



Invitation to tender

FOR

The Repair of the Public Market Patio and Structure

Date Issued: June 10, 2013

Tender Closes: 2:00 PM EDT, July 5, 2013

Tender File #: 201301463

Originating Department:
Granville Island Administration Office

Inquiries: Camille Attia,
Procurement Advisor

Tel: (613) -748-5332

Email: cattia@cmhc-schl.gc.ca

Security Classification: PROTECTED

Ce document est aussi disponible en français sur demande

Canada



CANADA MORTGAGE AND HOUSING CORPORATION
Granville Island Administration Office
1661 Duranleau Street, 2nd Floor, Vancouver, British Columbia, V6H 3S3

TENDER, ACCEPTANCE AND CONTRACT
CONSTRUCTION, ALTERATIONS AND REPAIRS

PROJECT TITLE Granville Island Public Market Patio
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Date Issued June 10, 2013	Date Tender Closes 2:00 PM EDT, July 5, 2013	CMHC File # 201301463
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SITE VISIT	
Date and Time: 10:00 A.M. PDT, June 20, 2013	Location Granville Island Administration Office 1661 Duranleau Street, 2 nd Floor Vancouver, British Columbia V6H 3S3

Inquiries: Camille Attia	Email: cattia@cmhc-schl.gc.ca
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CMHC is subject to the Privacy Act. Individuals have a right of access to CMHC controlled information about themselves.

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The meanings of all defined terms used in this document shall be as set out in clause 1 of the Contract and General Conditions.

PART 1

INSTRUCTIONS TO TENDERERS

1. GENERAL REQUIREMENTS

Timely and correct delivery of tenders to the exact specified tender delivery address is the sole responsibility of the Tenderer. All risks and consequences of incorrect delivery of tenders are the responsibility of the Tenderer. CMHC will not assume or have transferred to it those responsibilities. All registered times will be in accordance with the time CMHC computer servers **receive** the submission, not the time the tender was sent by the tenderer.*

*** Please be advised that E-BID has a size limitation 10 MB. It is advisable and recommended that Tenderer submit their tenders in multiple smaller files.**

It is recommended that the Tenderer send an e-mail as soon as possible after the EBID tender has been sent, notifying the contact person named on under Inquiries, that a tender has been submitted to EBID, including the company name and e-mail address, with the date and time the submission was sent.

Upon receipt of tenders, an automated confirmation will be issued to the sender's e-mail address. It is strongly recommended that tenderer follow up with the inquiries person should they not receive said confirmation within 30 minutes of submission.

*** Please be advised that electronic transmissions may not necessarily be immediate and can experience lengthy delivery delays. Tenderers should ensure that sufficient delivery time is allowed for tenders to be received.**

Address for Delivery

Tenders, including all supporting documentation, are to be sent electronically to the following e-mail address:

EBID@cmhc-schl.gc.ca

The subject line of the transmission must state: ITT, File # 201301463

Format

Tenders may be submitted in MS Word, Lotus WordPro or Adobe Acrobat PDF in English or in French. NOTE: In certain email programs the "Send" format may need to be specified as either "HTML" or "Plain Text". Rich Text formatted or Compressed (Zipped) documents cannot be opened by CMHC.

Tender Opening and Verification Period

All EBID tenders received on or before the closing date and time specified in this ITT, will be opened for evaluation purposes and verified by CMHC.

If at that time, CMHC is unable to open a tender, the tenderer will be so advised and provided an opportunity to resubmit an openable version within 2 hours from notification.

Submission Deadline

Mandatory

Your tender must be **received** at the exact location as specified above on or before the submission deadline set as:

2:00 p.m. EDT, local Ottawa time, on July 5, 2013

Tenders arriving late will be automatically rejected, and the sender will be so notified by e-mail.

All tenders shall be carefully completed, signed, and submitted (including any applicable appendices and supplements on the accompanying Tender and Acceptance)

All spaces in the Tender and Acceptance and any accompanying Appendices must be completed.

The tenderer may revise its tender by written email or letter, provided it is received before Tender Closing Time, as such term is defined in the Tender and Acceptance.

Tenders including all spaces of the Tender and Acceptance and any accompanying Appendices must be completed.

The tenderer may revise its tender by written telecommunication or letter, provided it is received before Tender Closing Time, as such term is defined in the Tender and Acceptance.

2. SUPPLIER INFORMATION (SI) DATABASE

CMHC's contracting and procurement activities are decentralized among CMHC's National Office in Ottawa and various Business Service Centers throughout Canada.

The policy pertaining to the selection of suppliers is based on the principle that all suppliers must be treated fairly and equally. Suppliers are defined as an individual or firm that could provide, or has provided, goods or services or construction under contract.

CMHC utilizes the Supplier Information (SI) database, maintained by **Business Access Canada** as the official CMHC source list. All suppliers **must** be registered with **Business Access Canada** prior to submitting a proposal. The Procurement Business Number (PBN) provided by **Business Access Canada** must be included with your proposal. If you are not registered, and you wish to do so, you may access **Business Access Canada** (<https://buyandsell.gc.ca/>) or you may call their Information Line at: 1-800-811-1148. Present Suppliers not registered with **Business Access Canada** are required to self-register on the SI via the **Business Access Canada** Web site.

3. TENDERER'S MANDATORY SITE VISIT

It is mandatory that the tenderer visit the site and examine the scope of the work required and the existing conditions.

Arrangements have been made for a tour of the work site. The site visit will be held on June 20, 2013 at 10:00 AM PDT. The site is located at CMHC Granville Island Administration Office, 1661 Duranleau Street, 2nd Floor, Vancouver, British Columbia, V6H 3S3. By 10:00 AM PDT on June 19, the tenderer must send confirmation of attendance, including the name(s) of the person(s) who will be attending, via email rlemay@cmhc-schl.ga.ca to Ryan Lemay. A maximum of four (4) representatives from each firm will be allowed to attend. The tenderer who, for any reason, cannot attend at the specified date and time will not be given an alternative appointment to view the site and its proposal, therefore, will be rejected as non-compliant. No exceptions will be made.

4. UNACCEPTABLE TENDERS

- (1) Tenders not submitted on the accompanying Tender and Acceptance forms will not be considered.
- (2) Tenders received after the Tender Closing Time will not be considered.
- (3) The inclusion of an escalation clause or conditional letter will invalidate the bid and no alternative bid will be permitted.
- (4) Unless otherwise permitted in the Tender and Acceptance, tenders on part of the work only will not be accepted.
- (5) Tenders not accompanied by the required bid security will not be considered.

5. BID AND CONTRACT SECURITY

- (1) The tender must be accompanied by bid security in an amount equal to ten percent (10%) of the tender price in one of the following forms:
 - (a) A surety (bid) bond, or
 - (b) A certified cheque drawn on a bank to which the Bank Act or Quebec Savings and Credit Union Act applies, or
 - (c) Bearer or negotiable bonds issued or guaranteed by the Government of Canada, or
 - (d) An irrevocable letter of credit, or
 - (e) A money order or bank draft.

Any bond submitted with this proposal must be obtained from the list of Treasury Board approved bonding companies. This list is currently located at the following Web site:

http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/contracting/contractingpol_1_e.asp>

- (2) Immediately following advice of award, the successful tenderer must provide contract security by replacing or supplementing the bid security to provide:
- (a) A labour and material payment bond and a performance bond each in the amount of fifty percent (50%) of the contract price, or
 - (b) A labour and material payment bond in the amount of fifty percent (50%) of the contract price, together with either the security outlined in paragraph (b) or (c) or (d) of sub-section (1) preceding, or
 - (c) The security outlined in either (1)(b) or (1)(c) or (1)(d) preceding converted to contract security plus an additional amount equal to ten percent (10%) of the contract price in the form of a certified cheque, bearer or negotiable bonds, irrevocable letter of credit, money order or bank draft.

Note: For information regarding holdbacks to progress payments refer to clause 24 of General Conditions.

Certified cheques provided as contract security shall be cashed and deposited in a trust account and will be returned to the contractor once the contract has been properly executed or expires. Variable interest accumulated in the trust account shall be returned to the contractor, as per CMHC policy.

- (3) Information on companies whose bonds are acceptable is available for examination at all CMHC offices.
- (4) CMHC may require of any tenderer proof of financial and technical capability to undertake the work for which its tender is submitted.

6. ACCEPTANCE OF TENDER

The lowest price of any tender will not necessarily be accepted.

7. COMPLETION OF TENDER AND ACCEPTANCE

- (1) If the contract is firm lump sum, insert the total amount of the tender in clause 3(A) only of the Tender and Acceptance.
- (2) If the contract is unit price with a schedule of classes of labour, plant or material as shown in clause 3 (and the Supplement, as applicable) of the Tender and Acceptance, insert the price per unit against each item, multiply by the respective estimated quantity and extend the answers in the total column to the right of the page. The amount to be entered in clause 3(B) of the Tender and Acceptance is the grand total of all those totals in the right hand column of the Schedule (and Supplement, as applicable) of the Tender and Acceptance.

- (3) If the contract is a combination of firm lump sum and unit price, insert the appropriate totals in clauses 3(A) and 3(B) respectively, and the total of clauses 3(A) and 3(B) in the space opposite "Total Tender Price" in clause 3 of the Tender and Acceptance.
- (4) Type or legibly print the tenderer's full business name and address under the spaces provided for Contractor's full business name and Contractor's business address respectively.
- (5) Sign the tender form in the space provided as indicated below:

Sole Proprietorship:

Signature under seal of sole proprietor in the presence of a witness who will sign where indicated. Insert the words "sole proprietor" under Title(s).

Partnership:

Signature under seal of one of the partners in the presence of a witness who will sign where indicated. Insert the word "partner" against signature.

Limited Company:

If this tender is made by a Limited Company, the tender must be signed by duly authorized signing officers of the Company in their normal signatures designating against each signature the official capacity in which the signing officer acts. The corporate seal of the company must also be affixed to the tender. If the tender is signed by officials other than the President and Secretary of the company or the President and Secretary Treasurer of the company, a copy of a by-law or resolution of the Board of Directors authorizing them to do so must be submitted with the tender documents.

Note: In the Province of Quebec the signature of a witness should appear opposite the signature of company-authorized signing authority.

PART 2

TENDER AND ACCEPTANCE

CMHC OFFICE Granville Island Administration Office	Date: June 10, 2013
	File No. 201301463
Project Granville Island Public Market Patio	Location Vancouver, British Columbia

Designated CMHC Representative Camille Attia	Telephone 613-748-5332	DELIVER TENDERS TO: Granville Island Administration Office 1661 Duranleau Street, 2 nd Floor Vancouver, British Columbia V6H 3S3
TENDER CLOSING TIME		
DATE July 5, 2013	HOUR 2:00 PM EDT	

SITE VISIT

Date	Time	Location
June 20, 2013	10:00 AM PDT	Granville Island Administration Office 1661 Duranleau Street, 2 nd Floor Vancouver, British Columbia V6H 3S3

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

Canada Mortgage and Housing Corporation (CMHC) requires a qualified proponent to provide the following services on Granville Island:

- Remove existing decking and substructure
- Clearing of riprap
- Construction of a concrete and timber structure
- Construction of an illuminated steel canopy frame and cover
- Re-grading of pavers

Detailed drawings and specifications are attached as Appendix "B".

1. Bid and Contract Security

The successful tenderer must replace or supplement its bid security as specified in clause 3 of the Instructions to Tenderers.

2. Tender Documents

The Tender Documents shall consist of the following (collectively, the “Tender Documents”):	DATE	PAGES
1. Letter to Tenderers	June 10, 2013	
2. Tender and Contract	June 10, 2013	
(1) Instructions to Tenderers	June 10, 2013	
(2) Tender and Acceptance	June 10, 2013	
(3) General Conditions	June 10, 2013	
3. Sub-Contractors (Appendix “A”)		
4. Specifications and Drawings (Appendix “B”)	April 19, 2013	
5. Addenda		
6. Supplementary General Instructions		
7. Implementation Project Schedule		
8. Security Clearance Form		

3. OFFER

The undersigned Contractor having made, or caused to be made, an inspection of the site of the work and an examination of all the Tender Documents and having satisfied itself as to site conditions and all conditions surrounding or affecting the proper execution of the work, offers to CMHC to provide the necessary labour, materials, transportation, tools, plant and equipment required, including all sub-trades (if any) and to **pay all Federal, Provincial and Municipal taxes, permits and fees** and to carry out the work as described in a sound, careful and workmanlike manner complete in all respects to the entire satisfaction of CMHC on the terms and conditions contained in the Tender Documents.

(A) For the firm lump sum	\$ _____
(B) For the unit prices set out below	\$ _____
(C) For the Engineering Allowance	\$ 10,000.00
	GST \$ _____
TOTAL TENDER PRICE	\$ _____

SCHEDULE - LABOUR, MATERIAL PLANT AND OR EQUIPMENT

ITEM	CLASS OF LABOUR, MATERIAL, PLANT AND / OR EQUIPMENT	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	TOTAL
SUB-TOTAL	(Carry forward to supplement if additional space required)			→	
TOTAL				→	

The Contractor further understands and agrees that the quantities listed in the schedule for unit price items in the Tender and Acceptance preceding (and any attached sheets of supplement) are estimated quantities only and may be increased or decreased in accordance with the requirements of the work, and that all payments for these items shall be based upon the actual quantities of materials supplied and work performed, as authorized and certified by the Designated Corporate Representative.

4. GENERAL AGREEMENT

The Contractor agrees:

- 1 To complete the work within: (specify no. of working days)

WORKING
 _____ DAYS from the date of notification of acceptance of this tender.
- 2 That the following insurance will be maintained:

A. Commercial General Liability Insurance

The Contractor will provide and maintain Commercial General Liability insurance for a limit of not less than \$2,000,000 per occurrence for bodily injury or damage to property including loss of use of such property. This policy shall include the following extensions:

- cross liability including severability of interest;
- personal injury;
- broad form completed operations;
- blanket contractual liability;
- employer's liability (or confirmation that all employees including sub-contractors and independent contractors are covered by the Workplace Safety & Insurance Board);
- non-owned Automobile Liability with a limit of not less than \$2,000,000 per accident;
- confirmation that General Liability policy is extended to include all subcontractors;
- CMHC to be added as additional insured; products and completed operations (24 months);
- 30 days prior written notice of cancellation to Risk Management Consultant, 700 Montreal Road, Ottawa, Ontario K1A 0P7

B. Automobile Insurance - The Contractor will provide and maintain Automobile Insurance with limits of \$2,000,000 for public liability and property damage for all motor vehicles used by the Contractor in the performance of this Contract.

C. The Contractor will provide a Certificate of Insurance confirming coverage at least five (5) days prior to commencement of Contract.

It shall be the sole responsibility of the Contractor to decide whether or not any other insurance coverage, in addition to the insurance requirements stipulated herein, is necessary for its own protection or to fulfill its obligations under the Contract. Any such additional insurance shall be provided and maintained by the Contractor at its own expense.

- 3 That the documentation listed in clause 2 of the Tender and Acceptance is the complete tender and this offer is made subject to all provisions contained in these documents, which provisions are accepted by the Contractor.
- 4 That this tender supersedes and cancels all communications, negotiations and agreements relating to the work other than that contained in the completed tender.
- 5 That this tender may not be withdrawn for a period of 30 DAYS following the Tender Closing Time.

- 6 That if this tender is duly accepted and the Contractor refuses to enter into a contract, bid security will be forfeited.
- 7 That the complete tender together with and subject to all the provisions contained in the Tender Documents shall, when accepted and executed on behalf of CMHC, constitute a binding contract between the Contractor and CMHC.

5 ADDENDA

The Contractor acknowledges receipt of the following addenda:

Addenda No. / Date received

6 Name and Address of Contractor

I/We agree and consent that you may make credit inquiries at any time in connection with my/our financial status or otherwise

Date	Signature (Tenderer)	Witness
Title		

CMHC accepts the above tender and undertakes and agrees subject to compliance of the Contractor with all terms and provisions of the Tender Documents to pay the Contractor for the work at the price(s) set out above and in accordance with the terms and conditions stated herein, in the Working Drawings, Specifications and in the Tender Documents.

CMHC USE ONLY

Date	Authorized Signatory	Witness
Title		

SUPPLEMENT

SCHEDULE - LABOUR, MATERIAL PLANT AND OR EQUIPMENT

ITEM	CLASS OF LABOUR, MATERIAL, PLANT AND / OR EQUIPMENT	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	TOTAL
CARRIED FORWARD				→	
SUB-TOTAL	(Carry forward to succeeding pages of supplement if necessary)			→	
TOTAL	(carry forward to clause3(B)of the Tender and Acceptance)			→	

Appendix "A"
Sub-Contractors
TENDER AND CONTRACT
CONSTRUCTION, ALTERATIONS AND REPAIRS

The Contractor shall list below the name and address of all sub-contractors it proposes to employ for any portion of the work. When work for trades other than those listed is sub-contracted, the work shall be identified in the blank spaces provided.

Where a sub-contractor is not named, it will be assumed that the Contractor intends to use its own forces; and it is understood and agreed that no substitution of sub-contractors may be made, and that additional work may not be sub-contracted, without consent of the Designated Corporate Representative having been previously obtained in writing, as indicated in clause 3 of the General Conditions.

WORK SUB-CONTRACTED	NAME	ADDRESS
Excavation and Related Work		
Concrete Work		
Masonry		
Rough Carpentry		
Finish Carpentry		
Electrical		
Flooring		
Landscaping		
Other:		

Appendix “B”
Drawings and Specifications
TENDER AND CONTRACT
CONSTRUCTION, ALTERATIONS AND REPAIRS

See attached document

PART 3

CONTRACT - GENERAL CONDITIONS

1. DEFINITIONS OF TERMS

The following definitions shall apply to the tender and contract documents:

- (a) "CMHC" means Canada Mortgage and Housing Corporation.
- (b) "Contract" means the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the Tender Documents listed in clause 2 of the Tender and Acceptance, and represents the entire agreement between the parties.
- (c) "Contractor" means the person, firm or corporation whose tender offer has been accepted by CMHC and is identified as the tenderer in the Tender and Acceptance document.
- (d) "DCR" or the "Designated Corporate Representative" means the person specially authorized by CMHC from time to time to perform on its behalf functions under the Contract.
- (e) "General Conditions" means the terms and conditions contained herein.
- (f) "Holdback Monies" or "Holdback" means such percentage of the progress payment payable to the Contractor as CMHC may determine.
- (g) "Instruction to Tenderers" means the direction given to tenderers on how to respond to the Tender, Acceptance and Contract for Construction, Alterations and Repairs document.
- (h) "Specifications" means written documentation associated with Working Drawings to provide information on the type and quality of materials and workmanship required for a project.
- (i) "Tender Closing Time" means the date and time indicated in the Tender and Acceptance.
- (j) "Tender Documents" shall have the meaning set out in clause 2 of the Tender and Acceptance.
- (k) "Work" means the total construction and related services required by the Contract and includes the materials, matters and things to be done, furnished and performed by the Contractor under the Contract.
- (l) "Working Drawings" means the architectural and / or engineering mechanical and electrical tender drawings associated with a project such as, but not limited to, vicinity maps, site plans, foundation plans, demolition plans, construction plans, reflected ceiling plans, finishing plans, power and communication plans, roof plans, cross sections,

interior elevations, exterior elevations and details; and may also include schedules, general notes and specifications associated with such drawings/plans.

2. INTERPRETATION

In the event of discrepancies or conflicts:

- (a) between Working Drawings, Specifications and General Conditions, General Conditions shall govern.
- (b) between Working Drawings and Specifications, Specifications shall govern.
- (c) between Working Drawings, the working drawing drawn with the largest scale shall govern.
- (d) between figured dimensions and scaled dimensions, the figured dimensions shall govern.

3. ASSIGNMENT AND SUBCONTRACTING

This Contract may not be assigned without the written consent of CMHC, which consent will not be unreasonably withheld, and neither the whole nor any part of the Work may be subcontracted by the Contractor without the prior consent of the DCR. The Contractor shall enter into contracts and written agreements with its subcontractors to require them to perform their work in accordance with and subject to the terms and conditions of the Contract.

4. MEMBERS OF THE HOUSE OF COMMONS

No Member of the House of Commons shall be admitted to any share or part of the Contract or to any benefit arising from the Contract.

5. INDEMNIFICATION

The Contractor shall indemnify and save harmless CMHC, its agents and employees from and against all claims, losses, demands, costs, damages, suits, proceedings or actions by third parties arising out of or related to or attributable to the Contractor's (and any subcontractor's) performance of the Contract and the Contractor's (and any subcontractor's) activities in executing the Work, including those resulting from the Contractor's (and any subcontractor's) omissions, improper acts or delays in executing the Work under the Contract, and whether such actions suits or proceedings are brought in the name of CMHC or in the name of the Contractor.

6. PROTECTION OF WORK AND PROPERTY

The Contractor shall protect the Work and CMHC's property adjacent to the site of the Work from damage and shall be responsible for any damage which may arise as the result of the Contractor's operations under the Contract except damage which occurs as the result of:

- (a) errors in the Tender Documents, or
- (b) acts or omissions by CMHC or the DCR which the Contractor cannot reasonably be expected to prevent by the exercise of ordinary prudence. The Contractor shall use CMHC's property only at such times and in such a manner as may be directed by the DCR and the Contractor shall, at the DCR'S request, account to the DCR, for the use of CMHC's property.

Should the Contractor, (or any subcontractor) in the performance of this Contract or, in the case of a subcontractor, any subcontracting agreement, damage the Work, or CMHC's property or property adjacent to the site of the Work, the Contractor shall be responsible for the making good of such damage at the Contractor's expense.

7. PERMITS AND BY-LAWS

The Contractor shall comply with the most current version of the applicable provincial building code, the National Building Code, and all applicable federal, provincial and municipal laws and regulations and shall apply for, obtain and pay for all permits and certificates required in respect of the execution of the Work. No act or omission by CMHC or the DCR shall constitute a waiver of the Contractor's obligations to apply for, obtain and pay for such permits.

8. PUBLICITY

The Contractor will neither permit any public ceremony nor erect or permit the erection of any sign or advertising, in connection with the Work without the prior written approval of CMHC.

9. CONTRACTOR'S SUPERINTENDENT

The Contractor will employ a competent superintendent and necessary assistants who shall be in attendance on the site of the Work at all times during the progress of the Work unless otherwise authorized by the DCR. The superintendent and necessary assistants must be acceptable to the DCR and have the authority to receive on behalf of the Contractor any order or communication in respect of the Contract. The Contractor shall remove from the site and replace any superintendent and workmen not acceptable to the DCR because of incompetence or improper conduct, as determined by the DCR in its sole discretion.

10. COOPERATION WITH OTHER CONTRACTORS

The Contractor will cooperate fully with other contractors or workmen sent onto the site of the Work by the DCR. If the sending onto the site of such other contractors and workmen could not have been reasonably foreseen by the Contractor when entering into the Contract, and if in the opinion of the DCR the Contractor has incurred additional expense by such action, and if the Contractor gives written notice of claim within thirty days of such action CMHC will pay the cost of such additional expense to the Contractor calculated in accordance with clause 17 of the General Conditions.

11. CLAIMS AGAINST AND OBLIGATIONS OF THE CONTRACTOR OR SUBCONTRACTOR

The Contractor shall ensure that all the lawful obligations and lawful claims against the Contractor or subcontractor(s) arising out of the execution of the Work are discharged and satisfied at least as often as this Contract requires CMHC to discharge its obligations to the Contractor and the Contractor shall supply the DCR with a Statutory Declaration deposing to the existence and condition of such claims and obligations when called upon to do so. In the event that the Contractor or any subcontractor fails to discharge and satisfy said lawful obligations and claims at the request of CMHC, CMHC may, in order to discharge lawful obligations of and satisfy lawful claims against the Contractor or a subcontractor arising out of the execution of the Work, pay any amount which is due and payable to the Contractor under the Contract or derived from a conversion or a negotiation of the surety bonds or other security, if any, directly to the obligees of and the claimants against the Contractor or the subcontractor.

12. EXECUTION OF WORK UNDER DIRECTION OF DESIGNATED CORPORATE REPRESENTATIVE

The Contractor will permit the DCR to have complete and full access to the Work at all times during the execution of the Work, will provide the DCR with full information concerning what is being done to execute the Work and will give the DCR every possible assistance in respect of the performance of his/her duty to see that the Work is executed in accordance with the Contract.

13. DCR MAY ORDER ADDITIONAL WORK OR CHANGES

The DCR may at any time by written notice order work or material deleted from or added to the Work provided for in the Working Drawings and Specifications, and the Contractor will execute the Work in accordance with such orders. The costs of work deleted or additional work required by the DCR shall be calculated in accordance with clause 17 of the General Conditions.

14. TAKING WORK OUT OF CONTRACTOR'S HAND

- (a) CMHC may take all or part of the Work out of the Contractor's hands and may employ such means as it sees fit to complete the Work, including without limitation, in the following circumstances:
- (i) if the Contractor has made default or delayed in the commencement or execution of the Work and CMHC has given notice thereof to the Contractor and has by such notice required the Contractor to put an end to such default or delay, and such default or delay continues for six days after such notice was given to the Contractor;
 - (ii) if the Contractor makes a voluntary assignment into bankruptcy or is adjudged insolvent or bankrupt or commits an act of insolvency or bankruptcy or makes a

general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency;

- (iii) if, in the opinion of the DCR, the Contractor has abandoned the Work;
 - (iv) if the Contractor assigns the Work without the consent of CMHC; or
 - (v) if the Contractor fails to comply with any of the provisions of the Contract.
- (b) Where the Work has been taken out of the Contractor's hands, the Contractor shall not be entitled, except as provided in subsection (c), to any further payments, and CMHC's obligation to make payments as provided for in clause 23 of the General Conditions shall be at an end, and the Contractor shall be liable for, and upon demand shall pay to CMHC an amount equal to all loss and damage arising out of or caused by non-completion.
- (c) Where the Work has been taken out of the Contractor's hands, CMHC shall determine the amount of claims and holdbacks unpaid at the time of taking the Work out of the hands of the Contractor and to the extent that any portion of that amount is not required by CMHC for the purposes of completing the Work, CMHC shall authorize payment to the Contractor of that portion of the amount. The taking of work out of the Contractor's hands does not relieve or discharge the Contractor of any legal or contractual obligation excepting only the obligation to physically execute that portion of the Work taken out of the Contractor's hands pursuant to this paragraph.
- (d) If the Work or any part of it is taken out of the Contractor's hands under this clause, all material, plant and interest of the Contractor in all real property, permits, certificates, licences or privileges acquired, used or provided by the Contractor for the purposes of the Work shall be the property of CMHC without compensation to the Contractor, except that any interest in the property of CMHC which the DCR has certified is no longer required for purposes of the Work and is not in the interest of CMHC to retain shall become the property of the Contractor.
- (e) In adopting its remedies or rights under either clause 13 or this clause, CMHC is in no way assuming any of the Contractor's liabilities or responsibilities pursuant to the applicable provincial lien legislation which may have arisen or may arise as a result of this Contract and those liabilities and/or responsibilities remain with the Contractor regardless of CMHC's exercise of its discretion under these clauses.

15. DELAY BY CMHC

No extra payment will be made to the Contractor for any extra cost, expense, loss or damage arising out of or attributable to unreasonable delay by CMHC unless the DCR shall certify that such extra cost, expense, loss or damage arises out of or is directly attributable to unreasonable delay by CMHC occurring after the execution of the Contract in providing any information or doing any act which is expressly required to be done by CMHC by the Contract, and the Contractor has, within 30 days of the commencement of such delay, given written notice to the DCR of a claim for such extra cost, expense, loss or damage. The

amount of extra payment to be made pursuant to this clause will be calculated in accordance with clause 17 of the General Conditions.

16. TERMINATION OF CONTRACT

- (1) CMHC may terminate the Contract without cause and without penalty at any time by giving notice of such termination in writing, and the Contractor shall immediately upon receipt of such notice, cease all operations. Following such termination, no material or any part of the work may be removed from the site without the written permission of the DCR.
- (2) If the Contract that is terminated without cause pursuant to this clause is a firm lump sum arrangement, CMHC shall pay to the Contractor an amount equal to the lesser of
 - (a) the cost agreed upon by the Contractor and the DCR of all Contractor supplied labour, plant and material to the date of termination or, if the Contractor and the DCR cannot agree, the cost shall be the total of all reasonable and proper amounts actually expended or payable by the Contractor in respect of labour, plant or material costs directly attributable to the execution of the work and less all amounts which the Contractor is liable to pay to CMHC, and
 - (b) the amount calculated in accordance with clause 23(1)(a) of the General Conditions which would have been payable to the Contractor had it completed the Work.
- (3) If the Contract terminated is a unit price arrangement, CMHC will pay to the Contractor an amount equal to the cost as agreed upon by the Contractor and DCR of all labour, material and plant supplied by the Contractor as of the date of termination; failing agreement between the DCR and the Contractor, CMHC will pay to the Contractor an amount calculated in accordance with paragraph (2) preceding.
- (4) Any termination of this Contract and any payments out which may be made as a result of this clause or other provisions of this Contract shall be made subject always to the proviso that CMHC shall retain any and all holdback monies necessary to satisfy lawful claims against the Contractor or a subcontractor arising out of the execution of the Work.

17. DETERMINATION OF COSTS

For the purposes of clauses 10, 13 and 15 of the General Conditions the amount payable to the Contractor shall, subject to the provisions of clause 23 (1) (b) (ii) following, be based upon the unit prices, if any are set out in clause 3 of the Tender and Acceptance. If such unit prices are not applicable, the DCR and the Contractor may mutually agree on the amount payable. Failing such agreement, the amount payable shall be the reasonable and proper expenses paid or legally payable by the Contractor directly attributable to the Work plus 10% of such expenses to cover overhead and profit, as certified by the DCR.

18. RECORDS TO BE KEPT

The Contractor shall for a period of two years from the date of the Final Certificate of Completion, maintain and keep full records, vouchers, other writings and information in respect of its estimates and actual cost of the Work and upon request shall immediately make them available for copy, audit or inspection by CMHC or persons acting on its behalf.

19. AUDIT

The Contractor shall keep proper and detailed records and statements of account, including receipts, vouchers and all other documents relating to the cost of carrying out the Work, and shall at all reasonable times permit inspection and audit of such records and statements by CMHC and/or its internal or external auditors. While any such audit may be conducted without prior notice, CMHC agrees to cooperate with the Contractor in the course of conducting any audit in order to avoid disruption in day-to-day operations and to preserve confidentiality.

20. EXTENSION OF THE TIME

CMHC may, on the application of the Contractor made before the day fixed for the completion of the Work, extend the time for completion of the Work. The Contractor shall pay to CMHC an amount equal to CMHC's expenses, damages incurred or suffered by reason of the delay in completion of the Work unless in the opinion of CMHC such delay was due to causes beyond the control of the Contractor.

21. CLEANING OF WORK

The Contractor will, upon completion of the Work, clear and clean the Work and its site to the satisfaction of and in accordance with any directions of the DCR.

22. RECTIFICATION OF DEFECTS

The Contractor will, upon notice from the DCR or CMHC and within such reasonable time as is specified in said notice, rectify at the Contractor's own expense any defect or fault, however caused, which appears in the Work. Notwithstanding any such rectification, the Contractor shall remain liable for all loss or damage to CMHC arising from such defects, faults or rectifications.

23. PAYMENT

(1) Subject to clause 16 of the General Conditions, CMHC will, subject to and in accordance with subsections (2) and (3), pay to the Contractor and the Contractor will accept as full consideration for the work performed and executed,

(a) in the case of a firm lump sum arrangement:

(i) the tender amount stated in clause 3(A) of the Tender and Acceptance;

- (ii) any extra calculated in accordance with General Conditions clauses 10, 13, 15 and,
 - (iii) less amounts calculated in accordance with General Conditions clauses 5, 6, 13, 14, 16, 22.
- (b) in the case of a unit price contract:
- (i) the amount referred to in Clause 3(B) of the Tender and Acceptance will be deemed to be the amount computed by totalling the products of the unit prices set out in the unit price schedule and the actual quantities of such units as set out in the DCR's Final Certificate of Measurement, subject to any adjustment provided for in subparagraph (ii) of this subsection;
 - (ii) the DCR and the Contractor may by agreement in writing add to the aforesaid unit price table other classes of labour, material, plant, etc., units of measure, estimated quantities and prices per unit, and may, if the actual quantities as set out in the aforesaid Final Certificate of Measurement exceed or fall short of the estimated quantities in respect of any item(s) shown in the aforesaid unit price table by more than 15%, amend the unit prices shown in the unit price table for such items. Where the DCR and the Contractor fail to agree on the amount of any adjustment as contemplated by this sub-section, the revised or new prices per unit shall be determined in accordance with clause 17 of the General Conditions.

(2) Progress Payments

- (a) The Contractor shall be entitled to receive progress payments based upon progress certificates issued by the DCR at monthly intervals.
- (b) Applications for payment shall be dated the last day of the agreed monthly payment period and the amount claims shall set out the value, proportionate to the amount of the Contract, of work performed and, where applicable, of materials delivered to the site by that date.
- (c) The Contractor shall submit to CMHC, at least fourteen (14) days before the first application for payment, a schedule of values of the various parts of the Work, aggregating the total amount of the Contract price and divided so as to facilitate evaluation of applications for payment.
- (d) This schedule shall be made out in the appropriate CMHC form and supported by such evidence as to its correctness as CMHC may reasonably direct and when approved by CMHC shall be used as the basis for applications for payment, unless it is found to be in error.
- (e) When making applications for payments, the Contractor shall submit a statement based upon this schedule. Where applicable, claims for materials delivered to the site but not yet incorporated into the Work shall be supported by such evidence as CMHC

may reasonably require to establish the value and delivery and payments made to the suppliers in relation to the said materials or products.

- (f) Applications for release of Holdback Monies following substantial performance of the Work and the application for final payment shall be made at the time and in the manner set forth in subsection 3.
- (g) The Contractor shall submit a statutory declaration with each progress claim declaring that all wages and account for materials, subcontractors and suppliers, as well as all payments required by the applicable provincial Worker's Compensation legislation, have been paid up to the date of the preceding progress claim.
- (h) The Contractor shall submit with its final application for payment a letter from the Worker's Compensation Board stating that the Contractor is in good standing and that all assessments have been paid.

(3) Payments Following Substantial Performance

- (a) The DCR will, no later than fifteen (15) days after receipt of the claim for substantial performance of the Work from the Contractor, make an inspection and assessment of the Work to verify the validity of the claim and shall, no later than ten (10) days after the inspection, notify the Contractor of the approval or the reasons for the disapproval of the application. When the DCR finds that the Contractor's claim for substantial performance of the Work is valid, the DCR shall issue, to the Contractor, confirmation that the substantial performance of the work is valid. Following confirmation, the DCR, in consultation with the Contractor, shall establish a reasonable date for the total performance of the Work.
- (b) Immediately following the issuance of confirmation, the DCR will issue, to the Contractor, an interim payment of Holdback Monies statement. The Holdback Monies shall become due and payable on the day following the expiration of the holdback period stipulated by CMHC, providing that CMHC may retain out of such Holdback Monies any sums it considers necessary to satisfy the lawful monetary claims against the Contractor or subcontractor arising out of the execution of the Work and that the Contractor has submitted to CMHC a sworn statement that all accounts for labour, subcontracts, materials, construction machinery and equipment and other indebtedness which may have been incurred by the Contractor in the substantial performance of the Work have been paid in full except Holdback Monies properly retained.
- (c) Where legislation permits and where, upon application by the Contractor, the DCR has certified that the work of a subcontractor has been totally performed to CMHC's satisfaction prior to the substantial performance of the Work, CMHC shall pay the Contractor the Holdback Monies retained for such subcontractor on the day following the expiration of the holdback period for such subcontractor stipulated by CMHC, and the DCR shall issue an interim payment of Holdback Monies statement.

- (d) The Contractor shall ensure that such work is protected pending the total performance of the Work and shall be responsible for the correction of defects in it regardless of whether or not they were apparent when such certificates were issued.
- (e) The DCR shall within fifteen (15) days of receiving an application for payment upon total performance of the Work and Statutory Declaration by the Contractor before a Notary Public or Commissioner for Oaths that to the best of the Contractor's knowledge, opinion and belief, the Work has been performed in its entirety and to the requirements of the Contract, make an inspection and assessment of the Work to verify the validity of the application. No later than seven (7) days following the inspection, the DCR will notify the Contractor of the approval or the reasons for the disapproval of the application for payment. When the DCR finds that the Contractor's claim for total performance of the Work is valid, the DCR shall issue confirmation that the total performance of the Work is valid - and certify for payment the remaining monies due to the Contractor under the Contract, less Holdback Monies which are required to be retained. Subject to the provisions of clause 28(a) of the General Conditions, CMHC shall, no later than five (5) days after the issuance of the final payment of Holdback Monies statement, make payment to the Contractor in accordance with the provisions of subsection (1).
- (f) The release of the remaining Holdback Monies shall become due and payable on the day following the expiration of the holdback period stipulated by CMHC providing that CMHC may further retain out of such Holdback Monies any sums required to satisfy any monetary claims against the Contract.
- (g) If because of conditions reasonably beyond the control of the Contractor there are items of work that cannot be performed, payment in full for work which has been performed as certified by the DCR shall not be withheld or delayed by CMHC on account thereof, but CMHC may withhold until the remaining work is finished such monies as CMHC determines are sufficient and reasonable to cover the costs and expenses of performing such remaining work.
- (h) No certificate issued by the DCR, no payment made by CMHC under this Contract and no partial or entire use or occupancy of the Work by CMHC shall constitute an acceptance of work or products which are not in accordance with the requirements of the Contract.
- (i) The issuance of the final payment of Holdback Monies statement and payment of all monies due under the Contract shall not constitute a waiver by CMHC of claims against the Contractor respecting defects and deficiencies in the Work:
 - (i) made in writing prior to the issuance of the final payment of Holdback Monies statement and still unsettled;
 - (ii) made in writing within a period of six (6) years from the date of substantial performance of the Work or within such shorter period as may be prescribed by any limitation statute of the province or territory of the Work.

- (j) The acceptance by the Contractor of the final payment of Holdback Monies statement or of the payment due thereunder shall constitute a waiver of all claims against CMHC under this Contract except those made in writing prior to the Contractor's application for payment upon total performance of the Work and still unsettled.
- (k) Prior to issuing the final payment of Holdback Monies statement , the DCR may, in addition to the matters described in the interim payment Holdback Monies statement, require the Contractor to rectify any other portions of the Work not completed to the satisfaction of the DCR and to do any other things necessary for the completion of the Work.

24. SET OFF

CMHC may set off against any amount payable or any debt due by CMHC to the Contractor under this contract the amount of any amount payable or any debt due by the Contractor to CMHC under this contract or any other contract between CMHC and the Contractor.

25. NO ADDITIONAL PAYMENTS

The amount payable to the Contractor under this contract will not be increased or decreased by reason of any increase or decrease in the cost of labour, material, or plant except that an adjustment to the Contract price may be made in the event of a change in any tax that affects the cost of the work to the Contractor imposed under the Excise Act, the Excise Tax Act, the Old Age Security Act, the Customs Act or Customs Tariff made public after date of the submission of the tender by the Contractor.

26. INSURANCE

The Contractor will at its expense maintain insurance coverage as in clause 4.2 of the Tender and Acceptance.

27. CONTRACT SECURITY

- (a) The Contractor shall promptly provide to CMHC contract security pursuant to clause 3(2) of the Instructions to Tenderers.
- (b) The contract security must be delivered by the successful bidder to CMHC before the contract documents are executed by CMHC.
- (c) Where the contract security is a bearer or negotiable bond, the bond shall provide that in the event that CMHC or the DCR determine that the Contractor is in breach or default under the contract, CMHC may convert or negotiate the bond to its own use. If a Labour and Material Payment Bond is provided pursuant to the Contract, the Contractor shall post on the site of the work a notice that a Labour and Material Payment bond is provided pursuant to the Contract and the notice shall include the name and address of the Surety, a definition of those persons protected thereunder and an outline of the procedure for submitting a claim.

28. WORKER'S COMPENSATION

- (a) Prior to commencing the Work and prior to receiving payment on substantial and total performance of the Work, the Contractor shall provide evidence of compliance with the requirements of the province or territory of the site of the Work with respect to Workers' Compensation, including payments due thereunder.
- (b) At any time during the term of the Contract, when requested by CMHC, the Contractor shall provide such evidence of compliance by himself and his subcontractors.

29. INSTRUCTIONS FOR PERFORMANCE OF THE WORK

Notwithstanding any provision to the contrary in this Contract, the DCR will give to the Contractor such instructions as in the DCR's opinion are necessary for the proper performance of the Work and to prevent delays pending settlement of any dispute, and the parties shall act immediately according to such instructions, it being understood and agreed that such action shall not constitute a waiver of any claim by either party against the other party if it is subsequently determined that such instructions were in error or at variance with the Contract. CMHC shall pay the Contractor costs incurred by the Contractor in carrying out such instructions which the Contractor was required to do beyond what the Contract correctly understood and interpreted would have required the Contractor to do, including costs resulting from interruption of the Work.

30. CLOSURE OF CMHC OFFICE

- (a) Where services are being provided by the Contractor pursuant to this Contract on CMHC premises and the premises become inaccessible due to evacuation or closure because of events or circumstances beyond the control of CMHC, and where the health and / or safety of persons on the premises may be reasonably determined by CMHC, in its sole judgment, to be at risk, payment to the contractor hereunder may be suspended or modified. Payment will be suspended in full after 48 hours written notice unless the Contractor provides satisfactory evidence to CMHC that the Contractor will continue to incur monetary obligations to others directly as a result of its undertakings under this Contract and is unable to mitigate its losses due to such obligations. Based on such evidence and the extent to which the Contractor is able to mitigate, CMHC may continue payment in full (subject to subsection (b) below), or at a reduced amount, or suspend payment completely.
- (b) Notwithstanding subsection (a) above, if closure is continued beyond one calendar week, payment under this Contract may be suspended in full immediately, on further written notice by CMHC to the Contractor, until reopening permits the services to continue.

31. CONFLICT OF INTEREST

The Contractor and its principals, employees and agents shall avoid any conflict of interest during the term of this Contract and shall immediately declare any existing, potential or apparent conflict and shall, upon direction of CMHC, take steps to eliminate any conflict or perception that a conflict of interest exists.

The Contractor must not provide any services to any third party in circumstances that might reasonably give rise to a conflict of interest, including a conflict between the Contractor's duties to that third party and the Contractor's duties to CMHC.

In the event that a conflict of interest, real or perceived, cannot be resolved to the satisfaction of CMHC, CMHC shall have the right to immediately terminate the Contract. All portions of any work which have been completed at the date of termination shall be forwarded to CMHC and CMHC shall be liable for payment to the Contractor of an amount which, in the sole opinion of CMHC, constitutes reasonable payment for the partial performance of the Contractor's obligations under the Contract. Upon such payment, CMHC shall have no further obligation of any nature or kind to the Contractor.

32. SECURITY CLEARANCE

CMHC may require the Contractor and any persons who are to perform the Work to be security cleared. Any and all information requested by CMHC's Security and Risk Management Centre must be provided immediately upon request. Should the Contractor or any other person who is to perform the Work fail to receive such a security clearance, CMHC may in its sole discretion exclude such person from performing any services under this Contract, or terminate this Contract immediately.

33. INDEPENDENT CONTRACTOR

The Contractor shall act as an independent contractor for the purposes of this Contract. It and its employees, officers and agents are not engaged as employees of CMHC. The Contractor agrees to so advise its employees, officers, and agents. Without limiting the generality of the foregoing, the Contractor shall retain complete control of and accountability for its employees and agents. The Contractor shall prepare and process the payroll for its employees directly, and shall withhold and/or pay all applicable employment taxes and payroll deductions required in respect of its employees. All personnel shall, at all times, and for all purposes, be solely in the employment of the Contractor.

34. CONTRACTOR'S AUTHORITY

The Contractor agrees that it has no authority to give any guarantee or warranty whatsoever expressed or implied on behalf of CMHC and that it is in no way the legal representative or agent of CMHC and that it has no right or authority to create any obligation on behalf of CMHC or to bind CMHC in any way.

35. CONFIDENTIALITY

- (a) The Contractor and its employees and agents will treat as confidential during and following the term of this Contract all information relating to the affairs of CMHC of which it acquires knowledge as a result of its engagement hereunder.
- (b) The Contractor shall, at the request of CMHC, provide an Oath of Secrecy for each of its employees or persons engaged in carrying out the Work, in a form prescribed by CMHC.

- (c) Upon termination or expiration of this Contract for any reason, the Contractor shall promptly (and in no event later than 10 days thereafter) return all writings and materials whatsoever which contain information which is confidential or proprietary to CMHC, including all copies thereof, and the Contractor shall certify in writing to CMHC that all such materials have been returned (or, at the option of CMHC, destroyed).

36. WAIVER

No waiver by either party of any delay, default or omission by the other party shall affect or impair the rights of the non-defaulting party in respect of any subsequent delay, default or omission of the same or different kind.

37. SEVERABILITY

If any covenant or provision of this Contract is determined to be void or unenforceable in whole or part, it shall not be deemed to affect or impair the validity of any other covenant or provision.

38. SURVIVAL OF TERMS

The Contractor's obligations under clauses 5, 18, 19, 22 and 35 of the General Conditions shall survive the expiry or termination of this Contract regardless of the method or manner in which it is terminated.