

## CONTRACT FOR SERVICES AGREEMENT

This Agreement made this \_\_\_ day of \_\_\_\_\_ 2019

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

**AND: “CONTRACTOR”**  
Address  
(herein called the “Contractor”)

The City and the Contractor agree as follows:

### **1.0 ARTICLE 1 – Engagement and Conflict of Interest**

- 1.1 The Contractor agrees to perform the Contracting Work (herein called the “Work”) as specified in the Statement of Work (Appendix A) and provide all qualified personnel, services, materials, and such other things required to perform said work for **Name of Work** at **Location**, New Westminister.
- 1.2 The Contractor’s relationship with the City will be that of a Prime Contractor.
- 1.3 The Contractor will not act for any party whose interests are in conflict with those of the City, unless the City provides specific prior waiver of that term in writing, in each instance.
- 1.4 The Contractor 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 Corporation or their immediate families which might in any way be seen or perceived (in the Corporation’s sole and unfettered discretion) to create a conflict. If such any conflict of interest arises during this agreement, the Contractor will immediately inform the City in writing.

### **2.0 ARTICLE 2 - Duration and Termination**

- 2.1 The Work shall commence **enter date** and be complete by **enter date**, subject to further extension as agreed upon by the parties.
- 2.2 When the Contractor fulfils all requirements under this agreement to the satisfaction of the City, the City shall certify completion, in writing.
- 2.3 Should the Contractor breach this agreement, either by abandonment, or by act or omission on their part contravening the terms of this Agreement then this Agreement shall terminate at the time of such abandonment or act or omission and the Contractor shall be paid only for Work performed up to the date of contravention.

- 2.4 Acts or omissions by the Contractor that shall justify termination of this Agreement shall include but not be limited to the following:
- a) neglect of duties;
  - b) non-compliance of this Agreement;
  - c) inability to perform the Work he represented himself as competent to perform;
  - d) any misrepresentation made or concealment of material fact for the purpose of securing this Agreement.
- 2.5 The agreement may be terminated by the City as follows:
- a) For Deficiency or Default - immediately by providing to the Contractor written notice of the deficiency or default after the Contractor has been given a reasonable opportunity to remedy said deficiency or default;
  - b) Without Cause - by providing the Notice in writing to (as agreed upon).
- 2.6 Upon termination of the agreement, the City will pay the Contractor for work performed up to the effective date of termination. All other obligations of the City to the Contractor will terminate upon the termination or expiry of the agreement.

### **3.0 ARTICLE 3 - Non-Disclosure of Information**

- 3.1 The Contractor accepts that any information relating to the business affairs of the City is confidential and that any disclosure by him of any such information to unauthorized persons shall be reason for termination of this Agreement.

### **4.0 ARTICLE 4 - Ownership of Contract Documents and Freedom of Information**

- 4.1 All documents submitted to the City of New Westminster become the property of the City, and as such, the City advises Contractors that parts, or all, of this contract and documents legally connected to this contract may be subject to the provisions of British Columbia's *Freedom of Information and Protection of Privacy Act (FOIPPA)* and *Community Charter*. Contractors who wish to ensure particular parts of this contract are protected from disclosure under the FOIPP Act should specifically identify any information or records forming part of the contract that constitute (1) trade secrets, (2) that are supplied in confidence, and (3) 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.

### **5.0 ARTICLE 5 - Compliance with Applicable Laws**

- 5.1 The Contractor shall be responsible for giving all notices and complying with all laws, ordinances, rules, regulations, codes, and standards relating to the performance of the Work. The Contractor shall indemnify the City and hold it 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.
- 5.2 The Contractor 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 Contractor will prove to the City they are registered with WorkSafe BC and are up to date on their premiums by providing a WorkSafe BC Clearance letter to the City before the Contractor starts the Work for the City and again before the City makes final payment to the Contractor.

5.3 The Contractor will comply with the WorkSafe BC Occupational Health and Safety Regulation and the *Workers' Compensation Act*. Any WorkSafe BC violation by the Contractor 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 City. Any penalties, sanctions or additional costs levied against the City, due to the actions of the Contractor are the responsibility of the Contractor.

## **6.0 ARTICLE 6 - Advertising and Publicity**

6.1 The Contractor shall submit to the City, all proposed advertising, or publicity material(s) referring to the City or the performance of the Work for written approval prior to issue.

## **7.0 ARTICLE 7 - Relationship**

7.1 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 Work and that the Contractor is not an employee, agent, or servant, of the City. Further, this Agreement does not 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 Contractor will invoice the City according to the terms and conditions of this Agreement.

## **8.0 ARTICLE 8 - Fees**

8.1 In consideration of the performance of the Work, the City shall pay the Contractor the monies determined by the rates provided in the **Schedule of Quantities/Rates Card**, not to exceed **enter amount** excluding the Goods and Services Tax (GST). This amount is the Maximum Authorized Expenditure. The City may increase this amount by issuing a written Change Order. The Change Order process will be as specified in General Condition 6.0.

## **9.0 ARTICLE 9 - Application for Payment**

9.1 The Contractor shall submit invoices to the City, **Attention:** in accordance with General Condition #GC 14.0.

## **10.0 ARTICLE 10 - Assignments**

10.1 The Contractor may not assign this Agreement without the written consent of the City.

## **11.0 ARTICLE 11 – Agreement**

11.1 No term of this Agreement shall be deemed to have been waived by a party unless written waiver from the other party has been first obtained, and no condoning, excusing or overlooking of any default on previous occasions, or any earlier written waiver shall operate as a waiver in respect of a subsequent default.

11.2 This Agreement is the whole of the Agreement between the parties and sets forth all the warranties, representations, covenants, promises, terms, and conditions between the parties and there is no other written or oral express or implied terms, conditions, warranties, representations, or promises not reduced to writing and set out in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective seals to be affixed as of the day and year first above written

**THE AUTHORIZED SIGNATURE FOR  
THE CORPORATION OF THE CITY OF  
NEW WESTMINSTER:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Office

Accepted and Agreed on  
\_\_\_\_\_, 2019

By  
**“CONTRACTOR”**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Office

**GC 1.0 Contract Documents**

- 1.1 Upon receipt of the City's Purchase Order, the Quotation and the Contract for Services shall form the Contract Documents.
- 1.2 The Contract Documents are complementary and what specified by any one shall be as binding as if called for by all. The intention of the Contract Documents is to include all labour, materials, construction plant and equipment, supplies, services, tools, transportation, facilities and all things necessary for the proper execution of the Work, excepting only those items specifically stated as being furnished by the City or others.

**GC 2.0 Delays**

- 2.1 If the Contractor delays in the commencement, execution or completion of the Work and the City does not cause the delay, the City will not accept any claim or schedule extension by the Contractor.

**GC 3.0 Suspension Or Termination Of Work By The City**

- 3.1 By written notice to the Contractor, the City may, in its sole discretion and without giving reasons, require the Contractor to either terminate execution of the Work or suspend the Work for a specified or unspecified time.
- 3.2 The City may terminate the Contract and assign the Work to others if the quality of the work does not comply with published industry or manufacturers' standards or if the Work is delayed other than by strikes or lockouts. The Contractor may make an application for delay due to poor weather to the City for consideration.
- 3.3 Compensation relating to the suspension or termination shall be pursuant to the "Changes" clause herein.

**GC 4.0 Claims Against And Obligations Of The Contractor**

- 4.1 The Contractor shall keep the construction site and all property of the City free and clear of all builders' liens and agrees to forthwith, following receipt of notice by the City of any such liens, cause the same to be discharged whether or not the liens or claims are valid.
- 4.2 Notwithstanding any provisions of this Agreement to the contrary, the City shall not be obliged to pay any moneys whatsoever to the Contractor during the time that any builders' liens or other liens are registered or filed against the construction site or property owned by the City.
- 4.3 The City will not release the lien holdback until the Contractor submits a CCDC 9A Statutory Declaration stating that the Contractor has paid subcontractors, suppliers, materials men, and workers in full, and the City has confirmed that no liens are registered against the property at the date of the Builders' Lien expiration period.

**GC 5.0 Signs And Publicity**

- 5.1 Neither the Contractor, its subcontractors, nor anyone directly or indirectly employed by any of them, shall post any site signs or release any publicity reports, photographs or other information, orally or in writing, concerning the Work being performed or to be performed without the prior written approval of the City.

**GC 6.0** Changes

- 6.1 Change Order must authorize changes to the Contract price or Contract Time. The maximum allowable combined overhead and profit mark-ups are as follows:
- .1 ten percent (10%) mark-up by the Contractor on changes in the Work performed by its own forces.
  - .2 ten percent (10%) mark-up by the Contractor on the amounts paid to Subcontractors for changes in the Work performed by Subcontractors.
  - .3 ten percent (10%) mark-up by the Subcontractors on changes in the Work.
  - .4 The Contractor's mark-up includes all additional supervision time and related costs.
  - .5 Changes authorized to proceed on a "time and materials" basis shall be accounted for using hourly rates actual costs, plus the above noted mark-ups.

**GC 7.0** Cooperation With Other Contractors

- 7.1 Where, in the opinion of the City, other contractors or workers are required on the site of the Work, the Contractor shall, allow them access and shall cooperate with them in the carrying out of their duties and obligations, to the satisfaction of the City.

**GC 8.0** Subcontractors

- 8.1 The Contractor without the written consent of the City may subcontract neither the whole nor any part of the Work.
- 8.2 The Contractor agrees to preserve and protect the rights of the parties under the Contract Documents with respect to any work performed under subcontract and shall require his subcontractors to perform their work in accordance with the Contract Documents. The Contractor shall be fully responsible to the City for subcontractors' acts or omissions or of persons directly or indirectly employed by them, to the same extent as if the acts or omissions were acts or omissions of the Contractor.
- 8.3 Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and the City.

**GC 9.0** Assignment Of Agreement

- 9.1 The Contractor shall not assign this Contract or any part thereof without the prior written consent of the City. The City may arbitrarily withhold such consent.

**GC 10.0** Laws And Permits

- 10.1 The Contractor shall comply and ensure compliance with all laws and regulations relating to the Work, whether Federal, Provincial or City, and shall pay to the appropriate authorities all licenses, fees and charges in respect of permits, unless otherwise instructed in the Contract Documents.

**GC 11.0** Protection Of Work

- 11.1 The Contractor shall guard or otherwise protect the Work including all material, plant, and real property related to the Work against loss or damage from any cause.
- 11.2 The Contractor shall erect and maintain barricades, canopies, guards, lights, and warning signs to the extent required by law for the protection of the public.

**GC 12.0 Insurance**

- 12.1 The Contractor shall provide the following types of insurance to be placed with a company or companies legally doing business in British Columbia and in a form acceptable to the City. The policies of insurance shall provide for thirty (30) days prior written notice of cancellation, lapse, or material change to the City. Certified copies of these insurance policies shall be submitted to the City prior to the commencement of any Work.
- 12.2 **Commercial General Liability Insurance** protecting the City, the Consultants, the Contractor, and their respective servants, agents, tenants or employees against damages arising from personal injury (including death) and claims for property damage which may arise out of the operations of the Contractor, its subcontractors, or their respective servants, agents or employees in connection with the Work.
- .1 The policy shall specifically cover liability arising out of the performance of this Contract and shall cover all liability assumed by the Contractor under any contract or agreement, including the indemnity provisions of this Contract. The policy shall also include products and completed operations coverage and shall extend to liability arising out of non-owned automobiles.
  - .2 This insurance shall be for an amount of not less than **five million dollars (\$5,000,000.00)** inclusive per occurrence and shall include a standard form of cross liability clause. The deductible per occurrence shall not exceed one thousand dollars (\$1,000.00). The insurance shall remain in force, following completion of the Work, for a period of not less than seventy-two (72) months, renewed on an annual basis. Evidence of this insurance is to be provided to the City on an annual basis.
- 12.3 **Automobile Liability Insurance** on all licensed vehicles owned by or leased to the Contractor, protecting against damages arising from bodily injury (including death) and from claims for property damage arising from the operations of the Contractor, its servants, agents, or employees. This insurance shall be for a minimum amount of one million dollars (\$1,000,000) inclusive per accident.
- 12.4 **Contractor's Equipment Insurance** covering all equipment owned or rented by the Contractor and its servants, agents or employees against all risks of loss or damage with coverage sufficient to allow for immediate replacement, and shall contain a waiver of subrogation against the City.
- 12.5 **All Risks Insurance** in the joint names of the Contractor and the City, covering the Work and all property of every description to be used in the performance of the Work. This insurance shall be primary, and be of an amount of not less than the sum of the Contract price. The deductible per occurrence shall not exceed one thousand dollars (\$1,000.00).

**GC 13.0 Indemnity**

- 13.1 Notwithstanding any insurance that may be provided by the City, the Contractor agrees to indemnify the City from all liability resulting from the operations of the Contractor or any subcontractors, or their respective servants, agents or employees under this Agreement, excepting liability wholly arising out of the negligent acts of the City.
- 13.2 At the City's option, the Contractor shall, at his own expense, promptly assume the defence of any claim, suit, or other proceeding arising out of sentence (1) of this clause, and promptly pay all costs that may be incurred by or against the City. The City may require, as a condition precedent to any payment hereunder, the Contractor to submit waivers or releases extinguishing all claims of any person, firm, or corporation.

- 13.3 If any encumbrance should be placed upon or obtained against the property comprising the site of the Work, or because of any such suit or proceeding, the Contractor shall forthwith cause the same to be discharged. In the event that the Contractor fails to remove the said encumbrance(s), the City may pay whatever moneys are necessary to discharge fully these encumbrance(s) and all of its costs in that regard may be deducted from moneys otherwise payable to the Contractor.

#### **GC 14.0 Application For Payment**

- 14.1 When the schedule is more than thirty (30) days, applications for payment may be made once in each month from the date of acceptance of the Contractor's Quote by the City.
- 14.2 A properly completed application shall be delivered to the City in an acceptable form on or before the tenth (10<sup>th</sup>) day of the month following the month which it represents and shall consist of:
- .1 a progress invoice;
  - .2 a progress breakdown describing the portion and value of Work completed to date which, when certified by the City, shall be used as the basis for payment;
  - .3 a CCDC 9A Statutory Declaration, when required.
- 14.3 The Contractor shall show the GST separately at the end of each invoice and calculate the GST on the balance after the deduction of the builders' lien holdback and any other holdbacks or deductions. The City will pay the amount of the GST owing on any holdbacks at the time of release of the holdback moneys to the Contractor.
- 14.4 Applications for payment received by the City after the time provided above will not be payable by the City until the end of the first month following the date of actual receipt.

#### **GC 15.0 Certificates And Payments**

- 15.1 Upon the last day of the month following the month represented by the application for payment, an amount equal to ninety percent (90%) of the value of the work, products and materials described therein, less all previous payments, shall become due and payable by the City, subject always to the terms of the Contract Documents.
- 15.2 Upon the expiration of thirty-one (31) days from the City's issuance of a Certificate of Completion, an amount equal to the Contract price less:
- .1 Two (2) times the value of any deficiencies, plus
  - .2 ten percent (10%) Builders' Lien holdback, plus
  - .3 the amount of all previous payments,
- shall become due and payable by the City subject always to the terms of the Contract Documents.
- 15.3 Upon the expiration of fifty-five (55) days after the date of the issuance by the City of the Certificate of Completion referred to above, the lien holdback amount shall become due and payable by the City, subject always to the terms of the Contract Documents.
- 15.4 Upon the expiration of thirty-one (31) days from the date of issuance by the City of a certificate of final payment, the deficiency holdback amount shall become due and payable by the City, subject always to the proper rectification of these deficiencies.



**GC 16.0 Warranty And Rectification Of Defects**

- 16.1 Without restricting any warranty or guarantee implied or stipulated by law, the Contractor shall, at his own expense, rectify and make good any defect or fault that appears in the Work within twelve (12) months from the date of issuance by the City of a Certificate of Substantial Performance.
- 16.2 If the Contractor fails to correct the defect within five (5) calendar days of written notification by the City, the City may correct it and deduct all related costs from the Contract price.

**GC 17.0 Shop Drawings**

- 17.1 The Contractor shall submit to the Consultant as assigned by the City, for review, six (6) sets of shop drawings, brochures, diagrams, illustrations and other data required to illustrate details of the Work prior to fabrication or incorporation of the same into the Work, when required by the Specifications.
- 17.2 The review of such drawings by the Consultant shall be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings, etc. or of responsibility for meeting all requirements of the Contract Documents.

**GC 18.0 Clean-up And Final Cleaning Of Work**

- 18.1 Promptly after the date of substantial performance, the Contractor shall remove its debris, surplus or waste products, tools, construction machinery, equipment, and temporary facilities not required for the performance of the remaining work, unless otherwise directed by the City, and leave the site in a clean condition for use by the City.
- 18.2 Upon completion of the work, provide a thorough cleaning of all new areas and materials, and of all existing areas and materials affected by the work.

**GC 19.0 Products**

- 19.1 Products shall be new unless otherwise specified.
- 19.2 Products shall not be stored on the site unless approved by the City.
- 19.3 The City shall not pay the Contractor for products not incorporated into the Work unless prior approval has been obtained from the City.

**GC 20.0 Field Review**

- 20.1 The City shall have access to the Work whenever it is in progress.
- 20.2 The Contractor shall ensure that all specified field reviews or tests have made before covering the work to be reviewed.
- 20.3 The Contractor shall uncover work that has not been reviewed as specified and make the work good at the Contractor's expense.

**GC 21.0 Builders' Lien Holdback**

- 21.1 A lien holdback of ten percent (10%) of the cost of the Work will be deducted from the second (2<sup>nd</sup>) and subsequent progress invoices, and held by the City until fifty-five (55) days after the date of Substantial Performance, in accordance with the *Builders Lien Act* of British Columbia.

**GC 22.0 Bonds**

22.1 Bonding is not required for this contract.

**GC 23.0 Warranty**

23.1 Product warranties requiring guarantees in excess of two years shall be issued by the manufacturer to the benefit of the Owner. The Contractor is responsible to obtain these warranties on behalf of the Owner from the manufacturer.

**GC 24.0 Deficiency Holdback**

24.1 The City will retain a holdback of two (2) times the City's estimated value of any work that is considered deficient or incomplete at the time of Substantial Performance.

**GC 25.0 Hazardous Materials**

25.1 The City will endeavour to identify the presence of potentially hazardous materials, specifically asbestos or PCBs. The Contractor shall be responsible for bringing to the attention of the City the presence, or suspected presence, of a potentially hazardous material affecting the work. An appropriate means of dealing with the material will be agreed upon between the City and the Contractor. Unless specified otherwise in the Documents, the cost of the removal of asbestos and PCBs will be borne by the City.

**GC 26.0 Safety Requirements**

26.1 The Contractor shall review the City's worksite hazard communication program and shall sign and submit the related documentation to the City prior to commencing work on the site.

**End of General Conditions**