



NEW WESTMINSTER

June 16, 2011

ADDENDUM #2
NWRFP-11-17
Multi-Use Civic Facility and Office Tower
Project Management Services
New Westminster, BC

1.) Questions and Answers

Q1) Please confirm that there will be only one project manager for the project, representing both the developer/partner, UPG and the City of New Westminster? In other words, UPG will not have their own project manager.

A1: Yes, there will be only one project manager representing both UPG and the City for the **base building** component of the project under one contract with both UPG and the City. UPG will **not** have its own project manager. The same project manager will also represent the City for the MUCF **fit-out** under a separate contract.

Q2) Is the proposed development agreement between The City and UPG based on a 50/50 joint venture between the two parties sharing costs, risk and rewards or something more specific? The terms of reference of the agreement between the City and UPG can have a substantial influence on the nature of the relationship and how the project is structured, managed and needs to be reported on. The make-up of the Joint Steering Committee (2 CNW and 2 UPG representatives) implies a 50/50 joint venture.

A2: The City and UPG have entered into an interim agreement that anticipates the joint development of the site but not as a 50/50 joint venture. The actual cost sharing for the base building components will be determined under a Cost Allocation Agreement. The project manager will represent both UPG and the City for the **base building components** of the underground parking, 3 storey MUCF and office building. Once completed, the City will own the 3 storey MUCF (the lower floors) and level P1 of the parking facility. UPG will own the office building and levels P2 and P3 of the parking facility, all of which will be subdivided into an air space parcel. Each party is responsible to pay for the cost of its component, including its allocated share of the costs of the parking facility.

A Cost Allocation Agreement is in the process of being negotiated in conjunction with the finalization of the budget.

The joint development of the site applies to the **base building** only, and each party will be responsible for the **fit-out** (i.e. tenant improvement or interior improvements) of its respective component.

For the **base building** portion of the project, the project manager will report to the joint owners committee only, and not to the individual owners. For the MUCF **fit-out**, the project manager will report to the senior management staff of the City.



NEW WESTMINSTER

Q3) *Has a budget for the base building and MUCF fit out been defined and can it be provided? What is your preliminary project budget for the overall development?*

A3: Yes, a budget is in the process of being completed. However, preliminary budget figures will not be provided at this stage. Proponents can estimate the construction costs for the project from taking area take offs and applying unit rates.

Q4) *Are there any environmental issues with the site?*

A4: Hazardous materials abatement from the previous structures on the site has been completed. Stage 1 and 2 environmental reports indicate that there are no contaminated soils on the site.

Q5) *Will the successful proponent be required to manage the programming for user groups eg(theater, lacrosse,)?*

A5: The space programming is complete. Room data sheets have been sent to the user groups as part of the design development stage.

Q6) *Is there a standard form of contract the successful proponent will be required to enter into? Will the contract be with two parties?*

Q6: The successful proponent will be expected to enter into two contracts which will be based on the City's standard consulting services agreement. The contract for the **base building** component will be tri-party with the City and UPG as Owners, and the successful proponent as the Consultant. The second contract will deal with the **MUCF fit-out** and will be between the successful proponent and the City. A copy of the City's standard (blank) agreement is attached as part of this addendum.

Q7) *Do both the developer and City have architectural teams, or is there an architect for base building and one for fit up?*

A7: MCM is the Base Building architect. MCM is employed by UPG. HCMA is the architect for the MUCF fit-out. HCMA is employed by the City.

Q8) *The scope of work identified in Section 7.0 is similar to some of the scope of work identified in your NWRFP-09-29 which was awarded to Turnbull Construction Services last year. Is Turnbull still providing project management services to the City of New Westminster? If so, please explain what role Turnbull will have on this assignment. If Turnbull has ceased providing project management services to this development, will they be precluded from responding to this RFP?*

A8: Turnbull Construction Services Ltd. (TSCL) has provided project management services for the City with respect to the City's components of the project. As the project has progressed to a joint development between UPG and the City, the parties have agreed to retain an independent joint project manager. The City will continue to use TSCL in an advisory capacity. The joint project manager will exclusively oversee the consultant team and the general contractor.

Q9) *Will the Owners be conducting an interview process once Proposals are received?*

A9: Yes, it is the Owner's intent to interview a shortlisted number of Proponents once the Proposals have been reviewed. Please note that the interviews will be conducted on the morning of Monday June 27 and possibly all day Tuesday June 28. It is recommended that all Proponents keep those dates open in the event they are shortlisted and required to attend this step in the selection process.

2.) Draft Consulting Services Agreement

Attached to this addendum is the Draft MUCF Project Management Consulting Services Agreement. Please see Page 4 of this addendum.

END OF ADDENDUM #2

Yours truly,



Roy Moulder, SCMP
Purchasing Manager
email: rmoulder@newwestcity.ca

DRAFT CONSULTING SERVICES AGREEMENT

This Agreement made the ___ day of _____ 2011,

BETWEEN: THE CORPORATION OF THE CITY OF NEW WESTMINSTER
511 Royal Avenue, New Westminster, BC V3L 1H9
(hereinafter called “the City”)

AND: UPG PROPERTY GROUP.
#1101, 900 West Hastings Street, Vancouver, BC, V6C 1E5
(hereinafter called the “UPG”)

AND: CONSULTING FIRM
Address
(hereinafter called the “Consultant”)

WHEREAS:

- (A) UPG and the City (hereinafter called the “Owners”) have partnered together to develop the Multi-Use Civic Facility and office tower at 731-765 Columbia Street, New Westminster, BC (the “Project”), and
- (B) the Consultant has responded to Owner’s request for proposals for Project Management Services dated June 23rd, 2011 and Addendum #___ dated _____ (collectively the “RFP”) and has been selected to provide such management services for the Project in accordance with the RFP and the Consultant’s subsequent proposal dated _____ (the “Proposal”);

THIS AGREEMENT is evidence that in consideration of the premises, the mutual covenants and promises contained herein and other good and valuable consideration (the receipt and sufficiency of which each party acknowledges), the Consultant covenants and agrees with the Owners as follows:

1.0 Services

1.1 Consultant Responsibilities

- a) The Consultant shall perform and provide the services (herein called the “Services”) set out under the Scope of Work in the RFP (a copy of which is attached hereto as Schedule A) and the Consultant’s Proposal (a copy of which is attached hereto as Schedule B), which form part of this Agreement;
- b) The Consultant represents that he/she is professionally qualified, has sufficient expertise and experience and is capable of performing the Services expeditiously and efficiently and shall provide professional personnel or sub-consultants who have the qualifications, experience and capabilities to perform the Services and who are approved in writing by the Owners;

- c) The Consultant shall at all times exercise the standards of care, skill and diligence normally provided by a professional specializing in the performance of services similar in scope, nature and complexity to the Services;
- d) Where the Owners reasonably object to the performance, experience, qualifications or suitability of any of the Consultant's personnel or sub-consultants, shall, on written request by the Owners, replace such personnel or sub-consultant; and
- e) The Consultant shall advise the Owners in writing if in the Consultant's judgment any information, surveys, reports or records provided by the City are deficient or unreliable and shall undertake any new surveys and investigations as are necessary.

1.2 Owners' Responsibilities

- a) The Owners shall make reasonable efforts to make available to the Consultant information, surveys, records and reports which the Owners have in its files that relate to the Services;
- b) The Owners shall in a timely manner, make all decisions required under this Agreement, examine documents submitted by the Consultant and respond to all requests for approval made by the Consultant pursuant to this Agreement; and
- c) If the Owners observe or otherwise become aware of any fault or defect in the Services, it may notify the Consultant, but nothing in this Agreement will be interpreted as giving the Owners the obligation to inspect or review the Consultant's performance of the Services.

2.0 Additional Services

- 2.1 The Consultant shall not undertake any Additional Services without the prior written approval of the Owners. Prior to proceeding with any Additional Services, the Consultant and the Owners shall agree, in writing, on the scope of the Additional Services to be performed and the basis for payment for the Additional Services. The Consultant shall not provide any Additional Services in excess of the agreed scope without the Owners' prior written approval.
- 2.2 If the Consultant considers that any request or instruction from the Owners constitute Additional Services, the Consultant shall advise the Owners in writing within ten (10) days of the request or instruction. Without said written notice within the period specified, and agreement by the Owners that the request or instruction is an Additional Service, the Owners shall not be obligated to pay to the Consultant any amount in excess of the Estimated Maximum Fee for the requested or instructed service.

3.0 Term

- 3.1 The term (the "Term") of this Agreement begins on _____, 2011 and ends following the full completion of the Project, subject to further extension as agreed upon by the parties.
- 3.2 When the Consultant fulfils all requirements under this Agreement to the satisfaction of the Owners, the Owners shall certify completion in writing.

4.0 Termination

- 4.1 The Agreement may be terminated by the Owners as follows:
 - a) For Deficiency or Default – following seven (7) days written notice by the Owners, the Owners may at any time terminate this Agreement if the performance of the Consultant is unsatisfactory in the opinion of the Owners, or if the Consultant breaches any provisions of the Agreement and fails to remedy the same promptly;

- b) If the Consultant is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of its insolvency, or if a receiver is appointed because of its insolvency, the Owners may, without prejudice to any other right or remedy the Owners may have, terminate this Agreement by giving the Consultant or receiver or trustee in bankruptcy written notice;
 - c) Without Cause upon 30 days notice in writing to the Consultant's representative (as agreed upon).
- 4.2 Upon termination of the Agreement, the Consultant will perform no further Services other than the work which is reasonably required to terminate the Services and return the Owners' property to the Owners. The Owners will pay the Consultant for all work performed up to the effective date of termination. Upon payment of such amounts no other or additional payment will be owed by the Owners to the Consultant, and, for certainty, no amount will be owing on account of lost profits relating to the portion of the Services not performed or other profit opportunities. All other obligations of the Owners to the Consultant will terminate upon the termination or expiry of the Agreement.
- 4.3 If the Owners terminate this Agreement as provided by this Section, then the Owners may:
- a) Enter into contracts, as it in its sole discretion sees fit, with other persons to complete the Services;
 - b) Withhold payment of any amount owing to the Consultant under this Agreement for the performance of the Services;
 - c) Set-off the total cost of completing the Services incurred by the Owners against any amounts owing to the Consultant under this Agreement, and at the completion of the Services pay to the Consultant any balance remaining; and
 - d) If the total cost to complete the Services exceeds the amount owing to the Consultant, charge the Consultant the balance, which amount to the Consultant will forthwith pay.

5.0 Personnel

- 5.1 The Consultant will provide only professional personnel who have the qualifications, experience and capabilities to perform the Services.
- 5.2 The Consultant will perform the Services using the personnel and sub-consultants as may be listed in their Proposal and the Consultant will not remove any such listed personnel or sub-consultants from the Services without the prior written approval of the Owners which approval will not be unreasonably withheld.
- 5.3 If the Owners reasonably object to the performance, experience, qualifications or suitability of any of the Consultant's personnel or sub-consultants, then the Consultant will, on written request from the Owners, replace such personnel or sub-consultants.
- 5.4 Except as provided for in section 4.0, the Consultant will not engage any sub-consultants, or sub-contract or assign its obligations under this Agreement, in whole or in part, without the prior written approval of the Owners.
- 5.5 If the Consultant retains or employs any sub-consultants or other parties to assist in the performance of the Services, then the Consultant shall incorporate into any agreement with and shall bind such sub-consultants and other parties to all of the terms of this Agreement. The Consultant shall be responsible for such sub-consultant's and other parties' work, and for overseeing and coordinating such sub-consultants' or other parties' work.

6.0 Confidentiality

- 6.1 The Consultant shall maintain confidentiality of all information, documentation and data provided by the Owners to the Consultant or otherwise acquired by the Consultant during the course of carrying out the Services, except that no information obtainable from a public source will be deemed to be confidential. Except with the prior written consent from the Owners, or as required by law or an authority having jurisdiction, neither the Consultant, nor any of its employees, officers, agents, representatives or sub-consultants, shall divulge or disclose any of such information to third parties, or use any of such information for any purpose other than as required under this Agreement in connection with the Services.

7.0 Freedom Of Information and Protection of Privacy Act

- 7.1 The Consultant acknowledges that information provided to the City in connection with this Agreement may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act* (British Columbia) and any other applicable laws. If the Consultant wishes to ensure particular parts of this Contract are protected from disclosure under the FIPP Act, he should specifically identify any information that constitute a) trade secrets, and b) that are supplied in confidence, and c) the release of which could significantly harm their competitive position. Information that does not meet all three of the foregoing categories may be subject to disclosure to third parties. Please refer to the *Freedom of Information and Protection of Privacy Act* for further information.

8.0 Compliance With Applicable Laws

- 8.1 The Consultant shall be responsible for giving all notices and complying with all laws, ordinances, rules, regulations, codes, and standards relating to the conduct of the Services and the locations to which the Services are to be performed. The Consultant shall indemnify the City and UPG and hold them harmless from and against any claim, penalty, losses, damages, or expenses that might be made, imposed, suffered, or incurred due to an asserted or established violation of any such laws, ordinances, rules, regulations, codes or standards.
- 8.2 The Consultant will register for, obtain, and maintain their own separate WorkSafe BC Insurance Coverage, when required by WorkSafe BC and the *Workers Compensation Act*. When WorkSafe BC Insurance coverage is required, the Consultant will provide proof of Good Standing to the Owners before the Consultant starts work for the Owners and again before the Owners make final payment to the Consultant.
- 8.3 The Consultant will comply with the WorkSafe BC Occupational Health and Safety Regulation and the *Workers Compensation Act*. Any WorkSafe BC violation by the Consultant may be considered a breach of contract resulting in possible termination or suspension of the contract and/or any other actions deemed appropriate at the discretion of the Owners. Any penalties, sanctions or additional costs levied against the Owners, because of the actions of the Consultant, are the responsibility of the Consultant.

9.0 Patent Rights And Royalties

- 9.1 The Consultant shall save harmless and indemnify the City and UPG from and against all claims and proceedings for or in account of infringement or any patent, design right, trademark or name or other protected rights in respect of any practice or process in respect of the Services to be performed.

10.0 Advertising And Publicity

10.1 The Consultant shall obtain the written permission of the Owners prior to publication or dissemination of any proposed advertising or other publicity material referring to the Owners or performance of the Services.

11.0 Relationship

11.1 It is expressly agreed, represented and understood that the parties have entered into an arm's length independent contract for the rendering of the above-mentioned Services and that the Consultant is not an employee, agent or servant of the City or UPG. Further, this Agreement shall not be deemed to constitute or create any partnership, joint venture, master-servant, employer-employee, principal-agent, or any other relationship apart from an independent contractor status providing an independent service, for which the Owners will be invoiced according to the terms and conditions of this Agreement.

11.2 The manner and means by which the Consultant conducts its work in order to provide the Services contemplated by this Agreement are under its control. The Consultant will be solely liable for the wages, fringe benefits, work schedules and work conditions of any partners, employees or sub-consultants.

11.3 The Consultant does not have the authority to enter into any contract or reach any agreement on behalf of the Owners, except for the limited purposes as may be expressly set out in this Agreement, or as necessary in order to perform the Services.

11.4 The Consultant will not act for any party whose interests are in conflict with those of the Owners, unless the Owners provide specific prior waiver of that term in writing, in each instance.

11.5 The Consultant warrants that neither it nor any of its officers or directors, or any employee, has any financial or personal relationship or affiliation with any elected official or employee of the Owners or their immediate families which might in any way be seen or perceived (in the Owners' sole and unfettered discretion) to create a conflict. If such any conflict of interest arises during this Agreement, the Consultant will immediately inform the Owners in writing.

12.0 Compensation

12.1 In consideration of the performance of the Services, the Owners shall pay the Consultant at the rates provided in the Proposal dated _____, attached here to as Schedule B, and not to exceed the estimated amount of \$_____ excluding HST (the "Maximum Authorized Expenditure"), except when the Maximum Authorized Expenditure is increased by a written Change Order issued and signed by the Owners.

12.2 In addition to the fees for Services as set out in Section 12.1, The Owners will reimburse the Consultant for actual out-of-pocket costs and expenses ("Disbursements") as identified in Schedule B which the Consultant, and approved sub-consultants, incurs in the performance of the Services, plus any additional Disbursements with the prior written approval of the Owners.

12.3 For greater certainty, costs of general management, non-technical supporting services and general overhead are deemed to be covered by the consulting fees and will not be subject to additional payment by the Owners.

12.4 The Owners retain the right to access and audit the Consultant's files and records related to the Owners' business with twenty-four (24) hours notice during normal business hours.

13.0 Application For Payment

- 13.1 The Consultant shall submit invoices to the UPG, on or before the tenth (10th) day of each month. The Owners, if it approves the amount of such invoices, shall pay such invoices within 30 days of receipt of the invoice.
- 13.2 The Consultant shall attach to each invoice a brief report detailing the work completed to date, work completed during the month covered by the invoice, and work outstanding to complete the Services.
- 13.3 Notwithstanding any to the contrary in this Agreement, the Owners shall never be obligated to pay the Consultant a greater percentage of total fees and disbursements than the degree of percentage complete of the total Services.
- 13.4 If the Owners do not approve of or wish to further review, audit or otherwise seek clarification concerning the Consultant's invoices, for whatever reason, the Owners shall not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted, until that date that invoice is paid. The Owners, if it approves the amount of such invoices, shall pay such invoices within 30 days of approval of the invoice.
- 13.5 The Consultant shall keep proper accounts and records of all costs and expenditures forming the basis of any billing to the Owners, including but not limited to, hours worked, details of all disbursements (including copies of services invoices), and percentage amounts of work completed. The Owners shall be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as shall be reasonably necessary or advisable.
- 13.6 The Consultant agrees to remit and shall be responsible for all withholding taxes, income taxes, Canada Pension Plan contributions, Employment Insurance deductions, and any other deductions required by the applicable provincial or federal statutes for the Consultant and any of its employees.

14.0 Indemnification

- 14.1 The Consultant, on its own behalf and on behalf of all persons and corporations working by, through or under the Consultant, hereby agrees to indemnify and save harmless the Owners, its employees, offices, and agents from and against all losses, damages, claims, expenses suits and judgements arising out of, or related to, the provision of the Services by the Consultant that are found to be negligent.
- 14.2 This indemnification shall not apply:
 - a) where the losses, damages, claims, expenses, suits or judgements result from the Owners acting on the advice of, or receiving direct service from, the sub consultants or employees of the sub consultants of the Consultant and without the knowledge or consent of the Consultant;
or
 - b) to the extent that the Owners, their employees, officers, or agents were negligent.
- 14.3 This indemnification shall terminate two (2) years from the date of Substantial Performance as certified by the Consultant for the project herein.
- 14.4 Nothing in this article shall derogate from the tort and other duties and liabilities of the Consultant and its sub consultants to the Owners.

15.0 Insurance and Damages

- 15.1 The Consultant shall provide, maintain and pay for the following insurance which shall be in place with such insurance company or companies licensed to conduct business in Canada and in such form as may be acceptable to the Owners:
- a) Professional Errors and Omissions Liability Insurance protecting the Consultant, any sub consultant and their respective servant(s), agent(s) or employee(s) against any loss or damage arising directly or indirectly out of the professional services rendered by the Consultant, any sub consultant, servant(s), agent(s), or employee(s) under the contract. Such insurance shall be for an adequate amount acceptable to the Owners and shall in any event be not less than one million dollars (\$1,000,000.00) inclusive any one occurrence. The Consultant shall not be entitled to payment for services resulting in errors or omissions for which the Consultant is held responsible.
 - b) Automobile liability insurance on all vehicles owned, operated or licensed in the name of the Consultant in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, death and damage to property; and
 - c) General Liability Insurance of not less than five million dollars (\$5,000,000.00) inclusive any one occurrence against death, bodily injury and property damage arising directly or indirectly out of the provision of the Services by the Consultants, its employees, agents and sub-consultants. The insurance policy will be endorsed to add the City and UPG as additional insured parties and will include cross liability and severability of interests such that the coverage shall apply in the same manner and to the same extent as though a separate policy had been insured to each insured. The insurance will include, but not be limited to:
 - i) Blanket contractual,
 - ii) Employees as additional insured,
 - iii) Non-owned automobile,
 - iv) Owners and consultants protective liability,
 - v) Contingent employers liability,
 - vi) Personal injury, and
 - vii) Where such further risk exists, advertising liability;
- 15.2 The Consultant will provide the Owners with evidence of the required insurance prior to the commencement of this Agreement. Such evidence will be in the form of a completed certificate of insurance acceptable to the Owners. The Consultant will, on request from the Owners, provide certified copies of all of the Consultant's insurance policies providing coverage relating to the Services, including without limitation any professional liability insurance policies. All required insurance will be endorsed to provide the Owners with thirty (30) days advance written notice of cancellation or material change. The Consultant will require and ensure that each sub-consultant maintain insurance comparable to that required above. The Consultant will be responsible for deductible amounts under the insurance policies. All of the Consultant's insurance policies will be primary and not require the sharing of any loss by the Owners or any insurer of the Owners.
- 15.3 Subject to any specific agreements the Owners and the Consultant may have reached with respect to insurance, as may be set out in other provisions of this Agreement, the Consultant will, as part of the Services, cooperate with the Owners to obtain additional insurance covering the Services if the Owners in its discretion determines that additional insurance is required. The Owners may pay the cost of the premiums for any additional insurance.
- 15.4 The Consultant hereby waives all rights of recourse against UPG or the City for loss or damage to the Consultant's property.
- 15.5 If at any time during the performance of the Services the Consultant becomes aware of a claim or potential claim against any insurance policy that the Consultant has, pursuant to this Agreement,

indicated to the Owners may apply to the Services, then the Consultant will immediately advise the Owners in writing of such claim, including particulars.

16.0 Taxes and Duties

- 16.1 Where an exemption or refund of taxes, customs duties or excise taxes is applicable to the Agreement by way of the Consultant filing claims for, or cooperating fully with the Owners and the proper authorities in seeking to obtain such exemption or refund, the Consultant shall make such applications and provide such cooperation.
- 16.2 Refunds that are properly due to the Owners and have been recovered by the Consultant shall be promptly refunded by the Consultant.

17.0 Engagement Of Other Consultants

- 17.1 The Owners reserves the right at its own discretion to engage any consultant if is deemed advantageous or appropriate.

18.0 Ownership

- 18.1 All drawings, plans, specifications, reports, and other documents or products produced by the Consultant from the Services shall become the property of the Owners.
- 18.2 The Consultant shall give the Owners reproducible copies of any such documents and/or products, and these may be used by the Owners in any manner as part of its operations at its own risk, if the Owners chooses to use them in any manner other than for the particular purpose for which they were provided.

19.0 Assignment

- 19.1 The Consultant shall not assign its rights under this Agreement without the written consent of the Owners.

20.0 No Representations

- 20.1 The Consultant acknowledges that the Owners have made no representations, covenants, warranties, guarantees, promises or agreements with the Consultant with respect to the subject matter of this Agreement, other than those in this Agreement.

21.0 Notice

- 21.1 Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by fax, addressed as follows:

- a) To the Consultant:

Consultant Firm

Attention:

Fax No.:

- b) To the City:

The Corporation of the City of New Westminister

511 Royal Avenue

New Westminister, BC, V3L 1H9

Attention:
Fax No.:

- c) To UPG:
UPG Property Group
#1101, 900 West Hastings Street
Vancouver, BC V6C 1E5

Attention:
Fax No.:

or to such other address or fax number of which notice has been given as provided in this section. Any notice that is delivered is to be considered given on the first business day after it is delivered. Any notice sent by fax is to be considered given on the first business day after it is sent. If a party changes its address or fax number, or both, it must promptly give notice of its new address or fax number to the other party as provided in this section.

22.0 Interpretation

22.1 In this Agreement:

- a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- f) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply; and
- g) where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including”.

23.0 Further Acts

23.1 The Consultant must do all things and prepare and execute all documents that may be necessary to give effect to the intention of this Agreement.

24.0 Time of the Essence

24.1 Time is of the essence of this Agreement.

25.0 Waiver

25.1 Waiver of any default by either party will not be deemed to be a waiver of any subsequent default by that party.

26.0 Severance

26.1 If any part of this Agreement is for any reason held to be invalid by a decision of a court with the jurisdiction to do so, the invalid portion is to be severed and the rest of this Agreement will remain valid and in effect.

27.0 Schedules

27.1 The Schedules to this Agreement, and all documents referenced therein, form integral parts of this Agreement.

28.0 Governing Law

28.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia which is deemed to be the proper law thereof.

29.0 Enurement

29.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, as the case may be.

30.0 Acknowledgment

30.1 The Consultant acknowledges having read and fully understood all the terms and conditions of this Agreement and confirms that it has entered into this Agreement voluntarily and has had a reasonable opportunity to seek legal advice with respect to this Agreement.

As evidence of their agreement to be bound by the above terms, the parties each have executed this Agreement below, under seal, on the dates set out below:

The Corporate Seal of **Consulting Firm** was)
hereunto affixed on the ____ day of ____ 2011, in)
the presence of:) C/S
)
_____)
Authorized signatory)
)
_____)
Authorized signatory)

The Corporate Seal of **THE CORPORATION OF**)
THE CITY OF NEW WESTMINSTER was)
hereunto affixed on the ____ day of May 2011, in)
the presence of:) C/S
)
_____)
Authorized signatory)
)
_____)
Authorized signatory:)

The Corporate Seal of **UPG Property Group** was)
hereunto affixed on the ____ day of ____ 2011, in)
the presence of:) C/S
)
_____)
Authorized signatory)
)
_____)
Authorized signatory:)