exploit, exhibit and advertise the Deliverables for its own benefit in any way it sees fit, or to not use them.
- 5.2 The Services Provider will deliver the Deliverables to the City's Project Manager on the stipulated delivery dates, or at any earlier times when requested the City's Project Manager in the state that they are currently in.
- 5.3 The Services Provider hereby irrevocably transfers and assigns to the City all rights, title and interest in and to the Deliverables, present and future, vested and contingent, including worldwide copyright, and waives all moral rights in respect of the Deliverables. The Services Provider will obtain in writing, from the Services Provider's Personnel or from any other sources used to produce the Deliverables, all required assignments, licenses, waivers of moral rights, releases of interest and acknowledgements necessary to effectively make such transfer and assignment to the City and its rights to use and exploit the Deliverables.
- 5.4 The Services Provider represents and warrants that the Deliverables will not infringe any copyright or other intellectual property rights, or breach the privacy rights, of any person.

6.0 RELEASE AND INDEMNIFICATION

6.1 Release

The Services Provider 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 Services Provider or the Services Provider's Personnel in connection with their performance of the Services.

6.2 City Sites

The Services Provider represents that it is familiar with or has inspected those City's site(s) where any of the Services may be performed or carried out, accepts such site(s) "as-is", and undertakes to take all precautions necessary to ensure the safety of all the Services Provider's Personnel.

6.3 Indemnity

Despite any insurance which may be placed by the City, the Services Provider indemnifies and saves harmless the City and the City's Personnel from and against all Losses that the City and/or the City's Personnel may sustain, incur, suffer or be put to at any time either before or after the completion of the Services, that arise out of any act, or failure to act, of the Services Provider or the Services Provider's Personnel under this Agreement.

6.4 Separate from Other Remedies and Rights

Section 6.0 will not affect or prejudice the City from exercising any other rights that may be available to it at law.

6.5 Survival of Release/Indemnity

Section 6.0 will survive the completion of the Services or sooner cancellation of this Agreement.

7.0 WORKSAFE BC REQUIREMENTS

7.1 Maintain Coverage - General

The Services Provider will carry and pay for full WorkSafeBC coverage for itself and all the Services Provider's Personnel engaged within British Columbia in the performance of the Services, failing which the City has the unfettered right to set off and withhold the amount of any unpaid premiums, assessments and/or penalties for such WorkSafeBC coverage against any amounts owing by the City to the Services Provider pursuant to this Agreement, until all amounts payable to WorkSafeBC have been paid in full.

7.2 Provide Evidence of Coverage - General

On request, the Services Provider will provide the City's Project Manager with the Services Provider's WorkSafeBC registration number and a letter from WorkSafeBC confirming that the Services Provider is registered in good standing with WorkSafeBC and that all amounts owing to Work Safe BC have been paid to date, prior to the City having any obligation to pay any invoice under this Agreement. The Services Provider will indemnify the City and hold harmless the City from all manner of Losses arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged in the performance of the Services or arising out of or in any way related to the failure to observe the safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.

7.3 Special WorkSafeBC Requirements Where Services Are Provided on City of Vancouver Sites

Whenever the Services Provider is required or permitted to perform any Services on any City site(s), the Services Provider is now appointed and now accepts appointment as the Prime Contractor in connection with such Services.

8.0 CONFIDENTIALITY

The Services Provider shall treat as confidential all information received from the City, and shall not disclose it to any third party either during or after the performance of the Services, without the express prior written consent of the City's Project Manager.

9.0 NON-RESIDENT WITHHOLDING TAX

If the Services Provider is a "non-resident" as defined by the *Income Tax Act* (Canada), the City is obligated by law to withhold certain amounts from payments due to the Services Provider. The Services Provider will indemnify the City for any and all Losses incurred or suffered by the City as a result of the Services Provider's failure to disclose its non-resident status to the City.

10.0 CITY BUSINESS LICENCE

The Services Provider will conform to the City of Vancouver License By-law and maintain a valid Business License throughout the duration of this Agreement.

11.0 RESOLUTION OF DISPUTES

This Agreement will be governed by the laws of British Columbia and the parties attorn to the exclusive jurisdiction of, and agree to submit all disputes to, the courts of British Columbia for resolution.

12.0 INDEPENDENT CONTRACTOR

This Agreement is a contract for services, and the Services Provider and the Services Provider's Personnel are not partners, appointees, employees or agents of the City.

13.0 NO ASSIGNMENT OR SUBCONTRACTING

13.1 The Services Provider will not assign, either directly or indirectly, this Agreement or any rights under this Agreement, without the prior written consent of the City's Project Manager, which consent may be arbitrarily withheld.

13.2 The Services Provider will not assign or, sub- any part of the Services, unless the Services Provider has obtained the prior written consent of the City's Project Manager, which consent may be arbitrarily withheld. It is acknowledged that GVTV has been contracted by the Service Provider to undertake certain of the video shoots required for the Services.

14.0 NO PROMOTION

The Services Provider will not disclose or promote its relationship with the City, including by means of any verbal declarations or announcements and by means of any sales or marketing materials, or web sites without the prior written consent of the City's Project Manager (except as may be necessary for the Services Provider to perform the Services Provider's obligations under the terms of this Agreement). The Services Provider undertakes not to use the name, official emblem, mark, logo or mascot of the 2010 Games or the City, including without limitation, the use of "VANOC", "Vancouver 2010", "City of Vancouver", "Vancouver Police Board", "Vancouver Public Library", "Vancouver Park Board", "Vancouver Board of Parks and

Recreation", or any other reference or means of promotion or publicity to any of the foregoing, without the prior written consent of the City's Project Manager.

15.0 CONFLICT OF INTEREST/LOBBYIST REGISTRATION DISCLOSURE

- 15.1 The Services Provider represents and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Services Provider's organization (a "person having an interest"), or any spouse, business associate, friend or relative of a person having an interest, who is:
- (a) an elected official or employee of the City, or
 - (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration or this Agreement or the performance of the Services.
- 15.2 The Services Provider represents and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Services Provider's organization who is registered as a lobbyist under any lobbyist registration legislation in Canada,
- 15.3 If at any time prior to ninety (90) calendar days after completion of the Services any representation in Sections 15.1 or 15.2 ceases to be true, complete and accurate, the Services Provider will immediately notify the City's Project Manager.

16.0 NOTICES

Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party c/o its Project Manager at the respective address specified in Part A, Section 1.0, or to such other address as either party may specify in writing to the other. Any such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed then on the 3rd business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

17.0 TIME OF ESSENCE

Time will be of the essence of this Agreement.

18.0 FORCE MAJEURE

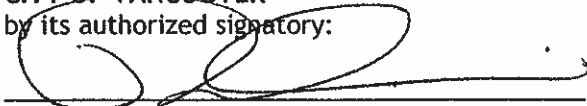
Notwithstanding anything to the contrary contained herein, if an Event of Force Majeure occurs or is likely to occur, the party whose performance is affected thereby will promptly notify the other party of the particulars of the relevant event or circumstances and, if reasonably possible, supply supporting evidence. The parties will use their reasonable best efforts to remove, curtail or contain the cause of the delay, interruption or failure (provided that the terms of settlement of any labour disturbance, dispute, strike or lockout will be wholly in the discretion of the party which is the employer affected) and to resume, with the least possible delay, their compliance with their respective duties, covenants and obligations under this Agreement. Neither the City nor the Services Provider will be liable to the other for any delay, interruption or failure in the performance of its duties, covenants or obligations hereunder if caused by an Event of Force Majeure, and the date limited for the performance of such duties, covenants or obligation hereunder will be postponed for a period equal to the delay occasioned by such an Event of Force Majeure, unless otherwise agreed in writing by the parties hereto.

19.0 LEGAL EFFECT/ENTIRE AGREEMENT

This Agreement is the entire agreement between the parties, and will benefit and bind each party and their successors and permitted assigns.

CITY OF VANCOUVER

by its authorized signatory:



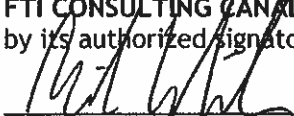
Robin Adair, General Manager,
Intergovernmental Relations & Strategic Relationships

Date

Dec 9 / 2009

FTI CONSULTING CANADA ULC

by its authorized signatory(ies):



Signature

Name

Mike Wilson

Title

Vice President

Date

December 8, 2009