



# REQUEST FOR PROPOSALS

## PROVISION OF PARKING METER EQUIPMENT

RFP No. PS20201116

Issue Date: September 29, 2020

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

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PART A - INFORMATION AND INSTRUCTIONS

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**SUMMARY**

The City requires the supply, delivery, and support of parking meter equipment to replace aging meter equipment, and to expand the City's parking meter program. Over the next 3-4 years, the City anticipates purchasing parking meter equipment to manage approximately 8,500 on-street parking spaces. The successful proponent(s) will provide connected parking meter equipment (pay stations) to provide parking payment security, a variety of parking payment options for users, and parking technology that enables the City to address demand-based pricing, occupancy, and compliance.

**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.



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- (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.

**2.0 KEY DATES**

- 2.1 Potential Proponents should note the following key dates:

Event	Time and Date
Deadline for Enquiries	October 29, 2020
Closing Time	3:00pm on November 5, 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:

Diana Chan, Contracting Specialist

[diana.chan@vancouver.ca](mailto:diana.chan@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 Proposals must be received by the City 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: PS20201116 - Provision of Parking Meter Equipment - Vendor name.
- Document format for submissions:
  - RFP Part C in PDF format - 1 combined PDF file,
  - Appendix 3 (pricing tab) in Excel format, and;

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PART A - INFORMATION AND INSTRUCTIONS

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- Any other attachments if necessary
  - Zip the files to reduce the size or email separately if needed.
  - Send your submissions to [Bids@vancouver.ca](mailto:Bids@vancouver.ca); do not deliver a physical copy to the City of Vancouver. Do not email submissions to the Contact Person.
  - 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 5-year period, with 4 possible 1-year extensions, for a maximum total term of 9 years.
- 7.0 **PRICING**

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- 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.
- 7.3 Prices are to be quoted CIP, destination (Incoterms, 2020). For the avoidance of doubt, freight, insurance, unloading at the destination designated by the City, import duties, brokerage, royalties, handling, overhead, profit and all other similar costs are to be included in quoted prices.

**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	65%
Financial	30%
Sustainability (Environmental and/or Social)	5%
Total	100%

- 8.3 The City will retain complete control over the RFP process at all times until the execution and delivery of an Agreement or Agreements, if any. The City is not legally obligated to review, consider or evaluate Proposals, or any particular Proposal, and need not necessarily review, consider or evaluate Proposals, or any particular Proposal in accordance with the procedures set out in the RFP. The City may continue, interrupt, cease or modify its review, evaluation and negotiation process in respect of any or all Proposals at any time without further explanation or notification to any Proponents.
- 8.4 The City may, at any time prior to signing an Agreement, discuss or negotiate changes to the scope of the RFP with any one or more of the Proponents without having any duty or obligation to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.
- 8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.
- 8.6 The City may also require that any proposed subcontractors undergo evaluation by the City.

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- 8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a 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](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:

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- (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
- (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.**

## PART B – SCOPE OF WORK

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

Unless otherwise stated, if, and wherever, the Scope of Work states a brand name, a make, the name of a manufacturer, a trade name or a vendor catalogue number, it is for the purpose of establishing a grade or quality of materials, goods or equipment only. It is not intended to rule out the use of other equivalent materials, goods or equipment. If, however, products other than those specified are proposed in any Proposal, the Proposal must explicitly include under the heading “Alternative Solutions” the names of such products and their manufacturers, any trade names and any applicable vendor catalogue numbers, and the City may request that the Proponent provide specific evidence of equivalency. **Evidence of quality in the form of recommended equipment samples may also be requested to be physically delivered on-premise, to Vancouver, BC, for hands-on testing of the recommended equipment by the City during November/December 2020.**

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

### Objectives:

1. Replace end-of-life parking meters.
2. Improve parking payment compliance by providing a variety of payment options & use of license plate.
3. Support implementation of strategic transportation goals by enabling 2-way data connections to all parking spaces.
4. Maintain the current effective work processes supported by the current software solutions as described in section 2.3.
5. As the concept of “smart parking” develops, physical on-street equipment will continue to be important, to provide equal access to customers without cell phones or data plans. This will require collaboration between the City and the successful proponent(s), to adjust best practices to meet evolving needs.

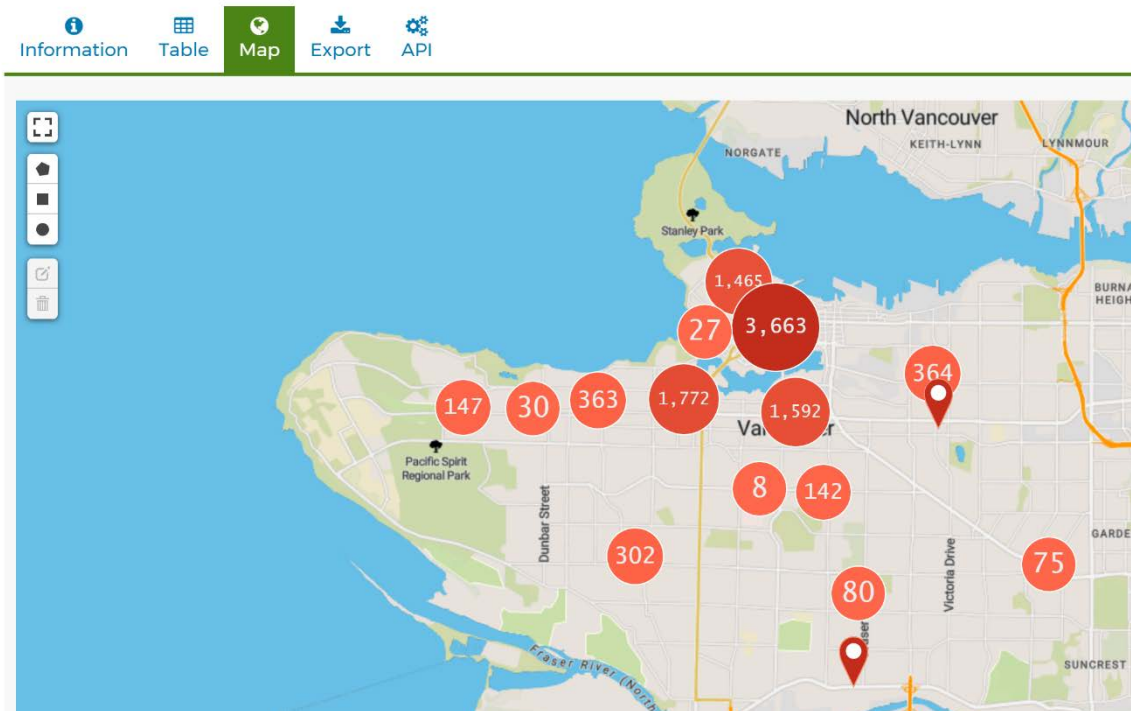
### Background

#### Parking Meter Equipment

Currently, on-street metered parking in Vancouver is in effect between 9AM-10PM (7 days per week, including public holidays).

The majority of the City’s existing parking meter system is located within Downtown and the Central Broadway Corridor. There are also several smaller metered parking areas serving smaller business districts dispersed throughout the City. Refer to the high level map below. Further detail can be found from the City’s open data website: <https://opendata.vancouver.ca/explore/dataset/parking-meters/>.

## Parking meters



Each metered parking space has space-specific rules with respect to the parking meter rate (varies by time of day and day of week) and maximum allowable stay (varies by time of day and day of week). Many metered parking spaces have “no stopping” regulations, such as those required to facilitate rush period traffic, which vary by time of day and day of week. For an overview of current and future parking regulations and rates, refer to the separate file attachment, *PS20201116 - Detailed Requirements* (‘Parking Regulations and Rates’ tab). For a detailed list of the rates and regulations for each metered parking space in Vancouver, refer to <https://opendata.vancouver.ca/explore/dataset/parking-meters/table/>.

### Credit Card Processing

Customers cannot currently pay by credit card at spaces where the anticipated new connected pay station infrastructure will be installed. Ideally the City would like to move to a solution where only contactless payments using an EMV certified solution are accepted. The feasibility of this will be explored as part of this RFP.

In 2019, there were approximately 23 million paid parking sessions (pay parking was in effect at 11,500 spaces). For planning purposes, if paystations replaced all of the on-street equipment, the City estimates that an additional 3 million credit card transactions would be generated per year. At this time, the City does not intend to be the Merchant of Record (“MoR”) for these additional transactions. Accordingly, at the start of the contract term, the successful proponent is required to be the MoR; however, the successful proponent should provide the City with the option to transition MoR status back to the City.

## PROVISION OF PARKING METER EQUIPMENT

## PART B - SCOPE OF WORK

## Management of Parking Equipment and Integration

All equipment should have wireless communication capability, to allow a central software solution to manage all aspects of equipment configuration, and to update the equipment remotely.

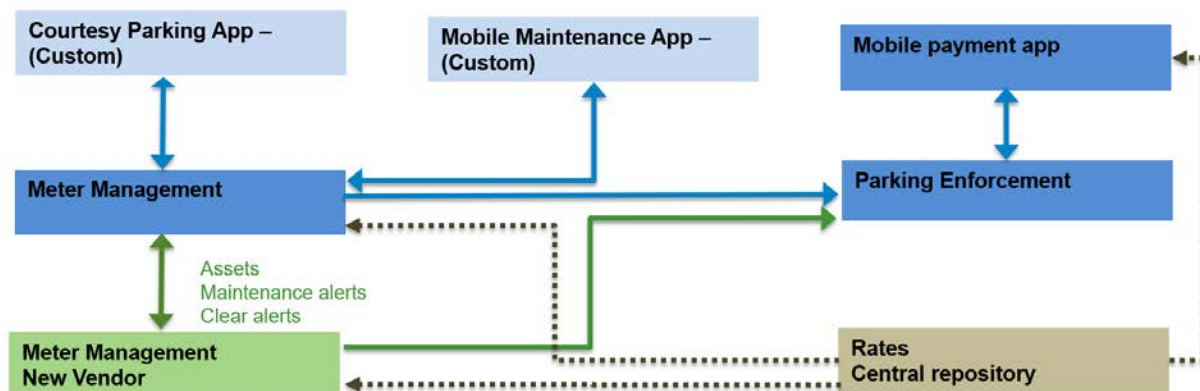
Currently, customers pay for parking using a mobile app or existing connected equipment: interfaces are in place to forward the parking session information in near- real-time to the City's Parking Enforcement System. A similar integration will be required from the successful proponent's meter management system into the City's Parking Enforcement System.

The City has invested in custom developments that have expanded capabilities of the current meter management system: to enable call centre agents to handle public reports of out-of-order meters; and to enable maintenance technicians to manage their work in the field via a mobile app. The current meter management system tracks maintenance activity for all meters (connected and unconnected) in use within the City.

Currently and in the foreseeable future, multiple vendors' on-street equipment manage parking spaces in the City. City staff currently and should continue to use a single software solution to manage daily tasks and analysis. The successful proponent is required to provide an interface between their meter management system to the City's current meter management system.

Figure 1 below illustrates the City's existing systems and integrations. The successful proponent will provide the '*Meter Management - New Vendor*' portion (in green).

Figure 1 - Architecture Diagram



The City anticipates that parking rates and regulations will continue to become more complex and granular, and will require a software solution ('*Rates - Central Repository*' [in brown]) in the future to ensure consistency across all systems taking payments.



## REQUEST FOR PROPOSALS NO. PS20201116

### PROVISION OF PARKING METER EQUIPMENT

#### PART B - SCOPE OF WORK

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##### Summary of Detailed Requirements

Refer to the separate file attachment, *PS20201116 - Detailed Requirements* which describes the City's requirements for:

1. Customer Journey (Journey)

User experience for those using the solution to pay for parking.

2. Equipment

Durability of the equipment and demonstrated ability to deter theft and vandalism. All equipment will be located on-street. All equipment should be solar-powered. Equipment reliability and parts availability will ensure continued operation of all equipment.

3. Software

A central hub will connect with all equipment to manage all configuration activities for the units. The central hub will collect data from the equipment to manage operations and maintenance activities. Data must be collected from each block face. Data reporting and integration are required.

4. Contract Administration

The successful proponent will provide ongoing contract administration.

5. Technical

The successful proponent must provide software development best practices: to align with the City's technical architecture vision; and to support the City's Smart City objectives. The successful proponent will meet the City's network, cyber-security, compliance, reliability, and other mandatory and critical non-functional requirements.

##### Estimated Quantities

There are currently 11,500 metered on-street parking spaces managed by the City. This number will grow to 13,000 over the next 2 years. Connected infrastructure and technology currently manages 4,500 spaces: the successful proponent's equipment will be rolled out to the remaining 8,500 spaces over the next 3-4 years. In addition, other projects that arise during the course of the engagement are anticipated to use the successful proponent's equipment.

The exact volume of equipment the City will purchase will be dependent on the specific equipment selected, and the completed detailed designs for specific locations. Throughout the installation period, the City will seek input from the successful proponent on detailed design criteria.

PART B - SCOPE OF WORK

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**Project Responsibilities**

**1.1 Governance**

The City's project team consists of a Project Manager (single point of contact for the successful proponent) guided by a steering committee and working group made up of subject matter experts from various business and technology departments.

The successful proponent's project team, at minimum, should consist of a Project Manager who will be the City's single point of contact, and an Account Manager as an escalation point for the City's Project Manager.

The City's Project Manager and the successful proponent's Project Manager will meet regularly.

**1.2 City Responsibilities**

- Provide a Project Manager who will be responsible for:
  - Creating and updating the Work Plan, including all items impacting scope, schedule and budget; and
  - Identifying City staff who will work with the successful proponent.
- Provide Subject Matter Expertise in:
  - Parking Operations;
  - Parking Management;
  - Technical;
  - PCI; and
  - Other areas, as required.
- Provide staff to roll-out equipment and software solutions related to:
  - Street Design;
  - Equipment Installation;
  - Configuration; and
  - On-going maintenance.

**1.3 Proponent Responsibilities**

- Provide a Project Manager who will:
  - Participate in meetings as required by the City's Project Manager;
  - Identify activities that have a dependency on City's project team;
  - Identify and notify City's Project Manager of risks, issues and mitigations;
  - Ensure successful proponent's subject matter experts are qualified for the activities they are required to perform;
  - Ensure successful proponent's subject matter experts are available at the required times to complete required activities; and
  - Coordinate and communicate delivery schedules.
- Provide Subject Matter Expertise in:
  - Equipment setup and configuration;
  - Software setup and configuration;
  - Integration implementation; and
  - Solution start-up.

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART B - SCOPE OF WORK

Project Milestones, Timelines, and Deliverables

Below is the draft project timeline to roll out equipment to 8,500 spaces in the next 3-4 years. It is divided into 3 phases. The table below shows the project milestones, timelines, and deliverables:

Start	End	Duration	Deliverable
PO Issued	+ 12 weeks	12 weeks	<b>Phase 0 - Startup</b>
			<ul style="list-style-type: none"> <li>- Kick off workshop</li> <li>- Weekly status meeting</li> <li>- Interface specification</li> <li>- Specifications TBD</li> </ul>
+ 13 weeks	+ 20 weeks	8 weeks	<b>Phase 0 - Pilot (1,000 spaces)</b>
			<ul style="list-style-type: none"> <li>- Equipment delivered</li> <li>- Training<sup>1</sup> / Configuration Workshops</li> <li>- Software Configured</li> <li>- Module / System Testing (City - See below)</li> <li>- Interfaces Deployed</li> <li>- User Testing (City - See below)</li> <li>- Equipment installed (City)</li> <li>- Equipment fully operational</li> <li>- Draft documentation (TBD system, end user, technical)</li> </ul>
+ 21 weeks	+ 33 weeks	13 weeks	<b>Phase 0 - Reliability Acceptance (See below)</b>
			<ul style="list-style-type: none"> <li>- Monthly fee payments initiates</li> <li>- SLA Monitoring for up time/issue resolution begins</li> <li>- Defects identified</li> <li>- Defects resolved</li> <li>- Stop / Go (All critical defects resolved)</li> <li>- Final documentation (TBD system, end user, technical)</li> </ul>
+ 34 weeks	Dec-22	TBD	<b>Phase 1 Roll Out - 5,500 spaces</b>
			<ul style="list-style-type: none"> <li>- Equipment delivered</li> <li>- Equipment installed (City)</li> </ul>
Jan-23	Dec-23	12 months	<b>Phase 2 Roll Out - 2,000 spaces</b>
			<ul style="list-style-type: none"> <li>- Phase 2 budget approval (City)</li> <li>- PO issued for ~ 2,000 spaces (City)</li> <li>- Equipment delivered</li> </ul>

<sup>1</sup>Approximately 20 City staff need training on the system. City staff will work with the successful proponent to configure the system - City staff will provide training to remaining City staff, and any new City staff going forward.

## Testing Overview

### *90-day Reliability Testing:*

The purpose of this period is to ensure that there are no significant defects associated with the complete solution when used in the field. City will install equipment at a variety of locations during the pilot phase. City will also complete module and user testing during the pilot phase. City will assess robustness of the equipment, software solution and support during this 90-day reliability testing: successful proponent will resolve defects identified prior to commencing phase 1 rollout.

Criteria to move to phase 1:

- All functions implemented are continuously functional for 90 consecutive days;
- No major defects or bugs within the system have occurred, or have been reported;
- Successful proponent has resolved defects as agreed with the City from previous testing phases; and
- Solution uptime and support response times meet contracted SLA.

### *Module/System Testing*

The City will develop a 'Module/System Testing' plan, and execute it as part of the delivery and configuration processes. When all major defects are resolved, the 'User Acceptance Testing' will begin.

Below is a preliminary list of modules/systems to be tested: the City will finalize details based on the Proponent's proposal.

Module/System (*draft*) will include:

- Equipment;
- Customer Journey;
- Integration;
- Rates Management;
- Equipment Management;
- Reporting/Dashboards;
- Security; and
- Usability.

### *User Acceptance Testing*

User Acceptance Testing will focus on a small number of critical end-to-end processes (e.g. confirmation of paid transaction records, integrations to parking platform solution, technician resolves a problem identified by a call centre agent). When all major defects are resolved, the 90-day Reliability Testing period will begin.

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART C - FORM OF PROPOSAL

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**PART C – FORM OF PROPOSAL**

RFP No. PS20201116, Provision of Parking Meter Equipment (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

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART C - FORM OF PROPOSAL

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**APPENDICES**

The Form of Proposal includes the following attached Appendices:

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

APPENDIX 1

**LEGAL TERMS AND CONDITIONS OF RFP**

**1 APPLICATION OF THESE LEGAL TERMS AND CONDITIONS**

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

**2 DEFINITIONS**

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

- (a) "City" means the City of Vancouver, a municipal corporation continued pursuant to the Vancouver Charter.
- (b) "Contract" means a legal agreement, if any, entered into between the City and the Proponent following and as a result of the Proponent's selection by the City in the City's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal Form, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of the Proposal Form (including this Appendix 1), the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "Proposal Form" means that certain Part C of the RFP, completed and executed by the Proponent, to which this Appendix 1 is appended.
- (g) "RFP" means the document issued by the City as Request for Proposals No. PS20201116, 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.

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART C - FORM OF PROPOSAL

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**4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT**

The City is a public body required by law to act in the public interest. In no event, however, does the City owe *to the Proponent or to any of the Proponent's proposed subcontractors* (as opposed to the public) any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the City from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

**5 EVALUATION OF PROPOSALS**

**5.1 Compliance / Non-Compliance**

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the City at the City's sole discretion. The City may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

**5.2 Reservation of Complete Control over Process**

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

**5.3 Discussions/Negotiations**

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

**5.4 Acceptance or Rejection of Proposals**

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



**6 PROTECTION OF CITY AGAINST LAWSUITS**

**6.1 Release by the Proponent**

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

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

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART C - FORM OF PROPOSAL

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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.

**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

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PART C - FORM OF PROPOSAL

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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.

**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.

REQUEST FOR PROPOSALS NO. PS20201116

PROVISION OF PARKING METER EQUIPMENT

PART C - FORM OF PROPOSAL

APPENDIX 2  
**QUESTIONNAIRE**

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

**1. Executive Summary**

Provide an executive summary of your overall proposal, and comment on how your experience and knowledge as it pertains to the solution (hardware, software and related services) meets the RFP requirements. Comment specifically on your company's core competencies and how you differentiate yourself from your competitors.

**2. Proponent Overview**

In the space below, provide a description of your company:

- number of years in business, specifically in the parking meter equipment industry;
- Proponent's experience with similar scope as described in the RFP;
- Canadian & US municipal clients; and
- history of successes.

If the head office of the Proponent is located within the City of Vancouver, or if the Proponent is to perform any work at a site located within the City of Vancouver, indicate whether the Proponent has a valid City of Vancouver business license (or, if available, a Metro West Inter-municipal Business License).

**3. Merchant of Record**

Complete the table below.

Merchant of Record (MoR)	# of Clients	# of On-Street Spaces Managed	Annual # of Parking Transactions
Canadian - client is MoR			N/A
Canadian - proponent is MoR			
US - client is MoR			N/A
US - proponent is MoR			
Rest of World - client is MoR			N/A
Rest of World - proponent is MoR			

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PROVISION OF PARKING METER EQUIPMENT

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**4. Street Design and Customer Experience**

Refer to the following **Design Criteria, Locations 1 and 2, and Scenarios 1 through 7** below.

- a. For each Location, provide a diagram showing recommended equipment location.
  - a. If desired, provide two options for each scenario ("equipment-heavy" - high service and "equipment-light" - low service).
  - b. Provide drawings of mounting options.
  - c. State all assumptions
- b. For each Scenario, provide details of an end-to-end customer journey including walking to the equipment and showing any screens and interactions.

**Design Criteria**

- Customers should not walk more than 50 meters
- Customers should not have to cross the street
- Transaction data should be granular enough to be broken down by block face
- Parking rates must be independently configurable for each block face
- When spaces are for persons with disabilities, customers should travel as little as possible to access equipment

Should the proponent propose an option where the above design criteria are not met, please provide design rationale.

The following locations and scenarios provide details of typical on-street parking situations. The City prefers proponents that have worked with municipalities of similar size and complexity to the City, and that are able to use their prior relevant experience to demonstrate the most cost-effective placement of equipment. Qualified proponents will be able to identify opportunities to change the design criteria based on functionality offered by their Proposal.

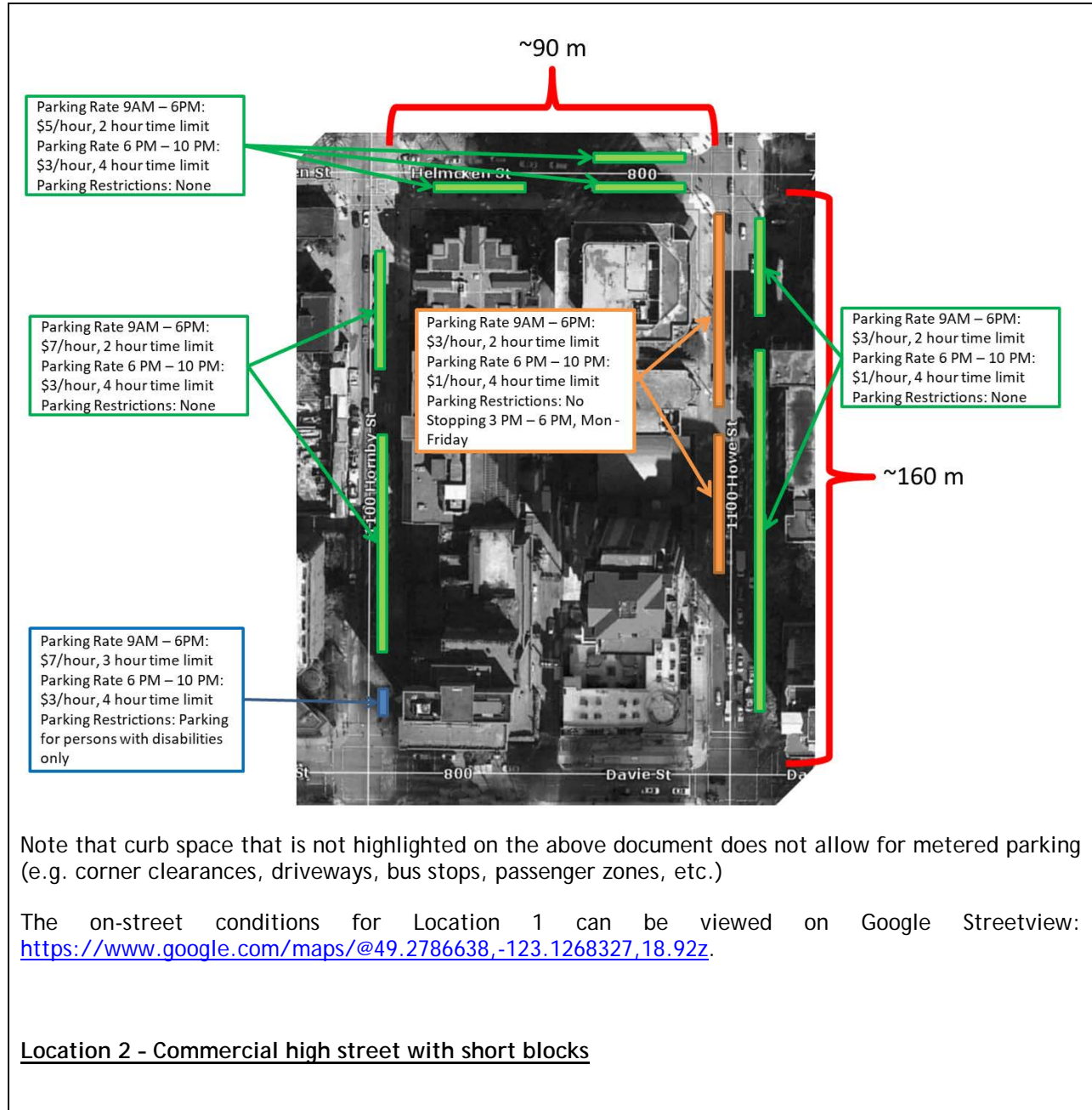
**Location 1 - Typical Downtown Streets**

The block below provides a typical layout in Vancouver, bounded north-south by 1100 blocks of Howe Street & Granville Street, and east-west by the 700 blocks of Helmcken Street & Davie Street.

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PROVISION OF PARKING METER EQUIPMENT

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Parking Rate 9AM – 6PM:  
\$0.5/hour, no time limit  
Parking Rate 6 PM – 10 PM:  
\$0.5/hour, no hour time limit  
Parking Restrictions:  
Motorcycles Only

~35 m

200 E 21st Av

100 E 21st Av

3600 Main St

3700 Main St

200 E 22nd Av

300 E 22nd Av

3800 Main St

Parking Rate 9AM – 6PM:  
\$1/hour, 2 hour time limit  
Parking Rate 6 PM – 10 PM:  
\$1/hour, 4 hour time limit  
Parking Restrictions: None

~85 m

Parking Rate 9AM – 6PM:  
\$1/hour, 2 hour time limit  
Parking Rate 6 PM – 10 PM:  
\$1/hour, 4 hour time limit  
Parking Restrictions: None

Note that curb space that is not highlighted on the above document does not allow for metered parking (e.g. corner clearances, driveways, bus stops, passenger zones, etc.).

The on-street conditions for Location 2 can be viewed on Google Streetview:  
<https://www.google.com/maps/@49.2515432,-123.1008527,19.25z>.

**Scenario 1 - Standard parking session**

A customer arrives in a regular parking space on the north side of 800 Helmcken St (see Location 1 for rates and regulations) at 1 pm and wants to park for 2 hours. Payment is with coins.

**Scenario 2 - Parking session with varying rates**



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A customer arrives in a regular parking space on the east side of 1100 Hornby St (see Location 1 for rates and regulations) at 5 pm and wants to park for 2 hours. Payment is with a credit card.

**Scenario 3 - Parking session requested longer than time limit**

A customer arrives in a regular parking space on the east side of 1100 Hornby St (see Location 1 for rates and regulations) at 1 pm and wants to park for 3 hours. Payment is with a credit card.

**Scenario 4 - Parking session with “no stopping” regulations**

A customer arrives in a regular parking space on Wednesday at 2 pm on the west side of 1100 Howe St (see Location 1 for rates and regulations) and wants to park for 2 hours (parking after 3 PM is prohibited). Payment is with coins.

**Scenario 5 - Parking session at a disability space**

A customer with a valid disability placard arrives in the parking space for persons with disabilities at 2 pm on the west side of 1100 Hornby St (see Location 1 for rates and regulations) and wants to park for 2 hours. Payment is with coins.

**Scenario 6 - Parking at a motorcycle space**

A customer on a motorcycle arrives in the motorcycle space on the west side of 3700 Main St (see Location 2 for rates and regulations) at 1 pm and wants to park for 6 hours. Payment is with coins.

**Scenario 7 - Parking session with an event rate**

A customer arrives at 7 pm on the west side of 3700 Main St in a regular parking space (see Location 2 for rates and regulations) and wants to park for 3 hours. At 8 PM, an event rate of \$8/hour comes into effect as part of the City's parking management strategy for the Canuck's Stanley Cup Playoff run. Payment is with a credit card.

**5. Detailed Requirements**

Complete and submit the separate file attachment, *PS20201116 - Detailed Requirements*.

**6. Project Management**

Refer to Part B [Scope of Work] of the RFP, and provide the following:

- i) Proponent's proposed project milestones, timeline and deliverables;
- ii) Proponent's proposed detailed list of activities anticipated for Phase 0, including:
  - o what roles will be performing these functions;
  - o what skills and experience are required for these roles; and
  - o activities that will be critical to the success of the City's project, based on Proponent's previous municipal experience.

**7. Knowledge Management**

Describe the Proponent's proposed resources, such as any documentation and online materials (e.g. FAQs, videos, user forms and services). Describe the proposed frequency of updates of training materials.

State what 'standard' training courses will be provided and included in the Commercial Proposal Contract Price (note: the training should facilitate the continuous transfer of knowledge, and should promote a high level of self-sufficiency).

Provide details on an approach and training plans to ensure all City staff achieve the appropriate level of expertise to complete their work using the new solution.

Describe any additional 'customized' training (pricing for which should also be noted in the Commercial Proposal as 'optional').

**8. Alternate Architecture (if applicable)**

If applicable, Proponents may propose an alternative architecture that is different from Figure 1 [Architecture Diagram] in RFP - Part B [Scope of Work], and in the separate file attachment, *PS20201116 - Detailed Requirements*, ensuring that the following are included:

- Architecture diagram
- Data entities used to track work (e.g. one or more of the following: problem report, work request, work order, resolution actions, etc.)
- Process Flows
- Description of key functionality with readable screen shots of Maintenance Module - where key functionality may include:
  - o Reporting of problems directly by staff
  - o Prioritization and dispatch of work
  - o Technician routing (performed on a mobile device - i.e. app- or web-enabled)
  - o Tracking maintenance and repair work (performed on a mobile device - i.e. app- or web-enabled)
  - o Preventative maintenance (performed on a mobile device - i.e. app- or web-enabled)
  - o Other/etc.
- Integrations required to allow:
  - o Reporting of problems from other systems; and
  - o Any other relevant considerations not mentioned above.

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**9. Support for development of 'smart parking'**

Describe trends you see evolving both from the customer and technology perspectives in the next: 1-2 years; 5 years; and 10 years. The City is specifically interested in the Proponent's views on:

- Organizations moving/trending to coinless operations, and the use of re-loadable transit cards as a viable option (from a technical aspect) to ensure equity for end users;
- Speed of organizations moving to 'tap only' operations;
- Increasing trend of integration with other systems and sensors e.g. in the evolution of smart cities concept, and how Proponent's experience and approach facilitate this trend; and
- The future impact of the evolution of the IoT (Internet of Things) on the solution proposed by the Proponent.

Provide a copy of the Proponent's product roadmap, and describe how it aligns with the customer and technology outlook.

Describe how the Proponent, by applying lessons learned or new technology, will engage with the City to continuously improve parking operations.

**10. Value-Added Services & Innovation**

Proponents may propose value-added services that would benefit the City, as well as any innovative or novel approaches to meeting or exceeding the RFP requirements, for the City's consideration.

## 11. Sustainability

**Social Sustainability****SUPPLIER DIVERSITY**

Please note for the Supplier Diversity, Proponents are required to answer 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).

<b>Majority owned/controlled/ by:</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> Women</li> <li><input type="checkbox"/> Indigenous Peoples</li> <li><input type="checkbox"/> Non-Profit/Charity (Social Enterprise)</li> <li><input type="checkbox"/> Coop</li> <li><input type="checkbox"/> Community Contribution Corporation (3C/CCC)</li> <li><input type="checkbox"/> Ethno-cultural Persons</li> <li><input type="checkbox"/> People with Disabilities</li> <li><input type="checkbox"/> LGBTQ2+</li> <li><input type="checkbox"/> Other: please indicate</li> </ul>	<b>Social / Diverse Certifications</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">BCorp</a></li> <li><input type="checkbox"/> Supplier Diversity Certification</li> </ul> <hr/> <b>Enviro / Other Certifications</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">BuySocial</a></li> <li><input type="checkbox"/> <a href="#">Living Wage</a></li> <li><input type="checkbox"/> Fairtrade</li> <li><input type="checkbox"/> Green Business Certification (ie. LEED, ClimateSmart)</li> <li><input type="checkbox"/> Other: please indicate</li> </ul>
<input type="checkbox"/> <b>None of the above</b>	<input type="checkbox"/> <b>None of the above</b>

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

- a. Please provide information on how you invest in economic development of small/social/diverse businesses as your suppliers or sub-contractors

**INDIGENOUS PARTICIPATION**

Do you have any business relationships, partnerships or joint-ventures with First Nations and/or Indigenous peoples or organizations? Y/N

- a. If yes, please describe in detail:

**EMPLOYMENT EQUITY & WORKFORCE DIVERSITY****EMPLOYMENT EQUITY**

1. 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)
2. 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
3. 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
  - a. Please describe and/or use the table below

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

4. Do you support training for career advancement and/or skills development?
  - a. If yes, please describe
5. 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

**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

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inclusion supporting employment equity, <a href="#">diversity, inclusion</a> and reconciliation by an equity-seeking demographic (including but not limited to Women, Indigenous Peoples, Ethno-cultural People (minorities, newcomers, immigrants), persons with disabilities or LGBTQ2+ people). <i>Confidential &amp; for information only</i>	
<b><u>Overall Workforce Diversity:</u></b> % Women % Indigenous Peoples % Ethno-cultural People % People with Disabilities % LGBTQ2+ % Other: please indicate	<b><u>Leadership/Management/Executive Workforce Diversity:</u></b> % Women % Indigenous Peoples % Ethno-cultural People % People with Disabilities % LGBTQ2+ % Other: please indicate
<b><u>If you choose not to respond please indicate why:</u></b> <input type="checkbox"/> <b><u>Do not track this information</u></b> <input type="checkbox"/> <b><u>Do not want to share this information</u></b>	

## Environmental Sustainability

### ENVIRONMENTAL OPERATIONS

City of Vancouver is committed to being the Greenest City and values the environmental impact and sustainability of proponents in addition to the goods or services offered with regards to Healthy Ecosystems (minimizing pollution/toxicity, conserving natural resources, and regenerating ecological; local food; clean water / water consumption), Zero Waste (reducing and/or diverting), Zero Carbon (reducing/eliminating greenhouse gases)

1. *For the following, please indicate those you track and/or report*

	<i>Track</i>	<i>Report</i>
<a href="#">GHG Emissions</a>	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">Energy usage</a>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Water usage</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Any hazardous/toxic air or water emissions</i>	<input type="checkbox"/>	<input type="checkbox"/>

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Generation/recycling/reduction of solid waste	<input type="checkbox"/>	<input type="checkbox"/>
Generation/recycling/reduction of hazardous	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

a. If reporting, please indicate to whom or where

- ☐ Government(s)/Agencies
- ☐ Industry Association(s) ie. "industry-wide [environmental product declaration](#)"
- ☐ [CDP](#)
- ☐ Global certification system ie. [World Business Council for Sustainable Development](#)
- ☐ Other(s) ie. Concrete Sustainability Council

b. Do you request/require your supply chain to track and report any of the above? Y/N, explain

2. Has your company achieved (or is it committed to) any of the following activities? Check all that apply and provide details/targets/goals

- ☐ Increase [renewable energy](#) sources and/or reduce the company's overall energy usage
- ☐ Reduced carbon use, GHG emissions or use of ozone depleting substances
- ☐ Implemented initiatives to reduce waste at the source or divert the waste from landfills/incineration
- ☐ Recycled water or other water recovery systems to reduce the use of potable water
- ☐ Responsibly dispose of all hazardous waste generated from production.
- ☐ [2030 Sustainable Development Goals of the United Nations](#)
- ☐ Other: include an explanation of any on-going efforts or plans that the vendors has, or has taken to address climate change and their environmental impact

Please provide details

Do you engage with your supply chain on any above noted issues? Y/N, explain



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APPENDIX 3

**COMMERCIAL PROPOSAL**

**Complete and submit PS20201116 - Commercial Proposal.**

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

When submitting its Proposal by email, please ensure Appendix 3 - Commercial Proposal is provided as a separate 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 and Subcontractors 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	

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

APPENDIX 5

***CERTIFICATE OF INSURANCE***

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

## APPENDIX 6

**DECLARATION OF SUPPLIER CODE OF CONDUCT COMPLIANCE**

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

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

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

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

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

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

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

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

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APPENDIX 7

**PERSONAL INFORMATION CONSENT FORM(S)**

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

**PERSONAL INFORMATION CONSENT FORM**

Reference #PS20201116

Title: Provision of Parking Meter Equipment

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**

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

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

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

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



## APPENDIX 9

***PROPOSED AMENDMENTS TO FORM OF AGREEMENT***

Complete this Appendix 9 - Proposed Amendments to Form of Agreement in the form set out below by detailing any proposed amendments to the Form of Agreement attached as 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
	none	

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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)	

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APPENDIX 11

***PROOF OF WORKSAFEBC REGISTRATION***

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

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PART D  
FORM OF AGREEMENT

SUPPLY AGREEMENT

BETWEEN:

<  SUPPLIER NAME >

AND:

CITY OF VANCOUVER

RELATING TO <  >

DATED <  >

## SUPPLY AGREEMENT

THIS AGREEMENT is made as of <[redacted]>

BETWEEN:

<[redacted]**SUPPLIER NAME**>, a <[redacted]corporation> organized under the laws of <[redacted]> and having an office at <[redacted]>

(hereinafter referred to as the "Supplier")

AND:

**CITY OF VANCOUVER**, a municipal corporation continued under the *Vancouver Charter* (British Columbia) and having an office at 453 West 12<sup>th</sup> Avenue, Vancouver, British Columbia, V5Y 1V4

(hereinafter referred to as the "City")

WHEREAS the Supplier is in the business of <[redacted]>;

AND WHEREAS the City wishes to procure <[redacted]> from the Supplier upon and subject to the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the parties hereto agree as set forth herein.

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## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

- (a) **"Agreement"** means this agreement, including the schedules hereto, and all amendments made hereto or thereto by written agreement between the Supplier and the City;
- (b) **"Background IP"** has the meaning ascribed thereto in Section 14.4;
- (c) **"Business Day"** means a day on which banks are open for business in Vancouver, British Columbia, except a Saturday, Sunday or statutory holiday;
- (d) **"Change in Control"** means an occurrence whereby a person (or persons acting in concert) acquires control of the relevant entity;
- (e) **"City Policies"** means any or all (as the context requires) of those procedures, standards and/or standard specifications, requirements, policies and the like listed in Schedule F or notified to the Supplier from time to time, as the same may be updated, modified, expanded, revised, supplemented and/or replaced from time to time by the City (as notified to the Supplier);
- (f) **"City's Manager"** means a manager who at the relevant time carries such designation from the City under, or in accordance with, ARTICLE 5;
- (g) **"Competent Authority"** means:
  - (i) any multinational, federal, provincial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, agency, commission, board or authority of any government or governmental body, domestic or foreign;
  - (ii) any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing; or
  - (iii) any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing;
- (h) **"Confidential Information"** means all or any confidential information (however recorded or preserved) disclosed before, on or after the date of this Agreement by either Party or any of its Representatives to the other Party or its Representatives in connection with this Agreement, concerning:
  - (i) this Agreement; or
  - (ii) the affairs, operations, processes, know-how, suppliers, plans or intentions of the disclosing Party or of any member of the disclosing Party's Group, including, without limitation, any information which is not generally known to the public or which has been specifically identified as confidential or proprietary by the disclosing Party,



but does not include:

- (iii) any information that is or becomes generally available to the public or to industry professionals (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Agreement);
  - (iv) any information that was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;
  - (v) any information that was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement or other duty of confidentiality with or to the disclosing Party or a member of the disclosing Party's Group or otherwise prohibited from disclosing the information to the receiving Party;
  - (vi) any information that was known to the receiving Party before the information was disclosed to it by the disclosing Party or its Representatives and was not subject to a confidentiality agreement or other duty of confidentiality (including any obligation under this Agreement) with or to the disclosing Party or a member of the disclosing Party's Group;
  - (vii) any information that the Parties agree in writing is not confidential or may be disclosed; and
  - (viii) any information unrelated to this Agreement that is developed by or for the receiving Party independently of and without reference to the information disclosed by the disclosing Party;
- (i) "Consent" means an approval, clearance, registration, franchise, right, privilege, certification, quota, consent, permit, licence, qualification, filing, exemption, certificate or permission and any such other matter or authorization whatsoever, including any condition thereof, that is lawfully and necessarily required under any Law or from any Competent Authority in connection with the Supply or the Site;
  - (j) "Contract Price" means the amounts payable (subject to and in accordance with the terms of this Agreement) by the City to the Supplier in return for the proper performance by the Supplier of its obligations under this Agreement, as detailed in Schedule B;
  - (k) "Defect" means any part of the Supply (or omission therefrom) which is defective, deficient or incomplete or does not otherwise comply with the requirements of this Agreement;
  - (l) "Delivery" means the completion of delivery of goods or products ordered in a particular purchase order, in accordance therewith and herewith;
  - (m) "Delivery Date" has the meaning ascribed to such term in Section 3.6(a);
  - (n) "Delivery Location" has the meaning ascribed to such term in Section 3.6(a);
  - (o) "Documentation" means calculations, computer programs and other software, drawings, designs, plans, manuals, records, reports, documents, papers, photos, typographical arrangements, models, contract documents, deliverables, agreements, tender/enquiry documents, and all other materials in whatever form, including but not limited to tangible copies and electronic forms, supplied either by or on behalf of the

Supplier or generated collaboratively by the Parties in the course of the provision of the Supply under this Agreement;

- (p) **"Effective Date"** has the meaning ascribed to such term in Section 2.1;
- (q) **"Encumbrance"** means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien or claim of lien (statutory or otherwise), easement, deemed or statutory trust, restrictive covenant, adverse claim, exception, reservation, right of occupation, any matter capable of registration against title, right of pre-emption, privilege or other encumbrance or third party right of any nature or any other arrangement or condition that, in substance, secures payment or performance of an obligation;
- (r) **"Environmental Law"** means any Law which imposes any obligations relating to:
  - (i) the protection, management, conservation or restoration of the natural environment;
  - (ii) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and
  - (iii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.
- (s) **"Force Majeure"** means, exhaustively, any:
  - (i) war, hostilities (whether war is declared or not), invasion, act of foreign enemies;
  - (ii) rebellion, terrorism (or threat of terrorism), revolution, insurrection, military or usurped power or civil war;
  - (iii) riot, civil commotion or disorder, strike or lockout by persons other than the Supplier's personnel and other employees, Subcontractors or any other person for whom the Supplier is responsible;
  - (iv) natural catastrophe such as an earthquake, forest fire, landslide or flood; or
  - (v) change in Law or action by a Competent Authority, which makes it illegal or impossible for either Party to perform its obligations under this Agreement;
- (t) **"Form of Letter Agreement"** has the meaning set out in Schedule I;
- (u) **"Good Industry Practice"** means, in relation to the Supply or the performance of any other obligation under this Agreement, the practices, and the application of the skill, care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced international contractor carrying out or procuring equivalent services of similar type, scope and value, in the same or similar location and in similar circumstances to those pertaining to the Supplier;
- (v) **"Group"** means:
  - (i) in respect of the Supplier, the group constituted from time to time by:

- (A) the Supplier;
  - (B) all persons that directly or indirectly control or are controlled by the Supplier; and
  - (C) all persons that are directly or indirectly controlled by any person that directly or indirectly controls the Supplier; and
- (ii) in respect of the City, the group constituted from time to time by:
  - (A) the City; and
  - (B) all bodies corporate directly or indirectly controlled by the City.
- (w) **"Hazardous Substance"** means any substance or material that is prohibited, controlled or regulated by any Competent Authority pursuant to any Environmental Law including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law;
- (x) **"Intellectual Property Rights"** means any and all current and future proprietary rights provided under patent law, copyright law, design patent or industrial design law, or any other applicable statutory provision or common law principle, including trade secret law, that may provide a right in ideas, formulae, algorithms, concepts, inventions, know-how, computer software, database or design, or the expression or use thereof, whether registered or unregistered, together with any right to apply for or register any of the foregoing;
- (y) **"Key Project Personnel"** means the persons named in Schedule G (Key Project Personnel) and any replacement(s) approved by the City in accordance with ARTICLE 7;
- (z) **"Laws"** means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings, determinations or awards of any Competent Authority whether or not having the force of law and any legal requirements or bases of liability under the common law or civil law, including all such Laws relating to Taxes, the environment, human health or safety, pollution and other environmental degradation, and hazardous materials, which affect or are otherwise applicable to the Supply, the Supplier, the Site or any other lands affected by the Supply;
- (aa) **"Living Wage"** means the hourly wage established by the Living Wage Certifier from time to time during the Term, which, as of the Effective Date, is \$20.62 per hour, 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;
- (bb) **"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 Supplier in writing;
- (cc) **"Living Wage Employee"** means any and all employees of the Supplier and Subcontractors of the Supplier that perform any part of the Supply 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;

- (dd) **"OHS Requirements"** means all Laws applicable to the Supply and related to occupational health or safety, and all of the City Policies that relate to occupational health or safety, and includes without limitation the WCA;
- (ee) **"Other City Entity"** means each of: the Vancouver Public Library Board, the Vancouver Police Board, the Vancouver Art Gallery Association and the Parking Corporation of Vancouver>;
- (ff) **"Parties"** means the City and the Supplier and **"Party"** means one of them or either of them, as the context requires;
- (gg) **"Permitted Purpose"** has the meaning ascribed thereto in Section 15.3;
- (hh) **"Privacy Compliance and Data Security"** has the meaning set out in Schedule J;
- (ii) **"Preferred Supplier"** means a person named in Schedule E;
- (jj) **"Proposal"** means the Supplier's proposal dated <img alt="redacted date" data-bbox="595 388 625 405>, submitted by the Supplier to the City in response to the RFP;
- (kk) **"Release"** means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal;
- (ll) **"Representative"** means a Group member of a Party, or an official, officer, employee, agent, subcontractor or other representative of a Party or any member of its Group, or any other person for whom the Party is responsible;
- (mm) **"RFP"** means the City's Request for Proposal number PS20201116;
- (nn) **"Safety Incident"** means:
  - (i) a failure by the Supplier or any Subcontractor to comply with any OHS Requirements; or
  - (ii) any hazard, incident or accident caused by the Supplier or a Subcontractor.
- (oo) **"Sales Tax"** has the meaning ascribed to such term in Section 16.1;
- (pp) **"Site"** means a City building or other City worksite at which any part of the Supply shall be performed, which Sites are expected to include those listed in Schedule H.
- (qq) **"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.
- (rr) **"Student"** means an individual who is enrolled in a school, college, university or other educational institution and is employed by the Supplier or a Subcontractor, as the case

may be, to obtain practical workplace experience as a requirement of or credit for their education;

- (ss) **"Subcontractor"** means any person named in a schedule to this Agreement as a subcontractor, or any other person appointed by the Supplier, in accordance with this Agreement, to perform any part of the Supply;
- (tt) **"Supplier's Manager"** means a manager who at the relevant time carries such designation from the Supplier under, or in accordance with, ARTICLE 5;
- (uu) **"Supply"** means the provision of the goods, services and works described in Schedule A (or, as the context requires, the particular such goods, services or works provided or to be provided by the Supplier to the City at a particular time or times and in the particular combinations and quantities directed by the City in accordance herewith), and any other services to be provided by the Supplier pursuant to this Agreement;
- (vv) **"Taxes"** means all taxes, duties, imposts, levies, assessments, tariffs and other charges imposed, assessed or collected by a Competent Authority, including:
  - (i) any gross income, net income, gross receipts, business, royalty, capital, capital gains, goods and services, harmonized sales, value added, severance, stamp, franchise, occupation, premium, capital stock, sales and use, real property, land transfer, personal property, ad valorem, transfer, licence, import, customs, profits, windfall profits, environmental, carbon, emissions, pollution, payroll, employment, employer health, pension plan, anti-dumping, countervailing, or excise tax, duty, import, levy, assessment, tariff or other charge;
  - (ii) all withholdings on amounts paid to or by the relevant person;
  - (iii) all statutory remittances, employment insurance premiums and social security or pension plan contributions or premiums and Canada pension plan contributions;
  - (iv) any fine, penalty, interest or addition to tax;
  - (v) any tax imposed, assessed, or collected or payable pursuant to any tax-sharing agreement or any other contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency or fee; and
  - (vi) any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;
- (ww) **"Time(s) for Completion"** means the time(s) stated in Schedule D by which the Supply or any particular Supply or part thereof must be completed, as such time(s) may be adjusted (including in relation to a particular instance of Supply), strictly in accordance with this Agreement;
- (xx) **"Variation"** has the meaning ascribed to such term in Section 3.11(a); and
- (yy) **"WCA"** means the *Workers Compensation Act* (British Columbia) and the regulations thereunder.

## 1.2 Headings

This division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement, including its schedules, and not to any particular article, section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to articles, sections and schedules are to articles, sections and schedules of this Agreement.

## 1.3 Extended Meanings

In this Agreement:

- (a) words importing the singular include the plural and vice versa, words importing a gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, except where the context requires otherwise;
- (b) any provision calling for “agreement” requires the relevant agreement to be recorded in writing and signed by both Parties;
- (c) the words “include”, “includes”, “including” and “included” shall be construed without implying limitation by the words which follow those words and without prejudice to the generality of the provisions to which such words relate, unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;
- (d) each reference to a specific statute, regulation, law or any subordinate instrument or statutory or regulatory provision shall be construed as including any legal or regulatory provision which subsequently amends or replaces the same, and shall include any and all subordinate instruments, orders, rules, regulations and bylaws made thereunder or guidelines issued in respect thereof;
- (e) each reference to a writing means a writing that is hand-written, type-written, printed or electronically made, and which results in a permanent un-editable record; and
- (f) “control” when used to describe a relationship between one person and any other person, has the following meanings:
  - (i) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
  - (ii) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;
  - (iii) the general partner of a limited partnership controls the limited partnership; and
  - (iv) a person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

## 1.4 Schedules

The following are the schedules hereto, each of which is deemed to be part hereof:

Schedule A	Scope of Goods and Services
Schedule B	Prices for Supply
Schedule C	Items to be provided by the City
Schedule D	Time Schedule for Supply
Schedule E	Preferred Suppliers
Schedule F	City Policies
Schedule G	Key Project Personnel
Schedule H	Site
Schedule I	Form of Letter Agreement
Schedule J	Privacy Compliance and Data Security

## ARTICLE 2 EFFECTIVENESS

### 2.1 Effective Date

This Agreement shall come into full force and effect on the date hereof (the "Effective Date").

### 2.2 Term

- (a) Unless earlier terminated pursuant to ARTICLE 12 and subject to the below Section 2.2(b), this Agreement shall terminate on the [●] anniversary of the Effective Date or on such later date as the Parties may agree in writing.
- (b) Subject to termination pursuant to ARTICLE 12, but notwithstanding Section 2.2(a), the term of this Agreement may be extended for up X successive one-year periods following the [●] anniversary of the Effective Date, at the option of the City, upon written notice from the City to the Supplier.>
- (c) Notwithstanding the foregoing, if the City and the Supplier continue to deal with each other in respect of the subject matter of this Agreement following the expiry of this Agreement, without any additional or other written agreement in respect thereof, this Agreement shall be deemed to have been renewed on a month-to-month basis on the same terms and conditions as before the expiry of the Agreement and it may be cancelled without cause by either party on thirty (30) days' prior written notice to the other.

## ARTICLE 3 SUPPLY; GENERAL TERMS

### 3.1 Supply

- (a) During the term of effectiveness of this Agreement, the Supplier shall provide the Supply to the City at the Sites directed by the City, at the times and in the quantities directed by the City, and otherwise in accordance with the directions of the City and in conformity with this Agreement.
- (b) Notwithstanding any other provision hereof, any goods, services or works described in Schedule A shall be provided to the City only upon receipt by the Supplier of a

purchase order from the City or another instruction given by the City pursuant to Section 5.1 relating to such Supply.

- (c) The Supplier shall maintain at all times sufficient business capacity and inventories of the supplies necessary for the provision of the Supply, to meet the business plans and requirements of the City.
- (d) In connection with the Supply, the Supplier shall provide to the City, without additional compensation, all services, conveniences, materials or features proposed in the Proposal that are not otherwise expressly provided for herein, as well as all other ancillary materials or services that are not expressly mentioned either herein or in the Proposal, but are reasonably inferable from the descriptions of the Supply herein or from the descriptions of proposed services, conveniences, materials or features in the Proposal.
- (e) During the term of effectiveness of this Agreement, the City may also, from time to time, direct the Supplier to make Supply to one or more of the Other City Entities at the price(s) specified herein and otherwise on the terms and conditions stated herein, and the Supplier shall comply with each such direction. Moreover, the Supplier shall, upon the further request of the City, promptly enter into a Letter Agreement (or failing that shall be deemed to have entered into a Letter Agreement) with each relevant Other City Entity memorializing that the Supplier shall make Supply to such Other City Entity in accordance herewith.

### **3.2 Application to Prior Acts**

Insofar as the Supplier has commenced any part of the Supply prior to the Effective Date, such services shall, as of the Effective Date, be deemed to be performed under and subject to the terms of this Agreement, unless otherwise expressly agreed between the Supplier and the City.

### **3.3 Sufficiency and Competence of Personnel**

- (a) The Supplier shall have and maintain at all times and in accordance with all applicable Laws, sufficient numbers of fit, skilled, qualified and experienced personnel to carry out the provision of the Supply within the times and in the manner required by the City.
- (b) The Supplier warrants that it has (and its Subcontractors, if any, have) the experience, competence, certifications, qualifications and capacity necessary for the Supply.

### **3.4 Standards and Requirements**

The Supplier shall (and shall procure that its Subcontractors) provide the Supply and perform all other obligations under this Agreement in an expeditious manner and at all times in accordance with:

- (a) all applicable Laws and Consents;
- (b) the specific requirements of Schedule A (Scope of Goods and Services) and Schedule D (Time Schedule for Supply), and the instructions of the City;
- (c) the City Policies; and
- (d) where no higher standard is expressly required of the Supplier under this Agreement, Good Industry Practice,



and the Supplier shall comply with the standards and requirements in Sections 3.4(a) to 3.4(d) in the order of priority in which such standards or requirements are listed (with Section 3.4(a) being of highest priority).

### 3.5 Consents

The Supplier shall, at the Supplier's sole expense, obtain, maintain and comply with all Consents required by Law to enable it to perform its obligations under this Agreement, except to the extent otherwise expressly stated in the schedules hereto.

### 3.6 Goods Orders

- (a) Notwithstanding any other provision hereof, the City shall not order any goods or materials hereunder except pursuant to a written purchase order, which must:
  - (i) be given in writing;
  - (ii) refer to this Agreement;
  - (iii) specify the goods and materials ordered; and
  - (iv) specify a date pre-agreed upon by the Supplier and the City by which the goods and materials ordered pursuant to the purchase order are to be delivered (the "Delivery Date"), and the location or address to which they are to be delivered (the "Delivery Location"), provided that the Delivery Location for each order must be a Site.

### 3.7 Delivery Requirements

- (b) The Supplier shall pack, transport and supply all goods and materials forming part of the Supply in accordance with all:
  - (i) manufacturer recommendations and requirements;
  - (ii) generally accepted industry standards and practices; and
  - (iii) applicable Laws.
- (c) The Supplier shall ensure that all goods and materials are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- (d) The Supplier shall deliver all goods or materials ordered by the City hereunder to the applicable Delivery Location by the applicable Delivery Date.
- (e) Delivery of the goods or materials specified in a purchase order shall be complete only upon the completion of their unloading at the Delivery Location.
- (f) Each shipment of goods or materials shall be accompanied by a delivery document from the Supplier showing the purchase order number, the date of the purchase order, the type and quantity of goods or materials included in the shipment, and, in the case of an order being delivered by instalments, the outstanding balance of goods or materials remaining to be delivered.
- (g) If the Supplier requires the City to return any shipping containers, or other packaging or shipping materials, to the Supplier, that fact must be clearly stated on the delivery

document accompanying the relevant goods or materials, and any such return shall be at the Supplier's expense.

- (h) In respect of any goods or materials that originate outside Canada, the Supplier shall be responsible for all customs and import Taxes, costs, expenses, administrative duties and formalities.

### 3.8 Rejection of Defective goods or materials

- (a) The Supplier shall test all goods and materials prior to their delivery to the City to confirm they function correctly, and as intended, except for goods and materials that are delivered directly to the City and are not configured by the Supplier.
- (b) If any goods or materials delivered to the City do not comply with Schedule A or the Proposal, or are otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the City may have, the City may at any time reject those goods or materials and:
  - (i) require the Supplier to remove the rejected goods or materials from any facility or work site of the City at the Supplier's risk and expense within ten Business Days of being requested to do so;
  - (ii) require the Supplier to repair or replace the rejected goods or materials at the Supplier's risk and expense within 20 Business Days of being requested to do so; and
  - (iii) claim damages for any costs, expenses or losses resulting from the Supplier's delivery of goods or materials that are not in conformity with the terms of this Agreement.
- (c) The City's rights and remedies under this Section 3.8 are in addition to the rights and remedies available to it under other sections of this Agreement and applicable Laws.
- (d) The terms of this Agreement shall apply to any repaired or replacement goods or materials supplied by the Supplier pursuant to Sections 3.8 or 3.9.

### 3.9 Warranties

- (a) The Supplier warrants that the Supply shall be performed in accordance with this Agreement and to the best practice standards of diligence, skill, care and efficiency expected of a competent contractor performing work of a similar nature to the Supply.
- (b) All goods or materials provided under the Agreement as part of the Supply shall be new and fully warranted for a period of ~~<5>~~ year[s] from the time of delivery to the City, against defects in design, manufacturing, materials, workmanship and performance, and the Supplier affirms and covenants that such warranty is, and shall be, provided by the Supplier if and to the extent it is not fully and effectively provided to the City by third-party manufacturers or suppliers of the goods or materials.
- (c) All goods, works and materials provided under the Agreement as part of the Supply shall be non-defective and fit for their intended purposes and shall function safely in all respects.

- (d) All costs associated with warranty replacements or repairs shall be the responsibility of the Supplier, including repair, adjustment, and shipping costs, and replacements of goods or materials.
- (e) If requested by the City, the Supplier shall handle and manage any claim on a manufacturer warranty for any defect in goods or materials provided as part of the Supply.
- (f) The Supplier shall deliver to the City all such documentation as the City may require to evidence any warranty required by this Section 3.9 or to evidence the Supplier's compliance with this Section 3.9, and the Supplier shall assign all warranties, and do all other things necessary, to ensure that the City receives the full benefit of each warranty or other covenant set forth in this Section 3.9.

### **3.10 Relationship Between the Parties**

- (a) The Supplier in its provision of the Supply and its performance of its obligations under this Agreement shall at all times act as an independent contractor on its own account and shall have no authority to act as the City's agent unless expressly empowered to do so by the City. This Agreement shall not be deemed to create any relationship of partnership, agency, joint enterprise or other like relationship between the Parties, and the Supplier shall be solely responsible for all employment-related obligations in connection with its employees, its other Representatives and its Subcontractors and their employees.
- (b) The City is not bound to treat the Supplier as its exclusive supplier of any goods or services.

### **3.11 Variations Requested by the City**

Any instruction given by the City which constitutes or gives rise to a variation from the scope of the Supply expressed in Schedule A (Scope of Goods and Services) or a time expressed in Schedule D (Time Schedule for Supply), shall constitute a "Variation" and shall be governed by and subject to this Section 3.11.

- (a) During the term of this Agreement, the City may at any time effect a Variation by notice in writing to the Supplier, and the Supplier shall not be entitled to refuse to implement any Variation unless the carrying out of such Variation would contravene any Law (in which case the Supplier shall promptly give notice to the City).
- (b) If the Supplier is of the opinion that a Variation justifies an increase to the Contract Price or a change to any of the Time(s) for Completion, the Supplier must, as a condition to being entitled to any such increase to the Contract Price or change to the Time(s) for Completion, no later than 10 Business Days after the City gives notice of the Variation, submit a claim to the City which sets out the Supplier's assessment of the impact the Variation should have on the Contract Price due for such Supply and on the Time(s) for Completion for such Supply, and thereafter:
  - (i) the City shall consider that claim as soon as possible and may request the Supplier to supply such further evidence as is reasonably required to confirm the details of such claim (and, as soon as practicable after such further evidence is available to it, the Supplier shall provide it to the City); and
  - (ii) within ten Business Days after the receipt of all the information requested by the City, the Supplier and the City shall meet in order to agree any variations

to the Contract Price for such Supply or the Time(s) for Completion for such Supply, which such agreement must be evidenced in writing.

- (c) If no agreement is reached under 3.11(c)(ii) within 20 Business Days of the Parties' first meeting (or such other period as the Parties may agree), the Parties may then refer the matter for arbitration in accordance with ARTICLE 17.
- (d) Notwithstanding the foregoing, the City shall be entitled to replace, revise, expand or modify the City Policies at any time upon notice to the Supplier, and no such change shall be considered to be a Variation.

### **3.12 Tests; Defects and Acceptance**

- (a) When, in the Supplier's judgement, any part of the Supply is complete in accordance herewith, the Supplier shall give written notice to that effect to the City. Thereafter, the City shall reasonably promptly perform such practical tests of the Supply as the City reasonably deems necessary, and the Supplier shall assist the City with all such tests, if and to the extent so requested by the City.
- (b) If the testing described in the foregoing Section 3.12(a) reveals, in the judgement of the City, any Defects in the Supply, the City shall notify the Supplier accordingly.
- (c) The Supplier shall remedy at its own cost and risk Defects in the Supply that the Supplier discovers or that are notified by the City, as soon as reasonably practicable following discovery or notification of such Defects, as the case may be.
- (d) If the Supplier fails to remedy any Defect in the Supply within a reasonable time, a date may be fixed by the City on or by which the Defect is to be remedied. The Supplier shall be given reasonable notice of this date.
- (e) If the Supplier fails, without reasonable excuse, to remedy any Defect in the Supply by this notified date, the City may (at its option) elect to carry out the work itself or by others and shall be entitled to recover from the Supplier all direct, proper and reasonable costs of so doing (as a debt due on demand). The City's exercise of its election under this Section 3.12(e) shall in no event absolve the Supplier of its responsibility for remediation of other Defects or otherwise constitute a waiver by the City of its rights and remedies in relation to other Defects, nor shall it preclude or restrict the further exercise of such rights or remedies.
- (f) If the Supplier commits any error in the Supply which results in the City incurring additional time and material costs, the City shall be entitled to recover from the Supplier those direct, proper and reasonable time and material costs (as a debt due on demand).

### **3.13 Title and Risk**

- (a) The Supplier warrants that title in each good, work or improvement supplied by the Supplier hereunder, when it passes to the City hereunder, shall be free and clear of Encumbrances.
- (b) Title to any good, work or improvement supplied by the Supplier hereunder shall pass to the City upon the earlier of:
  - (i) payment therefor by the City;

- (ii) its delivery to any part of the Site>; and
  - (iii) its incorporation into a good or work supplied by the Supplier.
- (c) The risk in goods, products or materials delivered to the City hereunder shall pass to the City on Delivery.
- (d) The Supplier shall deliver to the City any documentation, including a bill of sale, which the City may reasonably require to evidence the transfer of title in and to goods to the City, free and clear of all Encumbrances.
- (e) The Supplier must not enter any contract that reserves ownership of goods or materials supplied by the Supplier hereunder in favour of any third party and, at the request of the City, the Supplier must provide evidence that no such contract has been entered into.
- (f) Notwithstanding the foregoing provisions of this Section 3.13, the Supplier is responsible for the care of, and bears all of the risk of loss or damage to, each good, work or improvements supplied hereunder and each material used in connection with the Supply, until the completion of the relevant Supply to the satisfaction of the City.

### **3.14 Living Wage**

- (a) Subject to Section 3.14(b), it is a condition of this Agreement that, for the duration of the Term the Supplier pays all Living Wage Employees not less than the Living Wage.
- (b) Notwithstanding Section 3.14(a), the Supplier 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.
- (c) The Supplier shall ensure that the requirements of Section 3.14(a) apply to all Subcontractors.
- (d) A breach by the Supplier of its obligations pursuant to Sections 3.14(a) and (c) shall constitute a material breach by the Supplier of this Agreement that shall entitle the City to terminate this Agreement in accordance with Section 12.2(c).
- (e) The Supplier 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:
  - (i) the number of Living Wage Employees of the Supplier and each Subcontractor who were paid a Living Wage pursuant to this Section 3.12 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 Supplier pursuant to this Section 3.12; and
  - (ii) the total incremental costs incurred by the Supplier, including any amounts paid to Subcontractors, in order to fulfill its obligations pursuant to this Section 3.12 to pay a Living Wage to the Living Wage Employees described in Section 3.12(e)(i).

## ARTICLE 4 PREFERRED SUPPLIERS

### 4.1 Procurement of Supplies

If so required as part of the Supply specified in Schedule A (Scope of Goods and Services), the Supplier shall procure, in the name of and on behalf of the City:

- (a) those materials and/or services specified in Schedule E (Preferred Suppliers) (if any) as being required to be procured from a particular Preferred Supplier from such Preferred Supplier; and
- (b) where no particular materials and/or services are specified in Schedule E (Preferred Suppliers) as being required to be procured from a particular Preferred Supplier, materials or services that are in any event required for purposes of the Supply in accordance with Good Industry Practice.

Such procurement shall be in accordance with the City Policies (if and insofar as applicable) and otherwise the provisions of this Agreement.

### 4.2 Information Concerning Alternative Suppliers

Exercising Good Industry Practice, the Supplier shall use all reasonable endeavours to submit to the City details of alternatives to each Preferred Supplier where:

- (a) it would be more economical to purchase the relevant materials or services from an alternative supplier; or
- (b) a better quality of materials or services may be obtained from an alternative supplier; or
- (c) it would be more beneficial to the City to procure such materials or services from an alternative supplier.

### 4.3 Use of Alternative Suppliers

If the Supplier needs to procure any materials or services for which a Preferred Supplier is specified in Schedule E (Preferred Suppliers) and the Supplier wishes to procure such materials or services from an alternative supplier, the Supplier shall provide written notification to the City within a reasonable time so as not to delay the Time(s) for Completion. Such notice shall be in the form acceptable to the City and shall contain, as a minimum, the following information:

- (a) the relevant materials or services to be procured;
- (b) the name of the Preferred Supplier;
- (c) the name of the alternative supplier;
- (d) corporate, financial, technical, insurance and commercial information concerning the alternative supplier that is reasonably adequate to permit the City to evaluate the alternative supplier; and
- (e) the Supplier's reason(s) for recommending that such materials or services be procured from the alternative source (supported by evidence).

The City shall provide its acceptance or rejection of such recommendation within a reasonable period so as not to delay the Time(s) for Completion. The City's decision shall be at its absolute discretion and shall be final and binding on the Parties.

## **ARTICLE 5 CONTRACT MANAGERS**

### **5.1 City's Managers**

- (a) The City hereby designates each of <[redacted]> and <[redacted]> as a "City's Manager." Each City's Manager, including any additional City's Managers designated by the City in accordance herewith, has, for so long as he or she remains a City's Manager, full authority to act on behalf of the City in relation to all matters arising under this Agreement.
- (b) Any instruction from the City to the Supplier pursuant to this Agreement shall be issued through an executive officer of the City or through a City's Manager and shall be effective if in writing or confirmed in writing within seven days of oral instruction. Failure to comply with this Section 5.1 shall render any purported City's instruction invalid, unless it is later ratified by the City. However, this restriction does not apply to any instruction issued in an emergency situation or which relates to a threat or potential threat to the life, health or safety of any individual.
- (c) Notwithstanding the foregoing, each City's Manager may, in writing, delegate his or her authority hereunder to others.

### **5.2 Supplier's Managers**

- (a) The Supplier hereby designates each of <[redacted]> and <[redacted]> as a "Supplier's Manager." Each Supplier's Manager, including any additional Supplier's Managers designated by the Supplier in accordance herewith, has, for so long as he or she remains a Supplier's Manager, full authority to act on behalf of the Supplier in relation to all matters arising under this Agreement, and any instruction given by the City to either of them shall be deemed to be valid and effective.
- (b) Each Supplier's manager may, in writing, delegate his or her authority hereunder to others, upon the written agreement of the City.

### **5.3 Designation of New Managers**

The City may designate new City's Managers, or remove that designation from any individual, and the Supplier may designate new Supplier's Managers, or remove that designation from any individual, from time to time, each at its own discretion, through notice to the other Party. In the case of the Supplier, any such designation or removal must be in writing to the City.

## **ARTICLE 6 SUPPLIERS' WARRANTIES AND COVENANTS**

### **6.1 General Representations and Warranties**

The Supplier represents and warrants that:

- (a) the Supplier has the full right, power, and authority to enter into this Agreement and to perform the Supply;

- (b) the Supplier is a <img alt="British Columbia flag" data-bbox="365 95 395 115"/> duly organized, validly existing and in good standing under the laws of <img alt="British Columbia flag" data-bbox="300 105 330 125"/> and is lawfully authorized to do business in the Province of British Columbia;
- (c) the Supplier is not a party to or bound by any agreement (written or oral), indenture, instrument, licence, permit or understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement does or shall constitute or result in a violation or breach;
- (d) all statements made by the Supplier in its Proposal are true and accurate;
- (e) the Supplier is fully experienced in the design and management of projects or works of a similar scope, purpose, complexity, size and technical sophistication as the Supply;
- (f) the Supplier possesses a level of skill and expertise commensurate with Good Industry Practice, which it shall utilize in the performance of its obligations under this Agreement;
- (g) the Supplier understands that the City is relying upon the skill, judgment and expertise of the Supplier and its Subcontractors (if any) in the carrying out of the Supply and the co-ordination and planning thereof;
- (h) the Supplier's and any Subcontractors' employees are accredited to carry out the relevant portions of the Supply to the extent required by applicable Laws and all of them are appropriately skilled, competent and experienced and possess relevant qualifications having regard to the nature and extent of the Supply and the Sites;

## 6.2 General Health and Safety-Related Acknowledgements and Covenants

The Supplier shall:

- (a) in the provision of the Supply, comply at all times with the OHS Requirements and take all reasonably necessary steps to ensure similar compliance from its Representatives and its Subcontractors, if any;
- (b) if the Supply involves any type of manual labour, prior to their attendance at any Site, deliver to each of its Representatives and each of its Subcontractors, if any, and to their employees, if applicable, copies of the OHS Requirements relevant to the Site;
- (c) at all times take all reasonable precautions to maintain the health and safety of workers;
- (d) be at all times registered and in good standing with the relevant workers' compensation insurance Competent Authorities, and provide to the City copies of any notices, correspondence or directions issued by any government or Competent Authority relating to workplace-related employment, human rights, labour, immigration policy, health, safety or environmental matters within 24 hours of the Supplier's receipt of such notice, correspondence or direction;
- (e) appoint a qualified health and safety coordinator to ensure coordination of health and safety activities in the provision of the Supply;
- (f) report (with full details) any accident, injury, illness or other incident relating to workplace health and safety or the environment to the City as soon as reasonably practicable, investigate the accident, injury, illness or other incident reasonably



thoroughly (and in any event in accordance with any applicable OHS Requirements) and promptly report to the City the results of each such investigation;

- (g) maintain such records and make such reports concerning health, safety and welfare of persons, and damage to property, or the natural, physical or biological environment, as the City may reasonably require; and

### 6.3 Covenants Regarding Violations of Health and Safety Requirements

Without prejudice to any remedies available to the City hereunder, if any Subcontractor or person employed or engaged by the Supplier (or by a Subcontractor) violates any OHS Requirement, the Supplier shall:

- (a) ensure that the violation is promptly resolved;
- (b) ensure the violation is promptly and appropriately reported to the City and to the applicable competent authorities (if and to the extent required by the OHS Requirements);
- (c) promptly take all reasonable steps necessary to avoid recurrence of the violation;
- (d) communicate to the City its plan to avoid recurrence of the violation; and
- (e) without prejudice to the foregoing Section 6.3(c), promptly remove any person responsible for the violation from the provision of the Supply if reasonable to do so or if requested to do so by the City.

### 6.4 Covenants Regarding the Environment

- (a) The Supplier shall:
  - (i) at all times, be conscious of the importance of the protection of the natural, physical and biological environment at and in the vicinity of the Sites;
  - (ii) conduct, and cause its Representatives to conduct, their respective activities that relate to the Supply in a manner that shall have the least possible adverse effect on the natural environment and in compliance with all Environmental Laws and Consents, all at the Supplier's expense;
  - (iii) perform the Supply with the least degree of environmental degradation during and as a result of such performance; and
  - (iv) without restricting the generality or application of any other provisions of this Agreement, comply, and cause its Representatives to comply, with all applicable Laws and Consents and with all plans and instructions contained in this Agreement or issued in writing by the City concerning the existence, Release, removal, handling, transport, storage, disposal and treatment of any Hazardous Substances or other materials that are or may be hazardous to the life or health of any person or that endanger the environment or that are regulated by applicable Law.
- (b) During the term of this Agreement, the Supplier shall not bring or store or permit to be used at any Site, any Hazardous Substances unless such Hazardous Substances are (i) reasonably required to carry out the Supply, and (ii) brought or stored or permitted to be used at any Site in compliance with all Laws (including Environmental Laws). The

Supplier shall not Release nor permit the Release of any Hazardous Substances into the environment. The Supplier is solely responsible for all Hazardous Substances introduced to the Sites or the environment by the Supplier or its Representatives or Subcontractors, and the Supplier shall promptly and fully remediate, to the City's satisfaction, any release of Hazardous Substances on or from any Site, or in the vicinity of any Site.

#### **6.5 Further Covenants Regarding the Sites**

The Supplier shall:

- (a) at its sole cost, keep any portion of any Site used in connection with the Supply in a safe and tidy condition and to maintain and operate the Supplier's equipment in a good, workmanlike and safe manner; and
- (b) not to do anything at any Site which is or may become a nuisance, danger or disturbance to the City or to any other occupants or users of the Site or adjacent areas or to any works or structures or installations thereon.

#### **6.6 Covenants Against Encumbrances**

- (a) The Supplier shall keep each Site and the goods included in the Supply, and each part thereof, free of all Encumbrances filed pursuant to any Law or otherwise in respect of any such work or materials. In any event, if any Encumbrance has been filed in relation to the Site or any improvement thereon, or in relation to any goods included in the Supply, the Supplier shall cause any such Encumbrance to be discharged within 30 days after the Encumbrance has come to the notice of the Supplier.
- (b) The Supplier acknowledges and agrees that, in the event the Supplier fails to discharge any Encumbrance contemplated in Section 6.6(a) within 60 days of written notice of such Encumbrance being given by the City, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge the Encumbrance by paying to the applicable Competent Authority, the amount claimed to be due or the amount due, together with a reasonable amount for costs and the amount paid by the City shall be paid by the Supplier to the City forthwith upon demand. In no case shall the City be required to investigate the validity of the Encumbrance prior to discharging the same in accordance with this Section 6.6(b).

#### **6.7 Absence of Conflicts of Interest**

- (a) Neither the Supplier, nor any of its Representatives has given or shall give or offer to give to the City or any official, officer, employee or agent of the City any gratuity, reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act in connection with this Agreement.
- (b) To the best of the Supplier's knowledge, the Supplier, its Subcontractors, and their respective directors, officers, employees and agents have no pecuniary interests or any other current or past interests or dealings, including with any officials, officers or employees of the City, that would cause any conflict of interest or be seen to cause a conflict of interest in respect of the Supply. Should such a conflict or perceived conflict arise during the term of this Agreement, the Supplier shall declare it immediately in writing to the City. The City may direct the Supplier to resolve any conflict or perceived conflict to the satisfaction of the City. The Supplier warrants that neither the Supplier nor any of its Subcontractors, or any of their respective directors, officers, employees or agents, has any predisposition, affinity or association

with any third party which would impair or be seen to impair or qualify the Supplier's provision of the Supply.

## **ARTICLE 7 PERSONNEL**

### **7.1 Separate Personnel**

- (a) It is the intention of the Parties that any personnel utilized or supplied by the Supplier or any Subcontractor hereunder shall remain employees of the Supplier or Subcontractor, respectively, for the purposes of any applicable Law and no activity performed by such personnel shall be deemed to create or imply any employment or other like relationship between such personnel and the City. If contrary to this intention such personnel are treated as employees of the City for the purposes of any applicable Law, the Supplier shall indemnify the City against any loss, cost, expense, complaint, claim, levy, assessment, penalty or fine (including any Tax liability) resulting therefrom.

### **7.2 Changes in Personnel**

The City may request the removal or replacement of any personnel engaged by the Supplier or any Subcontractor in relation to any part of the Supply, provided that such request is made in writing stating the City's detailed reasons. The Supplier shall comply with such request as soon as reasonably practicable and shall bear the cost of replacement where the City is of the opinion that the personnel in question are guilty of misconduct, do not have acceptable qualifications or are otherwise unable or unfit to perform satisfactorily and safely. If the City requests a replacement for a reason other than the immediately aforementioned reasons, the City shall reimburse the Supplier its reasonable properly incurred costs of replacement.

### **7.3 Key Project Personnel**

- (a) Where there are Key Project Personnel the Supplier shall:
  - (i) use best endeavours to retain Key Project Personnel for the duration of the provision of the Supply;
  - (ii) take reasonable steps to ensure that Key Project Personnel dedicate their time fully to the Supply (unless otherwise agreed or approved by the City in writing);
  - (iii) promptly inform the City should any of the Key Project Personnel leave, or give notice of an intention to leave the Supplier, and obtain a substitute or substitutes;
  - (iv) not reassign or allow the reassignment of the Key Project Personnel to other projects during the term of this Agreement without the City's prior written consent (such consent not to be unreasonably withheld or delayed); and
  - (v) take all reasonable steps to ensure that the Key Project Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between the Parties.
- (b) If:
  - (i) the Supplier wishes to reassign or to replace an individual designated as Key Project Personnel; or

- (ii) an individual designated as Key Project Personnel gives notice of his or her intention to leave or is otherwise no longer able to perform the duties, including for reasons of illness, injury or personal hardship,

the Supplier shall provide a substitute with experience and qualifications equivalent or greater than the Key Project Personnel to be replaced, and shall provide documentation to the City to establish such experience and qualifications.

- (c) Key Project Personnel who are reassigned to other work shall, to the extent possible, remain available to the project team until completion of the Supply.
- (d) All the Supplier's Key Project Personnel must be fluent in both spoken and written English, except as may be agreed to the contrary between the City and Supplier in relation to specific individuals or positions to be filled from time to time.

## **ARTICLE 8 REPORTING**

### **8.1 Progress Reports**

- (a) As required by the City, progress reports shall be prepared by the Supplier and submitted to the City in a format reasonably acceptable to the City.

### **8.2 Assistance regarding Reporting Requirements**

The Supplier shall, and shall cause its Representatives to, provide the City with reasonable assistance and information which is necessary to enable the City to comply with any Law.

## **ARTICLE 9 PAYMENT; AUDITS**

### **9.1 Payment to the Supplier**

- (a) Subject to ARTICLE 12 and Section 9.3, the City shall pay the Supplier for the Supply in accordance with Schedule B (Prices for Supply), following the receipt of invoices prepared and delivered in accordance with Section 9.2(b) and Section 9.3.
- (b) Unless otherwise expressly stated in the schedules hereto, the Supplier shall pay any and all costs, including freight, marine and transit insurance, Taxes, and transportation and delivery charges on all equipment or things of whatsoever nature provided by the Supplier as required by it for the purposes of the Supply and any other incidental costs and all such costs shall be deemed to be included in the Contract Price.
- (c) The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of Schedule B (Prices for Supply) and to have obtained all information and to have taken into account all circumstances, risks and other contingencies that may affect the cost of performing the Supply (including any circumstances, risks or contingencies that a contractor exercising Good Industry Practice would typically expect to encounter) and any other obligation under this Agreement. The Supplier shall not be entitled to any additional compensation beyond the Contract Price (including without limitation for escalation in the prices of goods, materials and labour) except as otherwise expressly stated in this Agreement.

- (d) Notwithstanding any other provisions of this Agreement, the Supplier shall not be entitled to payment for any Supply that has not been performed in compliance with the provisions of this Agreement.

## 9.2 Purchase Orders; Content of Invoices

- (a) The City shall from time to time issue purchase orders to the Supplier in relation to the Supply. These shall not have the effect of amending or waiving the application of any provision of this Agreement.
- (b) Each of the Supplier's invoices shall set out, as a minimum (and in such form or format as required by the City):
  - (i) the City purchase order number(s) relating to the particular Supply to which the invoice relates;
  - (ii) an itemized list of the amounts owing;
  - (iii) the invoice date and the time period to which the invoice relates;
  - (iv) a description of the portion of the Supply to which the invoice relates;
  - (i) the total amounts payable under the invoice and details of any applicable taxes;
  - (ii) all supporting documentation relating to disbursements; and
  - (iii) such other information as the City may require from time to time.
- (c) Any terms or conditions proposed by the Supplier to govern the Supply that are contained in any invoice (or in any shipping document, packing list or similar document) are void and of no effect, notwithstanding any statement in such document concerning the means by which the City may accept or be deemed to accept such terms or conditions.

## 9.3 Procedure for Invoices

- (a) The Supplier shall address each of its invoices to the City, Attention: Accounts Payable, and email it to [APInvoice@vancouver.ca](mailto:APInvoice@vancouver.ca), or to such other address as is specified in an applicable purchase order. The City shall thereafter pay the invoice within 30 days, provided the other requirements of this Agreement have been satisfied and subject to the other provisions hereof.
- (b) The City shall not be liable for any interest on any invoice amount in respect of any period for any reason.
- (c) The City expects to make payments by electronic funds transfer and the Supplier shall provide banking information to the City to enable it to do so.

## 9.4 Currency of Payment

All currency amounts stated herein are denominated in, all invoices hereunder shall be stated in, and all payments hereunder shall be made in, Canadian dollars.

## 9.5 Contested Claims for Payment

If any item contained in an invoice submitted by the Supplier is contested by the City, the City shall give prompt notice thereof, together with reasons to the Supplier.

## 9.6 Audits

- (a) The Supplier shall maintain up-to-date records and accounts which clearly document the provision of the Supply 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 Supplier (subject to reimbursement of the Supplier'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 Supply or earlier termination of this Agreement. For avoidance of doubt, any records and accounts provided by the Supplier in accordance with this Section 9.6(a) shall be deemed to be Confidential Information;
- (b) Not later than three years after the completion of all of the Supply or earlier termination of this Agreement, the City can itself, on notice of not less than 14 days, require that a firm of accountants, surveyors or other auditors nominated by it audit any such records and accounts of the Supplier by attending during normal working hours at the office where the records are maintained. For avoidance of doubt, any records and accounts or other documents provided by the Supplier in accordance with this Section 9.6(b) shall be provided only subject to the accountants, surveyors or other auditors, and each of them, being subject to and agreeing to meet such of the Supplier's reasonable requirements as to confidentiality as the Supplier deems (at its sole discretion) to be appropriate in the circumstances; and
- (c) Any overpayments by the City discovered during the course of any such audit pursuant to Section 9.6(b) shall be payable by the Supplier to the City within 30 days of such discovery, and if the overpayments have been caused by an act or omission of the Supplier and the amount of those overpayments is no less than one quarter of the total amount paid by the City to the Supplier in respect of the Supply, then the costs of the relevant audit shall be for the account of the Supplier.

## 9.7 Set Off

Notwithstanding any provision to the contrary in this Agreement and without prejudice to any other remedy which the City may have (whether in common law or equity), the City shall be entitled to deduct from and set off against any sum(s) otherwise due to the Supplier hereunder any sums which are due from the Supplier to the City or which the Supplier is liable to pay to the City under this Agreement or in connection herewith (including without limitation any monies overpaid to the Supplier under this Agreement or otherwise due and payable to the City by reason of any error in payment under this Agreement).

# ARTICLE 10

## CERTAIN ADDITIONAL OBLIGATIONS OF THE CITY

## 10.1 Scheduled Items

The City shall make available, free of cost and without delay or in accordance with any agreed timetable or schedule set forth in Schedule C (Items to be Provided by the City), to the Supplier for the purpose of the Supply, the personnel, equipment, facilities, services (including services of third parties) and information described in such Schedule C (if any), and in accordance therewith.

## 10.2 Other Information

The City shall, within a reasonable time following a written request by the Supplier, provide to the Supplier free of cost such further information, which the City considers relevant to provision of the Supply and which is either already in its possession or reasonably within its power to obtain.

## 10.3 Decisions in Writing

On all matters properly referred to it in writing by the Supplier, the City shall (wherever practicable) give its decision in writing within a reasonable time having regard to the Time(s) for Completion and the Supplier's obligations with regard to the Supply.

## 10.4 Access to the Site

Except to the extent prohibited by applicable Law or any Consent, the City shall grant to the Supplier non-exclusive, timely and in accordance with any agreed schedule, access (as the City is reasonably able to provide) to all necessary areas of the Site on and from the Effective Date and such other non-exclusive access as is necessary or appropriate to perform the Supply and the Supplier's other obligations in accordance with this Agreement.

# ARTICLE 11 LIABILITY AND INSURANCE

## 11.1 Covenants of Indemnification by the Supplier

- (a) The Supplier shall indemnify and keep indemnified and hold the City, the Other City Entities and their respective officials, officers, employees and agents harmless against all losses, liabilities, claims, demands, costs and expenses (including legal fees), fines, penalties and charges (including those imposed by statute or otherwise imposed), arising out of or in connection with, or consisting of:
  - (i) any:
    - (A) damage to a Site or any part thereof, or any property whether located at a Site or otherwise, which occurs during the provision of the Supply;
    - (B) any claim by a Subcontractor under the *Builders Lien Act* (British Columbia);
    - (C) damage to the natural environment, including any remediation cost recovery claims;
    - (D) loss or damage arising from a claim by any third party concerning or arising out of the Supply, or by any employee or Subcontractor of the Supplier for any reason;
    - (E) occupational illness, injury or death of any person, whether at a Site or otherwise, which occurs during, or as a result of, the provision of the Supply;
    - (F) failure by the Supplier to fully comply with the provisions of this Agreement;

- (G) breach by the Supplier or any Subcontractor of any Law in the course of, or as a result of, the provision of the Supply;
- (H) actual or alleged infringement of any Intellectual Property Rights caused by the provision of the Supply or the use of any process, work, material, matter, thing or method used or supplied by the Supplier or any Subcontractor in the provision of the Supply; or
- (I) breach of the warranties of the Supplier contained herein,  
in each case to the extent that it is due to any act, omission or default, or any breach of Law or this Agreement, of the Supplier, a Subcontractor or any Representative of the Supplier or any employee, agent or contractor of any of them; or
- (ii) any defect in a good, work or material provided as part of the Supply or any failure of any such good, work or material to function safely or to satisfy any applicable safety standard.
- (b) Nothing in this Section 11.1 nor otherwise in this Agreement shall limit or exclude any direct liability (whether in contract, tort, for breach of statutory duty or any other legal basis) of the Supplier to any person, including without limitation any liability for:
  - (i) the Supplier's default hereunder or fraud, fraudulent misrepresentation or reckless misconduct in the provision of the Supply; or
  - (ii) any loss or damage flowing from the termination of this Agreement.
- (c) The Supplier appoints the City as the trustee of the Other City Entities and of their and the City's officials, officers, employees and agents in relation to the covenants of indemnification of the Supplier contained in this Section 11.1 and the City accepts such appointment.

## 11.2 Contamination of Lands

Without limiting any other provision hereof or any other remedy available to the City hereunder, the Supplier agrees and covenants that if, at any time during the term or following the expiry of this Agreement, the Site or any other lands affected by the Supply are found to be contaminated or polluted (as determined pursuant to Environmental Laws) as a result of or in connection with the Supply, the Supplier shall forthwith at its sole cost:

- (a) undertake all necessary audits, investigations, tests and surveys to determine the nature and extent of the contamination or pollution;
- (b) notify the City of the nature and extent of the contamination or pollution and any proposed or required work necessary to control, abate, dissipate or remove (as appropriate) the pollution or contamination as required by Environmental Laws; and
- (c) undertake the work referred to in the foregoing paragraph (b).

## 11.3 Conduct of Claims

In the event of any claims, statutory fees, costs, charges, penalties (including without limitation any legal costs), contributions, compensations, cost recoveries, expenses or fines being



levied or claimed from a person in respect of which an indemnity is provided by the Supplier pursuant to ARTICLE 11, the following provisions shall apply:

- (a) subject to Sections 11.3(b), 11.3(c) and 11.3(d), where it appears that a person is or may be entitled to indemnification from the Supplier in respect of all (but not part only) of the liability arising out of a claim, such person entitled to indemnification may at its sole election and subject to:
  - (i) approval by any relevant insurers (without prejudice to Section 11.3(f); and
  - (ii) the Supplier providing the party entitled to indemnification with a secured indemnity to its reasonable satisfaction against all costs and expenses (including legal expenses) that it may incur by reason of such action,permit or require the Supplier to dispute the claim on behalf of the person entitled to indemnification at the Supplier's own expense and take conduct of any defence, dispute, compromise, or appeal of the claim and of any incidental negotiations; provided that the person entitled to indemnification shall give the Supplier (provided at the Supplier's cost) all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim;
- (b) with respect to any claim conducted by the Supplier pursuant to Section 11.3(a):
  - (i) the Supplier shall keep the person entitled to indemnification fully informed and consult with it about material elements of the conduct of the claim;
  - (ii) the Supplier shall not bring the name of the person entitled to indemnification (or any Group Member thereof) into disrepute; and
  - (iii) the Supplier shall not pay or settle such claims without the prior consent of the person entitled to indemnification, such consent not to be unreasonably withheld or delayed;
- (c) a person entitled to indemnification shall be free to pay or settle any claim on such terms as it thinks fit (and without prejudice to its rights and remedies under this Agreement) if:
  - (i) the Supplier is not entitled to, or is not permitted or instructed, take conduct of the claim in accordance with Section 11.3(a); or
  - (ii) the Supplier fails to comply in any material respect with the provisions of Sections 11.3(a) or 11.3(b);
- (d) the person entitled to indemnification pursuant to ARTICLE 11 shall be free at any time to give notice to the Supplier that it is retaining or taking over (as the case may be) the conduct of any defence, dispute, compromise or appeal of any claim (or of any incidental negotiations) to which Section 11.3(a) applies. On receipt of such notice the Supplier shall promptly take all steps necessary to transfer the conduct of such claim to the person entitled to indemnification, and shall provide to the person entitled to indemnification all reasonable co-operation, access and assistance for the purposes of considering and resisting such claim;
- (e) if the Supplier pays to the person entitled to indemnification an amount in respect of an indemnity and the person entitled to indemnification subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a

sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity, the person entitled to indemnification shall forthwith repay to the Supplier whichever is the lesser of:

- (i) an amount equal to the sum recovered (or the value of the saving or benefit obtained) less any out-of-pocket costs and expenses (including legal expenses) properly incurred by the person entitled to indemnification in recovering the same; and
- (ii) the amount paid to the person entitled to indemnification by the Supplier in respect of the claim under the relevant indemnity,

provided that there shall be no obligation on the part of the person entitled to indemnification to pursue such recovery and that the Supplier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the Supplier exceeds any loss sustained by the person entitled to indemnification;

- (f) the Supplier shall inform the person entitled to indemnification of the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement and in relation to such the person entitled to indemnification shall issue instructions accordingly; and
- (g) any person entitled to an indemnity from the Supplier must take all reasonable measures to mitigate any loss, damage or liability that it may suffer in respect of any such matter.

#### 11.4 Insurance

- (a) In addition to those mandatory insurance policies that the Supplier is required to carry by any applicable Laws, the Supplier shall take out and maintain in force, with a reputable insurance company legally authorized to conduct business in British Columbia, during the term of this Agreement and for a period of five years afterwards, commercial general liability insurance with coverage of not less than \$5 million per occurrence and at least \$5 million of annual aggregate coverage endorsing the City as an additional insured on a primary and non-contributory basis and providing a waiver of subrogation in favour of the City.
- (b) Technology Error and Omissions and Cyber Liability insurance policy with limits of not less than \$10,000,000 per claim and an aggregate of not less than \$10,000,000, and a deductible of not more than \$500,000 or other such amounts as the City may approve from time to time, protecting the Supplier and Supplier's personnel against claims such as, security and privacy liability, network interruption, event management, cyber extortion and media content.
- (c) The Supplier shall ensure that any Subcontractors also maintain the same insurance as the Supplier, having regard to the obligations under this Agreement which they are contracted to fulfil.
- (d) The Supplier's liabilities under this agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 11.4(a).
- (e) The cost of the insurances arising under this Section 11.4 shall be deemed to be incorporated into the prices specified in Schedule B.

- (f) As a condition precedent to any payment from the City to the Supplier under this Agreement, and as and when reasonably requested by the City, the Supplier shall provide documentary evidence (to the reasonable satisfaction of the City, including by completing the City's standard reporting documents used for this purpose) that the insurances required by this Section 11.4 have been taken out and are being maintained.

## ARTICLE 12 FORCE MAJEURE; TERMINATION

### 12.1 Force Majeure

- (a) Neither Party shall be deemed to be in breach of this Agreement or otherwise liable to the other Party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement reasonably due to Force Majeure.
- (b) If either Party's performance of its obligations under this Agreement is affected by an event of Force Majeure, then:
- (i) it shall give written notice to the other Party, specifying the nature and extent of the event of Force Majeure, within ten days after becoming aware of the event of Force Majeure;
  - (ii) performance of such obligation(s) shall be deemed suspended but only for a period equal to the delay reasonably caused by such event;
  - (iii) it shall not be entitled to payment from the other Party in respect of extra costs and expenses incurred by virtue of the event of Force Majeure;
  - (iv) the Time(s) for Completion shall be extended to take into account such delay; and
  - (v) within five days of the cessation of any Force Majeure event, the Party affected thereby shall submit a written notice to the other Party, specifying the actual duration of the delay of its obligations caused by the event of Force Majeure and the consequences resulting from such delay, and submit a specific plan to minimize and mitigate those consequences.
- (c) The affected Party shall use all reasonable diligence in accordance with Good Industry Practice to mitigate the cause and the result of an event of Force Majeure and to remedy the situation and resume its obligations under this Agreement, including complying with any instructions from the City, as to how to do so.
- (d) Notwithstanding the obligations of a Party affected by an event of Force Majeure pursuant to Sections 12.1(b) and 12.1(c), if the event of Force Majeure renders it impossible or impractical for the Supplier to provide the Supply in accordance with this Agreement for a period of at least 30 days, the City may terminate this Agreement upon notice delivered to the Supplier at any time following the expiration of such period of 30 days.

### 12.2 City Suspension and Termination Rights

The City shall have the following rights:

- (a) The City may order the suspension of all or part of the Supply at any time and for such period as it determines, by notice with immediate effect to the Supplier, in the event

of a Safety Incident; and upon receipt of any such notice of suspension, the Supplier shall immediately cease performing the Supply, minimise expenditure and comply with any reasonable instructions of the City relating to such Safety Incident, including any investigations.

- (b) Without prejudice to Section 12.2(a), the City may suspend all or part of the Supply (for such period as it determines) or terminate this Agreement at any time (and for its convenience) upon 30 days' written notice to the Supplier, which shall immediately upon receipt of such notice take all reasonable steps to wind down the performance of the Supply and to minimise expenditure, including complying with any instructions from the City as to how to do so.
- (c) If the City reasonably considers that the Supplier is not discharging any of its material obligations under this Agreement, the City may inform the Supplier by notice stating the grounds for the notice. If evidence of remediation satisfactory to the City, is not received as soon as practicable or in any case within 14 days or such longer period as agreed by the Parties, the City may by a further notice to the Supplier of at least 14 days terminate this Agreement.
- (d) The City may terminate this Agreement with immediate effect if:
  - (i) the Supplier becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed over it or any of its assets of undertaking, enters into any arrangement for the benefit of its creditors, becomes the subject of any moratorium or carries on business under a receiver, trustee, manager or arrangement for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events; or
  - (ii) a Change in Control of the Supplier occurs and the City reasonably considers that the Change in Control shall substantively affect the Supplier's ability to perform its obligations under this Agreement.

### 12.3 Supplier Termination Rights

After giving at least seven days' written notice to the City, the Supplier may terminate this Agreement, or at its discretion and without prejudice to the right to terminate, may suspend or continue suspension of performance of the whole or part of the Supply when:

- (a) 90 days after the due date for payment of an invoice, it has not received payment of that part which has not by that time been contested in writing by the City and provided always that:
  - (i) the Supplier has issued a notice of reminder to the City following the due date for payment in relation to such unpaid sum; and
  - (ii) the termination notice may not be issued until the expiry of 30 days following the issue of such reminder notice; or
- (b) the City commits any material or persistent breach(es) of its obligations under this Agreement which render(s) performance by the Supplier of its obligations under this Agreement or a substantial part thereof impossible or significantly adversely affect(s) such performance of this Agreement as a whole and further which, remain(s) irremediable after 60 days.

## 12.4 Consequences of Termination

The following consequences shall apply upon a termination:

- (a) On termination of this Agreement for any reason, the Supplier shall, as soon as reasonably practicable:
  - (i) deliver to the City all work and Documentation produced by or on behalf of the Supplier during the course of performing the Supply;
  - (ii) return (or destroy if otherwise directed by the City in writing) all Confidential Information provided to it for the purposes of this Agreement;
  - (iii) return all of the City's Site access cards, equipment and other items provided under this Agreement, failing which, the City may enter the relevant premises and take possession thereof, and, until any such access cards, equipment and other items have been returned or repossessed, the Supplier shall be solely responsible for its or their safe-keeping;
  - (iv) if so requested by the City, take reasonable steps to assign any Subcontractor contracts to the City and do all things and execute all documents necessary to give effect thereto; and
  - (v) otherwise comply with all reasonable requirements of the City arising from the cessation of the Supply or the continuing development of the Site.
- (b) The Supplier shall be entitled to be paid its reasonable properly incurred costs of compliance with Section 12.4(a) and its reasonable demobilization costs, up to a maximum of \$100, in aggregate, save in circumstances in which the City reasonably claims that the termination was a consequence of a Safety Incident or a default by the Supplier in the provision of any part of the Supply, in which case all such costs shall be for the Supplier's own account.
- (c) On termination of this Agreement for any reason, the Supplier shall be entitled to payment for any completed portion of the Supply rendered in full compliance herewith prior to the time of termination, in accordance with Schedule B (Prices for Supply).

## 12.5 Other Surviving Rights and Liabilities of Parties

- (a) Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
- (b) After termination of this Agreement, the provisions of Sections 3.9 and 9.6, ARTICLE 11, ARTICLE 14, ARTICLE 15 and ARTICLE 17 shall remain in force.

## ARTICLE 13 ASSIGNMENT AND SUBCONTRACTING

### 13.1 Assignment

Neither Party shall assign, transfer, mortgage, charge or deal in any other manner with this Agreement or any of its rights and obligations under or arising out of the Agreement (or any document referred to herein), or purport to take any such action without the prior written consent of the other.

### 13.2 Subcontracting

- (a) The Supplier shall not subcontract the whole or substantially all of the Supply.
- (b) Without prejudice to the foregoing Section 13.2(a), save in the case of Subcontractor(s) whose role in the provision of the Supply is expressly provided for in the schedules hereto (and only to the extent so provided for), the Supplier may not subcontract any part of the Supply without the City's prior written consent.
- (c) The Supplier shall include in each contract by which it engages a Subcontractor a provision allowing the benefit of such contract to be assigned by the Supplier to the City upon request.
- (d) The Supplier shall not without the written consent of the City (which shall not be unreasonably withheld or delayed) initiate or terminate any contract with a Subcontractor.
- (e) If the Supplier is unable to enter into a contract with a Subcontractor whose role in the provision of the Supply is expressly provided for in the schedules hereto, it shall as soon as reasonably practicable inform the City of the reason for such inability and procure the services of a replacement subcontractor that is acceptable to the City, acting reasonably.
- (f) The Supplier shall be responsible for the acts, defaults or neglect or any omission of each Subcontractor, its employees and agents in all respects as if they were the acts and defaults or neglect or omission of the Supplier its employees or agents themselves.

## ARTICLE 14 INTELLECTUAL PROPERTY

### 14.1 Assignment

The Supplier acknowledges and agrees that the City is the exclusive owner of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein. The Supplier shall assign and hereby assigns to the City all right, title, and interests in and to the Documentation, including, without limitation, all existing and future Intellectual Property Rights in and to the Documentation, effective upon their creation to the fullest extent permitted by Law. Insofar as such right, title, and interest do not so vest automatically or immediately in the City by operation of law or under this Agreement, subject to Section 14.2, the Supplier holds legal title of all right, title, and interests in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, in trust for the City and grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence to, itself and through contractors and agents, use, copy, amend, reproduce, modify and create derivative works of such Documentation for any purpose. Such licence shall include the right to sub licence to any third party without restriction.

### 14.2 Further Assistance

If and to the extent that any of the right, title, and interest in and to the Documentation, including, without limitation, all Intellectual Property Rights therein, is not assigned automatically or immediately to the City under Section 14.1, the Supplier undertakes, at the expense of the City and at any time either during or after this Agreement upon request from the City (notwithstanding that the City may do so in its own name and at its own cost), to execute all documents, make all applications, give all assistance and do all acts and things as may, in the reasonable opinion of the City, be necessary or desirable to vest all right, title, and interest in and to the Documentation, including, without

limitation, all Intellectual Property Rights therein, in the City and to register them in, the name of the City and otherwise to protect and maintain such right, title, and interest. The Supplier further agrees to cooperate fully with the City both during and after the termination of this Agreement, with respect to signing further documents and doing such acts and other things reasonably requested by the City to confirm the transfer of ownership of the Documentation or to obtain or enforce patent, copyright, trade secret, or other protection for the Documentation. The Supplier shall not receive any consideration or royalties in respect of such transfer of ownership, beyond the fees, provided that the expense of obtaining or enforcing intellectual property protection shall be borne by the City.

#### **14.3 Supplier Undertakings and Representations and Warranties**

- (a) The Supplier undertakes:
  - (i) to notify the City in writing of the full details of Documentation promptly upon its creation;
  - (ii) whenever requested to do so by the City and in any event on the termination of this Agreement (as provided for in ARTICLE 12), promptly to deliver to the City all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any parts of the Documentation which are in its possession, custody or power;
  - (iii) that the Supplier shall not, either during the term of this Agreement or thereafter, directly or indirectly, contest, or assist any third party to contest, the City's ownership of the Documentation or of any Intellectual Property Rights related thereto, and
  - (iv) not to register nor attempt to register any Intellectual Property Rights in the Documentation unless requested to do so by the City.
- (b) The Supplier represents and warrants to the City that:
  - (i) it has not given and shall not give permission to any Subcontractor or third party to use any of the Documentation, nor any of the Intellectual Property Rights in the Documentation, other than as provided for in this Agreement or otherwise in accordance with the instructions of the City;
  - (ii) it has not given, and shall not give, to the City, nor shall it use in the provision of the Supply, any confidential material or documents of any former client or customer of the Supplier or of any other third party, unless the Supplier has received prior written authorization to do so from the City and from the owner of the confidential material or documents;
  - (iii) it has the absolute right to make the assignments of the right, title, and interest in and to the Documentation contemplated in this Agreement and to grant the rights granted under this Agreement;
  - (iv) it is unaware of any use by any third party or any unauthorized use by a Subcontractor of any of the Documentation or any Intellectual Property Rights in the Documentation; and
  - (v) the use of the Documentation or the Intellectual Property Rights in the Documentation by the City shall not, to the knowledge of the Supplier, infringe any Intellectual Property Rights of any third party.

#### 14.4 Background Intellectual Property

Notwithstanding and superseding anything to the contrary in this ARTICLE 14, each Party retains title to all Intellectual Property Rights owned or possessed by it or any of its affiliates prior to or independent of performance of this Agreement and used by it in fulfilling its obligations under this Agreement, as well as any modifications or improvements made thereto in the course of performing this Agreement (“**Background IP**”). To the extent that one Party acquires any right, title, or interest in and to any aspect of the modifications or improvements to the Background IP of the other Party, such first Party shall assign such right, title, and interest to the second Party, immediately following such acquisition. If any of the Supplier’s Background IP is included in or required to use the Documentation provided by the Supplier to the City, the Supplier hereby grants to the City an irrevocable, perpetual, fully paid-up, royalty-free, worldwide, transferable and non-exclusive licence (including the right to sub-licence only to members of the City’s Group) to, itself and through contractors and agents, use, copy, amend, reproduce, modify, create derivative works of, use, commercialize, and otherwise exploit the Supplier’s Background IP but only to the extent required to use such Documentation for the purpose (or any reasonably inferred purpose) for which it has been provided or for the provision of the Supply under this Agreement (excluding any software source code).

#### 14.5 Supplier Employees’ and Subcontractors’ Rights

The Supplier:

- (a) warrants that the Supplier’s employees, Subcontractors and agents have waived or shall have waived in whole all moral rights (including, without limitation, any similar rights allowing the rights holder to restrain or claim damages for any distortion, mutilation, or other modification of works or any part thereof, and to restrain use or reproduction of works in any manner) they may have in the Documentation;
- (b) indemnifies the City, its officers, agents, contractors and employees against any liability, cost, loss or damage (including legal costs on a solicitor-client basis) suffered or incurred that arises under any breach of the warranty contained in Section 14.5(a); and
- (c) must do all things requested by the City, including signing or procuring the signature of particular forms, to give full effect to Section 14.5(a).

#### 14.6 No Additional Remuneration

The Supplier acknowledges that, except as provided by Law, no further remuneration or compensation (beyond that expressly provided for in this Agreement) is or may become due to the Supplier in respect of the performance of its obligations under this ARTICLE 14.

### ARTICLE 15 PRIVACY; CONFIDENTIALITY

#### 15.1 Freedom of Information and Protection of Privacy Act

The Supplier acknowledges that 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 any service to the City.



## 15.2 Privacy Compliance and Data Security

The Supplier shall comply with the City's Privacy Compliance and Data Security requirements stated in Schedule J.

## 15.3 No Promotion

The Supplier shall not, and shall ensure that its Subcontractors shall not, disclose or promote any relationship with the City, including by means of any oral declarations, announcements, sales literature, letters, client lists, press releases, brochures or other written materials, without, in each case, the express prior written consent of the City. The Supplier shall not use the City's logo or any of the City's official marks without the express prior written consent of the City.

## 15.4 Confidentiality Obligations

Each Party shall keep the Confidential Information of the other Party confidential and each Party shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement or where, in the case of the City, otherwise necessary to pursue the public business of the City (a "Permitted Purpose"), or disclose the Confidential Information in whole or in part to any third party, except as expressly permitted by this ARTICLE 15.

## 15.5 Disclosure to Representatives

A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure, and at all times it is responsible for such Representatives' compliance with the confidentiality obligations set out in this ARTICLE 15.

## 15.6 Disclosures Required by Law

A Party may disclose Confidential Information to the extent required by any applicable Laws or by any Competent Authority provided that, where legally permitted, it notifies the other Party before doing so, gives the other Party a reasonable opportunity to take any steps that the Party considers necessary to protect the confidentiality of that information, and notifies the third person that the information is Confidential Information. In any event, a Party shall furnish only that portion of the Confidential Information which it is legally required to disclose and shall use its reasonable endeavours to obtain a protective order or other reliable assurance that the Confidential Information shall be accorded confidential treatment.

## 15.7 Other Disclosures by the City

The City's obligations under this ARTICLE 15 are wholly subject to and qualified by, the applicable provisions of the *Freedom of Information and Protection of Privacy Act* (British Columbia) and, notwithstanding any other provision of this ARTICLE 15, the City may disclose Confidential Information in any manner compliant with such statute or otherwise in furtherance of its public role or duties, including in the course of publicly reporting to the Vancouver City Council.

## 15.8 Interpretation; Enforcement and Survival

- (a) Notwithstanding anything in this ARTICLE 15 to the contrary, nothing in this ARTICLE 15 shall affect the Parties' rights and obligations under ARTICLE 14.
- (b) The Parties acknowledge that a breach of any of the obligations or provisions contained in this ARTICLE 15 could cause the other Party to suffer loss which may not be

adequately compensated for by damages and that the other Party may, in addition to any other remedy or relief, enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual or special damage and notwithstanding that in any particular case damages may be readily quantifiable, and such breaching Party must not plead sufficiency of damages as a defence in the proceeding for such injunctive relief.

## **ARTICLE 16**

### **TAXES**

#### **16.1 Taxes for Own Accounts**

Unless otherwise expressly stated in this Agreement, any Taxes becoming due and payable by either Party pursuant to any applicable Laws as a result of the entering into, the performance of obligations under or the taking of payment pursuant to this Agreement, shall be for the account of that Party, and for greater certainty the Contract Price includes all such Taxes, except for applicable Taxes arising under all sales, excise and value added tax legislation (including, without limitation, the *Excise Tax Act* (Canada) and similar Canadian provincial legislation) (collectively, "**Sales Tax**") as a result of the sale of the Supply within Canada hereunder, unless it is clearly stated that they are intended to be Sales Tax-inclusive.

#### **16.2 Withholding Taxes**

- (a) Notwithstanding any other provision to the contrary, if the City determines that it is necessary to satisfy its obligations under any Law relating to Taxes, the City may:
  - (i) withhold an amount from a payment made to the Supplier; and
  - (ii) pay the withheld amount directly to the relevant Competent Authority.
- (b) If an amount withheld in accordance with Section 16.2(a) is paid by the City to the relevant Competent Authority, it is deemed to have been paid to the Supplier on the date on which the remainder of the payment to which it relates was paid to the Supplier.
- (c) The Supplier agrees and acknowledges that it has no claim against the City for any amounts withheld and paid to the relevant Competent Authority in accordance with Section 16.2(a).
- (d) If the City does not withhold an amount under Section 16.2(a) which it is required to withhold pursuant to any laws relating to Taxes, the Supplier agrees to pay that amount to the City, upon request by the City.
- (e) The Supplier agrees that the City shall not be required to increase any payment to the Supplier by the amount withheld by the City under Section 16.2(a)

## **ARTICLE 17**

### **DISPUTE RESOLUTION**

#### **17.1 Optional Procedure**

All claims, disputes or issues in dispute between the City and the Supplier in relation to this Agreement shall be decided by mediation or arbitration, if the Parties so agree in writing, or, failing any such agreement, by the courts of competent jurisdiction in the Province of British Columbia.

## 17.2 Arbitration

In the event that Parties agree to arbitration pursuant to Section 17.1:

- (a) the arbitration shall be conducted pursuant to the *Commercial Arbitration Act* (British Columbia) and shall be governed by the rules of the British Columbia International Commercial Arbitration Centre, except that the arbitrator or arbitrators shall be agreed upon by the Parties, and failing agreement by the Parties, shall be appointed by a court of competent jurisdiction within the Province of British Columbia;
- (b) the parties shall share equally the costs of the arbitration but shall be responsible for their own separate costs and expenses in relation to the arbitration including legal fees and disbursements; and
- (c) the arbitration shall take place in Vancouver, British Columbia and shall be governed by the laws of British Columbia.

## ARTICLE 18 MISCELLANEOUS

### 18.1 Time of the Essence

Time is of the essence of this Agreement, including without limitation in relation to the Time(s) for Completion.

### 18.2 Costs

Each of the Parties hereto shall pay their respective legal fees and other costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

### 18.3 Benefit of this Agreement

- (a) This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties hereto.
- (b) Except as expressly set forth in the foregoing Sections 18.3(a) or 11.1, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Supplier.

### 18.4 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties in relation to the subject matter hereof other than as expressly set forth in this Agreement.

### 18.5 Amendments and Waiver

Subject to Section 3.11, no modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by

the Party purporting to give such waiver and, unless otherwise provided, is limited to the specific breach waiver.

## 18.6 Notices

- (a) Any order, demand, notice or other similar communication to be given to a Party in connection with this Agreement must be given in writing and shall be deemed to be validly given if given by personal delivery to a City's Manager or a Supplier's Manager, as applicable, or delivered by registered mail, by courier or by electronic transmission (with delivery confirmation or receipt of a reply email effectively acknowledging delivery), addressed to a City's Manager or a Supplier's Manager, as the case may be, or, in each case to such other individual as is designated in writing by the relevant recipient Party (including, as designated in writing hereinbelow) at the relevant address or facsimile number listed below:

- (i) if to the Supplier:

<☒ Supplier Name>  
<☒ address>

Attention: <☒>  
Facsimile: <☒>  
Email: <☒>

- (ii) if to the City:

**City of Vancouver**  
<☒ Department>  
453 West 12<sup>th</sup> Avenue  
Vancouver, BC V5Y 1V4

Attention: <☒>  
Facsimile: <☒>

or such other address or facsimile number as may be designated by notice given by either Party to the other, provided that, notwithstanding the foregoing, the Supplier's invoices shall be addressed as specified in Section 9.3 or as otherwise specified in the relevant City purchase order.

- (b) Any order, demand, notice or other communication given (and, in the case of electronic transmission, confirmed or acknowledged) in accordance with Section 18.6(a) shall be conclusively deemed to have been given:
- (i) if given by personal delivery, on the day of actual delivery thereof;
  - (ii) if given by registered mail or courier, on the Business Day following confirmation by the postal service or the courier that the notice has been delivered; and
  - (iii) if given by electronic transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day.

Notwithstanding the foregoing, if the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication must not be mailed but must be given by personal delivery, courier or electronic transmission.

#### **18.7 Governing Law and Jurisdiction**

- (a) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.
- (b) All provisions of the *International Sale of Goods Act* (British Columbia) are specifically excluded from application to this Agreement.
- (c) This Agreement is subject to the exclusive jurisdiction of the courts in the Province of British Columbia except:
  - (i) as otherwise agreed by the Parties pursuant to ARTICLE 17; and
  - (ii) to the extent necessary to enforce, in another jurisdiction, any decision or award made pursuant to ARTICLE 17 or any judgment of any court in the Province of British Columbia.

#### **18.8 Further Assurances**

Each Party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

#### **18.9 Severance**

If any term or condition of this Agreement is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby. If any term or condition of this Agreement is found to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, but would not be so if some part of it were deleted, the term or condition shall apply with such modifications as may be necessary to make it enforceable.

#### **18.10 Counterparts**

This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

#### **18.11 Independent Legal Advice**

THE SUPPLIER ACKNOWLEDGES THAT THE SUPPLIER HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS AGREEMENT.

**18.12 Electronic Execution**

Delivery of an executed signature page to this Agreement by either Party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written by and on behalf of the Parties by their duly authorized signatories.

< **SUPPLIER NAME**>

---

Signature

---

Print Name and Title

---

Signature

---

Print Name and Title

**CITY OF VANCOUVER**

---

Signature

---

Print Name and Title

---

Signature

---

Print Name and Title

**SCHEDULE A -  
SUPPLY OF GOODS AND SERVICES**

<🚫 The Scope of the Supplier's Supply, as finally negotiated and agreed, shall be clearly expressed in this Schedule A.>

**Equipment & Software Functionality**

[Insert a description of all equipment & software functionality]

- (a) •;
- (b) •; and
- (c) •.

**Implementation**

Supplier will provide the following services so that the equipment and software are ready for City use in accordance with the terms of this Agreement:

[Insert a description of all services that Supplier will perform in order to get the equipment and software ready for City use]

- (a) •;
- (b) •; and
- (c) •.

**Training**

Supplier will provide the following training:

[Insert a description of the training that will be provided by Supplier]

- (a) •;
- (b) •; and
- (c) •.

**Support Services**

Supplier will provide the following support services:

- (a) **E-Mail Support:** E-Mail Support shall comprise e-mail access and response.
- (b) **Direct Support:** Supplier shall provide the following support to the City during the term of this Agreement:
  - (i) advice by telephone or e-mail on the use of the equipment and software without any limit on the amount of incident reports as follows:

- (1) an emergency contact number and e-mail address available 24/7/365 for serious software or equipment performance issues;
- (2) for less serious issues, by phone from Monday to Saturday inclusive from 9:00 a.m. to 5:00 p.m. Pacific Standard Time;
- (ii) the dispatch out by email or mail of fix announcements to the software, information regarding forthcoming new releases and technical newsletters;
- (iii) the creation and upload to the software, from time to time, of patches and fixes in respect of the software;
- (iv) the diagnosis of errors in the software and the rectification of such errors (remotely or by attendance on site as determined by Supplier) by the issue of fixes in respect of the software and the making of all consequential amendments (if any) to the Documentation;
- (v) any other support service offered to the City from time to time; and
- (vi) the issue of new releases of software.

### Service Level Commitments

#### *Service Uptime:*

- (a) Supplier represents and warrants that the Supply is consistent with applicable industry standards.
- (b) Supplier represents and warrants that the equipment and services will be operational at least 99.99% of the time in any given month during the term of this Agreement, meaning that the outage or downtime percentage will be not more than .01%.
- (c) If the equipment and services availability falls below 99.99% in any month, Supplier shall provide City with a credit of that month's services bill according to the table below.

AVAILABILITY PERCENTAGE	PERCENTAGE OF CREDIT
99.60% to 99.69%	10%
99.50% to 99.59%	20%
99.00% to 99.49%	30%
97.00% to 99.00%	50%
Below 97.00%	75%

- (d) Supplier represents and warrants that ninety-five percent (95%) of all transactions shall process within no more than one (1) second, and no single transactions shall take longer than five (5) seconds to process.
- (e) If Supplier's system response times fall below the warranted level for two (2) or more consecutive weeks, Supplier shall provide City with a credit in the amount of twenty percent (20%) of the services fees for that month. If Supplier's system response times fall below the



warranted level for six (6) out of eight (8) consecutive weeks, Supplier shall be considered to be in default, and City may terminate the Agreement without penalty.

- (f) Supplier shall provide City with any credits resulting from all unachieved service levels in the form of a check provided to City no later than the tenth (10th) business day of the month following the month in which the service level was not achieved.
- (g) Supplier shall provide City with monthly reports documenting its compliance with the service levels detailed herein. Reports shall include, but not be limited to, providing the following information:
  - a. Monthly services availability by percent time, dates and minutes that services were not available, and identification of months in which agreed upon service levels were not achieved;
  - b. Average transaction processing time per week, the fastest and slowest individual transaction processing time per week, the percent of transactions processed that meet the service levels stated herein, and identification of weeks in which agreed upon service levels are not met.
  - c. Other information requested by the City acting reasonably.
- (h) City retains the right to use a third party to validate Supplier's performance in meeting agreed upon service levels.

***Supplier Issue Response Time:***

The following provisions shall be applicable to the response and correction of service issues:

- (a) If City detects what it considers to be an issue in the services which causes it not to conform to, or produce results in accordance with, the Agreement, then City shall by telephone or e-mail notify Supplier of the issue.
- (b) Supplier shall deliver to City and keep current a list of persons and telephone numbers (the "Calling List") for City to contact in order to obtain corrections of services issues. The Calling List shall include: (1) the first person to contact if a question arises or problem occurs; and (2) the persons in successively more responsible or qualified positions to provide the answer or assistance desired. If Supplier does not respond promptly to any request by City for telephone consultative service, City may attempt to contact the next more responsible or qualified person on the Calling List until contact is made and a designated person responds to the call.
- (c) Supplier shall respond within two (2) hours to City's initial request for assistance in correcting or creating a workaround for a services issue. Supplier's response shall include assigning fully-qualified technicians to work with City to diagnose and correct or create a workaround for the services issue and notifying City's representative making the initial request for assistance of Supplier's efforts, plans for resolution of the issue, and estimated time required to resolve the issue.
- (d) For major issues, within twenty-four (24) hours after City first reports the issue, Supplier shall provide a correction or workaround acceptable to City. Supplier's correction process shall include assigning fully-qualified technicians to work with City without interruption or additional charge.

**SCHEDULE B -  
PRICES FOR SUPPLY**

<u>ITEM</u>	<u>PRICE/UNIT</u>
<☒ Good Name 1>	\$<☒> per <☒ [unit type]>
<☒ Good Name 2>	\$<☒> per <☒ [unit type]>
<☒ Good Name 3>	\$<☒> per <☒ [unit type]>
<☒ Service 1 (e.g., installation)>	\$<☒> per <☒ [unit type]>
<☒ Service 2 (e.g., maintenance) >	\$<☒> per <☒ [unit type]>
All obligations of the Supplier described in the Agreement and not specifically listed above in this table, or for which no separate price is given.	None. (The cost of the discharge of such Supplier obligations is included in the prices set forth above.)

<☒ Notwithstanding any other provision hereof, if the Supplier is, at any time during the term of effectiveness of this Agreement, party to a contract with another customer pursuant to which the Supplier charges effective prices lower than the prices charged to the City for reasonably comparable services, the above-listed prices shall be adjusted, retroactively to the date of effectiveness of such other contract, so that the prices charged hereunder are at least as low as the effective prices charged pursuant to such other contract.>

SCHEDULE C -  
ITEMS TO BE PROVIDED BY THE CITY

SCHEDULE D -  
TIME SCHEDULE FOR SUPPLY

**SCHEDULE E -  
PREFERRED SUPPLIERS**

**SCHEDULE F -  
CITY POLICIES**

1. The City's Supplier Code of Conduct.

SCHEDULE G -  
KEY PROJECT PERSONNEL

SCHEDULE H -  
SITE



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SCHEDULE I -  
FORM OF LETTER AGREEMENT

[Date]

<📄 Add Supplier Name and Address>

Dear Sir or Madam,

Re: Agreement based upon the Supply Agreement between <📄 Supplier Name> and City of Vancouver <📄 When required add: ", as represented by its Board of Parks and Recreation,"> dated <📄> (the "Base Agreement")

The purpose of this letter agreement (this "Agreement") is to set out the terms and conditions upon which <📄 Supplier Name> (the "Supplier") shall supply <📄 Describe> to [Name of Other City Entity] (the "Purchaser").

Please have a duly authorized representative of the Supplier execute this Agreement and return one copy to the Purchaser.

### 1. Application of Base Agreement

The Supplier shall supply <📄 Describe> to the Purchaser at the price(s) and otherwise pursuant to the terms and conditions stated in the Base Agreement, as though each reference to the City of Vancouver or the "City" in the Base Agreement were instead a reference to the Purchaser, with the exceptions stated in the following Section 2.

### 2. Variations from the Base Agreement

- (a) The Supplier's invoices to the Purchaser shall be submitted to the following mailing and/or email addresses, rather than the addresses stated in Section 9.3 of the Base Agreement: [Address]. The Purchaser's contact information for purposes of the application of Section 18.6 of the Base Agreement shall be the following in lieu of the City of Vancouver address, contact name and facsimile number stated in the Base Agreement: [Address, Contact Name and Fax number]
- (b) Section 3.1(e) of the Base Agreement shall be excluded from the agreement between the Supplier and the Purchaser.

### 3. Miscellaneous

- (a) This Agreement shall terminate upon the expiry or termination of the Base Agreement.
- (b) This Agreement is governed by and must be construed in accordance with the laws of the Province of British Columbia.

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- (c) This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this Agreement by signing any counterpart. Delivery of an executed signature page to this Agreement by either party by electronic transmission shall be as effective as delivery of a manually executed copy of this Agreement by such party.

Yours truly,

---

[Name and Title of Other City Entity  
Signatory]

Accepted and agreed on behalf of  Supplier Name:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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SCHEDULE J

PRIVACY COMPLIANCE AND DATA SECURITY

Certain terms used in this document will have the meanings given below or in the Agreement. Supplier shall comply with the following terms and conditions relating to data security and compliance with applicable privacy legislation in respect of any personal information (as defined in section 1.1 below) acquired or accessed by Supplier in connection with the Agreement.

**1.0 GENERAL**

1.1 The following terms used in this document will have the following meanings:

- (a) **"FOIPPA"** means the *Freedom of Information and Protection of Privacy Act* (British Columbia) as it may be amended or superseded from time to time;
- (b) **"personal information"** has the meaning given in FOIPPA, PIPA or PIPEDA as applicable;
- (c) **"PIPA"** means the *Personal Information Protection Act* (British Columbia) as it may be amended or superseded from time to time;
- (d) **"PIPEDA"** means the *Personal Information Protection and Electronic Documents Act* (Canada) as it may be amended or superseded from time to time; and
- (e) **"Transmitted Data"** means all data or information acquired, accessed or sent by the Supplier as a result of this Agreement, including all data or information acquired, accessed or sent by or through any software used by the Supplier to perform services under this Agreement, which data may include, without limitation, personal information and City proprietary or confidential information.

1.2 The Supplier shall not assign any of its rights or obligations under this document to a third party without the prior written consent of the City. If the City consents to the Supplier assigning certain of its rights or obligations to a third party, in addition to any other conditions the City may require, the Supplier shall ensure, and shall cause, its assignee to comply with the privacy and data security obligations set out in this document. Alternatively, in respect of complying with data security obligations hereunder, if the City consents to the Supplier using a third party to store the Transmitted Data (e.g. if the Supplier elects to use Infrastructure as a Service (IaaS) or Platform as a Service (PaaS)), evidence satisfactory to the City that such third party is able to substantially comply with similar or a higher standard of data security than as set out in this document (e.g. ISO27001 SOC 2 Type II) shall be provided by the Supplier to the City.

**2.0 PRIVACY AND DATA SECURITY**

2.1 **Acknowledgment:** Supplier acknowledges that under this Agreement, it will acquire or have access to personal information. Supplier further acknowledges that both the City and Supplier have obligations under FOIPPA to protect such information and that any unauthorized collection, disclosure, use or storage of such information could result in irreparable and significant harm to the City.

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2.2 Privacy Legislation and Obligations

- (a) the City is subject to the provisions of FOIPPA which imposes significant obligations on the City and its contractors (including Supplier) to protect all personal information acquired, accessed or sent as a result of this Agreement. Supplier confirms and acknowledges its obligations to comply with the provisions of FOIPPA. Supplier further confirms and acknowledges its obligations to comply with all other Applicable Laws relating to privacy and personal information including PIPA and PIPEDA in relation to any personal information (as defined in such statutes) to which Supplier has access under this Agreement.
- (b) Supplier has implemented appropriate or will implement appropriate policies and security measures to comply with all Applicable Laws relating to privacy and personal information including FOIPPA, PIPA and PIPEDA, as well as to comply with the terms of this Agreement.
- (c) Supplier agrees that all personal information and Transmitted Data to which Supplier has access under this Agreement is "under the control" of the City for the purposes of FOIPPA. The City is only transferring physical custody of such information to Supplier, not control of that information, and the authority over the collection, use, disclosure, access, retention, destruction and integrity of all such information remains with the City. At any time during the term of the Agreement, the City may exercise the foregoing control over any such information by notice in writing to Supplier and Supplier shall comply with the instructions in the City's notice.
- (d) Supplier agrees to collect, acquire, or hold only the minimum amount of personal information and Transmitted Data required to perform its duties under this Agreement. Unless otherwise authorized by FOIPPA or other Applicable Law and approved by the City, Supplier must collect personal information directly from the individual to whom the information pertains.
- (e) At or prior to the time of collection, Supplier must inform any person from whom it collects personal information:
  - 2.2.e.1 The purpose for collecting it;
  - 2.2.e.2 The legal authority for collecting it;
  - 2.2.e.3 The title, business address and business telephone number of a person who can answer the individual's questions about the collection.
- (f) If an access to information request is made to Supplier under Applicable Laws relating to personal information or Transmitted Data to which Supplier has access under this agreement, Supplier shall (i) immediately, and in any event before responding to such information request, notify the City in writing of such request, and (ii) upon the City's request direct such information request to the City for the City to handle. In the case of (ii), Supplier shall, at the City's expense, deliver to the City copies of all relevant information within seven (7) days of notification by the City and shall comply with all other requests of the City.
- (g) In the case of an access to information request made to the City, Supplier, at the City's expense, shall deliver to the City copies of all relevant information within seven (7) days of notification by the City and shall comply with all other requests of the City.

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- (h) All personal information and Transmitted Data shall be treated as confidential and is supplied to Supplier only for the purpose of fulfilling the obligations under this Agreement. This obligation shall survive the expiry or termination of this Agreement. No such information shall be disclosed unless Supplier is legally compelled to do so and having first challenged that requirement and given the City an opportunity to challenge that requirement.
- (i) In the event any governmental authorities under applicable privacy laws or otherwise make inquiries to the City or Supplier or take any actions in respect of the personal information or Transmitted Data, Supplier will, upon the City's request, cooperate with such governmental authorities. If such governmental authorities make inquiries or requests of Supplier, Supplier will, to the extent legally required or permitted, give prompt written notice to the City and allow the City to participate in any responses submitted by Supplier to such governmental authorities.
- (j) Supplier must provide immediate notification to the City in the event that it receives a foreign demand for disclosure, as defined in s. 30.2 of FOIPPA, or has reason to suspect that unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure. Notice must include the nature of the foreign demand; who made the foreign demand; when the foreign demand was received; and what information was sought or disclosed in response to the foreign demand.
- (k) Once Supplier possesses or has access to personal information and Transmitted Data, such information will be stored and backed-up on servers and other equipment that are owned or controlled by Supplier and that are physically located in Canada. Physical and electronic access to Supplier's servers are locked and restricted to only Supplier employees and authorized agents. If the location of Supplier's primary or back-up servers change, Supplier will promptly notify the City in writing of the address of the new location. Supplier will not store any such information on any other server or equipment without the prior written approval of the City.
- (l) Except with the prior written approval of or instructions from the City, Supplier shall not modify, add, delete, destroy, share, sell, match, mine, combine, manipulate or otherwise tamper with the personal information or Transmitted Data in any way.
- (m) Supplier shall not withhold any personal information or Transmitted Data to enforce payment by the City or to enforce Supplier's rights in a dispute over this Agreement.
- (n) As between the City and Supplier, the personal information and Transmitted Data are owned by the City, Supplier hereby agrees to hold such information in trust for the City, and Supplier makes no claim to any right of ownership in it.

2.3 **Authorized Purposes:** Supplier may only use the personal information and Transmitted Data to which Supplier has access under this Agreement to carry out Supplier's obligations under this Agreement and for no other purpose ("**Authorized Purposes**"). Any use or disclosure of such information by Supplier that is not expressly permitted by this Agreement will require the prior written consent of the City and must comply with all Applicable Laws.

2.4 **Restricted Access**

- (a) Supplier will permit access to personal information and Transmitted Data only to those employees and authorized agents who need such access in order to carry out the Authorized Purposes (the "**Authorized Employees**"). Supplier will at all times maintain a

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current list of Authorized Employees. Supplier will, upon the City's request, provide the City with the list of Authorized Employees.

- (b) Supplier will at all times have in place a knowledgeable senior person within its organization to be responsible for, or, to have the authority to ensure, compliance with the terms of this document (the "**Compliance Representative**"). The Compliance Representative will ensure that each Authorized Employee is aware of the terms of this Agreement, and to maintain proof, in writing, that the terms have been explained and understood by each Authorized Employee. Upon entering into this Agreement, Supplier will notify the City in writing as to the name of the Supplier Compliance Representative. Supplier will promptly advise the City of any change to the Compliance Representative.

2.5 **Security:** Supplier will have appropriate physical, organizational and technological security measures (consistent with best practices in the software industry) in place to ensure that all personal information and Transmitted Data is collected, accessed, used, disclosed and destroyed only by Authorized Employees, including without limitation:

- (a) restricted access to records containing paper copies of personal information and Transmitted Data;
- (b) restricted access to personal information and Transmitted Data stored on computer systems and electronic storage devices and media, by using unique user IDs and passwords that are linked to identifiable Authorized Employees; and
- (c) systems containing personal information and Transmitted Data will be capable of providing an audit trail and user access logs, which logs will be retained by Supplier during the term of this Agreement and for at least two (2) years following its expiry, termination, or destruction of the personal information and Transmitted Data.
- (d) Supplier must ensure that the data centre and servers containing the personal information and Transmitted Data meets the following physical and electronic security requirements:

2.5.d.1 single point of entry;

2.5.d.2 access only to persons on Supplier approved access list;

2.5.d.3 log-in validation;

2.5.d.4 creation of accounts only as verified by Supplier;

2.5.d.5 external or WIFI access to servers via encrypted means; and

2.5.d.6 servers running behind secure firewall.

2.6 **No Storage, Access or Transmission outside Canada; Limited Exception:**

- (a) Subject to the exception set out in subsection 2.6(b) below, Supplier will not (i) store personal information or Transmitted Data outside Canada, (ii) access or make accessible personal information or Transmitted Data from outside Canada, or (iii) otherwise permit any personal information or Transmitted Data to leave Canada.

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- (b) Notwithstanding the above, Supplier is permitted under subsection 33.1(1)(p) of FOIPPA to disclose personal information outside of Canada strictly under the following limited circumstances:

- 2.6.b.1 such disclosure is necessary for Supplier to install, implement, maintain, repair, trouble shoot, or upgrade an electronic system or equipment that includes an electronic system, or for data recovery being undertaken following failure of an electronic system;
- 2.6.b.2 such disclosure is limited to temporary access and storage by Supplier or its authorized sub-contractor outside of Canada for the minimum time and to the minimum amount of information necessary for the purpose set out in s. 33.1(1)(p)(i) of FOIPPA;
- 2.6.b.3 once the purpose of disclosure is fulfilled, all applicable personal information accessed or retained by Supplier or its authorized sub-contractor is irrevocably and permanently destroyed and deleted and all temporary access to that personal information is revoked. If requested by the City, Supplier has certified the foregoing in writing (with the City having a right to audit or verify the foregoing, acting reasonably);
- 2.6.b.4 all processes and requirements requested by the City in respect of such disclosure (including, without limitation, how such disclosure will be made (e.g. through a dedicated VPN) , how such information will be accessed, whether such information may only be viewed outside Canada but not retained, etc.) have been complied with by Supplier;
- 2.6.b.5 Supplier complies with all Applicable Laws outside Canada regarding Supplier's disclosure and handling of such information provided that if there is a conflict between such Applicable Laws outside Canada and Applicable Laws of Canada (including, without limitation, FOIPPA, PIPA and PIPEDA), Supplier shall first comply with Applicable Laws of Canada; and
- 2.6.b.6 upon request by the City, acting reasonably, Supplier cooperates in good faith in facilitating the audit or verification of Supplier's compliance with the foregoing by the City.

**2.7 Information Retention, Transfer to the City and Destruction:**

- (a) **Supplier's Retention, Transfer to the City and Destruction:** Supplier is only permitted to retain personal information, Transmitted Data or any records of such information in any form whatsoever (including without limitation hard copy or electronic formats) during the term of this Agreement and for one year after the end of the term. During this period of time, Supplier shall hold all such information in compliance with the security, privacy and confidentiality requirements of this Agreement. Any personal information that is used by or on behalf of the City to make a decision that directly affects the individual must be retained for at least one year after being used so the affected individual has a reasonable opportunity to obtain access to that personal information. At any time during the term of this Agreement and for a period of one year after the end of the term, Supplier shall, at the City's request, transfer a copy of any such information to the City in a format reasonably requested by the City. Upon the expiry of one year after the end of the term, Supplier will transfer a copy of all such information to the City in a format reasonably requested by the City and then permanently and securely destroy all such information and all records thereof

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in a manner that is appropriate for the media so all such information or any portion of it cannot be subsequently retrieved, accessed or used by Supplier or any other person. After all such information is transferred to the City and subsequently destroyed, Supplier shall deliver a written notice of confirmation to the City (in form and substance satisfactory to the City).

**2.8 Inspection and Compliance**

(a) During this Agreement and during the period of time that Supplier is permitted by this document to retain personal information and Transmitted Data, the City's authorized representative may, on reasonable notice and during regular business hours, enter Supplier's premises and/or will be given access to Supplier's computer systems to inspect any personal information and Transmitted Data in the possession of Supplier or any of Supplier's information management policies or practices relevant to its compliance with this Agreement.

(b) the City may request Supplier to provide a written certificate confirming Supplier's compliance with all obligations under this document, and if so requested, Supplier will within ten (10) business days either:

2.8.b.1 provide such certificate; or

2.8.b.2 provide a notice of non-compliance in accordance with section 1.9.

(c) Supplier will promptly forward to the City any records that the City may request in order to review whether Supplier is complying with this Agreement.

(d) If requested by the City, acting reasonably, Supplier will appoint an independent, external auditor at the City's expense to review Supplier's information and security practices under this Agreement. Supplier will provide copies of the results of any such audit to the City within seven (7) days of receiving the auditor's report.

(e) Supplier will promptly and fully comply with any investigation, review, order or ruling of the Office of the Information and Privacy Commissioner (British Columbia) in connection with the personal information and Transmitted Data.

**2.9 Written Notice of Non-Compliance.** Supplier will immediately notify the City in writing of any non-compliance or anticipated non-compliance with this document and will further inform the City of all steps Supplier proposes to take to address and prevent recurrence of such non-compliance or anticipated non-compliance.

**2.10 Survival:** The obligations in this document shall survive the expiration or earlier termination of this Agreement.

**3.0 ADDITIONAL TERMS GOVERNING STORAGE AND ACCESS OF INFORMATION**

**3.1** Supplier shall, in respect of storage of, and access to, personal information and Transmitted Data:

(a) take a physical inventory, at least annually, of all records containing such information, to identify any losses;

(b) ensure that records are not removed from storage premises without appropriate written authorization from the City;



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- (c) use physically secure areas for the storage of records and restrict access to Authorized Employee;
- (d) ensure that access to documentation about computer systems that contain such information is restricted to Authorized Employees;
- (e) ensure that users of a system or network that processes such information are uniquely identified and that, before a user is given access to the system or such information, their identification is authenticated each time;
- (f) implement procedures for identification and authentication, which include:
  - (i) controls for the issue, change, cancellation and audit-processing of user identifiers and authentication mechanisms;
  - (ii) ensuring that authentication codes or passwords:
    - (1) are generated, controlled and distributed so as to maintain the confidentiality and availability of the authentication code;
    - (2) are known only to the authorized user of the account;
    - (3) are pseudo-random in nature or vetted through a verification technique designed to counter triviality and repetition;
    - (4) are no fewer than 6 characters in length;
    - (5) are one-way encrypted;
    - (6) are excluded from unprotected automatic log-on processes; and
    - (7) are changed at irregular and frequent intervals at least semi-annually;
- (g) maintain and implement formal procedures for terminated employees who have access to such information, with prompts to ensure revocation or retrieval of identity badges, keys, passwords and access rights;
- (h) take reasonable security measures in respect of such information displayed on computer screens or in hardcopy form to prevent viewing or other access by unauthorized persons;
- (i) implement automated or manual controls to prevent unauthorized copying, transmission or printing of such information; and
- (j) implement control procedures to ensure the integrity of such information being stored, notably its accuracy and completeness.

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- 3.2 Supplier must store personal information and Transmitted Data on agreed-upon media in accordance with prescribed techniques that store such information in a form that only Authorized Employees may access. These techniques may include translating such information into code (encryption) or shrinking or tightly packaging such information into unreadable form (compression).
- 3.3 Supplier shall store backup copies of personal information and Transmitted Data off-site under conditions which are the same as or better than originals.
- 3.4 Supplier shall securely segregate personal information and Transmitted Data from information owned by others (including Supplier), including by installing access barriers to prevent information elements from being associated (including compared or linked, based on similar characteristics) with other information, including:
- (a) separate storage facilities for such information;
  - (b) authorization before a person is granted access to computers containing such information; and
  - (c) entry passwords and the employment of public key encryption/smart card technology where practicable.
- 3.5 Supplier shall ensure the integrity of personal information and Transmitted Data stored, processed or transmitted through its system or network.
- 3.6 Supplier shall co-operate with, and assist in, any City investigation of a complaint or concern that personal information or Transmitted Data has been collected, used, handled, disclosed, stored, retained or destroyed contrary to the terms of this Agreement, FOIPPA or any other Applicable Laws.
- 3.7 As per section 2.8, the City shall be able to access Supplier's premises and other places where Supplier's servers and other equipment are located to recover any or all the City records, personal information and Transmitted Data and for auditing purposes to ensure compliance with the terms of this Agreement.