



REQUEST FOR PROPOSALS

PROVISION OF A CCTV ANALYTICS AND INFRASTRUCTURE CONDITION ASSESSMENT SOLUTION

RFP No. PS20191565

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SUMMARY

The Purpose of the RFP is to seek qualified Proponent for the provision of a CCTV Analytics and Infrastructure Condition Assessment Solution (“Solution”).

The City is interested in selecting a single Proponent with the capability and experience to efficiently and cost-effectively meet the functional, technical and interoperability requirements described in the RFP. The City’s preference is to select a commercial-off-the-shelf (COTS) solution that can be configured with minimal customizations and leverages industry best practices.

PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

- 1.1 Except where expressly stated otherwise in Appendix 1 of Part C of the Request for Proposals (“RFP”): (i) no part of the RFP consists of an offer by the city to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the city.
- 1.2 The City is interested in selecting an entity, which is not, by the terms hereof, barred from submitting a Proposal, and which does submit a Proposal (each such entity, a “Proponent”) with the capability and experience to efficiently and cost-effectively meet the objectives and requirements described in the RFP. The City currently expects to select such a Proponent and then enter into negotiations with that Proponent, which will conclude in the execution of a contract between the Proponent and the City (such a contract, an “Agreement”). However, the City may: (i) decline to select any Proponent; (ii) decline to enter into any Agreement; (iii) select multiple Proponents for negotiation; or (iv) enter into one or more agreements respecting the subject matter of the RFP with one or more Proponents or other entities at any time. The City may also terminate the RFP at any time.
- 1.3 The City currently intends that Proposals will be evaluated by the City in relation to their overall value, which will be assessed in the City’s sole and absolute discretion. In assessing value, the City expects to consider the factors described in Section 8.0 below, among others.
- 1.4 No bid security is required from Proponents in connection with the submission of Proposals because no Proposal will be deemed to be an irrevocable or otherwise binding legal offer by a Proponent to the City. The legal obligations of a Proponent that will arise upon the submission of its Proposal will be limited to the terms and conditions stated under the heading “Legal Terms & Conditions” in Appendix 1 to the Part C - Form of Proposal.
- 1.5 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.
- 1.6 The RFP consists of four parts, plus appendices:
 - (a) PART A - INFORMATION AND INSTRUCTIONS: This part is intended to serve as a guide to the RFP process for Proponents.
 - (b) PART B - SCOPE OF WORK: This part describes the subject matter of the RFP, in respect of which the City invites Proposals.

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- (c) PART C - FORM OF PROPOSAL: This is the form in which the Proposal should be submitted.
- (d) Error! Reference source not found. - FORM OF AGREEMENT: This part contains a model Agreement (the "Form of Agreement"). Any Agreement resulting from the RFP is expected to be substantially in the form of the Form of Agreement.

2.0 KEY DATES

2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for Enquiries	3:00pm PST on January 23, 2020
Closing Time	3:00pm PST on January 30, 2020

2.2 All references to time in the RFP are references to the time in the City of Vancouver, as indicated in the electronic timestamp the Proposal receives upon delivery to the email address specified herein, which is in turn synchronized to Network Time Protocol (NTP) provided by the National Research Council of Canada adjusted to local Pacific Time Zone.

3.0 CONTACT PERSON

3.1 All enquiries regarding the RFP must be addressed to:

Wen Shi
Wen.shi@vancouver.ca

3.2 All enquiries must be made in writing and are to be directed only to the above contact person. In-person or telephone enquiries are not permitted. Any communication from potential Proponents to City staff other than the contact person regarding the content of this RFP may lead to disqualification of the Proponent from this RFP process, at the City's sole discretion.

3.3 IF A POTENTIAL PROPONENT BELIEVES THAT THE CITY MAY BE UNABLE TO SELECT IT DUE TO A CONFLICT OF INTEREST, BUT IS UNCERTAIN ABOUT THIS, THE POTENTIAL PROPONENT IS URGED TO CONTACT THE ABOVE-MENTIONED INDIVIDUAL AS SOON AS POSSIBLE WITH THE RELEVANT INFORMATION SO THAT THE CITY MAY ADVISE THE POTENTIAL PROPONENT REGARDING THE MATTER.

4.0 SUBMISSION OF PROPOSALS

4.1 Proponents should submit their Proposals on or before the time and date specified in the bottom row of the table in Section 2.1 above (the "Closing Time").

4.2 Each Proponent should submit its Proposal by email in accordance with the following:

- Subject of the file to be: PS# - Title - Vendor name.
- Document format for submissions:
 - RFP Part C in PDF format - 1 combined PDF file, including Any other attachments if necessary, and;

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- RFP Part B Annex 1 - Detail Business and Technical Requirements in Excel format
 - RFP Part C Appendix 3 - Commercial Proposal in Excel format
 - Zip the files to reduce the size or email separately if needed.
 - Send your submissions to Bids@vancouver.ca; do not deliver a physical copy to the City of Vancouver.
 - If you did not receive an automated email within few minutes, check your junk folder first, and then contact Purchasing@vancouver.ca.
 - Submitting the files via Drop box, FTP, or similar programs, is not acceptable.
- 4.3 To be considered by the City, a Proposal must be submitted in the form set out in Part C (the “Form of Proposal”), completed and duly executed by the relevant Proponent.
- 4.4 Amendments to a Proposal may be submitted via the same methods, at any time prior to the Closing Time.
- 4.5 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 4.6 All costs associated with the preparation and submission of a Proposal, including any costs incurred by a Proponent after the Closing Time, will be borne solely by the Proponent.
- 4.7 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.
- 4.8 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium for the purpose of responding to the RFP, provided that they disclose the names of all members of the consortium and all members complete and sign the first page of the Form of Proposal. Nonetheless, the City has a strong preference for Proposals submitted by a single Proponent, including a Proponent that would act as a general contractor and use subcontractors as required.
- 4.9 Proposals that are submitted after the Closing Time or that otherwise do not comply in full with the terms hereof may or may not be considered by the City and may or may not be returned to the Proponent, in the City’s sole discretion.
- 5.0 CHANGES TO THE RFP AND FURTHER INFORMATION**
- 5.1 The City may amend the RFP or make additions to it at any time.
- 5.2 It is the sole responsibility of Proponents to check the City’s website at: <http://vancouver.ca/doing-business/open-bids.aspx> regularly for amendments, addenda, and questions and answers in relation to the RFP.
- 5.3 Proponents must not rely on any information purported to be given on behalf of the City that contradicts the RFP, as amended or supplemented in accordance with the foregoing Section 5.2.
- 6.0 PROPOSED TERM OF ENGAGEMENT**
- 6.1 The term of any Agreement is expected to be a five-year period, with four (4) possible one-year extensions, for a maximum total term of nine (9) years.

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7.0 PRICING

- 7.1 All prices quoted in any Proposal are to be exclusive of applicable sales taxes calculated upon such prices, but inclusive of all other costs. Where services are subject to PST, considering revising so that prices are inclusive of PST and all other applicable taxes but exclusive of GST.
- 7.2 Prices must be quoted in Canadian currency and fixed prices must be quoted for the full term of the Proponent's proposed agreement.

8.0 EVALUATION OF PROPOSALS

- 8.1 The City may open or decline to open Proposals in such manner and at such times and places as are determined by the City.
- 8.2 The City currently intends that all Proposals submitted to it in accordance with the RFP will be evaluated by City representatives, using quantitative and qualitative tools and assessments, as appropriate, to determine which Proposal or Proposals offer the overall best value to the City. In so doing, the City expects to examine:

Evaluation Criteria	Evaluation Weighting
Technical	70%
Financial	30%
Total	100%

- 8.3 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.
- 8.4 The City may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.
- 8.6 The City may also require that any proposed subcontractors undergo evaluation by the City.
- 8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a

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Proposal; (h) split the scope of work between one or more Proponents; and (i) enter into one or more agreements respecting the subject matter of the RFP with any entity or entities at any time. Without limiting the foregoing, the City may reject any Proposal by a Proponent that has a conflict of interest, has engaged in collusion with another Proponent or has otherwise attempted to influence the outcome of the RFP other than through the submission of its Proposal.

9.0 CITY POLICIES

9.1 The City's Procurement Policy, Ethical Purchasing Policy and related Supplier Code of Conduct found at <http://vancouver.ca/doing-business/selling-to-and-buying-from-the-city.aspx> align the City's approach to procurement with its corporate social, environmental and economic sustainability values and goals. They evidence the City's commitment to maximize benefits to the environment and the community through product and service selection, and to ensure safe and healthy workplaces, where human and civil rights are respected. Each Proponent is expected to adhere to the supplier performance standards set forth in the Supplier Code of Conduct. The Ethical Purchasing Policy shall be referred to in the evaluation of Proposals, to the extent applicable.

9.2 The City's Alcohol, Controlled Drugs and Medications Policy applies to all contractors doing work on behalf of the City and can be found at <https://policy.vancouver.ca/ADMIN011.pdf>. The policy is intended to set expectations regarding the use of alcohol, medication and controlled drugs that may render an employee unfit for work, impair performance or cause risk of harm to health and safety. The successful Proponent will be required to ensure compliance with the policy by its employees when doing work for the City.

10.0 CERTAIN APPLICABLE LEGISLATION

11.1 Proponents should note that the City of Vancouver is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's consultants or contractors to protect all personal information acquired from the City in the course of providing any service to the City.

11.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

11.0 LEGAL TERMS AND CONDITIONS

12.1 The legal obligations of a Proponent that will arise upon the submission of its Proposal are stated in this Appendix 1 to the Form of Proposal. Except where expressly stated in these Legal Terms and Conditions: (i) no part of the RFP consists of an offer by the City to enter into any contractual relationship; and (ii) no part of the RFP is legally binding on the City.

POTENTIAL PROPONENTS MUST REVIEW THESE LEGAL TERMS AND CONDITIONS CAREFULLY BEFORE SUBMITTING A PROPOSAL.

PART B - SCOPE OF WORK

The scope of work stated in this Part B (collectively, the “Scope of Work”) is current as of the date hereof, but may change or be refined in the course of the evaluation of Proposals or otherwise.

Unless otherwise stated, if, and wherever, the Scope of Work states a brand name, a make, the name of a manufacturer, a trade name or a vendor catalogue number, it is for the purpose of establishing a grade or quality of materials, goods or equipment only. It is not intended to rule out the use of other equivalent materials, goods or equipment. If, however, products other than those specified are proposed in any Proposal, the Proposal must explicitly include under the heading “Alternative Solutions” the names of such products and their manufacturers, any trade names and any applicable vendor catalogue numbers, and the City may request that the Proponent provide specific evidence of equivalency. Evidence of quality in the form of samples may also be requested.

To the extent that the Scope of Work expresses estimates of quantities or volumes of goods or services expected to be required by the City, the City cannot offer any assurances that such quantities or volumes will in fact be required.

1.0 INTRODUCTION

The City of Vancouver owns and operates approximately 2,100 km’s of sewer and drainage mains, with a replacement value of approximately \$6 billion. To plan and effectively utilize these assets the City has embarked on the acquisition of a CCTV Analytics and Infrastructure Condition Assessment solution.

This project aligns with the Engineering Strategic Plan 2017-2020 by meeting the following corporate goals and engineering objectives.

Goal 2: The City is financially healthy and administratively effective

Objective 2.4: Continue to standardize processes and tools to improve productivity

Goal 10: Vancouver’s assets and infrastructure are well-managed and resilient

Objective 10.1: Increase effectiveness of planning and management frameworks for infrastructure delivery, construction and maintenance

The City of Vancouver requires a Proponent with a proven background in utilizing CCTV inspection data and completing infrastructure condition analytics for the provision, implementation and optional ongoing maintenance that meets or exceeds the technical, business and interoperability requirements as specified in Annexes 1 - Detail Technical Requirements.

2.0 PROJECT BACKGROUND

2.1 Current State

The City currently performs CCTV inspections of all sewer mains through a CCTV contract managed by an external contractor. Inspections are completed on a scheduled basis to meet a 20 year system condition assessment cycle, resulting in approximately 120 km’s of sewer mains being inspected per annum. The deliverables from the inspection are a report complete with indexed photos, pipe condition ratings to the NASSCO PACP V7.0.2 standard, the corresponding database file, and the video of the CCTV inspection. The Sewer Design Branch in Engineering

Services is responsible for the management and analysis of sewer main condition data and provides the roadmap of the needs for asset management; supporting proactive inspection, maintenance and renewal of assets.

Operational & Maintenance (O&M) Planning

Inspection reports are reviewed for defects and work orders are manually created in the City's CMMS, Hansen V8.4.0. The planned maintenance/repair is to be completed by internal O&M crews. The structural pipe rating index (RI) of each sewer main is manually validated by the engineering team. The final structural grades are then individually uploaded to the CMMS which then updates the GIS platform, Esri ArcGIS Pro.

Capital Planning

The Sewer Design Branch extracts the final structural grades and work order history data from Hansen periodically. Combining dynamic and static asset data, a condition and risk rating is calculated in excel using a criterion set out in the Branch's Sewer + Drainage Risk Management Framework. Structural grading, operating and maintenance history, and criticality attributes are used to develop a prioritized sewer main renewal candidate list during capital planning. Candidates are mapped in Esri ArcGIS Pro to assist with City-wide short-term and long-term planning.

2.2 Problem Definition

It is apparent that the CCTV data received is not leveraged to its full potential in the current process. Defects require a manual review before assigning the final structural grade and deciding the appropriate inspection, maintenance and renewal option on the asset. This process is time consuming and has risk of human error.

Additionally, O&M defects identified through CCTV inspections are missed in the high level reporting and decision making. This is information that can be used as key performance indicators (KPI) to draw conclusions on asset performance and its relation to factors such as current construction practices, geographic location and the remaining useful life (RUL).

2.3 Future State

The City requires a solution to assist in the management and analysis of CCTV inspection data, with the ultimate goal of fully leveraging the data being collected. This will allow the department to synthesize CCTV data providing the ability to conduct defensible decision making, in-depth risk and prioritization analysis, enhance capital planning processes and allow for more proactive maintenance activities. Contextualized visualizations of identified defects on the main will assist in properly evaluating the condition of the pipe and making the appropriate decision for maintenance/renewal.

The foundations of the software should be based on ESRI ArcGIS Pro and have the ability to export work order information which can in-turn be uploaded to Hansen V8.4.0. The software will provide a platform that brings together all asset data (static and dynamic), CCTV inspection deliverables and work order history to provide stakeholders easy access.

3.0 SCOPE OF WORK SUMMARY

The City requires a Proponent to provide a solution utilizing standards based on CCTV and Infrastructure Condition Assessment Analytics hardware and associated firmware that meets or exceeds all the evaluation criteria as described in this RFP. The successful Proponent shall:

- a) Provide Software and installation services
- b) Provide configuration assistance as required
- c) Provide a Delivery Schedule
- d) Provide Training, Maintenance and Support
- e) Provide Documentation, Reports and Logs
- f) Provide License, Support and Warranty

4.0 DETAIL REQUIREMENTS

4.1 Overview

To help realize these goals, the City of Vancouver requires a CCTV Analytics and Infrastructure Condition Assessment solution that will meet or exceed specific City of Vancouver operational needs and strict technical requirements.

The solution is expected to deliver on the following high level features:

- a) Platform that brings together CCTV inspection analytics and work order history
 - Filters through inspection data, spatially assigns appropriate structural grade, identifies defects (structural and O&M) that require further action
 - Embedded inspection video
 - Past inspection data and work order history
 - Contextualized visualization of pipe condition using the City's spatial data as the base in ArcGIS format
- b) Infrastructure condition assessment - Analytics/reporting
 - Support defensible decision making and capital planning
 - Condition assessment management for asset lifecycle - Forecasting and risk based planning
- c) CMMS system data exchange and compatibility
 - Service requests, inspections, work orders can be imported from CMMS system
 - Work orders can be created and exported in a format which is compatible with the CMMS system
- d) GIS integration & data exchange
 - Import and export functionality of GIS data

The City does NOT wish to procure a solution which is under development as at the date of the issuance of this RFP. Proposals offering prototypes or items in test production not formally announced for commercial availability as of the date of issuance of this RFP, will not be considered for evaluation by the City. For complete details on the technical requirements, please refer to Annex 1.

5.0 PROJECT DELIVERABLES

A suggested delivery schedule is tabled below. Proponents shall complete their proposed deliverables.

	Deliverable Title	Due Date from Contract Execution
1	Contract Execution	TBD
2	Initial kick off meeting	2 weeks after the Contract executed
3	Implement Software	4 weeks
4	Provide training, technical support, firmware upgrades as required	6 - 10 weeks
5	60 Day reliability (TBD)	TBD

5.1 City's Responsibilities

The City shall provide the following:

a) Project Business & Technical Working Group Committees

This project working group body is made up of the key stakeholders for the successful implementation of this project.

b) Project Management

The City may assign a dedicated Project Manager to serve as a single point of contact to the Proponent. The City's Project Manager's duties include, at a minimum:

- Coordination of project plan development;
- Schedule coordination;
- Management of the City's project team;
- Monitoring and facilitating approval of deliverables;
- Authorizing payment of invoices pending approval of deliverables;

c) City Project Resources

The City shall provide relevant resources (e.g., senior sewer data specialist, etc.) to support the implementation of components of the Proponent's Solution on City systems. Note: The Proponent shall describe the resources required to be provided by the City: the Proponent shall develop a matrix within the project plan deliverable and specify any other required City resources. The City will make best efforts to provide the Proponent with the identified resources.

- Coordination of all project meetings between the Proponent and appropriate City functional and IT technical team members.
- Work space, electrical power, and associated physical device connectivity within the City's facilities for Proponent personnel, as required.

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- Network-related troubleshooting with respect to the Solution, with assistance (as necessary and requested by the City) from the Proponent.
- City Security and Occupational Health and Safety awareness training to all Proponent on-site project personnel.

d) City Solution Acceptance

The City will participate in the testing process by providing input into the development of testing success criteria, and by auditing the test results provided by the Proponent. The Proponent has full responsibility for meeting the success criteria. The City will also undertake their own evaluation and assessment independent of the Proponent. Refer to Part C Appendix 1 - Section 5.

e) Change Approval

Following the City's written notice of contract award, the City's Project Manager will be responsible for validating and obtaining required City approvals on any changes requested by the Proponent relating to the Proponent's subcontractors (Proponents shall complete Part C Appendix 8) which may impact the scope, cost, or timeline of the General Roll-out.

5.2 Proponent's Responsibilities

- a) The Proponent shall provide well-trained technical, support, and consulting staff that keep current with the latest technologies, and are fully knowledgeable in the Proponents' Solution, including the Solution's features, configuration and integration.
- b) The Proponent shall use existing documentation provided by the City (such as business and technical requirements), and ensure that the Solution is in compliance with the evaluation criteria and requirements.
- c) The Proponent shall comply with the following whenever conducting activities within any City facility:
 - Provisions of all applicable directives of the City and the City's agencies;
 - Regulations of City Security Standards; and
 - All applicable Federal, Provincial, and Municipal statutes, ordinances, laws, regulations, codes, directives, and/or orders.
- d) Participate in meetings with the City's Project Business and Technical Working Group Committees and/or Project Team, as directed by the City's Project Manager.
- e) Communicate the delivery schedules of all Solution delivery implementations, to allow the City the ability to track installation and to coordinate testing and acceptance by the City. The delivery shall correspond to the Delivery Schedule as proposed in table above.
- f) Comply with the City's Configuration and Testing procedures, including any configuration or customization requirements not specified within this Annex 1. The Proponent will be responsible for notifying the City's Project Manager such that the City's Project Manager is able to coordinate the approval of any proposed change requests, or configuration updates prior to installation.
- g) Coordinate all project-related activities through the City's Project Manager (i.e. not through members of the user community groups or technical project team members).

- h) Ensure timely and accurate identification and notification of issues, problems, and defects in the solution, work plan, or any other effort related to the project's scope of work, or the Solution itself.

6.0 TRAINING AND DOCUMENTATION

6.1 Training

a) Develop Training Plan

The Proponent shall develop a comprehensive Training Plan Deliverable which shall include/describe, at a minimum:

- the prerequisite user knowledge required prior to beginning training, as well as expected learning objectives, areas of focus and outcomes for each component of the training;
- details regarding the required materials, amount of time and expected learning objectives of each training course;
- Recommendations as to training details (how many per session, how long for each session, required materials & technology).

b) Conduct Training

The Proponent shall provide onsite training services, targeting the following:

The Proponent shall be responsible for all training aids and manuals, and shall provide to each attendee printed training materials and access to electronic training aids and manuals.

Please include in the proposal the recommended training program with role and durations for the solution.

The following roles should be considered in the development of the training plan:

- Managers and interested stakeholders - High level platform capabilities and overview
- Engineers and technicians - Day to day operation of solution
- IT Network techs - Administration (security access and rights, etc.)

The training shall be scheduled such that a single participant may attend all role sessions.

6.2 Documentation

All documentation should be provided in electronic format and in hard copy format where available.

a) Solution Documentation

The Proponent shall include all documentation for their proposed Solution, addressing at a minimum:

Setup and Support:

- General Operations

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- Administration (security access and rights)
- Configuration
- Installation
- Reporting
- Troubleshooting (tips and tricks)
- Who to contact (support)

Documentation:

- Training Documents
- End User Manual
- Schematics and Service Manuals
- Solution documentation and examples (for short-listed Proponents)

Annex 1 – Detail Technical Requirements

Excel document with 8 tabs to be downloaded separately.

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PART C - FORM OF PROPOSAL

PART C - FORM OF PROPOSAL

RFP No. PS20191565, PROVISION OF A CCTV ANALYTICS AND INFRASTRUCTURE CONDITION ASSESSMENT SOLUTION (the "RFP")

Proponent's Full Legal Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Key Contact Person: _____

Telephone: _____

E-mail: _____

The Proponent, having carefully examined and read the RFP, including all amendments and addenda thereto, if any, and all other related information published on the City's website, hereby acknowledges that it has understood all of the foregoing, and in response thereto hereby submits the enclosed Proposal.

The Proponent further acknowledges that it has read and agrees to the Legal Terms & Conditions attached as Appendix 1 to this Form of Proposal.

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

APPENDICES

The Form of Proposal includes the following attached Appendices:

- APPENDIX 1 Legal Terms and Conditions of RFP
- APPENDIX 2 Questionnaire
- APPENDIX 3 Commercial Proposal
- APPENDIX 4 Proponents References
- APPENDIX 5 Certificate of Insurance
- APPENDIX 6 Declaration of Supplier Code of Conduct Compliance
- APPENDIX 7 Personal Information Consent Form(s)
- APPENDIX 8 Subcontractors
- APPENDIX 9 Proposed Amendments to Form of Agreement
- APPENDIX 10 Conflicts; Collusion; Lobbying
- APPENDIX 11 Proof of WorkSafeBC Registration

APPENDIX 1
LEGAL TERMS AND CONDITIONS OF RFP

1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the City's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this Appendix 1 apply to, or have the effect of supplementing, any Contract formed between the City and the Proponent, or otherwise apply as between the Proponent and the City following the signing of any such Contract.

2 DEFINITIONS

In this Appendix 1, the following terms have the following meanings:

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent's selection by the City in the City's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as 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).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20191565, as amended from time to time and including all addenda.

3 NO LEGAL OBLIGATION ASSUMED BY THE CITY

Despite any other term of the RFP or the Proposal Form, including this Appendix 1 (except only Sections 7, 8.2 and 10 of this Appendix 1, in each case to the extent applicable), the City assumes no legal duty or obligation to the Proponent or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the City enters into a Contract, which the City may decline to do in the City's sole discretion.

4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent

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

5 EVALUATION OF PROPOSALS

5.1 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. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

5.2 Reservation of Complete Control over Process

The City reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the City is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the City reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

5.3 Discussions/Negotiations

The City may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement 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 such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this Appendix 1, the City will have no liability to the Proponent as a result of such discussions, negotiations or changes.

5.4 Acceptance or Rejection of Proposals

The City has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the City; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

6 PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

Except only and to the extent that the City is in breach of Section 8.2 of this Appendix 1, the Proponent now releases the City, its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

- (a) any alleged (or judicially determined) breach by the City or its officials, agents 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 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 the RFP process;

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- (c) the Proponent preparing and submitting the Proposal;
- (d) the City accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the City: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the City enters any agreement respecting the subject matter of the RFP.

6.2 Indemnity by the Proponent

Except only and to the extent that the City breaches Section 8.2 of this Appendix 1, the Proponent indemnifies and will protect, save and hold harmless the City, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) 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 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 the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 1), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors 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.

7 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) 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 Director of Legal Services;
- (b) Section 6 of this Appendix 1 will: (i) bind the City, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

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8 PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

- (a) All RFP-related documents provided to the Proponent by the City remain the property of the City and must be returned to the City, or destroyed, upon request by the City.
- (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 to the Proponent.

8.2 Proponent's Submission Confidential

Subject to the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia), other applicable legal requirements, and the City's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Vancouver City Council about the RFP, the City will treat the Proposal (and the City's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

8.3 All City Information Confidential

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) 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 or any court 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.

9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal in accordance with the form set out in Part C - APPENDIX 10.
- (b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the City and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the City, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal in accordance with the form set out in Part C - APPENDIX 10.

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9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the City in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the City and the Proponent's or its subcontractors' duties to such third party, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal in accordance with the form set out in Part C - APPENDIX 10.

9.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

- (a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and
- (b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal in accordance with the form set out in Part C - APPENDIX 10.

9.4 Declaration as to No Lobbying

The Proponent confirms and warrants that:

- (a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and
- (b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal in accordance with the form set out in Part C - APPENDIX 10.

10 GENERAL

- (a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the City.
- (b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.
- (c) 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 process.

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APPENDIX 2
QUESTIONNAIRE

Complete this Appendix 2 - Questionnaire in the form set out below.

A. Company Profile

Q1.	Provide a brief description of the Proponent's company; include a description of your experience with and knowledge of the software products and related services; number of years in business, size of company and experience with similar and/or other municipal accounts.
A1.	
Q2.	Provide an executive summary of your overall proposal and comment on how your experience and knowledge as it pertains to the software and related services meets the City's requirements; comment specifically on your core competencies and how you differentiate yourself from your competitors.
A2.	
Q3.	How will the Proponent manage the City's account? Provide an organizational chart with names, titles, locations, clear lines of accountability, escalation points and a brief description of each individual's role. In addition, describe the key personnel's knowledge, professional qualifications and relevant experience (attached to this form of Proposal as an additional Appendix CVs).
A3.	

B. Detail Technical Requirements

Carefully read the instructions on the first tab of the separate Excel attachment, PS20191565 - Detail Technical Requirements.

Complete and submit (in Excel format, not PDF) PS20191565 - Detail Technical Requirements, and include in your Proposal submission.

C. Implementation Plan

Q4.	In the space below (or attached to this Form of Proposal as an additional Appendix clearly titled "Implementation Plan"), detail the sequential process by which the Proponent proposes to undertake the work, including a timeline as necessary. The Proponent's Implementation Plan should make reference to the Scope of Work as appropriate.
A4.	

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D. Training Plan

Q5.	In the space below (or attached to this Form of Proposal as an additional Appendix clearly titled "Training Plan"), detail the sequential process by which the Proponent proposes to undertake the work, including a timeline as necessary. The Proponent's Training Plan should make reference to the Scope of Work as appropriate.
A5.	

E. Testing and Acceptance Plan

Q6.	In the space below (or attached to this Form of Proposal as an additional Appendix clearly titled "Testing and Acceptance Plan"), detail the recommended testing and acceptance regime proposed for the City, with Milestones (that can be tied to a contract Payment Schedule).
A6.	

F. Innovation

Q7.	Notwithstanding any other provision hereof, the City welcomes proposals respecting innovative or novel approaches to the City's requirements and may consider value-creating proposals that derogate from the requirements. Provide any proposed innovative approaches to meeting the City's requirements.
A7.	
Q8.	The Proponent can provide any information on additional services that are not contemplated in the RFP that the Proponent feels will add value to the City.
A8.	

G. Alternative Solutions

Q9.	If, in addition to proposing services which meet the Scope of Work, the Proponent wishes to offer an alternative or alternatives, the alternative solution(s) should be described in the space provided below. Any pricing impact of the alternative solution(s) should be provided in the Commercial Proposal.
A9.	

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H. Sustainability

Beyond the product, the City is committed to protecting the environment and seeking to do business with Proponents that have similar commitments to improve environmental conditions, have fair, inclusive and equitable work environments for their employees and demonstrate leadership in all aspects of sustainability. As such, this RFP seeks to identify Proponents who are proactively managing the environmental and social impacts of their operations. This includes advancing environmental and human rights practices and diversity within the supply chain, including manufacturing and production facilities. Please note that Proponents are required to answer the following questions, which will be kept confidential in accordance with the Legal Terms and Conditions of this RFP.

SOCIAL SUSTAINABILITY

SUPPLIER DIVERSITY

Q10.	In the space below, indicate the vendor's company profile with regards to recognized certifications and/or if social or diverse owned/controlled.	
A10.	Majority owned/controlled/ by: <input type="checkbox"/> Women <input type="checkbox"/> Indigenous Peoples <input type="checkbox"/> Non-Profit/Charity (Social Enterprise) <input type="checkbox"/> Coop <input type="checkbox"/> Community Contribution Corporation (3C/CCC) <input type="checkbox"/> Ethno-cultural Persons <input type="checkbox"/> People with Disabilities <input type="checkbox"/> LGBTQ2+ <input type="checkbox"/> Other: please indicate <input type="checkbox"/> None of the above	Social / Diverse Certifications <input type="checkbox"/> BCorp <input type="checkbox"/> Supplier Diversity Certification <input type="checkbox"/> None of the above <hr/> Enviro / Other Certifications <input type="checkbox"/> BuySocial <input type="checkbox"/> Living Wage <input type="checkbox"/> Fairtrade <input type="checkbox"/> Green Business Certification (ie. LEED, ClimateSmart) <input type="checkbox"/> Other: please indicate <input type="checkbox"/> None of the above
Q11.	Do you have a Supplier Diversity program for your suppliers and sub-contractors? If yes, please describe the program.	
A11.		

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EMPLOYMENT EQUITY

Q12.	Do you have formal policies and/or programs that advance employee equity or workforce diversity and inclusion? If yes, please describe or provide the policies and/or programs. Y / N
A12.	
Q13.	Do you source/hire employees from organization that support people who are under-represented and/or face barriers to traditional employment with employment? If so, name these organizations.
A13.	

WORKFORCE DIVERSITY

Q14.	As best known, in the space below, indicate your company profile with regards to workforce.	
A14.	<p><u>Overall</u> Workforce Diversity:</p> <ul style="list-style-type: none"><input type="checkbox"/> Women<input type="checkbox"/> Indigenous Peoples<input type="checkbox"/> Ethno-cultural People<input type="checkbox"/> People with Disabilities<input type="checkbox"/> LGBTQ2+<input type="checkbox"/> Other: please indicate<input type="checkbox"/> None of the above<input type="checkbox"/> We do not track this information<input type="checkbox"/> We are too small to track this information<input type="checkbox"/> We choose not to provide this information	<p><u>Leadership/Management/Executive/Board</u> Diversity:</p> <ul style="list-style-type: none"><input type="checkbox"/> Women<input type="checkbox"/> Indigenous Peoples<input type="checkbox"/> Ethno-cultural People<input type="checkbox"/> People with Disabilities<input type="checkbox"/> LGBTQ2+<input type="checkbox"/> Other: please indicate<input type="checkbox"/> None of the above<input type="checkbox"/> We do not track this information<input type="checkbox"/> We are too small to track this information<input type="checkbox"/> We choose not to provide this information

ENVIRONMENTAL SUSTAINABILITY

ENVIRONMENTAL OPERATIONS

The City is committed to being the Greenest City and values the environmental impact and sustainability of Proponents in addition to the goods or services offered with regards to Healthy Ecosystems (minimizing pollution/toxicity, conserving natural resources, and regenerating ecological;

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local food; clean water / water consumption), Zero Waste (reducing and/or diverting) and Zero Carbon (reducing/eliminating greenhouse gases).

Q15.	Describe how your company proposes to reduce vehicle GHG emissions year-over-year for the life of the contract? Describe specific actions, initiatives and time lines. Do you track or report on vehicle GHG emissions?
A15.	
Q16.	Describe how your company has or proposes to “green” and/or reduce the GHG emissions of owned/leased buildings (include specific actions, initiatives and time lines). Do you track or report on building GHG emissions?
A16.	

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APPENDIX 3
COMMERCIAL PROPOSAL

Complete & submit PS20191565 - Commercial Proposal (to be downloaded separately), in Excel format, not PDF.

Proponent to provide proposed pricing and payment terms, which should be in accordance with Part A, Section 7.0 of the RFP (as well as any other sections of the RFP imposing requirements as to pricing).

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APPENDIX 4
PROPONENT'S REFERENCES

Complete this Appendix 4 - Proponents References in the form set out below with references that are relevant to the Scope of Work set out in this RFP.

Client Name # 1	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

Client Name # 2	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

Client Name # 3	
Address (City and Country)	
Contact Name	
Title of Contact	
Telephone No.	
E-mail Address	
Length of Relationship	
Type of Goods and/or Services provided to this Client	

APPENDIX 5
CERTIFICATE OF INSURANCE

Appendix 5 is to be duly completed and signed by the Proponent's insurance agent or broker as evidence of its existing insurance, along with a letter from its insurance broker or agent indicating whether or not (and, if not, then to what extent) it will be able to comply with the insurance requirements set out in the Form of Agreement, should the Proponent be selected as a successful Proponent. Any successful Proponent will also be required to provide proof of the satisfaction of all insurance requirements prior to or concurrently with the City entering into any Agreement.

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APPENDIX 5
CERTIFICATE OF INSURANCE

Appendix 5 is to be duly completed and signed by the Proponent's insurance agent.

Section 2 through 8 – to be completed and executed by the Insurer or its Authorized Representative

1. **THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.
2. **NAMED INSURED** *(must be the same name as the Proponent/bidder and is either an individual or a legally incorporated company)*

BUSINESS TRADE NAME or DOING BUSINESS AS

BUSINESS ADDRESS

DESCRIPTION OF OPERATION

3. **PROPERTY INSURANCE (All Risks Coverage including Earthquake and Flood)**

INSURER _____	Insured Values (Replacement Cost) -
TYPE OF COVERAGE _____	Building and Tenants' Improvements \$ _____
POLICY NUMBER _____	Contents and Equipment \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____

4. **COMMERCIAL GENERAL LIABILITY INSURANCE (Occurrence Form)**

Including the following extensions:	INSURER _____
✓ Personal Injury	POLICY NUMBER _____
✓ Property Damage including Loss of Use	POLICY PERIOD From _____ to _____
✓ Products and Completed Operations	Limits of Liability (Bodily Injury and Property Damage Inclusive) -
✓ Cross Liability or Severability of Interest	Per Occurrence \$ _____
✓ Employees as Additional Insureds	Aggregate \$ _____
✓ Blanket Contractual Liability	All Risk Tenants' Legal Liability \$ _____
✓ Non-Owned Auto Liability	Deductible Per Occurrence \$ _____

5. **AUTOMOBILE LIABILITY INSURANCE** for operation of owned and/or leased vehicles

INSURER _____	Limits of Liability -
POLICY NUMBER _____	Combined Single Limit \$ _____
POLICY PERIOD From _____ to _____	<i>If vehicles are insured by ICBC, complete and provide Form APV-47.</i>

6. ☐ **UMBRELLA OR** ☐ **EXCESS LIABILITY INSURANCE** **Limits of Liability (Bodily Injury and Property Damage Inclusive)**

INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Self-Insured Retention \$ _____

7. **PROFESSIONAL LIABILITY INSURANCE**

INSURER _____	Limits of Liability
POLICY NUMBER _____	Per Occurrence/Claim \$ _____
POLICY PERIOD From _____ to _____	Aggregate \$ _____
	Deductible Per Occurrence/Claim \$ _____

If the policy is in a "CLAIMS MADE" form, please specify the applicable Retroactive Date: _____

8. **OTHER INSURANCE**

TYPE OF INSURANCE _____	Limits of Liability
INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____
TYPE OF INSURANCE _____	Limits of Liability
INSURER _____	Per Occurrence \$ _____
POLICY NUMBER _____	Aggregate \$ _____
POLICY PERIOD From _____ to _____	Deductible Per Loss \$ _____

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

Dated _____

PRINT NAME OF INSURER OR ITS AUTHORIZED REPRESENTATIVE, ADDRESS AND PHONE NUMBER

REQUEST FOR PROPOSALS NO. PS20191565
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PART C - FORM OF PROPOSAL

APPENDIX 6

DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE

Complete this Appendix 6 - Declaration of Supplier Code of Conduct Compliance in the form set out below.

All proposed suppliers are to complete and submit this form to certify compliance with the supplier performance standards set out in the Supplier Code of Conduct.

The City of Vancouver expects each supplier of goods and services to the City to comply with the supplier performance standards set out in the City's Supplier Code of Conduct (SCC) <http://vancouver.ca/policy_pdf/AF01401P1.pdf>. The SCC defines minimum labour and environmental standards for City suppliers and their subcontractors.

Suppliers are expected to comply with the aforementioned standards upon submitting a tender, proposal, application, expression of interest or quotation to the City, or have a plan in place to comply within a specific period of time. The City reserves the right to determine an appropriate timeframe in which suppliers must come into compliance with these standards. To give effect to these requirements, an authorized signatory of each proposed vendor must complete the following declaration and include this declaration with its submission:

As an authorized signatory of _____(*vendor name*), I declare that I have reviewed the SCC and to the best of my knowledge, _____(*vendor name*) and its proposed subcontractors have not been and are not currently in violation of the SCC or convicted of an offence under national and other applicable laws referred to in the SCC, other than as noted in the table below (*include all violations/convictions that have occurred in the past three years as well as plans for corrective action*).

Section of SCC / title of law	Date of violation /conviction	Description of violation / conviction	Regulatory / adjudication body and document file number	Corrective action plan

I understand that a false declaration and/or lack of a corrective action plan may result in no further consideration being given to the submission of _____(*vendor name*).

Signature: _____

Name and Title: _____

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APPENDIX 7
PERSONAL INFORMATION CONSENT FORM(S)

Complete one copy of this Appendix 7 - Personal Information Consent Form(s), in the form set out below, for each key personnel for whom a CV or other information regarding employment history and qualifications has been included in the Proposal.

PERSONAL INFORMATION CONSENT FORM

Reference #PS20191565

Title: PROVISION OF A CCTV ANALYTICS AND INFRASTRUCTURE CONDITION ASSESSMENT SOLUTION

With the provision of my signature at the foot of this statement I, _____

_____ (Print Name)

consent to the indirect collection from _____

_____ (Print Name of Proponent) of

my personal information in the form of a work history, resume or summary of qualifications.

In consenting to this indirect collection, I understand that my personal information, so collected, will be used by the City for the sole purpose of evaluating the submitted response to the above-noted procurement process. I understand further that my personal information, once collected by the City, will be handled by the City in accordance with the provisions of the (BC) *Freedom of Information and Protection of Privacy Act*.

_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date

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APPENDIX 8
SUBCONTRACTORS

Complete this Appendix 8 - Subcontractors in the form set out below by listing all of the subcontractors that the Proponent proposes to use in carrying out its work under an Agreement, or state that the Proponent does not propose to use any subcontractors.

If selected to enter into an Agreement with the City, the Proponent may be limited to using subcontractors listed in its Proposal. If the City objects to a subcontractor listed in a Proposal, the City may permit a Proponent to propose a substitute Subcontractor acceptable to the City.

Subcontracted Scope		
Subcontractor		
Contact (name, title, email, telephone no.)		
Approximate Percent of the Work to be Subcontracted		
Social Value Business - shall mean a business that has a recognized environmental or social certification and/or is majority owned/controlled by an equity-seeking demographic (including but not limited to non-profit, cooperative, Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ+ people).	In the space here, detail the Proponent's proposed use of Social Value Businesses as sub-contractors/consultants (if any) and provide brief company profiles of those Social Value Businesses and descriptions of how they qualify as Social Value Businesses.	
The Subcontractor's Relevant Experience (identify at least three similar projects within the last five years, including the client)	1. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	

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	2. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	
	3. Project Name:	
	Client:	
	Nature of Work:	
	Value:	
	Client Contact:	

APPENDIX 9
PROPOSED AMENDMENTS TO FORM OF AGREEMENT

Complete this Appendix 9 - Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement attached as Error! Reference source not found.. If no amendments to the Form of Agreement are proposed, state “none”. It is at the City’s sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

Section / General Condition	Proposed Amendment	Rationale and Benefit

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APPENDIX 10
CONFLICTS; COLLUSION; LOBBYING

Complete this APPENDIX 10 - Conflicts; Collusion; Lobbying in the form set out below by setting out any exceptions to the declarations in Section 9 of the Legal Terms and Conditions attached as Appendix 1 to this Part C - Form of Proposal or indicate that there are no exceptions, as applicable.

Exceptions to Declaration as to no Conflict of Interest in RFP Process (Section 9.1 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Conflict of Interest Respecting Proposed Supply (Section 9.2 of Legal Terms and Conditions)	
Exceptions to Declaration as to No Collusion (Section 9.3 of Legal Terms and Conditions)	
Exceptions to Declarations as to No Lobbying (Section 9.4 of Legal Terms and Conditions)	

APPENDIX 11
PROOF OF WORKSAFEBC REGISTRATION

Attached as APPENDIX 11 to this Form of Proposal proof of valid WorkSafeBC registration.

PART D

**SUPPLY AND INSTALLATION OF
A CCTV ANALYTICS AND INFRASTRUCTURE
CONDITION ASSESSMENT SOLUTION SOFTWARE
AND RELATED PROFESSIONAL SERVICES**

SUPPLY CONTRACT

BETWEEN

CITY OF VANCOUVER

AND

DATED: The day of _____, 2020

REQUEST FOR PROPOSALS NO. PS20191565
PROVISION OF A CCTV ANALYTICS AND INFRASTRUCTURE CONDITION ASSESSMENT SOLUTION
PART D - FORM OF AGREEMENT

THIS SUPPLY AGREEMENT (this “Contract”) dated the day of _____, 2020,

BETWEEN:

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

(the “City”)

AND:

_____, a corporation incorporated under
the laws of _____ with an address at

(the “Vendor”)

BACKGROUND:

- A. Pursuant to the City's Request for Proposal No. PS20191565 (the “RFP”), the City invited from qualified Proponents proposals to provide A CCTV Analytics and Infrastructure Condition Assessment Solution comprised of the software, services and documentation as set out in the RFP (the “System”).
- B. In response to the RFP, the Vendor submitted a proposal (the “Proposal”) offering to provide the System specified in the RFP to the City.
- C. Based on the City’s evaluations of the Proposal, the City and Vendor entered into discussions with a view to entering a contract to supply the specified System to the City.
- D. The City and the Vendor have now agreed on the legal terms and conditions on which the Vendor will supply the System to the City as provided in this Contract.

IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS IN THIS CONTRACT, THE CITY AND THE VENDOR NOW LEGALLY AGREE AS FOLLOWS:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 General Definitions

Except where a contrary meaning is expressly indicated elsewhere or the context otherwise requires, the following words in the Contract Documents have the meanings set out below:

- (a) “Acceptance Tests” has the meaning given to it in Section 15.1.
- (b) “Amendment” or “Change Order” means a change in any of the Contract Documents which has been agreed upon in writing and executed by the City and the Vendor and which is in substantially in the form attached as Schedule N [Change Order].
- (c) “Business Day” means any day that is not a Saturday, Sunday, statutory holiday in British Columbia, Easter Monday, or Boxing Day.
- (d) “Certificate of Final Acceptance” means the certificate to be issued or deemed issued by the City Project Manager in accordance with the Contract Documents when the Services have successfully passed the Acceptance Tests.
- (e) “Certificate of Insurance” means a certificate substantially in the form attached as *Schedule K [Certificate of Insurance]* and issued and duly signed by the Vendor’s insurer or insurance agent in accordance with *ARTICLE 12 [Insurance]*.
- (f) “Change Order” has the same meaning as “Amendment”.
- (g) “City” means the City of Vancouver, a municipal corporation and the customer who is entering into this Contract with the Vendor.
- (h) “City Project Manager” means the person appointed by the City to act as the sole contact for the City with the Vendor throughout the Project.
- (i) “City Project Team” means those members of the Project Team who are employees, sub-contractors, or other agents of the City.
- (j) “City Records” means the records described in *Section 16.2(a) [Vendor to Protect All City Records]*.
- (k) “City’s Proprietary Material” means all materials and information created, acquired (other than from the Vendor or anyone on behalf of the Vendor) or developed by the City including, all materials and information provided to the Vendor in or with the RFP, in preparation for Contract discussions, during Contract discussions, or during the Project, unless expressly indicated otherwise.
- (l) “Contemplated Change Notice/Change Order” means a document substantially in the form attached as *Schedule N [Change Order]*.
- (m) “Contract” means the contractual agreement consisting of the Contract Documents.
- (n) “Contract Documents” means this Form of Agreement, including all Schedules, all of which are now incorporated by this reference and made an integral part of this Contract, and all Amendments to this Contract.

REQUEST FOR PROPOSALS NO. PS20191565
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- (o) “Delivery Date” means any date referred to in the Implementation Schedule or *Schedule C [Implementation - Statement of Work]* as a “Delivery Date”, “Start Date”, or “Finish Date”.
- (p) “Documentation” means the Manuals (as that term is defined in *Schedule B [Pricing]*), and including Software product manuals, installation guides and detailed product specifications and documentation required to be delivered with the Software and any Release of any Software all as more particularly described in *Schedule B [Pricing]* and in *Schedule G [Training]*.
- (q) “Effective Date” means the date set out on the title page and first page of this Contract.
- (r) “Encumbrance” means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation.
- (s) “Finish Date” means any date referred to in the Table set out in the Implementation Schedule as a “Finish Date”.
- (t) “Form of Agreement” or “FOA” means the main body of this Contract excluding all of its Schedules.
- (u) “Functional Requirements” means the functionality that the Hardware and Software must have in order to comply with this Contract, subject to Section 2.1 [Priority of Documents] as outlined in *Schedule M [Proposal]* pursuant to *Schedule L [RFP]*, and then further modified and clarified by the following provisions of this Contract:
- (i) *Schedule A [Functional Requirements]*; and
 - (ii) *Section 13.1 [Software and Documentation Warranties]*.
- (v) “Go Live” means to commence the actual productive use of the Software in a Production Environment (as opposed to use of the Software in a Non-Production Environment such as a training, testing or development environment).
- (w) “Go Live Date” means the date referred to as such in the Implementation Schedule as the “Go Live Date”.
- (x) “Hardware” means the hardware to be supplied to the City by the Vendor pursuant to the terms of this Contract as further described in the Proposal.
- (y) “Implementation Schedule” means the chronological list of all major tasks/activities required of the Vendor pursuant to this Contract with description and scheduled dates of completion, as approved by the City pursuant to Section 5.2(b).
- (z) “Installation Sites” means the Installation Sites for the Hardware and Software.
- (aa) “Intellectual Property Rights” means all of the following and all rights in, arising out of, or associated with:

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- (i) all inventions, methods, and processes (collectively, the “patentable subject matter”) and all patents issued in respect of patentable subject matter and all associated utility models and patent applications as well as all reissues, divisions, re- examinations, renewals, extensions, provisionals, continuations and continuations-in-part and equivalent or similar rights anywhere in the world in inventions and discoveries including invention disclosures;
 - (ii) all trade secrets and other rights in know-how and other confidential or proprietary information;
 - (iii) all literary, artistic, and other copyright protected works, registrations and applications for registration of copyright protected works, and all other corresponding rights throughout the world;
 - (iv) all trade-marks (including word marks, design marks, logos, common law trade-marks and service marks) and trade names, and all registrations and applications for same and all associated goodwill throughout the world; and
 - (v) any similar, corresponding or equivalent rights to any of the above anywhere in the world.
- (bb) “Laws and Regulations” means all present and future laws, statutes, by-laws, regulations, treaties, judgments and decrees and, whether or not having the force of law, all official directives, rules, consents, approvals, authorizations, guidelines, orders and policies of any domestic government, including any federal, provincial, regional or municipal government, and any government agency, tribunal, commission or other authority exercising executive, legislative, judicial, regulatory or administrative functions.
- (cc) “Licence” means the licence from the Vendor to the City to use the Software and Documentation as set out in *Article 16 [Licence and Proprietary Material]*, and “Licensed” will have a corresponding meaning.
- (dd) “Losses” means, in respect of any matter, all direct and indirect losses, damages, liabilities, deficiencies, costs and expenses (including all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement, whether from a third person or otherwise).
- (ee) “Maintenance and Support Services” means the services to be provided by the Vendor described in *Schedule J [Maintenance and Support Services]*.
- (ff) “Operating Hours of the City” means the hours the City is normally staffed, namely 8:00 A.M. - 5:30 P.M. on Business Days.
- (gg) “Project” means the implementation of the Hardware and Software in accordance with the Contract starting on the Effective Date and ending with the issuance of the Certificate of Final Acceptance as more particularly described in *Schedule C [Implementation - Statement of Work]*.
- (hh) “Project Completion Date” means the date on which the Certificate of Final Acceptance is issued.
- (ii) “Project Services” means all services to be provided by the Vendor in accordance with the Vendor’s obligations under this Contract.

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- (jj) “Project Team Member” means any individual employed by the Vendor or the City to assist the Vendor Project Manager or City Project Manager in carrying out the Project.
- (kk) “Proposal” means the Vendor’s proposal dated as of _____, together with all accompanying schedules, and other attachments, as submitted by the Vendor to the City in response to the RFP, which proposal is attached as *Schedule M [Proposal]*.
- (ll) “Proprietary Material” means, in respect of the City, the City Proprietary Material and, in respect of the Vendor, the Vendor Proprietary Material.
- (mm) “Release” means any modification or extension of the Software (including updated or enhanced functionality) which the Vendor periodically provides to its customers who subscribe for Software maintenance services and are current with respect to their applicable Software maintenance fees.
- (nn) “RFP” means Request for Proposals, No. PS20191565 issued by the City on December 20th, 2019, and attached as *Schedule L [RFP]*.
- (oo) “Schedules” means those parts of this Contract listed in Section 1.5 [Schedules].
- (pp) “Software” means the Vendor’s ECP software system as further described herein;
- (qq) “Start Date” means any date referred to in the Table set out in the Implementation Schedule as a “Start Date”.
- (rr) “Total Purchase Price” means the total purchase price listed on *Schedule B [Pricing]*.
- (ss) “Unavoidable Delay” means a delay defined by *Section 28.14 [Unavoidable Delay]*.
- (tt) “Vendor Project Manager” means the person appointed by the Vendor to act as the sole contact for the Vendor with the City throughout the Project.
- (uu) “Vendor Project Team” means those members of the Project Team who are employees, sub-contractors, or other agents of the Vendor.
- (vv) “Vendor’s Proprietary Material” means all materials and information created, acquired (other than from the City or anyone on behalf of the City) or developed by the Vendor, including the Hardware, Software, Documentation, and Proposal unless expressly indicated otherwise.
- (ww) “WorkSafeBC” means the Workers Compensation Board of British Columbia.
- (xx) “WorkSafe Rules” means the *Workers Compensation Act* (British Columbia), including all Regulations enacted pursuant to such Act, all as such Act or Regulations are amended or re-enacted from time-to-time.

1.2 Additional Definitions in Schedules

Where certain words or phrases are used predominantly within a given Schedule to this Contract, those words and phrases have been defined within that Schedule. However, despite the location of such definition, such words and phrases are intended to have their defined meaning where used anywhere in the Contract and not merely within such Schedule.

1.3 Interpretation

Except as otherwise expressly provided or as the context otherwise requires, in this Contract:

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- (a) Parts of Contract – a reference to an “Article” is to an Article of this Contract, and the word “Section”, “Paragraph”, followed by a number or some combination of numbers and letters refers to the section, paragraph, subparagraph, clause or subclause of this Contract so designated;
- (b) Headings and Titles – headings and titles used in this Contract are for reference purposes only and shall not be deemed a part of this Contract;
- (c) “Including” and “Or”—the word “including”, when following a general statement or term (whether or not non-limiting language such as “without limitation” or “but not limited to” or “without limitation and by way of example only” or other words of similar import are used with reference thereto), is not to be construed as limiting the general statement or term to any specific item or matter set forth or to similar items or matters, but rather as permitting the general statement or term to refer also to all other items or matters that could reasonably fall within its broadest possible scope, and the word “or” does not imply an exclusive relationship between the items being connected;
- (d) Successors – a reference to an entity includes any successor to that entity;
- (e) Gender, Number, etc. – a word importing the masculine gender includes the feminine and neuter, a word in the singular includes the plural, a word importing a corporate entity includes an individual, and vice versa and “person” will mean an individual, partnership, corporation (including a business trust), joint stock company, trust unincorporated association, joint venture, or other entity or a government or any agency, department or instrumentality thereof and vice versa; and
- (f) Technical Terminology – words, phrases and acronyms not otherwise defined herein that have a meaning commonly understood and accepted by persons familiar with the business of information technology will be interpreted and understood to have that meaning herein.

1.4 Schedules

The following Schedules to this Contract are incorporated by reference into and form part of this Contract:

Schedule A	Functional Requirements
Schedule B	Pricing
Schedule C	Implementation - Statement of Work
Schedule D	Intentionally Deleted
Schedule E	Sub-Contractors
Schedule F	Key Personnel
Schedule G	Training
Schedule H	Performance Standard Warranties
Schedule I	Payment Schedule
Schedule J	Maintenance and Support Services
Schedule K	Certificate of Insurance
Schedule L	RFP
Schedule M	Proposal
Schedule N	Change Order

**ARTICLE 2
CONTRACT DOCUMENTS AND PRIORITY OF DOCUMENTS**

2.1 Priority of Documents

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In the event of any inconsistency or conflict between one of the terms and conditions of this Contract and any other of the terms or conditions of this Contract, such terms and conditions will take precedence and govern in the following order of priority from highest to lowest:

- (a) any and all Amendments from the most recent to the earliest;
- (b) this Form of Agreement, excluding all Schedules.

**ARTICLE 3
GENERAL REQUIREMENTS**

3.1 Vendor's General Obligations

Subject to the other terms of this Contract, the Vendor will deliver the Hardware and Software and perform the Services in accordance with the Vendor's obligations under this Contract all for the Total Purchase Price. If anything additional to the Vendor's obligations under this Contract is requested by the City, such request will be governed by *Article 10 [Change Requests]*, and the Total Purchase Price will be adjusted as set out in *Article 10 [Change Requests]*.

3.2 First Class Standard

The Vendor will at all times maintain a first class standard of care, skill and diligence in performing the Vendor's obligations under this Contract, warranting that the Vendor's obligations under the Contract Documents will be performed to the standard of experienced and skilled professionals in the Vendor's field.

3.3 Vendor has Control/Responsibility

The Vendor will have complete control over its performance of the Services and will direct and supervise and do the work to ensure conformance with the Contract Documents. The Vendor will be solely responsible for all methods, techniques, sequences and procedures in connection with the furnishing of the Hardware, Software and Services and for coordinating all parts of the performance of this Contract, excluding those parts that are expressly stated in this Contract to be the responsibility of the City.

3.4 Term of the Contract

The term of this Contract will be for the period beginning on the Effective Date and ending on the 5th anniversary of the Effective Date. Notwithstanding the foregoing, the City may, at its sole discretion and upon delivery of written notice to the Vendor no later than 30 days prior to the end of the initial term, renew the Contract for additional five (5) one-year terms.

ARTICLE 4
INSTALLATION SITE PREPARATION

4.1 City to Prepare Installation Sites

The City will, at its sole expense and prior to the first Delivery Date, provide all necessary electrical and other installations and fittings at the Installation Sites which will be required for proper performance of the Software and the Services.

ARTICLE 5
VENDOR RESPONSIBILITIES

5.1 General Responsibilities

- (a) Commencing on the Start Dates, the Vendor will provide the Services in accordance with the Contract Documents and complete the Services on or before the Delivery Dates and Finish Dates applicable to those Services as set out in the Implementation Schedule.
- (b) The Vendor's obligations under the Contract Documents have been set out in the Contract Documents following consultations between the parties, to describe the obligations of the Vendor and to the extent that the Vendor's obligations under the Contract Documents fail to expressly state anything that would "reasonably be implied or inferred" in order to comply with the Vendor's obligations under the Contract Documents, the Vendor now agrees that such thing will be deemed to be implied and included in the Total Purchase Price, provided always that the determination of whether or not such thing would "reasonably be implied or inferred" will be made by taking into account the fact that the Vendor is deemed to be the expert in determining the capabilities and limitations of its Software and Services and the City is deemed to be the expert in determining the general business processes for which its requires the Services and the Software.

5.2 Specific Responsibilities

Without limiting or derogating from the obligations of the Vendor set out elsewhere in the Contract Documents, the following is a list of specific obligations of the Vendor. The Vendor will and covenants as conditions of this Contract to:

- (a) appoint a Vendor Project Manager, who will have full authority for implementing this Contract and who will be the principal point of contact between the City and the Vendor, provided that, if the Vendor Project Manager becomes unable to fulfill this obligation, the Vendor will appoint a successor Vendor Project Manager;
- (b) within days of the Effective Date, submit to the City for review and approval an Implementation Schedule in accordance with the requirements set out in the RFP and other Contract Documents, and make any such revisions to the Implementation Schedule as may be reasonably directed by the City;
- (c) provide and pre-test all configuration work, as part of the System;
- (d) provide the Documentation;
- (e) train groups of designated City personnel as set out in *Schedule G [Training]*;
- (f) provide regular progress reports as required by this Contract;

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- (g) supply the Hardware, Software and Services, complete and fully Vendor tested, as set out in this Contract;
- (h) deliver, install, pre-test and configure the Hardware and Software and complete the Project Services so that the Hardware and Software operate and interface with each other and the City's existing technology platform (as described in the RFP), and in accordance with the Acceptance Tests, the Implementation Schedule, and in a manner designed to cause minimal disruption to the Operating Hours of the City;
- (i) do everything required by the Contract Documents by the time stipulated in the Contract Documents and to a first class standard;
- (j) in addition to the Functional Requirements, deliver anything else necessary for or incidental to the Functional Requirements, including supplying all labour, supervision, management, overhead, materials, supplies, and all other things necessary for or incidental to the Functional Requirements;
- (k) comply, and will ensure that all of its employees, contractors and agents comply, with all Laws and Regulations in carrying out this Contract;
- (l) restrict its employees, contractors and agents from unduly interfering with the City's business operations when they are working at any Installation Site;
- (m) comply with, and ensure that its employees, contractors and agents comply with, the City's standard security procedures to maintain the security of the City's Proprietary Information;
- (n) notify the City of, as appropriate, and seek the City's prior written consent to, any material changes to the Vendor's methodology in the provision of Services;
- (o) be in attendance at any Installation Site at all reasonable times as may be required to provide the Services and to complete the Project in accordance with the Delivery Dates;
- (p) restrict the Vendor's employees, contractors and agents from any unauthorized use of, or from interfering with, software, equipment and other property that is owned by the City, in the City's possession, under the City's control or for which the City is otherwise responsible;
- (q) ensure that all materials, goods and equipment incorporated into the Software or any deliverable hereunder are sourced from suppliers or manufacturers of established reputation engaged in the supply or manufacture of such materials or equipment; and
- (r) pay all of its employees, subcontractors, suppliers and materialmen all amounts properly owing when due and keep the Software free of all liens, charges, encumbrances and adverse claims.

**ARTICLE 6
CITY RESPONSIBILITIES**

6.1 General Responsibilities

Commencing on the Start Dates, the City will provide the instructions, decisions, and comments required of it pursuant to the Contract Documents on or, whenever reasonably practical, before the Delivery Dates and Finish Dates applicable to the City. Without limiting

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the foregoing, the City will (subject always to *Section 2.1 [Priority of Documents]* and the Implementation Schedule) carry out in a timely, efficient and first class manner, all of its responsibilities and roles specified in the Implementation Schedule.

ARTICLE 7
TOTAL PURCHASE PRICE AND PAYMENT

7.1 Payment Only on Performance

Subject to the partial and interim payment obligations of the City as set out in *Schedule I [Payment Schedule]*, the City will have no obligation to pay any money to the Vendor in connection with this Contract unless and until the Vendor has fully and completely complied with all of its obligations required by this Contract to be performed and all covenants on the part of the Vendor are in good standing up to the date that such payment is due.

7.2 Payment Schedule

The City will make payments on account of the Total Purchase Price in the amounts and at the milestones outlined in *Schedule I [Payment Schedule]*.

7.3 Interest on Late Payments

If either party is in default of any payment required to be made under this Contract, interest will be payable from the due date to the date of payment at the 90 Day LIBOR (London Inter-Bank Offered Rate) plus three percent per annum simple interest calculated monthly, prorated for any periods less than a full month.

7.4 Payment Procedure

The submission of a proper invoice will constitute a condition precedent to the obligation of the City to pay any money under this Contract. For the purposes of this Contract, a proper invoice must comply with the following requirements:

- (a) the invoice must correctly reference the City's Purchase Order number; and
- (b) must be signed by an officer of the Vendor and contain a statement certifying that the Vendor has achieved a specified milestone or specified percentage of completion of same in accordance with the terms of *Schedule I [Payment Schedule]*, and sufficiently describe the specified milestone or percentage of completion of same.

7.5 Prices Set Out in Schedule B [Pricing]

Schedule B [Pricing] lists all Hardware, Software and Services together with their associated prices. All prices, whether lump sum, unit rate, or otherwise set out in *Schedule B [Pricing]* are fixed and may not be changed by either party except pursuant to *Article 10 [Change Requests]*.

7.6 Total Purchase Price Set out in Schedule B [Pricing]

The Total Purchase Price is fixed and may not be changed by either party except by Change Order pursuant to *Article 10 [Change Requests]*.

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7.7 Canadian Currency

All references to currency in the Contract Documents are expressed in terms of lawful money of Canada, and all payments to be made under the Contract Documents will be made in lawful money of Canada in Vancouver, British Columbia.

7.8 Taxes

- (a) *City Liable for Taxes* – The prices set out in this Contract are exclusive of all federal, provincial, municipal, or other Canadian government, excise, sales, use, occupational, or like taxes specific to the transactions under this Contract now in force or enacted in the future in respect to amounts payable by the City to the Vendor relating to the Hardware, Software or Services, all of which the City will be liable to pay to the Vendor wherever the Vendor is required to collect and remit such amount to any governmental authority as a result of this Contract.
- (b) *Vendor Liable For Corporate, Income, Capital, and Other General Taxes and Other Amounts* – Nothing in this Section or this Contract will make, or be interpreted so as to make the City liable to pay:
- (i) general (as opposed to those being specific to this Contract) Canadian or foreign taxes, duties, excise, customs, penalties or interest amounts imposed on the Vendor or its Affiliates on account of the Vendor's or its Affiliate's import of goods, services or labour, income, capital, transfers or transactions;
 - (ii) the wages (inclusive of all benefits, withholding taxes, CPP contributions and WorkSafe BC assessments) or fees of any employees, consultants, contractors, agents or other persons employed by it to provide Services; or
 - (iii) all out-of-pocket expenses and disbursements incurred by the Vendor on behalf of the City in the performance of its obligations under this Contract, including travel and living expenses, charges for courier services and long distance telephone services, together with the Vendor's then current administration fee on such expenses.

**ARTICLE 8
SERVICE LEVEL/PERFORMANCE GUARANTEES**

8.1 Service Levels

The parties acknowledge that service level targets have been established with respect to the Services, Maintenance Services, Software and Hardware and will be used to assess the performance of the Vendor in delivering the Requirements at an optimal service level for the City. The minimum service levels as well as the optimal service level targets are set forth in *Schedule H [Performance Standard Warranties]*.

**ARTICLE 9
LIENS**

9.1 No Liens Permitted

The Vendor will not at any time, before or after receipt of payment, suffer or permit any liens to be registered in the name of the Vendor or its suppliers against the name of the City or the title to any City property, including for further certainty, the City's Proprietary Material or the

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City's Intellectual Property Rights. The Vendor agrees to fully pay, satisfy and release all such liens.

9.2 Vendor to Provide Proof

If at any time it appears that any lien contrary to this Article exists, the Vendor will furnish evidence satisfactory to the City's Director of Legal Services that all liabilities in respect of such lien have been paid in full and that the lien has been duly released and discharged.

**ARTICLE 10
CHANGE REQUESTS**

10.1 Need to Notify Vendor

- (a) The City Project Manager will, by giving written notice to the Vendor Project Manager with reasonable particulars as to the nature of the request, be entitled to request changes to the Vendor's obligations under this Contract.
- (b) Upon receipt of such notice, the Vendor will, as soon as reasonably practicable after receipt of such notice, prepare a draft Contemplated Change Notice/Change Order so as to inform the City Project Manager in writing of any adjustments to the Total Purchase Price, either increasing or decreasing the Total Purchase Price, and of any adjustments either sooner or later of the Delivery Dates, or of any other changes as that term is used in *Schedule N [Change Order]*, that would be necessitated by such change in the Vendor's obligations under this Contract, or so as to confirm to the City Project Manager in writing that no such adjustments are necessary. All such adjustments must be determined by the Vendor using the pricing rates, terms and methodology set out in *Schedule B [Pricing]* and *Schedule C [Implementation - Statement of Work]*.
- (c) If adjustments to the Total Purchase Price or Delivery Dates are necessary and the City confirms in writing (by signing and accepting the terms of the Contemplated Change Notice/Change Order) that such adjustments are acceptable to it, then the change in the Vendor's obligations under this Contract and the change to the Total Purchase Price and Delivery Dates will then take legal effect as a Change Order. If the City does not confirm in writing that such adjustments are acceptable to it within five Business Days of the date that the Vendor informs the City that such adjustments are necessary, then the City's change request will be deemed cancelled.

10.2 Vendor Not to Act on any Informal or Unwritten Change Requests

If the Vendor considers that the City has requested a change in the Vendor's obligations under this Contract but the City has not issued a notice under *Section 10.1 [Need to Notify Vendor]*, then the Vendor must give a written notice to the City prior to acting on such request. The notice shall refer in reasonable detail to the applicable request and state that the Vendor considers the request to be a request to change the Vendor's obligations under this Contract. If the City agrees, then the parties will proceed in accordance with *Section 10.1 [Need to Notify Vendor]*. If the City does not agree, then *Section 10.3 [Disputes over Change Requests]* will apply.

10.3 Disputes over Change Requests

If the City does not agree with the Vendor under *Section 10.1 [Need to Notify Vendor]*, then the Vendor will nonetheless promptly act on the request and the parties will attempt to agree on a form of Change Order or failing agreement, the Total Purchase Price and Delivery Dates

will remain the same but will be subject to adjustment after the Final Go Live Date if either party elects to refer the matter to arbitration pursuant to *Article 27 [Arbitration]* and the arbitrator(s) determines that such adjustment (up, down, sooner or later) is warranted. The arbitrator will, as part of the arbitration order, include interest from the date that the adjustment to the Total Purchase Price would have been payable or refundable and on the basis of the Delivery Dates that would have applied if the parties had promptly agreed to the changes and paid or refunded the adjustment. Any dispute arising out of *Section 10.2 [Vendor Not to Act on Any Informal or Unwritten Change Requests]* will be determined in accordance with the principle set out in paragraph (b) of *Section 5.1 [General Responsibilities]* as well as this Section.

ARTICLE 11 RISK AND TITLE

11.1 Title and Risk

- (a) The Vendor warrants that title in Hardware supplied by the Vendor hereunder, when it passes to the City hereunder, shall be free and clear of Encumbrances.
- (b) Title to any Hardware supplied by the Vendor hereunder shall pass to the City upon the earlier of:
 - (i) payment therefor by the City; and
 - (ii) its delivery to an Installation Site.
- (c) The Vendor shall deliver to the City any documentation, including a bill of sale, which the City may reasonably require to evidence the transfer of title in and to the Hardware to the City, free and clear of all Encumbrances.
- (d) Notwithstanding the foregoing provisions of this Section 11.1, the Vendor is responsible for the care of, and bears all of the risk of loss or damage to the Hardware supplied hereunder until the Certificate of Final Acceptance has been issued.

ARTICLE 12 INSURANCE

12.1 General Insurance Requirements

Without limiting any of its obligations or liabilities under this Contract, the Vendor and its sub-contractors will obtain and continuously carry during the Term at their own expense and cost, the following insurance coverage with minimum limits of not less than those shown in the respective items set out in this *Article 12 [Insurance]*.

12.2 Insurance Policies

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, and such notice must identify the Contract title, number, policyholder, and scope of work.

12.3 Additional Insurance

The Vendor will provide at its own cost any additional insurance which it is required by law to provide or which it considers necessary.

12.4 Other Obligations

Neither the providing of insurance by the Vendor in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing will be held to relieve the Vendor from any other provision under the Contract Documents with respect to liability of the Vendor or otherwise.

12.5 Primary Insurance

The insurance coverage will be primary insurance as respects the City. Any insurance or self-insurance maintained by or on behalf of the City or its officers, officials, employees, or agents will be excess of this insurance and shall not contribute with it.

12.6 Vendor to Provide Proof

The City acknowledges that Vendor has provided the City with evidence of all required insurance to be taken out in the form of the Certificate of Insurance supported by certified copies of all insurance policies related to this Contract. Such Certificate of Insurance identifies the Contract title, number, policyholder and scope of work and does not contain any disclaimer whatsoever. At all times during the Term, the Vendor must comply with all of its insurance obligations described in this *Article 12 [Insurance]*. Proof of insurance, in the form of additional Certificate(s) 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 upon request. Approval or acceptance of any Certificate of Insurance or policy of insurance by the City will in no way relieve the Vendor of its other obligations under this Contract.

12.7 Sub-Contractors

The Vendor will provide in its agreements with its sub-contractors clauses in the same form and to the same effect as those in this *Article 12 [Insurance]*. Upon request, the Vendor 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 insurance clauses from those sub-contracts.

12.8 Coverage Only From Authorized Insurers

The Vendor will only obtain such insurance from a company duly registered and authorized to conduct insurance business in the Province of British Columbia.

12.9 Minimum Requirements

The Vendor's minimum insurance obligations are as follows:

- (a) *Commercial General Liability Insurance* - Commercial general liability insurance in sufficient amounts and description to protect the Vendor, its sub-contractors, the City and its officers, officials, employees, and agents against claims for damages, personal injury including death, bodily injury and property damage which may arise under this Contract, provided that the limit of commercial general liability insurance shall be not less than \$2,000,000 per occurrence inclusive for personal injury, death, bodily injury

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or property damage and in the aggregate with respect to products and complete operations, and further provided that the deductible per occurrence shall not exceed \$5,000 per occurrence and:

- (i) the policy of insurance shall:
 - (A) be on an occurrence form;
 - (B) add the City and its officials, officers, employees and agents as additional insureds,
 - (ii) contain a cross-liability or severability of interests clause; and
 - (iii) 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) ***Professional (Errors and Omissions) Liability Insurance*** - The Vendor must maintain a professional (errors and omissions) liability insurance policy which shall remain in full force for the Term of the Project and for a further period of two years following the Project Completion Date. This policy of insurance must:
- (i) protect the Vendor and its sub-contractors, and their respective officers, directors, employees and agents performing the Services against all liability resulting from an error, omission or negligent act in the provision of the Services;
 - (ii) have a limit of not less than \$2,000,000 per claim, and \$2,000,000 annual aggregate; and
 - (iii) have a deductible of not more than \$5,000.
- (c) ***Cyber Security Liability Insurance*** - The Vendor must maintain a cyber security liability insurance policy which shall remain in full force for the Term of the Project and for a further period of two years following the Project Completion Date. This policy of insurance must:
- (i) have a limit of not less than \$5,000,000 per claim, and \$5,000,000 annual aggregate.
- (d) ***Property Insurance*** - The Vendor must maintain an all-risks insurance policy covering the Vendor's property of every description. The policy must include a waiver by the insurer of any and all rights to subrogate against the City and those for whom it is in law responsible.

12.10 City May Remedy Vendor's Insurance Defaults

If the Vendor fails to provide, maintain or pay for the insurance required by this *Article 12 [Insurance]*, then the City will have the right, but not the obligation, to (upon prior written notice to the Vendor) provide, maintain and pay for such insurance, in which case the costs of same will, at the City's option, be payable by the Vendor on demand, or the City may deduct such costs from money which is then or later becomes due and payable to the Vendor under this Contract or otherwise.

ARTICLE 13
REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Hardware, Software and Documentation Warranties

The Vendor represents and warrants to the City that:

- (a) the Vendor is the sole owner of all Intellectual Property Rights in and to the Software and Documentation which has been developed solely by employees of the Vendor or independent contractors who have transferred in writing (or will transfer in writing) in respect of future modifications) their ownership rights in the Software to the Vendor, and the Vendor has the right to enter into this Contract and to perform all of its obligations including delivery of the Software and granting of the Licence;
- (b) the Vendor has used commercially reasonable efforts to ensure that the Software delivered to the City under this Contract does not contain any viruses which would materially adversely affect the City's ability to use the Software;
- (c) the Software does not contain any disabling or other device that would allow the Vendor or any third party to in any way reduce or interrupt the use and operation of the Software by the City;
- (d) all software (including the Software, Documentation, and other materials to be delivered hereunder) will be delivered with the Intellectual Property Rights necessary to permit the City to freely use and operate same in accordance with the terms and conditions of this Contract;
- (e) at the time of commencement of the Acceptance Tests, the Hardware, Software and Documentation being tested will be the agreed-upon Release of such Hardware, Software or Documentation suitable for operation on the City's existing technology platform (as described in the RFP);
- (f) the Licence is and will remain at all times in perpetuity free, non-exclusive and clear of all liens, charges and encumbrances, subject always to the City's payment obligations as outlined in *Schedule I [Payment Schedule]*;
- (g) the Hardware and Software will operate in accordance with the Functional Requirements upon issuance or deemed issuance of the Certificate of Final Acceptance; and
- (h) the Hardware, Software and Documentation will, upon issuance or deemed issuance of the Certificate of Final Acceptance, meet the representations and warranties set out in *Schedule H [Performance Standard Warranties]*.

13.2 Vendor's Corporate Authority and Other Warranties

The Vendor represents and warrants to the City that, as of the Effective Date, the Vendor:

- (a) has full right, power and authority to enter into this Contract and to perform its obligations under it;
- (b) is not under any obligation, contractual or otherwise, to request or obtain the consent to any person to the transaction or grants contemplated or made herein;

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- (c) is a corporation, duly organized, legally existing and in good standing under the laws of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in the Province of British Columbia;
- (d) has necessary corporate power to own its properties and assets and to carry on its business as it is now being conducted and to enter into this Contract;
- (e) is not a party to or bound by any indenture, agreement (written or oral), instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery nor performance of this Contract does or will constitute or result in a violation or breach or default; and
- (f) the statements and descriptions regarding the Vendor's and its sub-contractors' reputation and experience in the Proposal are true and accurate and that such persons have the requisite skills, experience and expertise to complete the Project in accordance with the terms of this Contract.

13.3 City's Warranties

The City represents and warrants to the Vendor that, as of the Effective Date, the City:

- (a) has the full right, power, and authority to enter into this Contract and to perform its obligations under it;
- (b) does not require the consent of any third party to enter into or perform this Contract; and
- (c) will not be in breach of any other contract or legal obligation by entering into or performing this Contract.

13.4 Reliance

The City represents and the Vendor recognizes and agrees that, in entering into this Contract, the City has relied extensively on the information provided by the Vendor in the Proposal and on the representations and warranties set out herein.

ARTICLE 14 MAINTENANCE AND SUPPORT

14.1 Maintenance and Support Services

The Vendor shall perform the Maintenance and Support Services during the Term.

ARTICLE 15 ACCEPTANCE TESTS

15.1 Acceptance Tests Process

The Vendor will deliver the Software and Documentation and perform the Services so that the Hardware, Software and Documentation pass all acceptance tests reasonably required by the City to ensure the Software and Documentation Comply with the requirements of the Contract Documents (the "Acceptance Tests").

15.2 Acceptance Tests Failure—Defined

If any part of the Hardware, Software, Services or Documentation delivered by the Vendor fails to pass successfully any one of the Acceptance Tests within the time allotted (including any extension of time granted by the City or permitted by the terms of this Contract), or if the Vendor fails to install the Hardware and Software complete and ready for acceptance by each applicable Delivery Date, including each Go Live Date (or agreed upon extension thereof), and the Vendor has not remedied such failure within the time period specified by the City, acting reasonably, then, except as otherwise set out in this Contract, the Vendor will be deemed to be in default and *Article 22 [Vendor Defaults]* will apply.

15.3 Correction of Defects/Deficiencies

All deviations from the Functional Requirements identified by the City Project Manager arising from the Acceptance Tests will be corrected by the Vendor at its cost.

15.4 Go Live and Final Acceptance Requirements

The City Project Manager will sign the Certificate of Final Acceptance when, but only when, all of the work defined in *Schedule C [Implementation - Statement of Work]* and the Hardware, Software and Services have passed all Acceptance Tests.

**ARTICLE 16
LICENCE AND PROPRIETARY MATERIAL**

16.1 Software Licence

All Software provided by the Vendor to the City pursuant to this Contract will be governed by the terms of the Licence.

16.2 Grant of Licence

- (a) *Licence* – Subject to the terms and conditions of this Contract, the Vendor now grants and the City accepts a perpetual (except as set out in this Contract), fully paid-up, non-exclusive, non-transferable (except to the extent permitted by this Contract) enterprise licence (the “Licence”), free and clear of all liens, charges and encumbrances, to use and permit the use of the Software and Documentation subject to the terms of this Contract.
- (b) *Releases* – All Releases of the Software issued during the Term are included in the Licence.

16.3 Documentation Copies – Restriction/Procedures on Use

The City retains the right to produce such copies of the Documentation (in whatever media) as are reasonably required for the City’s permitted uses of the Software, provided always that any such reproduction, whether in whole or in part, must contain any Vendor proprietary notices contained in the original. The City may back-up the electronic copies of the Documentation and may place electronic copies on the City LAN or Intranet for use of City staff in the performance of their duties.

16.4 Protection of Vendor’s Proprietary Rights

- (a) *Vendor’s Proprietary Material* – The City is granted only the right to use Vendor’s Proprietary Material pursuant to this Contract and does not acquire any ownership

rights or title in or to the Vendor's Proprietary Material or that of its respective licensors. The Vendor retains for itself, and the City acknowledges that the Vendor so retains, all ownership rights in and to the Vendor's Proprietary Material.

- (b) *Vendor's Proprietary Material Confidential* – The City recognizes and agrees that all Vendor's Proprietary Material and enhancements or updates of same which are provided to the City by the Vendor:
- (i) are considered by the Vendor to be trade secrets of the Vendor;
 - (ii) are furnished by the Vendor to the City in confidence;
 - (iii) contain proprietary and confidential information; and
 - (iv) the Vendor's placement of a copyright notice will not be construed to mean that such portion has been published and will not derogate from any claim that such portion is a trade secret or contains proprietary and confidential information of the Vendor.

16.5 Protection of City's Proprietary Material

- (a) *Vendor to Protect All City Records* – The City retains for itself, and the Vendor acknowledges that the City so retains, ownership and rights of ownership to all City's Proprietary Material including the following segregate category of City's Proprietary Material, which segregate category is comprised of all records entered into the Software Database or created by the Software (the "City Records"). The Vendor will not, without the City's express prior written consent, disclose, copy or use, or permit the disclosure, reproduction or use of, any City Records, except only to the extent necessary for the Vendor to carry out contracted work for the City, and the Vendor will not transfer, disclose or provide access to any City Records to any other party except:
- (i) only to the extent necessary for the performance of this Contract;
 - (ii) only to those individuals who have a "need to know" the City Records in order to carry out this Contract; and
 - (iii) only to individuals located at the time of access within Canada.
- (b) *Removal on Request* – The Vendor agrees upon request in writing from the City to immediately and permanently remove all City Records, electronic or otherwise, from any files, servers, drives or other storage facilities or devices in the Vendor's possession or control, except to the extent that where such removal would negatively affect the Vendor's ability to perform its other obligations under this Contract, the Vendor will nonetheless comply
- (c) *City's Proprietary Material Confidential* – The Vendor recognizes and agrees that all City's Proprietary Material provided to the Vendor by the City:
- (i) are considered by the City to be trade secrets of the City;
 - (ii) are furnished by the City to the Vendor in confidence;
 - (iii) contain proprietary and confidential information; and

- (iv) the City's placement of a copyright notice will not be construed to mean that such portion has been published and will not derogate from any claim that such portion is a trade secret or contains proprietary and confidential information of the City.

16.6 Exceptions to Non-Disclosure

For the purposes of this Contract, Proprietary Material of either party (in this Section, the "Owner") will not include information that, as proven by the party disclosing same (in this Section, the "Discloser") through written evidence,

- (a) at the time of disclosure by the Discloser was already in the public domain;
- (b) after disclosure by the Discloser, is published or otherwise becomes part of the public domain through no act or omission of the Discloser; and
- (c) was known to the Discloser prior to its receipt from the Owner and was not acquired, directly or indirectly from the Owner or anyone on its behalf.

Neither party will be in breach of its obligations herein with respect to the Proprietary Material of the other party if it is ordered to disclose such Proprietary Material by a Court or by a regulatory, governmental or other similar authority of competent jurisdiction. Such disclosure shall not, in and of itself, change the confidential nature of the Proprietary Material so ordered to be disclosed and the party being ordered to disclose will immediately provide the Owner with notice that it has been required to disclose the Proprietary Material and in any event as soon as possible and will provide reasonable assistance to the Owner in any attempt by the Owner to block, restrict or limit the extent of such mandatory disclosure.

ARTICLE 17 WORKERS' COMPENSATION BOARD

17.1 Maintain Coverage – General

The Vendor will carry and pay for full WorkSafeBC coverage for itself and all of its personnel engaged in or on the Services, failing which the City has the unfettered right to set off the amount of any unpaid premiums and assessments for such WorkSafeBC coverage against any amounts owing by the City to the Vendor, provided that the City has given prior written notice to the Vendor that the City intends to exercise such right of set off and the Vendor has not remedied the failure within five Business Days following the receipt of such notice. The City will have the right to withhold payment under this Contract until the WorkSafeBC premiums, assessments or penalties in respect of the Services have been paid in full.

17.2 Provide Evidence of Coverage—General

At any time and from time to time, on the request of the City, the Vendor will provide the City with the Vendor's WorkSafeBC registration number and a letter from the WorkSafeBC confirming that the Vendor is registered in good standing with the WorkSafeBC and that all assessments have been paid to date prior to the City having any obligation to pay any invoice under this Contract. The Vendor will indemnify the City and hold harmless the City from all manner of Losses arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged directly or indirectly by the Vendor in the performance of the Services or arising out of or in any way related to their failure to observe safety rules, regulations and practices of the WorkSafeBC, including penalties levied by the WorkSafeBC.

17.3 Special WorkSafeBC Requirements Where Services Are Provided on City Sites

With respect to all Services provided by the Vendor on the Installation Sites or on any other City sites, the Vendor is now appointed and now accepts appointment as the “prime contractor” as defined by the WorkSafeBC Rules for the purposes of this Contract, but only with respect to the Vendor’s and the Vendor’s sub-contractor’s employees and only with respect to WorkSafe Rules that apply to their conduct independently of the City’s compliance with WorkSafe Rules that apply to the condition or contents of Installation Sites or other City sites.

**ARTICLE 18
OCCUPATIONAL HEALTH AND SAFETY**

18.1 Must Conform

Each party and its sub-contractors must conform to all occupational health and safety Laws and Regulations.

18.2 OHS Indemnity

Without limiting the general scope of the other indemnities granted within this Contract, each party (the “Indemnifier”) will indemnify and save harmless the other (the “Indemnitee”) harmless from and against any Losses suffered or incurred by the Indemnitee by reason of failure of the Indemnifier, its agents or employees, or any sub-contractors of the Indemnifier, its agents or employees to comply or ensure compliance with the occupational health and safety Laws and Regulations mentioned above.

18.3 Limitation of Liability

Despite *Section 18.2 [OHS Indemnity]*, neither party will be liable for any Losses other than the direct out-of-pocket Losses and under no circumstance will either party be liable under this *Article 18 [Occupational Health and Safety]* for any Losses on account of lost profits, lost revenue, or any other form of economic loss.

**ARTICLE 19
SUB-CONTRACTORS**

19.1 Consent Required for Sub-Contractors

The Vendor now confirms that it has no intent to utilize any sub-contractors in connection with the performance of this Contract other than as set out in *Schedule E [Sub-Contractors]*. Except as set out in *Schedule E [Sub-Contractors]*, the Vendor will not engage any sub-contractor in connection with the performance of its obligations under this Contract without the prior written consent of the City, such consent not to be unreasonably or arbitrarily withheld, delayed or conditioned.

19.2 Vendor Responsible for Sub-Contractors

The Vendor will be fully responsible to the City for acts and omissions of its sub- contractors and all other persons directly or indirectly retained or employed by the Vendor in the performance of this Contract in the same manner and to the same extent as the Vendor. The Vendor will be solely responsible for paying the fees and expenses of all sub-contractors engaged by them in connection with the Services and the City will have no liability in connection with same.

19.3 No Contract Formed Between City and Sub-Contractors

Nothing contained in this Article or in any other provision in any of the Contract Documents will create any contractual relations between any sub-contractor of the Vendor and the City, save that the City will receive the benefit of all warranties set out in this Contract regardless of whether the Hardware, Software or Services were supplied by the Vendor, its sub-contractors, employees, or any other agent of the Vendor.

**ARTICLE 20
PROJECT TEAM MANAGEMENT**

20.1 Team Composition

Subject to *Section 20.2 [Team Substitutions]*:

- (a) the Vendor will furnish all Vendor Project Team Members required to perform the Services, and all such personnel will be competent and qualified to perform the Services;
- (b) if specific personnel have been identified in *Schedule F [Key Personnel]*, the Vendor will utilize only those Vendor Project Team Members therein identified;
- (c) the parties now confirm and agree that the key personnel listed in *Schedule F [Key Personnel]* have been accepted by the City;
- (d) the City will utilize only those City Project Team Members which satisfy the roles and responsibilities described in the Contract Documents; and
- (e) the City and Vendor will mutually review the size and composition of its Project Team Members on a periodic basis to verify whether or not such Project Team Members are being deployed in accordance with this Contract and to implement the necessary adjustments or corrective action, if required.

20.2 Team Substitutions

Except for substitutions required by circumstances not within its reasonable control:

- (a) the Vendor may not make substitutions of its Vendor Project Team Members without the prior written consent of the City Project Manager, whose consent will not be unreasonably or arbitrarily withheld, delayed or conditioned; and
- (b) the City may make substitutions of City Project Team Members, but if such substitutions are made without prior notice to and consultation with and consent of the Vendor Project Manager, then the Vendor will be released from its obligations under this Contract to the extent that such substitution adversely affects or delays the Vendor's ability to perform the Services.

For the purposes of this Section, "substitutions required by circumstances not within its reasonable control" mean substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract but expressly exclude situations where the Vendor Project Team Member is called upon to perform services for another client of the Vendor or its affiliates and situations where the City Project Team Member is assigned to work on another project of the City.

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20.3 Vendor Project Manager

The Vendor Project Manager shall be available during Operating Hours of the City as the principal contact between the parties. The Vendor Project Manager shall be designated not later than the Effective Date. If the Project Manager becomes unable to fulfill this obligation, the Vendor shall immediately appoint another of equal authority.

ARTICLE 21
INDEMNITY AND LIABILITY

21.1 Indemnity for Personal/Property Loss

Each party (the "Indemnifier") will indemnify and save the other party and its respective officers, employees and agents (collectively, the "Indemnitee") harmless from and against all Losses on account of any damage to property or injury (including death) to any person (including damage or injury to the Indemnitee) which may be caused or be alleged to have been caused as a direct or indirect result of any default, willful misconduct or negligent act or omission of the Indemnifier or the Indemnifier's officers, employees or agents, in the performance of the Indemnifier's obligations pursuant to this Contract.

21.2 Releases

- (a) The Vendor now accepts the Installation Sites and all other City sites on an "as is" basis and so now assumes all risk of damage or injury to the Vendor's officers, employees, and agents, from whatever cause.
- (b) Subject to Section 21.1 [Indemnity for Personal/Property Loss], the Vendor now releases the City from all liability for any Losses arising from personal injury or loss or destruction of or physical damage to personal property arising from:
 - (i) General Accidents – any acts or omissions of the City or its contractors or employees; or
 - (ii) Accidents on the Site – any occurrence on or about City premises, including by way of example only, and without limiting the general scope of this Section:
 - (A) lack of repair, collapse of any building or improvement on City premises;
 - (B) the leakage or explosion of water, gas, sewer, steam, electricity, electromagnetic or any other form of radiation, energy, waves or signals;
 - (C) the presence or escape of asbestos or any other hazardous, noxious, or restricted substance; or
 - (D) theft, damage or misappropriation of personal property.

ARTICLE 22
TERMINATION

22.1 Termination without Cause

The City may, at any time and for any reason, terminate this Contract in whole or in part by giving Vendor 30 days' prior written notice. If the City terminates under this section, the City

will pay any reasonable wind-up costs of the Vendor up to a maximum of \$5,000. Vendor will immediately refund the balance of any prepaid and unearned fees to the City and may offset any reasonable wind-up costs, up to the foregoing maximum, against the amount to be refunded to the City.

22.2 Termination for Breach, Insolvency, Bankruptcy

The City may terminate this Contract:

- (a) if the Vendor is in breach of any term of this Contract and the breach is not cured within 10 (ten) days of written notice by the City; or
- (b) immediately if the Vendor becomes insolvent, bankrupt or is otherwise unable to carry on business. If the City terminates under this section, the Vendor will immediately refund the balance of any prepaid and unearned fees to the City.

ARTICLE 23 INTENTIONALLY DELETED

ARTICLE 24 INTELLECTUAL PROPERTY PROTECTION

24.1 Vendor to Assume Defence of Suits Against City

The Vendor will:

- (a) assume the defence of any suit brought against the City to the extent it is based upon infringement of any Intellectual Property Rights arising from use or sale of the Software or any part thereof under this Contract or any current Release or modification of the Software supplied by the Vendor under the terms of this Contract;
- (b) pay all expenses associated with such defence;
- (c) indemnify and save harmless the City against any and all Losses incurred by the City as a result of such suits; and
- (d) subject to *Section 24.2 [Claim of Intellectual Property Infringement]*, immediately acquire the rights for the City to use the Software or part thereof or immediately provide the City with non-infringing Software components which will meet the terms of this Contract if the City is prevented from using the Software or any part thereof as a result of any suit or action taken against the City,

provided that:

- (e) the Vendor is given the sole and exclusive control of the defence suit and sole and exclusive control of negotiations relative to the settlement of it;
- (f) the Software or such part thereof is used by the City in the form, state or condition as delivered by the Vendor, or if it is not so used, such deviation is not the cause of the suit; and
- (g) the City provides the Vendor with written notice of the claim within 20 Business Days after the City's Director of Legal Services receives formal notice of the claim and cooperates with the Vendor in the defence of the suit and does not compromise or settle the suit without the prior written consent of the Vendor, such consent not to be

unreasonably or arbitrarily withheld or delayed, and such infringement is not due solely to the combination of the Software with any third party software or hardware and such infringement is not caused by a modification to the Software created by the City or any third party on behalf of the City or such infringement does not result from any modification created by the Vendor at the request of the City pursuant to a Change Request that is not subsequently a Release.

24.2 Claim of Intellectual Property Infringement

If the Software or any part thereof which has not incurred any unauthorized modifications or combinations by the City is or becomes, or in the Vendor's opinion is likely to become, the subject of a claim of Intellectual Property infringement, then the City will permit the Vendor to, and the Vendor will promptly, at the Vendor's option and expense, either:

- (a) procure for the City the right to continue using the Software or such part thereof; or
- (b) replace or modify the Software or such part thereof with non-infringing Software or parts thereof that will meet the terms of this Contract.

24.3 Limitation of Liability Does Not Apply

For greater certainty, the Vendor's limitations on liability as set out in ARTICLE 21 [Indemnity and Liability] do not apply to this Article.

ARTICLE 25 RECORDS

25.1 Full Audit Rights and Access

All financial accounts, records, invoices, receipts and vouchers of the Vendor will at all times be open to audit and inspection by the authorized representative of the City when and to the extent reasonably necessary to satisfy the City as to the Vendor's compliance with this Contract and the Vendor will supply the authorized representative of the City with all such information as it may from time to time require in connection with such audit and inspection. The Vendor will not, within a period of five years from termination or completion of this Contract, without the written consent of the City, dispose of any such accounts, records, invoices, receipts or vouchers but shall preserve and keep them available for audit and inspection at any time. The City will maintain, preserve and archive its records in the manner required under the Vancouver Charter.

ARTICLE 26 COMPLIANCE WITH LAWS

26.1 Vendor to Comply

In carrying out its obligations, the Vendor 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 licences, permits and registrations as may be required by law.

26.2 Vendor Will Pay and Discharge

The Vendor will pay and discharge all wages, fees, salaries, charges, costs and expenses due and accruing due to any of its employees, agents, suppliers and sub-vendors and will make and remit to the proper authorities all deductions required by law.

**ARTICLE 27
ARBITRATION**

27.1 Arbitration

Subject always to the City's and Vendor's rights and remedies expressly set out herein, any dispute under this Contract that is not resolved amicably by the parties following the expenditure of reasonable efforts to do so, will be referred to a single arbitrator under the provisions of the *Commercial Arbitration Act* (British Columbia) and the decision of that single arbitrator will be final and binding upon the parties. Except as may otherwise be agreed in writing between the parties:

- (a) the arbitration will be conducted in accordance with the procedural rules of the British Columbia International Commercial Arbitration Centre (in this Article, the "BCICAC");
- (b) the appointing authority will be the BCICAC;
- (c) the arbitration will be conducted in the English language in Vancouver, British Columbia; and
- (d) the costs of arbitration (other than the costs incurred by the parties for their respective legal representation in the proceedings) will be borne equally by the parties except where otherwise stipulated in this Contract.

**ARTICLE 28
GENERAL PROVISIONS**

28.1 Vendor not Agent or Employee

Unless specifically agreed to in writing by the City, the Vendor will not be the employee or agent of the City and accordingly, will not purport to enter into any contract or subcontract on behalf of the City, or otherwise act on its behalf, and the Vendor acknowledges that the City will not be required on its behalf to make remittances, filings or payments required by statute of employers, and that the Vendor will not be entitled to the fringe benefits provided by the City to its employees.

28.2 No Assignment by Vendor Without Consent

The Vendor will not assign this Contract to any person any right, duty or obligation under it without the prior written consent of the City which consent may be arbitrarily withheld, delayed or conditioned.

28.3 Non-Waiver of Rights

Any failure by either party to enforce or require the strict keeping and performance of any of the terms and conditions contained in the Contract will not constitute a waiver of such terms and conditions and will not affect or impair such terms and conditions in any way or such party's right at any time to avail itself of such remedies as that party may have for any breach or breaches of such terms and conditions, unless that party enters into and signs a Change Order or an Amendment.

28.4 Freedom of Information and Protection of Privacy Act (British Columbia)

The City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia). All documents submitted to the City become the property of the City, will be

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received and held in confidence by the City and the information will not be disclosed except to the extent necessary for carrying out the City's purposes or as required by law. Further to Section 16.5 (a), all City Records are City's Proprietary Material and protected from disclosure or locating or giving access to them from outside Canada and the Vendor now confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

28.5 Notice

All notices which are required to be given or made pursuant to the Contract will be given or made in writing and will be served personally (including by commercial courier) or sent by fax as follows:

(a) if to the City:

City of Vancouver
Suite 1100 - 450 SW Marine Drive
(Marine Gateway)
Vancouver, BC V5X 0C3

Attention: Director of Water and Sewer Services
Fax No.: (604) 871-6855

with copies to:

City of Vancouver
515 West 10th Avenue
Vancouver, BC

Attention: Director of Legal Services
Fax No.: (604) 873-7445

and:

City of Vancouver
City Hall, 3rd Floor
453 West 12th Avenue
Vancouver, BC

Attention: City Clerk
Fax No.: 604-873-7419

(b) if to the Vendor:

[•]
[•]

Attention: [•]
Fax No. [•]

or at such other addresses as each party may from time to time advise the other in writing. The date of receipt of any such notice will be deemed to be the date of delivery of such notice if served personally, or if sent by fax then the date and time of confirmation issued by the sender's fax machine as verified by the recipient's fax machine.

28.6 Severability—Enforceability Preserved

The invalidity of any portion of the Contract Documents will not affect the validity of the remainder of the Contract document and will be deemed to be severed provided that the spirit and intent of the Contract is not violated.

28.7 Survival

Any term or provision of these Contract Documents that, by its nature, is intended to survive the expiration or termination of this Agreement, including, obligations with respect to liability, indemnity, confidentiality, ownership and intellectual property, will survive the expiration or termination of this Agreement for any reason.

28.8 Contract Extension and Modification

The Contract may only be modified or extended by formal Change Order or Amendment of the Contract signed by the parties and made a permanent part of the Contract. Accordingly, and for further certainty, all Acceptance Test documents intended to constitute an Amendment must be signed by both parties in order to have that legal effect.

28.9 Unavoidable Delays

- (a) *Performance Deadlines Extended* – Except for the performance of obligations to pay money, time periods for the City's and the Vendor'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. Such extension will be deemed to include the ancillary reasonable impact which an Unavoidable Delay has on the delayed party such as for example where a key person is scheduled to perform Services or conduct/review an Acceptance Test result during the week that the Unavoidable Delay occurs but is thereafter not available again for 15 Business Days. However, under no circumstances will any "ancillary reasonable impact" delay extend beyond 15 Business Days and to the extent that it does then it will be conclusively deemed not to be an Unavoidable Delay.
- (b) *Unavoidable Delays* – An "Unavoidable Delay" means any circumstances beyond the reasonable control of the party trying to perform, and includes:
 - (i) strikes/lockouts, acts of God, terrorism, war or other strife or governmental action;
 - (ii) any delay resulting from defects or malfunctions of the City's existing technology platform (as described in the RFP);
 - (iii) the City acting at variance with the Contract pursuant to *Section 28.10 [Changes in Laws and Regulations]*; and
 - (iv) but expressly excludes any and all delays caused by the Vendor's lack of financial resources or insolvency, or governmental action taken in the enforcement of law specifically against the Vendor, and as mentioned above any "reasonable impact delay" beyond 15 Business Days.

28.10 Time is of the Essence

Time is of the essence of this Contract and of the performance of each obligation of each party.

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28.11 British Columbia Laws Govern

This Contract will be governed by and construed in accordance with the laws of British Columbia, which will be deemed to be the proper law of this Contract. The courts of British Columbia will have jurisdiction to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and will have jurisdiction to hear and determine all questions as to the validity, existence or enforceability of any clause. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the parties now irrevocably submit and attorn to the exclusive jurisdiction of the courts of British Columbia and acknowledge their competence and the convenience and propriety of the venue and agrees to be bound by any judgment and not to seek, and now irrevocably waives, any review of its merits by the courts of any other jurisdiction.

28.12 Further Assurances

Each party will execute and deliver such further and other agreements, documents and instruments and do such further acts and things as are within its power and as may be necessary or desirable to fully implement and carry out the intent of this Contract.

28.13 Successors and Assigns

This Contract will enure to the benefit of and be binding upon each party and its respective successors and permitted assigns.

28.14 Entire Contract

The provisions contained and the documents referred to in the Contract Documents constitute the entire Contract between the parties and supersede all previous communications, representations and contracts whether verbal or written between the parties with respect to its subject matter.

28.15 Counterparts

This Contract and any other writing delivered pursuant hereto may be executed in any number of counterparts, including by facsimile or other electronic transmission, with the same effect as if both parties to this Contract or such other writing had signed the same document, and all counterparts will be construed together and constitute one and the same instrument.

AS EVIDENCE OF THEIR AGREEMENT to be bound by the above terms and conditions, the parties have each executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

by its authorized signatories:

Signature

Print Name and Title

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Signature

Print Name and Title

by its authorized signatories:

Signature

Print Name and Title

Signature

Print Name and Title

[NTD: Schedules to be completed based on the requirements set out in the RFP and the Vendor's Proposal]