



REQUEST FOR PROPOSALS

Title: Joint Use Agreement Review

Reference No.: 1220-030-2018-023

(General Services)

FOR PROFESSIONAL SERVICES (CONSULTANT)

JOINTLY WITH THE BOARD OF EDUCATION OF SCHOOL DISTRICT 36 (SURREY)

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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;

“**City**” means the City of Surrey;

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

“**City Website**” means 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;

“**District**” means Board of Education of School District No. 36 (Surrey)

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

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

“**Parties**” means the City of Surrey, the Board of Education of School District No. 36 (Surrey) and the proponent;

“**Partners**” means the City of Surrey and the Board of Education of School District No. 36 (Surrey) who will be partners in this RFP;

“**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

A Proposal should be labelled with the Proponent’s name, RFP title and number. A Proposal should be submitted in the form attached to this RFP as Schedule C – Form of Proposal.

The Proponent may submit a Proposal either by email or in a hard copy, as follows:

(a) Email

If the Proponent chooses to submit by email, the Proponent should submit the Proposal electronically in a single pdf file which must be delivered to the City by email at: purchasing@surrey.ca

on or before the following date and time

Time: 3:00 p.m., local time
Date: May 24, 2018

(the “Closing Time”).

PDF emailed Proposals are preferred and the City will confirm receipt of emails. Note that the maximum file size the City can receive is 10Mb. If sending large email attachments, Proponents should phone to confirm receipt. A Proponent bears all risk that the City’s equipment functions properly so that the Proposal is submitted on time.

(b) Hard Copy

If the Proponent chooses NOT to submit by email, the Proponent should submit one (1) original unbound Proposal and one (1) copy (two (2) in total) which must be delivered to the City at the office of:

Name: Richard D. Oppelt, Purchasing Manager
at the following location:

Address: Surrey City Hall
Finance Department – Purchasing Section
Reception Counter, 5th Floor West
13450 – 104 Avenue, Surrey, B.C., Canada V3T 1V8

on or before the Closing Time.

2.2 Information Meeting

An information meeting will be jointly hosted by the Partners to discuss the 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: 14th, May, 2018

Where: Surrey City Hall
1W 90.06 Meeting Room A

Time: 1:00 p.m. to 2:00 p.m.

2.3 Late Proposals

Proposals submitted after the Closing Time will not be accepted or considered. Delays caused by any delivery, courier or mail service(s) will not be grounds for an extension of the Closing Time.

2.4 Amendments to Proposals

Proposals may be revised by written amendment, delivered to the location 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 3.3. 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 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: Richard D. Oppelt, Purchasing Manager

Address: Surrey City Hall
Finance Department – Purchasing Section
Reception Counter, 5th Floor West
13450 – 104 Avenue, Surrey, B.C., V3T 1V8, Canada

Business Fax: 604-599-0956

Business E-mail: purchasing@surrey.ca

Reference: 1220-030-2018-023

Inquiries should be made no later than 7 business days before Closing Time. The City reserves the right not to respond to inquiries made within 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 (the “**BC Bid Website**”) and the City Website at www.surrey.ca (the “**City Website**”) that will form part of this RFP. No amendment of any kind to the RFP is effective unless it is posted in a formal written addendum on the City Website. Upon submitting a Proposal, Proponents will be deemed to have received notice of all addenda that are posted on the City Website.

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.

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 Package (Hard Copy)

If the Proponent chooses NOT to submit by email, the Proponent should submit a Proposal in a particular submittal format, to reduce paper, encourage our recycled product expectations, and reduce package bulk. Bulk from binders and large packages are unwanted. Vinyl plastic products are unwanted. The City also has an environmentally-preferable purchasing commitment, and seeks a package format to support the green expectations and initiatives of the City.

Please do not use any plastic or vinyl binders or folders. The City prefers simple, stapled paper copies. If a binder or folder is essential due to the size of your Proposal, they should be fully 100% recycled stock.

The City seeks and prefers submittals on 100% Post Consumer Fibre (PCF) paper, consistent with the City’s policy and the City environmental practices.

Please double-side your Proposal.

3.2 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.

3.3 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 by the Evaluation Team. The Evaluation Team may consult with others including City or District 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 Partners.

4.2 Evaluation Criteria

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

- (a) **Experience, Reputation and Resources**
The Evaluation Team will consider the Proponent's responses to items (i) to (x) in Schedule C-2.

(b) Technical

The Evaluation Team will consider the Proponent's responses to Schedule C-4 and items (i) to (vi) in Schedule C-3.

(c) Financial

The Evaluation Team will consider 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.

The Evaluation Team will not be limited to the criteria referred to above, and the Evaluation Team may consider other criteria that the 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;
- (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 Contract 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

The Evaluation Team may, at its discretion, invite some or all of the Proponents to appear before the Evaluation Team to provide clarifications of their Proposals. In such event, the Evaluation Team will be entitled to consider the answers received in evaluating Proposals.

4.7 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

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 agreement, and

the City reserves the complete right to at any time reject all Proposals, and to terminate this RFP process.

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.

The District requires the Proponents to sign off a statement of Conflict of Interest. Refer to Appendix 3 – Board of Education of School District No. 36 Conflict of Interest.

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.

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 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.

5.8 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. Project Background / Purpose

To update the Joint Use Agreement (Agreement), available in Schedule A-2, dated July 4th 2000, between the City of Surrey (City) and the Board of Education of School District No. 36 (District), as Partners. This review intends to modernise and rewrite this long-standing partnership, providing the Surrey community with long-term, sustainable access to services and facility space, and to advance the Partners' mandates.

The Partners' mandates can be summarized as follows (updated from the Agreement):

- The City, through the Parks, Recreation and Culture Department has a mandate to plan, construct and operate park, recreation and culture facilities and to plan, organize, administer and promote recreation and culture programs and services.
- The District has a mandate to operate K-12 programs as a priority, and to support both Community School and Adult Education programs, and also has a policy promoting public access to and community use of school facilities and grounds.

In 2010, the Partners jointly engaged the services of the consulting firm Professional Environmental and Recreation Consulting (PERC) to perform a study with the intent of enhancing the partnership Agreement between the Partners.

The Surrey Joint Use of Facility Space Study Report (Study) acknowledges the new operating constraints of the Partners. The Partners are both facing growing demand at prime times and locations that is greater than the resources they have. The increased demand for space has resulted in challenges in meeting the terms of the existing Agreement.

The following realities have changed demand for and use of the Partner's facilities.

- A growing population has increased demand for indoor and outdoor spaces of all kinds
- Daytime City space usage, which used to be low, is now running at near capacity, due to the changes in workforce schedule and aging demographics;
- Before/after school hour use of school space by community organizations continues to increase.
- Daytime use of school space by both City and private childcare providers has increased significantly. Increasing enrolment pressures are negatively impacting availability of space in schools for this purpose.

Faced with these challenges, the Partners are recommending the review of the Joint Use Agreement to better address the needs of the Partners.

2. The Project Objectives / Desired Outcomes

The Proponent will establish a process to review the Joint Use Agreement and will oversee and facilitate the actions of the Working Committee, composed of 3 City staff and up to 3 District staff; write and finalize the new proposed Joint Use Agreement with the input of the Partners.

Under the leadership of a mutually agreed upon facilitator, the Partners agree to collaborate and review the terms of the July 4 2000 Joint Use Agreement, with the goal of finalizing the New Agreement by December 31st 2018. The New Agreement is intended to provide the Partners with access to indoor and outdoor space and services, subject to availability.

This New Agreement seeks to provide the following:

- A long-term, sustainable, actionable, partnership framework to maximize the utilization of indoor and outdoor spaces owned and operated by the City and District with consideration to include outdoor spaces in the framework;
- Mechanisms, including but not limited to governance models, to promote continual improvements and address future needs, and;
- Supporting procedures and documentation on available spaces, services and incremental costs;
- Any other pertinent aspects to the long-term success of the partnership.
- Framework for the use of Partner's space to ensure the most effective use of taxpayer resources in Surrey
- Maximizes use of untapped resources while addressing issues of liabilities, costs and logistics

3. Project Description / Scope of Services

The Proponent will provide leadership to the Working Committee to ensure the project terms of reference are met, including the following:

- Develop and coordinate a process to produce a draft New Joint Use Agreement, ensuring the project Terms of Reference and deliverables are met.
- Prepare and deliver a kick-off meeting
- Chair information sharing meetings with the Working Committee
- Consultation with each party at all stages to determine separate and join needs, challenges and goals
- Survey the Agreement's stakeholders, such as school principals, program coordinators and members of the public and perform a SWOT analysis
- Perform a best practice review, sampling up to 5 comparable municipalities/districts
- Draft the New Joint Use Agreement for review and input by the Partners
- Assist City and District staff in securing adoption of the new Joint Use Agreement by City Council and Board of Education
- Provide regular updates to the Working Committee
- Assist in the development of a closeout report.

4. Project Deliverables

- Kick-off meeting
- Ongoing meetings with both parties throughout
- Stakeholder survey and SWOT analysis

- Best practice review, sampling of up to 5 comparable municipalities/districts
- Revised agreement, draft and final
- Closeout report

Note: Proponents will provide schedule of dates of completion for each of these deliverables.

5. Project Schedule

- Project initiation and kick-off meeting to be held in May 2018
- Project conclusion by December 31st 2018 – subject to revision by the sole discretion of the Partners

6. Project Budget

The estimated budget for this project including all applicable taxes and disbursement is \$40,000 Canadian dollars.

-END OF PAGE-

SCHEDULE A-2

Joint Use Agreement July 4th, 2000

THIS AGREEMENT DATED FOR REFERENCE THIS 4th DAY OF July, 2000.

BETWEEN:

THE CITY OF SURREY, a municipal corporation pursuant to the Municipal Act of British Columbia having an office at 7452 - 132nd Street, Surrey, B.C., V3W 4M7,

(the "City")

of the First Part

AND:

THE BOARD OF SCHOOL TRUSTEES OF SCHOOL DISTRICT NO. 36 (SURREY), a board of school trustees pursuant to the School Act of British Columbia having an office at 14225 - 56th Avenue, Surrey, B.C. V3X 3A3

(the "Board")

of the Second Part

WHEREAS:

- A. The City, through the Parks, Recreation and Culture Commission has a mandate to develop, construct, operate and maintain park, recreation and culture facilities and to organize, administer public environmental, recreation and culture programs and services;
- B. The Board has a mandate to operate both community schools and an adult education program, and also has a policy promoting public access to and community use of school facilities and grounds;
- C. The parties agree on the Mission Statement attached as Schedule "A" hereto;

COPY

- D. The parties agree that the ultimate responsibility for the use of facility space will remain with the owner of the facility;
- E. This Agreement is not intended to amend any of the existing leases and other property agreements, including site-specific joint-use agreements, between the Board and the City.
- F. The Board and the City provide essential community services to the public and have agreed to maintain formal and informal processes for ensuring ongoing communication and collaboration;

NOW THEREFORE this agreement witnesses that in consideration of the mutual covenants and agreements hereinafter set out the parties agree as follows:

RECIPROCAL PROVISIONS FOR JOINT USE

1. The Board grants to the City the right to operate activities after regular hours in schools without rental costs. On-site supervision will normally be provided at no cost to the City during regular school shifts. The City will pay to the Board the cost of extraordinary supervision, security, specialty equipment and developing rental-party storage areas when such services, equipment and storage are deemed necessary, but will pay no other personnel or facility rental charges.
2. The City grants to the Board the right to use City facilities without rental costs between 9:00 AM and 3:30 PM on prescribed school days, and at other times when no loss of revenue results. The Board will pay to the City the cost of any instruction provided and any costs associated with additional supervision, security, specialty equipment and developing rental-party storage areas, when such services, equipment and storage are deemed necessary, but will pay no other personnel or facility rental costs.

3. Each party will provide the particular facility to the other in the condition in which that facility would normally be provided to any other user in the ordinary course of programming; this is to say, facilities will be made available on an "as is" basis. The parties agree to use the facilities in accordance with this Agreement, the City by-laws, City policy, Parks, Recreation and Culture Commission policy and Board policy governing use of such facilities. Notwithstanding the foregoing, the City and Board agree to strive for consistency in maintenance standards for facilities which are intended for joint use, with such standards to be at least the minimum necessary to meet the community's needs.
4. Each party to this Agreement will make its buildings and grounds available for use by the other party on a first priority basis after the space requirements for its own programs have been met in accordance with the joint operating regulations attached hereto as Schedule "B".
5. This Agreement replaces and supercedes the agreement entered into by the parties and dated May 20, 1983, wherein the parties expressed their commitment to the joint use of Board and City facilities.

OPERATIONS COMMITTEE

6. A committee to be known as the "Operations Committee", comprised of two staff representatives of the City and two staff representatives of the Board, shall be established forthwith after the execution of this Agreement to oversee the operation of this Agreement.

RESTITUTION AND REPAIRS

7. It shall be the responsibility of the user party to make restitution for the repair of damage to a facility and its equipment or any property missing from the facility which may occur as a result of scheduled programs. The facility shall be

- inspected before use by the user party and the owner party to determine the condition of the facility and the equipment prior to use where feasible.
- 8. The owner party shall notify the user party of damage or loss within three working days after use. Sufficient notice shall consist of sending a fax or e-mail to the user's designated representative identifying the facility, permit number, date of detection, name of inspector, area or areas involved, description of damage and estimate and/or fixed costs of repairs or property replacement.
- 9. Except as otherwise mutually agreed, the user party shall not cause repairs to be made to any building or item of equipment which are owned by the other party. The owner party agrees to make such repairs within the estimated and/or fixed costs agreed upon by the parties from time to time. The user party agrees to reimburse the owner party at the estimated and/or fixed costs agreed upon receipt of an invoice for those costs.

DEVELOPMENT

- 10. The City and the Board shall share long range and medium range plans with the other party so as to maximize the potential for jointly developed facilities.
- 11. Wherever feasible, the City and the Board will make land purchases on adjoining sites so that the optimum use of joint facilities will be possible, and will consult each other on land purchases in such a manner as to maintain established procedures of confidentiality.
- 12. The City and the Board will participate in joint capital projects where appropriate and desirable, and in such circumstances a site-specific joint use agreement may be developed for the project.
- 13. Planners of school, park, recreation and culture facilities shall collaborate so as to maximize the use of facilities by locating them conveniently for patrons; planners

- shall design and locate facilities so as to minimize maintenance costs and avoid duplication of facilities and allow flexible community access.
14. If concurrent development is not possible, consultation between the parties hereto shall occur in order to facilitate the orderly development of the integrated site.
 15. The City and Board agree to strive for consistency in development standards for new and renovated facilities which are intended for joint use, with such standards to be at least the minimum necessary to meet the community's needs.
 16. The City and Board agree to explore the possibilities of joint development with third parties, where a three party partnership would result in a facility which improves service delivery by the City and the Board, and results in greater benefits to the community, keeping in mind current Board and City policies.
 17. On joint development projects and concurrent projects the City and the Board will explore revenue generating opportunities associated with third party advertising and sponsorship, with proceeds accruing to the relevant parties in proportion to their project investment, keeping in mind current Board and City policies.
 18. After appropriate consultation, the parties may agree on the naming of joint school park sites.

LIABILITY

Insurance

19. Each of the parties shall maintain a minimum of Five Million (5,000,000) Dollars of comprehensive general liability and property damage insurance against claims for personal injury, death and property damage arising out of its use or occupation of the other party's facilities, as applicable. The parties further agree to provide certificates confirming such insurance coverage if requested by the other party.

Supervision

20. The User Party must provide adequate supervision of its participants in order to prevent damage to facilities or injuries to participants.

COMMUNICATION

21. Each party will support the distribution, circulation and posting of material promoting the activities and events of the joint use partner in a timely manner, within the parameters set out in each party's respective policies for sponsorship and advertising.
22. On joint development projects and concurrent development projects the respective communications staff representing each party shall collaborate on press releases and official ceremonies planning.
23. Where an incident occurs within the facility during use by the user party no contact with the media or the public will occur without notification of the senior officials of both parties.

JOINT USE OPERATING REGULATIONS

24. The parties agree to comply with the operating regulations attached hereto as Schedule "B".

TERMINATION

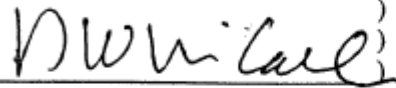
25. Either party may terminate this agreement at any time upon six months' written notice to the other at:

To: The Board of School Trustees
of School District # 36 (Surrey)
Attention: Secretary Treasurer
14225 56th Avenue
Surrey, BC V3X 3A3

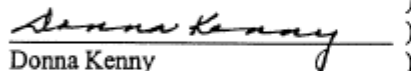
And: The City of Surrey
Attention: General Manager
Parks, Recreation & Culture
7452 132nd Street
Surrey, BC V3W 4M7

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

The City of Surrey)
by its authorized signatories)



D.W. (Doug) McCallum)
Mayor)




Donna Kenny)
City Clerk)

The Board of School Trustees of)
School District #36 (Surrey))
by its authorized signatories)



Heather Stilwell, Chair)
Board of Trustees)



Wayne Jefferson)
Secretary Treasurer)
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SCHEDULE "A" MISSION STATEMENT

In the interest of providing to the community, optimal use of the School District and City's Parks, Recreation and Cultural services, at a reasonable cost, the City of Surrey and the School District No. 36 (Surrey) have established a partnership that reflects a spirit of collaboration, mutual understanding, coordination, cooperation and open communication.

To achieve this mission, the City and the School District will:

- Coordinate, as much as possible, their planning, budgeting, development and programming initiatives.
- Be aware of and sensitive to the expectation and the needs of the community.
- Establish a formal communication structure and maintain formal and informal processes for ensuring ongoing communication and collaboration.
- Acknowledge a mutual commitment to optimizing customer services recognizing the impact of the unique mandate of each party.
- Enter into a mutually beneficial reciprocal agreement, ensuring the equality of that agreement in terms of fulfilling each party's overall service mandate, while striving for financial equity.

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Schedule "B" - Joint Operating Regulations

Application Procedures

Applicants requesting the use of the City or the Board facilities will be required to complete the application forms provided by the respective appropriate department. For assured consideration, application forms must be submitted at least fifteen calendar days in advance of the proposed commencement or usage date. Parties hereto agree to abide by the policies/guidelines/regulations as provided by the Board and the City from time to time.

Booking Deadlines

On each sequential yearly period commencing on September 1 and ending on the following August 31, the parties hereto will observe the following protocol and deadlines for facility bookings; the information required by this protocol shall be in respect of the twelve month period from the commencement date of that period; (all of the following date references are to the respective months immediately prior to the commencement date):

- By July 15 each party will provide to the other a memo of all space available and of the space required for their own use within their respective facilities.
- By July 31 each party will provide to the other a written application for such of the listed available space of the other that such party wishes to utilize, and at such time, mutual confirmations will be exchanged verifying the allocation of the available space.
- After August 15 either party may allocate any uncommitted facility to any qualified third party.
- By December 15 to ensure maximum utilization, the parties will mutually conduct a re-evaluation of facility space requirements and availability for the period from January 1 to August 31.
- No subletting of facilities is permitted.

Priorities of Use

In establishing and administering booking policies for joint use facilities owned by the respective parties, the parties hereto agree that the following priority for joint-use facilities will be determined as follows (unless stipulated otherwise in site-specific agreements):

First priority: Facility Owner

- Second priority: Joint-Use partner
Third priority: Community Groups (in the following order):
- I. Parent Advisory Committee;
 - II. Non-profit community organizations;
 - III. Fund raising functions conducted by non-profit organizations;
 - IV. Commercial business organizations (subject to rental fees).

Cancellation

1. When a booking for use of a Board or city facility has been confirmed, neither party may unilaterally cancel the booking. In exceptional circumstances, either party may apply in writing to the appropriate representative of the other party for cancellation of a previously confirmed booking. The application for cancellation must be made at least 15 calendar days prior to the confirmed booking date. If the cancellation application is approved, the confirmed booking may be cancelled in favour of the alternative activity.
2. In the event of a cancellation, the parties will utilize every effort to provide suitable alternate facilities for the holder of the cancelled booking.
3. In the case of any dispute with respect to a conflict in bookings or other emergent situation as to any of the facilities, an appeal may be made to the respective staffs of the Board and the City for resolution.
4. Both the Board and the City reserve the right to cancel the other party's use of their facilities with no notice for public safety concerns or any other emergency situations.

Athletic Fields - Operation

1. The Board and the City recognize the value in a shared allocation and booking system that will assist the parties in fair and equitable allocations of fields for community use. In order to fairly allocate fields for use by the community, the Board and the City shall endeavour to share information on the numbers and types of registrants within the various community sport associations.
2. It is understood by both the parties to this Agreement that grass athletic fields can be adversely affected by levels of use and by weather-related factors. The Board and the City agree to work closely in scheduling the use of grass fields so as to not unduly affect the quality of the fields and the player-related safety associated with field conditions. Both parties

agree to abide by field closures associated with inclement weather, field damage, field renovations, and certain types of field maintenance.

3. Wherever possible, site specific ongoing Committees should be struck to assist in the scheduling and monitoring of field use, with appointees from the School District, (preferably school-based staff) the city and the principal sport user association.

Equipment

1. As equipment availability can vary between facilities, it is the responsibility of the user to make the necessary and appropriate equipment arrangement with the respective facility. All requests for equipment must be made in writing seven (7) days prior to use of the facility. Generally, consumable types of equipment will be provided by the actual user.
2. All facilities will be normally provided in a vacant state, except where identified by the Board or City. It is the responsibility of the user to leave the facility in the same state that it was provided.
3. The Board and City will endeavour to provide locked storage space for the partner user to facilitate the use of extraordinary equipment required by the user.

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SCHEDULE B – DRAFT CONTRACT



PROFESSIONAL SERVICES AGREEMENT

Title: Joint Use Agreement Review

Reference No.: 1220-030-2018-023

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APPENDIX 6 – PRIVACY PROTECTION SCHEDULE

APPENDIX 7 – CONFIDENTIALITY AGREEMENT

APPENDIX 8 – CONFLICT OF INTEREST

Title: Joint Use Agreement Review

THIS AGREEMENT is dated for reference this ____ day of _____, 201_.

AGREEMENT No.: 1220-030-2018-023

BETWEEN:

CITY OF SURREY
13450 - 104 Avenue
Surrey, B.C., V3T 1V8, Canada
(the "**City**")

with

**BOARD OF EDUCATION OF
SCHOOL DISTRICT 36 (SURREY)**
14033 92nd Avenue
Surrey, BC V3V 0B7
(the "**District**")

AND:

(*Insert Full Legal Name of Consultant*)

(the "**Consultant**")

WHEREAS the City wishes to engage the Consultant to provide Services in connection with

Joint Use Agreement Review

THEREFORE in consideration of the 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 is hereby acknowledged) the Partners and the Consultant agree as follows:

1. INTERPRETATION

1.1 Definitions

In this agreement the following definitions apply:

"**Dispute**" has the meaning set out in section 14.1;

"**Fees**" has the meaning set out in section 5.1;

"**Indemnitees**" has the meaning set out in section 7.1;

"**Invoice**" has the meaning set out in section 5.2(a);

"**Partners**" means the City of Surrey and the Board of Education of School District No. 36 (Surrey)

"**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; and
Appendix 5 – Additional Services.

2. SERVICES

2.1 Services

The Partners hereby retain 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 Partners 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 Partners, 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 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.

2.5 Term

The Consultant will provide the Services for the period commencing on June 01, 2018 and terminating on December 31, 2018 (the “**Term**”).

The parties may extend the Term by mutual agreement. If the Term is extended, the provisions of this agreement will remain in force 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.

3. PERSONNEL

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 and Disbursements 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 Appendix 2:

- (a) the Consultant will submit an invoice (the "**Invoice**") to the City requesting payment of the portion of the Fees and the Disbursements relating to the Services provided in the previous month, and including 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-contractors 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 within 30 days of the receipt of the Invoice, except the City may hold back from payments 10% of the amount the City determines is payable to the Consultant until such time as the Consultant provides its Final Report to the City; and
- (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 portion of an Invoice which the City determines is payable at any time after receipt of the Invoice.

Invoices will be submitted by the Consultant by mail to:

Name: Jerome Thibaudeau
Address: 13450 – 104 Avenue
Surrey, BC, Canada

5.3 Records

The Consultant will prepare and maintain proper records related to the Services, including records, receipts and invoices relating to Disbursements. On request from the Partners, 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.

5.4 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. PARTNER RESPONSIBILITIES

6.1 Partner Information

The Partners will, in co-operation with the Consultant make efforts to make available to the Consultant information, surveys, and reports which the Partners 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 Partners 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 Partners Decisions

The Partners 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. INSURANCE AND DAMAGES

7.1 Indemnity

The Consultant will indemnify and save harmless the Partners and all of their 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.

7.2 Survival of Indemnity

The indemnity described in section 7.1 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.

7.3 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 Partners will be added as additional insured;
- (b) professional errors and omissions liability insurance in an amount not less than 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; and
- (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.

7.4 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. 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 Partners or any insurers of the City.

7.5 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.

7.6 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.

7.7 Waiver of Subrogation

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

8. TERMINATION

8.1 By the Partners

The Partners may independently and 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 each Partner separately 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 Partner's property to each Partner including all work product complete by the Consultant up to the date of Termination. Despite any other provision of this agreement, if a Partner terminates this agreement before the completion of all the Services, the Partner 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 Partner in its sole discretion. Upon payment of such amounts no other or additional payment will be owed by the Partner 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

Each Partner may independently 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, each Partner may independently, 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 either Partners in their sole discretion within 5 days after delivery of written notice from the Partner to the Consultant, then the Partner may, without prejudice to any other right or remedy the Partner may have, terminate this agreement by giving the Consultant further written notice.

If one of the Partners terminates this agreement as provided by this Section, then the Partners may:

- (c) enter into contracts, as it in its sole discretion sees fit, with other persons to complete the Services;
- (d) withhold payment of any amount owing to the Consultant under this agreement for the performance of the Services;
- (e) set-off the total cost of completing the Services incurred by the Partners 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
- (f) 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, BUILDING CODES AND BY-LAWS

9.1 Applicable Laws

This agreement will be governed by and construed in accordance with the laws of the Province of British Columbia. The Partners 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.

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 Partners will pay the additional costs, if any, of making alterations so as to conform to the required interpretation.

10. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

10.1 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.

10.2 Freedom of Information and Protection of Privacy Act

The Consultant acknowledges that the Partners are 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.

10.3 Return of Property

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

11. USE OF WORK PRODUCT

The Consultant hereby sells, assigns and transfers to the Partners the right, title and interest required for the Partners 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.

12. WORKERS' COMPENSATION BOARD AND OCCUPATIONAL HEALTH AND SAFETY

12.1 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.

12.2 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.

- 12.3 The Consultant agrees that it is the prime contractor for the Services as defined in the *Workers Compensation Act*, R.S.B.C. 1996, c. 492 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 Appendix 4 of this agreement, and the Consultant will advise the City immediately in writing if the name or contact number of the qualified coordinator changes.
- 12.4 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.
- 12.5 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 Compensations Act* and Regulations pursuant thereto.
- 12.6 The Partners 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 Partners be responsible to ascertaining or discovering, through inspections or review of the operations of the Consultant or otherwise, any deficiency or immediate hazard.

13. BUSINESS LICENSE

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

14. DISPUTE RESOLUTION

14.1 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 14.

(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.

15. JURISDICTION AND COUNCIL NON-APPROPRIATION

- 15.1 Nothing in this agreement limits or abrogates, or will be deemed to limit or abrogate, the jurisdiction of the Council of the City or the District in the exercise of its powers, rights or obligations under any public or private statute, regulation or by-law or other enactment.
- 15.2 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.

16. GENERAL

16.1 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.

16.2 Amendment

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

16.3 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.

16.4 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.

16.5 Cumulative Remedies

The Partners' 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.

16.6 Notices

Any notice, report or other document that the Consultant or City or District may be required or may wish to give to the other must 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 Parks, Recreation and Culture
13450 – 104 Avenue, Surrey, B.C., Canada, V3T 1V8

Attention: **Jerome Thibaudeau**
Business Operations Manager

Email: jthibaudeau@surrey.ca

(b) The District:

Board of Education of School District No. 36 (Surrey)
14033 92nd Avenue, Surrey, B.C., Canada V3V 0B7

Attention: **Liane Ricou**
Manager, Business Development

Email: ricou_l@surreyschools.ca

(c) The Consultant (Contract Administrator):

<insert name and address>

Attention: <insert City contact name>
<insert title>

Fax No.: <insert>

Email: <insert>

16.7 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.

16.8 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.

16.9 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.

16.10 Waiver

No waiver by any 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.

16.11 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.

16.12 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.

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 36 (SURREY)

I/We have the authority to bind the District.

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

[INSERT NAME OF CONSULTANT]

I/We have the authority to bind the Consultant.

(Legal Name of Consultant)

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(APPENDICES 1 THROUGH 5 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-CONSULTANTS

APPENDIX 5 – ADDITIONAL SERVICES

APPENDIX 6 – PRIVACY PROTECTION SCHEDULE

APPENDIX 7 – CONFIDENTIALITY AGREEMENT

APPENDIX 8 – CONFLICT OF INTEREST

-END OF PAGE-

SCHEDULE C – FORM OF PROPOSAL

RFP Project Title: Joint Use Agreement Review

RFP Reference No.: 1220-030-2018-023

Legal Name of Proponent: _____

Contact Person and Title: _____

Business Address: _____

Business Telephone: _____

Business Fax: _____

Business E-Mail Address: _____

TO:

City Representative: Richard D. Oppelt, Purchasing Manager

Address: Surrey City Hall
Finance Department – Purchasing Section
Reception Counter, 5th Floor West
13450 – 104 Avenue, Surrey, B.C., V3T 1V8, Canada

E-mail for PDF Files: 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.

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 (Services);
- Schedule C-4 – Proponent’s Technical Proposal (Time Schedule); and
- Schedule C-5 – Proponent’s Financial Proposal.

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)

-END OF PAGE-

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):

Section	Requested Departure(s) / Alternative(s)
----------------	--

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 search [Consultants Certificate of Insurance](#);
- (d) City of Surrey or Intermunicipal Business License: Number _____;
- (e) If the Consultant's Goods and 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):

Section	Requested Departure(s) / Alternative(s)
----------------	--

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

Section	Requested Departure(s) / Alternative(s)
----------------	--

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.

-END OF PAGE-

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, education, training and qualifications in delivering Services similar to those required by the RFP;
- (iii) Proponent's demonstrated ability to provide the Services;
- (iv) Proponent's equipment resources, capability and capacity, as relevant;
- (v) Proponent's references (name and telephone number). The Partners' preference is to have a minimum of three references from the public sector;
- (vi) Proponent's financial strength (with evidence such as financial statements, bank references);
- (vii) Describe any difficulties or challenges you might anticipate in providing the Services to the Partners and how you would plan to manage these;
- (viii) 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: _____

Project Approach – Team Roles

- (ix) 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.

Sub-Consultants

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

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

-END OF PAGE-

SCHEDULE C-3 - PROPONENT'S TECHNICAL PROPOSAL (SERVICES)

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

- (i) a narrative that illustrates an understanding of the Partners' requirements and Services;
- (ii) a description of the general approach and methodology that the Proponent would take in performing the Services including specifications and requirements;
- (iii) a narrative that illustrates how the Proponent will complete the scope of Services, manage the Services, and accomplish required objectives within the Partners' schedule;
- (iv) a description of the standards to be met by the Proponent in providing the Services;
- (v) a list of reports that you would anticipate providing the Partners' management team, including their relationship to project milestones and the method of delivery (electronic, paper, e-mail, other);
- (vi) 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 Partners' 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;

-END OF PAGE-

SCHEDULE C-4 - PROPONENT'S TECHNICAL PROPOSAL (TIME SCHEDULE)

Provide an estimated schedule, with major item descriptions and time indicating a commitment to perform the Services within the time specified (use the spaces provided and/or attach additional pages, if necessary).

MILESTONE DATES _____

ACTIVITY	SCHEDULE in _____									
	1	2	3	4	5	6	7	8	9	10

-END OF PAGE-

SCHEDULE C-5 - PROPONENT'S FINANCIAL PROPOSAL

Proponents should set out in their Proposal, the proposed fee structure (excluding GST) and provide a breakdown of the budget, including a breakdown of the estimated hours to be spent by each individual on the consultant team and the charge out hourly rate for each individual included in their Proposal.

The Fee structure should be tabulated in a spreadsheet format with each task itemized including hourly rates, break out costs as specified for the project and all deliverables, and fees for anything the Proponent would consider additional work. Sub-consultant fees and disbursements should also to be itemized.

Schedule of Rates:

Item No.	Description	Estimated Quantity of Hours	Hourly Rate	Total Price
	Labour:			
	Materials:			
	Disbursements:			
	Subtotal:			
	GST:			
	TOTAL PROPOSAL PRICE:			

SAMPLE

Additional Expenses:

The proposed Contract attached as Schedule "B" to the RFP provides that expenses are to be included within the fee, other than the expenses listed in the Contract as disbursements. Details of disbursements are to be shown in the chart above. Please indicate any expenses that would be payable in addition to the proposed fee and proposed disbursements set out above:

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.

SEPTEMBER 10, 2009

APPENDIX 1 – PRIVACY PROTECTION SCHEDULE

This Schedule forms part of the agreement between City of Surrey and Board of Education of School District No. 36 (Surrey) (the "Partners") and (the "Contractor") respecting Joint Use Agreement Review (the "Agreement").

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 (British Columbia), as amended from time to time;
 - (c) "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;
 - (d) "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 Partners and the Contractor dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a Partners" within the meaning of the Act.

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the Partners to comply with its 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 its statutory obligations under the Act with respect to personal information.

Collection of personal information

3. Unless the Agreement otherwise specifies or the Partners otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Partners otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.
5. Unless the Agreement otherwise specifies or the Partners otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
 - (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the title, business address and business telephone number of the person designated by the Partners to answer questions about the Contractor's collection of personal information.

Accuracy of personal information

6. 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 Partners to make a decision that directly affects the individual the information is about.

Requests for access to personal information

7. If the Contractor receives a request for access to personal information from a person other than the Partners, the Contractor must promptly advise the person to make the request to the Partners unless the Agreement expressly requires the Contractor to provide such access and, if the Partners has advised the Contractor of the name or title and contact information of an official of the Partners 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

8. Within 5 business days of receiving a written direction from the Partners to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
9. When issuing a written direction under section 8, the Partners must advise the Contractor of the date the correction request to which the direction relates was received by the Partners in order that the Contractor may comply with section 10.
10. Within 5 business days of correcting or annotating any personal information under section 8, 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 made to the Partners, the Contractor disclosed the information being corrected or annotated.
11. If the Contractor receives a request for correction of personal information from a person other than the Partners, the Contractor must promptly advise the person to make the request to the Partners and, if the Partners has advised the Contractor of the name or title and contact information of an official of the Partners 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

12. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

Storage and access to personal information

13. Unless the Partners otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

Retention of personal information

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

Use of personal information

15. Unless the Partners 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.

Disclosure of personal information

16. Unless the Partners otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than the Partners if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
17. Unless the Agreement otherwise specifies or the Partners otherwise directs in writing, the Contractor must not disclose personal information outside Canada.

Notice of foreign demands for disclosure

18. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.2 of the Act, in relation to personal information in its custody or under its control the Contractor:
- (a) receives a foreign demand 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 foreign demand for disclosure; or
 - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure the Contractor must immediately notify the Partners and, in so doing, provide the information described in section 30.2(3) of the Act. In this section, the phrases "foreign demand for disclosure" and "unauthorized disclosure of personal information" will bear the same meanings as in section 30.2 of the Act.

Notice of unauthorized disclosure

19. 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 in its custody or under its control, the Contractor must immediately notify the Partners. In this section, the phrase "unauthorized disclosure of personal information" will bear the same meaning as in section 30.5 of the Act.

Inspection of personal information

20. In addition to any other rights of inspection the Partners may have under the Agreement or under statute, the Partners 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

21. 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 applicable order of the commissioner under the Act; and
 - (b) any direction given by the Partners under this Schedule.
22. 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.

Notice of non-compliance

23. 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 Partners 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

24. In addition to any other rights of termination which the Partners may have under the Agreement or otherwise at law, the Partners 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

25. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
26. Any reference to the "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 this Schedule.
27. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
28. If a provision of the Agreement (including any direction given by the Partners under this Schedule) conflicts with a requirement of the Act or an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
29. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 30, the law of any jurisdiction outside Canada.

30. 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

-END OF PAGE-

APPENDIX 2 – CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

PROJECT TITLE: Joint Use Agreement Review

THIS CONFIDENTIALITY AGREEMENT (the “Confidentiality Agreement”) is dated for reference this day of Month, 2018.

Reference No.: 1220-030-2018-023

BETWEEN:

CITY OF SURREY
13450 - 104 Avenue
Surrey, B.C., V3T 1V8, Canada
(the “**City**”)

with

**BOARD OF EDUCATION OF
SCHOOL DISTRICT 36 (SURREY)**
14033 92nd Avenue
Surrey, BC V3V 0B7
(the “**District**”)

AND:

(the “**Contractor**”)

WHEREAS:

- A.** The Contractor and the Partners acknowledge that the process of the Contractor having access to information will involve the verbal, electronic, written, or other disclosure of information, and documentation to the Contractor. In this Confidentiality Agreement confidential information (the “Confidential Information”) means any information regarding potential Partner 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 Partners.
- B.** The Contractor 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 Contractor shall hold the Confidential Information in strict confidence recognizing that the Confidential Information, or any portion thereof, is comprised of highly sensitive information. The Contractor acknowledges that the disclosure or use of the Confidential Information, or any portion thereof, will cause the Partners substantial and irreparable harm and injury and the Partners 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 Contractor hereby consents to the granting of such equitable and injunctive relief.

2. The Contractor 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 Partners, unless expressly authorized in writing to do so by the Partners, provided however, the Contractor may permit the limited disclosure of the Confidential Information or portion thereof only to those of the Contractor's directors, officers, employees, and sub-contractors who have a clear and *bonafide* need to know the Confidential Information, and provided further that, before the Contractor divulges or discloses any of the Confidential Information to such directors, officers, employees, and sub-contractors, the Contractor shall inform each of the said directors, officers, employees, and sub-contractors of the provisions of this Confidentiality Agreement and shall issue appropriate instructions to them to satisfy the obligations of the Contractor set out in this Confidentiality Agreement and shall, at the request of the Partners, cause each of the said directors, officers, employees, and sub-contractors to execute a confidentiality agreement in a form satisfactory to the Partners, in their sole and independent discretion.
3. The Contractor agrees not to use any of the Confidential Information disclosed to it by the Partners for its own use or for any purpose except to carry out the specific purposes designated by this Confidentiality Agreement.
4. The Contractor 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 the highest degree of care that the Contractor utilizes to protect its own confidential information of a similar nature.
5. The Contractor shall notify the Partners in writing of any misuse or misappropriation of Confidential Information which may come to its attention.
6. The Contractor shall not mechanically or electronically copy or otherwise reproduce the Confidential Information, or any portion thereof, without the express advance written permission of the Partners, except for such copies as the Contractor may require pursuant to this Confidentiality Agreement in order to prepare the Report. All copies of the Confidential Information shall, upon reproduction by the Contractor, contain the same the Partners proprietary and confidential notices and legends that appear on the original Confidential Information provided by the Partners unless authorized otherwise by the Partners. All copies shall be returned to the originating Partner upon request.
7. The Confidential Information received by the Contractor and all formatting of the Confidential Information, including any alterations to the Confidential Information, shall remain the exclusive property of the Partners, and shall be delivered to the originating Partner by the Contractor forthwith upon demand by the Partners.

8. The Contractor acknowledges that the Partners are both public bodies 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 Contractor 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 Partners by the Contractor in performance of this Confidentiality Agreement is subject to FIPPA and may be disclosed as required by FIPPA. The Contractor shall allow the Partners 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 Contractor, the Contractor shall provide details of such harm in accordance with section 21 of FIPPA.
9. The Contractor acknowledges and agrees that nothing in this Confidentiality Agreement does or is intended to grant any rights to the Contractor 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 Contractor 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 Contractor hereby acknowledges that the obligations imposed on the Contractor hereunder shall survive the termination of the Contractor's dealings or engagement with the Partners.
12. The Contractor 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 Contractor and the Partners irrevocably attorn to the exclusive jurisdiction of the courts of the Province of British Columbia to adjudicate any dispute arising out of this Agreement.

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14. No provision of this Confidentiality Agreement shall be deemed to be waived by the Partners and no breach of this Confidentiality Agreement shall be deemed to be excused by the Partners unless such waiver or consent excusing such breach is in writing and duly executed by the Partners.

The foregoing Confidentiality Agreement and terms and conditions contained herein are accepted and agreed to on this _____ day of _____, 201_.

CONTRACTOR

(Signature of Authorized Signatory)

Printed Name and Position of Authorized Signatory

Business Email Address: _____

Business Telephone: _____

Business Facsimile: _____

-END OF PAGE-

APPENDIX 3 – BOARD OF EDUCATION OF SCHOOL DISTRICT 36 (SD36)

CONFLICT OF INTEREST

SD36 may disqualify a proponent for any conduct, situation or circumstances, determined by SD36, in its sole and absolute discretion, to constitute a Conflict of Interest.

Conflict of Interest

For the purposes of this RFP, the term “Conflict of Interest” includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of SD36 in the preparation of its proposal that is not available to other proponents, (ii) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the proponent’s other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

For the purposes of section (a)(i) above, proponents should disclose the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of SD36 within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

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