



REQUEST FOR PROPOSALS

SUPPLY OF DEBT COLLECTION AGENCY SERVICES

RFP No. PS20160541

Issue Date: February 10, 2017

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

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SUPPLY OF DEBT COLLECTION AGENCY SERVICES
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PART A - INFORMATION AND INSTRUCTIONS

1.0 THE RFP

- 1.1 This Request for Proposals (the “RFP”) provides an opportunity to submit proposals for review by the City and, depending on the City’s evaluation of proposals, among other factors, to potentially negotiate with the City to enter into a contract. **EXCEPT WHERE EXPRESSLY STATED OTHERWISE IN APPENDIX 1 TO PART C OF THE 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 RFP concerns the City’s interest in procuring debt collection services. Details of the City’s objectives and requirements to which the RFP relates are set out in Part B of the RFP. The City welcomes proposals that are responsive to this RFP (“Proposals”) respecting innovative or novel approaches to the City’s objectives and requirements.
- 1.3 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.
- 1.4 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 below, among others.
- 1.5 **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 FORM OF PROPOSAL.**
- 1.6 The execution of an Agreement may be contingent on funding being approved, and the relevant Proposal being approved, by the Vancouver City Council.
- 1.7 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 - CITY REQUIREMENTS:** 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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PART A - INFORMATION AND INSTRUCTIONS

- (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 | Thursday, March 16, 2017 3:00 PM PST Enquiries received five days before the Closing Time may not be processed and may not receive a response. The City’s Purchasing Services Office is open on Business Days from 8:30am to 4:30pm and closed Saturdays, Sundays, and holidays. |
| Closing Time | Thursday, March 23, 2017 3:00 PM PST |

- 2.2 All references to time in the RFP are references to the time in the City of Vancouver, as shown on the clock used by the City for the purposes of requests for proposals.

3.0 CONTACT PERSON

- 3.1 All enquiries regarding the RFP must be addressed to:

Jason Lo
jason.lo@vancouver.ca

- 3.2 All enquiries must be made in writing. In-person or telephone enquiries are not permitted.

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

4.0 SUBMISSION OF PROPOSALS

- 4.1 Proponents should submit their Proposals on or before the time and date specified in the bottom row of the table in Section 2.1 above (the “Closing Time”).
- 4.2 Each Proponent should submit its Proposal in an envelope clearly marked with the Proponent’s name and the RFP title and number (“Consulting Services for Debt Collection Agency Services; PS20160541”) to the following address:

City of Vancouver
Supply Chain Management Department
453 West 12th Avenue

Notwithstanding the foregoing, envelopes submitted by courier or otherwise in-person should be delivered to:

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PART A - INFORMATION AND INSTRUCTIONS

Vancouver City Hall
4th Floor, 453 West 12th Avenue
Vancouver, British Columbia
Canada, V5Y 1V4

- 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 must not be submitted by fax or email.
- 4.6 The City requests that three hard copies and one electronic copy (on a flash drive, memory stick or similar medium) of each Proposal (or amendment) be submitted.
- 4.7 Proposals should not be bound in three-ring binders.
- 4.8 Proposals are revocable and may be withdrawn at any time before or after the Closing Time.
- 4.9 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.
- 4.10 Unnecessarily elaborate Proposals are discouraged. Proposals should be limited to the items specified in Part C of the RFP.
- 4.11 The City is willing to consider any Proposal from two or more Proponents that wish to form a consortium solely for the purpose of submitting a joint Proposal in response 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.
- 4.12 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 for a maximum total term of 5 years.

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PART A - INFORMATION AND INSTRUCTIONS**

7.0 PRICING

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

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 not only financial terms, but also (i) Proponents' skills, knowledge, reputations and previous experience(s), including experience(s) with the City (if any); (ii) Proponents' capabilities to meet the City's Requirements (as defined in Part B) as and when needed, (iii) quality and service factors, (iv) innovation, (v) environmental or social sustainability impacts; and (vi) transition costs or challenges. Certain other factors may be mentioned in Part B or elsewhere in the RFP.

| Evaluation Criteria | Evaluation Weighting |
|---|----------------------|
| Qualifications, Capabilities & Experience | 20% |
| References | 20% |
| Collection Methodology | 10% |
| Reporting Capabilities | 5% |
| Value-added | 5% |
| Commercial Proposal | 35% |
| Sustainability | 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

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to advise the other Proponents or to allow the other Proponents to vary their Proposals as a result of such discussions or negotiations.

- 8.5 The City may elect to short-list Proponents and evaluate Proposals in stages. Short-listed Proponents may be asked to provide additional information or details for clarification, including by attending interviews, making presentations, supplying samples, performing demonstrations, furnishing technical data or proposing amendments to the Form of Agreement. The City will be at liberty to negotiate in parallel with one or more short-listed Proponents, or in sequence, or in any combination, and may at any time terminate any or all negotiations.
- 8.6 The City may also require that any proposed subcontractors undergo evaluation by the City.
- 8.7 For the avoidance of doubt, notwithstanding any other provision in the RFP, the City has in its sole discretion, the unfettered right to: (a) accept any Proposal; (b) reject any Proposal; (c) reject all Proposals; (d) accept a Proposal which is not the lowest-price proposal; (e) accept a Proposal that deviates from the Requirements or the conditions specified in the RFP; (f) reject a Proposal even if it is the only Proposal received by the City; (g) accept all or any part of a Proposal; (h) split the Requirements 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.

10.0 CERTAIN APPLICABLE LEGISLATION

- 10.1 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.
- 10.2 Proponents should note that the *Income Tax Act* (Canada) requires that certain payments to non-residents be subject to tax withholding. Proponents are responsible for informing themselves regarding the requirements of the *Income Tax Act* (Canada), including the requirements to qualify for any available exemptions from withholding.

11.0 LEGAL TERMS AND CONDITIONS

- 11.1 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.

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PART A - INFORMATION AND INSTRUCTIONS

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

PART B - CITY REQUIREMENTS

The requirements stated in this Part B (collectively, the “Requirements”) are current as of the date hereof, but they may change or be refined in the course of the evaluation of Proposals or otherwise.

1.0 OVERVIEW

The City is seeking a collection agency to collect on outstanding by-law notices and accounts receivable debt.

1.1 Background on By-law Notices Debt

The Province of British Columbia adopted the *Local Government Bylaw Notice Enforcement Act* in 2003 to allow local governments to deal with by-law enforcement disputes. Under the Act, local governments may adopt a by-law to establish a dispute adjudication system which largely replaces the Provincial Court as the venue for resolving disputes of minor municipal by-law breaches.

In November 2010, City Council approved a by-law notice dispute adjudication system for all parking-related by-law contraventions in the City of Vancouver and enacted the By-law Notice Enforcement By-law No. 10201. The City implemented the new system in February 2011.

Under this by-law notice dispute adjudication system, all penalties become due and payable if not paid or disputed within 14 days and the City can proceed with the collection of all unpaid penalties. The City of Vancouver issues approximately 400,000 parking-related by-law notices annually under the following City of Vancouver by-laws:

- Parking Meter By-law No. 2952
- Street and Traffic By-law. 2849
- Granville Mall By-law No. 9978
- Motor Vehicle Noise and Emission Abatement By-law No. 9344

1.2 Collection Statistics

For by-law notices, each account is defined as one by-law notice, however there may be multiple accounts related to one individual or one company. The average value of each account is approximately \$125 and the average age of the account will be approximately 66 days before being sent to collections.

The majority of the default debtors reside in the Province of British Columbia, although there are substantial receivables outstanding for persons living outside of BC and in particular the province of Alberta and neighbouring states of Washington and Oregon. The proponent should have the ability, resources and knowledge to collect outside of the Province of British Columbia.

The City currently experiences an 82% voluntary payment rate. The majority of payments are online credit card payments processed on the City’s website. It is estimated that 70,000 tickets will be eligible for collections valued at \$8 million each year. These estimates are based on 2015 statistics and do not take into consideration possible changes in the following, but not limited to, the number of tickets issued, penalty amounts and the addition of other by-laws in the adjudication system.

1.3 Accounts Receivable

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PART B - CITY REQUIREMENTS

The City also bills for a variety of other diverse services including film and special events, boardups, cost recovery third party projects, property rental and other fees. Generally, invoices are generated after the work is completed and costs accumulated. Rental receivables are based on lease agreements. To date the City has not used collections agency services for these receivables.

The following table provides the new debt that may be forwarded to the collection agency annually.

| Debt Type | # of Accounts per Year | Value of Accounts | Average Value of Account | Age of Debt before referral to collections |
|---------------------|------------------------|-------------------|--------------------------|--|
| Bylaw Notices | 70,000 | \$8.75 Million | \$125 | 66 days |
| Accounts Receivable | 450 | \$170k | \$375 | 90 days |

The City would also like to send to the collection agency its current debt. The Bylaw debt has been worked by a collection agency already whereas the Accounts Receivable debt has not.

| Debt Type | # of Accounts | Value of Accounts | Average Value of Account | Age of Debt | Placement Type |
|---------------------|---------------|-------------------|--------------------------|-------------|----------------|
| Bylaw Notices | 220k | \$28 million | \$125 | 2011-2016 | Second |
| Accounts Receivable | 500 | \$200k | \$375 | 2013-2015 | First |

2.0 REQUIREMENTS

The City has the following Requirements:

The scope of work, policies and procedures outlined in this section describe minimum requirements for the performance of the services. Proponents are encouraged to also include in their Proposal supplementary value-added services or initiatives deemed to augment the successful delivery of the scope of work.

The City anticipates that the term of the Agreement is expected to be a total term of 5-years.

The City is looking for a collection agency(s) to collect on:

- a. first placement and second placement defaulted by-law notices
- b. first placement defaulted accounts receivable debt

The Proponent recommended collection program must be conducted in strict accordance with industry standards and must abide by all applicable law including *the Freedom of Information and Protection of Privacy Act* (British Columbia), the *Business Practices and Consumer Protection Act* (British Columbia) and any other applicable laws in Canada or the United States.

Proponents are requested to propose a collection program they feel will be most effective in the collection of the debt referred. The collection program must be pre-approved by the City before implementation.

All Proponents are asked to provide the information requested in the Submission Instructions in Part C - Form of Proposal. Proponents may provide any other information that demonstrates their ability to meet the requirements set out in the RFP.

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PART B - CITY REQUIREMENTS

One or more Proponents may be requested by the City to attend a meeting following a staff review of each Proposal to further discuss the RFP and proposed methodology.

2.1 Collections Services

The successful Proponent will be responsible for but not limited to:

- a) locating and collecting on all accounts referred by the City and treating all outstanding accounts equally unless specified;
- b) all collection processes related to the collection program implemented including printing and mailing of notices/letters;
- c) all collection costs, unless specified in writing by the City, including credit card and debit card service charges (approximately \$4,000/month) incurred by the City related to payments on transferred debt. It should be noted that most debtors referred to collections will pay with a credit card via the City's online payment system;
- d) reporting all eligible debt to credit reporting agencies (list credit reporting agencies used);
- e) for by-law notices, acquiring registered owner information (name and address) from the respective registered owner databanks at its own expense where only the license plate and province/state information is available from the City. The City generally provides this information for BC license plates. At a minimum all Washington States license plates' registered owner information must be acquired. Eg. US registered vehicles. The proponent will also provide to the City, upon request, the new registered owner information; (approximately 3,000 US tickets/year)
- f) providing the City real-time access (preferably online) to the proponent's account information; and at a minimum responding to all account inquiries made by the City within one business day;
- g) responding to collection practices complainants verbally within one business day or within five business days if a response is requested in writing. The Proponent will forward details of all complaints received to the City within five business days of the complaint being made, identifying the: account number, debtor's name, phone number, nature of the complaint and a detailed explanation of the resolution attempted or made;
- h) making available for inspection and review all records and files relating to a City account referred. The City reserves the right to audit the City accounts referred to verify the vendor's compliance with the terms of the Collection Services Agreement;
- i) Combining accounts on letters mailed.

2.2 Reporting

- a) Provide detailed and summary collection reporting which will include, but not be limited to amounts collected, amount outstanding, liquidation rate, commission charged and account status;
- b) Provide management reports on a regularly scheduled basis (no later than 10 business days after the end of the month) and the Proponent shall develop and amend the format and information contained in reports at the request of the City;
- c) Provide reconciling reports for all funds transferred to the City;

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PART B - CITY REQUIREMENTS

- d) Provide the ability to generate ad hoc reports in a timely manner at the request of the City, including totals and sub-totals and specified date ranges.

2.3 Payment Provisions

- a) The Proponent shall receive commission on all successful collections on accounts with the Proponent whether payment is received by the City or the Proponent.
- b) Amounts remitted by the Proponent to the City shall be deemed fully and finally collected by the City. No offsets will be allowed for cheques returned (eg. NSF) by the payers' banks.
- c) No commissions shall be paid on dishonoured payments.
- d) All uncollected accounts which have not been recalled will remain with the Proponent until the end of the contract;
- e) At the end of the contract, unless the contract is renewed, all accounts will be recalled. Commissions will continue to be paid on payments received by the Proponent for up to 30 days after the account has been recalled due to the contract expiring;
- f) No account close-out or recall fees shall apply. If an account is recalled from the Proponent, the Proponent on request by the City must also immediately remove all credit reporting information from consumer or commercial credit reporting agencies at the Proponent's expense. The Proponent must also delete all records and files relating to the account and cease all collection action with the debtor. Accounts may be recalled for the following reasons such as but not limited to: if the accounts were sent in error or the City chooses to take additional legal action against the debtor;
- g) The Proponent will direct debtors to make cheques payable to the Proponent directly if payment by the debtor is made by cheque;
- h) The Proponent will not combine the debt transferred and the related collection activity with those of other organizations if the same debtor is identified;
- i) Settlement for less than the debt amount outstanding is not permitted without the express written permission of the City;
- j) The Proponent may not undertake legal action against a debtor without the express written permission of the City.
- k) The Proponent must delete from their system, the names and addresses supplied by the City no earlier than one year after the accounts have been paid in full or withdrawn.

2.4 Funds and Information Transfer

The transfer of information and funds described below may be altered at the discretion of the City. The City currently uses Tempest Software as its billing and collection system.

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PART B - CITY REQUIREMENTS

- a) The proponent will remit collected funds, net of commissions, by electronic funds transfer to the City on a regular basis along with a detailed and summary electronic report that reconciles the funds remitted. The format and frequency will be determined by the City;
- b) GST charged on commission fees will not be reflected in the electronic funds transfer, but will be invoiced separately on a monthly basis;
- c) An electronic file may be transferred daily to the Proponent containing new account information, payments accepted by the City for referred accounts, and other adjustments to referred accounts;
- d) The Proponent will provide the following information in their electronic file to the City: account number, collection date, amount collected, commission fee, net collected amount, (for by-law notices -license plate #, Prov/State, and name). The file must not contain any credit adjustments or GST. These need to be invoiced as part of the monthly statement.
- e) The City will provide the following information in their file to the Proponent:
 - account identifier (by-law notice number, invoice number)
 - date debt became outstanding
 - name and address if available
 - for bylaw contraventions: licence plate bylaw and section # under which the violation is registered.
 - Original amount owing, payment adjustments, interest/surcharges and balance owing.

For by-law contraventions, the City may also provide other information upon request such as the location where the violation occurred; photo-evidence of the vehicle in violation; and adjudicator decision.

- f) All information transfers between the City and the Proponent will mainly be in CSV (Comma Separated Values) format or other format as approved by the City;
- g) The Proponent will reconcile account volumes and values transferred to/from the City, to ensure all accounts transferred are accurately reflected in the Proponent's computer system;
- h) The Proponent must satisfy the City that account data is protected as strictly confidential and that account database and other security controls are in place that restrict access to client files.

For Accounts Receivables, the information transfer process between the City and the Proponent has yet to be determined by the City.

2.5 Payment Card Industry (PCI) Compliance

The proponent is expected to access the City's online payment site to take credit card payments for debtors, As a condition of contract award, unless the City determines otherwise, the successful

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PART B - CITY REQUIREMENTS**

proponent must be in compliance with the standards established by the PCI Security Standards Council. At an appropriate time before a contract is entered into by the City and the successful proponent, the City will conduct an assessment of whether the proponent is PCI compliant by assessing the Attestation of Compliance and Responsibility Matrix submitted by the proponent and/or any other documentation requested by the City.

If the proponent is not PCI compliant, please provide an alternate business model for consideration that would negate the need to be PCI compliant.

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PART C - FORM OF PROPOSAL

PART C - FORM OF PROPOSAL

RFP No. PS20160541, Supply of Debt Collection Agency Services (the "RFP")

Proponent's Name: _____
"Proponent"

Address: _____

Jurisdiction of Legal Organization: _____

Date of Legal Organization: _____

Key Contact Person: _____

Telephone: _____ Fax: _____

E-mail: _____

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

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

IN WITNESS WHEREOF the Proponent has executed this Proposal Form:

Signature of Authorized Signatory for the Proponent

Date

Name and Title

Signature of Authorized Signatory for the Proponent

Date

Name and Title

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PART C - FORM OF PROPOSAL

APPENDICES

The Form of Proposal includes the following attached Appendices:

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PART C - FORM OF PROPOSAL

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. PS20160541, as amended from time to time and including all addenda.

3 NO LEGAL OBLIGATION ASSUMED BY THE CITY

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

4 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

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

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

5 EVALUATION OF PROPOSALS

5.1 Compliance / Non-Compliance

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

5.2 Reservation of Complete Control over Process

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

5.3 Discussions/Negotiations

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

5.4 Acceptance or Rejection of Proposals

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

6 PROTECTION OF CITY AGAINST LAWSUITS

6.1 Release by the Proponent

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

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

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

6.2 Indemnity by the Proponent

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

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

6.3 Limitation of City Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the City breaches Section 8.2 of this Appendix 1), the City or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the City's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

7 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the City breaches this Section 7 or Section 8.2 of this Appendix 1, and also excepting any disputes arising between the City and the Proponent under a Contract (or a similar contract between the City and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia), amended as follows:

- (a) The arbitrator will be selected by the City's Director of Legal Services;
- (b) Section 6 of this Appendix 1 will: (i) bind the City, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

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8 PROTECTION AND OWNERSHIP OF INFORMATION

8.1 RFP and Proposal Documents City's Property

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

8.2 Proponent's Submission Confidential

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

8.3 All City Information Confidential

- (a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the City which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.
- (b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the City in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the City or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

9 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

9.1 Declaration as to no Conflict of Interest in RFP Process

- (a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner, employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the City; or (ii) related to or has any business or family relationship with an elected official or employee of the City, in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the City, and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.
- (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.

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9.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

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

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.

9.4 Declaration as to 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 as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

10 GENERAL

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

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11 INDEPENDENT LEGAL ADVICE

THE PROPONENT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SUBMITTING ITS PROPOSAL FORM, INCLUDING THIS APPENDIX 1.

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**APPENDIX 2
QUESTIONNAIRE**

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

1. QUALIFICATIONS, CAPABILITIES & EXPERIENCE (20 points)

A. Provide a brief overview of your organization, purpose and history of successes and the following information:

- a. Locations and size of offices (number of staff), and specifics on the office location where the work will be performed for the City's account
- b. Number of years in business and the organizations key strategies in ensuring success and growth
- c. List of other public sector and local government clients.

B. Key Personnel: Provide the following information on the team who will be assigned to the City's account including

- a. Organizational chart and structure showing roles and responsibilities of each position on the team. Specify the number of collectors on the team.
- b. Resume for each team member highlighting their qualifications, background and relevant experience.

C. Staff Deployment, Education and Support. Please provide the following:

- a. Describe how your organization plans to ensure there is an appropriate level of resources for the City's account (number of staff and skill sets).
- b. Describe your training and support programs. What specific training is provided to align staff to the specific needs of client accounts.
- c. What has been your staff turnover rate in the last 3 years?
- d. Does your organization use sub-contractors. If so, describe your management process.

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- D. If, at the time of submitting a proposal, a Proponent is in compliance with the standards established by the PCI Security Standards Council, such proponent should submit an Attestation of Compliance and Responsibility Matrix to evidence its compliance with PCI standards. Following the submission of such documents, the City may request further documents in order to assess whether a Proponent is PCI compliant.?

2. REFERENCES (20 points)

- A. Provide 3 specific examples of your collection process with various clients including accounts most relevant to the City's account specifically any experience with Bylaw Adjudication tickets issued under the BC Local Government Bylaw Notice Enforcement Act. For each client, provide the collection rate achieved.

- B. What specific collection strategy are you proposing that would result in the best collection rate for the City's bylaw ticket debt. Highlight any different steps or strategy for Accounts Receivables other than bylaw tickets.

- C. What considerations should the City include in making a decision whether to place bylaw tickets into secondary placement?

3. COLLECTION METHODOLOGY (10 points)

- A. Describe the collection process that would be implemented for our debts (primary and secondary). This should include collection timelines, your skip tracing process, conflict resolution, NSF cheques and how problematic accounts are dealt with including but not limited to:
1. Deceased Debtor
 2. Incarcerated Debtor
 3. Bankruptcy or Consumer Proposals (Canadian)
 4. Bankruptcy (Foreign)
 5. Receivership (limited liability/incorporated company)
 6. Orderly payment of debt
 7. Credit counselling
 8. Payment plans

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B. Describe your communication options and what recommendations you would make for the City's accounts for City's management and for debtors.

C. A portion of outstanding bylaw tickets are owed drivers outside the Province of BC, and therefore information on registered vehicle owners is limited. Describe what options you can use to effectively collect out of province debt. Specifically focus on Alberta and Northwestern US states (Washington and Oregon). What is your forecasted collection rate for this debt?

D. Describe specific programs you may have for multiple debts owed by a single debtor. Eg. One debtor with 10 outstanding by-law notices?

E. Describe your company's complaint handling process.

4. REPORTING CAPABILITIES (5 points)

A. The City requires at a minimum, monthly reports. Provide samples of collection rate reports (summary and detailed) showing # assigned, # still active, \$ assigned, \$ collected, collection % showing Canadian and US debtors separately. Comparative report to show actual collected to forecast. Statistics on collection efforts (# calls made vs successful contacts).

5. VALUE-ADDED (5 points)

A. Describe any optional programs relevant to the City's account that would increase collection rate.

B. What actions could be taken to re-invigorate older debt given the large volume of debt that will be placed annually?

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| |
|--|
| C. What debt analysis is undertaken to improve on collections? |
| |

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**APPENDIX 3
COMMERCIAL PROPOSAL**

Complete this Appendix 3 - Commercial Proposal in the form set out below.

Proponent to provide proposed pricing and payment terms, which should be in accordance with Part A, Section 7 of the RFP (as well as any other sections of the RFP imposing requirements as to pricing).

If Proponent is submitting its Proposal by email please ensure Appendix 3 - Commercial Proposal is provided as a separate file to the entire Proposal. If the Proponent is submitting its Proposal via envelope please ensure Appendix 3 - Commercial Proposal is provided in a separate sealed envelope.

| | Commission Rate % | Collection Rate % |
|---|-------------------|-------------------|
| Regular Collection program for First Placement Accounts Bylaw Tickets | | |
| Regular Collection program for Second Placement Account Bylaw Tickets | | |
| Regular Collection program for First Placement Account Accounts Receivables | | |

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APPENDIX 4
PROPONENT'S REFERENCES

Complete this Appendix 4 - Proponents References in the form set out below. Ideally references provided will have experience with By-law Notice debt.

| | |
|---|--|
| Client Name # 1 | |
| Address (City and Country) | |
| Contact Name | |
| Title of Contact | |
| Telephone No. | |
| E-mail Address | |
| General description of the scope of work | |
| Contract Duration | |
| Value of Contract | |
| Sub-consultants involvement | |
| Collection Performance (please quote by % of debt collected referred by Client in 2016) | |

| | |
|---|--|
| Client Name # 2 | |
| Address (City and Country) | |
| Contact Name | |
| Title of Contact | |
| Telephone No. | |
| E-mail Address | |
| General description of the scope of work | |
| Contract Duration | |
| Value of Contract | |
| Sub-consultants involvement | |
| Collection Performance (please quote by % of debt collected referred by Client in 2016) | |

| | |
|----------------------------|--|
| Client Name # 3 | |
| Address (City and Country) | |
| Contact Name | |
| Title of Contact | |

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| | |
|---|--|
| Telephone No. | |
| E-mail Address | |
| General description of the scope of work | |
| Contract Duration | |
| Value of Contract | |
| Sub-consultants involvement | |
| Collection Performance (please quote by % of debt collected referred by Client in 2016) | |

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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.)



**CERTIFICATE OF EXISTING INSURANCE
TO BE COMPLETED AND APPENDED TO THE PROPOSAL -
PS20160541**

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

1. **THIS CERTIFICATE IS ISSUED TO:** City of Vancouver, 453 W 12th Avenue, Vancouver, BC, V5Y 1V4
and certifies that the insurance policy (policies) as listed herein has/have been issued to the Named Insured and is/are in full force and effect.

2. **NAMED INSURED** (must be the same name as the proponent/bidder and is either an individual or a legally incorporated company)

BUSINESS TRADE NAME or DOING BUSINESS AS

BUSINESS ADDRESS

DESCRIPTION OF OPERATION

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

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

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

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

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

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

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

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

7. **PROFESSIONAL LIABILITY INSURANCE**

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

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

8. **OTHER INSURANCE**

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

SIGNED BY THE INSURER OR ITS AUTHORIZED REPRESENTATIVE

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

Dated _____

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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.

Purpose:

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

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

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

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

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

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

Signature: _____

Name and Title: _____

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APPENDIX 7
CORPORATE SUSTAINABILITY LEADERSHIP QUESTIONNAIRE

Complete this Appendix 7 - Corporate Sustainability Leadership Questionnaire in the form set out below.

As part of the City's Corporate Procurement Policy and related Supplier Code of Conduct described in Section 9.1 of Part A, all City vendors must meet minimum requirements related to ethical, social and environmental standards.

Beyond these basic requirements, the City would like to recognize vendors that are demonstrating leadership and innovation in sustainability. In order to be able to do so, the City requires that Proponents answer the following questions. The answers provided will be evaluated as part of the Proposal evaluation described in Section 8.0 of Part A.

Please keep in mind that these questions relate to your company's internal operations and overall sustainability leadership.

The City may request that the Proponent provide additional information to support any of the responses provided.

If additional space is required, the Proponent may attach its response(s) to this Annex and reference the relevant question and section number.

For all questions where the answer is 'Yes' and additional information is requested, if this information is not included in the proposal, the answer may not be evaluated.

For all questions where there is a word limit, responses are to be kept within this word limit. Information in excess of the word limit may not be evaluated.

Questionnaire Structure

| | |
|---------------------------------|---|
| Section 1: Environmental Impact | Environmental or Sustainability Policy Reducing greenhouse gas (GHG) emissions Reducing waste Sustainable purchasing |
| Section 2: Social Impact | Living wage employer Workplace development programs Supporting social enterprises Sustainable business |
| Section 3: Definitions | Definitions for key terms used in this Annex. |

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SECTION 1: ENVIRONMENTAL IMPACT

This section of the leadership questionnaire addresses the following:

- *Environmental or Sustainability Policy or Statement*
- *reducing greenhouse gas (GHG) emissions*
- *reducing waste*
- *sustainable purchasing*

1. Do you have a documented Environmental or Sustainability Policy or Statement?

☐ Yes ☐ No

If no, go to question 2.

If yes, please address the following:

- a. Attach a copy of the policy or statement to your Proposal.
- b. If the policy is publicly available, please provide a link to the document:

2. Does your company measure its greenhouse gas (GHG) emissions?

☐ Yes ☐ No

If yes, state total annual GHG emissions (tCO₂e): _____

3. Has your company adopted GHG reduction targets or goals?

☐ Yes ☐ No

If yes, state target(s) and year by which they will be achieved (e.g., 33% reduction by 2020):

4. Do you report your GHG emissions to a third party? (e.g., Carbon Disclosure Project, Global Reporting Initiative, Climate Registry, Climate Smart, Ecobase, Offsetters, etc.)

☐ Yes ☐ No

If yes, state the name of the 3rd party: _____

5. Does your company own buildings in Metro Vancouver?

☐ Yes ☐ No

If no, skip to question 7.

If yes, describe efforts in the past three (3) years to improve the energy efficiency of owned buildings in Metro Vancouver with respect to each of the elements listed below. **Please limit answer to 400 words or less.**

- a. equipment and lighting upgrades (e.g., HVAC, water heaters, LED lighting)

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- b. building envelope improvements (e.g., insulation, windows)
 - c. staff conservation and engagement programs (e.g., turning off lights and computers, etc.)
-
-
-

6. Has your company (or has any of your buildings) been recognized for building energy management excellence by a recognized third party such as BC Hydro Power Smart, BOMA BEST, LEED, Portfolio Manager Energy Star, etc.)?

☐ Yes ☐ No

If yes, state the name(s) of the 3rd party(ies) and type of recognition:

7. Does your company own or lease fleet vehicles and/or heavy off-road equipment to be operated in Metro Vancouver?

☐ Yes ☐ No

In no, skip to question 9.

If yes, please address the following questions:

a) what size is your fleet (including heavy off-road equipment)?

b) Describe actions in the past three (3) years to reduce the GHG emissions of vehicles and heavy equipment operated in Metro Vancouver. (Actions could include: purchase of low emissions vehicles, use of alternative fuels, deployment of telematics software; driver training programs, etc.). **Please limit answer to 250 words or less.**

8. Does your company encourage employees to take more environmentally friendly transportation to get to work?

☐ Yes ☐ No

If yes, describe incentives in place to encourage employees to take more environmentally friendly transportation to get to work (e.g., car sharing, secure bike parking and on-site change facilities, public transit incentives). **Please limit answer to 250 words or less.**

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9. Describe any other initiatives undertaken in past three (3) years that have significantly reduced the GHG emissions of your operations. **Please limit answer to 250 words or less.**

10. Does your company measure the total amount of solid waste generated by your operations annually?

☐ Yes ☐ No

If yes, state annual solid waste figures (kg or tonnes): _____

11. Does your company have waste reduction and/or diversion targets or goals?

If yes, state targets and by what year they are to be achieved?

12. Does your company have an office or operations recycling program in place?

☐ Yes ☐ No

If yes, which materials does your company recycle - check only those that apply:

- ☐ office paper
- ☐ plastic and glass containers
- ☐ soft plastic
- ☐ food waste/compostables
- ☐ batteries
- ☐ printer or toner cartridges
- ☐ Styrofoam
- ☐ IT equipment / electronics / mobile devices
- ☐ clean wood (e.g., pallets)
- ☐ metals

13. Describe any other initiatives undertaken in past three (3) years that have significantly reduced waste from your operations. **Please limit answer to 250 words or less.**

14. Does your company have a Sustainable or Ethical Purchasing Policy or a Code of Conduct for Suppliers that outlines minimum ethical labour standards that must be followed by suppliers?

☐ Yes ☐ No

In no, skip to question 16.

If yes, please address the following:

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- a. Attach a copy of the policy and/or code to the Proposal
- b. If the policy or code of conduct is publicly available, please provide a link to document:

15. Indicate which environmentally preferable and/or sustainable goods or services your company currently purchases – **check only those that apply**:

- ☐ Sustainable food items (e.g., Fairtrade coffee; organic produce; OceanWise seafood)
- ☐ Copy paper (e.g., 100 per cent post-consumer waste; Forest Stewardship Council certified; tree free)
- ☐ Janitorial supplies (e.g., ECOLOGO or Green Seal certified)
- ☐ IT equipment (e.g., EPEAT Gold, EnergyStar qualified)
- ☐ Office products (e.g., ECOLOGO; recycled; non-toxic)
- ☐ Printing services (e.g., Forest Stewardship Council certified paper and printer)
- ☐ Promotional / marketing items (e.g., fair labour practices; reusable; recyclable)
- ☐ Courier services (e.g., use energy efficient, low carbon or alternative fuel vehicles)
- ☐ Catering services (e.g., serve sustainable food; employ social enterprises; use reusable serving ware)
- ☐ Landscaping services (e.g., use energy efficient equipment; employ social enterprises)
- ☐ Other: (list)

SECTION 2: SOCIAL IMPACT

This section of the leadership questionnaire addresses the following elements:

- *living wage employer*
- *workplace development programs*
- *supporting social enterprises*
- *sustainable business*

1. Is your company already a certified Living Wage employer, or working towards becoming one? See definition of *Living wage employer* in Section 3 below.

- ☐ Yes ☐ No

If yes, please state either:

- a) date of certification; OR
 - b) date by which you expect to become certified
-
- _____
-
- _____

2. Does your company provide employment and/or training opportunities for *person(s) with barriers to employment* (e.g., people with addictions, disabilities, mental health issues; people who are newcomers or refugees, etc.) that go beyond the hiring practices required by law? See definition of *person with barriers to employment* in Section 3 below.

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Yes ☐ No

If yes, describe the program including the name of the non-profit organization or educational institution or government agency that you work with to identify potential trainees and employees; and the number of employees/trainees that work in your company.

3. Does your company conduct business with, or support in other ways, one or more *social enterprises* (as defined in Section 3 below).

☐ Yes ☐ No

If yes, name the social enterprise(s) and describe the nature of the business conducted and/or support provided.

4. Is your company structure either of the following:

a. Social enterprise (as defined in Section 3 below)

☐ Yes ☐ No

If yes, state the name of the registered non-profit or co-operative (including society and/or charitable number):

b. Community Contribution Company (C3) (as defined in Section 3 below)

☐ Yes ☐ No

5. Has your company's sustainability performance been reviewed or certified by a third party? (e.g., B Lab, ISO14001, SA8000, Social Fingerprint, etc.)

☐ Yes ☐ No

If yes, state the name of the third party and date of certification or date of last review:

6. Describe any additional social sustainability initiatives that demonstrate your company's commitment to the health and well-being of local communities. Please limit answers to 250 words or less.

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SECTION 3: DEFINITIONS

Living Wage Employer:

Living wage employers adhere to the following criteria:

- All employees - full-time, part-time and casual - are paid the current living wage rate for their region. See www.livingwageforfamilies.ca for current Metro Vancouver and Fraser Valley living wage rates.
- The living wage rate calculation for an employer takes into account its employees' *total* compensation package (wage + benefits). If employees receive non-mandatory benefits, the living wage rate is reduced to take this into account. External contract staff (not direct employees) who provide services to their employer on a regular and ongoing basis must also be paid a living wage.
- Employees who receive incentive-based pay (tips) or commissions can be paid less than a living wage, provided their total earnings - including incentive-based pay and/or commissions - equal or exceed the living wage.

Social Enterprise:

"Social enterprises are businesses owned by non-profit organizations, that are 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 (Social Enterprise Council of Canada)." See www.socialenterprisecanada.ca.

In addition to having the aforesaid combined purpose, to qualify as a "Social Enterprise" for purposes hereof, an entity must:

- be a business operated by a registered non-profit or community services co-operative;
- have a product or service that it sells to customers;
- have a defined social and/or environmental mandate.

Person with Barriers to Employment:

A "person with barriers to employment" is someone who faces one or more circumstances that can lead to underemployment or unemployment. There are a wide range of circumstances that can create barriers to employment including but not limited to: addictions, disabilities, mental health issues, and being a newcomer or refugee. For purposes hereof, to qualify as a "person with barriers to employment", the employee or trainee must be participating in a recognized, pre-approved employment program for person(s) with barriers to employment run by a non-profit organization or educational institution or government agency.

Community Contribution Company (C3):

"Community Contribution Company" means a corporation formed under the laws of British Columbia that includes in its articles the following statement:

This company is a community contribution company, and, as such, has purposes beneficial to society. This company is restricted, in accordance with Part 2.2 of the *Business Corporations Act*, in its ability to pay dividends and to distribute its assets on dissolution or otherwise.

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Or, a company incorporated under another jurisdiction that includes in its articles substantively similar restrictions related to dividends and distribution of assets.

Refer to www.fin.gov.bc.ca/prs/ccs for more information.

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APPENDIX 8
PERSONAL INFORMATION CONSENT FORM(S)

Complete one copy of this Appendix 8 - 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

RFP

Reference #PS20160541

Title: Supply of Debt Collection Agency Services

With the provision of my signature at the foot of this statement I, _____
_____ (Print Name)

consent to the indirect collection from _____
_____ (Print Name of Proponent)

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

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

| | | |
|--------------------|-------------|---------------|
| _____ Signature |))) | _____ Date |
|--------------------|-------------|---------------|

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APPENDIX 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. If no amendments to the Form of Agreement are proposed, state "none". It is at the City's sole discretion whether or not these proposed amendments will be considered for the Form of Agreement.

| Section / General Condition | Proposed Amendment | Rationale and Benefit |
|-----------------------------|--------------------|-----------------------|
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APPENDIX 10
PROOF OF WORKSAFEBC REGISTRATION

Attached as Appendix 10 to this Form of Proposal proof of valid WorkSafeBC registration.

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APPENDIX 11
CONFLICTS; COLLUSION; LOBBYING

Complete this Appendix 11 - 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 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) | |

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PART D - (SAMPLE) FORM OF AGREEMENT

PART D
FORM OF AGREEMENT

See attached.



COLLECTION SERVICES AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, 2017 (the "Effective Date")

BETWEEN:

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

(the "City")

OF THE FIRST PART

AND:

(the "Agency")

OF THE SECOND PART

(City and Agency are hereinafter sometimes referred to individually as a "Party" and collectively as "Parties")

BACKGROUND:

- A. The City wishes to engage the Agency to collect amounts due to the City for certain bylaw infractions and Accounts Receivables.
- B. The Agency has agreed to perform these collection services in accordance with the terms and conditions of this Agreement.

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

1.0 INTERPRETATION

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

- (a) **"Account"** means each individual or entity that has an outstanding amount owing to the City;
- (b) **"Account Information"** means all information (including personal information) relating to an individual or entity that has an outstanding amount owing to the City including, without limitation, any information that is (i) transferred by the City to the Agency, (ii) obtained by the Agency (or its Sub-contractors) through its information scrubbing/tracing efforts for the purposes of collecting on such fines in accordance with the terms of this Agreement, and (iii) obtained by the Agency (or its Sub-contractors) from the debtor directly;
- (c) **"Agreement"** means this Collection Services Agreement inclusive of all schedules attached hereto, as amended from time to time;
- (d) **"Applicable Laws"** means all statutes, regulations, by-laws, codes, rules, notices, orders, directives, standards and requirements (in effect as of the date of this Agreement and as may be amended or superseded) of every competent federal, provincial, regional, municipal and other statutory authority applicable to the Agency, any Sub-contractor and the Services;
- (e) **"City's Project Manager"** means the City's employee, or his/her delegate, who is designated by the City from time to time and notified in writing to the Agency in writing to deal with the Agency on behalf of the City in connection with the Services, or to make decisions in connection with this Agreement;
- (f) **"Confidential Information"** has the meaning set out in Section 18.2;
- (g) **"Contract Documents"** means this Agreement, including all of the schedules listed in Section 1.2;
- (h) **"FOIPPA"** means the *Freedom of Information and Protection of Privacy Act* (British Columbia);
- (i) **"PCI Standards"** means the standards established from time to time by the PCI Security Standards Council (or its successor) including the PCI Data Security Standard (PCI DSS) as such standards may be amended or superseded;
- (j) **"personal information"** has the meaning given to it in FOIPPA;
- (k) **"Proposal"** means the proposal submitted by the Agency in response to the RFP, a copy of which is attached hereto as Schedule N;
- (l) **"RFP"** means Request for Proposal _____ - Collection Services for By-Law Penalties together with all addenda and questions and answers attached as Schedule M;
- (m) **"Services"** has the meaning set out in Section 2.1;
- (n) **"Sub-contractor"** has the meaning set out in Section 7.1; and
- (o) **"Term"** means the term of this Agreement as specified in Section 14.1.

1.2 The following schedules are incorporated into and form a part of this Agreement:

Schedule A - Scope of Work and related schedules
 Schedule B - Additional Security and Privacy Requirements
 Schedule C - Examples of Security Measures Implemented by the Agency
 Schedule D - Access to Information Agreement
 Schedule E - Price and Payment
 Schedule F - Certificates of Insurance
 Schedule G - WorkSafe Letter
 Schedule H - Key Performance Indicators
 Schedule I - Sample Notices to Debtors
 Schedule J - Agency's Licences
 Schedule K - Implementation Timeline
 Schedule L - Key Personnel
 Schedule M - City's RFP
 Schedule N - Agency's Proposal

- 1.3 The terms and conditions of the Contract Documents, whether or not attached to this Agreement will be deemed to be incorporated into this Agreement. The Contract Documents are complementary and what is called for by any one will be as binding as if called for by all. In the event of any conflict or inconsistency between or among any of the Contract Documents, the Contract Documents will be interpreted in the order of priority set out above in Section 1.2, with Schedule A having the highest priority and Schedule N having the lowest priority.
- 1.4 In this Agreement, including the recitals and schedules attached to this Agreement, except as expressly stated to the contrary or the context otherwise requires:
- (a) the recitals and headings to sections and schedules are for convenience and reference only and will not affect the interpretation of this Agreement;
 - (b) the terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions assign, unless otherwise specified, to this Agreement taken as a whole (including any and all attached schedules) and not to any particular section, subsection or other subdivision;
 - (c) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;
 - (d) each reference to a rule, guideline, policy, regulation or directive is deemed to be a reference to any successor or replacement of such rule, guideline, policy, regulation or directive;
 - (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
 - (f) references to time of day or date mean the local date or time in Vancouver, British Columbia;
 - (g) unless otherwise specified, any reference to days means calendar days and not business days;
 - (h) all references to money mean lawful currency of Canada;

- (i) the word "written" includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and "in writing" has a corresponding meaning; and
- (j) the words "include" and "including" are to be construed as meaning "including, without limitation".

2.0 AGENCY'S SERVICES TO THE CITY

2.1 The Agency will use its best efforts and work diligently to collect on behalf of the City all Accounts the City assigns to the Agency and to perform all of the Agency's other obligations set out in, and in accordance with, the terms and conditions of this Agreement. All obligations of the Agency not expressly set out in this Agreement, but which are necessary or incidental to the Agency's performance of its obligations under this Agreement, will be deemed to be an obligation of the Agency. The obligations of the Agency as contemplated in this section 2.1 is referred to in this Agreement as the "Services". Without limiting the generality of the foregoing, Services includes the following:

- (a) the Agency's obligations set out in the body of this Agreement;
- (b) the Agency's obligations set out in Schedules A - E;
- (c) the Agency's obligations set out in Schedule H;
- (d) the Agency's obligations set out in Schedule K;
- (e) the services described in the RFP; and
- (f) the services which the Agency agreed to provide in the Proposal.

2.2 The Agency agrees to work with and assist the City in maximizing the collection rate of those City Accounts assigned to the Agency while upholding the service standards set out in section 2.5 below. This means that the Agency will meet with City staff if and when requested by the City (acting reasonably) to obtain progress updates, to evaluate the effectiveness of the Agency's collection activities and to consider and implement any changes requested by the City to the Agency's collection activities. As part of evaluating the effectiveness of the Agency's collection activities, the Agency agrees to help the City complete the Key Performance Indicators set out in Schedule F and to generally cooperate with the City in terms of any other performance evaluation tools or methodologies the City wishes to use or implement. Unless the City determines otherwise, the Agency will meet with City staff at least once every three months to discuss the foregoing.

2.3 Without the City's prior written consent, the Agency will not pursue on behalf of the City, and the Services expressly exclude, the use of any legal actions or proceedings involving a court or creditor's remedies including, without limitation, filing any documentation related to the Account with a court, commencing litigation, engaging a law firm to perform any services related to enforcing the Account or taking any action in respect of a debtor's assets.

2.4 The Agency will be fully responsible for coordinating the Services with the City's Project Manager including, without limitation, establishing to the reasonable satisfaction of the City's Project Manager any communication protocols, reporting requirements or adjustments to the manner in which the Services are performed.

2.5 Service Standard

- (a) The Agency and its employees will perform the Services in compliance with all Applicable Laws and to the highest degree of care, skill and diligence applied in the debt collection industry. The Agency recognizes that the integrity of the City's reputation is very important to the City and that the Agency will not take any collection activities that are contrary to Applicable Laws, contrary to the City's request or that may harm the City's reputation. The Agency will maintain the integrity of the City's reputation while upholding a firm, yet amicable and respectful method of collections with a zero complaint goal. In particular, each of the Agency's employees is expected to be prompt, courteous and handle all business functions efficiently to provide an effective, courteous and respectful debt collection service.
- (b) Where the City, acting reasonably, considers that an Agency employee performing the Services is not meeting the standard set out above, the City may request the Agency to have such employee removed from all City Accounts and the Agency will assign a replacement within five business days of the City's request.
- (c) The Agency represents and warrants to the City that the Agency and its employees possess the necessary skills, knowledge, qualifications and experience to perform the Services in accordance with the Service standard set out above and the terms of this Agreement.

2.6 The Agency will commence the Services promptly and will carry out the Services in accordance with:

- (a) the requirements and schedules of this Agreement, or
- (b) where no date is specified for the provision of any component of the Services by this Agreement, such completion dates as reasonably specified from time to time by the City.

2.7 The Agency will not permit, do or cause anything to be done at any time which could allow any lien, certificate of pending litigation, judgment or certificate of any court or any mortgage charge, conditional sale agreement, personal property security interest or encumbrance of any nature to be imposed or to remain on title to any City property.

2.8 This Agreement does not create any exclusive arrangement for collection services between the City and the Agency and the City is not obligated to assign to the Agency any minimum number of Accounts.

2.9 The Agency will not collect, obtain or retain any credit card numbers or other information of any Account debtor until (a) the Agency has provided sufficient information to the City's satisfaction that the Agency complies with the necessary requirements of the Payment Card Industry Security Standards Council, and (b) the City consents in writing to allow the Agency to do so.

2.10 The Agency will employ the agreed minimum number of staff who will work actively to collect the City's debt in accordance with the terms of this Agreement.

3.0 ASSIGNMENT, WITHDRAWAL AND CLOSURE OF ACCOUNTS

3.1 Assignment of Accounts

- (a) Accounts will be assigned by the City to the Agency in accordance with the terms of Schedule A-5.

- (b) Accounts that have been assigned to the Agency will either be paid in full by the debtor or withdrawn by the City. With respect to those accounts that are paid in full by the debtor, the Agency shall comply with its obligations regarding the closure of accounts in accordance with Schedule A-9.

3.2 Withdrawal of Accounts by City

- (a) The City may withdraw one or more Accounts, including a group of Accounts, at any time and for any reason with notice to the Agency. For example, if the Agency becomes aware of any special circumstances in respect of an account (see Schedule A-6 for a description of special circumstances), the Agency will advise the City in writing and may even make a recommendation for the City to withdraw the Account, but that Account may only be withdrawn at the City's written request.
- (b) The Agency agrees that it will not be entitled to any compensation for its collection efforts on any withdrawn Accounts except to the extent that payments of the Account have been received by the City or the Agency prior to the date upon which the City provided notice of its withdrawal to the Agency.
- (c) At the end of the Term of this Agreement, all Accounts that have been assigned to the Agency and that have not been paid or withdrawn will be deemed to have been withdrawn without further action by the City.
- (d) The Agency shall comply with the terms of Schedule A-9 in respect of all Accounts that are withdrawn by the City prior to the end of the Agreement Term and in respect of all Accounts that are deemed to have been withdrawn at the end of the Agreement Term.

3.3 No Withdrawal or Closure of Accounts by Agency

- (a) Except when an Account is paid in full, the Agency will not withdraw or close any Accounts assigned by the City without the prior written approval of the City.
- (b) The Agency will implement controls to ensure that none of the Agency's employees can withdraw or close an Account without the prior written approval of the City.

4.0 PAYMENT OF COLLECTED FUNDS TO THE CITY

- 4.1 The Agency will pay collected funds to the City in accordance with Schedule A-5.
- 4.2 The City may, acting reasonably, request changes from time to time to the manner, timing and other aspects of the way collected funds are paid to the City and the Agency will comply with such requests.
- 4.3 Amounts remitted by the Agency to the City shall be deemed fully and finally collected. No offset will be allowed for cheques returned by the debtor's financial institution.
- 4.4 Overpayments by debtors will be referred back to the City for investigation. If no other debt is owing, the Agency will return the overpayment to the debtor. Commission will not be paid on overpayments and any Commissions already paid will be returned to the City through an adjustment or offset.

5.0 PAYMENT OF COMMISSIONS TO THE AGENCY

- 5.1 Subject to the terms and conditions of this Agreement, the City will pay the Agency, as its sole compensation under this Agreement, the commission amount set out in Schedule E - Price and Payment (the "Commission"). To the extent that the Agency is able to collect on any of the assigned Accounts, the Commission, plus applicable GST and PST, is the only amount payable by the City to the Agency under this Agreement. No Commission or other amount will be paid on Accounts in respect of which the Agency has not collected any monies.

[Note: At the appropriate time, the following provisions need to be read together with provisions to be set out in Schedule A - 5 regarding payment of collected funds to the City in order to ensure the intent of the parties is clear.]

- 5.2 The City will pay Commissions to the Agency on the following:

- (a) amounts actually collected from assigned Accounts and received by the Agency and/or the City; and
- (b) amounts received by the Agency 30 days or less after the end of the Term of this Agreement.

- 5.3 No Commissions or other charges will be payable by the City to the Agency on the following:

- (a) uncollected Accounts;
- (b) amounts received by the Agency more than 30 days after the end of the Term of this Agreement;
- (c) amounts received by the City after the end of the Term of this Agreement; and
- (d) Accounts that are withdrawn by the City.

- 5.4 The Agency will pay for, and the City will not have to pay for, the following:

- (a) bank or other charges, fees, etc. relating to NSF or rejected cheques received by the City or the Agency;
- (b) any credit card or debit card charges or fees incurred as a result of payments made by debtors; and
- (c) all other fees, charges, expenses and costs associated with performing the Services under this Agreement.

- 5.5 Commissions payable by the City to the Agency will be paid as follows:

- (a) for those amounts collected and received directly by the Agency, the Agency will deduct the correct amount of Commissions from the funds transferred by the Agency to the City in accordance with Schedule A-5;
- (b) for those amounts collected and received directly by the City, the City will be invoiced by the Agency for those commissions.

6.0 MAINTENANCE OF RECORDS AND ACCOUNTS

- 6.1 Sections 17.8 and 17.9 below set out the rights and obligations of the Agency and the City in respect of the retention, destruction and inspection of the Account Information relating to the debtor accounts assigned by the City to the Agency.
- 6.2 This Section 6.2 sets out the rights and obligations of the Agency and the City in respect of all other records and accounts (that do not contain any Account Information) generated and maintained by the Agency in the performance and administration of this Agreement (e.g. accounting records, invoices, statements of adjustments, etc.). The Agency will keep proper and separate accounts and records relating to this Agreement and will preserve such accounts and records during the Term of this Agreement and for a period of time that is equal to the longer of (a) two years after the end of the Term of this Agreement, or (b) the period of time that the Agency is required by Applicable Laws to retain such accounts and records. The City will be entitled, acting reasonably, to audit and verify the accuracy and validity of all such accounts and records at any time during the Term of this Agreement and during the period of time that the Agency is required by this Agreement or Applicable Law to retain such accounts and records.

7.0 SUB-CONTRACTORS

- 7.1 The Agency may not engage any contractor or consultant (in each case a “Sub-contractor”) for the performance of any part of the Services, unless the Agency has first obtained the written consent of the City, which consent may be arbitrarily withheld.
- 7.2 To the extent the City’s written consent is obtained, the Agency will administer, coordinate, and manage all Services provided by any Sub-contractors, and will assume full responsibility to the City for all work performed by the Sub-contractors in relation to the Services and will pay all fees and disbursements of all Sub-contractors.
- 7.3 Where a Sub-contractor is used by the Agency under this Agreement, the Agency will ensure that the Sub-contractor complies with this Agreement.
- 7.4 Nothing in this Agreement will create any contractual relationship between a Sub-contractor and the City.

8.0 COMPLIANCE WITH APPLICABLE LAW

- 8.1 The Agency agrees that it will during the Term comply with all Applicable Laws including, without limitation:
- (a) The provisions of FOIPPA that apply to the City and the Agency;
 - (b) all other Applicable Laws relating to privacy and personal information that apply to the City and/or the Agency including, without limitation, PIPEDA and PIPA (as defined in Section 17.3 below);
 - (c) all statutes which govern the issuance of licenses to the Agency to permit the Agency to carry on the business of a debt collection agency; and
 - (d) the *Business Practices and Consumer Protection Act* (British Columbia).

9.0 RELEASE AND INDEMNIFICATION

- 9.1 The Agency now releases the City, its officials, officers, employees and agents from all costs, losses, damages and expenses, including those caused by personal injury, death, property damage, loss and economic loss arising out of, suffered or experienced by the Agency, its Sub-contractors, and their respective officers, employees and agents in connection with their performance of the Services under this Agreement.
- 9.2 The Agency hereby agrees to indemnify and save harmless the City and its successors, assigns and authorized representatives and each of them (in each case an "Indemnified Party") from and against all costs, losses, claims, damages, actions, and causes of actions (collectively referred to as "Claims") that an Indemnified Party may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of or are related to:
- (a) the Agency's performance of its obligations under this Agreement;
 - (b) the Agency's failure to perform any of its obligations under this Agreement; and
 - (c) the errors, omissions or negligent acts of the Agency, its Sub-contractors, or their respective officers, employees or agents,
- excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of an Indemnified Party.
- 9.3 This indemnity will not affect or prejudice the City from exercising any other rights that may be available to it at law or in equity.
- 9.4 The release and indemnity set out above will survive the expiry or sooner termination of this Agreement.

10.0 INSURANCE

[Note: In addition to the requirements set out below, the lead proponent will also be required to carry liability insurance acceptable to the City covering a breach of any of the Agency's obligations under Section 17, Section 18, Schedule B and Schedule D relating to data security, protection of personal information and protection of confidential information. Upon the City having more specific information about the proponents and their proposals, the City's Risk Management department will determine what type of policy, and what terms, would be acceptable. At such time, the City may also revisit and revise, the terms and minimum coverage thresholds set out below to better suit the circumstances at that time.]

- 10.1 The Agency will purchase and maintain in force and for the duration of this Agreement the following policies of insurance:
- (a) a Professional (Errors and Omissions) Liability insurance policy, protecting the Agency against all claims for loss or damage arising out of any wrongful act, error or omission of the Agency in the performance of the Services, with:
 - (i) limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and
 - (ii) a deductible of not more than \$50,000.

- (b) a Comprehensive General Liability insurance policy, protecting the Agency against all claims for personal injury, death, bodily injury or property damage arising out of the Agency's performance of the Services, with:
 - (i) limits of not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate;
 - (ii) a deductible of not more than \$5,000; and
 - (iii) a cross liability clause in favour of the City and naming the City as an additional insured.
 - (c) A Comprehensive Dishonesty, Disappearance and Destruction insurance policy including:
 - (i) Employee Dishonesty (Form A) coverage, with a third party endorsement extending the coverage to the City, in the aggregate amount of \$250,000 or the maximum amount of money or securities at risk at each or any one location, whichever is greater, resulting from one or more fraudulent acts committed by an employee, subcontractor, or agent of the Agency; and
 - (ii) Broad Form Money and Securities coverage with limits of not less than \$25,000.
- 10.2 All required insurance policies will remain in full force and effect at all times until completion of the Services and will:
- (a) be obtained and issued by insurance companies authorized to carry on business in British Columbia, on terms satisfactory to the City's Director of Risk Management;
 - (b) be primary insurance in respect to the City and any insurance or self-insurance maintained by the City will be in excess of this insurance and will not contribute to such policies; and
 - (c) contain a provision that such insurance coverage will not be cancelled or changed materially without the insurer giving the City at least 60 days' prior written notice.
- 10.3 Prior to the commencement of Services the Agency will provide the City with evidence of the required insurance to be taken out in a form satisfactory to the City.
- 11.0 WORKSAFEBC**
- 11.1 The Agency agrees that it will procure and carry and pay for, full WorkSafeBC coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this Agreement. The Agency agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafeBC coverage against any monies owing by the City to the Agency. The City will have the right to withhold payment under this Agreement until the WorkSafeBC premiums, assessments or penalties in respect of work done or service performed in fulfilling this Agreement have been paid in full.
- 11.2 The Agency will provide the City with the Agency's and each Sub-contractor's WorkSafeBC registration number and clearance letters from WorkSafeBC confirming that the Agency and each Sub-contractor are registered in good standing with WorkSafeBC and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this Agreement. The Agency will indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafeBC assessments owing from any person or corporation engaged by the Agency in

the performance of this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafeBC, including penalties levied by WorkSafeBC.

12.0 CITY INFORMATION/APPROVALS

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

13.0 COMMUNICATION BETWEEN AGENCY AND CITY

- 13.1 The City appoints Bonnie Penny as the City's Project Manager for the purposes of this Agreement.
- (a) In the event of the revocation in writing of Bonnie Penny's appointment as the City's Project Manager by the City, Bonnie Penny will have no further authority under this Agreement, except as may be specifically designated in writing by the City and agreed to in writing by the City's Director of Financial Services, and all references to the City's Project Manager in this Agreement will thereafter be deemed to be a reference to the City or to such other person designated in writing by the City to the Agency.
 - (b) The City's Project Manager may from time to time delegate to a representative the performance of or the authority to perform the duties, responsibilities, rights and obligations of the City in respect of which the City's Project Manager has been designated and appointed its sole and exclusive agent.
- 13.2 The Agency appoints [] as its representative for the purposes of this Agreement (the "Agency's Project Manager").
- 13.3 Unless otherwise agreed to in writing by the Parties, all material communication between the Agency and the City regarding this Agreement, including performance of the Services, will be between the City's Project Manager and the Agency's Project Manager.

14.0 TERM AND RENEWAL OF AGREEMENT

- 14.1 This Agreement will commence on the Effective Date and will terminate on the 5th anniversary of the Effective Date (the "Term"). The City may renew or extend this Agreement on the same terms in its sole discretion by written notice to the Agency. Even if the City elects not to renew or extend this Agreement, the City may, by written notice to the Agency, extend this Agreement for a period of up to one year in order to allow the City to carry out an orderly procurement process in accordance with the City's procurement policies. If the City renews or extends this Agreement, the Term of the Agreement will be extended to cover such renewal or extension period.

15.0 TERMINATION

- 15.1 Subject to Section 15.2 below, the City may terminate this Agreement if the Agency is in breach of any of its obligations under this Agreement and the Agency does not remedy such breach within ten (10) days of written notice of such breach from the City. Notwithstanding the foregoing, the City may, at any time and for any reason, terminate this Agreement by giving not less than thirty (30) days prior written notice to the Agency.

15.2 Notwithstanding Section 15.1 above, the City may terminate this Agreement if the Agency is in breach of its obligations under Section 17.10 regarding PCI Standards. If at any time during the Term of this Agreement the Agency is in default of its obligation to comply with PCI Standards or is in default of its obligation to deliver an Attestation of Compliance to the City, the Agency will have thirty (30) days of becoming aware of such default (acting reasonably) to remedy the default. In order to remedy such default, the Agency shall, as applicable, deliver the required Attestation of Compliance to the City within the remedy period, or, if the default is non-compliance with PCI Standards, the Agency shall do the following within the remedy period (or such long period as the City may agree in writing):

- (a) deliver a written remedy plan to the City setting out all compliance deficiencies, necessary steps and a timeline to remedy each deficiency;
- (b) after each deficiency is remedied, deliver a new and current Attestation of Compliance evidencing the Agency's full compliance.

If the Agency does not comply with the foregoing to the City's satisfaction within the remedy period (or such longer period as the City may agree in writing), the City may terminate this Agreement by giving not less than ten (10) days prior written notice to the Agency.

15.3 Prior to the termination of this Agreement, the Agency will cooperate with the City in order to reconcile and make final adjustments to the flow of funds to/from the Agency and the City.

15.4 Upon termination of this Agreement pursuant to Section 14 or this Section 15, the Agency will only be entitled to receive Commissions on payments received by the City prior to the date of termination or that are received by the Agency within thirty (30) days after the date of termination. If the Agency receives any payments more than thirty (30) days after the date of termination, the Agency shall remit such payments in full, without any deduction for Commissions or any other amount, to the City.

16.0 ASSIGNMENT

16.1 The Agency will not assign this Agreement in whole or in part except with the prior written consent of the City.

17.0 SECURITY AND PRIVACY OBLIGATIONS

17.1 **Application:** This Section 17.0 pertains to the obligations of confidentiality and security on the part of the Agency in respect of the Account information. In addition to this Section 17.0, additional use, access, security and privacy obligations in respect of the Account Information are set out in Schedule B - Additional Security and Privacy Requirements and Schedule D - Access to Information Agreement. As a condition of this Agreement, the Agency shall be required to execute the Access to Information Agreement at the same time as this Agreement. The Agency shall comply with all of the obligations set out in this Section 17.0, Schedule B and Schedule D.

17.2 **Acknowledgment:** The Agency acknowledges that the Account Information is comprised of the personal information of each of the Account debtors and any unauthorized disclosure or use of such information could result in irreparable and significant harm to such debtors and the City.

17.3 Privacy Legislation and Obligations

- (a) The City is subject to the provisions of FOIPPA which imposes significant obligations on the City and its contractors to protect all personal information acquired from the City or

obtained independently in the course of providing services to the City. The Agency confirms and acknowledges its obligations to comply with all of the provisions of FOIPPA that apply to the City. The Agency further confirms and acknowledges its obligations to comply with all other Applicable Laws relating to privacy and personal information including, without limitation, the provisions of the *Personal Information Protection and Electronic Documents Act* (Canada) ("PIPEDA") and the *Personal Information Protection Act* (British Columbia) ("PIPA") in relation to any personal information (as defined in such Acts) contained in the Account Information.

- (b) The Agency has implemented appropriate or will implement appropriate security measures to comply with FOIPPA, PIPEDA, PIPA and the terms of this Agreement. Schedule C sets out examples of the security measures implemented by the Agency as of the date of this Agreement.
- (c) The Agency agrees that all Account Information provided to the Agency under this Agreement contains "personal information" and is "under the control" of the City for the purposes of FOIPPA. The City is only transferring physical custody of the Account Information to the Agency, not control of that information, and the authority over the use, disclosure, access, destruction and integrity of the Account Information remains with the City. At any time during the Term of the Agreement, the City may exercise the foregoing control over the Account Information by notice in writing to the Agency and the Agency shall comply with the instructions in the City's notice.
- (d) Any requests for access to information made to the Agency pursuant to FOIPPA shall be kept confidential and shall be directed to the City together with copies of all relevant records within seven (7) days of the request. In the case of an access to information request made to the City, the Agency shall deliver copies of all relevant records within seven (7) days of notification by the City and shall comply with all other requests of the City.
- (e) All Account Information shall be treated as confidential and is supplied to the Agency only for the purpose of fulfilling the obligations under this Agreement. This obligation shall survive the expiry or termination of this Agreement. No Account Information shall be disclosed unless the Agency is legally compelled to do so.
- (f) The Agency shall not sub-contract any obligations to be performed by the Agency under the Agreement to any other party without the prior written approval of the City. If the City allows the Agency to engage a sub-contractor, the Agency shall ensure that any sub-contractor complies with all security and privacy provisions set out in this Section 17.0, Schedule B, Schedule D and elsewhere in the Agreement.
- (g) Notwithstanding subsection 17.3(f) above, the City consents to the Agency using legally authorized agents in the United States to collect on debts owing by United States debtors provided (i) any Account Information disclosed by the Agency to such agents is information relating only to United States debtors and no Canadian debtor Account Information is disclosed, and (ii) the Agency and its agents comply with all applicable United States laws in carrying out such collection activities.
- (h) The City acknowledges that the Agency will be using certain third party tracing and information scrubbing agencies to assist the Agency in finding correct contact information on certain Account debtors and that the Agency will disclose an Account debtor's name and address to such third party agencies. The City consents to the use of the third party

agencies pre-approved in writing by the City and set out in Schedule A provided the Agency ensures that all such third parties comply with all security, privacy and confidentiality obligations set out in this Section 17.0, Section 18.0, Schedule B, Schedule D and elsewhere in this Agreement. The Agency is responsible for making all third party scrubbing and tracing agencies aware of the security, privacy and confidentiality requirements of this Agreement and the Agency will be responsible for any breach by such third parties of any of these requirements. The Agency will not use any third party tracing/scrubbing agencies that are not pre-approved in writing by the City and set out in Schedule A as of the date of this Agreement without obtaining the prior written approval of the City.

- (i) Once the Agency possesses or has access to Account Information, the Account Information will be stored and backed up on servers and other equipment that are owned and controlled by the Agency and that are physically located in Canada. The Account Information will be stored on the Agency's primary server, which is situated at facilities operated by the Agency located at _____. Physical access to the Agency's primary server is locked and restricted to only the Agency employees. A regularly updated and backed-up copy of the Account Information will be stored on servers and other equipment situated at facilities operated by the Agency located at _____. If the location of the Agency's primary or back-up servers change, the Agency will promptly notify the City in writing of the address of the new location. The Agency will not store the Account Information on any other server or equipment without the prior written approval of the City.
- (j) Except with the prior written approval of or instructions from the City, the Agency shall not modify, add, delete, destroy, share, match, mine, combine, manipulate or otherwise tamper with the Account Information in any way.
- (k) The Agency shall not withhold any of the Account Information to enforce payment by the City or to enforce the Agency's rights in a dispute over this Agreement.
- (l) As between the City and the Agency, the Account Information is owned by the City, and the Agency makes no claim to any right of ownership in it.
- (m) If the Agency is responsible for any loss or corruption of any Account Information, the Agency will immediately restore or recreate such Account Information and, if it is in default of such obligation, the Agency will be responsible for the City's reasonable costs and expenses to restore or recreate such lost or corrupt data.

17.4 **Authorized Purposes:** The Agency may only use Account Information during the Term of this Agreement for the purposes of collecting on such Accounts in accordance with the terms of this Agreement and for no other purpose ("**Authorized Purposes**"). The Agency will not develop or maintain a database of Account Information for future reference. The Agency will permanently delete and destroy all Account Information retained by it for the Authorized Purposes in accordance with the terms of this Agreement.

17.5 **Restricted Access**

- (a) The Agency will permit access to Account Information only to those employees who need such access in order to carry out the Authorized Purposes (the "**Authorized Employees**"). The Agency will at all times maintain a current list of Authorized Employees. The Agency will provide the City with the list of Authorized Employees within one (1) month of the date of

this Agreement, and thereafter will promptly provide an updated list to the City upon request.

- (b) The Agency will at all times have in place a knowledgeable senior person within its organization to be responsible for, or, and to have the authority to ensure, compliance with the terms of the Agreement and, in particular, compliance with this Section 17.0, Schedule B and Schedule D (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. As of the date of this Agreement, the Agency hereby designates _____ as the Compliance Representative. The Agency will promptly advise the City of any change to the Compliance Representative.

17.6 Security: The Agency will have appropriate physical, organizational and technological security measures in place to ensure that all Account Information is collected, accessed, used, disclosed and destroyed only by Authorized Employees, including without limitation:

- (a) restricted access to records containing paper copies of Account Information;
- (b) restricted access to Account Information 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 Account Information will be capable of providing an audit trail and user access logs, which logs will be retained by the Agency during the Term of this Agreement and for at least two (2) years following its expiry or termination.
- (d) The Agency must ensure that the data centre and servers containing the Account Information meets the following physical and electronic security requirements:
 - (i) single point of entry;
 - (ii) main access monitored with additional access for emergency purposes only;
 - (iii) surveillance cameras in physical data centre facility/room;
 - (iv) access validation with identity check;
 - (v) access only to persons on the Agency approved access list;
 - (vi) log-in validation;
 - (vii) creation of accounts only as verified by the Agency;
 - (viii) access to servers via encrypted means; and
 - (ix) servers running behind secure firewall.

17.7 No Storage, Access or Transmission outside Canada:

- (a) Subject to the exception set out in subsection 17.7(b) below, the Agency will not (i) store Account Information outside Canada, (ii) have Account Information accessible from

outside Canada, (iii) transmit Account Information outside Canada, or (iv) otherwise permit any Account Information to leave Canada.

- (b) Notwithstanding the above, the Agency is permitted to transmit Account Information relating only to United States debtors to the United States provided (i) the Agency does so solely for the purposes of collecting amounts owing by such debtors to the City as permitted under Applicable Laws and this Agreement, and (ii) the Agency complies with all applicable United States laws regarding the Agency's handling of such information.

17.8 Account Information Retention and Destruction:

- (a) **Agency's Retention and Destruction:** The Agency shall retain Account Information or any records of Account Information in any form whatsoever (including without limitation hard copy or electronic formats) for one year after the debt related to such Account Information (i) has been collected, or (ii) is not actively being pursued. During this period of time, the Agency shall hold such Account Information in compliance with the security, privacy and confidentiality requirements of this Agreement. Upon the expiry of the one year period, the Agency will permanently and securely delete and destroy the Account Information and all records thereof in a manner that is appropriate for the media so that the Account Information or any portion of it cannot be subsequently retrieved, accessed or used by the Agency or any other person. After the Account Information is destroyed, the Agency shall deliver a notice in writing (in form and substance satisfactory to the City) to the City confirming such destruction.
- (b) **Scrubbing/Tracing Agencies' Retention and Destruction:** Unless otherwise agreed to by the City in writing, the Agency shall ensure that any third party scrubbing/tracing agencies only retain Account Information for one year after the debt related to such Account Information (i) has been collected, or (ii) is not actively being pursued. During this period of time, the Agency shall ensure that such Account Information is held by such third party agencies in compliance with the security, privacy and confidentiality requirements of this Agreement. Unless otherwise agreed to by the City in writing, the Agency shall further ensure that, upon expiry of the one year period, such third party agencies will permanently and securely delete and destroy the Account Information and all records thereof in a manner that is appropriate for the media so that the Account Information or any portion of it cannot be subsequently retrieved, accessed or used by any one. At the City's request, the Agency shall deliver a notice in writing (in form and substance satisfactory to the City) to the City confirming such destruction by any of the third party agencies.

17.9 Inspection and Compliance

- (a) During this Agreement and during the period of time that the Agency is permitted by this Agreement to retain Account Information, the City's authorized representative may, on reasonable notice and during regular business hours, enter the Agency's premises and/or will be given access to the Agency's computer systems to inspect any Account Information in the possession of the Agency or any of the Agency's information management policies or practices relevant to its compliance with this Agreement.
- (b) The City may request the Agency to provide a written certificate confirming the Agency's compliance with all obligations under this Agreement, and if so requested, the Agency will within ten (10) business days either:

- (i) provide such certificate; or
- (ii) provide a notice of non-compliance in accordance with section 17.10(a).
- (c) The Agency will promptly forward to the City any records that the City may request in order to review whether the Agency is complying with this Agreement.
- (d) If requested by the City, the Agency will appoint an independent, external auditor at the Agency's expense to review the Agency's information and security practices under this Agreement. The Agency will provide copies of the results of any such audit to the City within seven (7) days of receiving the auditor's report.
- (e) The Agency will promptly and fully comply with any investigation, review, order or ruling of the Office of the Information and Privacy Commission (British Columbia) in connection with the Account Information.

17.10 Compliance with PCI Standards

- (a) The Agency shall comply with all PCI Standards applicable to the Agency throughout the Term of this Agreement.
- (b) To evidence continuous compliance, the Agency shall, at the Agency's expense on an annual basis, within 30 days after the end of each 12 month period of the Term, deliver to the City a duly completed and current Attestation of Compliance certifying it is compliant with PCI Standards and any other documentation as may be requested by the City for the purposes of ensuring the Agency's compliance with PCI Standards.
- (c) If at any time during the Term of the Agreement the Agency is not fully compliant with all PCI Standards applicable to the Agency, the City will have the right to terminate this Agreement in accordance with Section 15.

17.11 Indemnity and Non-Compliance

- (a) The Agency will immediately notify the City in writing of any non-compliance or anticipated non-compliance with this Agreement and will further inform the City of all steps the Agency proposes to take to address and prevent recurrence of such non-compliance or anticipated non-compliance.
- (b) the Agency will indemnify and save harmless the City, its directors, officers, employees and agents from any costs, damages, or actions, civil or criminal, including reasonable legal fees and settlement costs, that may arise as a result of the breach by the Agency of any of its obligations under this Agreement, including without limitation the breach of Section 17, Section 18, Schedule A or Schedule B by the Agency, any of its permitted sub-contractors or any of its permitted third party information tracing/scrubbing agencies.

17.12 **Survival:** The obligations in this Section 17.0, Schedule B and Schedule D shall survive the expiration or earlier termination of this Agreement.

18.0 GENERAL CONFIDENTIALITY OBLIGATIONS

- 18.1 The confidentiality obligations set out in this Section 18.0 are in addition to the Agency's obligation to comply with FOIPPA, PIPEDA, PIPA and the other security and privacy obligations set out in this Agreement.
- 18.2 In the course of or for the purpose of performing the Services, the Agency will obtain or have access to information, including but not limited to the Account Information, other personal information as well as possibly financial and business information that is confidential to the City (collectively "**Confidential Information**"). Confidential Information includes all information, in whatever form, other than:
- (a) information which is in, or becomes part of, the public domain, not due to the Agency's breach of this Agreement or the Agency's actions;
 - (b) information which was previously in the Agency's possession and did not originate from the City; and
 - (c) information which lawfully becomes available to the Agency from a third party not under an obligation of confidence to the City regarding such information.
- 18.3 The Agency will not use or reproduce the Confidential Information other than as reasonably required for the performance of the Services under this Agreement. The Agency will not, without the prior written consent of the City given on such terms and conditions as it prescribes in its sole discretion, disclose or allow access to the Confidential Information to any person, except to only those of its own employees who have a need to know the Confidential Information solely for the provision of the Services, and who have been advised of its confidential nature and have agreed to be bound by the confidentiality and restricted use provisions in this Section. The Agency will take all reasonable precautions against the Confidential Information being used by or disclosed to any unauthorized person.
- 18.4 If the Agency is required by any law, legal proceeding, or court or government order, to disclose any Confidential Information, the Agency shall limit its disclosure of such Confidential Information to the extent and purpose legally required, provided that prior to any disclosure the Agency will promptly notify the City in writing of the existence and the terms, and conditions of the required disclosure and, at the City's request and expense, co-operate in obtaining a protective order or other assurance that confidential treatment and restricted use will be accorded such Confidential Information.
- 18.5 The City is subject to FOIPPA, which imposes significant obligations on the City's contractors to protect all personal information acquired from the City or obtained independently in the course of providing services to the City. The Agency confirms and acknowledges its obligations to comply with all obligations imposed on it pursuant to FOIPPA with respect to all personal information received from the City or obtained independently pursuant to this Agreement whether as part of the Confidential Information or otherwise.
- 18.6 The Agency acknowledges that in the event of a breach by the Agency or any of its employees of their respective confidentiality obligations pursuant to this Section, damages alone would not be an adequate remedy. The Agency therefore agrees with the City that, in addition to and without limiting any other right or remedy it may have, the City will have the right to an immediate injunction or other available equitable relief in any court of competent jurisdiction enjoining any threatened or actual breach of such obligations.

18.7 The Agency shall return all copies of the Confidential Information to the City, in all tangible forms and media, and delete all Confidential Information resident in any databases or systems, upon the earliest of the following dates:

- (a) completion of the Services;
- (b) expiration or earlier termination of this Agreement; and
- (c) written request of the City for return of the Confidential Information;

provided that the Agency shall have the right to retain copies of the Confidential Information to the extent required by Applicable Law.

18.8 This Section 18.0 shall survive the expiration or earlier termination of this Agreement.

19.0 WARRANTIES

19.1 The Agency represents and warrants that, as of the date of this Agreement, the Agency:

- (a) has full right, power and authority to enter into this Agreement and to perform its obligations under it;
- (b) is not under any obligation, contractual or otherwise, to request or obtain the consent of any person in order to enter into this Agreement and to perform the Agency's obligations under it;
- (c) is a corporation, duly organized, legally existing, in good standing and has not been dissolved under the laws of the Province of Quebec and is lawfully registered and licensed to do business in the Province of British Columbia;
- (d) has the necessary corporate power to own its properties and assets and to carry on its business as it is now being conducted and to enter into this Agreement;
- (e) is not a party to, bound by or subject to, any indenture, agreement (written or oral), instrument, license, permit, law, understanding or other obligation or restriction under the terms of which the execution, delivery or performance of this Agreement will constitute or result in a violation or breach or default;
- (f) is duly licensed, and is in good standing in respect of such license, and throughout the Term of this Agreement the Agency shall ensure it is duly licensed and in good standing in respect of such license, to carry on the business of a debt collection agency and to perform its obligations under this Agreement in each of the provinces and territories of Canada;
- (g) is legally authorized to pursue United States debtors in the United States either through one or more duly issued licenses, a legally authorized affiliate or otherwise;
- (h) has ensured that the data security, privacy and confidentiality policies and measures implemented by the third party information scrubbing and tracing agencies set out in Schedule A-3 of Schedule A are sufficient to satisfy the requirements of this Agreement, FOIPPA and other applicable privacy laws; and
- (i) all other representations and warranties made by the Agency in this Agreement are true and accurate.

The above representations and warranties shall survive and be in effect throughout the Term of this Agreement.

20.0 NO PROMOTION OF RELATIONSHIP

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

21.0 NOTICES

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

- (a) if to the City:

City of Vancouver
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Attention: Associate Director - Revenue Services
Fax No.: (604) 873-7051

with copies to:

City of Vancouver
515 West 10th Avenue, Suite 401
Vancouver, BC

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

and:

City of Vancouver
City Hall, 3rd Floor
453 West 12th Avenue
Vancouver, BC V5Y 1V4

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

(b) if to the Agency:

[insert name and address]

Attention: [insert name and title]

Fax No.: [insert fax number]

E-mail: [insert e-mail address]

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

22.0 NO CONFLICT OF INTEREST

22.1 The Agency agrees that during the Term the Agency will not engage in any conduct which would or might put the interests of the City into conflict with the interests of any other person, whether or not a client of the Agency's. Without limiting the general scope of this Section and by way of example only, the Agency is prohibited from and will not provide any services which assist or could be seen to be assisting any person in responding to a request for proposal or invitation to tender, or otherwise giving that person an unfair competitive advantage over other proponents or tenderers responding to a request for proposal or invitation to tender by the City. The Agency now acknowledges that a breach of this Section could constitute not only a breach of this Agreement but also a violation of the *Competition Act* (Canada) and *Criminal Code* of Canada, and accordingly, could be punishable as a crime (as well as a breach of contract).

22.2 The Agency now confirms and warrants that there is no officer, director, shareholder, partner or employee or other person related to the Agency's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is (a) an elected official or employee of the City or (b) related to or has any business or family relationship with an elected official or employee of the City, such that there would be any conflict of interest or any appearance of a conflict of interest in the administration of this Agreement or the performance of the Services.

23.0 GOVERNING LAW AND RESOLUTION OF DISPUTES

23.1 This Agreement will be governed by the laws of the Province of British Columbia and the courts of British Columbia will have exclusive jurisdiction to determine all disputes arising under this Agreement and the Parties now irrevocably agree to submit all disputes to the courts of British Columbia for resolution.

24.0 INDEPENDENT CONTRACTOR

24.1 This Agreement is a contract for services and the Agency, its permitted Sub-contractors, and the officers, directors, shareholders, partners, personnel, affiliates and agents of the Agency and its permitted Sub-contractors are not, nor are they deemed to be, partners, appointees, employees or agents of the City.

24.2 The Agency and its employees will not represent to anyone that the Agency or any of the Agency's employees has any authority to bind the City in any way or that the Agency or any employee of the Agency is an employee or agent of the City.

25.0 INDEPENDENT LEGAL ADVICE

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

26.0 TIME FOR PERFORMANCE

- 26.1 **Time of the Essence:** Time shall be of the essence of this Agreement.
- 26.2 **Unavoidable Delay:** Except for the performance of obligations to pay money, the time periods for the City and the Agency to perform under this Agreement will be extended for periods of time during which their performance is delayed or prevented due to an Unavoidable Delay. For the purposes of this Section, an "Unavoidable Delay" means any circumstances beyond the reasonable control of the party trying to perform (such as, for example, strikes/lockouts, acts of God, war or other strife or governmental action) but expressly excludes any and all delays caused by the Agency's lack of financial resources or insolvency or strikes, lockouts or other withdrawals of services arising out of a labour dispute (including a strike, lockout, or other labour dispute involving the Vancouver Board of Parks and Recreation and/or the City of Vancouver and their respective employees) or labour affiliations of the Agency's employees or Sub-contractor's employees, or governmental action taken in the enforcement of law specifically against the Agency or its Sub-Contractors. If an Unavoidable Delay occurs, the non-performing party will, as soon as possible after the occurrence of the Unavoidable Delay, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of its obligations under this Agreement.

27.0 GENERAL

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

representations and agreements, whether oral or written, with respect to the subject matter hereof.

- 27.6 **Amendment:** This Agreement shall not be amended except as specifically agreed in writing by both the City and the Agency.
- 27.7 **Joint and Several Liability of Joint Venture Participants:** If the Agency is a joint venture of two or more entities, it is understood and agreed that the grants, covenants, provisos, claims, rights, powers, privileges and liabilities of the entities who comprise the Agency shall be joint and several.
- 27.8 **Schedules:** The schedules attached hereto are incorporated by reference in and form an integral part of this Agreement.
- 27.9 **Set-Off:** The City may at its option, withhold and set-off against any amount owing to the Agency (whether under this Agreement or otherwise) any amounts payable by the Agency to the City (whether under this Agreement or otherwise) and the amount of any damages suffered or claims made or to be made by the City as a result of any other claim it may have against the Agency, whether such claim is at law or in equity or tort or on any other basis.
- 27.10 **Enurement:** This Agreement shall enure to the benefit of and be binding upon the City and the Agency and their respective successors and permitted assigns.

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

CITY OF VANCOUVER
by its authorized signatories:

Print Name:
Title:

Print Name:
Title:

[AGENCY]
by its authorized signatory:

Print Name:
Title:

SCHEDULE A

SCOPE OF WORK AND RELATED SCHEDULES

[NOTE: AGREED SCHEDULE TO BE INSERTED]

This Schedule A and all of the attached schedules set out Services that will be provided by the Agency. The following schedules are attached to this Schedule A:

- Schedule A-1 - Flow Diagram of Collection Process
- Schedule A-2 - Description of Collection Procedures
- Schedule A-3 - Description of Scrubbing and Skip Trace Procedures
- Schedule A-4 - Description of Agency Reporting Requirements to the City
- Schedule A-5 - Assignment of Accounts, Payment of Collected Funds and Information Transfer
- Schedule A-6 - Handling of Accounts with Special Circumstances
- Schedule A-7 - Description of Debtor Payment Options
- Schedule A-8 - Description of Complaint Handling Process
- Schedule A-9 - Description of Process to Withdraw and Close Accounts
- Schedule A-10 - Description of Collection of Funds

[Note: The City proposes to use the above approach to organize and document the various methods used by the successful proponent to provide its services. This Schedule A and the related schedules will be completed, agreed and attached to the Agreement during the contract negotiations with the successful proponent.]

SCHEDULE B

ADDITIONAL SECURITY AND PRIVACY REQUIREMENTS

[NOTE: TO BE INSERTED]

SAMPLE

SCHEDULE B

ADDITIONAL SECURITY AND PRIVACY REQUIREMENTS

Capitalized terms used in this document will have the meanings given below or in the Agreement. Agency 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) and Confidential Information acquired or accessed by Agency in connection with the Agreement.

1.0 GENERAL

1.1 **Acknowledgment:** Agency acknowledges that under this Agreement, it will acquire or have access to "personal information", as such term is defined in the *Freedom of Information and Protection of Privacy Act* (British Columbia) ("FOIPPA"). Agency further acknowledges that both the City and Agency have obligations under FOIPPA to protect such information and that any unauthorized disclosure or use of such information could result in irreparable and significant harm to the City.

1.2 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 Agency) to protect all personal information acquired from the City or obtained independently in the course of providing services to the City. Agency confirms and acknowledges its obligations to comply with the provisions of FOIPPA. Agency further confirms and acknowledges its obligations to comply with all other applicable laws relating to privacy and personal information including the *Personal Information Protection Act* (British Columbia) ("PIPA") in relation to any personal information (as defined in such Act) to which Agency has access under this Agreement.
- (b) Agency 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 and PIPA, as well as to comply with the terms of this Agreement.
- (c) Agency agrees that all personal information to which Agency 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 Agency, not control of that information, and the authority over the use, disclosure, access, 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 Agency and Agency shall comply with the instructions in the City's notice.
- (d) If an access to information request is made to Agency under applicable laws relating to privacy and personal information, Agency 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, provided Agency is not prohibited by applicable laws from doing so, direct such information request to the City for the City to handle. In the case of (ii), Agency shall, at the City's expense, deliver to the City copies of all relevant records within seven (7) days of notification by the City and shall comply with all other requests of the City.

- (e) In the case of an access to information request made to the City, Agency, at the City's expense, shall deliver to the City copies of all relevant records within seven (7) days of notification by the City and shall comply with all other requests of the City.
- (f) All personal information shall be treated as confidential and is supplied to Agency 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 Agency is legally compelled to do so and having first challenged that requirement and given the City an opportunity to challenge that requirement.
- (g) Agency shall not sub-contract any obligations to be performed by Agency under the Agreement to any other party other than as permitted under the Agreement. If the City allows Agency to engage a sub-contractor, Agency shall ensure that any sub-contractor complies with all provisions of this document.
- (h) Once Agency possesses or has access to personal information or Confidential Information, such information will be stored and backed-up on servers and other equipment that are owned or controlled by Agency and that are physically located in Canada. Physical access to Agency's servers are locked and restricted to only Agency employees and authorized agents. If the location of Agency's primary or back-up servers change, Agency will promptly notify the City in writing of the address of the new location. Agency will not store any such information on any other server or equipment without the prior written approval of the City.
- (i) Except with the prior written approval of or instructions from the City, Agency shall not modify, add, delete, destroy, share, match, mine, combine, manipulate or otherwise tamper with the in any way.
- (j) Agency shall not withhold any personal information or Confidential Information to enforce payment by the City or to enforce Agency's rights in a dispute over this Agreement.
- (k) As between the City and Agency, the personal information and Confidential Information is owned by the City, Agency hereby agrees to hold such information in trust for the City, and Agency makes no claim to any right of ownership in it.
- (l) In the event any governmental authorities under applicable privacy laws or otherwise make inquiries to the City or Agency or take any actions in respect of the personal information or Confidential Information, Agency will, upon the City's request, cooperate with such governmental authorities. If such governmental authorities make inquiries or requests of Agency, Agency 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 Agency to such governmental authorities.

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

1.4 **Restricted Access**

- (a) Agency will permit access to personal information and Confidential Information only to those employees who need such access in order to carry out the Authorized Purposes (the "**Authorized Employees**"). Agency will at all times maintain a current list of Authorized

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

- (b) Agency will at all times have in place a knowledgeable senior person within its organization to be responsible for, or, and 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, Agency will notify the City in writing as to the name of the Agency Compliance Representative. Agency will promptly advise the City of any change to the Compliance Representative.

1.5 **Security:** Agency 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 Confidential Information 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 Confidential Information;
- (b) restricted access to personal information and Confidential Information 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 Confidential Information will be capable of providing an audit trail and user access logs, which logs will be retained by Agency during the term of this Agreement and for at least two (2) years following its expiry, termination, or destruction of the personal information and Confidential Information.
- (d) Agency must ensure that the data centre and servers containing the personal information and Confidential Information meets the following physical and electronic security requirements:

1.5.d.1 single point of entry;

1.5.d.2 access only to persons on Agency approved access list;

1.5.d.3 log-in validation;

1.5.d.4 creation of accounts only as verified by Agency;

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

1.5.d.6 servers running behind secure firewall.

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

- (a) Subject to the exception set out in subsection 1.6(b) below, Agency will not (i) store personal information or Confidential Information outside Canada, (ii) have personal information or Confidential Information accessible from outside Canada, (iii) transmit personal information or Confidential Information outside Canada, or (iv) otherwise permit any personal information or Confidential Information to leave Canada.

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

- 1.6.b.1 such disclosure is necessary for Agency to provide the support services as contemplated under the Agreement;
- 1.6.b.2 such disclosure is limited to temporary access and storage by Agency or its authorized contractor outside of Canada for the minimum time necessary for the purpose set out in (i);
- 1.6.b.3 once the purpose of disclosure is fulfilled, all applicable personal information accessed or retained by Agency or its authorized contractor is irrevocably and permanently destroyed and deleted and, if requested by the City, Agency has certified the foregoing in writing (with the City having a right to audit or verify the foregoing, acting reasonably);
- 1.6.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 Agency;
- 1.6.b.5 Agency complies with all applicable laws outside Canada regarding Agency's disclosure and handling of such information; and
- 1.6.b.6 upon request by the City, acting reasonably, Agency cooperates in good faith in facilitating the audit or verification of Agency's compliance with the foregoing by the City.

1.7 Information Retention, Transfer to the City and Destruction:

- (a) **Agency's Retention, Transfer to the City and Destruction:** Agency is only permitted to retain personal information and Confidential Information 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, Agency shall hold all such information in compliance with the security, privacy and confidentiality requirements of this Agreement. At any time during the term of this Agreement and for a period of one year after the end of the term, Agency 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, Agency 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 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 Agency or any other person. After all such information is transferred to the City and subsequently destroyed, Agency shall deliver a written notice of confirmation to the City (in form and substance satisfactory to the City).

1.8 Inspection and Compliance

- (a) During this Agreement and during the period of time that Agency is permitted by this document to retain personal information and Confidential Information, the City's authorized representative may, on reasonable notice and during regular business hours, enter Agency's premises and/or will be given access to Agency's computer systems to

inspect any personal information and Confidential Information in the possession of Agency or any of Agency's information management policies or practices relevant to its compliance with this Agreement.

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

- 1.8.b.1 provide such certificate; or

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

- (c) Agency will promptly forward to the City any records that the City may request in order to review whether Agency is complying with this Agreement.
- (d) If requested by the City, acting reasonably, Agency will appoint an independent, external auditor at the City's expense to review Agency's information and security practices under this Agreement. Agency will provide copies of the results of any such audit to the City within seven (7) days of receiving the auditor's report.
- (e) Agency will promptly and fully comply with any investigation, review, order or ruling of the Office of the Information and Privacy Commission (British Columbia) in connection with the personal information and Confidential Information.

1.9 **Written Notice of Non-Compliance.** Agency 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 Agency proposes to take to address and prevent recurrence of such non-compliance or anticipated non-compliance.

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

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

2.1 Agency shall, in respect of storage of, and access to, personal information and Confidential Information:

- (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;
- (c) use physically secure areas for the storage of records and restrict access to authorized personnel;
- (d) ensure that access to documentation about computer systems that contain such information is restricted to authorized personnel;
- (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.

2.2 Agency must store personal information and Confidential Information on agreed-upon media in accordance with prescribed techniques that store such information in a form that only authorized persons may access. These techniques may include translating such information into code (encryption) or shrinking or tightly packaging such information into unreadable form (compression).

2.3 Agency shall store backup copies of personal information and Confidential Information off-site under conditions which are the same as or better than originals.

2.4 Agency shall securely segregate personal information and Confidential Information from information owned by others (including Agency), 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.

- 2.5 Agency shall ensure the integrity of personal information and Confidential Information stored, processed or transmitted through its system or network.
- 2.6 Agency shall co-operate with, and assist in, any the City investigation of a complaint that personal information or Confidential Information has been used or disclosed contrary to the terms of this Agreement, FOIPPA or any other applicable privacy or personal information laws.
- 2.7 As per section 1.8, the City shall be able to access Agency's premises and other places where Agency's servers and other equipment are located to recover any or all the City records, personal information or Confidential Information and for auditing purposes to ensure compliance with the terms of this Agreement.

SCHEDULE C

EXAMPLES OF SECURITY MEASURES IMPLEMENTED BY THE AGENCY

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE D

ACCESS TO INFORMATION AGREEMENT

[NOTE: TO BE INSERTED]

SAMPLE

ACCESS TO INFORMATION AGREEMENT

DATED for reference as of _____, 2017

This Agreement is required pursuant to an Information Sharing Agreement between the City of Vancouver (the "City") and the Insurance Corporation of British Columbia (the "ICBC Information Sharing Agreement"). This Agreement sets out the conditions upon which the City will disclose certain personal information and other information to the Agency in accordance with the ICBC Information Sharing Agreement and FOIPPA for the sole purpose of enabling the Agency to carry out its obligations under a Collection Services Agreement entered into with the City on the same date as this Agreement (the "Collection Agreement").

| | | |
|--|------------------|-------------|
| Name of Agency | | |
| Address | | |
| City | | |
| Type of Business | Province | Postal Code |
| Name of administrative contact | Telephone Number | Fax Number |
| Email Address | BC Online Number | |
| Compliance Representative at date of this Agreement (Name and title) | Telephone Number | Fax Number |

The parties hereby agree as follows:

1. Definitions

1.1 In this Agreement:

- (a) "**personal information**" has the meaning set out in FOIPPA, and refers only to personal information disclosed by the City to Agency pursuant to this Agreement;
- (b) "**FOIPPA**" means the *Freedom of Information and Protection of Privacy Act* of British Columbia, as amended from time to time; and
- (c) "**OIPC**" means the Office of the Information and Privacy Commissioner of British Columbia.

2. Scope

- 2.1 This Agreement applies to all personal information disclosed by the City to Agency, in whatever form and however sent or received, for the sole purpose of enabling the Agency to carry out the Authorized Purposes (as defined below). This Agreement establishes standards of conduct for Agency in the management of the personal information disclosed hereunder. Agency acknowledges and agrees that, as a service

provider to the City, Agency is also subject to the requirements of FOIPPA and that the terms of this Agreement are supplemental to the Agency's obligations under FOIPPA.

- 2.2 Agency acknowledges that the City is a public body governed by FOIPPA, and that the disclosure of personal information by the City to the Agency is authorized by the following section of FOIPPA:

Section 33.1 (1)(i)

3. **Term and Termination**

- 3.1 Subject to earlier termination by the City in accordance with section 3.2 below, this Agreement will terminate concurrently with the termination of the Collection Agreement.
- 3.2 The City may terminate this Agreement at any time with or without cause. Without limiting the foregoing, if Agency or any of its officers, directors, employees or agents fails to comply with this Agreement, the City may immediately:
- (a) Terminate this Agreement; or
 - (b) Suspend access and impose terms and conditions on Agency's access to, and disclosure of information under this Agreement.

4. **Information to be disclosed**

- 4.1 the City will disclose only the following personal information to Agency:
- (a) Licensing Information (plate, registration number, effective and expiry date of insurance or termination date of policy).
 - (b) Current Vehicle Description (VIN number, model year, make, model, colour, body style).
 - (c) Registered Owner Information (current name and address of registered owner, known to the City).

5. **Method for disclosure**

- 5.1 The City will disclose the information identified in section 4 via electronic transfer to the Agency.

6. **Authorized Purposes**

- 6.1 Agency may use the personal information for the sole purpose of collecting a debt or fine owing to the City in accordance with the terms of, and only during the term of, the Collection Agreement and for no other purpose (the "**Authorized Purposes**")
- 6.2 Agency will not develop or maintain a database from the personal information.

7. **Access by employees**

- 7.1 Agency will permit access to personal information only to those employees who need such access in order to carry out the Authorized Purposes (the “**Authorized Employees**”). Agency will at all times maintain a current list of Authorized Employees. Agency will provide the City with the list of Authorized Employees upon entering into this Agreement and also upon request by the City.
- 7.2 Agency will at all times have in place a knowledgeable senior person within its organization to be responsible for, and to have the authority to ensure, privacy compliance generally and compliance with this Agreement specifically (the “**Compliance Representative**”).

8. **Security**

- 8.1 Agency will have appropriate physical, organizational and technological security measures in place to ensure that personal information 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;
 - (b) restricted access to personal information 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 will be capable of providing an audit trail and user access logs, which logs will be retained by Agency during the term of this Agreement and for at least 24 months following its expiry or termination.

9. **Disclosure by Agency**

- 9.1 Except with the prior written consent of the City, which may be withheld for any reason whatsoever at the City’s sole discretion, Agency may disclose personal information only to the following persons and to no one else:
- (a) to the individual the information is about upon satisfactory proof of identity;
 - (b) to the City, its external auditors and the OIPC for the purpose of audits, investigations or review; and
 - (c) to the following third parties:

[Note: To be completed]

- 9.2 Notwithstanding the foregoing, Agency may not disclose personal information to any person outside Canada without the prior written consent of the City.
- 9.3 If the City provides written consent to Agency to disclose personal information to a third party in accordance with section 10.1, then Agency will enter into an information sharing agreement with the third party on substantially the same terms as this Agreement. Agency will provide the City with a signed copy of the information sharing agreement upon the request of the City.

10. No storage or access outside Canada

- 10.1 Agency will not store personal information in, or have personal; information accessible from, outside Canada. If Agency determines that temporary storage and access to personal information may be required outside of Canada, it will first notify the City and the parties will work together to ensure that the storage and access takes place for the minimum time necessary in the circumstances and otherwise in accordance with FOIPPA, and Agency will comply with any storage and access conditions imposed by the City.

11. Destruction

- 11.1 Subject to any statutory obligations to which Agency may be subject, Agency will not retain any personal information or any records of personal information in any form whatsoever (including without limitation hard copy or electronic formats), longer than is necessary to perform: (a) the Authorized Purposes, and (b) Agency's obligations under this Agreement. Once personal information is no longer so required, Agency will permanently and securely destroy the personal information and all records thereof in a manner that is appropriate for the media so that the personal information or any portion of it cannot be subsequently retrieved, accessed or used by Agency or any other person.

12. Inspection and compliance

- 12.1 During this Agreement and for 24 months thereafter, the City or its authorized representative may, on reasonable notice and during regular business hours, enter Agency's premises to inspect any personal information in the possession of Agency or any of the Agency's information management policies or practices relevant to its compliance with this Agreement.
- 12.2 The City may request the Agency to provide an annual written certificate confirming Agency's compliance with all obligations under this Agreement, and if so requested, Agency will within ten (10) business days either:
- (a) provide such certificate; or
 - (b) Provide a notice of non-compliance in accordance with section 15.1
- 12.3 Agency will promptly forward to the City any records that the City may request in order to review whether Agency is complying with this Agreement.
- 12.4 If requested by the City, Agency will appoint an independent, external auditor at Agency's expense to review Agency's information practices under this Agreement. Agency will provide copies of the results of any such audit to the City within seven (7) days of receiving the auditor's report.
- 12.5 Agency will promptly and fully comply with any investigation.

13.0 Accuracy and complaints

- 13.1 If an individual notifies Agency that Agency's record of the individual's personal information is incorrect, Agency will:
- (a) verify the accuracy of the personal information with the City; and
 - (b) where appropriate, advise the individual to consider making a formal request for correction to ICBC

13.2 Agency will have a written complaints procedure to deal with complaints about its information practices, and will provide a copy of the complaints procedure to the City upon request. Agency will follow its written complaints procedure in all cases when receiving a complaint, and will document each complaint and its resolution. Records of such complaints will be kept for a minimum of three (3) years from the date of the resolution of the complaint, and will be provided to the City upon request. Agency will respond in a timely manner to complaints about its information practices and, where a complaint is not resolved to the complainant's satisfaction, Agency will refer the complainant to the City or the OIPC.

14. Indemnity and Notification of Non-compliance

- 14.1 Agency will immediately notify the City in writing of any non-compliance or anticipated non-compliance with this Agreement and will further inform the City of all steps Agency proposes to take to address and prevent recurrence of such non-compliance or anticipated non-compliance.
- 14.2 Agency will indemnify and save harmless the City, its directors, officers, employees and agents from any costs, damages, or actions, civil or criminal, including reasonable legal fees and settlement costs, that may arise as a result of the breach by Agency of any of its obligations hereunder, including without limitation the use, access, disclosure, storage or destruction by Agency of personal information in breach of this Agreement.

15. General

- 15.1 The sections of this Agreement which impose obligations on the Agency concerning the use and management of personal information survive and apply after the expiry or earlier termination of this Agreement.
- 15.2 Any amendments to this Agreement must be in writing and signed by both parties.
- 15.3 This Agreement will be governed by and construed in accordance with the laws of British Columbia. The parties hereby attorn to the exclusive jurisdiction of the courts of British Columbia.

City of Vancouver

Authorized Signature

Name and title (please print)

Authorized Signature

Name and title (please print)

SCHEDULE E

PRICE AND PAYMENT

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE F

CERTIFICATES OF INSURANCE

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE G

WORKSAFE LETTER

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE H

KEY PERFORMANCE INDICATORS

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE I

SAMPLE NOTICES/LETTERS TO DEBTORS

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE J

AGENCY'S OPERATING LICENCES

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE K

IMPLEMENTATION TIMELINE

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE L

KEY PERSONNEL

[NOTE: AGREED SCHEDULE TO BE INSERTED]

SAMPLE

SCHEDULE M

CITY'S RFP

[NOTE: TO BE INSERTED]

SAMPLE

SCHEDULE N

AGENCY'S PROPOSAL

[NOTE: TO BE INSERTED]

SAMPLE