



REQUEST FOR PROPOSALS

RFP No. PS20200709

PROVISION OF VETERINARY SERVICES FOR VANCOUVER ANIMAL SERVICES

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Issued by: City of Vancouver (the "City")

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PROVISION OF VETERINARY SERVICES FOR VANCOUVER ANIMAL SERVICES
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PROVISION OF VETERINARY SERVICES FOR VANCOUVER ANIMAL SERVICES
PART A - INFORMATION AND INSTRUCTIONS

SUMMARY

The City of Vancouver ("City") is seeking submissions from professional, qualified and licensed veterinarians to diagnose, treat and provide care for a variety of animal species under our care in Vancouver, subject to the Canadian Veterinary Medical Association (CVMA) Code of ethics and BC Veterinarians act SBC 2010.

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.
 - (c) PART C - FORM OF PROPOSAL: This is the form in which the Proposal should be submitted.
 - (d) PART D - 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.

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PART A - INFORMATION AND INSTRUCTIONS

2.0 KEY DATES

2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for Enquiries	3:00 pm on Thursday, July 16, 2020
Closing Time	3:00pm on Thursday, July 23, 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:

Donna Lee, Buyer donna.lee@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 and any other attachments if necessary,
 - Appendix 3 (pricing tab) in Excel format, and;
- 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.

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PART A - INFORMATION AND INSTRUCTIONS

- 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 three (3) -year period, with two (2) possible three (3) -year extensions, for a maximum total term of 9 years.
- 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.
- 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.

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PART A - INFORMATION AND INSTRUCTIONS

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	45%
Financial	50%
Sustainability (Environmental and/or Social)	5%
Total	100%

- (i) financial terms, (ii) Proponents' skills, knowledge, reputations and previous experience(s), including experience(s) with the City (if any); (iii) Proponents' capabilities to perform the City's scope of work (as defined in Part B) as and when needed, (iv) quality and service factors, (v) innovation, (vi) environmental or social sustainability; and (vii) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.
- 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

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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 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 LIVING WAGE EMPLOYER

10.1 Effective May 1, 2017, the City of Vancouver became a "Living Wage Employer". As such, the City requires all firms that are contracted by the City to provide services on City-owned and leased properties to pay employees who perform those services on City property a Living Wage as calculated by the Living Wage for Families Campaign.

Please see the Living Wage for Families Campaign website for the current Living Wage for Vancouver:

http://www.livingwageforfamilies.ca/living_wages_in_bc_and_canada

The Living Wage includes the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits.

The Living Wage for Families has created a Living Wage Calculator to assist with the calculation of an employee's hourly rate with benefits. The Living Wage Calculator can be found at the following website:

<http://www.livingwageforfamilies.ca/employers/living-wage-calculator/>

Proponents should refer to the Form of Agreement attached as Part D to this RFP for the specific requirements related to the Living Wage, which include:

- (a) paying the Living Wage to all employees who perform services pursuant to the Agreement on City property during the term of the Agreement; and

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PART A - INFORMATION AND INSTRUCTIONS

- (b) ensuring that all subcontractors pay the Living Wage to their employees who perform services on City property during the term of the Agreement.

Failure to comply with the Living Wage requirement will entitle the City to terminate the Agreement.

11.0 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.

12.0 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.

APPENDIX 1 - *INTENTIONALLY OMITTED*

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.

1.0 INTRODUCTION

- 1.1 The City of Vancouver operates the Animal Shelter which is a pro-adoption facility. This is a moderately busy shelter which houses approximately 600 to 700 animals per year. Of those animals approximately, two thirds will be seen by a veterinarian for services including spay and neuter services for dogs and rabbits adopted, and care for sick and injured animals.
- 1.2 Animals housed in the Shelter include dogs, cats, rabbits, and rodents, however can also include more exotic species such as reptiles, ferrets, snakes, lizards, birds and occasional chickens. The shelter also houses animals that are deemed to be aggressive while waiting for court procedures.

2.0 SUMMARY OF REQUIREMENT

- 2.1 The City of Vancouver requires veterinary services for Vancouver Animal Services. As specific requirements are not known at this time, the City wishes to enter into standing contracts with one or more Veterinarians, if a single provider is unable to provide regular and 24 hour emergency care and that have the interest and the capability to provide such services.
- 2.2 There will be regular day to day treatment as well as the potential for daytime emergency care.
- 2.3 To establish a clear list of prices for delivery of services and expectations around timelines for those services.

3.0 SCOPE OF WORK

- 3.1 To provide veterinary services in the Veterinarian’s own offices and occasionally provide on-site shelter visits.
- 3.2 To provide routine diagnostics and medical care including spay and neuter.
- 3.3 To provide medical and first aid supplies, medications, medical based diets for purchase as required.
- 3.4 To provide euthanasia services for medical, behavioural and court ordered reasons.
- 3.5 Services to include availability to receive an animal for an appointment and held for pick up later that day.
- 3.6 Services to include next day service for available appointments.
- 3.7 Services to include 24 hour emergency care and overnight monitoring.

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PART B - SCOPE OF WORK

3.8 To provide detailed billing for each animal seen on separate invoicing in a timely fashion.

3.0 LIST OF SERVICES

Please fill in - "√" "able to provide" "X" unable to provide and list any additional services available but not listed below.

ITEM	DESCRIPTION	ABILITY TO PROVIDE(√ / X)
Spay And Neuter, includes:		
1.	Sedation; IV, pain management	
2.	Nail trim; microchip implantation	
3.	Pediatric spays and neuters when applicable	
Euthanasia, to Occur Both in Clinic and on Site at Animal Control:		
4.	Medical euthanasia and behavioral euthanasia	
5.	Aggressive and court ordered euthanasia (may require blow darting or no restraint sedation)	
Animal Exams:		
6.	General health exams	
7.	Dental Work	
8.	Possible injury exams	
9.	Pre-anesthetic exams	
Diagnostics:		
10.	Urine test; Fecal tests	
11.	Blood work, radiographs and skin scraping	
Supplies and Medication Available for Purchase, as Prescribed or Needed, for Example:		
12.	Antibiotics and pain medications	

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PART B - SCOPE OF WORK

ITEM	DESCRIPTION	ABILITY TO PROVIDE(√ / X)
13.	Medicated creams, antibiotic shampoos, and other medication as needed	
14.	First aid supplies (syringes, needles, gauze, telfa pads, tape, etc.)	
16.	Various vaccines, distemper combo, Bordetella, etc.	
17.	Flea and tick treatments	
18.	Ear and eye cleaning medications and solutions	
19.	Cones	
20.	Testing supplies as needed	
21.	Overnight Monitoring	
22.	Shelter visits as needed	
23.	Provide reasonably detailed care records for each animal treated using the Vancouver animal Shelters unique log number, and date of treatment or exam	
24.	Provide instructions and guidance for on-going treatment regimens for injured or sick animals	
24 Hour a Day Emergencies (24/7):		
25.	Animals hit by car and or in very poor condition	
26.	Animals suffering from unknown trauma, non-responsive, non-ambulatory	
27.	Overnight stabilization	
28.	Emergency drop off after hours 8:00 pm to 8:00 am	

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PART C - FORM OF PROPOSAL

PART C – FORM OF PROPOSAL

RFP No. PS20200709, VETERINARY SERVICES FOR VANCOUVER ANIMAL SERVICES (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

Signature of Authorized Signatory for the Proponent

Date

Name and Title

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PART C - FORM OF PROPOSAL

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 10	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. PS20200709 - Veterinary Services for Vancouver Animal Services, 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

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PART C - FORM OF PROPOSAL

process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent 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));

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PART C - FORM OF PROPOSAL

- (b) any unintentional tort of the City or its officials or employees occurring in the course of conducting the RFP process;
- (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.

Q1	Is your practice American Animal Hospital Association (AAHA) Accredited?
A1	

Q2	Does your practice have written protocols on the following: (a) Anesthesia, (b) Pain Management, (c) sedation
A2	

Q3	Do all of your surgical patients receive an IV catheter?
A3	

Q4	Do all of your surgical patients receive pain control?
A4	

Q5	Does your practice use the critical distress protocol?
A5	

Q6	Does your hospital prescribe Pre-Veterinary pharmaceuticals (PVP's)?
A6	

Q7	Would your hospital be willing to perform pediatric spay and neuters?
A7	

Q8	Who does your hospital refer to for behaviour medicine?
A8	

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Q10	The City will pay by Electronic Fund Transfer to your account net 30 days. Will your clinic invoice each animal individually within 30 days of treatment?
A10	

2.0 FACILITY

Q1	Does your hospital have a separate entrance for potentially contagious or aggressive animals?
A1	

Q2	Does your hospital have a separate isolation housing area?
A2	

Q3	Does your hospital have a dedicated surgical suite?
A3	

Q4	Does your hospital have an in-house laboratory?
A4	

Q5	Does your hospital have digital radiology?
A5	

Q6	Does your hospital have an ultrasound machine?
A6	

Q7	Does your hospital perform dental radiographs?
A7	

Q8	Can your hospital house non-critical patients overnight? Does the space provide a separate resting/elimination area? Allow for species separation?
----	--

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A8	
----	--

Q9	Would you be willing to house contagious animals overnight?
A9	

Q9	Does your hospital provide boarding services?
A9	

3.0 STAFFING AND CAPACITY FOR CARE

Q1	How many veterinarians are on staff?
A1	

Q2	Does your hospital have any RVT's on staff?
A2	

Q3	Does your hospital hire staff without any certification?
A3	

Q4	Are any of your staff are fear free certified?
A4	

Q5	Would you be able to ensure homecare instruction and invoices are ready at the time of pick up?
A5	

Q6	Does your hospital treat exotic animals?
A6	

Q7	Would your clinic be willing to see shelter animals with their foster?
----	--

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A7	
----	--

Q8	Is your hospital open for appointments seven days a week? Please list your hours of operation:
A8	

Q9	Which days does your hospital perform surgical procedures?
A9	

4.0 MICELLANANIOUS

Q1	Would your hospital be willing to euthanize animals deemed to be unsafe for release into the community?
A1	

Q2	Would you be willing to make house calls to the shelter?
A2	

1.0 SOCIAL SUSTAINABILITY

1.1 Supplier Diversity

Proponents' are required to answer to the following question, which will be kept confidential in accordance with the Legal Terms and Conditions of this RFP.

In the space below, indicate the vendor's company profile with regards to social value and economic inclusion including recognized certifications and/or if 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 LGBTQ2+ people).

Majority owned/controlled/ by: <ul style="list-style-type: none"> <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 	Social / Diverse Certifications <ul style="list-style-type: none"> <input type="checkbox"/> BCorp <input type="checkbox"/> Supplier Diversity Certification <hr/> Enviro / Other Certifications <ul style="list-style-type: none"> <input type="checkbox"/> BuySocial <input type="checkbox"/> Living Wage <input type="checkbox"/> Fairtrade <input type="checkbox"/> Green Business Certification (ie. LEED,
---	--

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<input type="checkbox"/> LGBTQ2+	ClimateSmart)
<input type="checkbox"/> Other: please indicate	<input type="checkbox"/> Other: please indicate
<input type="checkbox"/> None of the above	<input type="checkbox"/> None of the above

Do you have a Supplier Diversity program to include/consider equity-seeking businesses as your vendors/suppliers/sub-contractors? Y/N

Please provide information in the space below on how you invest in economic development of small/social/diverse businesses as your suppliers.

--

Please provide information in the space below on how you invest in economic development of small/social/diverse businesses as your suppliers.

--

2.0 EMPLOYMENT EQUITY & WORKFORCE DIVERSITY

2.1 Employment Equity (Annual Reporting Clause in Agreement)

In addition to being an equal opportunity employer, please describe any policies/programs or how you advance employee equity, diversity and inclusion for under-represented populations (such as Women, Indigenous People, People with Disabilities)

--

Do you regularly conduct an employee equity "survey" or similar information/data collection on workforce diversity? Y/N

a. Please describe how you track/monitor your workforce diversity including frequency.

--

Do you source/hire from Workforce Development and/or Skill Training programs, including pre-employment support, apprenticeships or ongoing employment support, for people who are under-represented and/or face barriers to traditional employment (such as Indigenous persons, Women, youth, Minorities, People with Disabilities including mental health)? Y/N _____.

b. Please describe and/or use the table below

--

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--

Category of Partnership Organizations	Name of the Partnership Organization(s)	# of staff (optional if makes sense)
Indigenous Peoples		
Women		
Ethno-Cultural Peoples		
People with Disabilities		
LGBTQ2+		
Youth/Seniors		
Other		

Do you support training for career advancement and/or skills development?
a. If yes, please describe

--

Do you compensate at or above a Living Wage (currently \$20.91/hr) Y/N

--

Do you provide non-mandatory benefits (i.e. extended health) to your employees? Y/N, if yes, please describe

--

3.0 WORKFORCE DIVERSITY

Vendors' are required to answer to the following question, which is for information gathering purposes only, and will be kept confidential in accordance with the Legal Terms and Conditions.

As best known, in the space below, indicate the vendor's company profile with regards to economic inclusion supporting employment equity, [diversity, inclusion](#) and reconciliation by an equity-seeking demographic (including but not limited to Women, Indigenous Peoples, Ethno-cultural People

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(minorities, newcomers, immigrants), persons with disabilities or LGBTQ2+ people). <i>Confidential & for information only</i>		
Overall Workforce Diversity: % Women % Indigenous Peoples % Ethno-cultural People % People with Disabilities % LGBTQ2+ % Other: please indicate	<div style="display: flex; justify-content: space-between;"> <div> Leadership/Management/Executive Diversity: % Women % Indigenous Peoples % Ethno-cultural People % People with Disabilities % LGBTQ2+ % Other: please indicate </div> <div style="text-align: right;"> Workforce </div> </div>	
<u>If you choose not to respond please indicate why:</u> <input type="checkbox"/> <u>Do not track this information</u> <input type="checkbox"/> <u>Do not want to share this information</u>		

APPENDIX 3
COMMERCIAL PROPOSAL

Complete this Appendix 3 - Commercial Proposal in Excel spreadsheet format posted on City's website along with this RFP.

Proponent to provide proposed pricing and ability to provide the services, 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).

When submitting its Proposal by email, please ensure Appendix 3 - Commercial Proposal is provided as a separate Excel file to the entire Proposal.

☐

By colouring in this box, the Proponent hereby confirms that the above Commercial Proposal is based on the payment of wages to employees of the Proponent that comply with the City's Living Wage Policy as described in Section 10.0 of Part A and in the Form of Agreement attached hereto as Part D.

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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)	

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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 EXISTING INSURANCE
TO BE COMPLETED AND APPENDED TO THE PROPOSAL**

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

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

Dated _____

APPENDIX 6

DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE - INTENTIONALLY OMITTED

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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 #PS20200709

Title: **VETERINARY SERVICES FOR VANCOUVER ANIMAL SERVICES**

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*.

Signature

Date

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APPENDIX 8

SUBCONTRACTORS - INTENTIONALLY OMITTED

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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 Part D. 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.



SAMPLE PROFESSIONAL SERVICES AGREEMENT
RFP PS20200709 -PROVISION OF VETERINARY SERVICES FOR
VANCOUVER ANIMAL SERVICES

THIS AGREEMENT is made as of the [day] day of [month/year] (the "Effective Date")

BETWEEN:

CITY OF VANCOUVER

453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

(the "City")

OF THE FIRST PART

AND:

[CONSULTANT NAME]
[address]

(the "Consultant")

OF THE SECOND PART

(the City and the Consultant are hereinafter sometimes
referred to individually as "Party" and collectively as
"Parties")

BACKGROUND:

- A. The City requires the professional services described herein, and desires to engage the Consultant to perform said services.
- B. The Consultant has agreed to perform the said services in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises made by the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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PART D - FORM OF AGREEMENT

1.0 INTERPRETATION

1.1 In this Agreement, including the recitals, schedules and appendices to this Agreement, the following words and terms, unless the context otherwise requires, shall have the meanings set out below:

- (a) **"Agreement"** means this Professional Services Agreement inclusive of all schedules, appendices, exhibits or other documents attached hereto or incorporated herein by reference, as amended from time to time;
- (b) **"Applicable Laws"** means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Consultant, any Sub-contractor and the Services, including the Vancouver Building By-law, the British Columbia Building Code, and the British Columbia Fire Code, all as may be in force from time to time;
- (c) **"City's Site"** means any land and/or premises owned by the City on which or in respect of which the Services are performed by the Consultant;
- (d) **"City's Project Manager"** means the City's employee, or his/her delegate, who is authorized in writing to deal with the Consultant on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- (e) **"Confidential Information"** has the meaning set out in Section 15.1
- (f) **"Contract Document"** refers to each of the individual documents composing the Agreement, including this Professional Services Agreement (exclusive of the documents attached hereto or incorporated herein by reference) and each schedule, appendix, exhibit or other document attached to this Professional Services Agreement or incorporated into the Agreement by reference;
- (g) **"Deliverables"** has the meaning set out in Section 17.1;
- (h) **"GST"** means the tax payable and imposed pursuant to Part IX of the Excise Tax Act (Canada), as amended or replaced from time to time;
- (i) **"Living Wage"** means the hourly wage established by the Living Wage Certifier from time to time during the Term, which includes: (i) direct wages; and (ii) the value of any non-mandatory benefits such as paid sick leave, employer-paid Medical Services Plan premiums and extended health benefits;
- (j) **"Living Wage Certifier"** means the Living Wage for Families Campaign, any successor entity, or, in the event the Living Wage for Families Campaign ceases to carry on operations, such other living wage certification entity designated by the City to the Consultant in writing;
- (k) **"Living Wage Employee"** means any and all employees of the Consultant and all Sub-contractors of the Consultant that perform any part of the Services on a property owned by or leased to the City, including all streets, sidewalks and other public rights of way, for at least one consecutive hour, but excluding Students, volunteers and employees of Social Enterprises;
- (l) **"Project Team"** has the meaning set out in subsection 2.2(c);

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PART D - FORM OF AGREEMENT

- (m) "Proposal" means the proposal submitted by the Consultant in response to the RFP, a copy of which is attached hereto, or incorporated by reference herein by operation of, Appendix B;
 - (a) "PST" means the provincial sales tax payable and imposed pursuant to the *Provincial Sales Tax Act* (British Columbia), as amended or replaced from time to time;
 - (n) "RFP" means Request for Proposal PS20200709 - Provision of Veterinary , together with all addenda and questions and answers attached hereto, or incorporated by reference herein by operation of, Appendix C;
 - (o) "Services" has the meaning set out in Section 2.1;
 - (p) "Social Enterprise" means a business that: (i) is owned by a non-profit organization or community services co-operative; (ii) is directly involved in the production and/or selling of goods and services for the combined purpose of generating income and achieving social, cultural, and/or environmental aims; and (iii) has a defined social and/or environmental mandate; [Delete if Living Wage policy does not apply]
 - (q) "Student" means an individual who is enrolled in a school, college, university or other educational institution and is employed by the Consultant or a Sub-contractor, as the case may be, to obtain practical workplace experience as a requirement of or credit for their education; [Delete if Living Wage policy does not apply]
 - (r) "Sub-contractor" has the meaning set out in Section 4.1; and
 - (s) "Term" means the term of this Agreement as specified in Section 12.1.
- 1.2 The Contract Documents are complementary and what is called for by any one will be as binding as if called for by all. In the event of any conflict or inconsistency between or among any of the Contract Documents, the Contract Documents will be interpreted in the following order of priority, from highest to lowest:
- (a) this Agreement, excluding Appendices B and C;
 - (b) the RFP; and
 - (c) the Proposal.
- 1.3 In this Agreement, including the recitals, schedules and appendices to this Agreement, except as expressly stated to the contrary or the context otherwise requires:
- (a) the recitals and headings to sections, schedules and appendices are for convenience and reference only and will not affect the interpretation of this Agreement;
 - (b) the terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer, unless otherwise specified or the context otherwise requires, to this Agreement taken as a whole (including any and all attached schedules and appendices) and not to any particular section, subsection or other subdivision;
 - (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;

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- (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
- (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
- (g) all references to money mean lawful currency of Canada;
- (h) the word "written" includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and "in writing" has a corresponding meaning; and
- (i) the words "include" and "including" are to be construed as meaning "including, without limitation".

2.0 CONSULTANT'S SERVICES TO THE CITY

2.1 The Consultant will provide and be fully responsible for the following services (the "Services"):

- (a) the services described in the RFP;
- (b) the services which the Consultant proposed to provide in the Proposal; and
- (c) all services not specifically included in subsections 2.1(a) and 2.1(b), but which are necessary or incidental to the completion of such other Services.

2.2 The Consultant will be fully responsible for:

- (a) coordinating the Services with the City's Project Manager, or his/her delegate, and ensuring that the performance of the Services does not adversely impact any design or construction schedule for any project or work and/or services provided by the City's other consultants, in each case to which the Services relate;
- (b) taking all steps required in placing, effecting and maintaining insurance and providing evidence of insurance as set out in Appendix A - Insurance Requirements; and
- (c) maintaining and supervising its employees and Sub-contractors (the "Project Team") described in Section 3.1.

2.3 The Consultant represents and warrants to the City that the Consultant possesses the necessary skills, knowledge, qualifications and experience to perform the Services to the reasonable satisfaction of the City.

2.4 The Consultant will perform the Services:

- (a) with that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered;

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- (b) in accordance with sound current professional practices and design standards; and
 - (c) in conformity with any and all Applicable Laws.
- 2.5 The Consultant will commence the Services promptly and will use every reasonable effort to carry out the Services in accordance with:
 - (a) the requirements and appendices of this Agreement, or
 - (b) where no date is specified for the provision of any component of the Services by this Agreement, such completion dates as are reasonably specified from time to time by the City.
- 2.6 The Consultant will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to the City's Site or any other City property.
- 3.0 **PROJECT TEAM**
- 3.1 Subject to Section 3.2, the Consultant will utilize only the Project Team members noted in the Proposal.
- 3.2 Except for substitutions required by circumstances not within its reasonable control, the Consultant may not make substitutions of Project Team members without the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned.
- 3.3 For the purposes of this Section 3, "substitutions required by circumstances not within its reasonable control" means substitutions required by virtue of illness, death, injury, pregnancy, medical leave, or termination of employment or contract, but expressly excludes situations where the Project Team member is called upon to perform services for another client of the Consultant, its Sub-contractor or their affiliates.
- 3.4 The City may, with stated reasons and acting reasonably, request that the Consultant replace a Project Team member. The Consultant will, subject to scheduling and staffing considerations, make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- 3.5 Regardless of whether or not the City consents to a substitution, or requests a substitution, the City will not be liable to pay additional compensation to the Consultant for any replacement Project Team member.
- 3A **Living Wage [Delete if Living Wage policy does not apply]**
- 3A.1 Subject to Section 3A.2, it is a condition of this Agreement that, for the duration of the Term, the Consultant pays all Living Wage Employees not less than the Living Wage.
- 3A.2 Notwithstanding Section 3A.1, the Consultant has up to 6 months from the date on which any increase in the Living Wage is published by the Living Wage Certifier to increase wages for all Living Wage Employees such that all Living Wage Employees continue to be paid not less than the Living Wage.
- 3A.3 The Consultant shall ensure that the requirements of Section 3A.1 apply to all Sub-contractors.

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- 3A.4 A breach by the Consultant of its obligations pursuant to Sections 3A.1 and 3A.3 shall constitute a material breach by the Consultant of this Agreement that shall entitle the City to terminate this Agreement with immediate effect if the Consultant has not remedied such breach within the time period specified by the City in writing to the Consultant.
- 3A.5 The Consultant shall maintain up-to-date records and accounts which clearly document its satisfaction of the requirements of this Article 3A and shall make the same available to the City upon request. The City may request copies of all such records and accounts which shall be provided to the City by the Consultant (subject to reimbursement of the Consultant's reasonable copying costs and any other direct costs and expenses, if any) at any time prior to the expiry of 365 days after completion of all of the Services or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Consultant in accordance with this Section 3A.5 shall be deemed to be Confidential Information.
- 3A.6 The Consultant shall prepare and submit to the City in a format reasonably acceptable to the City before January 31 of each calendar year of the term or, for each partial calendar year of the term, within 30 days of the expiry of the term a living wage report setting out:
- (a) the number of Living Wage Employees of the Consultant and each Sub-contractor who were paid a Living Wage pursuant to this Section 3A during the previous calendar year or portion thereof that would not have received a Living Wage for substantially similar work but for the obligations of the Consultant pursuant to this Section 3A; and
 - (b) the total incremental costs incurred by the Consultant, including any amounts paid to Sub-contractors, in order to fulfill its obligations pursuant to this Section 3A to pay a Living Wage to the Living Wage Employees described in Section 3A.6(a).
- 4.0 SUB-CONTRACTORS**
- 4.1 Unless expressly permitted pursuant to Section 3.0, the Consultant may not engage any contractor or consultant (in each case a "Sub-contractor") for the performance of any part of the Services, unless the Consultant has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 4.2 The Consultant will administer, coordinate, and manage all Services provided by any Sub-contractors, and will assume full responsibility to the City for all work performed by the Sub-contractors in relation to the Services and will pay all fees and disbursements of all Sub-contractors, subject to reimbursement by the City where the City has expressly agreed in this Agreement that such reimbursement is to be separate from and additional to the fees and disbursements payable to the Consultant.
- 4.3 Where a Sub-contractor is used by the Consultant under this Agreement, the Consultant will legally bind the Sub-contractor to comply with this Agreement.
- 4.4 Nothing in this Agreement will create any contractual relationship between a Sub-contractor and the City.
- 5.0 BASIS OF PAYMENT TO THE CONSULTANT**
- 5.1 In consideration of the Services performed by the Consultant to the satisfaction of the City and in strict conformity with the terms hereof, the City will pay the Consultant the fees and reimbursable expenses prescribed herein, plus GST and PST as applicable to the sale made to the City hereunder.

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- 5.2 The fees for the Services are described in this Section 5.0 and in _____.
- 5.3 The Consultant will, by the 25th day of each month, provide to the City's Project Manager a draft invoice with an attached detailed account of all charges to be claimed by the Consultant for the preceding month (if any). The City's Project Manager shall review the draft, raise any concerns with the Consultant within ten working days and, after settlement of any issues (in the City's Project Manager's discretion), approve the draft invoice. The Consultant, if so requested, will meet with the City's Project Manager to expedite and settle of the draft invoice. The Consultant will submit its final invoice, as per the approved draft invoice, to the City of Vancouver, Attention: Accounts Payable, by email to APInvoice@vancouver.ca. The invoice must contain:
- (a) the Consultant's name, address and telephone number;
 - (b) the City purchase order number;
 - (c) the name of the City's Project Manager;
 - (d) the invoice number and date;
 - (e) details of any applicable taxes (with each tax shown separately); and
 - (f) tax registration number(s).
- 5.4 If the City does not approve of or wishes to further review, audit or otherwise seek clarification concerning any of the Consultant's invoices, for whatever reason, the City will not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid, provided however, the City will use reasonable efforts to have the review, audit or clarification resolved within a 60 day period. The City will, if it approves the amount of such invoice, cause the respective invoice to be paid within 30 days of approval by electronic funds transfer to the bank account indicated by the Consultant.
- 5.5 The Consultant will keep proper accounts and records of all costs and expenditures forming the basis of any billing to the City, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The City will be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the books and records of the Consultant and by such other means as will be reasonably necessary or advisable.
- 5.6 The Consultant shall provide bank account information to the City to enable the City to make payments by electronic funds transfer, as contemplated hereby.
- 6.0 CHANGES TO SCOPE OF SERVICES**
- 6.1 The City's Project Manager may, from time to time and at any time on prior written notice to the Consultant, vary the scope of Services to be provided by the Consultant. In that case and where this Agreement contains delivery dates and/or limits as to fees or disbursements (or a defined "Maximum Fees and Disbursements") for all or any part of the Services, such delivery dates and/or limits will be adjusted as agreed to by both Parties in writing, and failing agreement, as reasonably determined by the City's Project Manager.
- 6.2 Should the Consultant consider that any request or instruction from the City's Project Manager constitutes a change in the scope of Services, the Consultant will provide the City's Project Manager with notice in writing within ten days of such request or instruction. If the Consultant

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does not deliver written notice to the City within the time period specified, the City will not be obligated to make any payments of additional fees, disbursements or out of pocket expenses to the Consultant.

7.0 RELEASE AND INDEMNIFICATION

- 7.1 The Consultant now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Consultant, its Sub-contractors, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 7.2 In undertaking the Services, the Consultant acknowledges that the Consultant has inspected the City's Site, agrees to accept the City's Site "as-is" and undertakes to take all precautions necessary to ensure the safety of all persons employed or contracted by the Consultant to perform the Services.
- 7.3 Despite any insurance coverage of the City, the Consultant hereby agrees to indemnify and save harmless the City of Vancouver and its successors, assigns, official, employees, agents and authorized representatives and each of them (in each case an "Indemnified Party") from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Consultant, its Sub-contractors, or their respective officers, employees or agents under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of an Indemnified Party.
- 7.4 This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.
- 7.5 The release and indemnity set out above will survive the expiry or sooner termination of this Agreement.

8.0 INSURANCE

- 8.1 The Consultant will comply with the insurance requirements set out in Appendix A - Insurance Requirements.

9.0 WORKSAFEBC

- 9.1 The Consultant agrees that it will procure and carry and pay for, full WorkSafeBC coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Agreement. The Consultant agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafeBC coverage against any monies owing by the City to the Consultant. The City will have the right to withhold payment under this Agreement until the WorkSafeBC premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.
- 9.2 The Consultant will provide the City with the Consultant's and each Sub-contractor's WorkSafeBC registration number and clearance letters from WorkSafeBC confirming that the Consultant and each Sub-contractor are registered in good standing with WorkSafeBC and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this

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Agreement. The Consultant will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged by the Consultant in the performance of this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.

- 9.3 Whenever the Consultant is required or permitted to perform any Services on any City sites, the Consultant is now appointed and now accepts appointment as the "prime contractor" (as defined in the WorkSafeBC regulations) in connection with such Services.

10.0 CITY INFORMATION/APPROVALS

- 10.1 No reviews, approvals or inspections carried out or information supplied by the City will derogate from the duties and obligations of the Consultant (with respect to designs, reviews, inspections, approvals or otherwise), and all responsibility related to the Services will be and remain with the Consultant. For greater certainty, any information provided by the City to the Consultant, whether under the RFP or under this Agreement, including any studies, reports, plans, drawings, or specifications, is provided to the Consultant for information purposes only and may not be relied upon by the Consultant.

11.0 COMMUNICATION BETWEEN CONSULTANT AND CITY

- 11.1 The City appoints [insert name] [email address] as the City's Project Manager for the purposes of this Agreement.

In the event of the revocation in writing of [insert name]'s appointment as the City's Project Manager by the City, [insert name] will have no further authority under this Agreement, except as may be specifically designated in writing by the City and agreed to in writing by [insert name], and all references to the City's Project Manager in this Agreement will thereafter be deemed to be a reference to the City or to such other person designated in writing by the City to the Consultant.

The City's Project Manager may from time to time delegate to a representative the performance of or the authority to perform the duties, responsibilities, rights and obligations of the City in respect of which the City's Project Manager has been designated and appointed its sole and exclusive agent.

- 11.2 The Consultant appoints [insert name] [email address] as its representative for the purposes of this Agreement (the "Consultant's Project Manager").
- 11.3 Unless otherwise agreed to in writing by the Parties, all material communication between the Consultant and the City regarding this Agreement, including performance of the Services, will be between the City's Project Manager and the Consultant's Project Manager.

12.0 TERM OF AGREEMENT

- 12.1 This Agreement will commence on the Effective Date and will expire on. _____ (the "Term"). The City will have the option to extend the Agreement with two (2) possible three (3) - year extensions, for a maximum total term of 9 years.

13.0 TERMINATION

- 13.1 The City at any time, in its sole judgment, may, whether or not cause exists, terminate the services of the Consultant in whole or in part by giving ten days' prior written notice to the

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Consultant. If termination is not for cause, the Consultant will be paid for all Services properly performed to the date of the delivery of the said notice (subject to the terms of this Agreement) plus all necessary and reasonable wind-up costs incurred, if any, in closing out the Services or the part terminated.

- 13.2 Despite Section 13.1, in no event and under no circumstances will the Consultant's "necessary and reasonable wind-up costs incurred"

14.0 ASSIGNMENT

- 14.1 The Consultant will not assign this Agreement in whole or in part except with the prior written consent of the City, which consent will not be unreasonably withheld, delayed or conditioned. Any attempt to assign this Agreement without such consent will be void and of no effect. However, the Consultant will be permitted to assign this Agreement to any entity into, by or with which the business or assets of the Consultant have been merged, acquired, consolidated or re-organized, or any entity which purchases all or substantially all of the business or assets of the Consultant, provided always that the Consultant first provides the City with:

- (a) reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction); and
- (b) a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform this Agreement.

15.0 CONFIDENTIALITY

- 15.1 In the course of or for the purpose of performing the Services, the Consultant will obtain or have access to information, including but not limited to technical information, financial information and business information, which is confidential to the City, and is the exclusive, world-wide property of the City and/or its suppliers and customers (collectively "Confidential Information"). Excluded from the definition of Confidential Information is:

- (a) information which is in, or becomes part of, the public domain, not due to the Consultant's breach of this Agreement or the Consultant's actions;
- (b) information which was previously in the Consultant's possession and did not originate from the City; and
- (c) information which lawfully becomes available to the Consultant from a third party not under an obligation of confidence to the City regarding such information.

- 15.2 The Consultant will not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Consultant will not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and use-restriction provisions in this Section 15.0. The Consultant will take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.

- 15.3 If the Consultant is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Consultant shall limit its disclosure of such Confidential

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Information to the extent and purpose legally required, provided that prior to any disclosure the Consultant will promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City's request and expense, co-operate in obtaining a protective order or other assurance that confidential treatment and restrictions on use will be accorded such Confidential Information.

- 15.4 The City is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), which imposes significant obligations on the City's contractors to protect all personal information acquired from the City in the course of providing services to the City. The Consultant 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) with respect to all personal information received from the City whether as part of the Confidential Information or otherwise.
- 15.5 The Consultant acknowledges that in the event of a breach by the Consultant or any of its employees of their respective confidentiality obligations pursuant to this Section 15.0, damages alone would not be an adequate remedy. The Consultant therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City will have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.
- 15.6 The Consultant shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:
- (a) completion of the Services;
 - (b) expiration or earlier termination of this Agreement; and
 - (c) written request of the City for return of the Confidential Information;
- provided that the Consultant shall have the right to retain one copy of the Confidential Information solely for archival purposes or as otherwise may be required by law, subject to its ongoing confidentiality and restricted use obligations.
- 15.7 This Section 15.0 shall survive the expiration or earlier termination of this Agreement.

16.0 NO PROMOTION OF RELATIONSHIP

- 16.1 The Consultant will not disclose or promote its relationship with the City, including by means of any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, websites, internet domain names, press releases, brochures or other written materials (the "Communications") without the express prior written consent of the City (except as may be necessary for the Consultant to perform its obligations under this Agreement).
- 16.2 Furthermore, the Consultant undertakes and will cause all of its Sub-contractors to undertake not to disclose or promote its relationship with the City in any Communications in a manner which could suggest or create an association, express or implied, between the Consultant and the City. Without limiting the generality of the foregoing, the Consultant will not refer to or use any website, domain name, official emblem, logo or mascot of the City of Vancouver in any Communications, without the express prior written consent of the City.

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17.0 DELIVERABLES

- 17.1 As a result of or as part of providing the Services, the Consultant may receive, create, produce, acquire or collect one or more of the following:
- (a) products, goods, equipment, supplies, models, prototypes and other materials;
 - (b) information and data;
 - (c) reports, drawings, plans, designs, depictions, specifications and other documentation; and
 - (d) any other items identified in this Agreement as deliverables;
- (collectively, the “**Deliverables**”).
- 17.2 Deliverables are deemed not to include:
- (a) any item not required to be produced by the Consultant or supplied to the City as part of or together with the Services, provided that if the City has paid or is liable to pay for any portion of such item’s creation, production, acquisition or collection then such item shall be deemed to be a Deliverable;
 - (b) any item produced as a result of the Services, which is specified in this Agreement as being excluded from the Deliverables category; and
 - (c) any item which pre-existed the effective date of this Agreement, that is owned by a third party or that is used by the Consultant as part of the services provided to any of its other customers (the “**Pre-Existing Materials**”).
- 17.3 All Deliverables will be owned solely by the City unless otherwise expressly provided herein. The City shall have the complete and unfettered right to use and deal with the Deliverables for its own benefit in any way it sees fit without limitation, and without accounting in any way to the Consultant.
- 17.4 The Consultant will keep accurate records and provide regular reports to the City about the Deliverables as they are created or acquired, and grant to the City access to the Deliverables at all times on reasonable notice. The Consultant will treat each Deliverable as subject to the confidentiality provisions set out in Section 15.0 unless advised otherwise by the City.
- 17.5 Each Deliverable, as to the whole or that portion of the Deliverable then existing, will be delivered by the Consultant to the City on the earliest of each of the following events:
- (a) the date specified in this Agreement for the delivery of such Deliverable;
 - (b) immediately on the date of expiration or sooner termination of this Agreement; or
 - (c) the date specified by written notice of the City requesting delivery of all or any part of the Deliverable.
- 17.6 The Consultant transfers to the City, free of all liens and encumbrances, ownership of each Deliverable, and assigns all of its world-wide present and future rights, title and interest in and to each Deliverable, including copyright, effective as of the date of creation or acquisition of such Deliverable by the Consultant. The Consultant irrevocably waives, in favour of the City, all moral

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rights in the Deliverables. The Consultant will obtain from its employees and any independent contractors, all required assignments and releases of intellectual property, and waivers of moral rights, in the Deliverables. The Consultant will not assert any rights to or interests in, or apply for or register any copyright or other rights or interests in, the Deliverables, or assist any other person in doing so. The Consultant shall provide to the City, during and after the term of this Agreement, any reasonable assistance required for the City to obtain, perfect and enforce its ownership of and rights in the Deliverables, including without limitation execution of assignments and transfers of the Deliverables. This Section does not apply to Pre-Existing Materials.

- 17.7 The Consultant will not incorporate any Pre-Existing Materials in any Deliverable without first:
- (a) advising the City, in writing, of the nature of the Pre-Existing Materials and their proposed use and obtaining the City's written consent to do so;
 - (b) acquiring from each third-party owner of such Pre-Existing Materials, a fully paid-up, perpetual, non-exclusive license, in writing, for the City to use the Pre-Existing Materials as part of the Deliverable; and
 - (c) granting, in writing, to the City with respect to such Pre-Existing Materials that the Consultant owns, a fully paid-up, perpetual, non-exclusive license to use the Pre-Existing Materials as part of the Deliverable.
- 17.8 The Consultant represents and warrants that the Deliverables will not infringe, misappropriate or misuse any copyright, patent, trade-mark, trade secret, or confidential or proprietary information of a third party. The Consultant shall defend, indemnify and hold the City harmless from and against any and all damage, liability, cost and expense incurred by the City in connection with any claim by a third party that a Deliverable infringed, misappropriated or misused its copyright, patent, trade-mark, trade secret, or confidential or proprietary information.
- 18.0 NOTICES**
- 18.1 Any notice required or permitted to be given to the Consultant will be sufficiently given if delivered in writing by the City's Project Manager to the Consultant's Project Manager personally or, if mailed, by registered mail to the last known address of the Consultant.
- 18.2 Any notice required or permitted to be given to the City will be sufficiently given if delivered in writing by the Consultant's Project Manager to the City's Project Manager personally or, if mailed, by registered mail to City of Vancouver at 453 West 12th Avenue, Vancouver, B.C., V5Y 1V4 (addressed to the attention of the City's Project Manager).
- 19.0 NO CONFLICT OF INTEREST**
- 19.1 The Consultant agrees that during the Term the Consultant will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person, whether or not a client of the Consultant's. Without limiting the general scope of this Section 19.1 and by way of example only, the Consultant is prohibited from and will not provide any services which assist or could be seen to be assisting any person in responding to a request for proposal or invitation to tender, or otherwise giving that person an unfair competitive advantage over other proponents or tenderers responding to a request for proposal or invitation to tender by the City. The Consultant now acknowledges that a breach of this Section 19.1 could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada, and accordingly, could be punishable as a crime (as well as a breach of contract).

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- 19.2 The Consultant now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Consultant's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is:
- (a) an elected official or employee of the City; or
 - (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration of this Agreement or the performance of the Services.
- 20.0 NON-RESIDENT WITHHOLDING TAX**
- 20.1 If the Consultant is a non-resident of Canada as defined in Canadian income tax legislation, the City may withhold from all monies payable under this Agreement such amounts as set out in Canadian income tax legislation, unless a Canada Revenue Agency waiver has been provided to the City within the time limit required under the Canada Revenue Agency administrative guidelines as in effect from time to time and, in any event, prior to payment of an invoiced amount.
- 20.2 The City shall receive full credit under this Agreement for monies withheld as of and from the date of the withholding and no interest will be payable by the City on sums withheld and later paid directly to the Consultant.
- 20.3 The Consultant shall indemnify the City for any losses, damages or expenses incurred by the City as a result of the Consultant's failure to properly disclose to the City its non-resident status, as defined in Canadian income tax legislation.
- 21.0 COMPLIANCE WITH LAW**
- 21.1 The Consultant will comply with the City of Vancouver License By-law and maintain a valid business license throughout the duration of this Agreement.
- 21.2 The Consultant agrees that it will during the Term comply with all Applicable Laws.
- 22.0 GOVERNING LAW AND RESOLUTION OF DISPUTES**
- 22.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.
- 23.0 INDEPENDENT CONSULTANT**
- 23.1 This Agreement is a contract for services and the Consultant, its permitted Sub-contractors, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and its permitted Sub-contractors are not, nor are they to be deemed to be, partners, appointees, employees or agents of the City.
- 23.2 The Consultant will not represent to anyone that the Consultant has any authority to bind the City in any way or that the Consultant is an employee or agent of the City.

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24.0 INDEPENDENT LEGAL ADVICE

- 24.1 The Consultant acknowledges that the Consultant has been given the opportunity to seek independent legal advice before executing this Agreement.

25.0 TIME FOR PERFORMANCE

- 25.1 **Time of the Essence.** Time shall be of the essence of this Agreement.
- 25.2 **Unavoidable Delay.** Notwithstanding Section 25.1, except for the performance of obligations to pay money, the time periods for the City and the Consultant to perform under this Agreement will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this Section, an “**Unavoidable Delay**” means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Consultant’s lack of financial resources; the Consultant’s insolvency ; strikes, lockouts or other withdrawals of services arising out of any labour dispute involving the City, the Consultant or a Sub-contractor; or governmental action taken in the enforcement of any law specifically against the Consultant or its Sub- Consultants. If an Unavoidable Delay occurs, the non-performing party will, as soon as possible after the occurrence of the Unavoidable Delay, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of its obligations under this Agreement.

26.0 GENERAL

- 26.1 **No Waiver.** No action or failure to act by the City shall constitute a waiver of any right or duty under this Agreement, or constitute an approval or acquiescence in any breach hereunder, except as may be specifically agreed in writing by the City.
- 26.2 **Severability.** The invalidity, illegality or unenforceability of any portion or provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken position.
- 26.3 **Remedies Cumulative.** The remedies of the Parties provided for in this Agreement are cumulative and are in addition to any remedies available to the Parties at law or in equity. No remedy will be deemed to exclude or restrict the right of a Party to any other remedies against the other Party and a Party may from time to time have recourse to one or more of the remedies specified in this Agreement or at law notwithstanding the termination of this Agreement.
- 26.4 **Further Assurances.** Each Party shall execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement.
- 26.5 **Entire Agreement.** The Contract Documents constitute the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous communications, representations and agreements, whether oral or written, with respect to the subject matter hereof.

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- 26.6 **Amendment.** This Agreement shall not be amended except as specifically agreed in writing by both the City and the Consultant.
- 26.7 **Joint and Several Liability of Joint Venture Participants.** If the Consultant is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the entities who comprise the Consultant shall be joint and several.
- 26.8 **Schedules and Appendices.** The schedules and appendices attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 26.9 **Set-Off.** The City may at its option, withhold and set-off against any amount owing to the Consultant (whether under this Agreement or otherwise) any amounts payable by the Consultant to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Consultant, whether such claim is at law or in equity or tort or on any other basis.
- 26.10 **Enurement.** This Agreement shall enure to the benefit of and be binding upon the City and the Consultant and their respective successors and permitted assigns.
- 26.11 **Execution.** This Agreement may be executed in one or more counterparts each of which will constitute an original and together will constitute one and the same Agreement. This Agreement may be executed by the Parties electronically or by facsimile and if so executed and transmitted, this Agreement will be for all purposes as effective as if the Parties had delivered an executed original Agreement.

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As evidence of their agreement to be bound by the above contract terms, the City and the Consultant each have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

Authorized Signatory

Print Name and Title

[NAME OF CONSULTANT]

Authorized Signatory

Print Name and Title

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APPENDIX A - INSURANCE REQUIREMENTS

A1.1 Required Types/Amounts Prior to commencing the Services, the Consultant will obtain at its own expense:

- (a) a professional (errors and omissions) liability insurance policy with limits of not less than \$2,000,000 per claim and not less than \$5,000,000 in aggregate and a deductible of not more than \$50,000, protecting the Consultant against all claims for loss or damage arising out of any error or omission of the Consultant or the Consultant's personnel in the performance of the Services; and
- (b) a commercial general liability insurance policy with a limit of not less than \$2,000,000 per occurrence, and a deductible of not more than \$5,000, protecting the Consultant and the Consultant's personnel against all claims for personal injury, including death and bodily injury, and property damage or loss, arising out of the operations of the Consultant or the actions of the Consultant or the Consultant's personnel. The policy must contain a cross-liability clause in favour of the City and will name the City and the City's officials, employees and agents as additional insureds.

A1.2 Required Policy Terms

All required insurance policies must remain in full force and effect at all times until completion of the Services or earlier cancellation of this Agreement, and for a period of not less than two years thereafter, and must:

- (a) be obtained from and issued by insurers authorized to carry on business within British Columbia, on terms satisfactory to the City's Director of Risk Management, acting reasonably;
- (b) be primary insurance in respect to the City, and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute with such policies; and
- (c) contain a provision that such insurance coverage will not be cancelled without the insurer giving the City at least 60 calendar days' prior written notice.

and, for any property insurance carried by the Consultant, contain a clause that waives the insurer's right of subrogation against the City and the City's officials, employees and agents.

A1.3 Insurance Certificate

Prior to signing, and immediately following the signature of, this Agreement, the Consultant shall have provided, or shall provide, the City's Project Manager with evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance. The certificate(s) of insurance will identify the Agreement title, number, policyholder and scope of work and must not contain any qualifications or disclaimers. Proof of insurance, in the form of such certificate(s) of insurance (or copies of the policy(ies) themselves, if requested), will be made available to the City's Project Manager at any time during the performance of the Services immediately upon request.

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A1.4 Sub-Contractors' Insurance

The Consultant will provide in its agreements with its Sub-contractors insurance clauses in the same form as in this Agreement. Upon request, the Consultant will deposit with the City's Project Manager detailed certificates of insurance for the policies of its Sub-contractors (or copies of the policy(ies) themselves, if requested) and a copy of the applicable insurance clauses from its Sub-contractor agreements.

A1.5 Insurance Requirements Additional to any other Requirements

The Consultant and each of its Sub-contractors will provide, at its own cost, any additional insurance which it is required by law to provide or which it considers necessary.

A1.6 Insurance Requirements Independent of Agreement Obligations

Neither the providing of insurance by the Consultant or the Sub-contractors in accordance with this Agreement, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing, will be held to relieve the Consultant from any other provisions of this Agreement with respect to liability of the Consultant or otherwise.