



DOCKSIDE LANDS

REQUEST FOR PROPOSALS

September 10th, 2004

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1. INTRODUCTION

1.1 Purpose of this Request for Proposal

The City of Victoria is seeking proposals for the purchase and development of the Dockside Lands from proponents short listed through the Request For Expression of Interest (RFEI). The purpose of this Request for Proposals ("RFP") is to select a qualified Proponent to complete the purchase and development of the Dockside Lands.

1.2 The Property

The Dockside Lands are located in the City of Victoria on Vancouver Island. This intimate, sophisticated Seaside City is the capital city of the Province of British Columbia, vacation capital of Canada and the premiere tourist spot in the Pacific Northwest. Victoria is situated on the southern tip of Vancouver Island and sparkles in one of Canada's mildest climates. This area is the sunniest spot in the province and the gentlest in the country in terms of climate, environment, and lifestyle. Victoria's unique character is deeply rooted in its 150-year history—a history full of colourful people and fascinating tales. The City's British colonial heritage is still very much in evidence, but contemporary Victoria has a distinctly Pacific northwest flavour.

Greater Victoria and its outlying areas have a population of 300,000, and the one-time colonial outpost is alive with cosmopolitan dining, superb shopping, a colourful nightlife and a full complement of cultural offerings. The City of Victoria, along with its businesses and residents, combine to encourage and foster economic growth. Victoria's strong and diverse economy maintains and improves residents' high quality of life.

The Dockside Lands are an integral part of the Victoria Harbour. The City of Victoria purchased the Dockside Lands from the Province of British Columbia in 1989. The Dockside Lands are approximately 12 acres - bordered to the North by the Point Ellice Bridge, to the South by the Johnson Street Bridge, to the West by Tyee Road and to the East by Harbour Road. Also included within this boundary are (but not part of this RFP):

- the Upper Harbour office development
- land and buildings owned by the Wheelhouse Holdings
- land owned by the Federal Government of Canada

Legal Description for the Dockside Lands:

Lot 8, 21 Esquimalt, Plan VIP53097
Lot G, 21 Esquimalt, Plan VIP67690
Lot 1, Dist. Lot 119, 21 Esquimalt, Plan VIP61709, Except Plan VIP66539
Lot E, Dist. Lot 119, 21 Esquimalt, PlanVIP67690
Lot A, Dist. Lot 119, 21 Esquimalt, Plan VIP56972
Lot D, Dist. Lot 119, 21 Esquimalt, Plan VIP67690
Lot 4, Dist. Lot 119, 21 Esquimalt, Plan VIP53097

1.3 The Project

Based on the Dockside Development Concept, the project requires development with a mix of land uses consisting of light industrial, work/live, live/work, and commercial, as well as a variety of residential units. The proposed mix will complement the marine industrial uses along the waterfront and the residential and commercial uses along the west side of Tyee Road.

The urban design guidelines in the Development Concept require a consistent design vocabulary that reflects new urbanism. Building design must target LEED Silver certification or better. High quality public spaces are the principal community amenity, supplemented by additional community amenities where net land sales revenue permits.

Prior to the commencement of development, the site must be remediated according to the terms set out in the Development Agreement. This may be a combination of active remediation and risk management approaches. The City is currently proceeding with the application for an Approval in Principle from the Ministry of Water, Land and Air Protection and it is anticipated this will be attained by early 2005.

A Request for Expressions of Interest (RFEI) was utilized to arrive at a short list of qualified Developers based upon the overall financial capacity of the Proponent and the Proponent's past experience with:

- developments of this type and magnitude;
- Brownfield sites;
- municipal governments; and
- previous customers and suppliers.

A dedicated website set up by the City of Victoria contains details pertaining to the Dockside Lands, such as the Business Case, Development Concept and frequently asked questions.

In addition to the Dockside Lands, the City also owns land along the east side of Harbour Road, fronting on the working harbour. These lands are leased to industrial business users with varying terms. The Harbour Plan, adopted in 2001, strongly supports the continuation of a working harbour, including harbour industry. Any redevelopment of City land must continue to support this policy and be sympathetic to harbour industry. While the City does not have any immediate plans, if an opportunity on the southernmost leaseholds becomes available, the City will consider proposals to relocate the non-water dependent industry to the Dockside Lands and re-develop these waterfront leaseholds. Any redevelopment must be consistent, again, with existing policy and plans and mesh well (both functionally and aesthetically) with the Dockside Lands development. These properties are not part of this RFP therefore any proposals regarding these properties would be considered separately from this RFP.

2. INTERPRETATION

2.1 Definitions

- 2.1.1 **“Affordable Housing”** means housing which costs (rent or mortgage plus taxes and including 10% down payment) 30% or less of a household’s gross annual income, targeting households with an income of \$30,000 and up.
- 2.1.2 **“Broker”** means Colliers International Ltd.
- 2.1.3 **“City”** mean the Corporation of the City of Victoria.
- 2.1.4 **“Contact Person”** means the person/people in Section 4.1.
- 2.1.5 **“Council”** means the elected Mayor and Council of the City.
- 2.1.6 **“CPTED”** Means “Crime Prevention Through Environmental Design”
- 2.1.7 **“Developer”** means the Proponent selected by Council to enter into the Sale Contract with the City and to design and construct the Project in accordance with the Development Agreement.
- 2.1.8 **“Development Agreement”** means the agreement between the City and the Developer that sets out the terms and conditions for the design and construction of the Development.
- 2.1.9 **“Development Permit”** means the development permit issued by the City for the Development.
- 2.1.10 **“Environmental Report”** means the investigation report produced by Morrow Environmental Consultants Inc. in the Spring of 2002.
- 2.1.11 **Evaluation Committee”** means the committee appointed by the City to evaluate the Proposals
- 2.1.12 **“FSR”** Means “floor space ratio”
- 2.1.13 **“Development Concept”** means the document that guides development of the Dockside Lands and contains the vision and planning principals for the project, as approved by Council May 13, 2004.
- 2.1.14 **“Owner’s Representative”** means the British Columbia Buildings Corporation (“BCBC”).
- 2.1.15 **“Permits”** mean any permit, approval, certificate, license or other such approval required from any Public Authority for the Project.
- 2.1.16 **“Project”** means the purchase, remediation and development of the Property.
- 2.1.17 **“Property”** means the property known as Dockside Lands, as set out in Section 1.2.
- 2.1.18 **“Property Purchase Price”** means the purchase price for the Property to be paid to the City on the purchase of the Property by the Developer in accordance with the Sales Contract.
- 2.1.19 **“Proponent”** means a party invited and permitted to participate in this RFP, as short-listed during the City’s RFEI process.
- 2.1.20 **“Proposal”** means a Proposal prepared by a Proponent in response to this RFP.
- 2.1.21 **“Public Authority”** means any government agency, commission or other authority exercising an executive, legislative, regulatory or administrative function.
- 2.1.22 **“RFEI”** means the Request for Expressions of Interest #04-031
- 2.1.23 **“RFP”** means this Request for Proposal.
- 2.1.24 **“RFP Closing”** means the date and time for submission of a Proposal as set out in Section 9.1.2.

- 2.1.25 **“RFP Package of Information”** means the reference material provided for information purposes.
- 2.1.26 **“RFP Stage”** means the stage of procurement commencing with the issuance of this RFP and continuing until the Sale Contract and Development Agreement are signed by the City and the Developer.
- 2.1.27 **“Sale Contract”** means the sale contract referred to in Section 8, in a form as agreed between the City and the Developer for the sale of the Property to the Developer.
- 2.1.28 **“Triple Bottom Line Accounting” means** an accounting of value of the project from the economic, social and environmental perspective.
- 2.1.29 **“Works and Service Agreement”** means document specifying the standards and timing of the off site construction and servicing.

2.2 RFP Info Package

This RFP consists of the main body of the RFP, a listing of the Reference Material available on the City’s website, the secure electronic data website and/or the data room (available only to RFP Proponents), and any written addenda to the RFP issued by the City at any time before the RFP Closing Date & Time.

3. CONSULTANT TEAM & ROLES

3.1 Project Manager

The Project Manager for the Dockside Lands Project is Carola Bloedorn, MAIBC, LEED AP, BCBC.

3.2 Consultants

Wayne Ford, Director – Real Estate, BCBC
 Andrew Turner, Managing Director, Vancouver Island, Colliers International
 David Kettlewell, Territory Manager, Morrow Environmental Consulting
 Ray Young, Lidstone Young Anderson (Fairness Auditor)
 Kate Panayotof (Community Auditor)

4. COMMUNICATIONS & INFORMATION SHARING

4.1 City Contacts

The City Contacts for information or clarification are:

Carola Bloedorn	or	Glen Oberg
Project Manager		Manager, Supply Management Services
Ph. 250-952-8856		Ph. 250-361-0273

Note: Proponents not adhering to the no lobbying clause as outlined in section 10.5 may be disqualified.

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4.2 Dedicated / Secure Website

The City has created a dedicated, secure website for the sole purposes of sharing information on the Dockside Lands project only with Proponents and City staff. The website will be password protected and be used for sharing information, answering questions, and distributing addenda. Refer to Appendix B for a complete list of information available on this site. Any changes to the information available will be noted in addenda. The coordinates for the secure website will be provided to Proponents at the time of issue of the RFP.

4.3 Data Room

The City has created a data room at BCBC Headquarters that contains all background material pertinent to the project not available in an electronic format. Material may be viewed on site only and access must be arranged with Christine Gleed 250-952-8390.

5. SCOPE OF THE PROJECT

5.1 Process to Date

5.1.1 Business Case

A Business Case for this site was developed in 2002 that assessed the environmental contamination (based on a more detailed preliminary investigation in 2001-2), remediation options and approaches, geotechnical constraints, market demand, land use and preliminary pro-forma results.

5.1.2 Development Concept and Public Process

Following the approval by Council of the Business Case recommendations, the City prepared a Development Concept which was based on a public consultation process and a market risk analysis. The public consultation process consisted of development of an Advisory Committee to establish the Vision and Planning Principles. The Vision and Planning Principles, based on consideration of the most cost effective approach to remediation, sustainability, livability and a minimum break-even policy for the City, formed the basis of subsequent public workshops and openhouses where the urban design guidelines and community amenity priorities were developed.

The work done to date by the Dockside Project Team is intended to reduce the length of the rezoning process (refer to Appendix F) if the selected proposal is consistent with the Development Concept.

5.1.3 Market Risk Analysis

This analysis was based on the outcomes of the process to date and in addition, applied current and projected market conditions and several different FSR calculations in order to arrive at the optimal combination.

This combination balanced:

- Vision and Planning Principles, including the minimum break-even policy and triple bottom line accounting approach;
- Provision of high quality public open space and amenities;
- Cost effective environmental remediation, and
- An FSR with the least negative impact on the triple bottom line

5.1.4 Developer Selection

The City will select a Developer based on a three stage RFP process. The first stage being the RFEI stage which resulted in a shortlist of qualified Proponents. The second stage being the RFP stage which will result in an evaluation and recommendation to Council from the Evaluation Team.

The third stage is a public meeting where the public will provide feedback regarding the proposals. Council will consider this feedback along with the recommendation of the Evaluation Committee in selecting the successful Proponent. Proponents not passing the pass/fail criteria or obtaining a minimum score of 50 points in each of the triple bottom line criteria will not be invited to present their proposals.

As the City is committed to the triple bottom line approach, it is important that the Developer clearly understands this and is also committed, over the term of all stages of the development, to providing a development that not only provides the best value from an economic perspective, but also from an environmental and social perspective.

5.2 Design of Project

All Proposals submitted will be evaluated against criteria that are very closely linked to the Development Concept (refer also to Appendix A). Creative, imaginative proposals that are consistent with the planning principles in the Development Concept will receive higher points than those that are less consistent.

Any Proposal should therefore clearly address the following:

5.2.1 Site Remediation

The Dockside Lands have had a long industrial history dating back to circa 1884. Various industrial and commercial operations have been carried out on the site in the past, which have included a shipbuilding and repair yard, roofing and shingle manufacturing operation, railway works and freight yard, and asphalt plant operation among others. Portions of the site were also extensively land-filled during the early to mid 1900s. The origin of the fill material used is unknown.

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Environmental investigations of the Dockside Lands have been undertaken by various consultants since 1989. Morrow Environmental Consultants Inc. was retained by the City of Victoria in 2001 to carry out supplemental investigations, update the Detailed Site Investigation (DSI), and prepare a Remediation Plan for the site.

To facilitate obtaining an Approval in Principle (AIP) for the site from the BC Ministry of Water Land and Air Protection (MWLAP), The City of Victoria is carrying out a risk assessment for the site. The Remediation Plan will incorporate the information from the risk assessment. The completed documentation will be submitted to MWLAP with an application for an AIP in the fall of 2004. The objective of the project is to obtain a Certificate of Compliance (CoC) for the site based on the risk assessment during the development process.

The risk assessment includes the following components:

Human Health Risk Assessment (HHRA): The HHRA is being completed for future residential / commercial use of the site according to both MWLAP and Canadian Council of Ministers of the Environment (CCME) guidance. The assessment will evaluate the risks to human health from the chemical concentrations that may remain at the site that are in excess of appropriate standards.

The HHRA is evaluating the risks to persons that may use the site in the future including persons living in residences, working in commercial establishments and construction workers involved in excavation activities. Risks are evaluated using soil and groundwater data that has been collected at the site. In addition, soil vapour measurements are being collected at the site and will be used to estimate risks from inhalation of both indoor and outdoor air. It is noted that current MWLAP guidance for risk assessment of chemicals in indoor air currently does not allow for dilution of soil vapours into indoor air; however, this policy may change in the future. Consequently, the HHRA is being based on a range of estimates for dilution of chemicals into indoor air.

MWLAP has indicated that soil vapour barriers or other engineered controls to prevent soil vapour intrusion will likely be the most straightforward manner to address the potential for soil vapours to enter indoor areas at the site. The HHRA and future AIP for the site will require that any potential development would have soil vapour barriers or other engineered vapour controls in place for buildings. MWLAP may request on-going monitoring of soil vapours at the site over time following development.

Ecological Risk Assessment (ERA): The ERA has been designed to provide a quantitative, screening-level assessment of potential ecological risks associated with the property. The ERA is a systematic method for integrating data in order to provide an overall assessment of potential adverse biological effects which considers the following:

- Contaminant sources
- How the contaminants are transferred from the source (e.g., pathways)
- Organisms that may be affected by the contaminants (e.g., receptors)
- Interaction of contaminants with the receptor (e.g., exposure).

The ERA assumes that the site will be covered with a 1 m thick layer of clean soil or a layer of asphalt following development. MWLAP has agreed that this would essentially block the exposure pathway for various ecological receptors. However, site development activities may involve substantial movement of soil, and therefore, future near-surface soil contaminant concentrations cannot be predicted. Accordingly, the risk assessment has also been designed to provide a conservative overview of the potential ecological risks in circumstances where thin or no clean soil cover is present, to provide maximum flexibility for future development scenarios.

Other site wide issues that are being addressed in the Remediation Plan include:

On-site Special Waste: The remediation plan assumes that any soil designated as Special Waste will be excavated from the site prior to development.

Off-site Issues: MWLAP indicated that off-site contamination issues associated with the pervasive contaminated fill could be addressed by risk assessment. Only in areas where Special Waste is identified off-site would remediation be required.

It should also be noted that there is a joint remediation agreement in place between the City and the Owner of the Princess Mary property (between sites 1 and 2). This agreement addresses the previous land ownership obligations under the Provincial Waste Management Act and provides for voluntary joint remediation where possible. The agreement affects both parcels currently owned by Wheelhouse Holdings as well as site 2 owned by the City.

Human Health Sediment Issues: MWLAP indicated that they would require an assessment of the potential risks associated with recreational use of the foreshore area. The concern is that people may access the foreshore from the site during low tide, and become exposed to potentially contaminated sediments. The remediation plan will outline some of the risks associated with human access to the sediments in the foreshore during low tide.

Ecological Sediment Issues: MWLAP indicated that risk assessment would be adequate to address potential off-site groundwater effects on organisms in the Upper Harbour and harbour sediment. However, they suggested that a thorough evaluation of potential current (i.e., storm water) and historical upland activities that would have resulted in a direct discharge to marine sediment is required,

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and that it would be necessary to characterize sediment quality in the area if historical discharges were identified. The remediation plan includes an evaluation of potential historical discharges to the harbour from the site. The remediation plan recommends that sediment investigations required (if any) be deferred as a requirement of the AIP during the development process.

Within the above context the Proponent should outline in their Proposal the preferred approach to remediation (i.e. is the remediation approach as outlined in the Development Concept acceptable to the Proponent or is the Proponent proposing a remediation approach different from the Development Concept). Secondly, the Proponent should outline in their Proposal who will be undertaking the remediation (the City or the Proponent) and present their proposed remediation plan and schedule.

5.2.2 Proposed Land Use

The Proposal should indicate the types and proportion of the various land uses clearly, as well as how the desired mix of uses is addressed. Proponents are encouraged to consider density stated in the Development Concept. The Proposal must include, in the completion of the questionnaire in Appendix E, calculations of the proposed density/FSR for each site and how much of each use is contributing to the total buildable area proposed. The Proposal should also provide a clear indication of how this density is translated into building mass and distribution over the site.

In addition, the anticipated employment (post construction) generated by the proposed mix of land uses must be taken into consideration (calculation basis in Appendix E).

5.2.3 Urban Design

Contextual Response - Through text and/or illustration and modelling, indicate how the Proposal responds to the context of the site.

Consideration should include:

- Interface with adjacent existing uses and support of neighborhood needs;
- History of the site and its context;
- Architectural vocabulary of nearby buildings and the neighborhood vernacular;
- Context relative to Victoria West, Songhees, the Victoria Harbour and Downtown;
- Preservation of the views and sight lines;
- Views including skyline from the Harbour and downtown;
- Preservation and/or enhancement of the Galloping Goose Trail;
- Preservation and/or enhancement of the existing shoreline (where appropriate);
- Transportation (including bridges) for pedestrians, bicycles, and vehicles;
- Site servicing (see also section 5.2.4 for detailed requirements).

Building Massing, Form and Character - The Proposal must also indicate building massing, form and character by indicating:

- How massing and form take into account the surrounding context and the principles of the Development Concept, especially with respect to views and sight lines (both to and from the site), sun/shadow, wind, climate and overall scale;
- How building facades are articulated to limit a monolithic appearance along streetfronts;
- How the various forms of traffic (pedestrian, bicycle, vehicular) are addressed in how the building is accessed, serviced and viewed and how buildings interface with public pathways and open space;
- How the architectural vocabulary provides a cohesive (i.e. similar type of architectural expression) yet not too homogenous or monotonous character, reflective of an urban setting;
- How the design reflects the marine and industrial influences in the architecture and landscaping, especially with respect to colour, materials and form as well as building siting;
- How parking and storage spaces are screened;
- How the transition area between the light industrial and residential uses is treated (public and private);
- How the massing supports the concept of being a mid-level contextual layer, rather than forming the skyline if viewed from downtown;
- How the massing recognizes the role of lots 1 and 4 to act as “gateways” or focal points of the site;

Environmental Considerations – the Proposal shall clearly indicate the intended approach regarding LEED certification, with an outline of the key areas of focus for each building and/or building type/use (completion of the questionnaire in Appendix E). All non-residential design must meet, as a minimum, LEED Silver certification requirements. Proponents will be required to provide an outline of which points will be pursued to obtain this. Residential design, as a minimum, must meet LEED certification requirements. If any residential design does not meet the LEED Silver certification requirements, Proponents should identify which credits they would target to obtain LEED Silver and outline why these targets can not be met.

Particular emphasis should be placed on achieving the following credits:

- Sustainable Sites Credit 4.2, Alternative Transportation, Bicycle Storage and Changing Rooms;
- Water Efficiency Credit 3.1, Water Use Reduction, 20% reduction;
- Energy and Atmosphere Credit 1, Optimize Energy Performance, minimum of 6 points, 47% better than Model National Energy Code for Buildings (MNEBC)/40% better than American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 90.1;
- Materials and Resources Credit 2.2, Construction Waste Management, divert 75% from landfill.

Proponents will be scored higher for any portions of the development that target LEED Gold or Platinum levels.

In addition, special attention should be paid to addressing the environmental impacts of noise (generated both on and off site) and how noise attenuation will be provided. Lighting design of outdoor areas should provide adequate public safety (in compliance with CPTED requirements) while also conforming with the

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Royal Astronomical Society of Canada Light Pollution Abatement Program recommendations.

The human health risk assessment and future AIP for the site will require that any potential development have soil vapour barriers or other approved engineered vapour controls in place for buildings.

Circulation/Access – Pedestrian, cyclist and vehicular traffic circulation in and around the Dockside development will require consideration of:

- Accessibility of as many open public spaces and pathways as reasonable, but at a minimum all main entrances to buildings must be accessible to physically challenged persons;
- Residential building design must meet the “Adaptable Housing Regulation” (passed by Council June 4, 2004 – refer to the data room for more information);
- At a minimum preservation of the Galloping Goose Trail and ideally enhancement of the trail, providing a safe method for cyclists to travel through the site between points north of the site and downtown. The location of the Trail is fixed, and any development must take this into account;
- Adequate and appropriate access for passenger and service/delivery vehicles, including intersections, driveways, delivery/service vehicle bays and parking that do not compromise the safety of pedestrians or cyclist nor the functioning of the businesses the vehicles access;
- Access to public transit and provision of related services (stops and shelters), primarily along Tyee Road.

Public Realm – the Proposal should show how the required open spaces (two focal point plazas, two public pathways, two parks/green space and boulevards) are provided. Designs should indicate the configuration, soft and hard landscaping materials and other features that would contribute to the overall character and quality of these spaces. This might include structures that support the public and neighborhood needs and provide a venue for functions and activities that will be valued. The approach to the provision of public art will also be addressed in completion of the questionnaire in appendix E.

Other “Amenity” Provisions – As indicated in the Development Concept, there are two levels of additional amenity provisions. The Proposal should clearly outline which of the negotiable and optional provisions are suggested to be included in the Proposal. Any of these proposed provisions should be developed to the same level of details as the public realm provisions, and completion of the questionnaire in Appendix E will form the basis of evaluation and negotiation with the City as to the details and content of these provisions in the final development.

5.2.4 Site Servicing Requirements

The City will construct, at its expense, and maintain except where noted:

- 1) Completion of the construction of Harbour Road, including sanitary sewer, storm drain, water, utility ducting (not maintained by City), gas main (not maintained by City), curb, gutter, sidewalk, grassed boulevard, paving, signage, paint markings and street lighting with standard design and

materials, as per the current City plans. This work is partially completed as of September, 2004;

- 2) Paving of Harbour and Tyee Road along the frontages of the Dockside lots, completion of the sidewalk along Tyee Road and construction of curb bulbs on Tyee Road for pockets of landscaped boulevard;
- 3) Servicing of each lot (1-4) with one connection each to the sanitary sewer, storm drain, domestic water, and one set of empty utility ducts, each sized appropriately for the size of the development, as well as one fire hydrant in the abutting street. The City reserves the right to approve service locations.

The Developer and/or subsequent landowners, as appropriate, would be responsible for:

- 1) arranging and paying for power, telecommunications, and gas service connections to Lots 1-4;
- 2) Design, installation and maintenance of landscaping, trees and irrigation on boulevards and street frontages abutting the Dockside Lands (except for the services to be constructed by the City as outlined above, item 1 and 2). Design and construction of hard and soft landscaping and irrigation (if applicable) for parks, green space, focal point plazas and public pathways. Where these improvements are on dedicated park land, the City will accept completed works (after completion of a one year warranty and maintenance period) and then the City will maintain these areas. The City will accept completed hard landscaping on dedicated roads, but not those on statutory rights-of-way, for maintenance. Soft landscaping and irrigation maintenance on dedicated roads and statutory rights-of-way will be the responsibility of the adjacent landowner;
- 3) Driveway construction behind the sidewalk;
- 4) Any fire fighting water connections and any additional domestic water, storm sewer, sanitary sewer or other connections;
- 5) Additional costs where standard sidewalk, paving and other works are replaced with special treatments, or expanded at focal points and plazas;
- 6) All works installed and constructed by the Proponent on roads, parks and public Rights-of-Way shall meet or exceed City of Victoria standards and shall be designed and completed to the satisfaction of the Director of Engineering and Director of Parks, Recreation and Community Services, as appropriate.

The City will construct or arrange for the works and services for which it is responsible in time for the development and occupancy of the various lots in accordance with the Developer's schedule as mutually agreed and evidenced by development permits and building permits.

The list of items identified above may in some cases contradict or hinder the possibility of obtaining LEED credits. Should the Proponent find that this is the case with elements of their Proposal, it should be noted and a clear outline of the implications should be provided with the Proposal. The City will then review these on a "case by case" basis.

6. RFP PROCESS

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6.1 General & Submission Requirements

- 6.1.1 Proposals, rather than tenders, have been requested in order to afford Proponents a more flexible opportunity to employ their expertise and innovation, and thereby satisfy the City's needs in a more cost-effective manner. Proposals should be based on these Instructions and the Evaluation Criteria.
- 6.1.2. This Proposal and any subsequent contracts resulting from this Proposal shall be governed by and interpreted in accordance with the laws of the Province of British Columbia.
- 6.1.3 The Proposal will be either under seal or signed and witnessed by an authorized signatory of the Proponent. The submission will be accompanied by the following authorization letters as appropriate:
- If the Proponent is a partnership or joint venture, a letter furnished by each partner or joint venture partner and signed by an officer of the respective companies stating that the respective company agrees to be held jointly and severally liable for any and all duties and obligations of the interested party under any agreement arising there from.
 - A letter signed by an officer of each of the participants stating that he/she:
 - Has read the submission:
 - Understands and is fully aware of the commitments made on their behalf in the submission;
 - Has authorized the interested party to make the commitments set out in the submission.
 - Confirms that neither the interested party nor its participants have had any interest whatsoever in the submission of any other interested party, either directly or indirectly, nor has it entered into any agreement before the submission Closing Date that could create such an interest.
 - The remainder of the submission requirements are contained in Appendix D

6.2 Timetable

As per Appendix C

6.3 Reference Material

A complete list of pertinent reference material and how it can be obtained by Proponents is included in Appendix B.

6.4 Public Presentation During the RFP Process

Subsequent to the Closing Date of the RFP, a public meeting will be scheduled where all Proponents that have proceeded to stage three of the RFP process (see section 5.1.4) will present their Proposals and the public will have an opportunity to make comments and ask questions of the Proponents. Feedback forms will be provided to the public at the meeting to record their input, which will then be presented to Council and other appropriate persons for consideration during the final stage of selection of the successful Proponent.

6.5 Public Presentations During the Contract Negotiation Process

Once the Developer has been selected, two additional public meetings will be held during the contract negotiation phase. Fine tuning of the design Proposal and subsequently the Development Agreement will include the Developer's response to the feedback received from the public during these meetings. Feedback forms will be provided to the public at the meetings to record their input, which will then be presented to Council and other appropriate persons for consideration during contract negotiations.

7. EVALUATION & EVALUATION CRITERIA

7.1 Evaluation Committee

The Evaluation Committee for RFP 04-031 Dockside Lands is composed of five (5) senior City staff. During the evaluation process, they will receive advice/guidance from subject matter experts as required. These subject matter experts may be City staff or external consultants, but all will be required to sign the Conflict of Interest Statement and the Confidentiality Agreement.

The City has engaged an outside Fairness Auditor to oversee the work of the Evaluation Committee, in order to:

- provide accountability;
- ensure conformity to processes;
- ensure that the interests of Proponents are protected by an equitable process;
- ensure that all Proposals will be assessed against the same criteria;
- preserve public and Proponent confidence in government processes;
- improve defensibility of decisions to potential legal challenge.

The City has also engaged a representative from the Community to act as community auditor to oversee the work of the Evaluation Committee and to report to the Victoria West Community Association regarding the adherence to the outlined process and fair consideration of the community interests.

7.2 Minimum Requirements

There are a total of 300 points available, with 100 points in each of the categories social, economic and environmental.

Submissions that do not meet any of the pass/fail criteria or do not meet an a minimum of 50 points in each of the triple bottom line criteria will not proceed to the Public Presentation Stage. The City will provide four (4) weeks preparation time for those Proponents who advance to the Public Presentation Stage.

7.3 Evaluation Process & Criteria

7.3.1 The City reserves the right to conduct meetings with Proponents to provide Proponents with information or address questions to assist them in preparing

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their proposals. The City is not obliged to conduct a clarification meeting with any or all of the Proponents. Proponents may also submit questions in writing to the Contact Person.

- 7.3.2 Notwithstanding any custom or trade practice to the contrary, the City reserves the full right, in its sole discretion and according to its own judgment of its best interest:
- Reject any or all Proposals;
 - Waive any technical or formal defect in a Proposal and accept that Proposal.
- 7.3.3 The City wishes to select the Proponent demonstrating the greatest skills, experience and commitment to develop the Property in a manner that the City determines, according to its own judgment, provides “best value” to the City, in agreement with the Development Concept and Triple Bottom Line accounting (social, economic and environmental).
- 7.3.4 The evaluation of the Proposals will be based on the contents of the Proposals, any clarifications provided in writing in response to the questions asked of the Proponents or meetings as outlined in 7.3.1.
- 7.3.5 Despite the Proponent’s being short-listed to participate in the RFP process, no assumptions should be made that information regarding the Proponent or its participants, their experience, expertise and performance on other projects is known, other than through the documentation and responses submitted by the Proponent for this RFP.
- 7.3.6 Submissions will be evaluated based upon Triple Bottom Line accounting, using criteria as set out in Appendix A. There are two main types of criteria:
- Pass/Fail:** those criteria stipulating mandatory requirements. Submissions that do not meet these criteria will be subject to disqualification.
- Rated Criteria:** submissions will be awarded points based on their relative merit. A minimum of 50 points in each of the triple bottom line categories must be attained.
- 7.3.7 Your Proposal should include all of the items listed in Appendix D “Submission Requirements”
- 7.3.8 The Evaluation Committee will present its recommendation to the Council. (The Council has the sole legal authority to select the Developer) and Council may reject or modify the Evaluation Committee recommendations. **The final selection of the Developer will be made by Council.** That decision will be final. Best efforts will be used to conform to the schedule as outlined in Appendix C, although the City reserves the right, in its sole discretion to alter or extend the schedule.

8. SALE OF PROPERTY TO SUCCESSFUL PROPONENT

8.1 Sale Contract & Development Agreement

- 8.1.1 The proposed Sale Contract is included in this RFP in Appendix G. It is provided for information only and it is not to be amended, completed or executed as part of a Proposal.

The City intends, to the extent reasonably possible, to utilize the proposed form of Sale Contract as the basis of the final agreement for the Property. The City reserves the right to amend it to accommodate matters described in this RFP, the particulars of the Proposal, or otherwise to reflect the final agreement between the City and the Developer. If a Proponent wishes to amend or negotiate any terms of the Sale Contract it must identify these in the Proposal.

- 8.1.2 After the selection of the Developer, the City will issue a statement granting the Developer the privilege of negotiating exclusively for the right to develop the Dockside Lands.
- 8.1.3 The City will then negotiate a Sale Contract and Development Agreement with the successful Proponent. If negotiations have not been completed within sixty (60) days, the selection of the Developer shall expire; however, the City may, at its sole discretion, extend the negotiating period if both parties find that negotiations are proceeding satisfactorily.
- 8.1.4 During the negotiating period, or after the execution of the Sale Contract and Development Agreement, the Developer may request and the City may approve, at the sole discretion of the City, the right to substitute an equal or stronger entity for any member of the Developer team.
- 8.1.5 The Proponent, upon notification that they are the selected Developer, are expected to provide a refundable deposit, either by certified cheque or by letter of credit from a Canadian lending institution in the amount of \$100,000 within seven (7) days of being notified.

Upon execution of the Sale Contract and Development Agreement, the Developer will be expected to increase their deposit to \$500,000 as a non-refundable deposit. The deposit will only be refunded in those cases where the City deviates from the Development Agreement during the rezoning process.

The Deposit will be deposited in an interest bearing account with the accrued interest to be credited to the Purchase Price.

At the completion of the negotiations, the final Sale Contract and Development Agreement will be submitted to the Developer by the City. The Developer shall execute and return these, together with the deposit within five (5) calendar days. Failure by the Developer to return the properly executed Sale Contract and Development Agreement, together with the required deposit within the 5day period may result in the withdrawal of the City offer.

- 8.1.6 The Sale Contract and Development Agreement will be in the nature of a land sales contract utilizing this RFP (including the Appendix G) as a base document for negotiation, setting forth the City's intention to deliver the site, and the

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Developer's obligations to construct on the site a certain size and character of development. Additionally, the following, without limitation, will be agreed upon:

- Assignment, costs and timetable for undertaking remediation;
- Timetable for payment of purchase price;
- Timetable for starting and completing construction will be stipulated.

Proponents may suggest acceptable alternatives to deposits such as posting performance bonds should the Developer not develop the site by a given future date.

8.1.7 As conditions precedent to conveyance of title or possession of the site, the Sale Contract will, in addition to normal trade practices pertaining to transfer, require that the Proponent shall have completed the requisite City rezoning process.

8.1.8 In the event no potentially acceptable Proposals are received by the Closing Date, or in the event of failure of negotiations with the Developer, (a judgment reserved to the City and not to be constrained by the 60 day period designated for the conclusion of negotiations) or failure of the Developer to start and/or complete the project in accordance with the timetable established in the Sale Contract and Development Agreement, the City reserves the right to determine the procedure by which another Proponent may be selected, including but not limited to the right to negotiate with another Proponent who has submitted a Proposal in response to the RFP.

8.2 Sale Contract Key Terms

8.2.1 Parties

The parties to the final Sale Contract will be the City and the Developer

8.2.2 Property Purchase Price

The Proponent should outline the total purchase price being offered for the Property. The City will not consider vendor financing for the purchase of the Property.

8.2.3 Closing Date for Sale of Property

The Proponent should outline the date for the closing of the sale of the Property.

If the Proposal outlines a phased development the Proponent should outline the maximum time frame for each phase of the development and outline the dates at which the Proponent is prepared to commit to the purchase of each phase of the development. In particular, a Proposal indicating a quicker time frame for the complete purchase price to be paid to the City will be ranked higher in the evaluation process.

8.2.4 Condition of Property / Environmental Responsibility

The Proponent shall outline their proposed approach to remediation.

The Environmental Report that is an Appendix to the Business Case and the Development Concept outline a proposed remediation approach wherein portions of the Property would be risk assessed and portions would be actively remediated. The Proposal should outline if and how the Proponent's proposed remediation plan differs from this approach.

While the Environmental Report and Development Concept contemplate the City undertaking the remediation as the Property is purchased, the Proponent should propose their preferred approach and if the Proponent is prepared to undertake the remediation the Proponent should outline:

- i) the qualifications of the Proponent's team to undertake this work;
- ii) the terms the Proponent is prepared to accept to undertake the remediation work; and
- iii) the Proponent's Proposal, if any, to purchase insurance to guarantee the maximum cost of the work.

A Proponent's Proposal indicating a willingness to undertake the remediation work with reasonable risks assessed to the City will rank a higher rating during the evaluation process.

8.2.5 Conditions Precedent and other terms

Any requirements for due diligence or any conditions precedent the Proponent intends to incorporate in the City Sale Contract must be identified in the Proposal.

Any other business, legal or financial terms of the Proposal must be outlined.

8.3 Development Agreement Key Terms

8.3.1 Noise Mitigation Measures

The design and construction of all buildings will be done in a manner that ensures that noise attenuation techniques and technologies are incorporated into the design, configuration, and construction buildings.

8.3.2 Phasing of Development

At each stage of development there will be agreement regarding the construction of on-site and off-site services as well as amenities. Also included will be the provision for any temporary works and a process to address any proposed changes to the sequence of phasing.

8.3.3 Construction of Amenities

The Development Agreement will include a specific list of the amenities to be provided by the Developer, where they will be constructed and the timing.

8.3.4 Subdivision Approval

Prior to any subdivision approval by the City a detailed works and services plan will be submitted to the City. This will include detailed drawings of off-site services, on-site services, amenities, costs and schedule of work.

8.3.5 Open Space and Pathways

The Development Agreement will include details regarding the timing, construction and location of open space and pathways. This section will also contain any agreements regarding temporary pathways to be constructed as part of the phasing of development.

8.3.6 Streets

The Development Agreement will contain a provision regarding the design and construction of the streets. Specific reference will be made to the timing of construction and any special road treatments.

8.4 Final Form of Sale Contract & Development Agreement

The final Sale Contract and Development Agreement shall be developed utilizing the proposed Sale Contract, incorporating the terms put forward by the Developer in their Proposal and accepted by the City.

8.5 Assignment of Sale Contract & Development Agreement

The Developer may not assign its interest in the Sale Contract and Development Agreement in whole or in part to any other person (including a corporation or partnership formed for such purpose) without the prior written approval from the City, such approval in the City's sole discretion. Notwithstanding the foregoing, the Developer will be entitled to assign its interest in the Sale Contract and Development Agreement to an affiliate (as that term is defined in the *Business Corporations Act* of British Columbia) of the Developer without the approval of the City, provided that such assignee has first assumed the obligations of the Developer under the Sales Contract and Development Agreement by an agreement in writing in favour of the City. Notwithstanding any assignment of the Sales Contract and Development Agreement, the Developer will not be released from its obligations under the Sale Contract and Development Agreement or pursuant to any agreement, instrument and other document entered into or to be entered into pursuant to the Sale Contract and Development Agreement. For the purposes of this section, any change of control of the Developer shall constitute an assignment by the Developer of its interest in the Sale Contract and Development Agreement requiring the prior written approval of the Vendor. For the purposes of this section, control of a corporation will be determined in accordance with section 2(3) of the "Business Corporations Act".

The Developer will not be permitted to transfer ownership or any right to any portion of the Property without the prior written consent of the City, which consent may be unreasonably withheld, delayed or conditioned in order to protect the financial and/or environmental interests of the City. The provision of this prohibition to the transfer of ownership or any right to any portion of the Property shall not be construed or utilized to impede a lender(s) from assuming control of all or a portion of the Property to protect the lender(s)' position.

9. INSTRUCTIONS TO PROPONENTS

9.1 RFP Closing Date & Location

- 9.1.1 Proposals must be returned in a sealed envelope clearly marked "**Proposal #04-031 - Dockside Lands**" addressed to Supply Management Services, City Hall, No. 1 Centennial Square, Victoria, BC, V8W 1P6.
- 9.1.2 Proposals must be received at the office of Supply Management Services no later than **4:30pm, Victoria Time, Thursday, November 4, 2004.**
- 9.1.3 Proposals will only be accepted from Proponents that have been pre-qualified under RFEI No. 04-031.
- 9.1.4 Proposals received and not conforming to Items 9.1.1, 9.1.2, 9.1.3, above, will be returned (unopened) to Proponent(s) without consideration.

9.2 Number of Copies

All Proposals submitted should include ten (10) copies, preferably with reductions of the presentation panels or drawings in an 11 x 17 format. Proposal submissions should be suitable for photocopying.

9.3 Submission Requirements

Refer to Appendix D for a complete listing of submission requirements.

9.4 Faxed Submissions

The City does not accept Proposals received via facsimile machine or email.

9.5 Contact Person for Enquiries

- 9.5.1 Contact by Proponents with any other City representative is expressly prohibited and if contacts are undertaken may result in the disqualification of a Proponent (see section 10.5).
- 9.5.2 All enquiries regarding this Request for Proposal must be directed to the City Contact person (see section 4.1).

All questions should be submitted in writing to fax number (250) 361-0278 or e-mail to purchasing@city.victoria.bc.ca at least five (5) days prior to the Closing Date. All replies or amendments to this RFP will be issued as addenda to all Proponents.
- 9.5.3 Verbal representations, promises, statements or advice made by employees of the City should not be relied upon. Requests for interpretation or modifications to this RFP may be made as indicated in 9.5.2 above.

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9.6 Responses to Enquiries

All responses to enquiries will be recorded and form part of an addendum to be issued to Proponents, as well as posted on the dedicated, secure website.

9.7 Viewing the Property

Proponents wishing to submit a Proposal are **encouraged** to meet City and Consulting representatives at the site. Arrangements should be made through the Contact Person.

Each Proponent should visit the site to thoroughly examine all details of the work before submitting a Proposal and should be aware of local conditions to be met with during development. All allowances for site conditions shall be included in the Proposal.

9.8 Addenda/Clarifications to the RFP

All addenda and clarifications will be issued by the City's Supply Management Services Division through Colliers International, and simultaneously posted on the secure website.

9.9 Ownership of Proposals

All Proposals, after the Closing Date, become the property of the City.

9.10 Confidentiality

The information in the Proposals will be disclosed as necessary to carry out the RFP process as required by law, including the "Freedom of Information & Protection of Privacy Act" (clause 9.13)

The contents of all Proposals will be subject to public disclosure and will be scrutinized by the community through public presentations, except any part of a Proposal that would reveal a Proponent's financial information or third party confidential lease or purchase negotiations which will be kept confidential by the City "if the Proponent has clearly indicated that such part of its Proposal has been provided **in confidence**".

9.11 Material Change After RFP Closing Date

Subsequent to the receipt of Proposals, a Proponent will give immediate notice to the City of any changes that could materially affect that Proponent's ability to undertake the Project.

9.12 Proposals to Remain Open

It is the expectation that in view of the evaluation and selection process, Proponents will not withdraw their Proposals until the earlier of:

- i) the notification by the City to the Proponent that they are not the Developer; or
- ii) 60 days from the RFP Closing Date

For certainty, this expectation for the Proponent to not withdraw their Proposal as outlined above does not create a contractual obligation on the part of any party.

9.13 Freedom of Information

Your Proposal should clearly identify any information that is considered to be of a confidential nature or proprietary information (the "Confidential Information"). The City recognizes the importance to Proponents that their ideas and plans remain confidential; otherwise they may be reluctant to disclose such ideas. The City will endeavor to respect the confidentiality of such ideas. However, the City is subject to the provisions of the Freedom of Information and Protection of Privacy Act. As a result, while Section 21 of the Act does offer some protection for third party business interests, the City cannot guarantee that any Confidential Information provided to the City will remain confidential if a request for access in respect of your Proposal is made under the Freedom of Information and Protection of Privacy Act.

9.14 Permits & Approvals

Proponents must comply with all laws and regulations of authorities having jurisdiction.

9.15 Responsibility of Proponents

Each Proponent is responsible for informing themselves as to the contents and requirement of this RFP. Each Proponent is solely responsible to ensure that they have obtained and considered all information necessary to understand the requirements of the Proposal and to prepare and submit their Proposal. The City, BCBC and Colliers International make no representation or warranty as to the completeness or accuracy of any reference material made available to proponents through the RFP process and will not be responsible for any loss, damage or expense incurred by a Proponent as a result of any inaccuracy or incompleteness in this Proposal, or as a result of any misunderstanding or misinterpretation of the terms of the RFP or Proposal on the part of any Proponent.

If a Proponent is in doubt as to the true meaning of any part of this RFP, or finds omissions, discrepancies or ambiguities, a request for interpretation or correction may be submitted to the City Contacts and, if deemed necessary by the City, an addendum will be issued to all firms registered as having received this RFP. This procedure also applies should the City, of its own accord, wish to expand, delete, or amend any part of this RFP.

10. GENERAL CONDITIONS

10.1 No Obligation to Select or Proceed

Notwithstanding any other section in this RFP, by participating in the process as outlined in this RFP the Proponent acknowledges and agrees that:

- 10.1.1 the City may, at its election, at any time by written notice terminate this RFP for the Project for any reason, including the City's election at its sole discretion not to enter into or continue negotiation of the Sale Contract or the Development Agreement; and
- 10.1.2 after a termination under Section 10.1.1, the City will be under no obligation to any Proponent and that in the event of such termination the City may, at its further election, decide to proceed with the Project in any manner that the City

may elect.

10.2 Costs and Expenses of Proponents

Provided the City is successful in negotiating a Sale Contract and Development Agreement with the Developer and the subsequent zoning process is completed successfully such that the Deposit remains non-refundable, unsuccessful Proponents that have submitted a Proposal that meets the submission criteria in Schedule D and meets the minimum point criteria outlined in 7.2, as well as complete their presentations to the public as contemplated in this RFP, will be provided with a stipend to offset out-of-pocket, third party expenses to an upset amount of \$50,000. Receipts and a statement of costs shall be provided by the Proponent upon being advised they are not the Developer and payment will be made only at the successful completion of the Sale Contract and Development Agreement.

10.3 No Contract

By submitting a Proposal and participating in the process as outlined in this RFP, each Proponent expressly agrees that no contract of any kind is formed under, or arises from, this RFP, and that no legal rights or obligations will arise out of this RFP prior to the signing of the Sale Contract and Development Agreement.

10.4 No Claims

By participating in the process as outlined in this RFP the Proponent consents to the procedures as described in this RFP, including the City's right to terminate this RFP as described in Section 10.1.1, and the Proponent acknowledges and agrees that the City and its officials, employees, agents and consultants will not be liable to any Proponent for any claims, direct or indirect, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for the Sale Contract or the Development Agreement, or other activity related to or arising out of this RFP other than that outlined in section 10.2.

10.5 No Lobbying

After the date this RFP is issued, Proponents, including their consultants, must not communicate either directly or indirectly in any manner whatsoever with respect to this RFP with any member of public, Council, the Evaluation Committee, Municipal employees or Consultants (other than the Contact Person) until the Public Presentation. **The City reserves the right to disqualify a Proponent that contravenes this Section 10.5.**

10.6 Accuracy of Information

The City does not give any representation or warranty expressed or implied as to the accuracy or completeness of any information set out in this RFP, or any other background or reference information or documents prepared by third parties and made available to Proponents, including all reference material made available to Proponents by the City, and any liability related to such information is hereby expressly disclaimed. Proponents will make an independent assessment of the accuracy and completeness of such information and will have no claim whatsoever against the City or its officials,

employees, agents and consultants with respect to, or as a result of any use of, such information.

10.7 Publicity

After the date of issue of this RFP, Proponents will not issue any news release or other public announcement or engage in public consultation until the public meeting (after the Closing Date) disclosing the details of its Proposal without the prior written consent of the City. **The City reserves the right to disqualify a Proponent that contravenes this Section 10.7**

10.8 Paramountcy

To the extent of any conflict between the terms of this RFP and the RFEI, the terms of this RFP will prevail.

Appendix A

Triple Bottom Line Criteria / Evaluation Criteria

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The description in the evaluation matrix is an attempt to distill the text of the RFP. To the extent that any of these vary from the RFP text, the RFP text prevails. Any references to section(s), page number(s), etc. is for reference only and does not limit the Evaluation Committee and/or the City from referring to section(s) or page number(s) not referenced, or other sections of the Proposal

Points Scored	Possible Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Info. External *
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1. Proposed Site Remediation

Consistency with Development Concept with regard to remediation and risk management

Environmental		In the City's opinion, will the proposed remediation plan meet the current requirements set out by the BC Environmental Management Act and Contaminated Sites Regulation? (RFP section 5.2.1, DC page 7)	Questionnaire	pass-yes fail-no	DC BC
		pass/fail			

Economic		Will the costs associated with the proposed remediation plan meet the City's goal of break-even? (RFP section 5.2.1, section 4 of these criteria, DC page 7, 13)		pass-yes fail-no	
		pass/fail			

Economic	15	What risks for remediation are assumed by the Proponent? (RFP section 5.2.1, DC page 7)	Design concept Dockside Business Case (city Dockside web page)	15-proponent assumes all risk Shared risk - varies with extent 0-city assumes all risk	DC BC
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2. Proposed Land Use

.1 Consistency with Development Concept with regard to mix of uses

Social		Does the development provide a mix of use consistent with that proposed in the development concept (residential/commercial/light industrial/etc.) and to what extent? (RFP section 5.2.2, DC page 15)	Questionnaire	10-consistent with the DC 2 to 7-somewhat consistent with DC (varies with extent) 0-single use or not consistent at all	DC
		10			

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	Points Scored	Possible Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Info. External*
Social		5	Does the residential portion of the development provide a mix that satisfies the needs of a broad range of ages and stages of life, as well as income brackets and rental/ownership units? (RFP section 5.2.2, DC page 16/17)	Questionnaire Design concept	5-provides a mix of residential units 3 or 4-provides some mix of residential units 1 to 2-provides poor mix of residential units 0-provides no mix of residential units	HAS
Economic		5	How much employment (post construction) will be generated in the industrial, commercial and retail uses on Dockside once all four lots are developed? (calculated based on proposed area of each use multiplied by average number of employees per square foot for this type of use). (RFP section 5.2.2, Appendix E, DC page 15)	Questionnaire	5-proposal creating the most employment, sliding scale to 0.	UD
Environmental		5	Is the mix of uses provided such that environmental concerns such as noise and air pollution are considered through design (both on and off site)? (RFP section 5.2.3, DC page 22)	Design concept	5-proposal indicates mitigation measures for both 1 to 4-proposal indicates partial mitigation 0-proposal indicates no mitigation	SME DC

Points Scored	Possible Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Info. External*	
.2 Consistency with Development Concept with regard to density/FSR						
Social		10	Does the proposed overall density of development for all four sites vary from the recommended density in the DC (average 2:1)? How does the proposed density/FSR balance between revenue space and amenity/support space? (RFP section 5.2.2, DC page 13, 31)	Design concept Questionnaire	10-density as per DC Density varies from DC (higher or lower) - reduce marks according to variance	SME
Social		5	Does the proposed range of density vary from the recommended density in the DC on a site by site basis? (RFP section 5.2.2, DC page 31)		5-density as per DC Density varies from DC (higher or lower) - reduce marks according to variance	SME
Economic		2	Does the proposed density/FSR require increase of civic infrastructure over and above what is outlined in section 5.2.4 (sewer, water, fibreoptic cable, or roads, not including hard landscaping)? (RFP section 5.2.4, DC page 22)	Questionnaire	2-zero impact 0-infrastructure upgrade required	ENG

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Points Possible	Scored Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Info. External*
3. Urban Design					
.1 Contextual response					
Social		10	How well does the proposal meet the considerations outlined in 5.2.3 Contextual Response of the RFP? (DC page 12, 18)	Design concept	10-excellent 7-very good 5-good 2-poor 0-none
Economic		5	What are the economic 'spin-offs' of the proposed development? (RFP section 5.1.4, 5.2.2, 7.3.6, DC page 12)	questionnaire proposal text	5-positive 2- neutral 0-negative VR
Environmental		20	What additional environmental techniques and environmental plans will be done outside of LEED considerations? (What site-wide approaches as opposed to building by building) (RFP section 5.2.3, DC page 12, 22)	proposal text design concept	20-excellent 15-very good 10-good 2-poor 0-none
.2 Building massing, form and character					
Social		10	Does the building massing, form and character coincide with that set out in the Development Concept? Does the proposed building massing respond to the neighbourhood "texture" of development? Does it support and act as a transition/natural progression from the harbour up to the existing building skyline? (RFP section 5.2.3, DC page 18, 19)	Design concept	10-excellent 7-very good 5-good 2-poor 0-not at all
Economic		2	Is the quality of construction proposed consistent with the Development Concept in terms of massing, form and character (with respect to articulation of massing)? (RFP section 5.2.3, DC pages 33-37)	Proposal text	2-yes 0-no

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	Points Possible	Points Scored	Criteria/Questions	Source of Info. from proposal	Point Allocation	Sou of Ir Exter
Environmental		15	Does the design of massing, form and character take into consideration wind, light and shadow and sight lines in a positive way? (RFP section 5.2.3, DC page 19-22)	Design concept	15-excellent 10-very good 5-good 2-poor 0-not at all	
.3 Environmental (LEED) Considerations						
Environmental		10	Are buildings in risk-assessed portions of the site design to include soil vapour barriers or other approved engineered vapour controls? (RFP section 5.2.1)	Design concept	yes - 10 no - 0	SME
Environmental		20	What percentage of space constructed will be LEED certifiable and to what level? (RFP section 5.2.3, DC page 22)	Questionnaire	20-platinum 15-gold 10-silve Points may range based on the percentage of proposed buildings to target certain levels.	
.4 Circulation						
Social		10	How does the circulation encourage connectedness, a sense of place and community, both within the Dockside Lands and between the community of Victoria West and Victoria? (RFP section 5.2.3, DC page 22-25)	Design concept	10-excellent 7-very good 5-good 2-poor 0-not at all	
Economic		2	Are the modes of transportation sustainable to maintain/service, both now and in the long term? (RFP section 5.2.3, DC page 22-25)	questionnaire Proposal text	2-yes 0-no	

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Environmental		10	To what extent does the proposal encourage alternate modes of transportation? (RFP section 5.2.3, DC page 22-25)		Measure by environmental impact: 10-excellent 0-poor	
Points Possible Scored Points			Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Information
.5 Public realm requirements						
Social		20	Is the streetscape pedestrian friendly and inviting and are building elements or spaces designed at a "human scale" (relative to the dimensions and proportions of the human body) and consistent with the Development Concept "Dockside View"? (RFP section 5.2.3, DC page 1, 26-28)	Design concept	Each of the 5 elements can score a potential of 4 points as follows: 4 - excellent 3 - very good 2 - good 1 - poor	
Social		10	Does it meet CPTED requirements? (RFP section 5.2.3, DC page 30)	Design Concept	10-yes 0-no	CDG
Economic		4	How are the operating and maintenance costs proposed to be addressed - now and in the long term? Are the operational/capital costs reasonable? Is the proposal for the developer to maintain the public realm elements in the long term at the developer's cost? (RFP section 5.2.3, DC page 26-28)	questionnaire proposal text	4-no costs 0-all costs	SME
Environmental		10	What protection and/or enhancement of natural resources (including shoreline) is proposed? (RFP section 5.2.3, DC page 21, 28)		10-excellent 7-very good 5-good 2-poor 0-none	
.6 Negotiable/Optional Provisions						
Social		10	What is the proponent offering, that in their opinion, meets the local needs? (RFP section 5.2.3, DC Appendix 1)	design concept	10-excellent 7-very good 5-good 2-poor 0-none	

	Points Possible	Points Scored	Criteria/Questions	Source of Info. from proposal	Point Allocation	Source of Information
Economic		5	How are the operating and maintenance costs proposed to be addressed - now and in the long term? Are the operational/capital costs reasonable? Is the proposal for the developer to maintain the public realm elements in the long term at the developer's cost? (RFP section 5.2.3, DC page 29)	questionnaire	5-no costs 3-some costs 0-all costs	SME
Environmental		10	What are the environmental benefits of the proposed provisions? (RFP section 5.2.3, DC page 29)	design concept	5-positive 3-neutral 0-negative	

4. Net Present Value

.1 Value of offer						
		pass/fail	Must meet breakeven of \$6.7 million dollars (net present value of purchase). This does not include cost of remediation or amenities.			
Economic		50	Formula for point calculation to be determined Calculated based on net present value, including NPV for remediation proposal.	questionnaire financial information	50-highest offer 20-break even Points, between 20 and 50 calculated using a formula provided by City*	SME

*Score higher = $30 - 2 \times 30 \left(\frac{\text{value of offer} - \text{breakeven}}{\text{breakeven}} \right)$

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	Points Possible Scored Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Sou of In Exter
.2 Tax revenue projections for the City					
Economic		10 Calculated based on projected tax revenue to the City, based on build out proposal and average value/use assessment/estimated market value. This will be calculated with the assistance of a subject matter expert.	questionnaire financial information		SME
Proponent Score Subtotal	0	300			
	0	100	Social category		
	0	100	Environmental category		
	0	100	Economic category		

	Points Possible Scored Points	Criteria/Questions	Source of Info. from proposal	Point Allocation	Sou of In Exter
5. Presentation to Council and Public					
.1 Response to and from proponents at the public meeting					
			This will be based on the "strength of the team" and overall response to the proposal from the public and Council, as well as response from the Proponents to comments from the public and Council. Additional considerations will be the level of credibility/competence conveyed by the proponent teams. Feedback forms will be provided.	public presentation/feedback	
Proponent Score					

***Abbreviations for heading "Source of Info. – external":**

DC – Development Concept
 BC – Business Case
 HAS – Housing Affordability Study
 UD – City of Victoria Urban Design
 SME – Subject Matter Expert
 ENG – City of Victoria Engineering
 VR – Current Commercial Vacancy Rates
 CDG – CPTED Design Guidelines

Appendix B

Background Information Package Provided

Available on the City's website: Dockside Land Development Concept, Environmental Reports, etc.

http://www.city.victoria.bc.ca/cityhall/currentprojects_dockside.shtml

The City makes no representations or warranties as to the completeness or accuracy of this information. Any planning documents or guidelines will require amendment to reflect the Dockside Development.

INFORMATION ON SECURE DATA WEBSITE	
Business Case Appendices	
A summary of the insurance policy	
Copies of property assessments for past 3 years	
Correspondence/reports from community association	
CPTED Design Guidelines	
Development Cost Charges	
Site plan and sections	
Greenways Plan and Map	
Historical or current photos of the property	
Official Community Plan	
INFORMATION IN DATA ROOM	
Adaptable Housing Regulation	
All tenant leases, correspondence and complete lease files	
City's detailed operating budget for past 3 years	
Copies of all title documents and title opinions	
Copies of any appraisal reports	
Cross contamination Agreements	
Dockside Open Space Guidelines	
Drill hole & bore log list	
Plans and Specifications	
Public Art Policy	
Transportation Study	
Up to date survey and/or certificate of location addressed to buyer and a copy of any technical description	
Victoria West Community Plan & Design Guidelines for Songhees area if Victoria West	
INFORMATION NOT APPLICABLE	
Agreement for completion of Harbour Rd.	
All income to the City for the past 3 years	
Any other servicing agreements/requirements	
Copies of all service/maintenance contracts and a summary list of those contracts	
Copies of any appraisal report done for insurance purpose (replacement cost)	
Copies of notices from present or previous insurers requesting or requiring modification or work in connection with the property within the last 3 years	
Detailed list of property equipment, chattels, moveables	
List of securities and /or rental deposits, prepaid rents etc.	
On and off site service requirements	
Road improvements	
OTHER	
Authorization to government authorities to release any requested information on file about the property.	For information please contact: Bob Wiffen 250-361-0393
Tenant lease information West of Harbour Rd.	

DOCKSIDE LANDS RFP #04-031

Dockside Data Room – Availability and Rules of Usage

A data room has been established at BCBC, 3350 Douglas Street Victoria, BC V8V 1L1. The data room contains hardcopy documents and plans that are not available on the secure data website. Proponents will be advised of all updates posted on the secure data website.

Christine Gleed is the data room administrator and will supervise the access and use of the data room. Access to the data room is by appointment only and can be arranged with the data room administrator at 250-952-8390.

Appointments for accessing the data room must be made at least 24 hours in advance and will be scheduled on a first-come-first-served basis. Appointments will be limited to one proponent at one time and allow for a maximum of 4 people per visit.

Operating hours are from 8:30 am to 4:30 pm Monday to Friday. The data room will remain open from Sept 10th to the closing date of the RFP.

Proponents will be required to register in the data room log providing their name, company name, position held and signature.

No documents may be removed from the data room. Copies may be made of any document that is not marked otherwise.

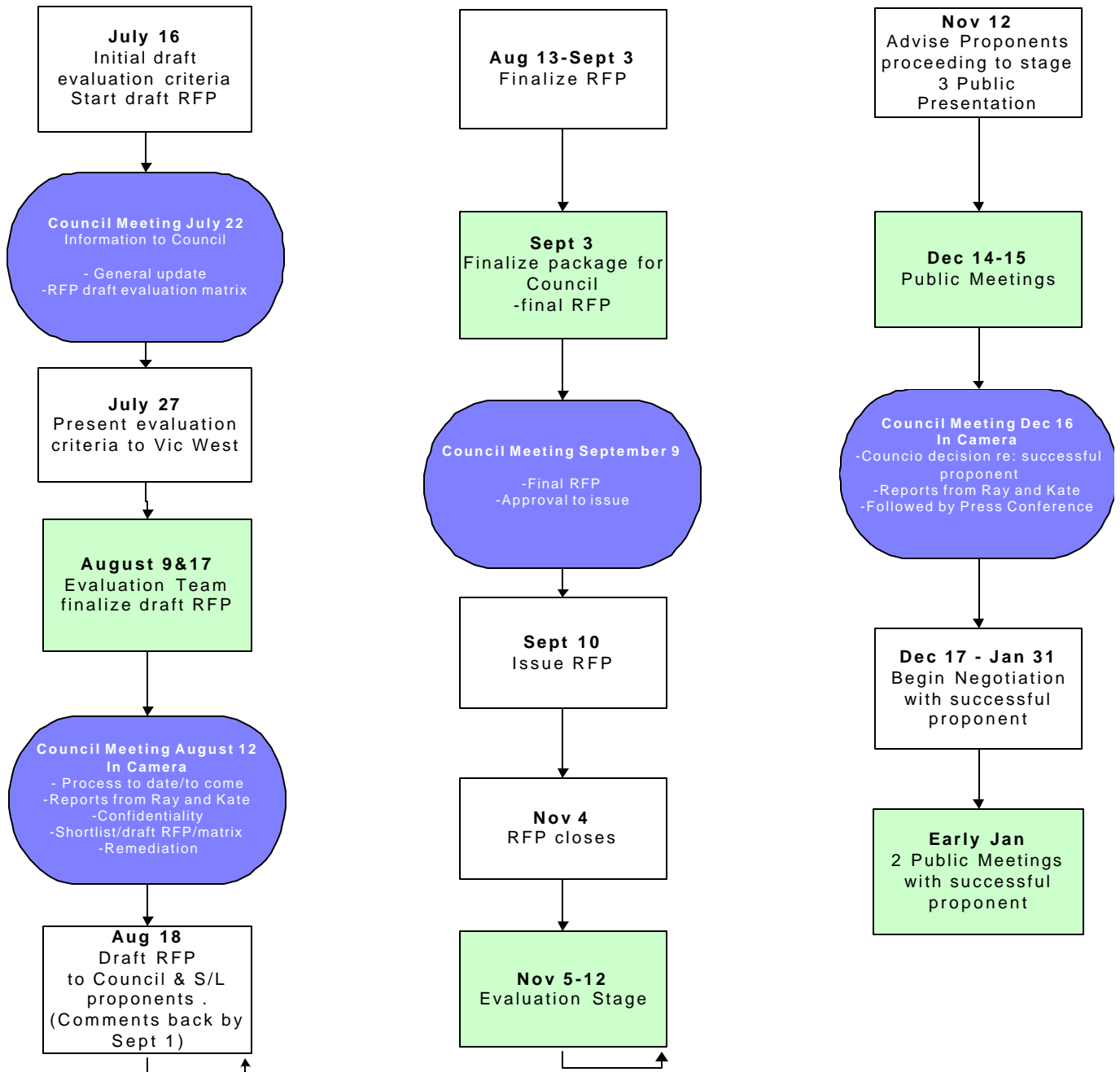
Documents must not be marked, altered or damaged in any way and must be returned to their original location.

Any questions arising from information in the data room or secure data website should be addressed to the Contact Person.

Appendix C

Schedule

Dockside Lands Schedule for Request for Proposal



Appendix D

Submission Requirements

Submission Requirements

1. Proponent and Project Information Summary

A Proposal should include the following information with respect to the Proponent and the Project:

(a) The Proponent:

- (i) a letter of introduction, including name and address of the Proponent and the name and address of the contact person for the Proponent;
- (ii) background information on the Proponent, including resumes of key personnel to be involved in the Project, and their respective responsibilities;
- (iii) a list of contractors and consultants engaged or proposed to be engaged as part of the Project team; and
- (iv) details of potential partnerships and potential business agreements contemplated for the Project; and

(b) The Project:

- (i) a general description of the Proponent's design philosophy in the context of the Planning Principles for the Project (as outlined in the Development Concept);
- (ii) an indication of whether an application to rezone the Property for the Project will be pursued and a description of the elements of the proposed Project which require a rezoning;
- (iii) an indication as to which portions of the Project the Proponent intends to sell or lease;
- (iv) an indication of the opportunities available for local employment and job training during construction of the Project and/or in the operation of the redeveloped Property;
- (v) an indication of what local materials and supplies the Proponent proposes to use in construction of the Project; and
- (vi) the purchase price and anticipated schedule for purchase

(c) General Conditions

- (i) acknowledgement of addenda received;
- (ii) proponent's full legal name and authorized signatures;
- (iii) contact information

2. Technical Package - Conceptual Design

A Proposal should include ten (10) copies, (with reductions of the presentation panels or drawings in an 11" x 17" format) in a cerlox bound format, and to a maximum of 60 pages in total, of a description of the design for the Project including the following information:

- (a) The Proponents preferred approach for remediation of the site and a conceptual remediation plan including:
 - i) proposed remedial approach outlining any deviation from the Development Concept;
 - ii) application of risk assessment in the remediation plan and the risk mitigation measures that will be implemented during the following development (i.e. soil management during development including building excavations; use of soil vapour barriers or other engineered vapour barriers in building designs; ensuring that the site is covered with either a 1 metre thickness of clean soil, layer of asphalt or impermeable layer and or building, etc.);
 - iii) groundwater management during and following development; and
 - iv) suitability of the remediation plan as related to requirements outlined in the British Columbia *Environmental Management Act and Contaminated Sites Regulation*.

- (b) conceptual design: a description, generally, of the conceptual design for the Project using the following headings:
 - (i) internal space programs (including non-market housing program, market housing program, commercial, office and retail programs, amenity related space);
 - (ii) special features;
 - (iii) response to Development Concept/Planning Principles;
 - (iv) for phased development Proposals, indication of project appearance between phases;
 - (v) pedestrian, bicycle and vehicular traffic;
 - (vi) views;
 - (vii) open and green space;
 - (viii) amenities (negotiable and optional);
 - (ix) accessibility; and
 - (x) data sheet including gross and net floor area, for the entire site and each lot; approximate number of residential units on each lot; overall FSR and FSR for each lot; amount of open space; estimated amount of parking, site coverage and range of height and number of storeys for each lot.

- (c) photos: photo overlays illustrating view impacts, including using relevant view cones for the neighbourhood;
- (d) general outline specifications: a description, in general terms, of the materials and finishes of the building's exterior and interior;
- (e) drawings: reduced colour copies of the presentation panels. Fold out pages may be used if drawings span two panels vertically;
- (f) a proposed Project schedule in bar chart form showing proposed phasing and milestone dates including but not limited to: Design Development, Rezoning Application, Permit Schedule, Contract Documents, and Construction and Marketing; and
- (g) Completion of the questionnaire (Appendix E).

3. Presentation Panels and Project Model (Only required for Proponents proceeding to the public presentation stage of the evaluation process).

(a) Presentation Panels

No more than 10 panels may be submitted in total. All panels will be 22" x 34" horizontal, mounted on card or foam board to a maximum thickness of 3/4". All panels should be numbered to indicate an order for display purposes. Panels should have reinforced holes in the upper corners for hanging. All drawings, other than the perspectives, will be in black and white only. Uncoloured tones may be used. Perspectives may be in black and white or in colour.

The presentation panels should include and clearly identify the following:

- (i) a site and context plan at a scale of 1:500, showing the location and dimensions of the boundaries of the Property, adjoining street names, site elevations, parking, vehicular and pedestrian provisions, adjacent buildings, and landscaping;
- (ii) adequate plans at a scale of 1:200 to provide an indication of mix of uses, interface with the building exterior and range of residential units types/scale;
- (iii) all elevations at a scale of 1:200 indicating materials of construction;
- (iv) at least four sections at a scale of 1:200 demonstrating the Project design. Sections to be taken through the site at the public walkways, and longitudinally from site 1 to 4;
- (v) at least one exterior perspective from eye level showing major exterior view;
- (vi) at least one interior perspective from eye level of a major interior space;

- (vii) view along Harbour Road and Tyee Road, indicating building elevations and streetscape; and
 - (viii) a summary of design description on a maximum of three (3) 8 1/2" x 11" pages included on the panels. Explanatory diagrams are permitted.
- (b) Project Model (required only for those Proponents proceeding to the public meeting (stage 3 of the RFP process))

A massing model of the proposed development should be constructed at a scale of 1:2000 showing exterior building massing and site works. There are no limitations on materials or colours that may be used for the model.

Note: Other material/formats for presentation at the public meeting are acceptable however the content of the material cannot be substantially different than the RFP submission.

4. Financial/Cost Model

A Proposal must include a financial/cost model for the proposed costs for the Project, in both electronic and hard copy. The intent of requesting this information is to enable the Evaluation Team to assess what the overall net "value" of a Proposal is to the City. The information in the financial model will be used in addition to other information provided in the Proposal to answer the questions in the "economic" evaluation criteria. The financial model must list Project assumptions and should be:

- well constructed and professional in appearance;
- produced in the latest version of Microsoft Excel;
- have calculations that flow down and to the right;
- have calculations sufficiently disaggregated so that they can be followed logically on screen (without examining the content of cells) or on paper;
- have cells containing hard coded entry coloured blue; and
- have all sheets set up to print clearly and legibly on 8 1/2" x 11" paper.

The financial model should be structured to allow a sensitivity analysis to be run on costs and inputs pertaining to:

- (a) interest rates;
- (b) discount rates;
- (c) absorption rates;
- (d) square footage costs by use and by floor;
- (e) floor space ratios;
- (f) construction costs and soft costs (including break out of amenity related costs);
- (g) development efficiency ratios; and
- (h) the land costs.

Note: All Proposal material, including drawings, the project model, and design information should be in imperial units with metric equivalents in brackets following the imperial value.

Appendix E

Questionnaire

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1. Proposal regarding site remediation

Lot	Area of site proposed for active remediation	Area of site proposed for risk assessment	Estimated cost	Completed when?
1				
2				
3				
4				

Remediation to be done by: _____

2. Development phasing/scale

Lot	Build out completed by	Buildable area by use(s)	Anticipated employment generated (employee/square ft. gross floor area): Office – 1/250 Retail – 1/500 Industrial – R and D/flex – 1/500 Light manufacturing – 1/700 Warehouse – 1/1000 Office – 1/250	FSR
1				
2				
3				
4				

3. Negotiable and Optional Provisions (refer to page 29 of the Development Concept):

a) List what negotiable provisions are proposed to be provided through development.

b) List what optional provisions are proposed to be provided through development

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c) Indicate at which phase negotiable and optional provisions will be constructed.

d) Indicate estimated cost of each negotiable/optional provision.

e) Will the requirements of the public art policy be met (site 1-4)?

Indicate proposed ongoing maintenance/cost approach and estimated annual cost.

4. Open and/or green space

Indicate area of open and/or green space provided for (specifically open or green public or private. Do not include parking):

Lot	Area	Cost (\$/sq ft.)	% of area considered 'accessible'
1			
2			
3			
4			

Indicate estimated construction cost associated with open space provisions for each site.

5. Parking

What Best Management practices will be employed?

Indicate how parking will be addressed for each site:

Lot	# Surface spaces	# Below grade/building	# Bike lockup	# Carpool designated
1				
2				
3				
4				

6. LEED certification

How much of the proposed development will pursue LEED certification or higher and to what level/area buildable?

Provide a list of credits that would be pursued for each building pursuing LEED certification or higher.

Lot	Certification	Silver	Gold	Platinum
1				
2				
3				
4				

7. Safety

Confirm that open/public space will meet CPTED requirements

Lot	CPTED Y/N
1	
2	
3	
4	

8. Adaptable Housing Regulation

Confirm what percentage of overall residential use area complies with the Adaptable Housing Regulation.

9. Mix of Housing

Confirm what percentage of housing in the proposed development would be considered affordable housing (for definition of affordable housing, refer to section 2.0 Definitions) for the following income brackets:

Income Bracket	% of housing in this category
under 15,013	
15,014-26,846	
26,847-41,522	
41,523-63,310	
63,311 and over	

Confirm percentage of size/tenure of housing units:

Size/Type of Unit	% of housing in this category
Ownership units	
Rental units	
Studio	
1 bedroom	
2 bedroom	
More than 2 bedroom	
Live/Work	
Work/Live	
Rent to own	

Appendix F

Rezoning Process

DOCKSIDE LANDS RFP #04-031

Stages	Who	What
First Steps	Applicant	Confirm with City Staff that a Bylaw Amendment Application is required. Check with City Engineering for traffic and servicing concerns. Obtain preliminary subdivision approval from Approving Officer if required. Complete the Development Application Information Form. Obtain Development Application Consultation List from Planning Staff.
Local Input	Applicant	Arrange a meeting with the Local Neighbourhood Association. Meet with adjacent neighbours to discuss application.
	Neighbourhood Association	Meet with Neighbourhood Association and provide them with completed Development Application Information Form. Neighbourhood Association has 30 days to formally comment on the application.
	Applicant	Make any changes to Proposal based on local input.
Make the Application	Applicant	Submit your application with all the supporting materials and fees by noon the 15 th of the month for Committee of the Whole the following month. You will be provided with a sign to be posted on the site. The sign must be posted 10 days prior to the Committee of the Whole meeting.
	Staff	Review of application by City Staff.
Committee Review	Staff	Staff recommendations are presented to the Committee of the Whole.
	Applicant	Be present at the Committee of the Whole meeting to answer any questions.
	Committee of the Whole	Committee of the Whole reviews application and may recommend changes, approval, rejection, referral or tabling.
Referrals	Applicant	Changes to application may be required as a result of review.
	Committee of the Whole	Council may refer your application to an advisory group for further input.
	Staff	Sign provided for posting for Advisory Planning Commission meeting. Post Advisory Planning Commission meeting sign 10 days before meeting. Presentations made to advisory groups as required.
Committee of the Whole	Applicant	Presentations made to advisory groups as required.
Committee of the Whole	Staff	Your application will be brought forward again when all referrals are received.
Development Agreements	Staff/Applicant	Preparation of any covenants or agreements.
First and Second Reading	Council	If recommendation is to proceed, an amendment bylaw will be prepared and proceed to Council for first and second reading.
Public Notification	Staff	Staff will conduct information requirements and provide sign for posting.
	Applicant	Post public hearing sign 10 days before public hearing.
Public Hearing	Council	Council will conduct a public hearing on your application at City Hall
Council Decision	Council	Council may adopt or defeats the bylaw.

Appendix G

Proposed Sale Contract

SALE CONTRACT

Effective Date: This Sale Contract is effective on the ____ day of _____, 2004.

Parties: The Corporation of the City of Victoria (the "Vendor")

And _____ (the "Developer")

Consideration: In return for the Deposit and the Purchaser's agreements, the receipt and sufficiency of which the Vendor acknowledges, and in return for the Vendor's agreements, the receipt and sufficiency of which the Purchaser acknowledges, the Vendor and Purchaser agree to be bound by the terms and conditions of this Contract.

Contract terms and conditions: The Vendor and Purchaser represent and agree that:

SECTION 1 INTERPRETATION

1.1 Definitions. In this Contract:

"City's Legal Director" means the Director Planning and Development for the City of Victoria and the firm of lawyers or notaries public the Vendor appoints to represent it in the purchase of the Property;

"Contaminants" means any explosives, radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, deleterious substances, dangerous goods or substances, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled or regulated under Environmental Laws;

"Contract" means this document and attached schedules;

"Deposit" means the sums of money identified in Section 2.3 of this Agreement.

"Development Agreement" means the agreement between the Vendor and the Purchaser relating to the development of the Property dated _____;

"Effective Date" means the date set out at the start of this Contract;

"Environment" means land including soil, sediment deposited on land, fill and land submerged under water, air including all layers of the atmosphere, and water including oceans, lakes, rivers, streams, ground water, and surface water;

"Environmental Laws" means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Lands now or hereafter in force relating to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, including all applicable guidelines and standards with

respect to the foregoing as adopted by any of those governmental authorities from time to time and the principles of common law and equity.

“GST” means goods and services tax under the *Excise Tax Act* (Canada);

"Improvements" mean all buildings, improvements, structures, fixtures, plant, fixed machinery, and fixed equipment situate within or forming part of the Land;

“including” means “including, without limitation”;

“Land” means certain land in Victoria, British Columbia described in the RFP.

“LTO” means the Victoria Land Title Office;

“Permitted Charges” mean reservations, exceptions, conditions, reservations, and provisos contained in any Crown grant or Crown disposition of the Property, unregistered rights of way, easements, or restrictive covenants in favour of government bodies or public utilities, Rights of Way, Easement and/or Indemnity Agreements presently existing on the Property or as may be required to implement the Development Agreement.

“Person” means any legal entity including any individual, firm, corporation, or government body;

"Property" means the Land and Improvements;

“Property Purchase Price” means \$_____, exclusive of GST, provincial sales tax, property transfer tax, or other like charges;

"Proposal" means the Proposal submitted by the Purchaser in response to the RFP, which Proposal has been accepted by the Vendor;

“Purchaser” means the Developer selected as a result of the City’s Dockside Lands RFP;

“Purchaser’s Representatives” mean the firm of lawyers or notaries public the Purchaser appoints to represent it in the purchase of the Property;

"RFP" means the Request for Proposals issued by the City of Victoria on September 10, 2004 for the sale and development of the Property;

“Sale Closing Date” means the later of: (the actual Sale Closing Date from the Proposal, as subsequently amended by negotiation will be entered)

"Transfer" means the Form A transfer of estate in fee simple conveying the Property from the Vendor to the Purchaser and

“Vendor” means the Corporation of the City of Victoria.

1.2 Interpretation. The following provisions will apply to this Contract:

- 1.2.1 sections and headings are for convenient reference, and are not to affect the meanings of provisions; and use of the singular or masculine includes the plural, feminine, or body corporate, and vice versa;
- 1.2.2 if a court finds any provision invalid, illegal, or unenforceable, said provision will be severed from the Contract and the remaining provisions are to remain in force and effect;
- 1.2.3 time will be of the essence, and if the Purchaser or Vendor expressly or impliedly waives that requirement, the Purchaser or Vendor may re-instate it by delivering notice to the other;
- 1.2.4 this Contract and the Development Agreement represent the entire agreement between the Purchaser and Vendor regarding the matters set out in it, and supersedes all prior agreements, understandings, letters of intent, negotiations, or discussion about those matters, and no amendment is to have any force or effect unless the Purchaser and Vendor have signed it;
- 1.2.5 references to statutes and bylaws are as they exist on the Effective Date, and to later amendments or replacements of them; and
- 1.2.6 if there is more than one Purchaser, the Purchaser's representations and agreements will be joint and several.

SECTION 2 SALE AND PURCHASE

2.1 Sale and purchase. The Vendor will sell the Property to the Purchaser free from all liens, charges, or encumbrances except for Permitted Charges, and the Purchaser will purchase the Property from the Vendor, subject to the terms and conditions of this Contract and the Development Agreement.

2.2 Property Purchase Price. The Purchaser will pay the Property Purchase Price to the Vendor for the Property.

(Note: This section will be elaborated on in the final terms of the Contract)

2.3 Deposit. The Developer has submitted a deposit of One Hundred Thousand Dollars (\$100,000) as a refundable deposit, the receipt of which is hereby acknowledged (hereinafter called the "Deposit").

Upon execution of the Sale and Purchase Agreement and Development Agreement, the Developer, will increase the Deposit by a further Five Hundred Thousand Dollars (\$500,000).

The Deposit will be deposited in an interest bearing account with the accrued interest to be credited to the Purchase Price.

Upon execution of this Agreement the Deposit will be non-refundable unless, through the rezoning process the City deviates significantly from the Development Concept.

If the transaction completes, the Deposit will be a credit against the Property Purchase Price. If the transaction does not complete because the Vendor defaults in complying with the Vendor's obligations under this Contract or the Vendor does not waive any unfulfilled condition, the Vendor will return the Deposit to the Purchaser on demand. If the transaction does not complete because the Purchaser defaults in complying with the Purchaser's obligations under this Contract, the Vendor may retain the Deposit on account of damages and not as a penalty and without prejudice to the Vendor's other rights or remedies under this Contract or at law or equity.

(Note: This section will be elaborated on in RFP addenda and the final Sale Contract)

2.4 Closing. The completion of the sale and purchase of the Property will occur on the Sale Closing Date.

SECTION 3 REPRESENTATIONS

3.1 Vendor's representations. Regardless of any independent investigations the Purchaser may make, the Vendor represents to the Purchaser, as representations that are true and correct on the Effective Date and will be true and correct on the Sale Closing Date, that:

3.1.1 under section 116 of the *Income Tax Act* (Canada) and under Part IX of the *Excise Tax Act* (Canada), the Vendor is a resident of Canada within the meaning of those Acts;

3.1.2 the Vendor is the registered and beneficial owner of the Property, has good, safeholding, and marketable title to the Property, free from all liens, charges, or encumbrances, except for Permitted Charges, and has sufficient, power, authority, and capacity to execute and deliver this Contract to the Purchaser;

3.1.3 by completing the sale of the Property to the Purchaser, the Vendor will not be in breach of any statute or bylaw or of any agreement by which the Vendor is bound;

3.1.4 on the Effective Date, except for Permitted Charges, the Vendor will not owe money to any Person which will constitute a lien, charge, encumbrance, or claim against the Property; and

3.1.5 the Vendor has no knowledge that any government body intends to expropriate all or part of the Property, or that any government body has issued or intends to issue any order or notice regarding the Property.

3.1.6 Any claims or actions against the Property on the Sale Closing Date, that are not the result of any action, inaction, negligence or unlawful act of the Developer or the Developer's Consultants, Agents and Representatives, will be the responsibility of the Vendor

3.2 (Note: this section will be utilized to document the environmental condition of the Property and the representations and warranties to be given during and upon completion of the remediation. The content will be dependent upon the Proponent's Proposal pertaining to remediation and subsequent negotiations)

3.3 Purchaser's representations. Regardless of any independent investigations the Vendor may make, the Purchaser represents to the Vendor, as representations that are true and correct on the Effective Date and will be true and correct on the Sale Closing Date, that:

- 3.3.1 if the Purchaser is a Corporation, it is in good standing under the laws of British Columbia, and it has sufficient power, authority, and capacity to deliver this Contract to the Vendor and to buy the Property from the Vendor;
- 3.3.2 there is no action or proceeding pending or, to the Purchaser's knowledge, threatened against the Purchaser before any court, arbiter, arbitration panel, administrative tribunal or agency, which, if decided adversely to the Purchaser, might materially affect the Purchaser's ability to perform its obligations under this Contract; and
- 3.3.2 the Purchaser has no knowledge that any person associated with the Vendor has any direct or indirect interest in this sale and purchase.

SECTION 4 CONDITIONS

4.1 Vendor's conditions. Despite anything to the contrary in this Contract, the Vendor's obligation to complete the sale of the Property to the Purchaser will be subject to the conditions that:

- 4.1.1 the Vendor's City Council will have approved the sale of the Property for the Property Purchase Price, and the City's Legal Director will have approved the terms and conditions of this Contract by (insert date(s));
- 4.1.2 on or before (insert date), the Vendor and the Purchaser will have executed the Development Agreement consistent with the Development concept and the Proposal;
- 4.1.3 on or before (insert date), the rezoning of the Property in accordance with the Proposal will have been referred to a public hearing;
- 4.1.4 on or before (insert date), a development permit has been issued by the City for development of the Property in accordance with the Development Agreement.

4.2 Purchaser's conditions. Despite anything to the contrary in this Contract, the Purchaser's obligation to complete the purchase of the Property from the Vendor will be subject to the condition that:

- 4.2.1 on or before (insert date), Vendor's City Council will have approved the sale of the Property for the Property Purchase Price, and the City's Legal Director will have approved the terms and conditions of this Contract;
- 4.2.2 on or before (insert date), the Purchaser will have obtained, at the Purchaser's cost, such additional investigations and reports regarding the Property and its

surrounding Environment as it considers necessary, and that such investigations and reports are satisfactory to the Purchaser.

- 4.2.3 on or before (insert date), the Vendor and the Purchaser will have executed the Development Agreement;
- 4.2.4 on or before (insert date), the rezoning of the Property in accordance with the Proposal will have been referred to a public hearing; and
- 4.2.5 on or before (insert same date as 4.1.4), a development permit has been issued by the City for development of the Property in accordance with the Development Agreement.

4.3 Effect of conditions. The conditions in section 4.1 are for the Vendor's benefit, and the Vendor may waive those conditions. The conditions in section 4.2 are for the Purchaser's benefit, and the Purchaser may waive the conditions in subsections 4.2.2, 4.2.4 and 4.2.5. If the Vendor does not notify the Purchaser, before 5:00 p.m. on the last of the dates in section 4.1, that the conditions in that subsection are waived or fulfilled, or if the Purchaser does not notify the Vendor, before 5:00 p.m. on the last of the dates in section 4.2, that the conditions in that subsection are waived or fulfilled, then the Purchaser and Vendor will be deemed to have terminated this Contract, and it will have no further force or effect except that the Vendor will return the Deposit to the Purchaser on demand. Notwithstanding the forgoing, if the failure of either party to remove their conditions is caused by the Purchaser either failing to use its reasonable commercial efforts to advance its rezoning and development permit application with the City or the Purchaser's effort to advance its rezoning and development permit application with the City is not consistent with the Development Concept, Proposal and Development Agreement the Deposit will be non-refundable and retained by the Vendor on account of damages and not as a penalty and without prejudice to the Vendor's rights or remedies under this Contract or at law or equity.

SECTION 5 AGREEMENTS

- 5.1 Transfer of title.** The Vendor will transfer good, safeholding, and marketable title to the Property to the Purchaser on the Sale Closing Date according to the requirements of this Contract.
- 5.2 Property Condition Disclosure Statement.** The Vendor has no obligation to deliver to the Purchaser a Property Condition Disclosure Statement.
- 5.3 Investigation.** The Purchaser, and its employees, agents, and contractors, may enter the Property at any time before the Sale Closing Date to carry out, at its cost, such inspections, investigations, tests, and surveys (herein called "Permitted Investigations") as are reasonably in accordance with applicable laws and regulations, including Environmental Laws. The Purchaser shall provide notice to the City before carrying out any such investigations. The Purchaser will restore the surface of the Property, and repair any damage it causes in undertaking Permitted Investigations.
- 5.4 Condition of Property and environmental responsibility.** The Purchaser will purchase the Property from the Vendor _____

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Note: This section will outline the conditions of the Property as outlined in the RFP, the Proposal and subsequent negotiations with the Developer and the method of remediation and assignment of risk for remediation and risk subsequent to remediation.

- 5.5 Risk.** The Property will be at the risk of the Vendor until the date and time of submission of the Transfer for registration in the LTO, and, after that, will be at the risk of the Purchaser.
- 5.6 Possession.** The Purchaser will have the right to vacant possession of the Property, subject to Permitted Charges, on the Sale Closing Date after payment of the Property Purchase Price.
- 5.7 Status of Property and Permitted Charges.** Between the Effective Date and Sale Closing Date, the Vendor will not enter into any contracts or do anything that will affect the Property or its title, use, or value and will not amend any Permitted Charges, unless the Vendor obtains the Purchaser's prior written consent.
- 5.8 Utilities and services.** If, before or after the Sale Closing Date, the Vendor learns of the existence of any pipes, wires, or other utilities or services below, on, or above the Property surface that are then in use or that the Vendor or any other public authority or utility wishes to use, the Purchaser, promptly on request by the Vendor, will execute and deliver to the Vendor, in form acceptable for registration in the LTO, a statutory right of way satisfactory to the Vendor and such instruments of priority for that statutory right of way over other registered charges as the Vendor may require. The Purchaser will be compensated for any negative impact on the value of the Land by any new statutory right of way permitted under this clause by a reduction in the Property Purchase Price. If the Vendor and Purchaser are not able to arrive at an agreed upon adjustment in the Property Purchase Price either of them may refer the dispute to a single arbitrator under the *Commercial Arbitration Act* (British Columbia). The arbitrator, who must be familiar with real estate development, may decide that the Vendor or Purchaser must deposit money in trust pending the arbitrator's decision on the dispute. The arbitrator's decision will be conclusive and binding on the Vendor and Purchaser, and the arbitrator will award the arbitrator's fees and expenses considering the reasonableness of each of the party's initial position.
- 5.10 Adjustments.** The Vendor and Purchaser will adjust all items customarily the subject of adjustment in the sale and purchase of property similar to the Property at the Sale Closing Date. The Purchaser will benefit from any income and be responsible for any expenses from and including the Sale Closing Date. If the adjustments are inaccurate or incomplete, the Vendor and Purchaser will make further adjustments after the Sale Closing Date. If the Vendor and Purchaser dispute any adjustments, either of them may refer the dispute to a single arbitrator under the *Commercial Arbitration Act* (British Columbia). The arbitrator, who must be familiar with real estate development, may decide that the Vendor or Purchaser must deposit money in trust pending the arbitrator's decision on the dispute. The arbitrator's decision will be conclusive and binding on the Vendor and Purchaser, and the arbitrator will award the arbitrator's fees and expenses considering the reasonableness of each of the party's initial position.
- 5.11 Costs, fees, and taxes.** The Vendor will pay the costs of clearing title except for Permitted Charges. The Purchaser will pay any land title transfer fees and LTO application and registration fees. If the Purchaser is a GST registrant and delivers to the

Vendor, prior to the Sale Closing Date, its GST registration number and such certificate as the Vendor may require, the Purchaser will remit directly to the Receiver General of Canada any GST payable by the Purchaser on the purchase of the Property, promptly after the Sale Closing Date, and will confirm to the Vendor that it has done so. If the Purchaser is not a GST registrant, the Purchaser will pay to the Vendor, on the Sale Closing Date, along with the adjusted Property Purchase Price, any GST payable by the Purchaser on the purchase of the Property. The Purchaser and Vendor will each pay their own legal costs. The Purchaser and Vendor will pay such costs, fees, and taxes when due.

- 5.12 Commissions.** The Purchaser will not be required to pay any fees and commissions of real estate brokers, real estate agents, and other like Persons in connection with the sale of the Property.
- 5.13** There are no representations, warranties, guarantees, promises or agreements other than those contained herein, all of which survive the completion of the sale, and shall not merge therewith.

SECTION 6 CLOSING

6.1 Documents. Before the Sale Closing Date:

- 6.1.1 the Purchaser will cause the Purchaser's Representatives to prepare the Transfer, the statements of adjustments, and other conveyance documents required pursuant to this Contract, in form and substance satisfactory to the Purchaser, and to deliver them to the City's Legal Director along with any other documents or evidence the Vendor requires from the Purchaser under this Contract;
- 6.1.2 the Vendor will sign the documents, and cause the City's Legal Director to return them to the Purchaser's Representatives; and
- 6.1.3 the Vendor will cause the City's Legal Director to prepare the Development Agreement and to deliver them to the Purchaser's Representatives and the Purchaser will sign same and cause the Purchaser's Representatives to return them to the City's Legal Director for signature by the Vendor.

6.2 Closing. The Purchaser will:

- 6.2.1 on the Sale Closing Date, provide the Purchaser's Representatives with the adjusted Property Purchase Price and other money necessary to complete the transaction;
- 6.2.2 on the Sale Closing Date, cause the Purchaser's Representatives to conduct a pre-registration index search of the Property in the LTO, and, if the search indicates that the Vendor owns the Property free from all registered or pending liens, charges, and encumbrances, except for Permitted Charges, to submit the Transfer for registration prior to the City's Legal Director submitting the Development Agreement for registration;

- 6.2.3 cause the Purchaser's Representatives, promptly after the LTO accepts the Transfer and the Development Agreement for registration and notes up the registration particulars for the Transfer and the Development Agreement, to conduct a post-application index search of the Property, and, if the search indicates that good, safeholding, and marketable title to the Property, except for Permitted Charges and those charges contained in the Development Agreement, will vest in the Purchaser in the normal course of the LTO's routine registration process, to pay the adjusted Property Purchase Price promptly to the City by notifying the City's Legal Director that the adjusted Property Purchase Price is available for pick up; and
- 6.2.4 if it is unable to comply, or to cause the Purchaser's Representatives to comply, with such registration and payment requirements, other than by reason of default by the Vendor, to cause the Purchaser's Representatives to return the Transfer to the City's Legal Director or, if the Purchaser's Representatives have then submitted the Transfer for registration, to apply immediately to withdraw the Transfer from the LTO and, upon receipt, to return it to the City's Legal Director.

The Vendor and Purchaser instruct the City's Legal Director and Purchaser's Representatives respectively to otherwise conduct the closing according to the customary practices of reputable lawyers having experience in such matters, except that the Purchaser's Representatives will not require the City's Legal Director to provide any undertaking.

- 6.3 Tender.** The Purchaser may tender documents or money upon the Vendor or the City's Legal Director, and the Vendor may tender documents on the Purchaser or the Purchaser's Representatives.
- 6.4 Payments.** The Purchaser will, or will cause the Purchaser's Representatives to, pay all money owing to the Vendor under this Contract including the Deposit by cash or by certified cheque or bank draft drawn on a Canadian chartered bank or on a trust company or credit union acceptable to the Vendor.

SECTION 7 GENERAL PROVISIONS

- 7.1 Survival.** All representations, agreements, and indemnities in this Contract will survive closing, registration of the Transfer, and payment of the adjusted Property Purchase Price.
- 7.2 Assignment.** The Purchaser may not assign its interest in this Agreement in whole or in part to any other person (including a corporation or partnership formed for such purpose) without the prior written approval in writing from the Vendor, such approval in the Vendor's sole discretion. Notwithstanding the foregoing, the Purchaser will be entitled to assign its interest in this Agreement to an affiliate (as that term is defined in the *Company Act* of British Columbia) of the Purchaser without the approval of the Vendor, provided that such assignee has first assumed the obligations of the Purchaser under this Agreement by an agreement in writing in favour of the Vendor. Notwithstanding any assignment of this Agreement, the Purchaser will not be released from its obligations under this Agreement or pursuant to any agreement, instrument and other document entered into or to be entered into pursuant to this Agreement. For the purposes of this section, any change of control of the Purchaser shall constitute an assignment by the

Purchaser of its interest in this Agreement requiring the prior written approval of the Vendor.

The provision of this prohibition to the assignment of any right to any portion of the Lands and Improvements shall not be construed or utilized to impede a lender(s), dealing at arm's length, from assuming control of all or a portion of the Lands and Improvements to protect the lender(s)' position.

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7.3 Notice. Any notice, approval, consent, request, confirmation, or demand required or permitted under this Contract must be in writing, and the sender must deliver it by fax or by personal service or by courier addressed to the Vendor as follows:

City of Victoria
Planning & Development Department
#1 Centennial Square
Victoria, BC V8W 1P6

Attention: ???
Fax: ?
or to the Purchaser as follows:

Fax:

Attention:

or to such other address or fax number in the Province of British Columbia of which either party may notify the other according to the requirements of this section 7.2. Service will be deemed complete; if made by faxed transmission on the first business day after the date of transmission; and if made by personal service or courier upon the effecting of such service.

7.4 Effect of Contract. This Contract will ensure to the benefit of and bind the Vendor and Purchaser and their respective heirs, executors, administrators, successors, and permitted assigns.

TO EVIDENCE THIS CONTRACT the Vendor and Purchaser have signed it as of the Effective Date.

CITY OF VICTORIA by its authorized signatory:

Per: _____
Authorized Signatory

[Purchaser] by its authorized signatories:

Per: _____

Per: _____