

File No.: 04-1000-20-2018-456

August 29, 2018

s.22(1)

Dear s.22(1)

Re: Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")

I am responding to your request of August 27, 2018 for:

Copy of RFP No. PS07050 - Consulting Services for the Preliminary Engineering and Design for Phase Zero of the Downtown Streetcar Project.

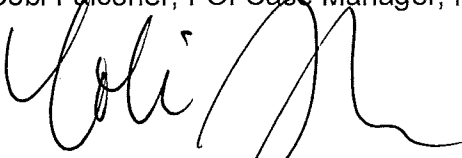
All responsive records are attached.

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2018-456); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

Cobi Falconer, FOI Case Manager, for

A handwritten signature in black ink, appearing to read 'Cobi Falconer', written over the printed name.

Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy

Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4

*If you have any questions, please email us at foi@vancouver.ca and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

:ag



REQUEST FOR PROPOSAL PS07050

CONSULTING SERVICES FOR PRELIMINARY ENGINEERING AND DESIGN
FOR PHASE ZERO OF THE DOWNTOWN STREETCAR PROJECT

Proposals will be received in the Courier Delivery Drop-off Office, 1st Floor, Vancouver City Hall, 453 West 12th Avenue, Vancouver, British Columbia, Canada, V5Y 1V4 prior to 3:00:00 P.M. City Hall Clock Time (as defined in Note 2 below), on Tuesday, April 3, 2007 (the "Closing Time") and registered at 11:00:00 A.M. Wednesday, April 4, 2007.

NOTES:

1. Proposals shall be in a sealed envelope or package marked with the Proponent's Name, the RFP Title and Number.
2. The Closing Time will be conclusively deemed to be the time shown on the clock used by the City for this purpose.
3. DO NOT SUBMIT BY FAX.

All queries related to this RFP shall be submitted
in writing to the attention of:

Linda Syvertsen C.P.P.B.
Contracting Specialist

FAX: 604-873-7057 E-MAIL: purchasing@vancouver.ca

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PART A - INTRODUCTION**

1.0 Overview

This Request for Proposal (“RFP”) identifies a business opportunity for those proponents who were pre-qualified through “Expression of Interest PS07003 Consulting Services for Preliminary Engineering and Design for Phase Zero of the Downtown Streetcar” to provide the City of Vancouver (the “City”) with consulting services as described in this RFP.

- 1.1 Only those proponents pre-qualified through EOI PS07003 are invited to submit Proposals. The City will consider Proposals that meet either all or part of the Requirements.
- 1.2 The purpose of this RFP is to assist the City in selecting a Proponent with the capability and experience to efficiently and cost-effectively provide the Requirements set out herein.
- 1.3 The City may utilize the information received via the Response Notification Forms (Appendix 1) to disseminate information concerning this RFP to prospective proponents.
- 1.4 Key dates to be noted are:

Event	Dates
Release of RFP	March 15, 2007
Deadline for Response Notification Form	March 23, 2007
Deadline for All Enquiries	March 28, 2007
RFP Closing	April 3, 2007
Proponent Presentations	April 11, 2007
Award of Contract	May 1, 2007
Completion of Project Deliverables	October, 2007

2.0 Introduction

- 2.1 The Downtown Streetcar Project is a key element of the City’s continuing transition to a transit-oriented city. A project update on the Downtown Streetcar Project was completed in 2006 including a staff report to Vancouver City Council on next steps and the results of four separate reports:
 - a benchmarking report on streetcar systems;
 - a tourist and recreational market research study;
 - a design and layout study (for Phase 1, Granville Island to Waterfront Station); and
 - a comparative review of streetcars and local buses.

The technical reports are available in PDF format on the City’s Downtown Streetcar Project website at: www.vancouver.ca/streetcar

- 2.2 The project update streetcar studies and related ridership, revenue, and cost estimate updates have been a valuable exercise. Vancouver City Council, staff, and the public

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will now have a much better understanding of the Downtown Streetcar Project in providing Vancouver with more sustainable transportation modes.

A copy of the project update as presented by staff to Vancouver City Council can be viewed at:

<http://www.vancouver.ca/ctyclerk/cclerk/20061005/documents/pe5.pdf>

- 2.3 As part of the Design, Layout, and Ridership Study (IBI Group with HDR, Ward, LTK, and VIA Architecture), alternative track alignment and station location options were examined for the Phase 1 route from Granville Island to Waterfront Station. Illustrative cross-sections, plans, and intersection treatments were prepared for each concept. Perspectives were produced to illustrate the streetcar and its relationship to the streetscape.
- 2.4 The alternatives were then evaluated with both qualitative and quantitative criteria so that a preferred solution can be recommended. Preliminary recommendations by the consultant team have been developed for each segment. In short, the preferred streetcar design concept is generally segregated from traffic from Granville Island to Pacific Boulevard, a combination of segregation and mixed on-street traffic on Columbia Street, and mixed with traffic east/west along Cordova Street and Water Street respectively.
- 2.5 The functional requirements of a streetcar operating and maintenance facility were also revisited. Similar to the Portland Streetcar experience, the preferred location for a maintenance facility is on City-owned land underneath a viaduct (Georgia viaduct just east of Quebec Street). The completed project update studies provided new information on which to have revised total daily and annual streetcar boarding forecasts. Based on boardings per revenue hour, the streetcar could possibly become the most productive local transit route in Vancouver.
- 2.6 Capital, operating costs, and revenue for the streetcar system were estimated in 2005 dollars. Capital costs include the track, overhead wiring, stations, design engineering and construction management, and contingency. They also include the cost for providing a new streetcar maintenance facility and vehicles including spares.
- 2.7 Annual operating and maintenance (O&M) costs were based on the most recent revenue per service hour costs of the Portland Streetcar. The preliminary financial picture for the Downtown Streetcar Project suggests a better than break-even operating scenario (i.e. 100%). This is a significant finding as the additional revenues beyond the annual O&M costs represent an annual revenue stream that could support the higher capital costs of implementing a streetcar system over a bus system.
- 2.8 The Phase 1 Downtown Streetcar system is intended to connect Granville Island to Waterfront Station, approximately 5 kms. However, the project update findings have identified a strategic opportunity to stage the implementation of the Downtown Streetcar in more manageable components beginning with a Phase "Zero" section from Granville Island to Science World, approximately 3 kms. A single track from Science World to the maintenance facility underneath the Georgia Viaduct would also be included but the size of maintenance facility could be smaller in scale for the Phase Zero section as there would be fewer vehicles required.
- 2.9 The Phase Zero section produces the highest ridership for the Downtown Streetcar as it would serve Granville Island (which has over 10 million visitors a year) and provide a

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direct connection to two regional rapid transit lines, both the Canada Line and Expo Line. Streetcar travel times between Science World and Granville Island would be less than 10 minutes and would be highly reliable as the entire Phase Zero section is in dedicated rights-of-way.

- 2.10 The capital cost for Phase 1 is approximately \$100 million and the capital cost for Phase Zero is approximately \$60 million (in 2005 dollars).

3.0 Background

- 3.1 The conceptual design work to date is has been extremely valuable. However, there are many compelling reasons outlined below to begin preliminary engineering and design for the Downtown Streetcar system for the Phase Zero section between Granville Island and Science World, including the maintenance facility. Pursuing preliminary engineering and design in 2007 also provides an opportunity to pursue a pre-Olympic streetcar showcase project between Granville Island and the Olympic Village Station by 2009.
- 3.2 Complete reconstruction of 1st Avenue will begin in the fall of 2007 and the existing Downtown Historic Railway ("DHR") track infrastructure and maintenance and storage barn will need to be removed. The work will take over a year to finish and includes:
- Installation of sewer, water, and the new energy precinct utility;
 - Re-grading the street to integrate with the private lands to the south;
 - Construction of the sidewalk and street infrastructure;
 - Public realm enhancements such as street trees and permeable pavers; and
 - Relocation of the DHR single track to the green centre median.
- 3.3 The current scope of work for 1st Avenue would have the single DHR track be reinstalled within the centre median for continued operation of the DHR to Science World for the spring of 2009. However, the scope of work for 1st Avenue does not include the installation of modern streetcar track infrastructure within the centre median.
- 3.4 Given the investment required to construct 1st Avenue, it is important to complete more detailed design for the modern Downtown Streetcar Project now. The centre median should be designed to accommodate future modern infrastructure so that existing and future construction costs and neighbourhood impacts are minimized, and that the track system meets the high quality of the planned streetscape design.
- 3.5 In addition, conducting preliminary engineering and design now could determine that the incremental cost of upgrading the DHR track infrastructure to modern track is marginal. If feasible and a source of funding is identified, this additional investment would eliminate a significant amount of reconstruction and impacts to Southeast False Creek residents in the future.
- 3.6 During this same period, the City and InTransit BC will be completing the Olympic Village station for the Canada Line, just west of Cambie Bridge. The remainder of the site where the station is located will be redeveloped following completion of the station. Conducting a detailed design of the Downtown Streetcar now would allow the dedication of streets, including dedicated tracks, to be included into the early stages of planning for this site.

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3.7 Granville Island is also keenly interested in the proposed Downtown Streetcar Project and is presently undertaking a comprehensive transportation planning study that will determine how to best address challenges with access, circulation and parking. They see the Downtown Streetcar Project as an important high-capacity transit solution and a key piece of transit infrastructure needed for their visitors, patrons, and employees, as well as Emily Carr students, faculty and staff.

4.0 Objectives

4.1 The objective of this RFP is to select a qualified and experienced Proponent to efficiently and cost-effectively undertake the Requirements.

5.0 Requirements

5.1 In support of the objective set out above, the City has identified specific requirements and scope of work within Schedule A of this RFP (the "Requirements"), to which the Proponent should respond in detail as part of its Proposal. The Requirements stated in this RFP are as envisioned by the City at the time of writing, but may change or be refined in the course of the evaluation and award process. Proponents should offer their solutions to the Requirements in the manner and format described in Part B-*Instructions to Proponents*, utilizing Part D - Proposal Form and the Schedules attached thereto.

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NOTE: The definitions set out in Attachment A - Legal Terms and Conditions of the Proposal Form (Part D) apply throughout this RFP, including this Part B of this RFP, except where otherwise expressly stipulated or the context otherwise requires.

1.0 Administrative Requirements

- 1.1 Please indicate whether or not you will be submitting a Proposal prior to the Closing Time by submitting the Response Notification Form (Appendix 1) by fax to (604) 873-7057 or e-mail to purchasing@vancouver.ca by the deadline set out in Appendix 1.
- 1.2 The Proponent is to submit its Proposal in accordance with instructions identified on the title page and as provided within this Part B - *Instructions to Proponents*.
- 1.3 It is the sole responsibility of the Proponent to check the City's website at <http://www.vancouver.ca/bid/bidopp/openbid.htm> regularly for amendments, addenda, and questions and answers related to this RFP.

2.0 Conduct of RFP - Inquiries and Clarifications

- 2.1 The City's Manager of Materials Management will have conduct of this RFP, and all communications are to be directed only to the contact person named on the title page.
- 2.2 It is the responsibility of the Proponent to thoroughly examine these documents and satisfy itself as to the full requirements of this RFP. Inquiries are to be in written form only, faxed to 604-873-7057 or e-mailed to purchasing@vancouver.ca to the attention of the contact person shown on the title page on or before the deadline date set out in Section 1.3 of Part A - *Introduction*. If required, an addendum will be issued to all pre-qualified proponents.

3.0 Contract Requirements

- 3.1 Where the head office of the successful Proponent is located within the City of Vancouver and/or where the successful Proponent is required to perform any work at a site located within the City of Vancouver, the successful Proponent is required to have a valid City of Vancouver business license prior to Contract execution.
- 3.2 The successful Proponent will be requested to enter into the Contract substantially in the form set out in Appendix 2 - *Form of Agreement*. The City reserves the right to make changes to the Form of Agreement that it determines are necessary in its sole and absolute discretion. Proponents should carefully review Appendix 2 - *Form of Agreement* and ensure that they can comply with all of its terms including the insurance, Workers Compensation Board provisions. Where the Proponent is proposing modifications to the Form of Agreement, the Proponent should attach a copy of the proposed contract language and indicate in the Proposal Form (Schedule C - Deviations and Variations) which clauses in the attached Form of Agreement and which clauses in the Proponent's form of contract apply to the Proponent's Proposal.
- 3.3 If any of the terms of this RFP (including the Form of Agreement) are unacceptable to the Proponent, the Proponent should identify such terms and provide suggested alternatives in Schedule C - Deviations and Variations. While the City is not obligated to accept any alternative, all suggested alternatives will be considered during the evaluation process, but may or may not be acceptable to the City.

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4.0 Pricing

- 4.1 Prices quoted are to be exclusive of GST and PST except where otherwise expressly requested.
- 4.2 Prices are to be quoted in Canadian currency.

5.0 Consortium Proposals

- 5.1 The City will consider a proposal from two or more persons or companies having no formal corporate links who wish to form a joint venture or consortium solely for the purpose of submitting a proposal in response to this RFP, provided they disclose the names of all members of the joint venture or consortium and all members sign the Proposal Form.
- 5.2 A single person or company is to be identified as the “Key Contact Person” on the Proposal Form (Part D), and be prepared to represent the consortium to the City. The Key Contact Person will serve as the primary contact and take overall responsibility for all communications with the City during the Proposal submission, evaluation, and any negotiation process.
- 5.3 Consortium Proposals are to include proposed contract language describing each consortium member’s roles and responsibilities and the proposed legal contract structure.
- 5.4 The City reserves the right to accept the consortium as proposed or choose to negotiate an Agreement with individual consortium members separately. Each component of the consortium proposal is to be priced out individually.

6.0 Submission of Proposal

- 6.1 Proponents are to submit **six (6) hard copies** of its Proposal in binders and one (1) electronic copy (pdf and/or Word formats) of its Proposal. Each hard copy will have each section tabbed and will include all accompanying schedules, appendices or addenda in each binder. All copies are to be submitted in one sealed envelope or package marked with the Proponent’s name and the RFP title and number, prior to the Closing Time to the location shown on the title page of this RFP.
- 6.2 Only the English language may be used in responding to this RFP.
- 6.3 Proposals received after the Closing Time or in locations other than the address indicated on the title page, may or may not be accepted and may or may not be returned. The City may or may not elect to extend the Closing Time.
- 6.4 Amendments to a Proposal are to be submitted in writing in a sealed envelope or package, marked with the Proponent’s name and the RFP title and number to the location shown on the title page prior to the Closing Time.
- 6.5 Proposals may be withdrawn at any time before or after the Closing Time and are to be withdrawn by written notice delivered to the attention of the contact person shown on the title page at the office of the Purchasing Department, 2nd Floor, City Hall, and signed by the authorized signatory for the Proponent.

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

7.0 Format of Proposal

7.1 Unnecessarily elaborate Proposals, beyond that sufficient to present a complete and effective response, are not required and unless specifically requested, the inclusion of corporate brochures and narratives are discouraged.

7.2 Proponent(s) are required to complete all forms included in this RFP attaching any additional appendices that may be required. Proposals should be arranged as follows:

Title Page: The title page will show the RFP title and number, Closing Time, Proponent name, address, telephone number and the name and title of the Proponent's contact person.

Table of Contents: Page numbers should be indicated.

Executive Summary: A short summary of the key features of the Proposal demonstrating the Proponent(s) understanding of the scope of the Requirements.

Proposal Form: The Proponent(s) will complete the Proposal Form and attached Attachment A - *Legal Terms and Conditions* included in this RFP in accordance with the instructions.

Schedules: The Proponent(s) will complete and provide the information within the respective schedules included in this RFP. If additional space is required to respond to the Requirements as outlined, then additional pages can be attached.

Alternate Solutions: Proponents may submit alternative solutions and will identify same as additional appendices within their Proposal.

Electronic Version: Submit one electronic version of the proposal (pdf and/or Word format).

8.0 Bid Security

8.1 No bid security is required, since no irrevocable binding legal offer is required in this RFP.

9.0 Conflict of Interest/Solicitation

9.1 Proponents are to ensure that any and all conflicts of interest or potential conflicts of interest and any and all collusion, or appearance of collusion is fully and properly disclosed in Section 6.0 of Attachment A - *Legal Terms and Conditions* of the Proposal Form.

9.2 Failure to disclose this information may result in the rejection of the Proposal, the associated entity's Proposal, and/or the immediate cancellation of any Contract should one be awarded in reliance on the information contained in the submitted Proposal.

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- 9.3 If any director, officer, employee, agent or other representative of a Proponent makes any representation or solicitation to any officer, employee, agent or elected official of the City with respect to the Proposal, whether before or after the submission of the Proposal, the City will automatically disqualify such Proponent.

10.0 Opening of Proposals

- 10.1 The City reserves the right to open all Proposals in a manner and at the time and place determined by the City. Dissemination of Proposal information will be as follows:
- a) Upon opening of the Proposals, the names of each Proponent will be announced.
 - b) Upon completion of Proposal evaluation, the salient features of each Proposal and the recommended Proposal will be summarized and publicly reported on to Vancouver City Council.

11.0 Evaluation of Proposals

- 11.1 Proposals will be evaluated on the basis of the overall best value to the City of Vancouver based on quality, service, cost and any other criteria set out in this RFP including, but not limited to:
- a) the Proponent's ability to meet the Requirements;
 - b) the Proponent's ability to deliver the Requirements when and where required;
 - c) value for money;
 - d) the Proponent's proposed project team and the skills, knowledge, and previous experience of each member of that team;
 - e) the proposed plan of approach and work schedule;
 - f) the quality of the Proposal, including any innovative concepts;
 - g) the proposed methodology for coordinating with City staff;
 - h) ability to comply with the City's insurance requirements;
 - i) the Proponent's business and technical reputation and capabilities; experience and where applicable, the experience of its personnel, financial stability; track record and references of current and former customers;
 - j) environmental responsibility demonstrated by the Proponent; and
 - k) any other criteria set out in the RFP or otherwise reasonably considered relevant by the City for the success of the project.
- 11.2 The City may elect to further short list proponents in stages as deemed necessary. Short listed proponents may be asked to provide additional information or details for clarification, which may include attending interviews, making a presentation, supplying

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sample drawings, performing demonstrations, and/or furnishing additional technical data.

- 11.3 Samples of items, when required, should be submitted within the time specified and must be supplied at no expense to the City. If not destroyed in testing, they will be returned at the Proponent's request and expense.
- 11.4 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. The Proponent may be asked to provide annual financial reports or a set of financial statements prepared by an accountant and covering the Proponent's last two (2) fiscal years.
- 11.5 The City may request that any or all sub-consultants of the Proponent undergo the same evaluation process.
- 11.6 Preference may be given to Proposals offering environmentally beneficial services and business practices.

12.0 Deviation from Requirements or Conditions

- 12.1 Any deviation from the Requirements or the conditions specified in this RFP should be clearly stated in the Proponent's Proposal within Schedule C - Deviations and Variations. The City will be the sole judge as to what constitutes an acceptable deviation. If no deviations are indicated in the Proponent's Proposal, the City will assume that the Proponent is proposing full compliance with the Requirements and conditions of this RFP.

13.0 Proposal Approval

- 13.1 Proposal approval is contingent on funds being approved and the Proposal being approved by Vancouver City Council. The successful Proponent and City may then proceed to settle, draft and sign the Contract.
- 13.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle and invite the Proponent to proceed with discussions to settle and sign the Contract.
- 13.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at anytime.

14.0 Quantities

- 14.1 The stated quantities are the City's best estimates of its Requirements and should not be relied on. Actual quantities may vary.

15.0 Brand Names

- 15.1 Unless otherwise stated, if, and wherever, the Requirements state a brand name, make, name of manufacturer, trade name, or vendor catalogue number, it is for the purpose of establishing a grade or quality of material only. It is not intended to rule out competition from equal brands or makes. If however, a product other than that

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specified is offered, it is the Proponent's responsibility to name such a product in its Proposal. Evidence of equality in the form of samples may be requested.

16.0 Alternates and/or Variations to Specifications

- 16.1 Except where stated otherwise herein, the Requirements describe what is considered necessary to meet the performance requirements of the COV and proponents should bid in accordance with such Requirements, or if the Proponent cannot meet the Requirements, the Proponent may offer an alternative which they believe to be the equivalent.
- 16.2 Proponents shall clearly indicate any variances from the Requirements or conditions no matter how slight. The attachment of descriptive literature from which variations may be gleaned will not be considered as a sufficient statement of variations.
- 16.3 If in addition to proposing goods and/or services which meet the Requirements, the Proponent wishes to offer an alternative, the alternative solution is to be submitted separately as an appendix within the Proposal, and clearly marked as an alternative.
- 16.4 The City will, during its evaluation process determine what constitutes allowable or acceptable variations or alternatives.

17.0 Environmental Responsibility

- 17.1 The City is committed to preserving the environment. Proponents should provide for environmentally sensitive products or services wherever possible. Where there is a requirement that the Proponent supplies materials, and where such materials may cause adverse effects, the Proponent shall indicate the nature of the hazard in its Proposal.
- 17.2 The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate the effects of any adverse conditions on the environment.

18.0 Freedom of Information and Protection of Privacy Act

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

19.0 Confidentiality

- 19.1 Proponents should note that upon submitting their Proposal Form, they will be legally bound to certain confidentiality obligations not to disclose any City information without City's prior written consent.
- 19.2 This RFP is the property of the City. Except for the purpose of submitting a Proposal, copies may not be made or distributed without the prior written approval of the City's Manager of Materials Management.

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20.0 Advertising

20.1 The approval of any Proposal and the signing of a Contract does not allow a Proponent to advertise or promote its relationship with the City in any way without the City's prior written authorization.

21.0 Special Conditions

21.1 Proponent(s) should note that if Part C - Special Conditions of this RFP conflict with Parts A and B of this RFP, the Special Conditions will govern over Parts A and B.

22.0 Non-resident Withholding Tax

22.1 Please note that the *Income Tax Act* (Canada) requires that payments to non-residents for any services performed in Canada are subject to a non-resident withholding tax of a specified percentage (depending on residency of the Consultant). Exemption from this withholding tax is available in some circumstances, but the non-resident must apply directly to the Canada Revenue Agency at least 30 days before commencing the service.

23.0 Legal Terms and Conditions

23.1 No part of Part A - Introduction, this Part B - Instructions to Proponents, nor Part C - Special Conditions will be legally binding on the City or Proponent. All legal terms and conditions of the process contemplated by this RFP are contained in Part D - Proposal Form, including without limitation, Attachment A- *Legal Terms and Conditions*.

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PART C - SPECIAL CONDITIONS

1.0 Presentations

- 1.1 Proponents will be invited to make presentations on their Proposals on Wednesday, April 11, 2007. Each Proponent will be allotted 45 minutes for its presentation (5 minutes for introductions, 20 minutes for the presentation and 20 minutes for questions from City staff). Appointment times and some preliminary questions will be sent to proponents in advance of this date. At the presentation, City staff may ask additional questions which were not sent in advance to the proponents.
- 1.2 For the purposes of attending the presentation, teams will be limited to the proposed project manager (required) and 2 or 3 other key members.

2.0 Insurance Requirements

- 2.1 Proponents should review the insurance requirements for the Contract set out in Appendix A of Appendix 2 - *Form of Agreement*.
- 2.2 Proponents are to submit with their Proposals a Certificate of Existing Insurance in the form set out in Appendix 3 as evidence of their existing insurance coverage.

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PART D - PROPOSAL FORM

Proponent(s) Name: _____
"Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

To the City of Vancouver Materials Management Department,

The Proponent(s), having carefully examined and read the RFP, including Appendix 2 - Form of Agreement, now submits the following Proposal:

1.0 Required Documents

If the documents listed below do not accompany the Proposal at the time of opening, the Proposal may or may not be put aside and given no further consideration.

Description	Required	Received
Certificate of Existing Insurance (as per Part C - Special Conditions, Section 2.2)	Yes	

To be Initialled at Proposal Opening:

Manager, Materials Management or designate

Witness

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PART D - PROPOSAL FORM

2.0 Compliance

By initialling each item, the Proponent acknowledges it has read and understands the Requirements, has submitted the required addenda, has identified deviations or alternatives, and provided an explanation of where it does not comply with the Requirements. If additional space is required, detail deviations and/or suggested amendments in Schedule C - Deviations and Variations.

Section Title	Understand, Will Comply	Does Not Comply	Variations, Alternatives or Explanation for Non-Compliance
<u>Part B</u> Instructions to Proponents			
<u>Part C</u> Special Conditions			
<u>Part D</u> Proposal Form			
<u>Proposal Form - Attachment A - Legal Terms and Conditions</u>			

3.0 Required Proposal Documents

By initialling each item, the Proponent confirms it has completed and enclosed the following Schedules and any required addenda in its Proposal and has identified any deviations or items of non-compliance providing an explanation of where it does not comply.

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>Proposal Form, Attachment A, Legal Terms and Conditions</u>		
<u>Schedule A</u> Requirements		
<u>Schedule B</u> Pricing		
<u>Schedule C</u> Deviations and Variations		
<u>Schedule D</u> Sub-Consultants		

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4.0 Proponent's Declaration and Acknowledgment

4.1 The undersigned Proponent confirms that it has read and agreed to the Legal Terms and Conditions attached as Attachment A and agrees to be bound by the same.

IN WITNESS TO THE ABOVE, the Proponent has executed this Proposal Form and submits same with the attached Schedules:

Print Full Legal Name of Proponent

Per: _____
Authorized Signatory for the Proponent

Date

Name and Title (*please print*)

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PROPOSAL FORM - ATTACHMENT A - LEGAL TERMS AND CONDITIONS

1.0 LEGAL TERMS AND CONDITIONS OF PROPOSAL PROCESS:

1.1 Application of These Terms and Conditions

These legal terms and conditions set out the City's and Proponent's/Sub-Consultants' legal rights and obligations only with respect to the RFP process. In no event will the legal terms and conditions of this Attachment A apply to the Contract formed between the City and the Consultant following the signing of the Contract (if any).

1.2 Definitions

In this Attachment A, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the *Vancouver Charter*.
- (b) "Consultant" means a party with whom the City enters into a Contract.
- (c) "Contract" means the legal agreement, anticipated to be formed between the City and the successful Proponent separate from the contract formed by this RFP and this Attachment A - *Legal Terms and Conditions*.
- (d) "Proposal" means the package of documents, consisting of this Proposal Form as well as all Schedules, once completed and submitted to the City by the Proponent, and "proposal" means any proposal submitted by any other proponent, excluding or including the Proponent, depending on the context.
- (e) "Proponent" means the legal entity(ies) who has (have) signed and delivered this Proposal Form, and "proponent" means any proponent responding to this RFP, excluding or including the Proponent, depending on the context.
- (f) "Losses" means in respect of any matter all
 - (i) direct or indirect, as well as
 - (ii) 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).
- (g) "RFP" means the documents issued by the City as Request for Proposal No. PS07050 including all addenda.
- (h) "Sub-Consultants" includes any or all third parties listed in Schedule D of this Proposal Form.

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2.0 GENERAL TERMS AND CONDITIONS OF PROPOSAL PROCESS

2.1 No Legal Obligation Assumed by City

Despite any other term of this Proposal Form (except only (where applicable) Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*), the City assumes no legal duty or obligation in respect of this RFP unless and until the City enters into a Contract. This RFP process is at all times contingent on funds being approved by the Vancouver City Council and a Contract being signed by the City.

2.2 Legal Rights and Obligations Suspended

Despite any other term of this Proposal Form (except only (where applicable) Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*), the City and Proponent agree that all of their respective rights and obligations at law and in equity, in contract and in tort, in all matters relating to the RFP and this Proposal will be absolutely and unconditionally subject to Section 4.0 - *Protection of City Against Lawsuits*, and the following:

(a) No Duty

The City has no legally enforceable duty or obligation to the Proponent unless and until the City signs a Contract.

(b) Proponent's Risk

The Proponent acknowledges that the City is a public body required by law to act in the public interest. Accordingly, in no event does the City owe to the Proponent (as opposed to the public):

- (i) a contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process; or
- (ii) any contract or tort law duty to preserve the integrity of the RFP process,

and the Proponent now waives and releases the City from all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

(c) Proponent's Cost

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.

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3.0 EVALUATION OF PROPOSALS

3.1 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.

3.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP process at all times except only as otherwise stipulated in any Contract. Accordingly, the City is not legally obligated to review, consider or evaluate the Proposals and need not necessarily review, consider or evaluate the Proposals in accordance with the procedures set out in this RFP and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation process on any or all Proposals at any time without further explanation or notification to any of the proponents subject only to the express legal terms and conditions which bind the City, which terms and conditions are expressly limited to those set out in Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*.

3.3 Discussions/Negotiations

The City may, at any time prior to or after signing a Contract, discuss/negotiate changes to the scope of the RFP, or any of the terms or conditions of the RFP 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 discussions or negotiations with other proponents or changes to the RFP, and, without limiting the general scope of Section 4.0 - *Protection of City Against Lawsuits*, and by way of example only, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

4.0 PROTECTION OF CITY AGAINST LAWSUITS

4.1 Release

Except only and to the extent that the City is in breach of the Contract, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*, the Proponent now releases the City from all liability for any Losses in respect of:

- (a) any alleged (or judicially imposed) breach by the City of the RFP (it being acknowledged and 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 occurring in the course of conducting this RFP process;
- (c) the Proponent preparing and submitting its Proposal;

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- (d) the City accepting or rejecting its Proposal or any other submission;
- (e) the manner in which the City:
 - (i) reviews, considers, evaluates or negotiates any Proposal,
 - (ii) deals with or fails to deal with any Proposal or Proposals, or
 - (iii) decides to enter into a Contract or not enter into any Contract;
- (f) the Proponent, if any, with whom the City enters a Contract.

4.2 Indemnity

Except only and to the extent that the City breaches the Contract, Section - 5.2 - *Proponent's Submission Confidential* or Section 5.5 - *Declaration of Confidentiality*, the Proponent now indemnifies and will protect and save the City harmless from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its Sub-Consultants or agents alleging or pleading

- (a) any alleged (or judicially imposed) 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 this RFP process, or
- (c) liability on any other basis related to this RFP or the Proposal process.

4.3 Limitation

In the event that, with respect to anything relating to this RFP (except only and to the extent that the City breaches the Contract, Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*), the City or its officials, officers, agents or employees are found to have breached any duty or obligation of any kind to the Proponent or its Sub-Consultants or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its Sub-Consultants or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

4.4 Dispute Resolution

Any dispute relating in any manner to this RFP or the Proposal process (except only and to the extent that the City breaches the Contract, Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*), 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 Manager - Materials Management.
- (b) This Section 4.0 - *Protection of the City from Lawsuits* will:

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- (i) bind the City, Proponent and the arbitrator; and
- (ii) survive any and all awards made by the arbitrator.
- (c) The Proponent will bear all costs of the arbitration.

5.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

5.1 Proposal Documents Remain/Proposal Becomes - City's Property

- (a) All RFP packages and addenda provided to the Proponent by the City remain the property of the City and must be returned to the City upon request.
- (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.

5.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the City's full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to the Vancouver City Council on the Proposal results or announcing the results of the Proposals to the proponent, the City will treat all material and information expressly submitted by the Proponent (and the City's evaluation of it) in confidence in substantially the same manner as it treats its own confidential material and information.

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 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.

5.3 All City Data/Information is Confidential

The Proponent will not divulge or disclose to any third parties any information concerning the affairs of the City which may be communicated to the Proponent at any time (whether before or after the closing date and time of this RFP process). Recognizing the need for confidentiality of the City's data, files and other confidential information, the Proponent will not use, exploit or divulge or disclose to third parties any confidential or proprietary information of the City of which the Proponent may gain knowledge in connection with or in the course of discussions or negotiations with the City.

All material and information that has or will come into the Proponent's possession or knowledge in connection with this RFP process is confidential and may not be disclosed or utilized in any way except in accordance with the Instructions to Proponents and this Proposal Form.

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5.4 Disclosure Requires Prior Consent

The Proponent may not divulge any information respecting the Proposal process to any third party without the prior written consent of the City, which consent may be arbitrarily withheld unless it is information which the City has already made public or has been required to disclose pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

5.5 Declaration of Confidentiality

The Proponent now declares and agrees that, except for the information disclosed by the City in the course of publicly reporting to the Vancouver City Council or any public proposal opening:

- (a) the information supplied by the Proponent in response to the RFP is expressly provided in strict confidence;
- (b) any records made of the evaluation of this Proposal and all other submissions will be the property of, and private to, the City and will not be disclosed to the Proponent nor anyone else;
- (c) the disclosure of the information in items (a) and (b) above to anyone outside of the City's staff would reveal the Proponent's trade secrets or proprietary commercial information concerning its private business affairs; and
- (d) the disclosure of the information in items (a) and (b) above, could reasonably be expected to harm the Proponent's competitive position, harm the City's ability to engage in competitive procurement of goods and services, and result in undue financial loss to the Proponent and/or the City.

6.0 DECLARATION - NO CONFLICT OF INTEREST / NO COLLUSION

6.1 Declaration as to Conflict of Interest

The Proponent now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Proponent's or Sub-Consultant's organizations (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 any elected official or employee of the City, such that there would be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of this Proposal by the City, except as set out below:

[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any or all relationships which might give rise to a conflict of interest or an appearance of a conflict of interest].

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6.2 Declaration as to Collusion

The Proponent now confirms and warrants that

- (a) the Proponent has no affiliation, whether legal or financial, with any other entity which is in the business of providing the same type of goods or services which are the subject of this RFP; and
- (b) the Proponent is not competing within this RFP process with any entity which it is legally or financially associated or affiliated, except as set out below:

[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any and all affiliations or relationships which might give rise to collusion or an appearance of collusion].

7.0 NO PROMOTION OF RELATIONSHIP

The Proponent 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, marketing or other literature, letters, client lists, press releases, brochures or other written materials without the express prior written consent of the City (except as may be necessary for the Proponent to perform the Proponent's obligations under the terms of this Attachment A). The Proponent undertakes not to use "VANOC", "Vancouver 2010", the official emblem, logo or mascot of the 2010 Games or any reference or means of promotion or publicity, without the express prior written consent of the City. Furthermore, the Proponent undertakes not to disclose or promote its relationship with the City in any communication or manner whatsoever as a basis to create an association, express or implied, between the Proponent and the IOC, the Olympics or the Olympic Movement.

8.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT

All of the terms of this Attachment A to this Proposal Form which by their nature require performance or fulfilment following the conclusion of the RFP process will survive such process and will remain legally enforceable by and against the Proponent and City.

AS EVIDENCE OF THE PROPONENT'S INTENT TO BE LEGALLY BOUND BY THIS ATTACHMENT A, THE PROPONENT HAS EXECUTED AND DELIVERED THIS ATTACHMENT A AS AN INTEGRAL PART OF THIS PROPOSAL FORM IN THE MANNER AND SPACE SET OUT ABOVE.

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SCHEDULE A - REQUIREMENTS

This Schedule identifies the Requirements to which the City is seeking a solution or a response. Proponents are to address, but are not limited in their response to, the respective issue(s). Proponents may submit their solution or response on a separate sheet. However, the same number sequence is to be used.

1.0 Scope of Work

1.1 In October 2006, Vancouver City Council approved continuing the Downtown Streetcar Project by completing more detailed design for the Phase Zero section between Granville Island and Science World, including a maintenance facility. Accordingly, the City wishes to retain a consulting team to provide preliminary engineering design services in respect of Phase Zero. The City's budget for this work is limited at this point (See Section 4.1 for a discussion of the current available budget) therefore the City would like the Consultant to focus its preliminary engineering designs at this stage on addressing the specific project components and issues set out in items (a) to (p) below. The issues set out in (a) to (l) are those issues which were included in EOI PS07003. Since the issuance of EOI PS07003, the City has developed additional issues which the preliminary engineering designs should also address and which will assist in decisions regarding increasing scope and funding for the project. These additional issues are set out in (m) to (p) below.

- (a) How could the City minimize its construction costs for delivering the Downtown Streetcar system as part of the overall reconstruction plans along Phase Zero?
- (b) What additional streetcar infrastructure is recommended to be implemented now to minimize community impacts if overall project funding is not yet determined?
- (c) How do we design the dedicated tracks to accommodate both the DHR in the short term and modern streetcars in the future? Can we eliminate repeated plan/profile approvals through the BC Safety Authority? Are we limited to only certain types of heritage or modern vehicles?
- (d) How would we best design stations without knowing the type of vehicles that would be procured? What platform height is recommended to maximize accessibility and loading times?
- (e) What are the costs, operational, and public realm impacts of installing a centre OCS pole system vs. a span wire system with joint use of street or traffic light poles?
- (f) What type of green infrastructure options are recommended for the dedicated streetcar tracks that have positive aesthetic characteristics and also assist with storm water management?
- (g) What are the maintenance and operating costs of green streetcar tracks? How can the green tracks be designed to structurally accommodate fire trucks?
- (h) What are the utility impacts related to constructing the Downtown Streetcar on top and/or adjacent to existing wet or dry City, GVRD, and private utilities?

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- (i) What are the cost advantages and operational constraints of starting with a single track system with passing tracks at stations? Will travel time, travel reliability, or ridership be affected?
- (j) Is it feasible to operate a demonstration line between Granville Island and the Olympic Village Canada Line station for the 2010 Olympic and Paralympic Winter Games? What would be the maintenance plan?
- (k) What design solutions are available for running dedicated northbound streetcars on Quebec Street adjacent to opposing southbound vehicles and across east/west streets and/or driveways?
- (l) How do we minimize the number of substations and what are some possible design solutions and locations to integrate them within existing or future buildings?
- (m) What is the minimum amount of modern streetcar infrastructure recommended to be included for the already scheduled 1st Avenue reconstruction from Wylie Street to Quebec Street? Will it be best to include the same modern streetcar infrastructure for the balance of the Southeast False Creek development on Quebec Street as well as the Olympic Village street construction when these designs are completed?
- (n) How much additional future cost savings would be achieved if all of the required modern streetcar infrastructure were constructed and included in the already scheduled 1st Avenue reconstruction and how much funding would be required?
- (o) What is the minimum amount of modern streetcar infrastructure required to upgrade the current DHR single track system from Granville Island to the Olympic Village Canada Line station? Is it worth the savings to minimize the infrastructure or is it best to build out based on the assumption that this demonstration line will become part of the overall Phase Zero system after the 2010 Winter Games?
- (p) What future cost savings are achieved and what risks are avoided if a full funding decision to build and operate the Phase Zero system after the 2010 Winter Games is made in the near future and construction opportunities that exist are optimized to include the modern streetcar infrastructure?

2.0 Resources Available to Consultant

- 2.1 In addition to the project update studies available on the Downtown Streetcar website, the following background documents relevant to the scope of work are included on the attached CD:
 - (a) A recent Downtown Streetcar backgrounder (February 2007) by the City of Vancouver highlighting the project update findings, its sustainable transportation benefits, and implementation strategy;
 - (b) Recent Granville Island Transportation Planning Study working papers and summaries completed for CHMC by Bunt & Associates Engineering;
 - (c) Conceptual preferred geometric alignment by the City of Vancouver in AutoCAD including stations for Phase Zero from Granville Island to Science World and to the maintenance facility; and

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- (d) 95% reconstruction drawings for 1st Avenue in Southeast False Creek by Stantec Consultants from Wylie Street to Quebec Street including utilities and streetscape design.
- 2.2 The construction drawings for 1st Avenue are currently being completed by Stantec Consultants as a consultant to the Southeast False Creek and Olympic Village Project Office and are expected to include a baseline design for re-establishing the DHR in a single track within the new centre median. It is expected that these baseline designs will make recommendations with respect to reintroducing an operational DHR system for the spring of 2009 including:
- (a) a preferred OCS system for the DHR (span wire vs. centre poles in median);
 - (b) an adequate sub-structure for the median to support the DHR single track as well as encroachment by fire trucks or other emergency or goods movement vehicles;
 - (c) a detailed design for “greening” the median with the DHR considering long-term maintenance implications and integration with the proposed infiltration gallery; and
 - (d) a preliminary cost estimate for re-establishing the DHR single track system.

The baseline design and cost estimate by Stantec Consultants for re-establishing the DHR in Southeast False Creek is expected to be completed by the time a preferred proponent is selected under this RFP. This baseline DHR design will be made available to the Consultant for its use in developing the preliminary engineering designs for Phase Zero of the Downtown Streetcar Project and addressing the project components and issues to be resolved as noted in Section 1.1 above. It is expected that the Southeast False Creek and Olympic Village Project Office will facilitate the transfer of information on the completed 1st Avenue reconstruction and baseline DHR designs between Stantec and the Consultant at the beginning of the project.

3.0 Requirements for Consultant Team

The City is seeking a consultant team with the following expertise and experience:

- (a) Urban light rail/streetcar transit systems engineering design, construction, project management and cost estimation for essential project elements including track infrastructure, signals, stations, communication and train control systems, traction power, electrification, and maintenance facilities;
- (b) General civil engineering for streets, drainage, utilities, storm water management;
- (c) Traffic management including traffic signal design and transit priority infrastructure;
- (d) Local knowledge and experience in transportation engineering and design solutions; and
- (e) General light rail/streetcar transit systems and planning support for any necessary project updates such as ridership forecasting and integration with the regional transit system.

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4.0 Project Budget, Deliverables and Timing

- 4.1 Vancouver City Council has approved a budget of \$300,000 for this stage of the preliminary engineering and design for Phase Zero of the Downtown Streetcar Project. At this stage, the key deliverables will be to provide revised cost estimates and civil design plans (plan and profile drawings, typical sections, etc.) of sufficient detail to make project-funding decisions based on the current construction timelines and which address the higher priority engineering and design issues set out in Section 1.1. Clarification as to what percent level plans and drawings will be completed by section should be included.
- 4.2 To completely finalize a preliminary engineering and design for the entire Phase Zero of the Downtown Streetcar Project additional funding will be required which will be subject to further Vancouver City Council approval. Therefore, proponents are requested to include in their proposal how they will demonstrate strong project management and strategic thinking to optimize the budget that is currently available.
- 4.3 The Consultant will be required to complete and deliver the deliverables to the City by October 2007 (beginning of 1st Avenue reconstruction).
- 4.4 Proponents are encouraged to provide as much detail as possible on how they will allocate and maximize the available budget by team member and task. For example, while urban design is an important overall component of the Downtown Streetcar Project, it is envisioned that streetcar civil design will comprise the majority of the team's effort. However, it will be important to know how and when urban design expertise is needed and managed throughout the project. Design work on project elements such as vehicle selection can be minimized at this stage however proponents should provide a strategic timeline on issues relating to vehicle procurement which accommodates the delivery of vehicles as early as late 2009.
- 4.5 Availability of staff for the duration of the project is also important given the need to complete the noted project deliverables by October, 2007. Proponents should highlight which staff it will commit to the project including the percentage of their time that will be allocated to this project for the 6 month period between May and October 2007.
- 4.6 Proponent teams should not need to allocate any budget toward public consultation process (open houses, display boards, etc.) as this will be coordinated and funded by the City. However, proponents should include some availability of their project manager and relevant staff for key stakeholder meetings with Granville Island, False Creek South, Southeast False Creek, and Science World.
- 4.7 Subject to Vancouver City Council approval, it is possible that during the term of the Contract the scope of work will be expanded to include the additional preliminary engineering and design services described in (a) and (b) below. Proponents should provide cost estimates, a description of their work, and timelines for the following potential increases in scope and indicate how their work plan proposed under the current available budget would integrate with such future work:
- (a) Completion of preliminary engineering and design for all of Phase Zero (from October 2007 until any remaining Phase Zero work is completed); and
 - (b) Completion of preliminary engineering and design for all of Phase One (from completion of all Phase Zero work until Phase One is completed).

Proponents should provide the City with enough information to enable the City to evaluate how their designs and work plan under the current available budget would

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integrate with such potential future work but this aspect of their Proposal does not need to be particularly detailed since further funding has not been approved by Vancouver City Council.

5.0 Work Program, Roles and Responsibilities

5.1 In the Proposal, the Proponent should provide the following:

- (a) A breakdown of the sub-tasks necessary to complete each of the deliverables and a detailed plan of approach and description of the services proposed;
- (b) A work schedule outlining milestones for completion of each sub-task and each deliverable as well as dates for all meetings, workshops, and consultations referred to in the Proponent's proposal. The work schedule should incorporate at least a two week review time for City staff to provide comments on draft versions of all deliverables;
- (c) A description of the methods to be employed to perform and co-ordinate the work and to control the scope, quality, schedule, and cost of the project; and
- (d) A clear and thorough description of all assumptions made in addition to but not in lieu of those set out in Section 5.2 below.

5.2 Proponents should articulate all assumptions underlying their Proposal in terms of the amount of project management and other project resources that the Proponent would require from the City's project manager or other City staff in the performance of their services pursuant to their Proposal, including the following:

- (a) a detailed list of all activities that the City is expected to undertake; and
- (b) a detailed list of all data and information required from the City to undertake the scope of services.

6.0 Key Personnel

6.1 Identify and provide resumes for the key personnel in the Proponent's proposed project team (including employees and Sub-Consultants, as applicable) and outline what their roles and percent time availability will be in servicing this project.

6.2 Provide a list of at least three (3) relevant and successfully completed projects with references and telephone numbers for each key personnel. By submitting a Proposal, the Proponent consents to the City contacting these references at its discretion, and consents to the City also contacting any other organization for the purposes of evaluating the Proposal.

6.3 Include an organization chart for the Proponent's proposed project team, identifying the team leader or project manager, and all roles and areas of responsibility.

REQUEST FOR PROPOSAL NO. PS07050
CONSULTING SERVICES FOR PRELIMINARY ENGINEERING AND DESIGN
FOR PHASE ZERO OF THE DOWNTOWN STREETCAR PROJECT
SCHEDULE A - REQUIREMENTS

7.0 Value Added Services

- 7.1 Within its response to the requirements of this Schedule A, the Proponent has the opportunity to offer and describe any value added services, products or items not specifically asked for and detail as to what the Proponent is prepared to supply as part of the Contract. Unless, otherwise stated, it is understood that there will be no extra costs for these services however if there are any additional costs pertaining hereto, the summary and explanation of those costs should be appended to Schedule B - *Pricing*.

REQUEST FOR PROPOSAL NO. PS07050
CONSULTING SERVICES FOR PRELIMINARY ENGINEERING AND DESIGN
FOR PHASE ZERO OF THE DOWNTOWN STREETCAR PROJECT
SCHEDULE B - PRICING

1.0 Instructions

- 1.1 All amounts are to be quoted in Canadian dollars.
- 1.2 Proponents should not include Goods and Services Tax and Provincial Sales Taxes in their allocation of the Fixed Budget (defined below).

2.0 Budget Allocation

As described in Schedule A - *Requirements*, Vancouver City Council has approved a budget of \$300,000 (the "Fixed Budget") for this stage of the preliminary engineering and design for Phase Zero of the Downtown Streetcar Project. Proponents should provide the City with as much information as possible about how they propose to utilize the Fixed Budget if selected to enter into a Contract with the City.

At a minimum, proponents should provide the following information in their Proposal:

- (a) a description of how they propose to allocate the Fixed Budget between the various design components according to the categories of expertise set out in Section 3.0 Schedule A - *Requirements*;
- (b) the hourly charge out rates for each of the team members assigned to the project;
- (c) a breakdown of the Fixed Budget into the cost of providing the key deliverables based on the number of hours required to complete each deliverable multiplied by the respective hourly charge out rates;
- (d) a description of all costs attributable to Sub-Consultants; and
- (e) a description of the various categories of disbursements (i.e. travel expenses, long distance, reproduction of drawings etc.) and the maximum amount that the Proponent proposes to allocate to each category of disbursement.

3.0 Scope Changes

The City may wish to have the Consultant undertake additional design services if Vancouver City Council approves additional funding for preliminary engineering and design above the Fixed Budget. Proponents should provide a description of the hourly charge out rates and disbursement rates that will apply to such additional work.

4.0 Future Stages

As noted in Section 4.7 of Schedule A - *Requirements*, proponents should provide cost estimates to complete the preliminary engineering and design work for each of the stages noted in Section 4.7(a) and (b). Where possible proponents should provide the types of information requested in Section 2.0 above as applicable to such future stages. The City is not requesting fixed price estimates at this point however the City will consider the cost estimates for such work in the evaluation of the Proposals under this RFP.

REQUEST FOR PROPOSAL NO. PS07050
CONSULTING SERVICES FOR PRELIMINARY ENGINEERING AND DESIGN
FOR PHASE ZERO OF THE DOWNTOWN STREETCAR PROJECT
SCHEDULE C - DEVIATIONS AND VARIATIONS

Proponent(s) shall use this Schedule to detail any deviations and/or variations from the terms and conditions set out in this RFP and if applicable, detail proposed amendments.

Where the Proponent is proposing the use of contract language or clauses other than those set out in the Form of Agreement attached as Appendix 2, such clauses should be attached to this Schedule C. The City will assume such clauses are in addition to those set out in Appendix 2 - *Form of Agreement* unless otherwise indicated by the Proponent.

REQUEST FOR PROPOSAL NO. PS07050
CONSULTING SERVICES FOR PRELIMINARY ENGINEERING AND DESIGN
FOR PHASE ZERO OF THE DOWNTOWN STREETCAR PROJECT
SCHEDULE D - SUB-CONSULTANTS

The Sub-Consultants shown below are the Sub-Consultants that the Proponent proposes to use to carry out the Requirements. The City expects that the Proponent will engage the listed Sub-Consultants and no others in their stead, without prior written authorization of the City.

If no Sub-Consultants will be used, indicate "Not Applicable".

Company Name, Address	Contact Name and Telephone Number	Area of Responsibility



CORPORATE SERVICES GROUP
Materials Management
Purchasing Services

Request for Proposal
No. PS07050
Consulting Services for Preliminary Engineering and Design for Phase Zero of the Downtown Streetcar Project

To acknowledge your intent to submit a Proposal, and to ensure that you receive the required information, please submit this form to the person identified below by 3:00:00 P.M. on March 23, 2007.

Philip Lo
Administrative Assistant
City of Vancouver
Fax: (604) 873-7057
Email: purchasing@vancouver.ca

Your details:

Proponent's Name: _____
"Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Our company WILL / WILL NOT submit a Proposal for
"RFP PS07050 - Consulting Services for Preliminary Engineering and Design
for Phase Zero of the Downtown Streetcar Project"
By the Closing Time (TUESDAY, APRIL 3, 2007, at 3:00:00 P.M.)

Authorized Signatory and Name of Company (Please print)

E-mail Address (Please print)

Date



THIS AGREEMENT made as of the ____ day of _____, 2007 (the "Effective Date"),

BETWEEN:

CITY OF VANCOUVER
 453 West 12th Avenue
 Vancouver, British Columbia
 V5Y 1V4
 (the "City")

AND:

[CONSULTANT NAME AND ADDRESS]
 (the "Consultant")

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

BACKGROUND:

- A. The City requires the professional services described herein, and desires to engage the Consultant to perform said services.
- B. The Consultant has agreed to perform the said services in accordance with the terms and conditions of this Agreement.

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

ARTICLE. 1 INTERPRETATION

- 1.1 In this Agreement, the following words and terms, unless the context otherwise requires, shall have the meanings set out below:
- 1.1.1 “**Agreement**” means this agreement inclusive of all schedules, appendices or exhibits attached hereto, as amended from time to time;
- 1.1.2 “**Applicable Laws**” means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Consultant, any Sub-Consultant and the Services, all as may be in force from time to time;
- 1.1.3 “**City’s Site**” means any land and/or premises owned by the City on which or in respect of which the Services are performed by the Consultant;
- 1.1.4 “**City’s Project Manager**” means the City’s employee, or his/her delegate, who is authorized in writing to deal with the Consultant on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- 1.1.5 “**GST**” means the tax payable and imposed pursuant to Part IX of the *Excise Tax Act* (Canada), as amended, and any successor legislation thereto;
- 1.1.6 “**Project**” means the City of Vancouver Downtown Streetcar project;
- 1.1.7 “**Project Team**” has the meaning set out in subsection 2.2.3;
- 1.1.8 “**Proposal**” means the proposal submitted by the Consultant in response to Request For Proposals PS07050, a copy of which is attached hereto as Appendix B;
- 1.1.9 “**PST**” means provincial sales tax administered under the *Social Services Act* (British Columbia) and any successor tax or levies therefor in force from time-to-time;
- 1.1.10 “**Services**” has the meaning set out in Section 2.1;
- 1.1.11 “**Sub-Consultant**” has the meaning set out in Section 4.1; and
- 1.1.12 “**Term**” means the term of this Agreement as specified in Section 12.1.

- 1.2 The terms and conditions of this Agreement, including all appendices, are complementary and what is called for by one will be as binding as if called for by all. In the event of any conflict or inconsistency between or among any of the terms and conditions of this Agreement, such terms and conditions will take precedence and govern in the following order of priority, from highest to lowest:
 - 1.2.1 this Agreement, excluding Appendix B; and
 - 1.2.2 Appendix B - Proposal.
- 1.3 In this Agreement, including the recitals, Schedules and Appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:
 - 1.3.1 the recitals and headings to Sections, Schedules and Appendices are for convenience and reference only and will not affect the interpretation of this Agreement;
 - 1.3.2 the terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer, unless otherwise specified, to this Agreement taken as a whole (including any and all attached appendices) and not to any particular section, subsection or other subdivision;
 - 1.3.3 each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
 - 1.3.4 each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
 - 1.3.5 words importing the singular include the plural and vice versa and words importing gender include all genders;
 - 1.3.6 references to time of day or date mean the local date or time in Vancouver, British Columbia;
 - 1.3.7 all references to money mean lawful currency of Canada;
 - 1.3.8 the word "written" includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and "in writing" has a corresponding meaning; and
 - 1.3.9 the words "include" and "including" are to be construed as meaning "including, without limitation".

ARTICLE. 2 CONSULTANT'S SERVICES TO THE CITY

- 2.1 The Consultant will provide and be fully responsible for the following services (the "Services"):
 - 2.1.1 [Reference services in proposal or list specific services here]; and
 - 2.1.2 performing all work necessary to undertake and complete such services.
- 2.2 The Consultant will be fully responsible for:
 - 2.2.1 coordinating the Services with the City's Project Manager, or her delegate, and ensuring that the performance of the Services does not adversely impact the design or construction schedule for the Project or the work and/or services provided by the City's other consultants;
 - 2.2.2 taking all steps required in placing, effecting and maintaining insurance and providing evidence of insurance as set out in Appendix A - *Insurance Requirements*; and
 - 2.2.3 maintaining and supervising its employees and Sub-Consultants (the "Project Team") described in Section 3.1.
- 2.3 The Consultant represents and warrants to the City that the Consultant possesses the necessary skills, knowledge, qualifications and experience to perform the Services to the reasonable satisfaction of the City.
- 2.4 The Consultant will perform the Services: (a) with that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered; (b) in accordance with sound current professional practices and design standards; and (c) in conformance with any and all Applicable Laws.
- 2.5 The Consultant will commence the Services promptly and will use every reasonable effort to carry out the Services in accordance with (a) the requirements and Appendices of this Agreement, or (b) where no date is specified for the provision of any component of the Services by this Agreement, such completion dates as are reasonably specified from time to time by the City.
- 2.6 The Consultant will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to the City's Site or any other City property.

ARTICLE. 3 PROJECT TEAM

- 3.1 Subject to Section 3.2 below, the Consultant will utilize only the Project Team members noted in the Proposal.

- 3.2 Except for substitutions required by circumstances not within its reasonable control, the Consultant may not make substitutions of Project Team members without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned.
- 3.3 For the purposes of this Section 3, “substitutions required by circumstances not within its reasonable control” means substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract, but expressly excludes situations where the Project Team member is called upon to perform services for another client of the Consultant, its Sub-Consultant (as defined in Section 4.1) or their affiliates.
- 3.4 The City may, with stated reasons and acting reasonably, request that the Consultant replace a Project Team member. The Consultant will, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- 3.5 Regardless of whether or not the City consents to a substitution, or requests a substitution, the City will not be liable to pay additional compensation to the Consultant for any replacement Project Team member.

ARTICLE. 4 SUB-CONSULTANTS

- 4.1 Unless expressly permitted pursuant to Section 3 above, the Consultant may not engage any contractor or consultant (collectively referred to as the “**Sub-Consultant**”) for the performance of any part of the Services, unless the Consultant has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 4.2 The Consultant will administer, coordinate, and manage all Services provided by any Sub-Consultants, and will assume full responsibility to the City for all work performed by the Sub-Consultants in relation to the Services and will pay all fees and disbursements of all Sub-Consultants, subject to reimbursement by the City where the City has expressly agreed in this Agreement that such reimbursement is to be separate from and additional to the fees and disbursements payable to the Consultant.
- 4.3 Where a Sub-Consultant is used by the Consultant under this Agreement, the Consultant will legally bind the Sub-Consultant to comply with this Agreement.
- 4.4 Nothing in this Agreement will create any contractual relationship between a Sub-Consultant and the City.

ARTICLE. 5 BASIS OF PAYMENT TO THE CONSULTANT

- 5.1 In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms hereof, the City will pay the Consultant the fees and reimbursable expenses prescribed herein, plus GST and/or PST, as applicable.

- 5.2 Subject to Section 5.3, payment to the Consultant will be based on hours worked by employees of the Consultant or by the Sub-Consultant’s multiplied by the applicable hourly charge-out rates in the Proposal.
- 5.3 If there are limiting amounts for fees and disbursements indicated below for the Services or parts thereof, then notwithstanding anything to the contrary in this Agreement the maximum total of the fees and disbursements to be paid by the City to the Consultant for the Services or portions of the Services will not exceed those amounts. Where additional fees are to be paid by the City to the Consultant for increases in the scope of the Services provided by the Consultant, they will not exceed the amount of said fees mutually agreed upon under Article 6. This limit on the fees to be paid by the City to the Consultant will in no way diminish the duties and obligations of the Consultant to provide the Services covered by this Agreement.

	<u>Deliverable</u>	<u>Maximum Fees and Disbursements</u>
1.		\$ _____
2.		\$ _____
3.		\$ _____
4.		\$ _____
	Complete Services - Maximum Total Amount Payable (not including GST)	\$ _____

Notwithstanding anything to the contrary contained in this Agreement, save for Article 6, the maximum liability of the City hereunder will be \$ _____, plus GST, as applicable (the “maximum fees and disbursements”).

- 5.4 Subject to the maximum liability of the City under Section 5.3, disbursements for which the City will reimburse the Consultant will be limited to the following:

[Insert approved disbursements and any maximum amounts, if applicable.]

Reimbursement of these expenses by the City will be at actual cost without any addition for overhead or profit.

All other expenses not listed above are considered to be included in the Consultant's fees.

- 5.5 If the Consultant has engaged Sub-Consultants, then the Consultant will make full payment to said Sub-Consultants for work performed in relation to the Services.

Subject to Section 5.3, the City will reimburse the Consultant for payments made to Sub-Consultants at amounts equal to such actual payments without any additions for overhead and profit to the Consultant.

- 5.6 The Consultant will submit invoices to the City on or before the 10th day of each month. Each invoice will list the names, hours worked and pay rates of all employees of the Consultant and Sub-Consultants that have worked on the Services during the previous month, the total amount of previous payments made by the City, and the percentage of the Services that are complete. Each invoice will show separately the amount of GST applicable.

Attached to each invoice will be:

- 5.6.1 copies of invoices for all disbursements claimed;
- 5.6.2 confirmation of payments made to Sub-Consultants for the previous month; and
- 5.6.3 a brief report detailing work completed to date, work completed during the month covered by the invoice and work outstanding to complete the Services.

Notwithstanding anything to the contrary contained in this Agreement, the City will never be obligated to pay the Consultant a greater percentage of the maximum fees and disbursements than the degree of percentage completion of the total of the Services.

- 5.7 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning the Consultant's invoices, for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided however, the City will use reasonable efforts to have the review, audit or clarification resolved within a 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) days of approval.
- 5.8 The Consultant will keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City will be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as will be reasonably necessary or advisable.

ARTICLE. 6 CHANGES TO SCOPE OF SERVICES

- 6.1 The City's Project Manager may, from time to time and at any time on prior written notice to the Consultant, vary the scope of Services to be provided by the Consultant. In that case and where this Agreement contains a delivery date(s) and/or limit(s) as to the maximum fees and disbursements to be paid to the Consultant pursuant to Section 5.3 for all or any part of the Services, such delivery date(s) and/or limit(s) will be adjusted as agreed to by both Parties in writing, and failing agreement, as reasonably determined by the City's Project Manager.
- 6.2 Should the Consultant consider that any request or instruction from the City's Project Manager constitutes a change in the scope of Services, the Consultant will so advise the City's Project Manager in writing within ten days of such request or instruction. Without said written advice within the time period specified, the City will not be obligated to make any payments of additional fees, disbursements or out of pocket expenses to the Consultant.
- 6.3 The City's Project Manager will consider the Consultant's written advice within a further ten days of such advice and determine and advise as to whether the request constitutes a contract variation and, if necessary, the method by which the variation will be scoped and reimbursed.

ARTICLE. 7 RELEASE AND INDEMNIFICATION

- 7.1 The Consultant now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Consultant, its Sub-Consultants, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 7.2 In undertaking the Services, the Consultant acknowledges that the Consultant has inspected the City's Site, agrees to accept the City's Site "as-is" and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Consultant to perform the Services.
- 7.3 Despite the provision of insurance coverage by the City, the Consultant hereby agrees to indemnify and save harmless the City, its successors, assigns and authorized representatives and each of them from and against losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that the City may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Consultant, its Sub-Consultants, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of the City or its officers, employees or agents.
- 7.4 This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.

- 7.5 The release and indemnity set out above will survive the expiry or sooner termination of this Agreement.

ARTICLE. 8 INSURANCE

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

ARTICLE. 9 WORKERS' COMPENSATION BOARD

- 9.1 The Consultant agrees that it will procure and carry and pay for, full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Agreement. The Consultant agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such Workers' Compensation Board coverage against any monies owing by the City to the Consultant. The City will have the right to withhold payment under this Agreement until the Workers' Compensation Board premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.
- 9.2 The Consultant will provide the City with the Consultant's Workers' Compensation Board registration number and a letter from the Workers' Compensation Board confirming that the Consultant is registered in good standing with the Workers' Compensation Board and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this Agreement. The Consultant will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid Workers' Compensation Board assessments owing from any person or corporation engaged by the Consultant in the performance of this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the Workers' Compensation Board, including penalties levied by the Workers' Compensation Board.
- 9.3 With respect to any and all Services provided by the Consultant or its Sub-Consultants at the City's Site, the Consultant is now appointed and now accepts appointment as the "prime contractor", as defined by the *Workers Compensation Act* (British Columbia) and its associated regulations, including all amendments thereto from time-to-time, (collectively, the "WCB Legislation"), for the purposes of this Agreement, but only with respect to the Consultant's and its Sub-Consultants' employees, contractors and agents, and only with respect to the WCB Legislation that applies to their conduct independently of the City's compliance with the WCB Legislation that applies to the condition or contents of the City's Site.

ARTICLE. 10 CITY INFORMATION/APPROVALS

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

ARTICLE. 11 COMMUNICATION BETWEEN CONSULTANT AND CITY

- 11.1 The City appoints _____ as the City's Project Manager for the purposes of this Agreement.

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

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

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

ARTICLE. 12 TERM OF AGREEMENT

- 12.1 This Agreement will commence on the Effective Date and will expire on the completion of the Services, which Services must be completed by _____, 2007 (the "Term").

ARTICLE. 13 TERMINATION

- 13.1 The City at any time, in its sole judgment, may, whether or not cause exists, terminate the services of the Consultant in whole or in part by giving 10 days prior written notice (signed by the City's Project Manager) to the Consultant. If termination is not for cause, the Consultant will be paid for all Services properly performed to the date of the delivery of the said notice (subject to the terms of this Agreement) plus all necessary and reasonable wind up costs

incurred, if any, in closing out the Services or the part terminated.

- 13.2 Despite Section 13.1, in no event and under no circumstances will the Consultant's "necessary and reasonable wind up costs incurred" pursuant to Section 13.1 exceed \$1,500 (including all taxes).

ARTICLE. 14 ASSIGNMENT

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

14.1.1 first provides the City with reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction); and

14.1.2 first provides the City with a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform this Agreement.

ARTICLE. 15 CONFIDENTIALITY

- 15.1 The Consultant acknowledges that in performing the Services required under this Agreement, it will acquire information about certain matters which are confidential to the City, and such information is the exclusive property of the City. The Consultant undertakes to treat as confidential all information received by reason of its position as Consultant, and agrees not to disclose same to any third party either during performance of the Services or after the expiry or earlier termination of this Agreement.

ARTICLE. 16 NO PROMOTION OF RELATIONSHIP

- 16.1 The Consultant will not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, websites, internet domain names, press releases, brochures or other written materials (the "Communications") without the express prior written consent of the City (except as may be necessary for the Consultant to perform its obligations under this Agreement).
- 16.2 Furthermore, the Consultant undertakes and will cause all of its Sub-Consultants to undertake not to disclose or promote its relationship with the City in any Communications in a manner which could suggest or create an association, express or implied, between the Consultant and the City, the International Olympic Committee ("IOC"), the 2010 Olympic and Paralympic

Winter Games, the Olympic Movement or the Vancouver Organizing Committee for the 2010 Olympic & Paralympic Winter Games ("VANOC"). Without limiting the generality of the foregoing, the Consultant will not refer to "VANOC", "Vancouver 2010", the "2010 Games", the "Games", the "IOC", "Host City", "Olympic Village", "Athlete's Village", the "Village" or "Olympics" and will not use any website, domain name, official emblem, logo or mascot of the City of Vancouver, VANOC, or the 2010 Olympic and Paralympic Winter Games in any Communications, without the express prior written consent of the City.

ARTICLE. 17 OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 17.1 All drawings, plans, sketches, models, end products (such as milestone submissions), construction documents, specifications, record drawings and reports produced, received or acquired by the Consultant as a result of the provision of the Services (collectively, the "Material") will be the sole property of the City, and the City will have the right to utilize all of the Material for its benefit in any way it sees fit without limitation.
- 17.2 The Material will be delivered by the Consultant to the City forthwith following the expiration or sooner termination of this Agreement, PROVIDED that the City may, at any time or times prior to the expiration or sooner termination of this Agreement, give written notice to the Consultant requesting delivery by the Consultant to the City of all or any part of the Material, in which event the Consultant will forthwith comply with such request.
- 17.3 The Consultant hereby transfers title in and to the Material and assigns to the City sole copyright in the Material. The Consultant agrees that title to the Material is to be considered to have been transferred, and any copyright in the Material is to be considered to have been assigned by the Consultant to the City upon creation of the Material. The Consultant hereby irrevocably waives, in favour of the City, the Consultant's moral rights in respect of the Material. The Consultant will obtain in writing, from its personnel, its permitted Sub-Consultants or from any other source used, all required assignments, waivers, including waivers of moral rights, releases of interest and acknowledgements necessary to transfer title to and copyright in the Material to the City.
- 17.4 The Consultant hereby represents and warrants that the portion of the Material produced by the Consultant (or its Sub-Consultants, if applicable) will not infringe any patent or copyright or any other industrial or intellectual property rights, including trade secrets.

ARTICLE. 18 NOTICES

- 18.1 Any notice required or permitted to be given to the Consultant will be sufficiently given if delivered in writing by the City's Project Manager to the Consultant's Project Manager personally or, if mailed, by registered mail to the last known address of the Consultant.

- 18.2 Any notice required or permitted to be given to the City will be sufficiently given if delivered in writing by the Consultant's Project Manager to the City's Project Manager personally or, if mailed, by registered mail to City of Vancouver at 453 West 12th Avenue, Vancouver, B.C., V5Y 1V4 (addressed to the attention of the City's Project Manager).

ARTICLE. 19 NO CONFLICT OF INTEREST

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

ARTICLE. 20 NON-RESIDENT WITHHOLDING TAX

- 20.1 If the Consultant is, at any time, a non-resident of Canada, within the meaning of the *Income Tax Act* of Canada as amended, then, and the Consultant hereby so agrees, the City may deduct from all monies payable under this Agreement and remit to the Receiver-General of Canada, the Government of Canada or Canada Revenue Agency, as applicable, sums not greater than the greater of:
- 20.1.1 25% of all monies payable under this Agreement; and
- 20.1.2 sums required to be withheld and remitted by the *Income Tax Act* of Canada as amended.

The City will receive full credit under this Agreement for monies withheld as of and from the date of the withholding (regardless of when or whether remitted) and no interest will be payable by the City on sums withheld, not remitted as aforesaid, and later paid directly to the Consultant.

ARTICLE. 21 COMPLIANCE WITH LAW

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

ARTICLE. 22 GOVERNING LAW

- 22.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.

ARTICLE. 23 INDEPENDENT CONSULTANT

- 23.1 This Agreement is a contract for services and the Consultant, its permitted Sub-Consultants, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and its permitted Sub-Consultants are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City.
- 23.2 The Consultant will not represent to anyone that the Consultant has any authority to bind the City in any way or that the Consultant is an employee or agent of the City.

ARTICLE. 24 INDEPENDENT LEGAL ADVICE

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

ARTICLE. 25 GENERAL

- 25.1 No Waiver. No action or failure to act by the City shall constitute a waiver of any right or duty under this Agreement, or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing by the City.
- 25.2 Severability. The invalidity, illegality or unenforceability of any portion or provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken position.

- 25.3 Remedies Cumulative. The remedies of the Parties provided for in this Agreement are cumulative and are in addition to any remedies available to the Parties at law or in equity. No remedy will be deemed to exclude or restrict the right of a Party to any other remedies against the other Party and a Party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.
- 25.4 Further Assurances. Each Party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 25.5 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.
- 25.6 Amendment. This Agreement shall not be amended except as specifically agreed in writing by both the City and the Consultant.
- 25.7 Joint and Several Liability of Joint Venture Participants. If the Consultant is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the Consultant shall be joint and several.
- 25.8 Schedules and Appendices. The Schedules and Appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 25.9 Set-Off. The City may at its option, withhold and set-off against any amount owing to the Consultant (whether under this Agreement or otherwise) any amounts payable by the Consultant to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Consultant, whether such claim is at law or in equity or tort or on any other basis.

25.10 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and the Consultant and their respective successors and permitted assigns.

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

CITY OF VANCOUVER

BY: _____
Director of Legal Services

[CONSULTANT]

BY: _____
Authorized Signatory

Print Name & Title

1 General

(a) Required Coverage

The Consultant will comply at all times with the insurance provisions set out in this Appendix A.

(b) Limitations

The requirements set out in this Appendix A do not limit any insurance requirements imposed on the Consultant by municipal, provincial or federal law.

(c) Additional Coverage

It will be the sole responsibility of the Consultant to determine what additional insurance coverage, if any, is necessary or advisable for the Consultant's own protection and/or to fulfill the Consultant's obligations under this Agreement. Any additional insurance will be provided and maintained by the Consultant at its own expense.

2 Requirements for All Policies

(a) Minimum Limits

Without limiting any of its obligations or liabilities under this Agreement, the Consultant and its Sub-Consultants will obtain and continuously carry during the Term of this Agreement, the following insurance coverages with minimum limits of not less than those shown in the respective items set out below.

(b) Premiums

The Consultant will pay all premiums and deductible costs for all insurance required to be effected under this Agreement provided always that under no circumstances does the payment of such premiums give the Consultant any interest in the proceeds of such insurance or any control over such policies as they relate to the City's interests.

(c) Insurers

All policies must be written with companies licensed to do business in British Columbia with a financial rating of VIII or better and a policy holder's rating of A- or better in the latest edition of *Best Rating Guide on Property and Casualty Insurance Companies*.

(d) Form of Policy

All insurance policies must be in a form acceptable to the City's Director of Risk Management. Self-funded, policy fronting or other non-risk transfer insurance mechanisms are not permitted.

(e) Notice to City

All insurance policies must provide the City with 60 days' prior written notice of material change, lapse or cancellation. The policy must provide that the notice will identify the Contract title, number, policy holder, and be delivered in accordance with Section 18 - *Notices* of the Agreement.

- (f) Insurance Obligations Separate
Neither the providing of insurance by the Consultant in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing will be held to relieve the Consultant from any other provisions of this Agreement with respect to the liability of the Consultant or otherwise.
- (g) Primary Coverage
The insurance coverage will be primary insurance in respect to the City. Any insurance or self-insurance maintained by or on behalf of the City, its officials, officers, employees or agents will be excess to the insurance effected by the Consultant under this Agreement and will not contribute with it.
- (h) Properly Disclose
The Consultant will properly disclose all risks in each insurance application, ensure that it does not violate or void any policy and will otherwise comply at all times with the requirements of the insurers and underwriters.
- (i) Failure to Provide
If at any time the Consultant fails to provide a certificate of insurance or certified copies of all insurance policies as required in Section 3 - *Evidence of Insurance*, the City may (but is not obligated to or liable for the manner in which it does so) effect such insurance on behalf of the Consultant and the cost of doing so will be paid by the Consultant to the City upon request and, in any event, within five (5) calendar days of such a request.

3 Evidence of Insurance

- (a) Proof of Insurance
Prior to commencement of this Agreement, the Consultant will provide the City with evidence of all required insurance to be taken out in the form of a detailed certificate of insurance. The certificate of insurance must identify the Contract Title, number, policy holder and contract subject-matter, and must not contain any disclaimer. Proof of insurance in the form of certified copies of all insurance policies will be made available to the City's Director of Risk Management at any time upon request.
- (b) Cause Sub-Consultants to Carry
The Consultant will ensure that all the Sub-Consultants will place and maintain the same type and amount of Professional Liability (Errors and Omissions) insurance, and for the same period of time, as is required of the Consultant.

Upon request, the Consultant will deposit with the City's Director of Risk Management detailed certificates of insurance for the policies it has obtained from its Sub-Consultants and a copy of the insurance-related clauses from those agreements. For further certainty, the above requirements will apply to all replacement and substitution Sub-Consultants.

4 Commercial General Liability ("CGL") Insurance

(a) Must Carry CGL

The Consultant will maintain insurance in sufficient amounts and description to protect the Consultant, its Sub-Consultants, the City and their respective officials, officers, employees and agents against claims for damages, personal injury including death, bodily injury and property damage which may arise under this Agreement.

(b) Minimum Limit of Insurance

The limit of commercial general liability insurance must be not less than \$5,000,000 per occurrence inclusive for personal injury, death, bodily injury or property damage and in the aggregate with respect to products and complete operations.

(c) Form of Policy

The policy of insurance will:

- i. be on an occurrence form;
- ii. add the City and its officials, officers, employees and agents as additional insureds;
- iii. contain a cross-liability or severability of interests clause; and
- iv. extend to cover non-owned automobiles, contingent employer's liability, blanket contractual liability, contractor's protective liability, broad form property damage, broad form completed operations and operations of attached machinery.

(d) Primary Insurance

Pursuant to Section 2(g) - *Primary Coverage*, the Consultant's commercial general liability policy will be primary insurance in respect to the City.

5 Motor Vehicle Liability Insurance

The Consultant will maintain motor vehicle liability insurance for owned and leased or licensed vehicles with limits of \$5,000,000 inclusive for accidental injury to or death of one or more persons or damage to or destruction of property as a result of any one accident. Whether or not the policy has been issued pursuant to a government operated automobile insurance system, the Consultant will provide the City's Director of Risk Management with confirmation of the automobile insurance coverage for all automobiles registered in the name of the Consultant and its permitted Sub-Consultants used in connection with this Agreement.

6 Professional Liability (Errors and Omissions) Insurance

(a) Form of Coverage

An Architects' or Engineers' Professional Liability Insurance policy will be arranged and maintained in full force by the Consultant for the Term of this Agreement and for a further period of two (2) years following expiry of the Term. The policy must protect

the Consultant and its officers, employees and agents performing services for and on behalf of the Consultant against all liability resulting from an error, omission or negligent act in the provision of the Services under this Agreement.

(b) Minimum Limit of Insurance

The limit of this policy must be no less than \$3,000,000 per claim, and \$3,000,000 annual aggregate.

(c) Deductible

The policy will provide for a limit of deductibility of not greater than \$50,000.

7 Property Insurance

(a) Form of Coverage

The Consultant will maintain an All-Risks insurance policy covering the Consultant's property of every description.

(b) Waiver of Subrogation

The policy must contain a provision in which the insurer waives all rights which it may acquire by payment of a claim to recover the paid amount from the City or its officials, officers, employees or agents (a "Waiver of Subrogation").

(c) All Property Insurance Must Contain Waiver

All property insurance policies of any kind carried by the Consultant must contain a Waiver of Subrogation in favour of the City (whether or not such property insurance is carried as a requirement of this Agreement).



CERTIFICATE OF EXISTING INSURANCE TO BE COMPLETED AND SUBMITTED ALONG WITH PROPOSAL

Section 1 - to be completed by City staff
Section 2, 3, 4, 5, 6, 7 & 8 - to be completed by the Insurer or its Authorized Representative

1. THIS CERTIFICATE IS ISSUED TO: City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
Attn
Tel (604) Fax (604)
Email

And certifies that the insurance policy (policies) as listed herein has been issued to the Named Insured and is in full force and effect as of the effective date of the agreement described below.

2. NAMED INSURED

BUSINESS TRADE NAME or DBA DOING BUSINESS AS

BUSINESS ADDRESS

DESCRIPTION OF OPERATION, CONTRACT, AGREEMENT, LEASE, PERMIT OR LICENSE

3. PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)
INSURER Insured Values (Replacement Cost) -
TYPE OF COVERAGE Building and Tenants Improvement \$
POLICY NUMBER Contents and Equipment \$
POLICY PERIOD From to Deductible Per Loss \$

4. COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)
Including the following extensions: INSURER
• Personal Injury POLICY NUMBER
• Property Damage including Loss of Use POLICY PERIOD From to
• Products and Completed Operations Limits of Liability (Bodily Injury and Property Damage Inclusive) -
• Cross Liability or Severability of Interest Per Occurrence \$
• Employees as Additional Insureds Aggregate \$
• Blanket Contractual Liability All Risk Tenant's Legal Liability \$
• Non-Owned Auto Liability Deductible Per Occurrence \$

5. AUTOMOBILE LIABILITY INSURANCE for operation of owned and/or leased vehicles
INSURER Limits of Liability -
POLICY NUMBER Combined Single Limit \$
POLICY PERIOD From to If vehicles are insured by ICBC, complete and provide Form APV-47.

6. UMBRELLA OR EXCESS LIABILITY INSURANCE Limits of Liability (Bodily Injury and Property Damage Inclusive) -
INSURER Per Occurrence \$
POLICY NUMBER Aggregate \$
POLICY PERIOD From to Self-Insured Retention \$

7. PROFESSIONAL LIABILITY INSURANCE Limits of Liability
INSURER Per Occurrence/Claim \$
POLICY NUMBER Aggregate \$
POLICY PERIOD From to Deductible Per Occurrence/Claim \$

If the policy is in a "Claims Made Form", please specify the applicable Retroactive Date:

8. OTHER REQUIRED INSURANCE
TYPE OF INSURANCE Limits of Liability
INSURER Per Occurrence \$
POLICY NUMBER Aggregate \$
POLICY PERIOD From to Deductible Per Loss \$

TYPE OF INSURANCE Limits of Liability
INSURER Per Occurrence \$
POLICY NUMBER Aggregate \$
POLICY PERIOD From to Deductible Per Loss \$

SIGNED BY THE NAMED INSURED (Contractor/Tenant/Lessee/Permittee/Licensee)

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE Dated

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