



## **REQUEST FOR PROPOSALS**

**Title:** IT Service Management Replacement

**Reference No.:** 1220-030-2024-049

**FOR PROFESSIONAL SERVICES (CONSULTANT)**

(General Services)  
Issuance Date: November 19, 2024

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## REQUEST FOR PROPOSALS

### 1. INTRODUCTION

#### 1.1 Purpose

The purpose of this request for proposals (“**RFP**”) is to select a service provider (or service providers) to perform the services (“**Services**”) described in Schedule A.

#### 1.2 Definitions

In this RFP the following definitions shall apply:

“**BC Bid Website**” means [www.bcbid.gov.bc.ca](http://www.bcbid.gov.bc.ca);

“**City**” means the City of Surrey;

“**City Representative**” has the meaning set out in Section 2.5;

“**City Website**” means [www.surrey.ca](http://www.surrey.ca);

“**Closing Time**” has the meaning set out in Section 2.1;

“**Contract**” means a formal written contract between the City and a Preferred Proponent to undertake the Services, the preferred form of which is attached as Schedule B;

“**Evaluation Team**” means the team appointed by the City;

“**Information Meeting**” has the meaning set out in Section 2.2;

“**Preferred Proponent(s)**” means the Proponent(s) selected by the Evaluation Team to enter into negotiations for a Contract;

“**Proponent**” means an entity that submits a Proposal;

“**Proposal**” means a proposal submitted in response to this RFP;

“**RFP**” means this Request for Proposals;

“**Services**” has the meaning set out in Schedule A;

“**Site**” means the place or places where the Services are to be performed; and

“**Statement of Departures**” means Schedule C-1 to the form of Proposal attached as Schedule C.

## 2. INSTRUCTIONS TO PROPONENTS

### 2.1 Closing Time and Address for Proposal Delivery

The Proponent should submit the Proposal **electronically** in a single pdf file which must be delivered by email at: [purchasing@surrey.ca](mailto:purchasing@surrey.ca)

**on or before the following date and time**

**Time: 3:00 p.m., local time**

**Date: December 12, 2024**

**(the “Closing Time”).**

Confirmation of receipt of email will be issued. Proposals that cannot be opened or viewed may be rejected. A Proponent bears all risk that the City’s receiving computer equipment functions properly so that the Proposal is received by the Closing Time.

**Note:** The maximum file size the City can receive is 10Mb. If sending large email attachments, Proponents should phone [604-590-7274] to confirm receipt.

### 2.2 Information Meeting

An information meeting will be hosted by the City Representative to discuss the City’s requirements under this RFP (the “Information Meeting”). While attendance is at the discretion of Proponents, Proponents who do not attend will be deemed to have attended the Information Meeting and to have received all of the information given at the Information Meeting. At the time of issuance of this RFP a meeting has been scheduled as follows:

**When: November 22, 2024**

**Where: Video/Phone Conference – Microsoft Teams Meeting**

Proponents interested in participating in this Information Meeting should email their request to [purchasing@surrey.ca](mailto:purchasing@surrey.ca) on or before **November 21, 2024**

**Time: 2:00 p.m., local time**

It is possible that some questions raised, and information provided during the Information Meeting may be the only source of critical information essential to prepare and submit a successful Proposal. Proponents are responsible to ensure they are fully informed and have a clear understanding of the requirements.

**Note: No minutes of the Information Meeting will be provided**

The Proponents are responsible for any fees incurred as a result of the Information Meeting

### 2.3 Late Proposals

Proposals received after the Closing Time will not be accepted or considered. A Proponent bears all risk that the City's receiving computer equipment functions properly so that the Proposal is received by the Closing Time.

### 2.4 Amendments to Proposals

Proposals may be revised by written amendment, delivered to the email address set out in Section 2.1, at any time before the Closing Time but not after. An amendment should be signed by an authorized signatory of the Proponent in the same manner as provided by Section 3.2. E-mailed amendments are permitted, but such amendment should show only the change to the proposal price(s) and should not disclose the actual proposal price(s). A Proponent bears all risk that the City's computer equipment functions properly so as to facilitate timely delivery of any amendment.

### 2.5 Inquiries

All inquiries related to this RFP should be directed in writing to the person named below (the "**City Representative**"). Information obtained from any person or source other than the City Representative may not be relied upon.

Name: Sunny Kaila, Manager, Procurement Services

E-mail: [purchasing@surrey.ca](mailto:purchasing@surrey.ca)

Reference: 1220-030-2024-049

Inquiries should be made no later than seven (7) business days before Closing Time. The City reserves the right not to respond to inquiries made within seven (7) business days of the Closing Time. Inquiries and responses will be recorded and may be distributed to all Proponents at the discretion of the City.

Proponents finding discrepancies or omissions in the Contract or RFP, or having doubts as to the meaning or intent of any provision, should immediately notify the City Representative. If the City determines that an amendment is required to this RFP, the City Representative will issue an addendum in accordance with Section 2.6. No oral conversation will affect or modify the terms of this RFP or may be relied upon by any Proponent.

### 2.6 Addenda

If the City determines that an amendment is required to this RFP, the City Representative will issue a written addendum by posting it on the BC Bid Website at [www.bcbid.gov.bc.ca](http://www.bcbid.gov.bc.ca) and the City Website at [www.surrey.ca](http://www.surrey.ca) (collectively, the "**Websites**"), and upon posting, any addenda will form part of this RFP. It is the responsibility of Proponents to check the Websites for addenda. The only way this RFP may be added to, or amended in any way, is by a formal written addendum. No other communication, whether written or oral, from any person will affect or modify the terms of this RFP or may be relied upon by any Proponent. By delivery of a Proposal the Proponent is deemed to have received, accepted and understood the entire RFP, including any and all addenda.

## 2.7 Examination of Contract Documents and Site

Proponents will be deemed to have carefully examined the RFP, including all attached Schedules, the Contract and the Site (as applicable) prior to preparing and submitting a Proposal with respect to any and all facts which may influence a Proposal.

The City's standard Contract for technology projects is included as **Schedule B**. Proponents should review all terms, conditions, specifications, and requirements and be prepared to enter into a Contract substantially the same as **Schedule B**.

Submittal of a Proposal is agreement to the above condition. Proponents are to price and submit Proposals to reflect all the specifications and requirements in this RFP and terms and conditions substantially the same as those included in this RFP.

The terms and conditions set out in the Contract are deemed to be accepted by the Proponent and incorporated into its Proposal except to the extent expressly excluded, supplemented, replaced or identified in a Proponent's Proposal (refer to Schedule C-1 – Statement of Departures). Proponents should provide reasons for any changes proposed.

In addition to the Contract, it may be necessary to execute additional agreements such as a licensing agreement, service level agreement, maintenance agreement, etc. The City may request that a shortlisted Proponent submit its preferred forms of such agreements.

The terms of any of these agreements will be consistent with information provided by the Proponent in **Schedule C-3-1 – IT Service Management Replacement Requirements Response** of its Proposal.

The City may consider and may choose to accept some, none, or all Contract modifications that the Proponent has submitted with its Proposal.

Nothing herein prohibits the City, at its sole option, from introducing or modifying contract terms and conditions and negotiating with the Preferred Proponent to align the proposal to City needs, within the objectives of the RFP. The City has significant and critical time frames which frame this initiative; therefore, should such negotiations with the highest ranked, apparent Preferred Proponent fail to reach agreement in a timely manner as deemed by the City, the City, at its sole discretion, retains the option to terminate negotiations and continue to the next-highest ranked Proposal.

## 2.8 Opening of Proposals

The City intends to open Proposals in private but reserves the right to open Proposals in public at its sole discretion.

## 2.9 Status Inquiries

All inquiries related to the status of this RFP, including whether or not a Contract has been awarded, should be directed to the City Website and not to the City Representative.

### **3. PROPOSAL SUBMISSION FORM AND CONTENTS**

#### **3.1 Form of Proposal**

Proponents should complete the form of Proposal attached as Schedule C, including Schedules C-1 to C-5. Proponents are encouraged to respond to the items listed in Schedules C-1 to C-5 in the order listed. Proponents are encouraged to use the forms provided and attach additional pages as necessary.

**Schedule C-3-1 – IT Service Management Replacement Requirements Response** is an integral part of the solicitation. Please use the response column to answer questions, additional documentation can be submitted and referenced.

#### **3.2 Signature**

The legal name of the person or firm submitting the Proposal should be inserted in Schedule C. The Proposal should be signed by a person authorized to sign on behalf of the Proponent and include the following:

- (a) If the Proponent is a corporation then the full name of the corporation should be included, together with the names of authorized signatories. The Proposal should be executed by all of the authorized signatories or by one or more of them provided that a copy of the corporate resolution authorizing those persons to execute the Proposal on behalf of the corporation is submitted;
- (b) If the Proponent is a partnership or joint venture then the name of the partnership or joint venture and the name of each partner or joint venturer should be included, and each partner or joint venturer should sign personally (or, if one or more person(s) have signing authority for the partnership or joint venture, the partnership or joint venture should provide evidence to the satisfaction of the City that the person(s) signing have signing authority for the partnership or joint venture). If a partner or joint venturer is a corporation then such corporation should sign as indicated in subsection (a) above; or
- (c) If the Proponent is an individual, including a sole proprietorship, the name of the individual should be included.

### **4. EVALUATION AND SELECTION**

#### **4.1 Evaluation Team**

The evaluation of Proposals will be undertaken on behalf of the City by an evaluation team appointed by the City (the "**Evaluation Team**"), which may consist of one or more persons. The Evaluation Team may consult with others including City staff members, third party consultants and references, as the Evaluation Team may in its discretion decide is required. The Evaluation Team will give a written recommendation for the selection of a Preferred Proponent or Preferred Proponents to the City.



## 4.2 Evaluation Criteria

The Evaluation Team will compare and evaluate all Proposals to determine each Proponent's strength and ability to provide the Services in order to determine the Proposal, or Proposals, which are most advantageous to the City, using the following criteria:

- (a) Experience, Reputation and Resources – The Proponent's experience, reputation and resources as applicable to the performance of the Services.

For this evaluation criterion The Evaluation Team will consider the Proponent's responses to items in Schedule C-2.

- (b) Technical – The Proponent's technical proposal for the performance of the Services as outlined in the Proponent's responses to items in Schedule C-3, Schedule C-3-1 and Schedule C-4.
- (c) Financial – The Proponent's financial proposal for the performance of the Services as described in the Proponent's response to Schedule C-5.
- (d) Statement of Departures - The Evaluation Team will consider the Proponent's response to Schedule C-1.

A Proponent's departures may, at the sole discretion of the City, be grounds for disqualification from further consideration in award of a contract. A Proponent's failure to execute a Contract substantially the same as Schedule B may result in disqualification for future solicitations for this same or similar products/services.

The Evaluation Team will not be limited to the criteria referred to above, and the Evaluation Team may consider other criteria that the Evaluation Team identifies as relevant during the evaluation process. The Evaluation Team may apply the evaluation criteria on a comparative basis, evaluating the Proposals by comparing one Proponent's Proposal to another Proponent's Proposal. All criteria considered will be applied evenly and fairly to all Proposals.

## 4.3 Discrepancies in Proponent's Financial Proposal

If there are any obvious discrepancies, errors or omissions in Schedule C-5 of a Proposal (Proponent's Financial Proposal), then the City shall be entitled to make obvious corrections, but only if, and to the extent, the corrections are apparent from the Proposal as submitted, and in particular:

- (a) if there is a discrepancy between a unit price and the extended total, then the unit prices shall be deemed to be correct, and corresponding corrections will be made to the extended totals;
- (b) if a unit price has been given but the corresponding extended total has been omitted, then the extended total will be calculated from the unit price and the estimated quantity; and

- (c) if an extended total has been given but the corresponding unit price has been omitted, then the unit price will be calculated from the extended total and the estimated quantity.

#### **4.4 Litigation**

In addition to any other provision of this RFP, the City may, in its absolute discretion, reject a Proposal if the Proponent, or any officer or director of the Proponent submitting the Proposal, is or has been engaged directly or indirectly in a legal action against the City, its elected or appointed officers, representatives or employees in relation to any matter, or if the City has initiated legal action against any officers or directors of the Proponent.

In determining whether or not to reject a Proposal under this section, the City will consider whether the litigation is likely to affect the Proponent's ability to work with the City, its consultants and representatives and whether the City's experience with the Proponent indicates that there is a risk the City will incur increased staff and legal costs in the administration of the Agreement if it is awarded to the Proponent.

#### **4.5 Additional Information**

The Evaluation Team may, at its discretion, request clarifications or additional information from a Proponent with respect to any Proposal, and the Evaluation Team may make such requests to only selected Proponents. The Evaluation Team may consider such clarifications or additional information in evaluating a Proposal.

#### **4.6 Interviews/Demonstrations (Shortlisted Proponents Only)**

The Evaluation Team may, at its discretion, invite some or all of the Proponents to appear before the Evaluation Team to provide an interview/demonstration of your Proposal. The City reserves the right not to conduct interviews/demonstrations.

If selected as a shortlisted Proponent, Proponents agree to provide the Evaluation Team the opportunity to interview proposed key personnel identified by the Evaluation Team, at the option of the City. The Evaluation Team may request a shortlisted Proponent to provide a demonstration of the Proposal as an opportunity for the Evaluation Team to ask questions and seek clarifications. This demonstration will allow shortlisted Proponents to present their proposal and demonstrate the proposed **IT Service Management Replacement** to the Evaluation Team.

Should interviews/demonstrations be held, the City requires that they be led by the proposed shortlisted Proponent's key personnel (respective advisors, employees or representatives). The City reserves the right, to record (audio/visual) of each shortlisted Proponent's demonstration as part of its evaluation process. The estimated date range for the demos is early Q1 2025.

#### **4.7 Points of Consideration for Interviews/Demonstrations**

The following points should be considered by the shortlisted Proponent while planning for the interview/demonstration:

- (a) All Key Personnel (as identified in Schedule C-2) of the shortlisted Proponent should attend and actively participate.
- (b) Shortlisted Proponents may be required to present their Proposal and demonstrate their proposed **IT Service Management Replacement** to the Evaluation Team. The City Representative will schedule the time for each interview/demonstration.
- (c) All interviews/demonstrations will either be held at Surrey City Hall or via teleconference, at the election of the City, on the date and time advised by the City.
- (d) The **IT Service Management Replacement** used in the interview/demonstration must not introduce any new information and/or functionality that was not included in the Proposal. If certain requirements as specified in Schedule C-3-1 are met by third-party software as part of the shortlisted Proponent's solution, the shortlisted Proponent is expected to demonstrate the third-party product and so indicate during the interview/demonstration.
- (e) By participating in the interview/demonstration, a shortlisted Proponent confirms its agreement with these procedures and acknowledges that the demonstration is an integral part of the competitive selection process as described in this RFP and is in the interests of all parties.

#### **4.8 Multiple Preferred Proponents**

The City reserves the right and discretion to divide up the Services, either by scope, geographic area, or other basis as the City may decide, and to select one or more Preferred Proponents to enter into discussions with the City for one or more Contracts to perform a portion or portions of the Services. If the City exercises its discretion to divide up the Services, the City will do so reasonably having regard for the RFP and the basis of Proposals.

In addition to any other provision of this RFP, Proposals may be evaluated on the basis of advantages and disadvantages to the City that might result or be achieved from the City dividing up the Services and entering into one or more Contracts with one or more Proponents.

This section only applies for implementation.

#### **4.9 Negotiation of Contract and Award**

If the City selects a Preferred Proponent or Preferred Proponents, then it may:

- (a) enter into a Contract with the Preferred Proponent(s); or
- (b) enter into discussions with the Preferred Proponent(s) to attempt to finalize the terms of the Contract(s), including financial terms, and such discussions may include:
  - (1) clarification of any outstanding issues arising from the Preferred Proponent's Proposal;
  - (2) negotiation of amendments to the departures to the draft Contract, if any, proposed by the Preferred Proponent as set in Schedule C-1 to the Preferred Proponent's Proposal; and

- (3) negotiation of amendments to the Preferred Proponent's price(s) as set out in Schedule C-5 to the Preferred Proponent's Proposal and/or scope of Services if:
  - (A) the Preferred Proponent's financial Proposal exceeds the City's approved budget, or
  - (B) the City reasonably concludes the Preferred Proponent's financial proposal includes a price(s) that is unbalanced, or
  - (C) a knowledgeable third party would judge that the Preferred Proponent's price(s) materially exceed a fair market price(s) for services similar to the Services offered by the Preferred Proponent as described in the Preferred Proponent's Proposal; or
- (c) if at any time the City reasonably forms the opinion that a mutually acceptable agreement is not likely to be reached within a reasonable time, give the Preferred Proponent(s) written notice to terminate discussions, in which event the City may then either open discussions with another Proponent or terminate this RFP and retain or obtain the Services in some other manner.

## **5. GENERAL CONDITIONS**

### **5.1 No City Obligation**

Notwithstanding any other provision in this RFP, this RFP is not a tender and does not commit the City in any way to select a Preferred Proponent, or to proceed to negotiations for a Contract, or to award any Contract, and the City reserves the right to at any time, and for any reason, reject all Proposals, and to terminate this RFP process without further explanation. The City is under no obligation to consider any Proposal, including the Proposal with the lowest price, or to select as the Preferred Proponent the Proponent that submits the Proposals with the lowest price.

### **5.2 Proponent's Expenses**

Proponents are solely responsible for their own expenses in preparing, and submitting Proposals, and for any meetings, negotiations or discussions with the City or its representatives and consultants, relating to or arising from this RFP. The City and its representatives, agents, consultants and advisors will not be liable to any Proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP.

### **5.3 No Contract**

By submitting a Proposal and participating in the process as outlined in this RFP, Proponents expressly agree that no contract of any kind is formed under, or arises from this RFP, prior to the signing of a formal written Contract.

### **5.4 Conflict of Interest**

A Proponent shall disclose in its Proposal any actual or potential conflicts of interest and existing business relationships it may have with the City, its elected or appointed officials or employees. The City may rely on such disclosure.

## **5.5 Solicitation of Council Members, City Staff and City Consultants**

Proponents and their agents will not contact any member of the City Council, City staff or City consultants with respect to this RFP, other than the City Representative named in section 2.5, at any time prior to the award of a contract or the cancellation of this RFP and which could be viewed as one Proponent attempting to seek an unfair advantage over other Proponents.

## **5.6 Confidentiality**

All submissions become the property of the City and will not be returned to the Proponent. All submissions will be held in confidence by the City unless otherwise required by law. Proponents should be aware the City is a “public body” defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

## **5.7 No Claims**

Each Proponent, by submitting a Proposal, irrevocably:

- (a) agrees that it will not bring any claim, demand, action, cause of action, suit or proceeding, whether arising in contract, tort (including negligence) or otherwise (a “**Claim**”) against the City or any of its employees, directors, officers, advisors or representatives, or any one of them, for any costs, damages or other compensation for any matter relating directly or indirectly to this RFP (including in the event that the City rejects or disqualifies or for any other reason fails to accept a Proposal, accepts a non-compliant Proposal or otherwise breaches, or fundamentally breaches, the terms of this RFP or any duties arising from this RFP; and
- (b) waives any Claim against the City and its employees, directors, officers, advisors or representatives, or any one of them, for any compensation of whatsoever nature or kind, including for loss of anticipated profits, loss of opportunity, indirect, incidental or consequential damages or losses if no contract is entered into for the Services between the Proponent and the City for any reason whatsoever, including in the event that the City rejects or disqualifies or for any other reason fails to accept a Proposal, accepts a non-compliant Proposal or otherwise breaches, or fundamentally breaches, the terms of this RFP or any duties arising from this RFP.

## **5.8 Reservation of Rights**

The City reserves the right, in its sole and absolute discretion, to:

- (a) amend the scope of Services, modify, cancel or suspend the competitive selection process at any time for any reason;
- (b) accept or reject any Proposal, based on the Evaluation Criteria;
- (c) waive a defect or irregularity in a Proposals, and accept that Proposal;
- (d) reject or disqualify or not accept any or all Proposals, without any obligation compensation or reimbursement to any Proponent or any of its team members;
- (e) re-advertise for new Proposals, or enter into negotiations for the Services or for Services of a similar nature;
- (f) make any changes to the terms of the business opportunity described in this RFP;
- (g) negotiate any and all aspects of Proposals; and

- (h) extend, from time to time, and date, time period or deadline provided in this RFP, upon written notice to all Proponents.

## **5.9 Acceptance of Proposals**

Notwithstanding anything to the contrary contained in the RFP or any other document, material or communication:

- (a) The City will not necessarily accept the Proposal with the lowest Proposal Price, or any Proposal, and the City reserves the right to reject any and all Proposals at any time, or cancel the RFP process, without further explanation and to accept any Proposal the City considers to be in any way advantageous to it. The City's acceptance of any Proposal is contingent on having sufficient funding for the solution and a Contract with a Proponent. Proposals containing qualifications will be considered to be non-conforming Proposals in that they will fail to conform to the requirements of the RFP documents and on that basis they may be disqualified or rejected. Nevertheless, the City may waive any non-compliance with the requirements of the RFP documents, specifications or any conditions, including, without limitation, the timing of delivery of anything required by these RFP documents, and the City, at its discretion, may consider non-conforming Proposals and accept a non-conforming Proposal.
- (b) Where the City is of the view, in its sole discretion, that there is an ambiguity or other discrepancy which cannot be discerned or resolved from examining the contents of the Proposal, then whether or not such an ambiguity or discrepancy actually exists on the face of the Proposal, the City may, prior to Contract award, solicit clarification from the Proponent or accept clarification from the Proponent on any aspect of its Proposal. Such clarification may include the acceptance of any further documents or information which will then form part of the Proposal. The soliciting or accepting of such clarification (whether or not solicited) by the City will be without any duty or obligation on the City to advise any other Proponents or to allow them to vary their Proposal Prices as a result of the acceptance of clarification from any one or more Proponents and the City will have no liability to any other Proponent(s) as a result of such acceptance of clarification.
- (c) If the City considers that all Proposals are priced too high, it may reject them all.
- (d) The City, prior to awarding of any Contract, may negotiate with the Proponent presenting the lowest priced Proposal, or any Proponent, for changes in the solution, the materials, the specifications or any conditions, without having any duty or obligation to advise any other Proponents or to allow them to modify their Proposal, and the City will have no liability to any Proponent as a result of such negotiations or modifications.
- (e) The City and its representatives, agents, consultants and advisors will not be liable to any Proponent for any claims, whether for costs, expenses, losses, damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by a Proponent in preparing and submitting a Proposal, or participating in negotiations for a final Contract, or other activity related to or arising out of this RFP, including in the event the City accepts a non-compliant Proposal or otherwise breaches the terms of this RFP.

- (f) A pre-award meeting may be conducted with the preferred Proponent prior to award to confirm project details and expectations of the City.
- (g) Proponents are solely responsible for their own expenses in preparing and submitting a Proposal, and for any meetings, negotiations or discussions with the City, or its representatives and consultants, relating to or arising from the RFP. The City will not be liable to any Proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a contract, or other activity related to or arising out of this RFP.

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## SCHEDULE A – SCOPE OF SERVICES

### 1. Overview

The City of Surrey (the “City”) is dedicated to improving IT Service Management (ITSM) across the organization to enhance operational efficiency, significantly improve staff experience, and maintain a high level of service that leads to greater customer satisfaction.

The City intends to leverage the proposed ITSM Solution to address various processes related to service management, including, but not limited to, incident management, problem management, change management, service request fulfillment, asset and configuration management, knowledge management, time tracking, project tracking and full integration and automation of IT workflows (the “Solution”). The Solution should feature advanced workflows that automate tasks, increase agility, and improve coordination by streamlining IT processes.

The City plans to deploy the Solution in a single comprehensive phase. This deployment will include implementation of the necessary infrastructure, software, configurations, and licenses to provide services to the entire City. The City reserves the right to allocate the implementation services among multiple Preferred Proponents, as outlined in section 4.8.

Upon completion, the Solution will be fully implemented, progressively encompassing approximately 300 users with 80 concurrent licenses.

#### (a) Current State

The City currently utilizes an ITSM platform to provide service requests, incident management, change management, demand management and workflows. However, because the current solution is approaching end of life, the City is transitioning to a new solution. While the platform covers many core processes, certain departments continue to rely on emails and Excel spreadsheets to support their processes due the lack of a user-friendly solution, leading to inconsistencies in how services are provided across different business areas and an inability to extract useful analytics.

Multiple service-delivery groups share the ITSM; therefore, the City requires a solution that can be configured to support a variety of business processes. The City is looking for improved communication, reporting, and service levels. As a result, the City is seeking a more flexible ITSM solution to enhance the user experience and better support service delivery across all business areas.

For further details of the current state, you can review below table:



Table 1. Current State

Item	Portfolio	Complexity	Total Qty
Portals	IT, Records management, Marketing, Fire Services	N/A	4
Email Monitors	Corp Security, Demo Monitoring, Fire, Marketing, My surrey portal, Parks Recreation & Culture, Records, Surrey IT monitors	N/A	7
External Database connections	IT	N/A	2
Specific forms	IT & Surrey Libraries, Engineering, Finance, Planning & Development (These areas use the similar forms but different services and configurations )	XXL	3
		XL	2
		L	1
		M	3
		S	68
	Marketing	XXL	2
		L	2
		S	17
	Parks, Recreation & Culture	L	1
		M	1
		S	2
	Records management	S	6
	Corporate security	S	11
Fire services (Standard / Generic configuration)	N/A	N/A	
SLA	All	N/A	7
Ticket priority conditionals	All	N/A	15
Dashboards	All		121
Calendars	All		5

Table 2. Legend for Table 1

Legend	
Total Effort	Definition
Small (S):	From 1 to 4 Forms, Tables, One-steps, Automation Processes and supporting One-Steps
Medium (M):	5-10 Forms+Tables+One-steps+Automation Processes and supporting One-Steps
Large (L):	L - 10-20 Forms+Tables+One-steps+Automation Processes and supporting One-Steps
Extra Large (XL):	20-30 Forms+Tables+One-steps+Automation Processes and supporting One-Steps
Extra Large (XXL):	30+ Forms+Tables+One-steps+Automation Processes and supporting One-Steps

**(b) Target State**

The City is seeking proposals for a comprehensive and adaptable IT Service Management platform designed to meet the diverse service management needs of multiple departments. The platform will serve approximately 5,000 customers, 300 users with 80 concurrent licenses, adhering to ITIL principles to ensure a standardized approach to incident, problem, and change management processes. The system will include essential features such as self-service capabilities, enabling both internal users and external customers to submit requests and interact with the platform efficiently. Additionally, the Solution should support flexible workflow management, accommodating key functions like escalations, approvals, and demand management, while being configurable to meet the specific needs of various departments. Role-based access control, integrated email support, and automated ticket generation from emails will be highly preferred to ensure seamless communication across different channels.

The platform should also support project and portfolio management, offering highly preferred features such as configurable dashboards, customizable reports, and robust data visualization tools. The inclusion of asset management capabilities is critical, allowing for lifecycle and status management through integration with systems such as Microsoft Intune. To further enhance operational efficiency, the system should include features like bulk editing, form autofill, and robust search functionalities, optimizing time tracking, ticket/task management, and resource allocation. These capabilities will allow the City to manage its service needs with greater efficiency and agility, ensuring the platform can evolve alongside the City's growing demands.

Security and compliance are paramount. The ITSM platform should be built on a secure and reliable infrastructure that ensures data residency and processing within Canada. Geographic redundancy for disaster recovery will be a highly preferred feature, ensuring that the platform offers a dedicated infrastructure for cloud deployments, with key components isolated from other customers. The platform should provide separate environments for production, test, and development. The proposed platform should integrate seamlessly with the City's existing systems and provide compatibility with Windows and Microsoft 365 to ensure a familiar user experience. Critical data protection measures will include mandatory encryption of sensitive data on user devices. Additionally, the system should provide secure, programmatic access to City data for reporting and analysis, supporting RESTful APIs and automation via PowerShell and Microsoft Graph. Compliance with WCAG Level AA accessibility standards, conflict handling for simultaneous administrative changes, and the ability to import and export data in multiple formats (CSV, JSON) are also essential. These features will ensure that the ITSM platform is both flexible and robust, meeting the City's technical requirements for data security, compatibility, and ease of integration.

The City requires an ITSM platform that provides comprehensive service management features, integrates seamlessly with existing systems, and ensures a high level of security and compliance with regulatory standards. The Solution should be adaptable, secure, and capable of addressing the City's evolving service management needs with efficiency and flexibility.

**(c) Critical Use Cases (Pain points)**

Some example scenarios that the City would like implemented within the Solution:

- As an employee, I want to access a simple “one stop shop” where I can submit a new service request, see my request history and see information about critical system outages.
- As a manager, I need to understand each of my team’s workloads, both at the team level and at the individual level.
- As a user, I need to efficiently navigate through a list or result set without having to reload or start over to move to the next item.
- As an administrator, I need a system that is flexible to support the needs of multiple service delivery groups.

**2. Scope of Services**

The Scope of Services for implementation of the Solution includes the following:

**A. Requirements Review and Discovery Assessment**

- Conduct a detailed analysis by mapping gathered requirements to each service delivery group’s unique needs, documenting functional differences and capturing specific customization needs for each service delivery group.
- Identify any additional requirements or customizations and the level of need for specific service delivery group that may differ from the general requirements.
- Review existing Cherwell configurations, including but not limited to current workflows, forms, dashboards, and reporting features, to gain a comprehensive understanding of the current system setup.
- Conduct a gap analysis to identify any potential differences between current capabilities and desired functionality across service delivery groups, assessing where additional customization or development may be required.
- Identify critical configurations that need to be replicated or adapted in the new ITSM solution to ensure a smooth transition and maintain business continuity for all areas.
- Identify risks related to scope creep, potential delays, or dependencies on external systems, and develop mitigation strategies accordingly.
- Attend workshops or focus group sessions with representatives from each service delivery group to validate and refine requirements, allowing for adjustments based on direct feedback from end users and managers.
- Use feedback from these sessions to refine requirements, identify areas where further clarification or specification is needed, and build consensus to prioritize features.
- Evaluate the technical feasibility of implementing specific requirements, such as integration needs, data security measures, or specific workflow automation tools, across all service delivery groups.
- Ensure the proposed Solution’s architecture, platform compatibility, and data security features align with both the City’s IT standards and the distinct needs of each service delivery group.
- Compile a comprehensive report summarizing all additional requirements or changes, including any service-delivery-group-specific variations, complexity ratings, and identified risks, for review by project sponsors and key stakeholders.

## **B. Solution Design and Configuration**

- Design and configure a comprehensive ITSM Solution that meets the City's specific requirements for managing IT services, including workflows, incident resolution, and service requests, among other features. For further details and a full list of requirements, please refer to the document Schedule C-3-1 - IT Service Management Requirements.
- Develop workflows and automation rules that optimize service efficiency and streamline ticket management, among other features. For further details and a full list of requirements, please refer to the document Schedule C-3-1 - IT Service Management Requirements.
- Ensure the Solution's design and configuration can support the City's present IT service management needs and is scalable to accommodate future growth in terms of user capacity and system complexity.
- Ensure the Solution's design is flexible enough to adapt to new features, integrations, or changes as the City's organizational requirements evolve, allowing for seamless updates and enhancements without disrupting operations.

## **C. Consultant and City Project Management**

- The Consultant will provide a dedicated Project Manager to oversee the ITSM Solution's implementation from start to finish.
- This Project Manager will work in collaboration with the City's Portfolio Lead and/or Sr. Project or Program Manager to ensure project goals are met, facilitate clear communication, and manage deliverables and timelines effectively.

## **D. Solution Deployment Plan**

- Engage with the City to refine and finalize the ITSM Solution tailored to their core processes.
- Develop a ITSM rollout plan by department. This plan will ensure a seamless transition, ensuring business continuity, addressing the operational needs and data integrity requirements during migration.
- Ensure that the IT Solution deployment enhances operational efficiency, with monitoring and continuous feedback from users and stakeholders to inform further refinements and improvements.

## **E. Environments for Project Support**

- Collaborate with the City to identify and deploy the necessary environments required to support project delivery and operational continuity after the initial deployment, which may include but not limited to Development, Test, Stage, User Acceptance Testing, and Training.

## **F. System Implementation and Testing**

- Install and configure the Solution infrastructure if/as required.
- Develop, configure and deploy the necessary software components and modules.
- Develop a Test Strategy, Test Plan including test cases and scenarios and conduct comprehensive testing to ensure the Solution meets all functional, security,

- integration, load and performance requirements.
- Address any product defects, bugs or issues identified during the testing.

#### **G. Training and Change Management**

- Develop change management strategies and plan, in collaboration with the City, to ensure a smooth transition and user adoption of the new system.
- Develop Training Strategy, Training Plan, materials, and conduct training sessions to cover all users including but not limited to system administrators, technical support, schedulers, end-users, including Program managers, supervisors, and staff.
- Provide ongoing support and guidance during the transition to the new solution.

#### **H. Ongoing Sustainment and Support Collaboration**

- Work collaboratively and support the City in establishing an ongoing sustainment and support team.
- Advise the City in best practices to develop a sustainment and support strategy that aligns with the City's operational objectives and technology roadmap.
- Assist the City with defining roles and responsibilities across the organization for the ongoing sustainment and support of the implemented solution.
- Assist with identifying upskilling, training, and skill gap requirements for City staff to effectively manage and maintain the platform.
- Ensure a full and complete knowledge transfer to the City's IT and business teams, empowering them to sustain and optimize the platform post-implementation.

#### **I. Implementation**

- Work closely with the City to develop a comprehensive deployment strategy, including resource allocation, timelines, and milestones. Identify potential challenges or bottlenecks and develop proactive mitigation strategies to ensure a seamless rollout.
- Roll out the ITSM Solution across the IT department and all relevant business units, including Surrey Libraries, Engineering, Finance, Planning & Development, Corporate Security, Records Management, Marketing, Parks, Recreation & Culture, and Surrey Fire Services. The focus will be on core processes such as incident management, change management, asset tracking, service request workflows, configuration management, and knowledge management.
- Configure the ITSM solution for each department based on the requirements identified during the discovery assessment, ensuring that the solution effectively addresses both operational and exception-based workflows.
- Migrate open and active tickets, customers, and exportable data such as historical tickets and knowledge articles. Migration excludes data that is ingested from connected sources, which is in scope of recreating integrations, as well as historical timesheet data to ensure seamless business continuity and operational functionality. The Consultant will be responsible for ensuring data integrity throughout the migration process and addressing any issues that arise to minimize disruptions.
- Monitor and evaluate the effectiveness of the ITSM Solution in meeting the City's needs, ensuring that it enhances service delivery, response times, and operational efficiency.
- Collect and review user and stakeholder feedback to identify areas for enhancement and incorporate lessons learned to refine and optimize the implementation.

## J. Deliverables

The following deliverables are expected as part of the solution implementation:

- Discovery Assessment Report and Deployment Plan, detailing how the ITSM Solution will be extended to all business units.
- ITSM software
- Complete system configuration, including integration with existing City systems (e.g., WFM, Power BI) and full documentation of the solution.
- Test Strategy, Test Plan, and comprehensive testing, including functional, security, integration, and performance testing, along with tracking and resolution of any defects or issues.
- Change management strategies to facilitate user adoption. Primarily this will focus on training materials and delivering sessions for both functional and technical users across departments to support ITSM operations. This will enable a smooth transition, to ensure they can support, manage, and maintain the ITSM solution after full deployment.

### 3. **Timeline and Milestones**

The implementation timeline and milestones will be finalized in collaboration with the selected Proponent and will consider factors such as the complexity of the scheduling requirements for each business unit and the availability of resources. Proponents are required to submit proposed implementation timelines, taking into account their experience, the specific complexities of their solution configurations, and the effort required, based on the current state.

The City prefers the solution to be fully implemented and live, replacing the existing system, by Q1 of 2026.

### 4. **Functional and Technical Requirements**

The requirements for this RFP are divisible into three general categories: functional requirements, technical requirements and security requirements (the “IT Service Management Replacement Solution Requirements”), all as described and embedded in Schedule C-3-1. The security requirements are further divisible into general, web application, mobile application, and cloud.

Proposals will be evaluated based upon the suitability of their proposed Solution(s) in relation to the IT Service Management Replacement Solution Requirements. The functional requirements generally list the City’s desired/preferred or required general IT Service Management Replacement Solution functionality. The technical requirements list the City’s desired or required general IT Service Management Replacement Solution functionality in areas such as integration, user interface, analytics and reporting, and others. Most of the functional and technical requirements are preferred or desired by the City, and Proponents will be evaluated on their ability to meet those requirements.

As part of their Proposal, Proponents should submit Schedule C-3-1 (**IT Service Management Replacement** Solution Requirements Response), which is available as a separate attachment to this RFP, after filling-in the spreadsheet’s two right-most columns.

Specifically, the Proponent should indicate if their solution complies with each requirement by selecting the appropriate response code in the response code field, and also provide a description in the comments field that explains how their solution meets each requirement. **Some of the IT Service Management Replacement Solution Requirements are identified as mandatory, and must be met for the Proponent's solution to be considered.**

If a Proponent's proposed solution has a cloud computing component (SaaS, PaaS, IaaS, or other), the Proponent should also respond to the cloud security and cloud service level requirements in the IT Service Management Replacement Solution Requirements Response (Schedule. C-3-1).

**Schedule C-3-1 may be viewed and/or downloaded from the City of Surrey's Managed File Transfer Service (MFT):**

Hostname: <https://mft.surrey.ca>

Logon ID surreybid

Password: Welcome

Locate Folder 1220-030-2024-049

**- END OF PAGE -**

**SCHEDULE B – DRAFT CONTRACT**



**PROFESSIONAL SERVICES AGREEMENT  
(For information technology solutions)**

**Title:** IT Service Management Replacement

**Reference No.:** 1220-030-2024-049



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**Title: IT Service Management Replacement**

**THIS AGREEMENT** is dated for reference this \_\_\_\_ day of \_\_\_\_\_, 2025.

**AGREEMENT No.: 1220-030-2024-049**

**BETWEEN:**

**CITY OF SURREY**  
13450 – 104<sup>th</sup> Avenue  
Surrey, British Columbia, V3T 1V8, Canada  
(the “**City**”)

**AND:**

\_\_\_\_\_  
*(Insert Full Legal Name of Consultant)*  
(the “**Consultant**”)

**WHEREAS** the City wishes to engage the Consultant to provide the Services and the Consultant agrees to provide the Services.

**IT Service Management Replacement**

**THEREFORE**, in consideration of the premises and payment of one (\$1.00) dollar and other good and valuable consideration paid by each of the parties to the other (the receipt and sufficiency of which each party hereby acknowledges), the parties hereby covenant and agree with each other as follows:

**1. INTERPRETATION**

**1.1 Definitions**

In this agreement the following definitions apply:

“**City Data**” means all information, in writing (including electronic) form, created by or in any way originating with City, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or in any way originating with City, in the course of using and configuring the Services provided under this Agreement, that is stored on the cloud;

“**Dispute**” has the meaning set out in Section 19.1;

“**Documentation**” has the meaning set out in Section 2.4;

“**Fees**” has the meaning set out in Section 5.1;

“**Indemnitees**” has the meaning set out in Section 7.4;

“**Invoice**” has the meaning set out in Section 5.2(a);

**“Services”** has the meaning set out in Section 2.1;

**“Term”** has the meaning set out in Section 2.5; and

**“Time Schedule”** has the meaning set out in Section 2.6.

## **1.2 Appendices**

The following attached Appendices are a part of this agreement:

Appendix 1 – Scope of Services;  
Appendix 2 – Fees and Payment;  
Appendix 3 – Time Schedule;  
Appendix 4 – Personnel and Sub-Contractors;  
Appendix 5 – Additional Services;  
**[ADD ADDITIONAL APPENDICES AS NEEDED]**  
Appendix 6 – Service Level Agreement;  
Appendix 7 – Privacy Protection Schedule;  
Appendix 8 – Confidentiality Agreement; and  
Appendix 9 – License Agreement.

## **2. SERVICES**

### **2.1 Services**

The City hereby retains the Consultant to provide the consulting and professional services as described generally in Appendix 1, including anything and everything required to be done for the fulfillment and completion of this agreement (the **“Services”**).

### **2.2 Amendment of Services**

The City may from time to time, by written notice to the Consultant, make changes in the scope of the Services. The Fees will be increased or decreased by written agreement of the City and the Consultant according to the rates set out in Appendix 2.

### **2.3 Additional Services**

The Consultant will, if requested in writing by the City, perform additional services as may be listed in Appendix 5. The terms of this agreement will apply to any additional services, and the fees for additional services, and the time for the Consultant’s performance, will generally correspond to the fees and time of performance as described in Appendices 2 and 3. The Consultant will not provide any additional services in excess of the scope of services requested in writing by the City.

### **2.4 Standard of Care**

The Consultant will perform the Services in accordance with the Documentation and with that degree of care, skill and diligence normally provided by a qualified and experienced practitioner performing services similar to the Services, and on the understanding that the City is relying on the Consultant’s experience and expertise. The Consultant represents that it has the expertise, qualifications, resources and relevant experience to provide the Services.

The Contractor represents and warrants that the Services provided to the City under this Agreement shall conform to, be performed, function, and produce results substantially in accordance with the Documentation.

Documentation shall mean, collectively, ranked in descending order of authority:

- (a) this Agreement including any amendment thereto;
- (b) all materials published or otherwise made available to City by the Contractor that relate to the functional, operational and/or performance capabilities of the Services;
- (c) all user, operator, system administration, technical, support and other manuals and all other materials published or otherwise made available by the Contractor that describe the functional, operational and/or performance capabilities of the Services;
- (d) the results of any interviews/demonstrations or tests provided by the Contractor to the City; and
- (e) any requests for information and/or requests for proposals and/or requests for quotations (or documents of similar effect) issued by the City, and the responses thereto from the Contractor, and any document which purports to update or revise any of the foregoing.

## **2.5 Term**

The Consultant will provide the Services for the period commencing on (START DATE) and terminating on (END DATE) (the "**Term**").

The first period of time during the initial term (the "**Initial Term**") will include the Commencement Date and finish on the Go-Live Date (the "**Implementation Period**") and a three (3) year period starting on the Go-Live Date, unless renewed or terminated earlier in accordance with this Agreement. The Contractor covenants and agrees to provide the Services throughout the Term unless terminated as provided herein.

The City may at any time prior to 90 days before the end of the Term, by written notice to the Consultant, extend the Term for a period of time not to exceed two, one-year renewal terms. If the City elects to extend the Term, the provisions of this agreement will remain in force, including the Fees, except where amended in writing by the parties.

## **2.6 Time**

The Consultant acknowledges that time is of the essence with respect to the provision of the Services and accordingly the Consultant will provide the Services within the performance or completion dates or time periods (the "**Time Schedule**") as set out in Appendix 3, or as otherwise agreed to in writing by the City and the Consultant. If at any time the Consultant discovers that the Time Schedule cannot be met it will immediately advise the City in writing and provide a revised Time Schedule.

## **2.7 Software Upgrades**

The Consultant shall supply at no additional cost:

- (a) updated versions of the software to operate on upgraded versions of operating systems, upgraded versions of firmware, or upgraded versions of web browsers;
- (b) interface software that are developed by the Consultant for interfacing the Services to other software products; and
- (c) updated versions of the Services, that encompass improvements, extensions, maintenance updates, error corrections, security updates or other changes that are logical improvements or extensions of the original Services supplied to the City.

The Consultant shall maintain any and all third-party software products at their most current version and at no additional charge. However, the Consultant shall not maintain any third-party software versions, including one version back, if any such version would prevent the City from using any functions, in whole or in part, or would cause deficiencies in the system. If implementation of an upgrade to a third-party software product requires additional personnel, the City and the Consultant shall discuss whether to implement such an upgrade and, if mutually agreed upon in writing, any additional charges to be paid by the City for such upgrade. Any additional costs that are charged by a third-party software manufacturer for an upgrade to a third party software product that is not covered by such product's maintenance agreement shall be charged to and paid for by the Consultant.

## **2.8 Enhancements**

The Consultant shall provide the City with all Enhancements and associated Documentation that are provided as general releases of the software, in whole or in part, as part of the Services. Such Documentation shall be adequate to inform the City of the problems resolved including any significant differences resulting from the release which are known by the Consultant. The Consultant warrants that each such Enhancement general release shall be tested and perform according to the specifications. The Consultant agrees to correct corrupted City Data that may result from any system deficiency introduced by the Enhancement at no cost to the City. Enhancements to correct any deficiency shall be provided to the City at no additional cost and without the need for a Change Order.

## **3. PERSONNEL AND SUB-CONTRACTORS**

### **3.1 Qualified Personnel**

The Consultant will provide only professional personnel who have the qualifications, experience and capabilities to perform the Services.

### **3.2 Listed Personnel and Sub-Contractors**

The Consultant will perform the Services using the professional personnel and sub-contractors as may be listed in Appendix 4, and the Consultant will not remove any such listed personnel or sub-contractors from the Services without the prior written approval of the City.

### **3.3 Replacement of Personnel or Sub-Contractors**

If the City reasonably objects to the performance, qualifications, experience or suitability of any of the Consultant's personnel or sub-contractors then the Consultant will, on written request from the City, replace such personnel or sub-contractors.

### **3.4 Sub-Contractors and Assignment**

Except as provided for in Section 3.2, the Consultant will not engage any personnel or sub-contractors, or sub-contract or assign its obligations under this agreement, in whole or in part, without the prior written approval of the City.

### **3.5 Agreements with Sub-Contractors**

The Consultant will preserve and protect the rights of the City with respect to any Services performed under sub-contract and incorporate the terms and conditions of this agreement into all sub-contracts as necessary to preserve the rights of the City under this agreement. The Consultant will be as fully responsible to the City for acts and omissions of sub-contractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Consultant.

## **4. LIMITED AUTHORITY**

### **4.1 Agent of City**

The Consultant is not and this agreement does not render the Consultant an agent or employee of the City, and without limiting the above, the Consultant does not have authority to enter into any contract or reach any agreement on behalf of the City, except for the limited purposes as may be expressly set out in this agreement, or as necessary in order to perform the Services. The Consultant will make such lack of authority clear to all persons with whom the Consultant deals in the course of providing the Services. Every vehicle used by the Consultant in the course of performing the services shall identify the Consultant by name and telephone number.

### **4.2 Independent Contractor**

The Consultant is an independent contractor. This agreement does not create the relationship of employer and employee, a partnership, or a joint venture. The City will not control or direct the details, means or process by which the Consultant performs the Services. The Consultant will determine the number of days and hours of work required to properly and completely perform the Services. The Consultant is primarily responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for in Section 3.4. The Consultant will be solely liable for the wages, fringe benefits, work schedules and work conditions of any partners, employees or sub-contractors.

## **5. FEES**

### **5.1 Fees**

The City will pay to the Consultant the fees as set out in Appendix 2 (the "Fees"). Payment by the City of the Fees will be full payment for the Services and the Consultant will not be entitled to receive any additional payment from the City.



## 5.2 Payment

Subject to any contrary provisions set out in this Agreement:

- (a) the Consultant will submit an invoice (the "**Invoice**") to the City requesting payment of the portion of the Fees relating to the Services provided. Each Invoice should be sent **electronically** to: [surreyinvoices@surrey.ca](mailto:surreyinvoices@surrey.ca) and include the following information:
  - (1) an invoice number;
  - (2) the Consultant's name, address and telephone number;
  - (3) the City's reference number for the Services; P.O. # (to be advised)
  - (4) the names, charge-out rates and number of hours worked of all employees of the Consultant and any sub-contractor(s) that has/have performed services;
  - (5) the percentage of Services completed at the end of the previous month;
  - (6) the total budget for the Services and the amount of the budget expended to the date of the Invoice;
  - (7) taxes (if any);
  - (8) grand total of the Invoice;
- (b) if the City reasonably determines that any portion of an Invoice is not payable then the City will so advise the Consultant;
- (c) the City will pay the portion of an Invoice which the City determines is payable less any deductions for setoffs or holdbacks permitted by this Agreement including, without limitation, any amounts permitted to be held back on account of deficiencies, within 30 days of the receipt of the Invoice;
- (d) if the Consultant offers the City a cash discount for early payment, then the City may, at the City's sole discretion, pay the discounted portion of an Invoice; and
- (e) all Invoices shall be stated in, and all payments made in, Canadian dollars.

## 5.3 Advance Payment Prohibited

Subject to any contrary provisions set out in this Agreement, the City does not accept requests for down payment or partial payment. Maintenance subscriptions may be paid up to one year in advance provided that should the City terminate early, the amount paid shall be reimbursed to the City on a prorated basis; all other expenses are payable after receipt and acceptance of satisfactory compliance.

## 5.4 Records

The Consultant will prepare and maintain proper records related to the Services. On request from the City, the Consultant will make the records available open to audit examination by the City at any time during regular business hours during the time the Consultant is providing the Services and for a period of six years after the Services are complete.

## **5.5 Non-Residents**

If the Consultant is a non-resident of Canada and does not provide to the City a waiver of regulation letter, the City will withhold and remit to the appropriate governmental authority the greater of:

- (a) 15% of each payment due to the Consultant; or
- (b) the amount required under applicable tax legislation.

## **6. CITY RESPONSIBILITIES**

### **6.1 City Information**

The City will, in co-operation with the Consultant make efforts to make available to the Consultant information, surveys, and reports which the City has in its files and records that relate to the Services. The Consultant will review any such material upon which the Consultant intends to rely and take reasonable steps to determine if that information is complete or accurate. The Consultant will assume all risks that the information is complete and accurate and the Consultant will advise the City in writing if in the Consultant's judgment the information is deficient or unreliable and undertake such new surveys and investigations as are necessary.

### **6.2 City Decisions**

The City will in a timely manner make all decisions required under this agreement, examine documents submitted by the Consultant and respond to all requests for approval made by the Consultant pursuant to this agreement.

### **6.3 Notice of Defect**

If the City observes or otherwise becomes aware of any fault or defect in the Services, it may notify the Consultant, but nothing in this agreement will be interpreted as giving the City the obligation to inspect or review the Consultant's performance of the Services.

## **7. WARRANTIES, INSURANCE AND DAMAGES**

### **7.1 Warranty**

The Contractor represents, warrants and agrees that:

- (a) the Contractor has all intellectual property rights necessary to provide the Services to the City in accordance with the terms of this Agreement;
- (b) the Contractor is the sole owner or is a valid licensee of all software, text, pictures, audio, video, logos and copy that provides the foundation for provision of the Services, and has secured all necessary licenses, consents, and authorizations with respect to the use of these underlying elements;
- (c) the Services do not and shall not infringe upon any patent, copyright, trademark or other proprietary right or violate any trade secret or other contractual right of any third party; and

- (d) there is currently no actual or threatened suit against the Contractor by any third party based on an alleged violation of such right.

## **7.2 Third Party Warranties**

The Contractor will assign to the City all third party warranties and indemnities that the Contractor receives in connection with any Services provided to the City. To the extent that the Contractor is not permitted to assign any warranties or indemnities through to the City, the Contractor agrees to specifically identify and enforce those warranties and indemnities on behalf of the City to the extent the Contractor is permitted to do so under the terms of the applicable third party agreements.

## **7.3 Disabling Code**

The Contractor represents, warrants and agrees that the Services do not contain and City will not receive from the Contractor any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any City system or City Data (a "**Disabling Code**").

## **7.4 Indemnity**

The Consultant will indemnify and save harmless the City and all of its elected and appointed officials, officers, employees, servants, representatives and agents (collectively the "**Indemnitees**"), from and against all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) for damage to or destruction or loss of property, including loss of use, and injury to or death of any person or persons which any of the Indemnitees incur, suffer or are put to arising out of or in connection with any failure, breach or non-performance by the Consultant of any obligation of this agreement, or any wrongful or negligent act or omission of the Consultant or any employee or agent of the Consultant.

## **7.5 Intellectual Property Infringement Indemnification**

Contractor shall indemnify, defend and hold City harmless from any and all actions, proceedings, or claims of any type brought against City alleging that the Services and/or Documentation or City's use of the Services and/or Documentation constitutes a misappropriation or infringement upon any patent, copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any third party. Contractor agrees to defend against, and hold City harmless from, any claims and to pay all litigation costs, all reasonable attorneys' fees, settlement payments and all judgments, damages, costs or expenses awarded or resulting from any claim. City shall, after receiving notice of a claim, advise Contractor of it. City's failure to give Contractor timely notification of said claim shall not effect Contractor's indemnification obligation unless such failure materially prejudices Contractor's ability to defend the claim. City reserves the right to employ separate counsel and participate in the defense of any claim at its own expense.

If the Services and/or Documentation, or any part thereof, is the subject of any claim for infringement of any patent, copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any third party, or if it is adjudicated by a court of competent jurisdiction that the Services and/or Documentation, or any part thereof, infringes any patent,

copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any third party, and City's use of the Services and/or Documentation, or any part of it, is enjoined or interfered with in any manner, Contractor shall, at its sole expense and within thirty (30) calendar days of such injunction or interference, either: (a) procure for City the right to continue using the Services and/or Documentation free of any liability for infringement or violation; (b) modify the Services and/or Documentation, or parts thereof, with non-infringing Services and/or Documentation of equivalent or better functionality that is reasonably satisfactory to City; or (c) replace the Services and/or Documentation, or parts thereof, with non-infringing Services and/or Documentation of equivalent or better functionality that is reasonably satisfactory to City.

Contractor shall have no obligation to indemnify City for a claim if: (a) City uses the Services in a manner contrary to the provisions of this Agreement and such misuse is the cause of the infringement or misappropriation; or (b) City's use of the Services in combination with any product or system not authorized, approved or recommended by Contractor and such combination is the cause of the infringement or misappropriation.

No limitation of liability set forth elsewhere in this agreement is applicable to the Intellectual Property Infringement Indemnification set forth herein.

#### **7.6 Survival of Indemnity**

The indemnity described in Section 7.4 will survive the termination or completion of this agreement and, notwithstanding such termination or completion, will continue in full force and effect for the benefit of the Indemnitees.

#### **7.7 Consultant's Insurance Policies**

The Consultant will, without limiting its obligations or liabilities and at its own expense, provide and maintain throughout this agreement the following insurances in forms and amounts acceptable to the City from insurers licensed to conduct business in Canada:

- (a) commercial general liability insurance on an occurrence basis, in an amount not less than three million (\$3,000,000) dollars inclusive per occurrence against death, bodily injury and property damage arising directly or indirectly out of the work or operations of the Consultant, its employees and agents. The insurance will include cross liability and severability of interests such that the coverage shall apply in the same manner and to the same extent as though a separate policy had been issued to each insured. The insurance will include, but not be limited to: premises and operators liability, broad form products and completed operations, owners and Consultants protective liability, blanket contractual, employees as additional insureds, broad form property damage, non-owned automobile, contingent employers liability, broad form loss of use, personal injury, and incidental medical malpractice. The City will be added as additional insured;
- (b) professional errors and omissions insurance in an amount not less two million (\$2,000,000) dollars insuring all professionals providing the Services from liability resulting from errors or omissions in the performance of the Services, with a 12 month maintenance period;

- (c) automobile liability insurance on all vehicles owned, operated or licensed in the name of the Consultant in an amount not less than three million (\$3,000,000) dollars per occurrence for bodily injury, death and damage to property; and
- (d) cyber and privacy liability insurance covering actual or alleged acts, errors or omissions committed by "SaaS provider", its agents, subcontractor, or employees, arising out of the performance of this Agreement with a minimum combined single and aggregate limit of at least three million (\$3,000,000) dollars per occurrence. The policy coverage shall include coverage for cyber security risks (such as data breaches, unauthorized access/use, ID theft, privacy violations, degradations, and downtime), failure to protect confidential information from disclosure, personal injury, and infringement of intellectual property, including copyrights and trademarks. "City of Surrey", shall be endorsed as an Additional Insured, and the policy will include no provision that would prevent, preclude, or exclude a claim brought by "City of Surrey".

## **7.8 Insurance Requirements**

The Consultant will provide the City with evidence of the required insurance prior to the commencement of this agreement. Such evidence will be in the form of a completed certificate of insurance acceptable to the City. The Consultant will, on request from the City, provide certified copies of all of the Consultant's insurance policies providing coverage relating to the Services, including without limitation any professional liability insurance policies. All required insurance will be endorsed to provide the City with thirty (30) days advance written notice of cancellation or material change restricting coverage. To the extent the City has an insurable interest, the builder's risk policy will have the City as first loss payee. The Consultant will be responsible for deductible amounts under the insurance policies. All of the Consultant's insurance policies will be primary and not require the sharing of any loss by the City or any insurer of the City.

## **7.9 Consultant Responsibilities**

The Consultant acknowledges that any requirements by the City as to the amount of coverage under any policy of insurance will not constitute a representation by the City that the amount required is adequate and the Consultant acknowledges and agrees that the Consultant is solely responsible for obtaining and maintaining policies of insurance in adequate amounts. The insurance policy coverage limits shall not be construed as relieving the Consultant from responsibility for any amounts which may exceed these limits, for which the Consultant may be legally liable.

## **7.10 Limitation of Liability**

In no event shall either party be liable for any loss of data, re-procurement costs, loss of profits, loss of use or for any other consequential, indirect, exemplary, special or incidental damages arising under or in connection with this Agreement, even if the other party has been advised of the possibility of such damages.

## **7.11 Additional Insurance**

The Consultant shall place and maintain, or cause any of its sub-contractors to place and maintain, such other insurance or amendments to the foregoing policies as the City may reasonably direct.

## **7.12 Waiver of Subrogation**

The Consultant hereby waives all rights of recourse against the City for loss or damage to the Consultant's property.

## **8. TERMINATION**

### **8.1 By the City**

The City may at any time and for any reason by written notice to the Consultant terminate this agreement before the completion of all the Services, such notice to be determined by the City at its sole discretion. Upon receipt of such notice, the Consultant will perform no further Services other than the work which is reasonably required to terminate the Services and return the City's property to the City. Despite any other provision of this agreement, if the City terminates this agreement before the completion of all the Services, the City will pay to the Consultant all amounts owing under this agreement for Services provided by the Consultant up to and including the date of termination, plus reasonable termination costs in the amount as determined by the City in its sole discretion. Upon payment of such amounts no other Fees or additional payment will be owed by the City to the Consultant, and, for certainty, no amount will be owing on account of lost profits relating to the portion of the Services not performed or other profit opportunities.

### **8.2 Termination for Cause**

The City may terminate this agreement for cause as follows:

- (a) If the Consultant is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of its insolvency, or if a receiver is appointed because of its insolvency, the City may, without prejudice to any other right or remedy the City may have, terminate this agreement by giving the Consultant or receiver or trustee in bankruptcy written notice; or
- (b) If the Consultant is in breach of any term or condition of this agreement, and such breach is not remedied to the reasonable satisfaction of the City within 5 days after delivery of written notice from the City to the Consultant, then the City may, without prejudice to any other right or remedy the City may have, terminate this agreement by giving the Consultant further written notice.

If the City terminates this agreement as provided by this section, then the City may:

- (a) enter into contracts, as it in its sole discretion sees fit, with other persons to complete the Services;
- (b) withhold payment of any amount owing to the Consultant under this agreement for the performance of the Services;
- (c) set-off the total cost of completing the Services incurred by the City against any amounts owing to the Consultant under this agreement, and at the completion of the Services pay to the Consultant any balance remaining; and

- (d) if the total cost to complete the Services exceeds the amount owing to the Consultant, charge the Consultant the balance, which amount the Consultant will forthwith pay.

### **8.3 Curing Defaults**

If the Consultant is in default of any of its obligations under this agreement, then the City may without terminating this agreement, upon 5 days written notice to the Consultant, remedy the default and set-off all costs and expenses of such remedy against any amounts owing to the Consultant. Nothing in this agreement will be interpreted or construed to mean that the City has any duty or obligation to remedy any default of the Consultant.

## **9. APPLICABLE LAWS, POLICIES, BUILDING CODES AND BY-LAWS**

### **9.1 Applicable Laws and Policies**

This agreement will be governed by and construed in accordance with the laws of the Province of British Columbia. The City and the Consultant accept the jurisdiction of the courts of British Columbia and agree that any action under this agreement be brought in such courts.

The Consultant shall comply with all applicable policies, procedures and instructions provided by the City.

### **9.2 Codes and By-Laws**

The Consultant will provide the Services in full compliance with all applicable laws, building codes and regulations.

### **9.3 Interpretation of Codes**

The Consultant will, as a qualified and experienced professional, interpret applicable codes, laws and regulations applicable to the performance of the Services. If an authority having jurisdiction imposes an interpretation which the Consultant could not reasonably have verified or foreseen prior to entering into this agreement, then the City will pay the additional costs, if any, of making alterations so as to conform to the required interpretation.

## **10. INTELLECTUAL PROPERTY RIGHTS**

Intellectual property is owned by the applicable content owner and, except as expressly set out herein, this Agreement does not grant either party any rights, implied or otherwise, to the other's intellectual property. For greater certainty:

- (a) the City acknowledges that the Contractor retains all right, title and interest in the Contractor's intellectual property. The City acknowledges that it does not, by virtue of receiving a license to use the Contractor's intellectual property, acquire any proprietary rights therein, other than the limited rights granted in this Agreement. The Contractor warrants that it is the sole owner of its intellectual property; and
- (b) the Contractor acknowledges that the City retains all right, title and interest in the City's intellectual property. The Contractor acknowledges that it does not, by virtue of receiving a license to use the City's intellectual property in order to customize the intellectual property, acquire any proprietary right to the City's intellectual

property, other than the limited rights granted under this Agreement. The City warrants that it owns the City's intellectual property that it provides to the Contractor for the purpose of customizing the intellectual property.

Neither party may transfer or assign its rights and obligations under this Agreement without first obtaining the other party's prior written consent.

Upon termination or expiry of this Agreement, the Contractor shall remove the City's intellectual property from the software.

## **11. RIGHTS AND LICENSE IN AND TO CITY DATA**

The parties agree that as between them, all rights, in and to City Data shall remain the exclusive property of the City, and the Contractor has a limited, nonexclusive license to access and use these City Data as provided in this Agreement solely for the purpose of performing its obligations hereunder.

All City Data created and/or processed by the Services is and shall remain the property of the City and shall in no way become attached to the Services, nor shall the Contractor have any rights in or to the City Data.

This Agreement does not give a party any rights, implied or otherwise, to the other's Data, content, or intellectual property, except as expressly stated in the Agreement.

The City retains the right to use the Services to access and retrieve City Data stored on the Contractor's Services infrastructure at any time at its sole discretion.

## **12. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION**

### **12.1 No Disclosure**

Except as provided for by law or otherwise by this agreement, the Consultant will keep strictly confidential any information supplied to, obtained by, or which comes to the knowledge of the Consultant as a result of the performance of the Services and this agreement, and will not, without the prior express written consent of the City, publish, release, disclose or permit to be disclosed any such information to any person or corporation, either before, during or after termination of this agreement, except as reasonably required to complete the Services.

### **12.2 Freedom of Information and Protection of Privacy Act**

The Contractor acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia and agrees to any disclosure of information by the City required by law.



### **13. RESPONSE TO LEGAL ORDERS, DEMANDS OR REQUESTS FOR CITY DATA**

Except as otherwise expressly prohibited by law, the Contractor will:

- (a) if required by a court of competent jurisdiction or an administrative body to disclose City Data, the Contractor will notify the City in writing immediately upon receiving notice of such requirement and prior to any such disclosure;
- (b) consult with the City regarding its response;
- (c) cooperate with the City's reasonable requests in connection with efforts by the City to intervene and quash or modify the legal order, demand or request; and
- (d) upon the City's request, provide the City with a copy of its response.

If the City receives a subpoena, warrant, or other legal order, demand or request seeking City Data maintained by the Contractor, the City will promptly provide a copy to the Contractor. The Contractor will supply the City with copies of City Data required for the City to respond within forty-eight (48) hours after receipt of copy from the City, and will cooperate with the City's reasonable requests in connection with its response.

### **14. PROTECTION OF PERSONAL INFORMATION**

If, during the performance of the Services, the Consultant has access to any personal information (as that term is defined in the *Freedom of Information and Protection of Privacy Act*), the Privacy Protection Schedule and Confidentiality Agreement (both of which are attached to this Agreement) apply and form a part of and are incorporated into this Agreement.

### **15. CITY DATA PRIVACY**

The Contractor will use City Data only for the purpose of fulfilling its duties under this Agreement and for City's sole benefit, and will not share such City Data with or disclose it to any third party without the prior written consent of City or as otherwise required by law. By way of illustration and not of limitation, the Contractor will not use such City Data for the Contractor's own benefit and, in particular, will not engage in "City Data mining" of City Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by the City.

The Contractor will provide access to City Data only to those Contractor employees, agents, personnel, contractors and subcontractors who need to access the City Data to fulfill the Contractor's obligations under this Agreement. The Contractor will ensure that, prior to being granted access to the City Data, the Contractor's employees, agents or personnel who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all City Data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the Contractor's employees, agents and personnel's duties and the sensitivity of the City Data they will be handling.

The Contractor will ensure it maintains the confidentiality, integrity and availability of City Data by ensuring appropriate security controls are applied.

## **15.1 Return of Property**

The Consultant agrees to return to the City all of the City's property at the completion of this Agreement, including any and all copies or originals of reports provided by the City.

Upon termination or expiration of this Agreement, the Contractor will ensure that all City Data is securely transferred to the City, or a third party designated by the City, within ten (10) calendar days of any such event. The Contractor will ensure that such migration uses facilities and methods that are compatible with the relevant systems of the City, and that the City will have access to City Data during the transition. In the event that it is not possible to transfer the aforementioned City Data to the City in a format that does not require proprietary software to access the City Data, the Contractor shall provide the City with an unlimited use, perpetual license to any proprietary software necessary in order to gain access to the City Data.

## **16. USE OF WORK PRODUCT**

The Consultant hereby sells, assigns and transfers to the City the right, title and interest required for the City to use and receive the benefit of all the reports, drawings, plans, designs, models, specifications, computer software, concepts, products, designs or processes or other such work product produced by or resulting from the Services rendered by the Consultant.

## **17. WORKERS' COMPENSATION BOARD AND OCCUPATIONAL HEALTH AND SAFETY**

The Consultant agrees that it shall, at its own expense, procure and carry, or cause to be procured, carried and paid for, full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this agreement. The Consultant agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for the Workers' Compensation Board coverage against any monies owing by the City to the Consultant. The City will have the right to withhold payment under this agreement until the Workers' Compensation Board premiums, assessments or penalties in respect of the Services have been paid in full.

The Consultant will provide the City with the Consultant's Workers' Compensation Board registration number and a letter from the Workers' Compensation Board confirming that the Consultant is registered in good standing with the Workers' Compensation Board and that all assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this agreement.

The Consultant agrees that it is the prime contractor for the Services as defined in the *Workers Compensation Act, R.S.B.C. 2019, c.1* as amended and will ensure compliance with the *Workers Compensation Act* and Regulations in respect of the workplace. Without limiting its responsibilities under the legislation, the Consultant will coordinate the activities of employers, workers and other persons at the workplace relating to occupational health and safety. The Consultant will have a safety program in place that meets the requirements of the Workers' Compensation Board Occupational Health and Safety Regulation and the *Workers Compensation Act*. As prime contractor, the Consultant will be responsible for appointing a qualified coordinator for insuring the health and safety activities for the location of the Services. That person will be the person so identified in this agreement, and the Consultant will advise the City immediately in writing if the name or contact number of the qualified coordinator changes.

Without limiting the generality of any other indemnities granted by the Consultant in this agreement, the Consultant shall indemnify and save harmless the Indemnitees from and against all claims, demands, causes of action, suits, losses, damages, costs, liabilities, expenses, judgements, penalties and proceedings (including all actual legal costs) which any of the Indemnitees incur, suffer or are put to arising out of or in any way related to unpaid Workers' Compensation Board assessments owing from any person or corporation engaged 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 the Workers' Compensation Board, including penalties levied by the Workers' Compensation Board.

The Consultant will ensure compliance with and conform to all health and safety laws, by-laws or regulations of the Province of British Columbia, including without limitation the *Workers' Compensation Act* and Regulations pursuant thereto.

The City may, on twenty-four (24) hours written notice to the Consultant, install devices or rectify any conditions creating an immediate hazard existing that would be likely to result in injury to any person. However, in no case will the City be responsible to ascertaining or discovering, through inspections or review of the operations of the Consultant or otherwise, any deficiency or immediate hazard.

The Contractor understands and undertakes to comply with all the Workers' Compensation Board Occupational Health and Safety Regulations for hazardous materials and substances, and in particular with the "Workplace Hazardous Materials Information System (WHMIS)" Regulations. All "Material Safety Data Sheets (MSDS)" will be shipped along with the Goods and any future MSDS updates will be forwarded.

## **18. BUSINESS LICENSE**

The Consultant will obtain and maintain throughout the term of this agreement a valid City of Surrey business license.

## **19. DISPUTE RESOLUTION**

### **19.1 Dispute Resolution Procedures**

The parties will make reasonable efforts to resolve any dispute, claim, or controversy arising out of this agreement or related to this agreement ("**Dispute**") using the dispute resolution procedures set out in this section 19.

(a) Negotiation

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

(b) Mediation

If all or any portion of a Dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may

apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Surrey, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs, and each party will bear its own costs of participating in the mediation.

(c) Litigation

If within 90 days of the request for mediation the Dispute is not settled, or if the mediator advises that there is no reasonable possibility of the parties reaching a negotiated resolution, then either party may without further notice commence litigation.

## **20. JURISDICTION AND COUNCIL NON-APPROPRIATION**

Nothing in this agreement limits or abrogates, or will be deemed to limit or abrogate, the jurisdiction of the Council of the City in the exercise of its powers, rights or obligations under any public or private statute, regulation or by-law or other enactment.

The Consultant recognizes and agrees that the City cannot make financial commitments beyond the City's current fiscal year. The City will annually make bonafide requests for appropriation of sufficient funds to cover all payments covered by this agreement. If City Council does not appropriate funds, or appropriates insufficient funds, the City will notify the Consultant of its intention to terminate or reduce the services so affected within 30 days after the non-appropriation becomes final. Such termination shall take effect 30 days from the date of notification, shall not constitute an event of default and shall relieve the City, its officers and employees, from any responsibility or liability for the payment of any further amounts under this agreement.

## **21. GENERAL**

### **21.1 Entire Agreement**

This agreement, including the Appendices and any other documents expressly referred to in this agreement as being a part of this agreement, contains the entire agreement of the parties regarding the provision of the Services and no understandings or agreements, oral or otherwise, exist between the parties except as expressly set out in this agreement. This agreement supersedes and cancels all previous agreements between the parties relating to the provision of the Services.

### **21.2 Amendment**

This agreement may be amended only by agreement in writing, signed by both parties.

### **21.3 Consultant Terms Rejected**

In the event that the Consultant issues an invoice, packing slip, sales receipt, or any like document to the City, the City accepts the document on the express condition that any terms and conditions in it which constitute terms and conditions which are in addition to or which establish conflicting terms and conditions to those set out in this agreement are expressly rejected by the City.

## 21.4 Survival of Obligations

All of the Consultant's obligations to perform the Services in a professional and proper manner will survive the termination or completion of this agreement.

## 21.5 Cumulative Remedies

The City's remedies under this agreement are cumulative and in addition to any right or remedy which may be available to the City at law or in equity.

## 21.6 Notices

Any notice, report or other document that either party may be required or may wish to give to the other should be in writing, unless otherwise provided for, and will be deemed to be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by facsimile, on transmission, or if by mail, five calendar days after posting. The addresses for delivery will be as follows:

(a) The City:

City of Surrey, Surrey City Hall  
<img alt="redaction icon" data-bbox="293 428 323 441"/> **insert department/division/section name**  
13450 – 104<sup>th</sup> Avenue, Surrey, B.C., V3T 1V8, Canada

Attention: <img alt="redaction icon" data-bbox="293 476 323 489"/> **insert contact name**  
<img alt="redaction icon" data-bbox="293 492 323 505"/> **insert title**

Business Fax No.: <img alt="redaction icon" data-bbox="353 523 383 536"/> **insert**  
Business Email: <img alt="redaction icon" data-bbox="353 539 383 552"/> **insert**

(b) The Consultant:

<img alt="redaction icon" data-bbox="236 603 266 616"/> **insert name and address**

Attention: <img alt="redaction icon" data-bbox="293 635 323 648"/> **insert contact name**  
<img alt="redaction icon" data-bbox="293 651 323 664"/> **insert title**

Business Fax No.: <img alt="redaction icon" data-bbox="353 683 383 696"/> **insert**  
Business Email: <img alt="redaction icon" data-bbox="353 699 383 712"/> **insert**

## 21.7 Unenforceability

If any provision of this agreement is invalid or unenforceable, it will be severed from the agreement and will not affect the enforceability or validity of the remaining provisions of the agreement.

## 21.8 Headings

The headings in this agreement are inserted for convenience of reference only and will not form part of nor affect the interpretation of this agreement.

## **21.9 Singular, Plural and Gender**

Wherever the singular, plural, masculine, feminine or neuter is used throughout this agreement the same will be construed as meaning the singular, plural, masculine, feminine, neuter or body corporate where the context so requires.

## **21.10 Waiver**

No waiver by either party of any breach by the other party of any of its covenants, obligations and agreements will be a waiver of any subsequent breach or of any other covenant, obligation or agreement, nor will any forbearance to seek a remedy for any breach be a waiver of any rights and remedies with respect to such or any subsequent breach.

## **21.11 Signature**

This agreement may be executed in one or more counterparts all of which when taken together will constitute one and the same agreement, and one or more of the counterparts may be delivered by fax or PDF email transmission.

## **21.12 Force Majeure**

Neither party shall be liable to the other for failure or delay of performance hereunder due to causes beyond its reasonable control. Such delays include, but are not limited to, earthquake, flood, storm, fire, epidemics, acts of government, governmental agencies or officers, war, riots, or civil disturbances. The non-performing party will promptly notify the other party in writing of an event of force majeure, the expected duration of the event, and its anticipated effect on the ability of the party to perform its obligations, and make reasonable effort to remedy the event of force majeure in a timely fashion.

The performing party may terminate or suspend its performance under this Agreement if the non-performing party fails to perform its obligations under this Agreement for more than fifteen (15) consecutive calendar days. City's payment obligations shall be suspended automatically if it is denied access to the Services for more than five (5) hours in any twenty-four (24) hour period.

## **21.13 Authority to Enter Agreement**

Each party represents and warrants that it has the right to enter into this Agreement. The Contractor represents and warrants that it has the unrestricted right to provide the Services, and that it has the financial viability to fulfill its obligations under this Agreement. The Contractor represents, warrants and agrees that the Services shall be free and clear of all liens, claims, encumbrances or demands of Third Parties. The Contractor represents and warrants that it has no knowledge of any pending or threatened litigation, dispute or controversy arising from or related to the Services.

## **21.14 Service Level Agreement**

The Contractor warrants that all resolution and response times as described in [Appendix 6 – Service Levels](#), [Appendix 7 – Privacy Protection Schedule](#), [Appendix 8 – Confidentiality Agreement](#), etc. shall be adhered to.

**21.15 Enurement**

This agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the City and the Consultant.

**IN WITNESS WHEREOF** the parties hereto have executed this agreement on the day and year first above written.

**CITY OF SURREY**

**I/We have the authority to bind the City.**

---

**PRINT NAME OF AUTHORIZED SIGNATORY**

Position of Authorized Signatory

 **INSERT FULL LEGAL NAME OF CONSULTANT]**

**I/We have the authority to bind the Consultant.**

---

**PRINT NAME OF AUTHORIZED SIGNATORY**

Position of Authorized Signatory

***(APPENDICES 1 THROUGH 9 WILL BE INSERTED LATER WHEN AN AGREEMENT IS ASSEMBLED FOR EXECUTION INCLUDING INFORMATION FROM THE RFP AND SUCCESSFUL PROPOSAL)***

**APPENDIX 1 – SCOPE OF SERVICES**

**APPENDIX 2 – FEES AND PAYMENT**

**APPENDIX 3 – TIME SCHEDULE**

**APPENDIX 4 – PERSONNEL AND SUB-CONTRACTORS**

**APPENDIX 5 – ADDITIONAL SERVICES**

**APPENDIX 6 – SERVICE LEVEL AGREEMENT**

***APPENDIX 7 – PRIVACY PROTECTION SCHEDULE***

***APPENDIX 8 – CONFIDENTIALITY AGREEMENT***

***APPENDIX 9 – LICENSE AGREEMENT***



**SCHEDULE C – FORM OF PROPOSAL**

**RFP Project Title:** IT Service Management Replacement

**RFP Reference No.:** 1220-030-2024-049

**Legal Name of Proponent:** \_\_\_\_\_

**Contact Person and Title:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

**Business Telephone:** \_\_\_\_\_

**Business Fax:** \_\_\_\_\_

**Business E-Mail Address:** \_\_\_\_\_

TO:

City of Surrey

City Representative: Sunny Kaila, Manager, Procurement Services

E-mail for PDF Files: [purchasing@surrey.ca](mailto:purchasing@surrey.ca)

Dear Sir:

**1.0** I/We, the undersigned duly authorized representative of the Proponent, having received and carefully reviewed all of the Proposal documents, including the RFP and any issued addenda posted on the City Website and BC Bid Website, and having full knowledge of the Site, and having fully informed ourselves as to the intent, difficulties, facilities and local conditions attendant to performing the Services, submit this Proposal in response to the RFP.

**2.0** **I/We confirm** that the following schedules are attached to and form a part of this Proposal:

- Schedule C-1 – Statement of Departures;
- Schedule C-2 – Proponent’s Experience, Reputation and Resources;
- Schedule C-3 – Proponent’s Technical Proposal (Goods and Services);
- Schedule C-3-1 – **IT Service Management Replacement** Requirements Response.
- Schedule C-4 – Proponent’s Technical Proposal (Time Schedule);
- Schedule C-5 – Proponent’s Financial Proposal; and
- Schedule C-5-1 – **IT Service Management Replacement** Financial Worksheet.

**3.0** **I/We confirm** that this proposal is accurate and true to best of my/our knowledge.

**4.0 I/We confirm** that, if I/we am/are awarded a contract, I/we will at all times be the “prime contractor” as provided by the *Worker's Compensation Act (British Columbia)* with respect to the Services. I/we further confirm that if I/we become aware that another consultant at the place(s) of the Services has been designated as the “prime contractor”, I/we will notify the City immediately, and I/we will indemnify and hold the City harmless against any claims, demands, losses, damages, costs, liabilities or expenses suffered by the City in connection with any failure to so notify the City.

**This Proposal** is submitted this **[day]** day of **[month], [year]**.

**I/We have the authority to bind the Proponent.**

\_\_\_\_\_  
(Legal Name of Proponent)

\_\_\_\_\_  
(Signature of Authorized Signatory)

\_\_\_\_\_  
(Signature of Authorized Signatory)

\_\_\_\_\_  
(Print Name and Position of Authorized Signatory)

\_\_\_\_\_  
(Print Name and Position of Authorized Signatory)

**SCHEDULE C-1 - STATEMENT OF DEPARTURES**

1. I/We have reviewed the proposed Contract attached to the RFP as Schedule “B”. If requested by the City, I/we would be prepared to enter into that Contract, amended by the following departures (list, if any):

<b>Section</b>	<b>Requested Departure(s) / Alternative(s)</b>

2. The City of Surrey requires that the successful Proponent have the following in place **before commencing the Services**:

- (a) Workers’ Compensation Board coverage in good standing and further, if an “Owner Operator” is involved, personal operator protection (P.O.P.) will be provided, Workers' Compensation Registration Number \_\_\_\_\_;
- (b) Prime Contractor qualified coordinator is Name: \_\_\_\_\_ and Contact Number: \_\_\_\_\_;
- (c) Insurance coverage for the amounts required in the proposed agreement as a minimum, naming the City as additional insured and generally in compliance with the City’s sample insurance certificate form available on the City’s Website at [www.surrey.ca](http://www.surrey.ca) search Consultants Certificate of Insurance;
- (d) If applicable, City of Surrey or Intermunicipal Business License: Number \_\_\_\_\_;
- (e) If the Consultant’s Services are subject to GST, the Consultant’s GST Number is \_\_\_\_\_; and
- (f) If the Consultant is a company, the company name indicated above is registered with the Registrar of Companies in the Province of British Columbia, Canada, Incorporation Number \_\_\_\_\_.

As of the date of this Proposal, we advise that we have the ability to meet all of the above requirements **except as follows** (list, if any):

<b>Section</b>	<b>Requested Departure(s) / Alternative(s)</b>

3. I/We offer the following alternates to improve the Services described in the RFP (list, if any):

<b>Section</b>	<b>Requested Departure(s) / Alternative(s)</b>

4. The Proponent acknowledges that the departures it has requested in Sections 1, 2 and 3 of this Schedule C-1 will not form part of the Contract unless and until the City agrees to them in writing by initialling or otherwise specifically consenting in writing to be bound by any of them.

**SCHEDULE C-2 - PROPONENT’S EXPERIENCE, REPUTATION AND RESOURCES**

Proponents should provide information on the following (use the spaces provided and/or attach additional pages, if necessary):

- (i) Location of primary business, branch locations, background, stability, structure of the Proponent and number of years business has been operational;
- (ii) Proponent’s relevant experience and qualifications in delivering services similar to those required by the RFP;
- (iii) Proponent’s demonstrated ability to provide the Services;
- (iv) Proponent should describe their capability, capacity and plans for developing and supporting the deliverables. The objectives for this RFP are as set out in Schedule A;
- (v) Using a format similar to the following, provide a summary of similar relevant contracts entered into by the Proponent in which the Proponent performed services comparable to the Services as described in Schedule A, including the jurisdiction of the contract performed, the contract value, the date of performance. The City's preference is to have a minimum of three references.

Name of client’s organization:	
Reference Contact Information:	<b>Name:</b>
	<b>Phone Number:</b>
	<b>Email Address:</b>
How long has the organization been a client of the Proponent?	
Provide the installation date of the comparative system, and any relevant comments.	
Description of comparative system - Please be specific and detailed.	
Information on any significant obstacles encountered and resolved for this type of Service.	

- (vi) Proponent should provide documentation regarding the strategy and approach of training to be provided to City staff.
- (vii) Proponent should provide documentation regarding the support model to be provided to City staff.

**Project Approach – Team Roles**

- (viii) Proponents should provide an outline of the resource roles and estimated effort required for this project. (use the spaces provided and/or attach additional pages, if necessary):

Role	Name	Forecasted Project Days/Hrs.

(ix) Proponents should provide information on the background and experience of all key personnel proposed to undertake the Services (use the spaces provided and/or attach additional pages, if necessary):

**Key Personnel**

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

Experience: \_\_\_\_\_

Dates: \_\_\_\_\_  
 Project Name: \_\_\_\_\_  
 Responsibility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Dates: \_\_\_\_\_  
 Project Name: \_\_\_\_\_  
 Responsibility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Sub-Contractors**

(x) Proponents should provide the following information on the background and experience of all sub-contractors proposed to undertake a portion of the Services (use the spaces provided and/or attach additional pages, if necessary):

DESCRIPTION OF SERVICES	SUB-CONTRACTORS NAME	YEARS OF WORKING WITH PROPONENT	TELEPHONE NUMBER AND EMAIL

- END OF PAGE -

### **SCHEDULE C-3 - PROPONENT'S TECHNICAL PROPOSAL (GOODS AND SERVICES)**

Proponents should provide the following (use the spaces provided and/or attach additional pages, if necessary):

- (i) A description of the general approach and methodology that the Proponent would take in performing the Services including specifications and requirements;
- (ii) Provide in detail how Proponent's proposed Solution meets the **IT Service Management Replacement** Requirements. Please complete **IT Service Management Replacement Requirements Response, Schedule C-3-1**.

**Schedule C-3-1 may be viewed and/or downloaded from the City of Surrey's Managed File Transfer Service (MFT):**

Hostname: <https://mft.surrey.ca>  
Logon ID: surreybid  
Password: Welcome

Locate Folder: 1220-030-2024-049

- (iii) **Value Added Services:** The Proponent should provide a description of value added, innovative ideas and unique services that the Proponent can offer to implement the City's requirements relevant to the scope of Services described in this RFP. Unless otherwise stated, it is understood that there are no extra costs for these services;
- (iv) Any agreements that the Proponent would expect the City to execute, such as a support agreement, licensing agreement, service level agreement, etc.
- (v) **Environmental and Social Responsibility:** Describe your commitment to environmental stewardship initiatives, recycling practices and carbon footprint reduction.



## SCHEDULE C-5 - PROPONENT'S FINANCIAL PROPOSAL

Indicate the Proponent's proposed fee (excluding GST), using the following financial worksheet(s) (as applicable):

### 1. Schedule C-5-1: Financial Worksheet (Example)

Schedule C-5-1 may be viewed and/or downloaded from the City of Surrey's Managed File Transfer Service (MFT):

Hostname: <https://mft.surrey.ca>  
Logon ID: surreybid  
Password: Welcome

Locate Folder 1220-030-2024-049

### 2. Additional Expenses:

The proposed Contract attached as Schedule "B" to the RFP provides that expenses are to be included within the fee. Please indicate any expenses that would be payable in addition to the proposed fee set out above:

### 3. Payment Terms:

A cash discount of \_\_\_\_\_% will be allowed if account is paid within \_\_\_\_\_ days, or the \_\_\_\_\_ day of the month following, or net 30 days, on a best effort basis.



## ATTACHMENT 1 – PRIVACY PROTECTION SCHEDULE

### Definitions

1. In this Schedule:

- (a) “**access**” means disclosure by the provision of access;
- (b) “**Act**” means the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, including any regulation made under it, as may be amended or replaced from time to time;
- (c) “**Agreement**” means the agreement between the City and the Contractor to which this Schedule is attached;
- (d) “**business day**” means any day that is not a Saturday, Sunday or statutory holiday;
- (e) “**City**” means the City of Surrey;
- (f) “**contact information**” means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
- (g) “**Contractor**” means the person retained to perform the services under the Agreement;
- (h) “**personal information**” means recorded information about an identifiable individual, other than contact information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the City and the Contractor dealing with the same subject matter as the Agreement;
- (i) “**privacy course**” means the City’s online privacy and information sharing training course or another course approved by the City; and
- (j) “**third party request for disclosure**” means a subpoena, warrant, order, demand or request from an authority inside or outside of Canada for the unauthorized disclosure of personal information to which the Act applies;
- (k) “**service provider**” means a person retained under a contract to perform services for a public body; and
- (l) “**Third Party Hosting Provider**” means a third party that provides a platform or hosting service through which the Contractor delivers the services under the Agreement and to whom personal information is not accessible and as such, for the purposes of this Schedule, is not considered a subcontractor.

### Purpose

2. The purpose of this Schedule is to:

- (a) enable the City to comply with the City's statutory obligations under the Act with respect to personal information; and
- (b) ensure that, as a service provider, the Contractor is aware of and complies with the Contractor's statutory obligations under the Act with respect to personal information.

### **Acknowledgements**

- 3. The Contractor acknowledges and agrees that:
  - (a) it is a service provider and, as such, the requirements and restrictions established by Part 3 of the Act apply to the Contractor in respect of personal information;
  - (b) unless the Agreement otherwise specifies, all personal information in the custody of the Contractor is and remains under the control of the City; and
  - (c) unless the Agreement otherwise specifies or the City otherwise directs in writing, the Contractor may only collect, use, disclose or store personal information that relates directly to and is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

### **Collection of Personal Information**

- 4. Unless the Agreement otherwise specifies or the City otherwise directs in writing, the Contractor may only collect or create personal information that relates directly to and is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
- 5. Unless the Agreement otherwise specifies or the City otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about unless:
  - (a) the City provides personal information to the Contractor;
  - (b) the Agreement otherwise specifies; or
  - (c) the City otherwise directs in writing.
- 6. Unless the Agreement otherwise specifies or the City otherwise directs in writing, where the Contractor collects personal information directly from the individual the information is about, the Contractor must tell that individual:
  - (a) the purpose for collecting it;
  - (b) the legal authority for collecting it; and
  - (c) the contact information of the individual designated by the City to answer questions about the Contractor's collection of personal information.

## **Privacy Training**

7. The Contractor must ensure that each individual who will provide services under the Agreement that involve the access, collection or creation of personal information will complete, at the Contractor's expense, the privacy course prior to that individual providing those services.
8. The requirement in section 7 will only apply to individuals who have not previously completed the privacy course.

## **Accuracy of Personal Information**

9. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the City to make a decision that directly affects the individual the information is about.

## **Requests for Access to Information**

10. If the Contractor receives a request for access to personal information from a person other than the City, the Contractor must promptly advise the person to make the request to the City unless the Agreement expressly requires the Contractor to provide such access. If the City has advised the Contractor of the name or title and contact information of an official of the City to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

## **Correction of Personal Information**

11. Within 5 business days of receiving a written direction from the City to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
12. When issuing a written direction under section 11, the City must advise the Contractor of the date the correction request was received by the City in order that the Contractor may comply with section 13.
13. Within 5 business days of correcting or annotating any personal information under section 11, the Contractor must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was received by the City, the Contractor disclosed the information being corrected or annotated.
14. If the Contractor receives a request for correction of personal information from a person other than the City, the Contractor must promptly advise the person to make the request to the City and, if the City has advised the Contractor of the name or title and contact information of an official of the City to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

## **Protection of Personal Information**

15. Without limiting any other provision of the Agreement, the Contractor must protect personal information by making reasonable security arrangements against such risks as

unauthorized access, collection, use, disclosure or disposal, including without limitation by ensuring that the integrity of the personal information is preserved. Without limiting the general nature of the foregoing sentence, the Contractor will ensure that all personal information is securely segregated from any information under the control of the Contractor or third parties to prevent unintended mixing of personal information with other information or access to personal information by unauthorized persons and to enable personal information to be identified and separated from the information of the Contractor or third parties.

### **Storage of and Access to Personal Information**

16. The Contractor must comply with the requirements under the Act concerning storage of personal information outside of Canada, including, if required by the City, by supporting the City with completion of such assessments as may be required by law.
17. The Contractor must not change the location where personal information is stored without receiving prior authorization of the City in writing.
18. Without limiting any other provision of the Agreement, the Contractor will implement and maintain an access log documenting all access to personal information, including a list of all persons that access any personal information. The Contractor will provide a copy of the access log to the City upon request.
19. The Contractor will not authorize or assist a Third Party Hosting Provider to access any personal information without the prior written approval of the City.

### **Retention of Personal Information**

20. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the City in writing to dispose of it or deliver it as specified in the direction.

### **Use of Personal Information**

21. Unless the City otherwise directs in writing, the Contractor may only use personal information if that use is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement. For clarity, unless the Agreement otherwise specifies or the City otherwise directs in writing, the Contractor must not anonymize, aggregate or otherwise alter or modify personal information, including by converting personal information into non-personal information, or analyze personal information (whether by manual or automated means) for any purpose, including for the purpose of developing insights, conclusions or other information from personal information.

### **Metadata**

22. Where the Contractor has or generates metadata as a result of services provided to the City, where that metadata is personal information, the Contractor will:
  - (a) not use it or disclose it to any other party except where the Agreement otherwise specifies; and

- (b) remove or destroy individual identifiers, if practicable.

### **Disclosure of Personal Information**

23. Unless the City otherwise directs in writing, the Contractor may only disclose personal information to any person other than the City if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

24. If in relation to personal information, the Contractor:

- (a) receives a third party request for disclosure;
- (b) receives a request to disclose, produce or provide access that the Contractor knows or has reason to suspect is for the purpose of responding to a third party request for disclosure; or
- (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a third party request for disclosure,

subject to section 25, the Contractor must immediately notify the City.

25. If the Contractor receives a third-party request described in section 24(a) or (b) but is unable to notify the City as required by section 24, the Contractor must instead:

- (a) use its best efforts to direct the party making the third party request for disclosure to the City;
- (b) provide the City with reasonable assistance to contest the third party request for disclosure; and
- (c) take reasonable steps to challenge the third party request for disclosure, including by presenting evidence with respect to:
  - (i) the control of personal information by the City as a public body under the Act;
  - (ii) the application of the Act to the Contractor as a service provider to the City;
  - (iii) the conflict between the Act and the third party request for disclosure; and
  - (iv) the potential for the Contractor to be liable for an offence under the Act as a result of complying with the third party request for disclosure.

### **Notice of Unauthorized Disclosure**

26. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information, the Contractor must immediately notify the City.

27. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the City of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

### **Inspection of Personal Information**

28. In addition to any other rights of inspection the City may have under the Agreement or under statute, the City may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect any personal information in the possession of the Contractor or any of the Contractor's information management policies or practices relevant to its management of personal information or its compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection.

### **Compliance with the Act and Directions**

29. The Contractor must in relation to personal information comply with:
  - (a) the requirements of the Act applicable to the Contractor as a service provider, including any regulation made under the Act and the terms of this Schedule; and
  - (b) any direction given by the City under this Schedule.
30. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.
31. The Contractor will provide the City with such information as may be reasonably requested by the City to assist the City in confirming the Contractor's compliance with this Schedule.

### **Notice of Non-Compliance**

32. If for any reason the Contractor does not comply or anticipates that it will be unable to comply in any respect, with any provision in this Schedule, the Contractor must promptly notify the City of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

### **Termination of Agreement**

33. In addition to any other rights of termination which the City may have under the Agreement or otherwise at law, the City may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

### **Interpretation**

34. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
35. Any reference to "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with the requirements of the Act applicable to them.
36. This Schedule will supersede and replace any Privacy Protection Schedule attached to

any previous agreement between the City and the Contractor dealing with the same subject matter as the Agreement.

37. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
38. If a provision of the Agreement (including any direction given by the City under this Schedule) conflicts with a requirement of the Act, including any regulation made under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
39. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of the Agreement or the law of any jurisdiction outside Canada.
40. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.

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**ATTACHMENT 2 – CONFIDENTIALITY AGREEMENT**

**PROJECT TITLE: IT Service Management Replacement**

**Reference No.: 1220-030-2024-049**

**BETWEEN:**

**CITY OF SURREY**  
13450 - 104 Avenue,  
Surrey, B.C., V3T 1V8

(the “City”)

**OF THE FIRST PART**

**AND:**

\_\_\_\_\_

\_\_\_\_\_  
*(Insert Full Legal Name and Business Address)*

(the “Consultant”)

**OF THE SECOND PART**

**WHEREAS:**

- A. The Consultant and the City acknowledge that the process of the Consultant having access to information will involve the verbal, electronic, written, or other disclosure of information, and documentation to the Consultant. In this Confidentiality and Non-disclosure Agreement (“Confidentiality Agreement”) confidential information (the “Confidential Information”) means any information regarding potential City land sites, technical data, or know how, including, but not limited to that which relates to services, processes, designs, drawings, diagrams, specifications, business strategies, finances whether communicated orally or in writing, specifications and associated documentation, and any equipment, machinery, or other property all of which owned by the City.
- B. The Consultant, upon executing this Confidentiality Agreement, has agreed to maintain the Confidential Information as confidential and to the non-disclosure of same, all in accordance with this Confidentiality Agreement.

**THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL COVENANTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:**

- 1. The Consultant shall hold the Confidential Information in strict confidence recognizing that the Confidential Information, or any portion thereof, is comprised of highly sensitive information. The Consultant acknowledges that the disclosure or use of the Confidential Information, or any portion thereof, except as contemplated herein, will cause the City substantial and irreparable harm and injury and the City shall have the right to equitable



and injunctive relief to prevent the unauthorized use or disclosure, and to such damages as there are occasioned by such unauthorized use or disclosure, and the Consultant hereby consents to the granting of such equitable and injunctive relief.

2. The Consultant shall not divulge or allow disclosure of the Confidential Information, or any part thereof, to any person or entity for any purpose except as specified by the City, unless expressly authorized in writing to do so by the City, provided however, the Consultant may permit the limited disclosure of the Confidential Information or portion thereof only to those of the Consultant's directors, officers, employees, and sub-consultant who have a clear and *bonafide* need to know the Confidential Information, and provided further that, before the Consultant divulges or discloses any of the Confidential Information to such directors, officers, employees, and sub-consultant, the Consultant shall inform each of the said directors, officers, employees, and sub-consultants of the provisions of this Confidentiality Agreement and shall issue appropriate instructions to them to satisfy the obligations of the Consultant set out in this Confidentiality Agreement and shall, at the request of the City, cause each of the said directors, officers, employees, and sub-consultants to execute a confidentiality agreement in a form satisfactory to the City, in its sole discretion.
3. The Consultant agrees not to use any of the Confidential Information disclosed to it by the City for its own use or for any purpose except to carry out the specific purposes designated by this Confidentiality Agreement.
4. The Consultant shall take all necessary precautions to prevent unauthorized disclosure of the Confidential Information or any portion thereof to any person, or entity in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include a reasonable degree of care, and not less than that which the Consultant utilizes to protect its own confidential information of a similar nature.
5. The Consultant shall notify the City in writing of any misuse or misappropriation of Confidential Information which may come to its attention.
6. The Consultant shall not mechanically or electronically copy or otherwise reproduce the Confidential Information, or any portion thereof, without the express advance written permission of the City, except for such copies as the Consultant may require pursuant to this Confidentiality Agreement in order to prepare the Report. All copies of the Confidential Information shall, upon reproduction by the Consultant, contain the same the City proprietary and confidential notices and legends that appear on the original Confidential Information provided by the City unless authorized otherwise by the City. All copies shall be returned to the City upon request. Notwithstanding the foregoing, the Consultant may retain one (1) copy of all Confidential Information in the files of its general counsel for the sole purpose of ascertaining its rights and obligations in the event of a dispute hereunder, provided, however, that such retained Confidential Information shall be held in accordance with the confidentiality requirements of this Confidentiality Agreement.
7. The Confidential Information received by the Consultant and all formatting of the Confidential Information, including any alterations to the Confidential Information, shall

remain the exclusive property of the City, and shall be delivered to the City by the Consultant forthwith upon demand by the City, with the exception of one (1) copy, consistent with Section 6 herein.

8. The Consultant acknowledges that the City is a public body subject to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) and as such the Confidential Information is protected pursuant to the provisions of FIPPA. The Consultant further acknowledges that the collection, use, storage, access, and disposal of the Confidential Information shall be performed in compliance with the requirements of FIPPA. Information which is sent to the City by the Consultant in performance of this Confidentiality Agreement is subject to FIPPA and may be disclosed as required by FIPPA. The Consultant shall allow the City to disclose any of the information in accordance with FIPPA, and where it is alleged that disclosure of the information, or portion thereof, may cause harm to the Consultant, the Consultant shall provide details of such harm in accordance with section 21 of FIPPA.
9. The Consultant acknowledges and agrees that nothing in this Confidentiality Agreement does or is intended to grant any rights to the Consultant under any patent, copyright, or other proprietary right, either directly or indirectly, nor shall this Confidentiality Agreement grant any rights in or to the Confidential Information.
10. Disclosure of the Confidential Information to the Consultant the terms of this Confidentiality Agreement shall not constitute public disclosure of the Confidential Information for the purposes of section 28.2 of the *Patent Act*, R.S.C. 1985, c. p-4.
11. This Confidentiality Agreement shall be binding upon and for the benefit of the undersigned parties, their successors, and assigns and the Consultant hereby acknowledges that the obligations imposed on the Consultant hereunder shall survive the termination of the Consultant’s dealings or engagement with the City.
12. The Consultant represents that is not now a party to, and shall not enter into any agreement or assignment in conflict with this Confidentiality Agreement.
13. This Confidentiality Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia and the Consultant and the City irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia to adjudicate any dispute arising out of this Agreement.
14. No provision of this Confidentiality Agreement shall be deemed to be waived by the City and no breach of this Confidentiality Agreement shall be deemed to be excused by the City unless such waiver or consent excusing such breach is in writing and duly executed by the City.