



CITY OF VANCOUVER

REQUEST FOR PROPOSAL PS07124

THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE

Proposals will be received in the Courier Delivery Drop-Off Office, 1st Floor, Vancouver City Hall, 453 West 12th Avenue, Vancouver, British Columbia, Canada, V5Y 1V4 prior to 3:00:00 P.M. on Tuesday September 25th, 2007 (the "Closing Time") City Hall Clock Time (as defined in Note 2 below) and registered at 11:00:00 A.M. on, Wednesday September 26th, 2007.

NOTES:

1. Proposals are to be in sealed envelopes or packages marked with the Proponent's Name, the RFP Title and Number.
2. The Closing Time will be conclusively deemed to be the time shown on the clock at the Courier Delivery Drop-off Office for this purpose.
3. DO NOT SUBMIT BY FAX.

All queries related to this RFP are to be submitted
in writing to the attention of:

Syd Stowe, CPP

FAX: 604-873-7057 E-MAIL: purchasing@city.vancouver.bc.ca

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REQUEST FOR PROPOSAL NO. PS07124
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PART A - INTRODUCTION

1.0 Overview

This Request for Proposal (“RFP”) identifies a business opportunity for the successful Proponent to provide the City with IBM Computer Hardware.

Qualified and experienced Proponents are invited to submit Proposals and the City will consider Proposals from those Proponents who are able to meet all the Requirements as set out herein. However, the successful Proponent will be the Proponent who offers the best overall value along with a high level of service and “best practice” business solutions.

1.1 Please advise whether or not you intend to submit a Proposal by sending the Response Notification Form (Appendix 3).

1.2 Key dates to be noted are:

<i>Event</i>	Dates
Release of RFP	Sept 7, 2007
Deadline for Response Notification Form	Sept 18, 2007
Deadline for Enquiries	Sept 18, 2004
RFP Closing	Sept 25, 2004

2.0 Background and Scope

The City of Vancouver’s current SAP environment is composed of IBM PSeries servers running the AIX 5.3 operating system. The City is implementing Netweaver applications for BI, PI and E-Recruiting. Consequently the City is seeking new servers that are sufficiently scaleable to meet the City’s SAP requirements for the future.

The servers

The City invites proposals for the following IBM Computer Hardware. The details for this server were created using the IBM System Planning tool.

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PART A - INTRODUCTION**

Hardware Specifications

Type-Model: 9116-561

Processor Feature: 7295 16 way 1.8 Ghz 72mb L3

Processor Nodes: 4

Memory (GB): 64

Physical Processors: 16

Active Processors: 16

Parts List:

1910	4 GB DUAL-PORT FIBRE CHANNEL PCI-X 2.0 D	4
5706	IBM 2-Port 10/100/1000 Base-TX Ethernet PCI-X Adapter	4
5721	10 Gbps Ethernet Fiber 2.0 DDR	1
1994	IDE SLIMLINE DVD-ROM DRIVE	1
1993	IDE DVD-RAMBO	1
3585	300GB 15K RPM SCSI DISK DRIVE	8
7304	ADVANCED POWER VIRTUALIZATION	16
7868	ULTRA320 SCSI 6-PACK BACKPLANE	2
7869	MEDIA ENCLOSURE AND BACKPLANE	1
7888	AC POWER SUPPLY, 240V, 1400 W	4
7997	SYSTEM SERVICE PROCESSOR	1
5692-A5L	SYSTEM SOFTWARE	1
5765-G03	AIX 5L V5.3	1
B7MJ	VALUE PAK PER PROCESSOR E5 AIX V5.3	16
A0CB	5773-PLM SW MAINT 3Y REG E5	16
462	E5 3 YR SWMA FOR AIX PER PROCESSOR REG/R	16
A0BT	PER PROCESSOR E5 VIO 3 YR MAINTENANCE	16
9116-561	HARDWARE WARRANTY UPGRADE TO 3 YEARS 24x7	1

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PART A - INTRODUCTION

3.0 Mandatory Requirements

- 3.1 Hardware is to be 64-bit technology, support IBM AIX 5.3, UDB 8.2, Tivoli Storage Manager 5.2 and be SAP Certified.
- 3.2 The Proponent is to be authorized by the manufacturer to sell both the servers and related warranty or extended warranty services.
- 3.3 Compliance with all City insurance requirements.
- 3.4 Detailed specifications are set out in Schedule A of the RFP. Proposals shall clearly indicate any deviations from the equipment specifications set out herein.

4.0 Objectives of the RFP

The primary objectives of this RFP are to acquire Proposals from qualified Proponents for the achievement of the following:

- 4.1 To supply an IBM SAP server using IBM pSeries model 560

5.0 Bid and Performance Security - Intentionally Omitted

6.0 Insurance

Proponents are requested to review and ensure that they fully understand and have the ability to meet the City's insurance requirements as outlined within Section 30, Appendix 1 - Form of Agreement

7.0 Requirements

In support of the objectives as outlined above, the City has identified Requirements within Schedule 'A' of this RFP and to which the Proponent should offer its solution.

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PART B - INSTRUCTIONS TO PROPONENTS

NOTE: The definitions set out in Attachment A - Legal Terms and Conditions of the Proposal Form (Part D) and in the Form of Agreement (Appendix 1) apply throughout this RFP, including this Part B of this RFP, except where otherwise expressly stipulated or the context otherwise requires.

1.0 Administrative Requirements

- 1.1 Prior to the deadline shown in Part A Section 1.2, please indicate whether or not you will be submitting a Proposal prior to the Closing Time by sending the Response Notification Form (Appendix 3).
- 1.2 It is the sole responsibility of the Proponent to check the City's website at <http://www.vancouver.ca/bid/bidopp/openbid.htm> regularly for amendments, addenda, and questions and answers related to this RFP.
- 1.3 The Proponent is to submit their Proposal in accordance with instructions identified on the cover page and as provided within this Part B.

2.0 Conduct of RFP - Inquiries and Clarifications

- 2.1 The City's Manager of Materials Management will have conduct of this RFP, and all communications are to be directed only to the contact person named on the cover page.
- 2.2 It is the responsibility of the Proponent to thoroughly examine these documents and satisfy itself as to the full requirements of this RFP. Inquiries are to be in written form only, faxed to 604-873-7057 or e-mailed to purchasing@vancouver.ca to the attention of the contact person shown on the cover page before the deadline date. If required, an addendum will be issued to all Proponents and posted on the City's website as noted in item 1.2 above.

3.0 Contract Requirements - Form of Agreement

- 3.1 The term of Contract will be for the agreed upon time line for the supply, installation and maintenance of the Power5 server.
- 3.2 Where the head office of the successful Proponent is located within the City of Vancouver and/or where the successful Proponent is required to perform any Work at a site located within the City of Vancouver, the successful Proponent is required to have a valid City of Vancouver business license prior to Contract execution.
- 3.3 The successful Proponent will be requested to enter into the Form of Agreement substantially in accordance with Appendix 1. Where the Proponent is proposing modifications to the Form of Agreement, the Proponent should attach a copy of the proposed contract language and indicate in the Proposal Form (Schedule C - Deviations and Variations) which clauses in the attached Form of Agreement and which clauses in the Proponent's form of contract apply to the Proponent's proposal.
- 3.4 If any of the terms set out in the Form of Agreement are unacceptable to the Proponent, the Proponent should identify such terms and provide suggested alternatives in its Proposal. While the City is not obligated to accept any alternative, all suggested alternatives will be considered during the evaluation process, but may or may not be acceptable to the City.

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PART B - INSTRUCTIONS TO PROPONENTS

4.0 Pricing

- 4.1 The Proponent's pricing will be assumed to be fixed for at least one hundred and twenty (120) days following the Closing Time unless otherwise stated.
- 4.2 Prices quoted are to be exclusive of GST and PST only, F.O.B. destination with all freight, unloading at destination, import duties, brokerage, royalties, handling, overhead, profit and all other costs included.
- 4.3 Proponents located in Canada are to quote in Canadian Funds and indicate the rate of exchange included within their prices if the product is imported from the USA or from other countries. Prices will be subject to adjustment based on the rate of exchange in effect at the day of importation. Proponents located outside Canada may quote prices in the monetary currency of their locations.

5.0 Consortium Proposals

- 5.1 The City will consider a proposal from two or more persons or companies having no formal corporate links who wish to form a joint venture or consortium solely for the purpose of submitting a proposal in response to this RFP, provided they disclose the names of all members of the joint venture or consortium and all members sign the Proposal Form.
- 5.2 One person or company is to be identified as the Key Contact Person on the Proposal Form (Part D), and be prepared to represent the consortium to the City. The Key Contact Person will serve as the primary contact and take overall responsibility for all communications with the City during the Proposal submission, evaluation, and any negotiation process.
- 5.3 Consortium Proposals should include proposed contract language describing each consortium members' roles and responsibilities and the proposed legal contract structure.
- 5.4 The City reserves the right to accept the consortium as proposed or choose to contract with individual consortium members separately. Each component of the consortium proposal should be priced out individually.

6.0 Submission of Proposal

- 6.1 Proponents are to submit four (4) copies of their Proposal, in three ring binders with each section tabbed and including all accompanying schedules, appendices or addenda in a sealed envelope or package marked with the Proponent's name, the RFP title and number, prior to the Closing Time set out on the date and to the location shown on the cover page of this RFP.
- 6.2 Only the English language may be used in responding to this RFP.
- 6.3 Proposals received after the Closing Time or in locations other than the address indicated, may or may not be accepted and may and may not be returned. The City may or may not elect to extend the Closing Time.
- 6.4 Amendments to a Proposal are to be submitted in writing in a sealed envelope or package, marked with the Proponent's name and the RFP title and number.

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- 6.5 Proposals may be withdrawn at any time before or after the Closing Time and are to be withdrawn by written notice delivered to the office of the Purchasing Department, 2nd Floor, City Hall, and signed by the authorized signatory for the Proponent.
- 6.6 All costs associated with the preparation and submission of the Proposal, including any costs incurred by the Proponent after the Closing Time, will be borne solely by the Proponent.

7.0 Format of Proposal

- 7.1 Unnecessarily elaborate Proposals, beyond that sufficient to present a complete and effective response, are not required and unless specifically requested, the inclusion of corporate brochures and narratives are discouraged.
- 7.2 Proponents are to complete all forms included in this RFP attaching any additional appendices that may be required. Proposals are to be arranged as follows:

Title Page: The title page will show the RFP title and number, Closing Time and Date, Proponent name, address, telephone number and the name and title of the contact person.

Table of Contents: Page numbers are to be indicated.

Executive Summary: A short summary of the key features of the Proposal demonstrating the Proponent understands of the scope of the Requirements.

Proposal Form: The Proponent is to complete the Proposal Form and attached Attachment - A included in this RFP in accordance with the instructions.

Schedules: The Proponent is to complete and provide the information within the respective schedules included in this RFP. If additional space is required to respond to the requirements as outlined, then additional pages can be attached

Alternate Solutions: Proponents may submit alternative solutions and are to identify same as additional appendices within their Proposal.

8.0 Bid and Performance Security

- 8.1 No Bid Security is required, since no irrevocable legally binding offer is required in this RFP.

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9.0 Conflict of Interest/Collusion

- 9.1 Proponents are to ensure that any and all conflicts or potential conflicts and any and all collusion, or appearance of collusion is fully and properly disclosed in Section 6.0 of Attachment A of the Proposal Form.
- 9.2 Failure to disclose this information may result in the rejection of the Proposal, the associated entity's Proposal, and/or the immediate cancellation of any Contract should one be concluded in reliance on the information contained in the submitted Proposal.
- 9.3 If any director, officer, employee, agent or other representative of a Proponent makes any representation or solicitation offering a personal benefit of any kind, directly or indirectly, to any officer, employee, agent or elected official of the City with respect to the Proposal, whether before or after the submission of the Proposal, the City will automatically disqualify such Proponent.

10.0 Opening of Proposals

- 10.1 The City reserves the right to open all Proposals in a manner and at the time and place determined by the City. Dissemination of Proposal information will be as follows:
 - a) Upon opening of the Proposals, the names of each Proponent will be publicly announced.

11.0 Evaluation of Proposals

- 11.1 Proposals will be evaluated on the basis of the overall best value to the City based on quality, service, price and any other relevant criteria set out herein including, but not limited to:
 - a) the Proponent's ability to meet the Requirements;
 - b) the Proponent's ability to deliver the Requirements when and where required;
 - c) financial offer including but not limited to prices, operating and maintenance costs, warranty, and any life cycle considerations;
 - d) the Proponent's business and technical reputation and capabilities; experience and where applicable, the experience of its personnel; financial stability; track record; and references of current and former customers;
 - e) equipment quality, configuration, age and condition;
 - f) environmental responsibility demonstrated by the Proponent;
 - g) quality of submission; and
 - h) any other criteria set out in the RFP or otherwise reasonably considered relevant.
- 11.2 The City may elect to short list Proponents in stages as deemed necessary. Short-listed Proponents will be asked to provide additional information or details for clarification, which may include the Proponent (and any or all Sub-Contractors of the Proponent) attending interviews, making a presentation, supplying samples, performing demonstrations, and/or furnishing additional technical data.
- 11.3 Samples of items, when required, should be submitted within the time specified and must be supplied at no expense to the City. If not destroyed in testing, they will be returned at the Proponent's request and expense.

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- 11.4 Prior to approval of a Proposal, the City must be satisfied as to the Proponent's financial stability. The Proponents may be asked to provide annual financial reports or a set of financial statements prepared by an accountant and covering the Proponent's last 2 fiscal years.
- 11.5 Preference may be given to Proposals offering environmentally beneficial products or services.

12.0 Deviation from Requirements or Conditions

- 12.1 Any deviation from the Requirements or the conditions specified in this RFP should be clearly stated in the Proponent's Proposal within Schedule C - Deviations and Variations. The City will be the sole judge as to what constitutes an acceptable deviation. If no deviations are indicated in the Proponent's Proposal, the City will assume that the Proponent is proposing full compliance with the Requirements and conditions of this RFP.

13.0 Proposal Approval

- 13.1 Proposal approval is contingent on funds being approved and the Proposal being approved by City Council. Only then may the successful Proponent and City proceed to settle, draft and sign the necessary legal agreement.
- 13.2 The City will notify the successful Proponent in writing that its Proposal has been approved in principle and invite the Proponent to proceed with discussions to settle, draft and sign a legal agreement.
- 13.3 The City is not under any obligation to approve any Proposal and may elect to terminate this RFP at any time.

14.0 Quantities

- 14.1 The stated quantities are the City's best estimates of its requirements and should not be relied on. Actual quantities may vary.

15.0 Brand Names

- 15.1 The City's SAP environment is composed of IBM RS6000 servers running the AIX 4.3 operating system. The City has identified IBM hardware to replace the existing servers. Proposals will only be accepted from IBM Business Partners supplying IBM hardware. **No exceptions.**

16.0 Alternates and/or Variations to Product Requirements

- 16.1 Except where otherwise stated, the Requirements in Schedule A describe what is considered necessary to meet the performance requirements of the City and Proponents are to submit Proposals in accordance with the Requirements, or if the Proponent cannot meet those requirements, an alternative which they believe to be the equivalent or exceeds, may be offered.
- 16.2 Proponents are to clearly indicate any variances from the City's Requirements, no matter how slight. The attachment of descriptive literature from which variations may be gleaned will not be considered as a sufficient statement of variations.

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- 16.3 If in addition to proposing goods and/or services which meet the Specifications, the Proponent wishes to offer an alternative, the alternative solution is to be submitted separately as an appendix within the Proposal.

17.0 Environmental Responsibility

- 17.1 The City is committed to preserving the environment. Proponents are to provide environmentally sensitive products or services wherever possible. Where there is a requirement that the Contractor supplies materials, and where such materials may cause adverse effects, the Proponent is to indicate the nature of the hazard in its Proposal.
- 17.2 The Proponent is to advise the City of any known alternatives or substitutes for such materials that would mitigate the effects of any adverse conditions on the environment.

18.0 Freedom of Information and Protection of Privacy Act

- 18.1 Proponents should note that the City of Vancouver is subject to the Freedom of Information and Protection of Privacy Act (British Columbia).

19.0 Confidentiality

- 19.1 Proponents should note that upon submitting their Proposal Form, they will be legally bound to certain confidentiality obligations not to disclose any City information without City's prior written consent.
- 19.2 This RFP is the property of the City. Except for the purpose of submitting a Proposal, copies may not be made or distributed without the prior written approval of the City's Manager of Materials Management.

20.0 Advertising

- 20.1 The approval of any Proposal and the signing of a Contract do not permit a Proponent to advertise its relationship with the City, without the City's prior written authorization.

21.0 Special Conditions

- 21.1 Proponents should note that if the Special Conditions of this RFP (if any) conflict with Parts A and B of this RFP, the Special Conditions are intended to govern over Parts A and B.

22.0 Non-Resident Withholding Tax

- 22.1 Proponents should note that the Income Tax Act (Canada) requires that payments to non-residents for any services performed in Canada are subject to a Non-Resident Withholding Tax of a specified percentage (depending on residency of the Contractor). Exemption from this withholding tax is available in some circumstances, but the non-resident must apply directly to the Canada Revenue Agency (CRA) at least 30 days before commencing the service.

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PART B - INSTRUCTIONS TO PROPONENTS

23.0 Legal Terms and Conditions

- 23.1 No part of Part A - Introduction, this Part B - Instructions to Proponents, nor Part C - Special Conditions of this RFP will be legally binding on the City or Proponent. All legal terms and conditions of the process contemplated by this RFP are contained in the Proposal Form (Part D), including without limitation, Attachment A to the Proposal Form.

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PART C - SPECIAL CONDITIONS

1.0 Additional Evaluation Criteria

1.1 In addition to the evaluation criteria set out in Part B of this RFP, the following criteria, which are not in any order of importance, will be taken into consideration where applicable during the City's evaluation of the Proposal:

- availability of equipment;
- quality of equipment proposed;
- quality of service proposed;
- vendor experience;
- Vendor personnel experience
- Ability to integrate with existing equipment
- Compliance with all City insurance requirements

2.0 Mandatory Requirements

Note: Where a requirement is deemed "Mandatory", a Proposal must meet the requirement. Failure to do so may or may not result in the Proposal being put aside and given no further consideration.

2.1 Proposals will only be considered from a Proponent which is able to comply with the following:

- the Proponent must be an authorized reseller for the products offered in its response to this RFP; and
- the organization proposed to provide warranty and/or maintenance services must be authorized by the manufacturer to do so.
- Compliance with all City insurance requirements.
- Demonstrated ability of the staff proposed to be assigned to this project by the Proponent to comply with the City's Security Clearance requirements.

3.0 Pricing

3.1 Proponents are asked to provide pricing for this single server.

3.2 Proponents should refer to Section 7.0 below regarding pricing for warranty and maintenance.

4.0 System Acceptance

4.1 The City will accept the servers and related components only after the system has performed without problems for one (1) week. Only then will the City become obligated to make payment for the servers.

5.0 Insurance Requirements

5.1 The Proponent is advised to refer to Section 30.0, Appendix 1 - Form of Agreement for the insurance requirements pertaining to this RFP, review the City's insurance requirements with their insurers and include details with respect to any deviations

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PART C - SPECIAL CONDITIONS

and/or variations from the terms and conditions as set out in Section 30.0, Appendix 1 - Form of Agreement.

- 5.2 A copy of the City's form of "Certificate of Insurance" is attached for the proponent's reference as Appendix 2. The successful Proponent will be required to file a completed certificate with the City's Risk and Emergency Management Department showing proof of all insurance requirements described in Section 30.0 of the Form of Agreement. This certificate must be completed and filed prior to the signing of the Contract Agreement between the successful Proponent and the City.
- 5.3 Proponents must submit a copy of their existing policy, certificate, or other documentary evidence of their existing commercial general liability and equipment insurance coverage. This documentation will be used by the City in consultation with the City's Director of Risk Management to assess the Proponent's ability to comply with the insurance requirements set out in Section 30.0 of Appendix 1 - Form of Agreement.

6.0 Warranty and Maintenance Requirements

- 6.1 The City's servers are located at a primary site, Emergency Communications for Southwest British Columbia (ECOMM) located at 3301 East Pender Street, Vancouver BC. The current process for access to ECOMM, and all other City sites housing data and servers, is for approved City staff to escort representatives from hardware and software suppliers into ECOMM for maintenance purposes. Proponents should be aware that maintenance personnel may be subject to security checks and may be required to undergo a criminal records check. All costs for criminal records checks will be the responsibility of the successful Proponent.
- 6.2 A further site, the secondary site, will be added at the City's Chess Street facility, 1330 Chess Street, Vancouver, BC, V6A 4K6, for disaster recovery purposes. Components of the SAP hardware will be located at this second site. The exact configuration between the two sites has yet to be determined although it is likely that Chess Street will contain the QA environment.
- 6.3 The City prefers a manufacturer's warranty, fully backed by the Proponent's own warranty, on all components. The City's service expectation, which may be met with any combination of warranty, extended warranty or maintenance contract, is predicated on 7 days/week, 24 hours/day for three years, with the following conditions:

Primary Site:

- 1 hour callback;
- On-site within 2 hours;
- Repair/problem resolution within 4 hours.

Secondary Site

- 1 hour callback;
- On-site within 2 hours;

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PART C - SPECIAL CONDITIONS

- Repair/problem resolution within 4 hours.

7.4 The components of this service should be priced separately by year, and unbundled from the pricing for the servers.

7.0 Commencement of Warranty Period

7.1 The warranty period shall commence at the time the City puts the IBM computer equipment (the "Machines") into service, or three (3) months after the acceptance of the Machines, whichever is sooner.

7.2 The city will notify the Contractor of the date that each machine goes into service.

7.3 The warranty should be made out to the City of Vancouver, 453 West 12th Ave, Vancouver BC, V5Y 1V4

8.0 Required Documentation

8.1 The following documentation shall accompany each Machine at time of delivery. Failure to include all or some of the listed documents will delay the City's acceptance of the machine:

- Copy of the City's invoice;
- Customs documentation, if applicable;
- Owner manual and related documentation;
- Warranty documents for installed accessories;

8.2 The City of Vancouver address shown on the documentation should read the same as the delivery address set out on the purchase order.

9.0 Security - ECOMM Buildings

9.1 Security in ECOMM buildings is of paramount importance. The arrangement for access to ECOMM is for approved City staff to escort and accompany company representatives responsible for maintaining City hardware systems within the building while work on the systems is carried out.

9.2 Submission of a Proposal by a Proponent constitutes acknowledgement of the process and consent to such investigation by that Proponent, as set out in Attachment A - Legal Terms and Conditions to the Proposal Form.

10.0 Security Policy

10.1 In compliance with ECOMM Security Policy, the Contractor, its employees or Sub-contractors will be subject to security and background screening.

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PART D - PROPOSAL FORM**

Proponent's _____ Name: _____

"Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Attach additional pages immediately behind this page for Sub-Contractors, if applicable.

To the City of Vancouver Materials Management Department,

The Proponent, having carefully examined and read the RFP, including the Form of Agreement and its Schedules, now submits the following Proposal:

1.0 Required Documents

If the documents listed below do not accompany the Proposal at the time of opening, the Proposal may or may not be put aside and given no further consideration.

Description	Required	Received
Letter from Proponent's Financial Institution for Letter of Credit	No	

To be Initialled at Proposal Opening:

Manager, Materials Management or designate

Witness

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PART D - PROPOSAL FORM**

2.0 Compliance

By initialling each item, the Proponent acknowledges it has read and understands the Requirements, has submitted the required addenda, has identified deviations or alternatives, and has provided an explanation of where it does not comply with the Requirements. **If additional space is required, detail deviations and/or suggested amendments in Schedule C - Deviations and Variations.**

Section Title	Understand, Will Comply	Does Not Comply	Variations, Alternatives or Explanation for Non-Compliance
<u>Part B</u> Instructions to Proponents			
<u>Part C</u> Special Conditions			
<u>Part D</u> Proposal Form			
<u>Proposal Form - Attachment A</u> Legal Terms and Conditions			
<u>Appendix 1 - Form of Agreement</u>			

3.0 Required Proposal Documents

By initialing each item, the Proponent confirms it has completed and enclosed the Proposal Form and the required Schedules and any required addenda, and has identified any deviations or items of non-compliance providing an explanation of where it does not comply.

Section Title	Submitted	Variations, Alternatives or Explanation for Non-Compliance
<u>The Proposal Form</u>		
<u>Proposal Form - Attachment A</u> Legal Terms and Conditions		
<u>Schedule A</u> Requirements		

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ATTACHMENT A - LEGAL TERMS AND CONDITIONS

1.0 LEGAL TERMS AND CONDITIONS OF PROPOSAL PROCESS:

1.1 Application of These Terms and Conditions

These legal terms and conditions set out the City's and Proponent's/Sub-Contractors' legal rights and obligations only with respect to this RFP and Proposal process. In no event will the legal terms and conditions of this Attachment A apply to the Contract formed between the City and the Contractor following the signing of the Contract (if any).

1.2 Definitions

In this Attachment A, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the *Vancouver Charter*.
- (b) "Proposal" means the package of documents, consisting of this Proposal Form as well as all Schedules, once completed and submitted to the City by the Proponent, and "Proposal" means any Proposal submitted by any other proponent, excluding or including the Proponent, depending on the context.
- (c) "Proponent" means the legal entity(ies) who has (have) signed and delivered this Proposal Form, and "Proponent" means any proponent responding to the Instructions to Proponents, excluding or including the Proponent, depending on the context.
- (d) "Losses" means in respect of any matter all:
 - (i) direct or indirect, as well as
 - (ii) consequential,claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (e) "RFP" means the documents issued by the City as Request for Proposal No. PS07124 including all addenda.
- (f) "Sub-Contractors" includes any or all third parties listed in Schedule D of this Proposal Form.

All other terms (capitalized or not) have the meanings given to them in the Form of Agreement attached as Appendix 1 to this RFP.

REQUEST FOR PROPOSAL NO. PS07124
THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
ATTACHMENT A - LEGAL TERMS AND CONDITIONS

2.0 GENERAL TERMS AND CONDITIONS OF RFP/PROPOSAL PROCESS

2.1 No Legal Obligation Assumed by Owner

Despite any other term of this Proposal Form (except only (where applicable) Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*), the City assumes no legal duty or obligation in respect of this RFP or a Proposal or unless and until the City enters into a Contract. This RFP and Proposal process is at all times contingent on funds being approved by the Vancouver City Council and a Contract being signed by the City.

2.2 Legal Rights and Obligations Suspended

Despite any other term of this Proposal Form (except only (where applicable) Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*), the City and Proponent agree that all of their respective rights and obligations at law and in equity, in contract and in tort, in all matters relating to the RFP and this Proposal will be absolutely and unconditionally subject to Section 4.0 - *Protection of City Against Lawsuits*, and the following:

(a) No Duty

The City has no legally enforceable duty or obligation to the Proponent unless and until the City signs a Contract.

(b) Proponent's Risk

The Proponent acknowledges that the City is a public body required by law to act in the public interest. Accordingly, in no event does the City owe to the Proponent (as opposed to the public):

- (i) a contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP or Proposal process; or
- (ii) any contract or tort law duty to preserve the integrity of the RFP or Proposal process,

and the Proponent now waives and releases the City from all such duties and expressly assumes the risk of all Losses arising from participating in the RFP and Proposal process on this basis.

(c) Proponent's Cost

The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP and Proposal process.

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THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
ATTACHMENT A - LEGAL TERMS AND CONDITIONS

3.0 EVALUATION OF PROPOSALS

3.1 Compliance/Non-Compliance

Any Proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP or, which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion.

3.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and Proposal process at all times until the execution and delivery of a Contract. Accordingly, the City is not legally obligated to review, consider or evaluate the Proposals and need not necessarily review, consider or evaluate the Proposals in accordance with the procedures set out in this RFP and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation process on any or all Proposals at any time without further explanation or notification to any of the Proponents subject only to the express legal terms and conditions which bind the City, which terms and conditions are expressly limited to those set out in Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, and Section 5.5 - *Declaration of Confidentiality*.

3.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss/negotiate changes to the scope of the RFP, or any of the terms or conditions of the RFP with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of discussions or negotiations with other proponents or changes to the RFP, and, without limiting the general scope of Section 4.0 - *Protection of City Against Lawsuits*, and by way of example only, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

4.0 PROTECTION OF CITY AGAINST LAWSUITS

4.1 Release

Except only and to the extent that the City is in breach of Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*, the Proponent now releases the City from all liability for any Losses in respect of:

- (a) any alleged (or judicially imposed) breach by the City of the RFP (it being acknowledged and agreed that to the best of the parties' knowledge, the City has no obligation or duty under the RFP or Proposal which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the City occurring in the course of conducting this RFP and Proposal process;
- (c) the Proponent preparing and submitting its Proposal;
- (d) the City accepting or rejecting its Proposal or any other submission;

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- (e) the manner in which the City:
 - (i) reviews, considers, evaluates or negotiates any Proposal,
 - (ii) deals with or fails to deal with any Proposal or Proposals, or
 - (iii) decides to enter into a Contract or not enter into any Contract;
- (f) the proponent(s), if any, with whom the City enters a Contract.

4.2 Indemnity

Except only and to the extent that the City breaches Section - 5.2 - *Proponent's Submission Confidential* or Section 5.5 - *Declaration of Confidentiality*, the Proponent now indemnifies and will protect and save the City harmless from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its Sub-contractors or agents alleging or pleading

- (a) any alleged (or judicially imposed) breach by the City or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the City has no obligation or duty under the RFP or Proposal which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially)),
- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting this RFP or Proposal process, or
- (c) liability on any other basis related to this RFP or the Proposal process.

4.3 Limitation

In the event that, with respect to anything relating to this RFP or Proposal process (except only and to the extent that the City breaches Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*), the City or its officials, officers, agents or employees are found to have breached any duty or obligation of any kind to the Proponent or its Sub-contractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its Sub-contractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

4.4 Dispute Resolution

Any dispute relating in any manner to this RFP or the Proposal process (except only and to the extent that the City breaches Section 4.3 - *Limitation*, Section 4.4 - *Dispute Resolution*, Section 5.2 - *Proponent's Submission Confidential*, or Section 5.5 - *Declaration of Confidentiality*, and also excepting any disputes arising between the City and any Proponent with whom the City has entered a Contract), will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia) amended as follows:

- (a) The arbitrator will be selected by the City's Manager - Materials Management.

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- (b) This Section 4.0 - *Protection of the City from Lawsuits* will:
 - (i) bind the City, Proponent and the arbitrator; and
 - (ii) survive any and all awards made by the arbitrator.
- (c) The Proponent will bear all costs of the arbitration.

5.0 ACCESS/OWNERSHIP OF PROPOSAL INFORMATION

5.1 Proposal Documents Remain/Proposal Becomes - City's Property

- (a) All RFP packages and addenda provided to the Proponent by the City remain the property of the City and must be returned to the City upon request.
- (b) The documentation containing the Proposal, once submitted to the City, becomes the property of the City, and the City is under no obligation to return the Proposal.

5.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the City's full right to publicly disclose any and all aspects of the Proposal in the course of publicly reporting to the Vancouver City Council on the Proposal results or announcing the results of the Proposals to the proponent, the City will treat all material and information expressly submitted by the Proponent (and the City's evaluation of it) in confidence in substantially the same manner as it treats its own confidential material and information.

The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

5.3 All Owner Data/Information is Confidential

The Proponent will not divulge or disclose to any third parties any information concerning the affairs of the City which may be communicated to the Proponent at any time (whether before or after the closing date and time of this RFP process). Recognizing the need for confidentiality of the City's data, files and other confidential information, the Proponent will not use, exploit or divulge or disclose to third parties any confidential or proprietary information of the City of which the Proponent may gain knowledge in connection with or in the course of discussions or negotiations with the City.

All material and information that has or will come into the Proponent's possession or knowledge in connection with this Proposal process is confidential and may not be disclosed or utilized in any way except in accordance with the Instructions to Proponents and this Proposal Form.

5.4 Disclosure Requires Prior Consent

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The Proponent may not divulge any information respecting the Proposal process to any third party without the prior written consent of the City, which consent may be arbitrarily withheld unless it is information which the City has already made public or has been required to disclose pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

5.5 Declaration of Confidentiality

The Proponent now declares and agrees that, except for the information disclosed by the City in the course of publicly reporting to the Vancouver City Council or any public proposal opening:

- (a) the information supplied by the Proponent in response to the RFP is expressly provided in strict confidence;
- (b) any records made of the evaluation of this Proposal and all other submissions will be the property of, and private to, the City and will not be disclosed to the Proponent nor anyone else;
- (c) the disclosure of the information in items (a) and (b) above to anyone outside of the City's staff would reveal the Proponent's trade secrets or proprietary commercial information concerning its private business affairs; and
- (d) the disclosure of the information in items (a) and (b) above, could reasonably be expected to harm the Proponent's competitive position, harm the City's ability to engage in competitive procurement of goods and services, and result in undue financial loss to the Proponent and/or the City.

6.0 DECLARATION - NO CONFLICT OF INTEREST / NO COLLUSION

6.1 Declaration as to Conflict of Interest

The Proponent now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Proponent's or Sub-contractor's organizations (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:

- (a) an elected official or employee of the City; or
- (b) related to or has any business or family relationship with any elected official or employee of the City, such that there would be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of this Proposal by the City, except as set out below:

[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any or all relationships which might give rise to a conflict of interest or an appearance of a conflict of interest].

6.2 Declaration as to Collusion

The Proponent now confirms and warrants that

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ATTACHMENT A - LEGAL TERMS AND CONDITIONS

- (a) the Proponent has no affiliation, whether legal or financial, with any other entity which is in the business of providing the same type of goods or services which are the subject of this RFP; and
- (b) the Proponent is not competing within this RFP process with any entity which it is legally or financially associated or affiliated, except as set out below:

[The Proponent is conclusively deemed to have declared "none" unless the Proponent deletes this note and describes any and all affiliations or relationships which might give rise to collusion or an appearance of collusion].

7.0 SURVIVAL/LEGAL EFFECT OF PROPOSAL CONTRACT

- 7.1 All of the terms of this Attachment A to this Proposal Form which by their nature require performance or fulfilment following the conclusion of the Proposal process will survive such issuance and will remain legally enforceable by and against the Proponent and City.

8.0 CONSENT TO SECURITY/BACKGROUND SCREENING

- 8.1 The Proponent now agrees and consents to the City performing any and all background and security inquiries as it deems necessary or appropriate on the Proponent, its Sub-Contractors and their respective employees and agents and Proponent now warrants that it has obtained the necessary consents to same from its personnel and its Sub-Contractors and Sub-Contractors' personnel.
- 8.2 As evidence of the Proponent's intent to be legally bound by this Attachment A, the Proponent has executed and delivered this Attachment A as an integral part of this Proposal Form in the manner and space set out above.

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THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
SCHEDULE A - REQUIREMENTS**

This Schedule identifies the Requirements to which the City is seeking a solution or a response. Proponents are to address, but are not limited in their response to, the respective issue(s). Proponents may submit their solution or response on a separate sheet. However, the same number sequence is to be used.

1.0 Mandatory Requirements

Note: Proponent must meet the requirement. Failure to do so may or may not result in the Proposal being put aside and given no further consideration.

Requirement	Complies (Yes or No) Comments
• The Proponent must be an authorized reseller for the products offered in its response to this RFP	
• The organization proposed to provide warranty and/or maintenance service must be authorized by the manufacturer to do so	
• Demonstrated ability of the staff proposed to be assigned to this project by the Proponent to comply with the City's Security Clearance requirements.	
• Compliance with all City insurance requirements.	

2.0 Equipment Requirements

- 2.1 Hardware is to be 64-bit technology, support IBM AIX 5.2, UDB 8.1, Tivoli Storage Manager 5.2 and be SAP Certified.
- 2.2 The City requires the existing servers to remain in service until the replacement hardware is fully functional.

Specifications:

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SCHEDULE A - REQUIREMENTS**

1 IBM pSeries P560 16-way processors 1.8GHz 64-bit POWER5+

0265	AIX PARTITION SPECIFY	4
1846	OP PANEL	1
1857	SP FLEX CABLE, TWO-DRAWER SYSTEM	1
1867	PROCESSOR CABLE, TWO-DRAWER SYSTEM	1
1910	4 GB DUAL-PORT FIBRE CHANNEL PCI-X 2.0 D	4
1994	IDE SLIMLINE DVD-ROM DRIVE	1
3585	300GB 15K RPM SCSI DISK DRIVE	8
4650	RACK INDICATOR- NOT FACTORY INTEGRATED	1
5005	SOFTWARE PREINSTALL	1
5721	10 GIGABIT ETHERNET SHORT REACH PCI-X 2.	1
6671	POWER CORD (9-FOOT), DRAWER TO IBM PDU,	4
7164	IBM RACK-MOUNT DRAWER RAIL KIT	2
7235	ONE PROCESSOR ACTIVATION FOR PROCESSOR #	8
7295	0/4 WAY 1.8 GHZ QCM PROCESSOR (Total 16 way)	4
7300	SYSTEM DRAWER ENCLOSURE W/ BEZEL	2
7304	ADVANCED POWER VIRTUALIZATION	16
7345	ZERO-PRICED PROCESSOR ACTIVATION FOR #72	8
7768	PROCESSOR POWER REGULATOR	6
7865	PROCESSOR ENCLOSURE AND BACKPLANE	2
7866	I/O BACKPLANE, 6 PCI-X SLOTS	2
7867	SYSTEM MIDPLANE	2
7868	ULTRA320 SCSI 6-PACK BACKPLANE	2
7869	MEDIA ENCLOSURE AND BACKPLANE	1
7870	POWER DISTRIBUTION BACKPLANE	2
7878	SYSTEM PORT RISER CARD	2
7888	AC POWER SUPPLY, 240V, 1400 W	4
7997	SYSTEM SERVICE PROCESSOR	1
8231	MEMORY OFFERING 64GB (2x4GB DIMMs)	8
9300	LANGUAGE GROUP SPECIFY - US ENGLISH	1

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SCHEDULE A - REQUIREMENTS**

5692-A5L	SYSTEM SOFTWARE	1
1100	DVD PROCESS CHARGE	1
5765-G03	AIX 5L V5.3	1
B7MJ	VALUE PAK PER PROCESSOR E5 AIX V5.3	16
5765-G31	PARTITION LOAD MANAGER	1
B7ND	PER PROCESSOR E5 PARTITION LOAD MGR	16
5765-G34	VIRTUAL I/O SERVER	1
B7NM	PER PROCESSOR E5 VIRTUAL I/O SERVER	16
5773-PLM	PARTITION LOAD MANAGER SW MAINT: 3 YEAR	1
AOCB	5773-PLM SW MAINT 3Y REG E5	16
5773-SM3	SOFTWARE MAINTENANCE FOR AIX, 3 YEAR	1
462	E5 3 YR SWMA FOR AIX PER PROCESSOR REG/R	16
5773-VIO	VIRTUAL I/O SERVER SW MAINTENANCE: 3 YR	1
AOBT	PER PROCESSOR E5 VIO 3 YR MAINTENANCE	16
9116-561	HARDWARE WARRANTY UPGRADE TO 3 YEARS 24x7	1

3.0 Fibre Network Connectivity

- 3.1 The PCI fibre channel host bus adapters must provide 2GB+ connectivity to the City's IBM FASTT900 and FASTT600 Storage Servers and the Tivoli Server and be compatible with AIX version 5.2.
- 3.2 List all software components required to provide the level of functionality described above.

4.0 Configuration and Deployment

- 4.1 Configuration and deployment services required include:
- Delivery of servers and components for primary location to the City's ECOMM data centre, 3301 East Pender Street.
 - Uncrating, assembly, configuration and testing of storage arrays and components.

5.0 Other

The proponent, in its response, must address all of the following issues:

- 5.1 What organization or individuals will provide service?
- 5.2 What standard form contracts or licenses are required to receive such service? Copies of all applicable contracts are to be included with the proposal.

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SCHEDULE A - REQUIREMENTS**

- 5.3 What support and/or servicing functions must be performed by the vendor?
- 5.4 Are service personnel bonded or possess security clearances?
- 5.5 What access is there to technical support?
- 5.6 What is the average time -to-repair of this equipment?

6.0 Proponent Information

Key determinants of how well the Successful Proponent(s) will be able to meet the Requirements include the Proponent's profile, experience, key personnel who will be servicing the City, and references. All are important factors on which the Proponent will be evaluated.

Proponents are to address, at the least, the following elements.

6.1 Company Profile

Provide a brief description of Proponent's company, purpose and history of successes including number of years in business, annual sales volumes.

6.2 Experience

Detail experience with this type of equipment installation and support.

6.3 Key Personnel

Identify and provide resumes for the key principals in the organization and outline what their roles will be in the project.

6.4 References

The Proponent is to complete the table outlined below and provide the relevant Information by listing at least three references for similar goods and/or services it has supplied to its clients. The Proponent may, at its own discretion, expand on the number of references and information that it deems necessary to support its Proposal.

By submitting a Proposal, the Proponent consents to City contacting these references at its discretion, and consents to the City also contacting any other organization for the purposes of evaluating the Proponent's company and Proposal.

Name and Address of Company	Contact Name and Telephone Number	Brief Description of Work and Date Performed

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THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
SCHEDULE A - REQUIREMENTS**

7.0 Value Added Services

7.1 Proponents should describe any value - added services it is prepared to supply as part of the contract. Unless otherwise stated, it is understood that there are no extra costs for these services

**REQUEST FOR PROPOSAL NO. PS07124
THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
SCHEDULE B - PRICING**

1.0 Instructions

- 1.1 Prices are to be quoted F.O.B Destination, including freight, customs duties, and brokerage fees.
- 1.2 GST and Provincial Sales Taxes are to be excluded.
- 1.3 Proponents located in Canada are to quote in Canadian Funds and indicate the rate of exchange included within their prices if the product is imported from the USA or from other countries. Prices will be subject to adjustment based on the rate of exchange in effect at the day of importation. Proponents located outside Canada may quote prices in the monetary currency of their location.
- 1.4 The Proponent having reviewed all terms, conditions and Requirements and Services set out in the RFP and the Attachments thereto, shall provide the following pricing which projects the total cost of the completed project. The costs shall be broken down to allow for analysis (e.g. training, consulting, technical upgrade).

Pricing Schedule:

Item	Qty.	Description	Unit Price	Total
1	1	P615 2-way processors 1.45GHz 64-bit POWER4+ in accordance with the specifications set out herein. Make: _____ Model Year and No.: _____	\$ _____	\$ _____

2	1	Warranty and Maintenance Services - Year One (1)		\$
3	1	Warranty and Maintenance Services - Year Two (2)		\$
4	1	Warranty and Maintenance Services - Year three (3)		\$

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THE SUPPLY AND INSTALLATION OF IBM COMPUTER HARDWARE
SCHEDULE C - DEVIATIONS AND VARIATIONS

Further to Part 'D', Section 2 - Compliance, Proponents are to use this Schedule to detail any deviations and/or variations from the terms and conditions set out in this RFP and if applicable, detail proposed amendments.

Where Proponent is proposing the use of contract language/clauses other than set out in the Form of Agreement, such clauses are to be attached to this Schedule C. The City will assume such clauses are in addition to those in the Form of Agreement unless otherwise indicated by the Proponent.

**REQUEST FOR PROPOSAL NO. PS07124
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SCHEDULE D - SUB-CONTRACTORS**

The Sub-Contractors shown below are the Sub-Contractors that the Proponent proposes to use to carry out the Requirements. The City expects that the Proponent will engage the listed Sub-Contractors and no others in their stead, without prior written authorization of the City. (For contractual requirements, Proponents should note Section 13.0 of the Form of Agreement.)

If no Sub-Contractors will be used, indicate "Not Applicable".

Company Name, Address	Contact Name and Telephone Number	Area of Responsibility

THIS AGREEMENT dated (*Mo. Day, 2007*)

BETWEEN:

THE CITY OF VANCOUVER, a municipal corporation continued under the Vancouver Charter and having an office at 453 West 12th Avenue, Vancouver, British Columbia V5Y 1V4

(the "City")

AND:

(herein called the "Contractor")

BACKGROUND:

- A. Pursuant to the Request for Proposals, No. PS 07124 (the "RFP") the City invited proposals from qualified Proponents for The Supply and Installation of IBM Computer Hardware that meet the Requirements (as defined below) set out in the RFP;
- B. In response to the RFP, the Contractor submitted the Contractor's Proposal proposing to perform the Requirements on the terms and conditions of the RFP as supplemented by the Contractor's Proposal;
- C. The City has agreed to retain the Contractor for the performance of the Requirements on the terms as set out in this Agreement and the RFP, as supplemented by the Contractor's Proposal, and the Contractor has agreed to perform the Requirements on those same terms.

THE CITY AND THE CONTRACTOR NOW AGREE as follows:

1.0 Definitions

The following words and terms, unless the context otherwise requires, have the meanings set out below:

"Agreement" means the agreement between the City and the Contractor as set out in the Contract Documents;

"City" means the municipal corporation, generally known as the City of Vancouver, as described under the Vancouver Charter;

"City's Designated Representatives" means the City's employees or representatives who are authorized in writing to deal with the Contractor on behalf of the City in connection with the goods and services or to make decisions in connection with the Contract;

"Contract Documents" means this Form of Agreement, the Contractor's Proposal Documents, the RFP and such other documents as listed in this Form of Agreement, including all amendments or addenda agreed between the parties;

"Contract Price" has the meaning set out in Section 6.0 - *Price*;

"Contractor" means the entity defined as such on the front page of the Contract Documents;

"Effective Date" means the date on which this agreement takes legal force and effect and is the date set out on the first page of these Contract Documents;

"GST" means the goods and services tax administered under the Excise Tax Act (Canada) and any successor tax or levy therefor in force from time-to-time;

"Product" means (product named in RFP):

"Proposal" means the proposal submitted in response to the RFP by the Contractor;

"Proponent" means the individual, partnership, corporation or combination thereof, including joint venturers, who or which sign the Proposal form set out in Part D of the RFP;

"PST" means provincial sales tax administered under the Social Services Act (British Columbia) and any successor tax or levies therefor in force from time-to-time;

"Requirements" means all of the specifications, requirements and services set out in the RFP that describe the requirements that the services, goods, materials and equipment must meet and the Contractor must provide;

"RFP" means Request for Proposal No. PS 07124 including, but not limited to: Part B - Instructions to Proponents; Part C - Special Conditions; Part D - Proposal Form (with Attachment A - Legal Terms and Conditions); Appendix 1- Form of Agreement; Appendix 2 - Certificate of Insurance; any additional attachments listed in the Table of Contents; and any amendments, addenda, and/or clarifications pertaining to the RFP;

"Security Clearance" means the security clearance level required of the City from time to time for personnel being allowed access to City's sites, and for access to the site at EComm;

"Sub-Contractor" means all sub-contractors, suppliers and agents of the Contractor;

"Unavoidable Delay" has the meaning set out in Section 9.0 - *Unavoidable Delay*;

"WHMIS Legislation" are the laws governing the information that must be provided on labels of packaging containing hazardous materials;

"WCB Legislation" means the Workers Compensation Act and all regulations enacted pursuant to the Workers Compensation Act, all as amended and re-enacted from time to time;

"Work" means all the labour, materials, equipment, supplies, services and other items necessary for the execution, completion and fulfillment of the Requirements;

"Work Site" means the site(s) where the Requirements are to be performed.

2.0 Contract Documents

The terms and conditions of the Contract Documents, whether or not actually attached to this Form of Agreement will govern the terms of this Agreement. The Contract Documents are complementary, and what is called for by any one will be as binding as if called for by all. In the event of any inconsistency or conflict between any of the terms and conditions within these Contract Documents, the provisions of the Contract Documents will take precedence and govern in the following priority:

- (a) this Agreement, including the attached (Schedules);
- (b) Part C of the RFP- Special Conditions, (Pertinent Sections);
- (c) any Addenda to the RFP issued by the City;
- (d) the Contractor's Proposal;
- (e) those parts of the RFP not referenced above.

3.0 Notices

Any notice required to be given under this Agreement will be given in writing and delivered or mailed by registered mail addressed to the (Name of person, title, and entity) and to the Contractor at the address set out in its Proposal.

4.0 Conduct of the Contract

The (name of individual or entity) and the Manager of Materials Management and (Name of person, title, and entity) will have the conduct of the Contract.

5.0 Requirements

5.1 The Contractor will supply the City with the Requirements set out in the RFP and further described in Schedule A of the Proposal and anything and everything else necessary for or incidental to the Requirements including supplying all labour, supervision, management, overhead, materials, supplies, and all other things necessary for or incidental to the Requirements and will perform the Work with care, skill, due diligence and efficiency.

5.2 The Requirements as set out in the RFP have been prepared by the City to describe in general terms the criteria that the Work must satisfy. However, if there is any discrepancy in the description of the Requirements or any omission of criteria which would be detrimental to the benefits intended to be provided to the City by the Requirements, the Contractor will rectify such a discrepancy or omission to the satisfaction of the City without further compensation.

6.0 Price

6.1 The Requirements will be provided in accordance with the pricing set out in Schedule B of the Proposal, *and/or the subsequent negotiated amendment appended to this Agreement as Schedule 1.*

6.2 The City is not bound by any notice of change in price unless and until the City sends written notice to the Contractor that such new pricing is accepted. If the City does not send a written notice of acceptance, then the existing prices remain in effect and the City and the Contractor have the option of negotiating, or issuing written notice of cancellation of all or any part of the Requirements. The parties must give such notice of cancellation in accordance with Section 35.0 of this Agreement.

7.0 Term/Non-Exclusivity

- 7.1 The Term of this Agreement starts on the effective date and expires on [date].
- 7.2 Where the parties continue to deal with each other following an expiry date, this Agreement will be deemed to be renewed for an additional one year period. However, during each additional one year period, this Agreement may be cancelled by the City without cause on at least 30 days prior written notice, or by the Contractor on at least 60 days prior written notice.
- 7.3 Despite any other term of this Contract, the RFP or the Proposal, nothing in this Agreement is intended to grant the Contractor any rights of exclusivity or any other right to be the sole supplier to the City of the Requirements, to supply a specified or minimum quantity of the Requirements to the City or any other similar right and the Contractor now acknowledges and agrees to same.

8.0 Cancellation of Contract

The Contractor may only cancel this Agreement without cause in the circumstances set out in Section 7.2. Except where Section 7.2, applies, the City may only cancel this Agreement without cause if the City gives notice of cancellation at least 60 days prior to its effective date. As of the effective date of such a notice of cancellation, the Contract will be cancelled as to all or those specified products and the parties will have no further obligations to each other in respect to same except that the City will remain liable to pay for those products already ordered and supplied prior to the effective date of the cancellation, and except for those obligations which by their nature are intended to survive the expiry or sooner cancellation of this Agreement.

9.0 Unavoidable Delay

- 9.1 Subject to Section 9.2, except for the performance of obligations to pay money, time periods for the City and the Contractor's performance under the Contract will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this section, an "Unavoidable Delay" means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, strikes/lockouts, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Contractor's lack of financial resources or insolvency, strikes, lockouts or labour affiliations of the Contractor's employees or Sub-Contractors' employees, or governmental action taken in the enforcement of law specifically against the Contractor.
- 9.2 Despite Section 9.1, nothing in this Section 9.0 will release the Contractor from the obligation to pay the City concessions or rebates for work interrupted or delayed by an Unavoidable Delay.

10.0 Changes in Requirements

The City may, by giving written notice to the Contractor, request amendments to the Requirements. Upon receipt of such notice, the Contractor will, as soon as practicable and in no event later than 20 days after receipt of such notice, inform the City's Manager of Materials Management of any adjustments to the Contract Price, either increasing or decreasing the Contract Price, that would be necessitated by such change in the Requirements, or

alternatively, will notify the City's Manager of Materials Management that no adjustment is necessary. If adjustments to the Contract Price are necessary and the City's Manager of Materials Management confirms in writing that such adjustments are acceptable to it, the Requirements and the Contract Price will then be deemed to be amended as agreed by the City's Manager of Materials Management. If the City determines that such adjustments, or no adjustments, to the Contract Price are unacceptable and the City's Manager of Materials Management and the Contractor are unable to agree on an acceptable price, the City's Manager of Materials Management shall be entitled to refer such issue to arbitration (pursuant to Section 34.0 - *Dispute Resolution*) to determine the price for such amendments to the Requirements or it may elect either to proceed with this Contract without the proposed change or it may elect to cancel this Contract, on 10 days prior written notice without further liability, or recourse, except to pay the Contractor for all work duly performed and Product supplied to the City prior to the effective date of cancellation.

11.0 Disputes as to Requirements

All orders or instructions with respect to the Requirements issued by the (Dept or entity) or the Manager of Materials Management to the Contractor will be obeyed, performed and complied with by the Contractor promptly, efficiently and to the satisfaction of the (Dept or entity). However, if the Contractor is of the opinion that such orders or instructions are not authorized under the provisions of the Contract Documents or involve a change in the Requirements, it must promptly notify the City in writing before proceeding to carry them out and, in any event, within 2 days of the receipt of such orders or instructions. The giving of such notice to and receipt by the City will not constitute an acknowledgement by the City as to the validity of the Contractor's claim, and the City now reserves all rights to contest or dispute the Contractor's claim. If the Contractor does not so notify the City within the time so limited, it will not be entitled to later claim that the orders or instructions were not so authorized or involved a change in the Requirements. In any event, the giving of such notice to the City will not relieve the Contractor of its obligation to carry out and to obey such orders or instructions.

12.0 Sub-Contractors

12.1 All Sub-Contractors are the responsibility of the Contractor.

12.2 The Contractor will be held as fully responsible to the City for the acts and omissions of its Sub-Contractors and of persons directly or indirectly employed by the Contractor, as for the acts and omissions of persons directly employed by it.

12.3 Nothing contained in any of the Contract Documents will create any contractual relationship between the Sub-Contractors and the City.

12.4 The Contractor agrees to ensure compliance by every Sub-Contractor with the terms and requirements of the Contract Documents.

13.0 Named Sub-Contractors

The Contractor confirms that the Sub-Contractors shown in its Proposal are the only Sub-Contractors that it will use to carry out the Requirements. The Contractor will engage only the listed Sub-Contractors and no others in their stead without prior written authorization of the City, which authorization may be arbitrarily withheld.

14.0 Independent Contractor

The Contractor, its Sub-contractors, the officers, directors, shareholders, partners, personnel, affiliates and agents of the Contractor and its Sub-Contractors are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City of Vancouver.

15.0 Assignment

The Contractor, and its appointed Sub-Contractors, may not assign, sublet or let out as task work any part of the Work, and will not assign any interest or any right to payment under this Agreement without first having had and obtained the consent in writing of the City; which consent the City may arbitrarily elect to withhold. If the City consents to any such assignment, subletting or letting out as task work of all or any part of the Work, the Contractor will in no way be relieved from its responsibility for the fulfilment of the Work, but will continue to be responsible for the same in the same manner as if all the Work had been performed by the Contractor.

16.0 Time of the Essence

For all obligations of the Contractor pursuant to this Agreement, time is of the essence. The acceptance of a late performance, with or without objections or reservations by the City, will not waive the City's right to claim damages for such breach nor constitute a waiver of the City of the requirement of timely performance of any obligation remaining to be performed.

17.0 Compliance with Laws, Permits and Regulations

In carrying out its obligations, the Contractor will familiarize itself and comply with all applicable laws, bylaws, regulations, ordinances, codes, specifications and requirements of all regulatory authorities, and will obtain all necessary licenses, permits and registrations as may be required by law.

18.0 Delivery/WHMIS Legislation

Deliveries must be made by the Contractor, at its sole risk and expense to the exact location within the City's worksite, office, or other place as designated by the City, and only between 8:00 a.m. and 3:00 p.m. Monday to Friday, excluding statutory holidays, unless other arrangements have been agreed in writing. A material safety data sheet ("MSDS") must accompany all shipments containing products regulated under WHMIS Legislation.

19.0 Inspection

- 19.1 All Products will be subject to inspection and test by and must meet the approval of the City (or dept or entity's name).
- 19.2 In the event that the Product or any portion of the Product does not comply with the Requirements of this Agreement or the Contractor's warranty (expressed or implied), the City will have the right either to reject the Product or to require correction and the Contractor will reimburse the City any costs incurred as a result of the non-compliant Product.
- 19.3 Acceptance or rejection of the Product must be made as promptly as practical, but failure to inspect and accept or reject the Product will not relieve the Contractor from responsibility for such Work that is not in accordance with the Requirements.

- 19.4 The City will be the final judge of the Product in respect of both quality and quantity and its decisions of all questions in dispute will be final. Materials, goods or equipment not accepted will be returned to the Contractor at the Contractor's expense.
- 19.5 Under no circumstances will the City be deemed to have accepted the Product by virtue of a partial or full payment for them.

20.0 Quality of Workmanship and Materials

- 20.1 The Contractor will perform the Work with the degree of care, skill and diligence normally applied in the performance of services of a similar nature and in accordance with sound current professional practices and the Requirements.
- 20.2 Materials, goods and equipment incorporated into the Product will be from suppliers or manufacturers of established reputation engaged in the supply or manufacture of such materials or equipment.
- 20.3 Materials are to be applied in accordance with the manufacturer's directions and the Contractor will use the techniques and applications best suited for the type of material being used.

21.0 Packaging

The Product will be adequately packaged to protect from damage during handling, shipment, and storage, and individually packaged and identified.

22.0 Product Return Policy

- 22.1 The Contractor will institute a policy and procedure which facilitates the prompt return and credit to the City's account of defective or non-compliant Product as required by Section 19.4.
- 22.2 The Contractor must fully inspect all Product before shipment to the City and upon request, provide the City with full access to the Contractor's inspection records, process, and place of inspection.

23.0 Non- Exclusivity - Alternative Sourcing

- 23.1 The Contractor acknowledges that this Agreement is not an exclusive supplier contract nor a guaranteed quantity contract. The City is not obligated to purchase any Product nor any minimum quantity of Product, regardless of the estimates and anticipated demand amounts set out in the RFP.
- 23.2 The City reserves the right to purchase products of the same type as those required to be provided under this Agreement from other sources whether or not it deems that the Product offered by the Contractor does not meet the quality standards; or are deemed to be inferior or unacceptable for use; or that the Contractor cannot supply as specified.

24.0 Warranty

- 24.1 The Contractor warrants that for at least 1 year from the City's first use of the Product, that the Product supplied and Work performed by the Contractor to the City will be in full conformity with the Requirements as well as samples, if any, and if so, then this is a sale by sample as well as by description within the meaning of the Sale of Goods Act (BC).

- 24.2 The Contractor further warrants that for at least 1 year from the City's first use of the Product, the Product and Work will be of merchantable quality, and fit for the intended use and will perform according to the Requirements.
- 24.3 Equipment and materials used in the Product and Work must be new, free and clear of all liens, charges and encumbrances, the latest model, and delivered complete with all necessary accessories for operation.
- 24.4 The warranty set out in Sections 24.1 - 24.2 above will include all parts and labour delivered and performed at the location of delivery of the Product to the City, and is the minimum warranty. The Contractor is bound by such additional warranties (if any) set out in the Contractor's Proposal.
- 24.5 The Contractor warrants that its employees and Sub-Contractors have the qualifications, experience, knowledge, skills and abilities necessary for the fulfillment of this Agreement.

25.0 Protection of Person and Property

- 25.1 The Contractor will use due care that no persons are injured, no property damaged or lost, and no rights are infringed in the performance of the Work, and the Contractor will be solely responsible for all loss, damages, costs and expenses in respect of any injury to persons, damage of property, or infringement of the rights of others incurred in the performance of the Work or caused in any other manner by the Contractor, or its employees or Sub-Contractors.
- 25.2 The Contractor will effectively warn and protect the public and other personnel from any danger as a result of the Work being done.

26.0 Rectification of Damage and Defects

The Contractor will rectify any loss or damage for which, in the opinion of the City the Contractor is responsible, at no charge to the City and to the satisfaction of the City. Alternatively, the City may repair the loss or damage and the Contractor will then pay to the City the costs of repairing the loss or damage promptly upon demand from the City. Where, in the opinion of the City, it is not practical or desirable to repair the loss or damage, the City may estimate the cost of the loss or damage and deduct such estimated amount from the amount owing to the Contractor.

27.0 Clean Up

The Contractor will at all times conduct the Work in an orderly and reasonably tidy manner, and will at suitable intervals remove any accumulation of rubbish or refuse materials. At no time will any person employed by the Contractor or by any of its Sub-Contractors discard any litter or garbage on or adjacent to the Work Site, except in to a suitable container.

28.0 Passage of Title and Risk

Despite any other term of this Agreement, (a) risk of loss or damages to the Product and Work performed will remain with the Contractor until the receipt and written approval of the Product and/or Work performed is rendered by the City, and (b) title to the Product will pass to the City upon safe delivery (but will revert in the Contractor upon the City's delivery of written notice of rejection of the Product).

29.0 Indemnification

The Contractor will indemnify, hold and save harmless the City from and against all claims, losses, damages, costs, actions and other proceedings made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to:

- (a) any injury, including death, property loss or damage arising from any (i) defect in the Product, or (ii) act or omission of the Contractor, its employees, officers, volunteers, Sub-Contractors, or any other persons for whom the Contractor has assumed responsibility in the performance or purported performance of the Work, or (iii) any break of this Agreement;
- (b) any claim which may be made for a lien or charge at law or in equity or to any claim or liability under the Builders Lien Act, or to any attachment for debt, garnishee process or otherwise; or
- (c) the Contractor's failure to pay all royalties and license fees or on account of suits or claims of infringement by the Contractor, its Sub-Contractors, or the Products or Work of trademarks, patents, copyright, or any other infringement of third party intellectual property rights.

30.0 Insurance Requirements

30.1 Without limiting any of its obligations or liabilities under the Contract, the Contractor and its Sub-Contractors will obtain and continuously carry during the term of the Contract at their own expense and cost, the following insurance coverages with minimum limits of not less than those shown in the respective items set out below.

- (a) Commercial General Liability insurance in sufficient amounts and description to protect the Contractor, its Sub-Contractors, the City of Vancouver and its respective officers, officials, employees, and agents against claims for damages, personal injury including death, bodily injury and property damage which may arise under this Contract.

The limit of commercial general liability insurance will be not less than \$5,000,000 per occurrence inclusive for personal injury, death, bodily injury or property damage and in the aggregate with respect to products and complete operations. The deductible per occurrence will not exceed \$5,000 per occurrence.

The policy of insurance shall:

- i. be on an occurrence form;
- ii. add the City of Vancouver and its officials, officers, employees and agents as additional insureds;
- iii. contain a cross-liability or severability of interest clause;
- iv. extend to cover non-owned automobile, contingent employer's liability, blanket contractual liability, contractor's protective liability, broad form property damage, broad form completed operations and operations of attached machinery.

- (b) The Contractor will ensure that vehicles owned and/or operated by the Contractor in connection with the Contract maintain Third Party Legal Liability Insurance in an amount not less that \$2,000,000 per occurrence.

- 30.2 All insurance policies will be in a form and in amounts satisfactory from time-to-time and with insurers acceptable to the City's Director of Risk and Emergency Management and will provide the City's Director of Risk and Emergency Management with 60 days prior written notice of material change, lapse or cancellation. Notice must identify the Contract title, number, policy holder, and scope of work.
- 30.3 The Contractor and each of its Sub-Contractors will provide at its own cost any additional insurance which it is required by law to provide or which it considers necessary.
- 30.4 Neither the providing of insurance by the Contractor in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing will be held to relieve the Contractor from any other provisions of the Contract Documents with respect to liability of the Contractor or otherwise.
- 30.5 The insurance coverage will be primary insurance as respects the City. Any insurance or self-insurance maintained by or on behalf of the City, its officers, officials, employees, or agents will be excess of the Contractor's insurance and will not contribute with it.
- 30.6 Prior to the Effective Date, the Contractor will provide the City with evidence of all required insurance to be taken out in the form of the attached Certificate of Insurance supported by a certified copy(s) of the policy(s). The Certificate of Insurance will identify the Contract title, number, policyholder and scope of work and must not contain any qualifications or disclaimers. Proof of insurance, in the form of a Certificate of Insurance or certified copies of all insurance policies will be made available to the City's Director of Risk and Emergency Management at any time during the term of the Contract immediately upon request.
- 30.7 The Contractor will provide in its agreements with its Sub-Contractors clauses in the same form as in this Agreement. Upon request, the Contractor will deposit with the City's Director of Risk and Emergency Management detailed certificates of insurance for the policies it has obtained from its Sub-Contractors and a copy of the applicable insurance clauses from its sub-contract agreements.
- 30.8 The Contractor will ensure that the required insurance is provided only by a company duly registered and authorized to conduct insurance business in the Province of British Columbia.

31.0 Workers' Compensation

- 31.1 Prior to commencing any Work on the Work Site, the Contractor must provide evidence that it is in good standing with the Workers' Compensation Board of British Columbia ("WCB"). The Contractor is responsible for having the Work Site secured in accordance with WCB Legislation and ensure the safety of the public at all times during the performance of the Work.
- 31.2 The Contractor is now appointed and now accepts appointments as the Prime Contractor for the purpose of the Contract(s) and as such, has the responsibility to:
- (a) ensure the Work is done in a safe manner that complies with the WCB's Legislation requirements;

- (b) direct and coordinate the work activities related to the health and safety of all the Contractor's Sub-contractors and any other workers in the workplace and immediately give notice; and,
- (c) obtain from the City written information on hazards and conditions and the methods to address the hazards and conditions and will circulate this information.

31.3 Prior to starting any Work at the Work Site the Contractor must:

- (a) have its own safety program and have written safe work procedures specific to the work being performed available at the Work Site; and
- (b) ensure the safety program meets all of the requirements of the WCB Legislation.

31.4 The Contractor will:

- (a) advise the City of any accidents or incidents at the workplace that must be reported to the Workers' Compensation Board; and
- (b) inform all persons working under this Agreement on the workplace of the health and safety requirements at the workplace.

31.5 At all times the Contractor will ensure that its workers and Sub-Contractors, and all other workers coming onto the workplace will comply with:

- (a) the WCB Legislation;
- (b) the Contractor's safety program; and
- (c) all Work Site safety requirements.

32.0 Character of Workers/Security Clearance

32.1 On the written request of the City, the Contractor will remove any employee, Sub-Contractor or agent for any reason including but not limited to the following:

- (a) Intoxication;
- (b) Use of foul, profane, vulgar or obscene language or gestures;
- (c) Solicitation of gratuities or tips from any person for services performed under the Contract;
- (b) Willful, negligent or reckless action in disregard of safety or sanitary requirements or regulations; or
- (c) Loss of or failure to obtain appropriate or required ECOMM Security Clearance; or
- (e) Any action which may constitute a public nuisance or disorderly conduct.

33.0 City's Right to Remedy

Should the Contractor neglect to execute the Work properly or fail to perform any provision of the Contract, the City may, without prejudice to any other right or remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment due to the Contractor.

34.0 Dispute Resolution

- 34.1 All claims, disputes or issues in dispute between the City and the Contractor will be decided by mediation or arbitration, if the parties agree, or failing agreement, in a Court of competent jurisdiction within British Columbia and be governed by the laws of British Columbia.
- 34.2 In the event that (a) the parties agree to arbitration pursuant to the above, or (b) matter is referred to arbitration by City's Manager of Materials Management, pursuant to Section 10.0, the arbitration will be conducted pursuant to the Commercial Arbitration Act (British Columbia) and will be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the parties, and failing agreement by the parties, shall be appointed by a court of competent jurisdiction with the Province of British Columbia.
- 34.3 In the event that the parties agree to arbitration, the arbitration shall take place in the Lower Mainland, British Columbia and be governed by the laws of British Columbia.
- 34.4 The procedure set out in this section is not meant to preclude or discourage informal resolution of disagreements between the City and the Contractor.
- 34.5 Despite Section 34.1, the laws of British Columbia will govern this Agreement and the courts of British Columbia will have exclusive jurisdiction over all disputes arising under this Agreement unless and until the parties agree in writing to mediate or arbitrate any specific dispute.
- 34.6 All provisions of the International Sale of Goods Act (British Columbia) are specifically excluded from application to this Agreement.

35.0 Cancellation

- 35.1 The City may, by written notice to the Contractor, immediately cancel the whole or any part of this Agreement in any one of the following circumstances:
- (a) pursuant to Section 10.0;
 - (b) if the Contractor fails to make delivery of the Product or to perform the Work within the time specified, or fails to perform any other provisions, terms or conditions of the Contract within the time specified, or within a reasonable time if no time is specified;
 - (c) if the Contractor performs any act or does anything which causes the City to incur any legal liability whatsoever;
 - (d) if the Contractor fails to meet the safety requirements of the Contract;
 - (e) if any creditor of the Contractor causes a writ of execution or similar writ or court order to be served upon the City requiring the City to pay any portion due to the Contractor under the Contracts;
 - (f) if the Contractor is adjudged bankrupt or if it makes a general assignment for the benefit of creditors or if it becomes insolvent or if it should take the benefit of any Act that may be in force for bankrupt or insolvent debtors; or

(g) if the Contractor breaches any other term of this Agreement.

35.2 Upon cancellation of the Contract, the City will have no obligation to the Contractor except to pay for such Product or Work properly delivered or performed prior to the date of the cancellation of the Contract.

35.3 Upon cancellation of the Contract in whole or in part, the City may procure similar goods and/or services and the Contractor will be liable to the City for any excess costs for such similar goods and/or services. The Contractor will not be liable for any excess costs where the cancellation is effected pursuant to paragraphs 35.1(a) and Section 10.

36.0 Payments

36.1 The Contractor will be paid net 30 days from receipt of invoice and acceptance of the Work, whichever is the later, unless alternate payment terms have been agreed to between the Contractor and the City.

36.2 The Contractor may be required to accept payment by purchasing card (MasterCard).

37.0 Taxes

37.1 Unless otherwise provided herein, the City will pay the GST and PST on the Contract Price to the Contractor, provided that any increase or decrease in such GST and PST will proportionately increase or decrease the amount due under the Contract(s).

37.2 Prices agreed upon are to be exclusive of GST and PST, with all costs relating to freight, handling, import duties, brokerage, royalties, handling, overhead, profit and any and all other costs included as negotiated within this Agreement.

37.3 Invoices must separately show the appropriate amounts for GST and PST.

38.0 Contract Management and Representation

38.1 The Contractor and the City will comply with and implement the transition plan and protocol for the management of the Contract as set out in (Insert Plan Document Reference).

38.2 The Contractor's Contact Person will be _____ and make decisions to ensure that the Contract implementation and day-to-day operation are as specified in (Insert Plan Document Reference). and will serve as a point of contact for the City.

38.3 The Contractor's overall performance and the quality of its work will be determined by the City. Performance will be judged on such factors as service levels including the frequency of back-orders, product quality, dependability, and such other issues that the City determines are key performance indicators. Where the Contractor's performance or personnel does not meet the experience, knowledge, skills and abilities necessary for the fulfillment of this Agreement, (name of person, title and entity) or the Manager of Materials Management will provide the Contractor with reasonable written particulars of same, so as to afford the Contractor a reasonable opportunity to improve and correct performance.

38.4 Nothing in this Section 38.0 modifies or limits the City's legal rights and remedies under section 35.0 and at law or in equity.

39.0 Set-off

The City may at its option, withhold and set-off against any amount owing to the Contractor (whether under this Agreement or otherwise) the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Contractor, whether such claim is at law or in equity or tort or on any other basis.

40.0 Joint Venture or Partnership

If a joint venture or partnership, the Contractor represents and warrants that all members of the joint venture or partnership are as indicated on the execution page of this Agreement and have duly executed same. The obligations and liabilities of the members of a joint venture or partnership executing this Agreement as the Contractor will be joint and several.

41.0 Entire Agreement

The Contract Documents constitute the entire agreement between the parties and supersede all previous communications, representations and agreements whether verbal or written between the parties with respect to their subject matter. The Contractor now acknowledges that it is not relying on any representations of the City as to the performance of the Requirements, except as expressly stated in the RFP, subject always to Sections 23.0 and 7.3 above.

42.0 Failure to Enforce

Any failure by the City to enforce or require the strict keeping and performance of any of the terms and conditions contained in the Agreement will not constitute a waiver of such terms and conditions, and will not affect or impair such terms and conditions in any way or the City's right at any time to avail itself of such remedies as the City may have for any breach or breaches of such terms and conditions.

43.0 Successors and Assigns

This Agreement will benefit and bind each party and its successors and permitted assigns.

AS EVIDENCE OF THE CITY'S AND CONTRACTOR'S agreement to be legally bound by the terms of the Contract Documents, the City and Contractor have signed and delivered this Agreement effective as the Effective Date.

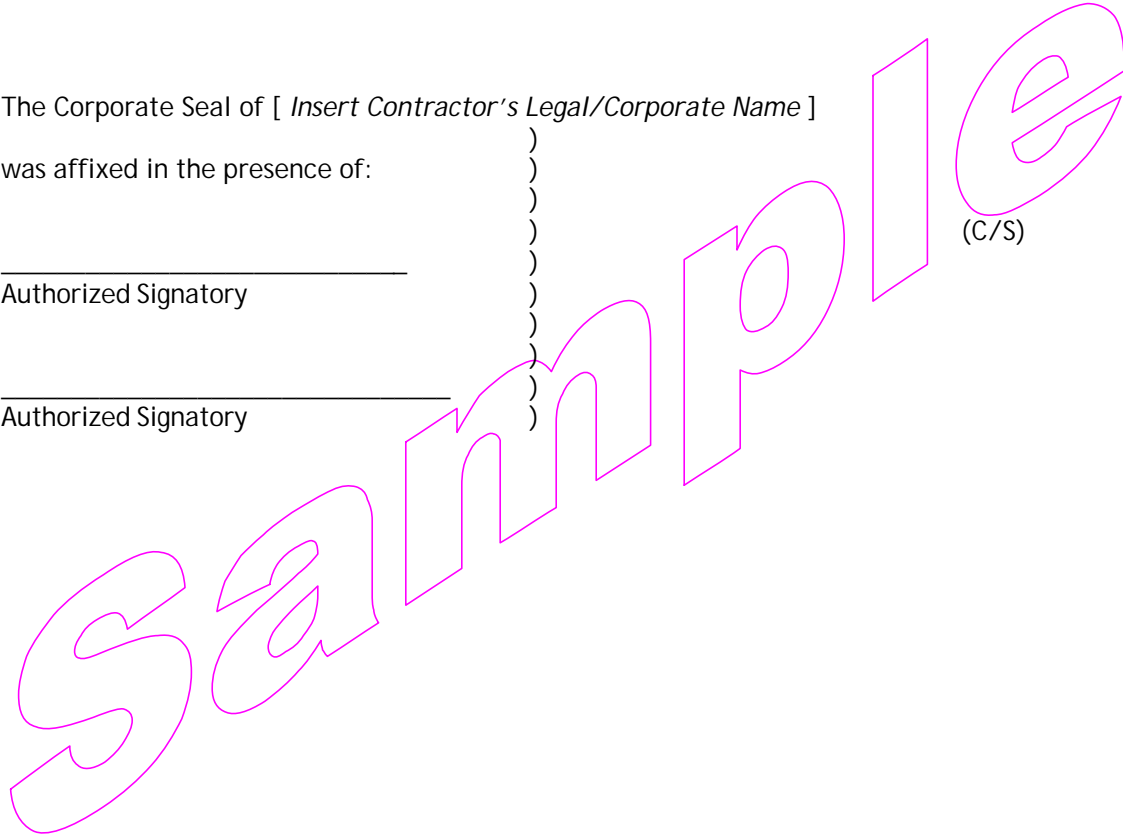
The Seal of the CITY OF VANCOUVER, as represented by the [*Name of Entity where applicable*]
was affixed in the presence of:

_____)
_____) (C/S)
_____)
Title

_____)
Director of Legal Services

The Corporate Seal of [*Insert Contractor's Legal/Corporate Name*]
was affixed in the presence of:

_____)
_____) (C/S)
_____)
Authorized Signatory
_____)
_____)
Authorized Signatory



THIS CERTIFICATE IS ISSUED TO THE CITY OF VANCOUVER,

NAMED INSURED: _____

MAILING ADDRESS: _____

And certifies that policies of insurance as herein described will be issued to the named insured (s) and will be in full force and effect as of the effective date of the award of contract(s).

PROPERTY (All Risks Coverage incl. Earthquake & Flood) PROPERTY REPLACEMENT COST INSURED VALUES:

INSURER: _____ Building incl. Tenants Imp.: \$ _____

TYPE OF COVERAGE: _____ Contents and Equipment: \$ _____

POLICY NUMBER: _____ Deductible/Accident: \$ _____

POLICY PERIOD: From: _____ to _____

COMMERCIAL GENERAL LIABILITY including:

- ? Occurrence Form
- ? Personal Injury
- ? Products and Completed Operations
- ? Cross Liability or Severability of Interest
- ? Employees as Additional Insureds
- ? Blanket Contractual
- ? Non-Owned Automobile

LIMITS OF LIABILITY:

Bodily Injury and Property Damage Inclusive

Per Occurrence: \$ _____

Aggregate: \$ _____

All Risk Tenant's Legal Liability: \$ _____

INSURER: _____ Deductible Per Occurrence: \$ _____

POLICY NUMBER: _____ POLICY PERIOD: From: _____ to _____

AUTOMOBILE LIABILITY including: _____ Owned Vehicles _____ Leased Vehicles _____

INSURER: _____ LIMITS OF LIABILITY: \$ _____

POLICY NUMBER: _____ Combined Single Limit: \$ _____

POLICY PERIOD: From: _____ to _____

_____ UMBRELLA LIABILITY _____ EXCESS LIABILITY LIMITS OF LIABILITY: _____

INSURER: _____ **(Bodily Injury and Property Damage Inclusive)**

POLICY NUMBER: _____ Per Occurrence: \$ _____

POLICY PERIOD: _____ Aggregate: \$ _____

Self-Insured Retention: \$ _____

OTHER [Boiler & Machinery, Professional Liability...etc.] Specify Policy, Name of Insurer, Policy Period

POLICY PROVISIONS (ALL LINES except Automobile Liability Insurance):

These policies will comply with the insurance requirements set out in this RFP. It is understood and agreed that, where required, the City will be added as an additional named insured and that sixty (60) days notice of any material change or cancellation of any of the policies listed herein, either in part or in whole will be given by the insurers to the holder of this certificate.

All the foregoing insurance will be primary and insurance or self-insurance maintained by the City shall be in excess of this insurance and not contribute to it.

AUTHORIZED SIGNATORY FOR THE NAMED INSURED (Contractor) _____ Dated: _____

AUTHORIZED SIGNATORY ON BEHALF OF THE INSURERS _____ Dated: _____

NAME OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER, ADDRESS, and PHONE NO: _____



CITY OF VANCOUVER
CORPORATE SERVICES GROUP
Materials Management
Purchasing Services

Request for Proposal
No. PS07124
The Supply and Installation of IBM Computer Hardware

To acknowledge your intent to submit a Proposal, please submit this form to the person identified below before close of business day, Tuesday, September 18, 2007

Syd Stowe
 City of Vancouver
 Fax: (604) 873-7057
 Email: purchasing@vancouver.ca

Your details:

Proponent's Name: _____
 "Proponent"

Address: _____

Telephone: _____ Fax: _____

Key Contact Person: _____

E-mail: _____ Incorporation Date: _____

Our company **WILL ? / WILL NOT ?** submit a proposal for
 "PS07124 - The Supply of and Installation of IBM Computer Hardware
 by the closing date (Tuesday September 25, 2007 at 3:00 P.M.).

 Authorized Signatory and Name of Company (Please print)

 E-mail Address (Please print)

 Date