

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is dated for reference the 10th day of April, 2014.

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA

#1 Centennial Square
Victoria, BC V8W 1P6
Fax: (250) 361-0311
E-mail: Mlai@victoria.ca

(the "City")

OF THE FIRST PART

AND:

J.R. HUGGETT COMPANY CORP.

P.O. Box 45692
RPO SunnysideMall
Surrey, BC, V4A 9N3
E-mail: jhuggett@jrhuggettco.com

(the "Consultant")

OF THE SECOND PART

WHEREAS:

- A. The City has undertaken a major infrastructure project to replace the Johnson Street Bridge (the "**Project**") and has retained PCL Constructors Westcoast ("**PCL**") as the contractor and MMM Group Limited ("**MMM**") as the designer and project manager;
- B. The City wishes to undertake an independent review of the Project, including assessment of the relationship between the City, MMM and PCL, to evaluate the current status of the project and potential risks to its successful completion (the "**Work**");
- C. The Consultant has expertise in project management and review of projects;
- D. The City has agreed to engage the Consultant, and the Consultant has agreed to be engaged by the City in respect of the Project on the terms and subject to the conditions set out in this Agreement.

NOW THEREFORE the City and the Consultant, in consideration of their mutual duties and responsibilities to one another as set out in this Agreement, agree as follows:

1.0 INTERPRETATION

1.1 In this Agreement the following words shall have the following meanings:

"Agreement" means this Agreement for professional services including its recitals and schedules.

"Services" means the Consultant's duties and responsibilities to the City as described in this Agreement, including carrying out the Work in accordance with the Consultant's proposal dated March 28, 2014 which is attached hereto as Schedule "A" (the **"Proposal"**).

1.2 For the purposes of this Agreement, except as otherwise expressly provided herein:

- (a) all references in this Agreement to an article, section, subsection, paragraph, or other subdivision, or to a schedule, is to the article, section, subsection, paragraph or other subdivision of or schedule to this Agreement unless otherwise specifically stated;
- (b) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, clause, sub-clause or other subdivision or Schedule;
- (c) the word "day" refers to a calendar day, and the words "business day" refer to any day except Saturday, Sunday or any other day defined as a holiday by the *Interpretation Act* (British Columbia);
- (d) any reference to a time of day is a reference to local time at Victoria, British Columbia;
- (e) the word "Party" or "Parties" means either the Consultant or the City if used in the singular and both the Consultant and the City if used in the plural;
- (f) the singular of any term includes the plural and vice versa and the use of any term is equally applicable to any gender and where applicable to a body corporate;
- (g) the word "or" is not exclusive and the word "including" is not limiting (whether or not non-limiting language such as "without limitation" or "but not limited to" or other words of similar import are used with reference thereto);
- (h) except as otherwise provided, any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto with all amendments made thereto and in force from time to time, and to any statute or regulations that may be passed which have the effect of supplementing or superseding such statute or such regulations;
- (i) the headings to the Articles and clauses of this Agreement are inserted for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof,
- (j) any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor to such entity;
- (k) the parties acknowledge that this Agreement is the product of arm's length negotiation between the parties, each having obtained its own independent legal advice, and that this Agreement shall be construed neither strictly for nor strictly against any party irrespective of which party was responsible for drafting this Agreement;
- (l) unless otherwise specifically noted, all references to money in this Agreement are or shall be to money in lawful money of Canada.

2.0 CONSULTANT'S DUTIES AND RESPONSIBILITIES TO THE CITY

The Consultant must:

- 2.1 Render the Services to the City under this Agreement with that degree of care, skill and diligence normally provided by Consultants having similar qualifications in the performance of duties of a similar nature to that contemplated by this Agreement at the time and place that such services are rendered.
- 2.2 Charge for the performance of all of the Service only the fees and disbursements authorized under this Agreement.
- 2.3 Perform the Services to be provided under this Agreement within the time limits specified in this Agreement or, if no time limit is specified, the Consultant must perform the Services promptly. The Consultant acknowledges and agrees that the intent of this Agreement is to complete the Work by no later than May 31, 2014.
- 2.4 For the duration of the Work, not retain, as an employee or consultant, any City engineer or specialist employee who is currently employed by or on retainer with the City.
- 2.5 Maintain proper and accurate Consultant's accounts and records in respect of the Services including, but not limited to, contracts, invoices, statements, receipts and vouchers, and maintain such accounts and records for a period of not less than six (6) years following the substantial completion of the Work. The Consultant must permit the City to audit all such accounts and records upon request.
- 2.6 Permit the Government of Canada, the Auditor General of Canada, and/or their designated representatives, to the extent permitted by law, at all times, to inspect the terms of this Agreement and any records and accounts respecting the Work or Services, and to have free access to any documentation relevant for the purpose of auditing the Project.
- 2.7 If the Consultant is permitted or required to subcontract under this Agreement, the Consultant shall include in agreements with each of its sub-consultants terms equivalent to sections 2.5 and 2.6 of this Agreement.

3.0 CITY'S DUTIES AND RESPONSIBILITIES TO THE CONSULTANT

The City must:

- 3.1 Make available to the Consultant all relevant information or data pertinent to the Project which is in the hands of the City and is required by the Consultant and instruct the Consultant.
- 3.2 Upon the request of the Consultant, provide written authorization to the Consultant to act as its agent for such purposes as are reasonably necessary to the Consultant providing the Services.
- 3.3 Give reasonably prompt consideration to all draft reports, drawings, proposals and other documents relating to the Work or Services provided to the City by the Consultant, and, whenever prompt actions are necessary, where possible inform the Consultant of a decision in such reasonable time so as not to delay the Services of the Consultant.
- 3.4 Arrange and make provision for the Consultant's entry and access to public and private property and the Project site in the performance of the Services;

3.5 For the duration of the Project, not retain, as an employee or consultant, any engineer or specialist employee who is currently employed by or on retainer with the Consultant;

3.6 Pay to the Consultant for the Services rendered under this Agreement in accordance with section 4.

4.0 FEES

4.1 The City shall pay the Consultant \$200 per hour for the Services rendered, provided however, that the Consultant shall not charge the City any amount beyond the maximum contained in the Proposal, without first obtaining consent from the City in writing.

4.2 The Consultant must not charge the City for any disbursements beyond those identified in the Proposal unless the City has approved them in writing. Where the Consultant is permitted to charge the City for disbursements, such disbursements must be charged at the Consultant's actual cost, without any mark-up whatsoever, and be supported by invoices or receipts.

4.3 All invoices paid as a result of this Agreement will be paid as per the City of Victoria's standard payment terms "Net 30 Days".

4.4 The City shall be responsible for paying any sales, value-added, use, transfer, or similar tax, including GST, that is payable under law in respect of any of the Services contemplated under this Agreement. The amount of such tax will be added to accounts rendered by the Consultant.

5.0 RIGHT TO STOP RENDERING SERVICES

5.1 If any invoice submitted by the Consultant remains undisputed and unpaid by the City for sixty (60) days from the date the invoice was submitted, the Consultant may give seven (7) days' written notice to the City that the Consultant will stop rendering Services.

5.2 If, within seven (7) days of delivery of this notice, the City has not paid the Consultant's invoice, and the Consultant and the City have not agreed in writing on terms for payment of the invoice, the Consultant may stop rendering Services on the Project. In that event, the City shall not have any claim whatsoever against the Consultant for any loss, cost, damage, or expense incurred, or anticipated to be incurred, by the City as a result.

5.3 The rights of the Consultant given in this section are in addition to, rather than a substitute for, any other rights the Consultant may have under this Agreement, or otherwise, for non-payment of the Consultant's invoices by the City.

6.0 DISPUTE RESOLUTION

6.1 In the event of any dispute between the City and the Consultant, both parties agree to appoint representatives who, in good faith, will use their best efforts to resolve the dispute. Resolution of the dispute must be attempted under this section before the dispute is submitted for resolution by arbitration or otherwise.

6.2 If the representatives appointed under section 6.1 are unable to promptly resolve the dispute, both parties agree to continue the work required under this Agreement while such dispute is being resolved by arbitration or otherwise, it being understood that in doing so neither party will jeopardize any claim it may have.

- 6.3 All matters in dispute under the following provisions of this Agreement must be submitted to arbitration in Victoria, British Columbia pursuant to the *Arbitration Act* (British Columbia) by a single arbitrator appointed jointly by them:
- (a) Article 4.0 – Fees;
 - (b) Article 5.0 – Right to Stop Rendering Services;
 - (c) Article 14.0 – Changes, Alterations and Additional Services.
- 6.4 All other matters in dispute under this Agreement may, with the concurrence of both the City and the Consultant, be submitted to arbitration in Victoria, British Columbia pursuant to the *Arbitration Act* (British Columbia) by a single arbitrator appointed jointly by them.
- 6.5 No one shall be nominated to act as an arbitrator who is in any way financially interested in the conduct of the Project or in the business affairs of either the City or the Consultant.
- 6.6 If the parties cannot agree on the choice of an arbitrator each party shall select a nominee and the nominees shall jointly appoint an arbitrator.
- 6.7 The laws of the Province of British Columbia shall govern this Agreement and any arbitration or litigation in respect thereof.
- 6.8 The award of the arbitrator shall be final and binding upon the parties.
- 6.9 Costs of the arbitration must be divided equally between the parties.

7.0 CONFIDENTIALITY

- 7.1 It is the responsibility of each Party to identify to the other Party all confidential information of the identifying Party connected with this Project.
- 7.2 Confidential information received in the course of this Project by one Party from the other shall not be used or divulged by the receiving Party, or its employees, consultants, sub-consultants, or agents, without the prior written approval of the other Party, except as may be required by law.
- 7.3 This article 7.0 shall not prohibit a Party from acting to correct or report a situation that the Party may reasonably believe endangers the safety or welfare of the public, provided the Party notifies the other Party that the Party intends to provide such notice as soon as reasonably possible.
- 7.4 In the event that a Party becomes legally compelled to disclose confidential information, whether pursuant to the *Freedom of Information and Protection of Privacy Act* or otherwise, that Party shall forthwith notify the other Party of this requirement. Such disclosure shall not result in any liability hereunder.

8.0 CONFLICT OF INTEREST

- 8.1 For the purposes of this article 8.0, "**Consultant**" includes all directors, officers, employees, agents, sub-consultants and team members of the Consultant.
- 8.2 The Consultant must not, during the term of this Agreement perform a service for, or provide advice to any person, firm or corporation, which gives rise to a conflict of interest between the obligations of the Consultant under this Agreement and the obligation of the Consultant to such other person, firm or corporation.

9.0 INTELLECTUAL PROPERTY

- 9.1 For the purposes of this Agreement "**Intellectual Property**" means all plans, maps, reports, specifications, manuals, preliminary drafts, data, information, drawings, images, designs, concepts, products, processes, models and all other property and materials, including any novel concepts, products or processes that are patentable, capable of trademark, or capable of protection as industrial designs, which are produced by the Consultant under this Agreement.
- 9.2 The Intellectual Property and any copyright therein shall be and remain the property of the City.
- 9.3 To the extent any applicable law or treaty prohibits the assignment or transfer of any moral rights or rights of restraint the Consultant has in the Intellectual Property, the Consultant waives those rights in favour of the City.
- 9.4 It is understood and agreed that the provisions contained in articles 7.0, and 9.0, and the indemnity contained in article 11.0 hereof shall subsist even if the rest of this Agreement shall be terminated for any reason whatsoever and that those provisions are severable for such purpose.

10.0 CONSULTANT'S INSURANCE

- 10.1 The Consultant shall provide and maintain until the completion of the Services, a policy of insurance in a form acceptable to the City, with an insurance company licensed to carry on business in British Columbia, said policy to include the following:
- (a) Comprehensive general liability insurance, including coverage in respect of personal injury, bodily injury and death, and property damage, in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per single occurrence in respect of the Services under this Agreement;
 - (b) Clause naming the City as an additional insured with respect to the operations of the Consultant;
 - (c) Cross liability clause;
 - (d) Clause requiring the insurer not to cancel or materially change the liability policy without first giving the City thirty (30) days prior written notice.
- 10.2 The Consultant shall provide and maintain until the completion of the Services a policy of liability insurance with the Insurance Corporation of British Columbia in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) in respect of any licensed motor vehicle of any kind used by the Consultant in connection with the Services, such policy to specify business use.

- 10.3 The Consultant shall at all times maintain the necessary registration and coverage in respect of its personnel as required under the *Workers Compensation Act* and regulations thereunder.
- 10.4 The Consultant shall at all times provide and maintain a policy of professional liability insurance, including coverage with respect to errors and omissions, with an insurance company licensed to carry on business in British Columbia in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per claim and in the aggregate.
- 10.5 If the Consultant is permitted or required to subcontract under this Agreement, the Consultant shall require each of its sub-consultants to:
- (a) Provide and maintain until completion of their services a policy of insurance in a form acceptable to the City, with an insurance company licensed to carry on business in British Columbia, said policy to include the following:
 - (i) Comprehensive general liability insurance, including coverage in respect of personal injury, bodily injury and death, and property damage, in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per single occurrence in respect of the services to the Consultant or the City;
 - (ii) Clause naming the Consultant and the City as additional insured with respect to the operations of the sub-consultant;
 - (iii) Cross liability clause;
 - (iv) Clause requiring the insurer not to cancel or materially change the liability policy without first giving the City thirty (30) days prior written notice;
 - (b) Provide and maintain until the completion of their services a policy of liability insurance with the Insurance Corporation of British Columbia in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) in respect of any licensed motor vehicle of any kind used by the sub-consultant in connection with the services, such policy to specify business use.
 - (c) Maintain the necessary registration and coverage in respect of its personnel as required under the *Workers Compensation Act* and regulations thereunder.
 - (d) Provide and maintain, at all times, a policy of professional liability insurance, including coverage with respect to errors and omissions, with an insurance company licensed to carry on business in British Columbia in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per claim and in the aggregate.
- 10.6 Any deductible amounts in the foregoing insurance which are payable by the policyholder shall be in an amount acceptable to the City.
- 10.7 Neither the maintenance of the foregoing insurance and the performance by the Consultant of its obligations under this article 10.0, nor the provision of any insurance coverage by the City, shall relieve the Consultant of any liability under the indemnity provisions set out in article 11.0.

11.0 INDEMNIFICATION

- 11.1 The Consultant hereby releases and shall indemnify and save harmless the City, its officers, employees, officials, agents, contractors and representatives from and against

any and all claims, costs, damages, actions, causes of action, losses, demands, payments, suits and expenses, legal fees or liability whatsoever arising wholly or in part, and whether directly or indirectly, from:

- (a) errors, omissions or negligent acts of the Consultant, its officers, agents, members, employees, contractors or subcontractors, or any other person for whom the Consultant is in law responsible in the performance of the Services;
- (b) the breach, violation or non-performance of this Agreement by the Consultant, its officers, agents, members, employees, contractors or subcontractors, or any other person for whom the Consultant is in law responsible in the performance of the Services; or
- (c) personal injury including death, property damage and loss arising out of, suffered or experienced by any person in connection with or during the provision of the Services under this Agreement.

11.2 The release and indemnity contained in section 11.1 shall apply except to the extent that the claims, costs, damages, actions, causes of action, losses, demands, payments, suits, expenses or legal fees or liability arise from the negligence of the City, its officers, employees, officials, agents, contractors or representatives.

11.3 The release and indemnity provided in section 11.1 and 11.2 shall survive the termination of this Agreement.

12.0 CHANGES, ALTERATIONS AND ADDITIONAL SERVICES

12.1 The City may issue to the Consultant a change notice to make changes to the Services (including the time limit for completion), omit part of the Services, or require additional Services (a "**Change Notice**"). A Change Notice shall form a schedule to this Agreement and the terms of the Change Notice shall prevail over any other provision of the Agreement, in the event of an inconsistency between them. The City and the Consultant shall appraise the value of the changes to the Services specified by the Change Notice, and (unless another time limit is agreed upon by the parties) within ten (10) days of receipt of the Change Notice, agree on the new price to be paid for the Services or the reduction in the fee payable to the Consultant.

13.0 TERMINATION AND SUSPENSION

13.1 By seven (7) days notice in writing to the Consultant, the City may at any time suspend or terminate the Services or any portion thereof at any stage of the Project. Upon receipt of such written notice, the Consultant shall perform no further Services other than those reasonably necessary to close out the Consultant's Services.

13.2 If either Party to this Agreement is in default in the performance of any of the Party's obligations set forth in this Agreement, the other Party may require that such default be corrected by written notice. If, within 30 days of receipt of such notice, such default is not corrected, the other Party may immediately terminate this Agreement, without limiting any other right or remedy the Party may have.

13.3 The parties agree that:

- (a) if the Consultant makes a general assignment for the benefit of creditors; or
- (b) if the Consultant institutes proceedings to be adjudicated bankrupt or insolvent or consents to the institution of bankruptcy or insolvency proceedings against the

Consultant or files an application or petition or answer or consent seeking re-organization or re-adjustment of the indebtedness of the Consultant under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency, or consents to the filing of any such application or petition, or consents to the appointment of a receiver or receiver-manager; or

- (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator, or custodian of all or substantially all of the property of the Consultant is appointed or applied for by the Consultant or appointed pursuant to an instrument or by order of a court; or
- (d) if a judgment, decree, or order is entered by a court of competent jurisdiction adjudging the Consultant a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted otherwise than by the Consultant, provided that such judgment, decree or order is not in good faith contested by the Consultant; or
- (e) if any application or petition or certificate or order is made or granted for the winding-up or dissolution of the Consultant, voluntary or otherwise;

then the City may immediately terminate this Agreement without notice to the Consultant.

13.4 In the event of suspension or termination of the Services under section 13.1 or 13.3 the City shall pay the Consultant for all services performed and the Consultant shall have no further claim for compensation.

14.0 RECORDS

14.1 To provide data for the calculation of fees on a time basis, the Consultant and the Consultant's sub-consultants shall keep a detailed record of the hours worked by all personnel employed or engaged on the Project.

14.2 The City may inspect these records during regular office hours, on provision of reasonable notice, respecting any item that the City is required to pay on a time basis as a result of this Agreement.

14.3 The Consultant shall provide copies of receipts for any disbursements for which the Consultant claims payment under this Agreement.

15.0 DISCLOSURE

15.1 Before commencing the Services, the Consultant, on the Consultant's behalf and on behalf of the Consultant's sub-consultants, shall disclose to the City all existing affiliations with firms or individuals who may participate in the execution of the Project. During the term of this Agreement, the Consultant and the Consultant's sub-consultants shall also disclose to the City any new affiliations. Upon receipt of this disclosure, the City shall accept or reject the affiliated firms or individuals, or may terminate this Agreement.

16.0 RESTRICTIONS AND EXCLUSIVE USE BY CLIENT

16.1 Reports, opinions, findings, recommendations, including expert testimony, or other documents prepared under this Agreement by the Consultant are prepared for the exclusive use of the City. Any use of these documents by any other party without the written consent of the Consultant is the sole responsibility of such party. The Consultant accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions taken by such third party based on these Documents.

17.0 PUBLICITY

17.1 All publicity by the Consultant relating to this project is subject to the approval of the City and no mention of the Project in advertising or articles in any publication will be permitted unless authorized in writing by the City. Publicity or advertising implying endorsement of a product by the City will not be permitted.

17.2 The Consultant may, with the consent of the City, publish, alone or in conjunction with any other person, any articles, photographs, or other illustrations relating to the Project. The City's consent for the publication of such materials shall not be unreasonably withheld.

17.3 Use of the trademarked City of Victoria logo is expressly prohibited except with the prior written consent of the City.

18.0 NOTICES

18.1 Each notice sent pursuant to this Agreement ("**Notice**") shall be in writing and shall be sent to the relevant Party at the relevant address, facsimile number or e-mail address shown on the first page of this Agreement. Each such Notice may be sent by registered mail, by commercial courier, by facsimile transmission, or by electronic mail.

18.2 Each Notice sent by electronic mail ("**E-Mail Notice**") must show the e-mail address of the sender, the name or e-mail address of the recipient, and the date and time of transmission, and unless receipt is acknowledged, must be followed within twenty-four (24) hours by a true copy of such Notice, including all addressing and transmission details, delivered (including by commercial courier) or sent by facsimile transmission.

18.3 Each E-Mail Notice sent electronically by the Consultant or the City shall be fully accessible by the recipient, as well as capable of being printed, retained and electronically stored by the recipient for subsequent use and reference.

18.4 Each Notice shall be deemed to have been given or made at the following times:

- (a) if delivered to the address (including by commercial courier), on the day the Notice is delivered;
- (b) if sent by registered mail, seven (7) days following the date of such mailing by sender;
- (c) if sent by facsimile transmission, on the date the Notice is sent by facsimile transmission; or
- (d) if sent by electronic mail, on the date the E-Mail Notice is sent electronically by e-mail by the sender.

18.5 If a Notice is delivered, sent by facsimile transmission or sent by electronic mail after 4:00 p.m., or if the date of deemed receipt of a Notice falls upon a day that is not a Business

Day, then the Notice shall be deemed to have been given or made on the next Business Day following.

- 18.6 Notice given by facsimile transmission in accordance with the terms of this Article 18.0 will only be deemed to be received by the recipient if the sender's facsimile machine generates written confirmation indicating that the facsimile transmission was sent.
- 18.7 If normal mail service, facsimile or electronic mail is interrupted by strike, slow down, force majeure or other cause beyond the control of the parties, then a Notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the Notice shall utilize any other such services which have not been so interrupted or shall personally deliver such Notice in order to ensure prompt receipt thereof.
- 18.8 Each Party shall provide Notice to the other Party of any change of address, facsimile number, or e-mail address of such Party within twenty-four (24) hours of such change.

19.0 ENTIRE AGREEMENT

- 19.1 This Agreement constitutes the entire Agreement between the City and the Consultant and supersedes all previous expectations, understandings, communications, representations and agreements whether verbal or written between the City and the Consultant with respect to the Services and may not be modified except by subsequent agreement in writing executed by the City and the Consultant.

20.0 NO DUTY OF CARE

- 20.1 The Consultant acknowledges that the City, in the preparation of this Agreement, supply of oral or written information to consultants, review of proposals or the carrying out the City's responsibilities under this Agreement, does not owe a duty of care to the Consultant and the Consultant waives for itself, its successors and assigns, the right to sue the City in tort for any loss, including economic loss, damage, cost or expense arising from or connected with any error, omission or misrepresentation occurring in the preparation of this Agreement, the RFP, supply of oral or written information to proponents, review of proposals, or carrying out of the City's responsibilities under this Agreement.

21.0 WAIVER

- 21.1 Except as may be specifically agreed in writing, no action or failure to act by the City or the Consultant shall constitute a waiver of any right or duty afforded any of them under this Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach of this Agreement.

22.0 RELATIONSHIP

- 22.1 The legal relationship between the Consultant and the City arising pursuant to this Agreement is that of an independent contractor and purchaser of such services, and, in particular and without limiting the generality of the foregoing, nothing in this Agreement shall be construed so as to render the relationship between the Consultant and the City to be that of employee and employer, partnership or joint venture.

23.0 VALIDITY

23.1 If any part of this Agreement is or is declared invalid, the remainder shall continue in full force and effect and be construed as if the Agreement had been executed without the invalid portion.

24.0 LAW

24.1 This Agreement shall be governed by and construed in accordance with the laws in force from time to time in the Province of British Columbia, and the parties hereby irrevocably attorn to the jurisdiction of the courts of British Columbia.

25.0 TRANSFER OF INTEREST

25.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns. Neither party may assign or transfer any interest in this Agreement without the prior written consent of the other.

26.0 EFFECTIVE DATE AND TERMINATION

26.1 This Agreement is effective as of April 10, 2014 (the "Effective Date") notwithstanding the date of execution of this Agreement by the parties.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

THE CORPORATION OF THE CITY OF VICTORIA)
by its authorized signatory)
)
)
)
_____)
Jason Johnson, City Manager)

J.R. HUGGETT COMPANY CORP by its authorized)
signatory)
)
)
)
_____)
Jonathan Huggett, Principal)

Schedule "A"

City of Victoria.
Office of the City Manager
1 Centennial Square
Victoria
BC
V8W 1P6

28 March 2014

Attention: Jason Johnson, City Manager

Dear Mr. Johnson,

**Proposal for Consulting Services – Review of Johnson Street Bridge
Project Delivery and Costs**

Introduction

The City has entered into separate contracts with the MMM Group to act as the City's Engineer and for design for the Johnson Street Bridge /Replacement Project, and with PCL Constructors for the construction of the bridge.

While the project budget has been set at \$92.8 million the initial contract with PCL is for a fixed price of \$62.935 million with a contingency of \$2.815 million. The City has recently received a delay claim from PCL in excess of \$9.1 million.

The City wishes to review the current financial status of the project on a pro-active basis and from a risk assessment basis to determine the potential for further financial claims. In the event that the City determines additional unforeseen costs are likely, it will wish to develop mitigation strategies at the earliest possible opportunity to minimize additional costs.

The requested scope of work is as follows:

1. Review of the contract documents
2. Interviews with key City staff involved in the project
3. Meetings with MMM (engineering consultant) and PCL (contractor)
4. Evaluation of risks and potential mitigation strategies
5. Report back to the City, including presentation to City Council if necessary

This proposal from Jonathan R Huggett P.Eng is to undertake an immediate and expeditious review of the Project and present his findings to key City staff for their discussion and resolution.

Qualifications

Jonathan Huggett P.Eng is a registered professional engineer in BC, Alberta and Ontario with extensive experience in the alternate delivery of public infrastructure projects projects with a particular speciality in transportation and municipal projects. A full list of his experience is contained in the resume previously submitted.

Jonathan Huggett has a broad background in the procurement and project management of non traditional delivery of major projects. Past projects include:

- ✦ City of Victoria – Save-on-Foods Centre
- ✦ Victoria Capital Regional District – Wastewater Treatment Business Plan Preparation
- ✦ Lions Gate Bridge Rehabilitation
- ✦ Numeous highway and bridge projects for the BC and Alberta Ministries of Highways and Transportation
- ✦ Britannia Mine Water Treatment DBO (received Gold Medal from the Canadian Council on Public-Private Partnerships)

Throughout his work Jonathan has been a part of large multi-discipline, and multi client teams for the Federal, Provincial and Municipal Government. Jonathan has direct project experience including:

- ✦ Acting as the Owners Representative as an Independent Certifier and Project Manager
- ✦ Preparing business plans and procurement documents for Alternative Services Delivery
- ✦ Drafting communications strategies
- ✦ Leading public consultation processes
- ✦ Preparing financial models
- ✦ Negotiating final contracts
- ✦ Acting as a construction Project Manager on numerous large public infrastructure projects.

Budget

The following is our proposed budget for the various tasks described below:

Commencing by 1 April 2014 or sooner if possible we will:

1. Review all of the current contracts and procurement documents (well over 1,000 pages).
2. Meet separately with MMM and PCL representatives to listen and understand their views and opinions regarding the current state of the construction contracts.

We will focus on listening to issues related to risk and the resulting impact on cost and schedule

3. Undertake a review of the risk assessments provided to us in the annual reports and determine if they are complete and reflect the current state of the project. We will propose mitigation strategies to deal with risks that have materialized or are the responsibility of the City.
4. Prepare a short report summarizing our findings and meet with key City staff to review and discuss.

We will not discuss the negotiation of the current PCL claim which is outside of the scope of this assignment.

Based on the previous outline the following budget is proposed, which is based on an hourly rate of \$200 /hour and travel expenses from Surrey, BC at cost:

Item	Budget
1. Review all of the current contracts and procurement documents	10 hours x \$200 = \$2,000 Expenses at cost based on Surrey base = \$0
2. Interviews with key City staff	8 hours x \$200 = \$1,600 Travel to Victoria = \$500
2. Prepare for and meet separately with MMM and PCL, ideally in Vancouver	16 hours @ \$200 = \$3,200 Expenses = \$200
3. Undertake a review of the risk assessments and propose mitigation strategies	16 hours @ \$200 = \$3,200 Expenses = \$0
4. Prepare a short report summarizing our findings and meet with City staff in Victoria to discuss	20 hours @ \$200 = \$4,000 Expenses = \$500
Total Budget	Time Charges: \$14,000.00 (GST is extra) Expenses: \$1,200
	We have not included for presentation to City Council but we are prepared to do that.

Timing is a key component of this work. We recognize that City staff plan to update Council at a meeting on 10 April 2014. We would therefore propose to provide a short interim report and briefing prior to that date to ensure staff are well prepared for the meeting with Council. We are also prepared to attend that meeting if requested to support City staff.

I trust this proposal meets with your approval and I look forward to working with the team on this challenging project.

Yours truly,

A handwritten signature in black ink, appearing to read 'Jonathan R. Huggett', with a stylized flourish at the end.

Jonathan R. Huggett P.Eng

Attachments:

1. Resume