



REQUEST FOR PROPOSALS

Title: Council Chambers & Community Rooms Multimedia Refresh

Reference No.: 1220-030-2022-041

FOR THE ACQUISITION OF INFORMATION TECHNOLOGY SOLUTIONS

(General Services)

Issue Date: January 3, 2023

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REQUEST FOR PROPOSALS

1. INTRODUCTION

1.1 Purpose

The City of Surrey (the “**City**”) is seeking proposals (the “**Proposal**”) from proponents (the “**Proponent**”) with recent experience providing multimedia solutions to meet the changing needs of the City of Surrey’s council chambers, committee and community meeting rooms.

The purpose of this request for proposals (the “**RFP**”) is to solicit competitive proposals for the most appropriate, robust and functional solution for the Council Chambers & Community Rooms Media Refresh (the “**Services**”) described in Schedule A.

This RFP is designed to provide the Proponent with the information necessary to prepare a competitive Proposal. Similarly, the RFP process is intended to also provide the City with the information it requires to select a Proponent to provide the Services. Specifically, the City is looking for a Proponent whose Solution (as defined in section 1.3) meets or exceeds the City’s requirements as described in Schedule A.

1.2 Project Background

The existing multimedia solutions in the City of Surrey Council Chambers and Committee and Community Rooms have been in place since the construction of Surrey’s City Hall in 2014. Most of the equipment are now end-of-life, discontinued, past warranty, and no longer being supported by the vendor. In addition, there are stakeholder needs that have emerged that the current technology is not able to support. Thus, it is recommended that the full technology stack be refreshed to improve the overall user experience for facilitating Council meetings, as well as Performing Arts events in the space.

1.3 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 2.6;

“**City Website**” means www.surrey.ca;

“**Closing Time**” has the meaning set out in section 2.2;

“**Contract**” means a formal written contract between the City and a Preferred Proponent(s) to undertake the Services;

“**Council Chambers & Community Rooms Multimedia Refresh**” means a multimedia solution that is capable of performing the Services.

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

“Information Meeting” has the meaning set out in section 2.3;

“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

“Solution” means a Council Chambers & Community Rooms Multimedia Refresh and all related implementation services;

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

2. INSTRUCTIONS TO PROPONENTS

2.1 Anticipated Solicitation Schedule

The following is the City’s estimated timeline for the project.

Solicitation Schedule	Estimated Dates
Issuance of the RFP	January 3, 2023
Information Meeting	January 10, 2023
Closing Date and Time	February 10, 2023
Evaluation of Proposals	February 24, 2023
Interviews/Demonstrations dates for Preferred Proponents only (if any)	March 6-10, 2023
Finalization of the Contract	May 26, 2023
Expected “Go Live” Date	September 8, 2023

The City reserves the right to modify this schedule at the City’s discretion.

2.2 Closing Time and Address for Proposal Delivery

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

on or before the following date and time

Time: 3:00 PM Pacific Standard Time
Date: February 10, 2023

(the “Closing Time”).

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

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

2.3 Information Meeting

An information meeting will be hosted by the City Representative to discuss the City’s requirements under this RFP (the “Information Meeting”). Attendance at this Information Meeting is a **mandatory requirement** in order to submit a proposal. At the time of issuance of this RFP a meeting has been scheduled as follows:

When: January 10, 2023

Where: 13450 104th Avenue, Surrey, B.C. (Meet in atrium in front of Council Chambers)

Time: 8:30 AM to 12:00 PM

2.4 Late Proposals

All pages and parts of the Proposal must be received by the Closing Time. Proposals submitted after the Closing Time will not be accepted or considered.

2.5 Amendments to Proposals

Proposals may be revised by written amendment, delivered to the location set out in Section 2.2, 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 4.2. E-mailed amendments are permitted, but such amendment should show only the change to the proposal price(s) and should not disclose the actual proposal price(s). A Proponent bears all risk that the City’s equipment functions properly so as to facilitate timely delivery of any amendment.

2.6 Inquiries

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

Name: Sunny Kaila, Manager, Procurement Services

E-mail: purchasing@surrey.ca

Reference: 1220-030-2022-041

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 2.7. No oral conversation will affect or modify the terms of this RFP or may be relied upon by any Proponent.

2.7 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. It is the responsibility of Proponents to check the BC Bid Website and the City Website for addenda. The only way this RFP may be added to, or amended in any way, is by a formal written addendum. No other communication, whether written or oral, from any person will affect or modify the terms of this RFP or may be relied upon by any Proponent. By delivery of a Proposal, Proponent is deemed to have received, accepted and understood the entire RFP, including any and all addenda.

2.8 Examination of Contract Documents (Schedule B)

The Contract that have been adopted by the City for technology projects are included in this RFP solicitation: as **Schedule B**. Proponents are responsible to review all specifications, requirements, terms and conditions, insurance requirements, and other requirements herein. Proponents should be prepared to enter into a Contract substantially the same as one of the attached Contracts. The Proponents failure to execute a Contract substantially the same as one of the attached Contracts may result in disqualification for future solicitations for this same or similar products/services.

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

The terms and conditions set out in the Contracts are deemed to be accepted by the Proponent and incorporated into its Proposal except to the extent expressly excluded,

supplemented, replaced or identified in a Proponent's Proposal (refer to Schedule C-1 – Statement of Departures). Proponents should provide reasons for any changes proposed. Proponent departures may, at the sole discretion of the City, be grounds for disqualification from further consideration in award of a contract.

The City anticipates executing three agreements:

- (1) the Contract (the preferred form of which is attached as Schedule B to this RFP), which will cover the Proponent's provision of professional services;
- (2) a Software License Agreement ("License Agreement"); and
- (3) a Maintenance and Support Agreement ("Support Agreement").

The City may request that a Shortlisted Proponent submit its preferred License Agreement and Support Agreement.

The terms of the Proponent's preferred License Agreement and Support Agreement should either not contradict the terms of the Contract, or else such varying terms and requirements should be identified in the Proponent's Statement of Departures (Schedule C-1 to this RFP).

The terms of a License Agreement and Support Agreement will be consistent with information provided by the Proponent in **Schedule C-3-1 – Council Chambers & Community Rooms Multimedia Refresh Requirements Response** – of its Proposal.

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

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

2.9 Opening of Proposals

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

2.10 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. COMPETITIVE SELECTION PROCESS

This Section describes the competitive selection process that the City intends to use in the selection of a Preferred Proponent or Preferred Proponents.

- (a) At least five business days in advance of the demonstration the City will provide each Shortlisted Proponent with a finalized agenda the City would like to discuss;
- (b) if a Shortlisted Proponent wishes to rely upon anything said or indicated at the demonstration, the Shortlisted Proponent must submit an inquiry describing the information it would like to have confirmed and request the City provide that information to the Shortlisted Proponents in written form and, if such information relates to a clarification, explanation or change to the RFP, request an addendum clarifying and/or amending the RFP;
- (c) by participating in the demonstration, a Shortlisted Proponent confirms its agreement with these procedures and acknowledges that the meeting is an integral part of the competitive selection process as described in this RFP and is in the interests of all parties.

3.1 Demonstration (Shortlisted Proponents Only)

The Evaluation Team may, at its discretion, invite some or all of the Proponents to appear before the Evaluation Team to provide a presentation/demonstration of your proposed Solution.

If selected as a Shortlisted Proponent, Proponents agree to provide the Evaluation Team the opportunity to interview proposed key personnel identified by the Evaluation Team, at the option of the City. The Evaluation Team may request a Shortlisted Proponent to provide a demonstration of the Proposal as an opportunity for the Evaluation Team to ask questions and seek clarifications. This demonstration will allow Shortlisted Proponents to present their proposal and demonstrate the proposed solution to the Evaluation Team. The City reserves the right to hold demonstrations either in a physical setting or over teleconference.

Shortlisted Proponents will be offered various dates from which to select to provide their presentation/demonstration.

The City reserves the right not to conduct demonstrations. Should the demonstrations be held, the City requires that they be led by the proposed Shortlisted Proponent's key personnel (respective advisors, employees or representatives). The City reserves the right, to record (audio/visual) of each shortlisted Proponent's demonstration as part of its evaluation process.

3.2 Points of Consideration for Demonstration

The following points should be considered by the Shortlisted Proponent while planning for the demonstration:

- (a) All Key Personnel (as identified in Schedule C-2) of the Shortlisted Proponent should attend and actively participate in the demonstration.
- (b) Shortlisted Proponents will be required to present their Proposal and demonstrate their proposal to the Evaluation Team. The City Representative will schedule the time for each demonstration during the period of dates set aside for this purpose and will be indicated in the notification letter.

- (c) All demonstrations will be held at Surrey City Hall on the date and time to be determined and advised by the City, with the exception being if the City decides on a virtual demonstration.
- (d) The City will provide a suitable meeting room for the demonstration. With the exception of the following, Shortlisted Proponents are to provide their own hardware/software and may not have access to any other City supplied equipment. Any software/application will need to be installed on the Shortlisted Proponent's equipment. In addition, Shortlisted Proponents are responsible for populating their demonstrations with sample data.

The following items will be provided by the City:

- Projector
 - Wired or Wi-Fi connection
 - Conference Phone
- (e) The Council Chambers & Community Rooms Multimedia Refresh used in the demonstration must be the same as that included in the Proposal. If certain requirements as specified in Schedule C-3-1 are met by third-party software as part of the Shortlisted Proponent's Solution, the Shortlisted Proponent is expected to demonstrate the third party product and so indicate during the demonstration.
 - (f) If a Shortlisted Proponent wishes to rely upon anything said or indicated by the City at the demonstration, the Shortlisted Proponent must submit an inquiry describing the information it would like to have confirmed and request the City provide that information to the Shortlisted Proponents in written form and, if such information relates to a clarification, explanation or change to the RFP, request an addendum clarifying and/or amending the RFP.
 - (g) By participating in the demonstration, a Shortlisted Proponent confirms its agreement with these procedures and acknowledges that the demonstration is an integral part of the competitive selection process as described in this RFP and is in the interests of all parties.

3.3 Demonstration Schedule

The City is providing this advance, draft agenda in order for Shortlisted Proponents to adequately prepare for their demonstration. The City reserves the right to revise this draft agenda as deemed appropriate. For example, the Shortlisted Proponents may be asked to demonstrate how the Council Chambers & Community Rooms Multimedia Refresh proposal satisfies the Requirements as found in Schedule A-1 the final agenda will be distributed to the Shortlisted Proponents with the Notification Letter.

Shortlisted Proponents are asked to follow the agenda and showcase the desirable functionality of the proposed Council Chambers & Community Rooms Multimedia Refresh. Shortlisted Proponents are encouraged to highlight and discuss the unique aspects of the proposed solution and how it would benefit the City.

3.4 Shortlisted Proponents' Timeline

The dates provided in Table 1 below are approximate and are for the period up to the project "Go Live" Date.

The City reserves the right to modify the following timetable at the City's discretion.

Table 1 – Anticipated Schedule

Solicitation Schedule	Estimated Dates
Shortlisted Proponent(s) Notified	February 27, 2023
Commencement of Demonstrations – Shortlisted Proponent(s) Only	March 6, 2023
Shortlist Demonstrations Completed	March 10, 2023
Selection of Preferred Proponent	March 24, 2023
Expected "Go Live" Date	September 8, 2023

The City reserves the right to modify this schedule at the City's discretion.

4. PROPOSAL SUBMISSION FORM AND CONTENTS

4.1 Form of Proposal

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

A Proposal should include sufficient information to allow the City to verify the total cost for the project and all of the Proponent's claim of meeting the RFP's requirements. Each Proposal should respond to every request for information in the above noted schedules, whether the request requires a simple "yes" or "no" or requires a detailed narrative response. Simply repeating the RFP's requirements and agreeing to comply may be an unacceptable response.

The Proponent may include any additional information it believes is relevant. An identifiable tab sheet should precede each section of a Proposal, and each Proposal should follow the format as set out in this RFP.

4.2 Signature

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

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

5. EVALUATION AND SELECTION

5.1 Evaluation Team

The evaluation of Proposals will be undertaken on behalf of the City by the Evaluation Team. The Evaluation Team may consult with others including City staff members, third party consultants and references, as the Evaluation Team may in its discretion decide is required. The Evaluation Team will give a written recommendation for the selection of a Preferred Proponent or Preferred Proponents to the City.

5.2 Evaluation Criteria

The Evaluation Team will compare and evaluate all Proposals to determine the Proponent's strength and ability to provide the Council Chambers & Community Rooms Multimedia Refresh which is most advantageous to the City, using the following criteria:

Experience, Reputation and Resources

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

Technical (Proposed Solution)

The Evaluation Team will consider the Proponent's responses to items in Schedule C-3 and Schedule C-4. The City will evaluate Proposals and determine whether a Proponent has met the Council Chambers & Community Rooms Multimedia Refresh Requirements in Schedule C-3-1. Proponents must demonstrate to the City, in the City's sole opinion, that the Proponent meets the requirements in Schedule C-3 and Schedule C-4. Those

Proponents whom the City has determined, in its sole and absolute discretion, to have met the requirements will be shortlisted.

Financial

The Evaluation Team will consider the Proponent's response to Schedule C-5-1 and C-5-2.

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.

The City's intent is to acquire the solution that provides the best value to the City and meets or exceeds the requirements identified in this RFP.

5.3 Discrepancies in Proponent's Financial Proposal

If there are any obvious discrepancies, errors or omissions in Schedule C-5-1 or Schedule C-5-2 of a Proposal (Proponent's Financial Proposal), then the City shall be entitled to make obvious corrections, but only if, and to the extent, the corrections are apparent from the Proposal as submitted, and in particular:

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

5.4 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.

5.5 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.

5.6 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. Proponent management and technical personnel will be expected to participate in presentations, demonstrations and/or interviews, which will be made at no cost to the City.

All information and documents provided by the Proponents or gathered by the Evaluation Team during a presentation, demonstration or an interview may be considered by the Evaluation Team, which may revisit and re-evaluate the Proponent's Proposal or ranking on the basis of such information and documents.

5.7 Multiple Preferred Proponents

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

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

5.8 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) (and, if applicable, a License Agreement and Support Agreement as described in section 2.8), 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.

6. GENERAL CONDITIONS

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

6.2 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.

6.3 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.

6.4 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.

6.5 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 2.6, at any time prior to the award of a contract or the cancellation of this RFP and which could be viewed as one Proponent attempting to seeks an unfair advantage over other Proponents.

6.6 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.

6.7 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.

6.8 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 – SPECIFICATION OF GOODS AND SCOPE OF SERVICES

PROJECT TITLE: Council Chambers & Community Rooms Multimedia Refresh

1. OVERVIEW

This project covers the multimedia refresh of the Council Chamber, Committee Room 1E and Community Room 2E. It requires the successful Proponent to propose and provide professional audio-visual equipment redesign that meets all the requirements listed herein. The successful proponent will be responsible to supply the Goods, redesign the electrical system to accommodate the Goods, and install the Goods as per the electrical redesign. The Proponent is to do any remediation such as carpentry or millwork, data network cabling, electrical cabling, coring, structural and aesthetic improvements, as necessary.

The period of construction is anticipated to be strictly between August 7 to September 8, 2023. Council meetings will resume on September 11, 2023; therefore, all work including testing and clean up must be done on or before September 8, 2023. All dates are subject to scheduling of City Council meetings.

Current State

The Council Chambers will be used for both Council meetings and Performing Arts events. There are two distinct AV systems provided for each of these purposes which share some common equipment.

There are six (6) touchscreens for Council Chambers one each for the AV Technician (in the Control Room), Theatre Technician in lighting booth, Clerk's Desk, Mayor's Desk, the Podium and the Staff Desk that are used during Council Meetings. The touchscreens on the Podium and the Staff Desk, have limited functionality which is based on the control requirements for the respective end users. The four full function touchscreens also have access to the Service Mode that is password protected.

There is a wireless microphone system that comprises thirty (30) Shure gooseneck microphones, two (2) access point transceivers, and one (1) wireless conference system.

Council Chambers:

The Council Chamber AV system provides the following features and capabilities:

AV input sockets on the Council Table, Staff Table, and center Podium allows users to connect an HDMI or analog VGA source that can be displayed on the large projection screen and two large LCD displays on the side walls. In addition, this will also provide the same video signal feed to owner supplied desk-top LCD displays located on the Council and Staff Desks. As well, there are digital video inputs at the center stage area, left and

right seats by the Council Desks that may be used in conjunction with two portable digital video switchers/transmitters.

Audio systems provides facilities to mix, route, and process audio signals from microphone and program audio sources. It provides a general mix of audio signals to the microphone discussion system, ceiling speakers, and third party web streaming and archiving services.

A dedicated CD player/IPOD dock is located within the Control Room and a dedicated digital video document camera is provided at the City Clerk's seating position on the Staff Desk.

There is a high-definition CCTV system with five (5) Pan/Tilt/Zoom (PTZ) cameras that provide a means of archiving videos of meetings and events in the Council Chamber. It provides a video feed to the Green Room LCD display to allow participants in that room to monitor the status of meetings in the Council Chamber. It also provides digital video signal feeds to third party web streaming and archiving services.

City Council uses a livestreaming platform to broadcast council meetings. Only Council uses the livestreaming platform, Performing Arts has no access to this system.

Performing Arts:

The Performing Arts AV System provides the following features and capabilities.

Multiple wired microphone input facilities, multiple audio send and return lines and multiple digital video inputs on the stage.

Display system consisting of a second large, motorized projection screen and a second high-brightness digital video projector mounted under in the rear part of the Council Chamber. Digital audio sound system consisting of a mobile digital audio mixing console, breakout box, patch bays, digital signal processing for loudspeaker management, and a pair of self-amplified speaker clusters mounted on motorized lifts. The mobile digital mixing console that can be operated in the Control Room desk, on stage, and on the left or right sides of the Council Chamber.

Dedicated program audio and video sources such as a Blu-ray Player and CD/IPOD dock deck in the Control Room

Production intercom system with portable belt packs and headsets and multiple intercom stations located in the Control Room, Council Chamber, Green Room, Lighting Control Room, Catwalk, and Closed Council Meeting Room.

The Council Chamber and the Performance Arts AV systems function independently of each other except for some commonalities as below.

The Green Room display and the CCTV system can be used during Performing Arts events to allow participants present in the Green Room to visually view the status on the stage on the monitor located on the wall.

There are some lighting pre-sets that may be recalled during council meetings or Performing Arts to illuminate some presentation elements, from the touchscreen control panel located in the Control Room. The touchscreen for the Performing Arts is a separate touchscreen.

There are cluster speakers suspended in the ceiling that would be used during Performing Arts events. Additionally, there are also ceiling speakers that are surface mounted at the gallery that are mainly used during council chamber meetings however they would also be used as back-fill speakers for program audio sound and speech reinforcement.

There is a hearing assist system (RF-based) with receivers that are available for end users during council chamber and Performing Arts events.

There are monitor speakers in the Control Room that are also shared by Council Chambers and Performing Arts systems.

The Control Room desk is shared between the Council chamber and Performing Arts system technicians/operators, but each system has their own touch panel for system operation and control.

A list of existing hardware within the Council Chambers is provided for reference, please refer to Schedule A-2 – Supplementary Specifications.

Committee Room and Community Room:

These are two divisible rooms on separate floors that may each be used as one large room or two smaller independent rooms for presentations and meetings.

Each room has its own AV equipment housed in a rack in a credenza.

A projector and a recessed motorized projection screen are mounted on the ceiling in the Committee Room and Community Room. A third projector and a slightly larger motorized projection screen is mounted on the ceiling but perpendicular to the other two.

The projector and the motorized projection screen in each one of the rooms are used to display video during presentations when the rooms are divided. Digital inputs boxes located on the tables are used for connecting end user devices for presentations.

The third projector and the larger projection screen are used to display video on the larger projection screen during presentations when the rooms are combined. Any digital input box from any of the two rooms can be used to connecting end user devices.

A wall bracket in the room houses an iPad which controls various functionalities of the system such as raising and lowering of the motorized projection screen, volume control and switching the system “on” and “off”. The iPad may be drawn out of the wall bracket and placed on the table. Room selection in the combined or divisible mode is done on the iPad. During combined room mode, either of the two iPads may be used for control. During divided room mode, the iPads work independently for the respective rooms. The iPad is used only for room control and not for any other purpose.

Each one of the motorized screens has a manual switch located in the rack that may be used during unforeseen circumstances for raising and lowering the projection screens.

When the rooms are divided, the ceiling speakers located in both rooms work as two independent zones and when the rooms are combined, they work as one single zone.

Target State

The City would like to receive proposals that meet the requirements identified by relevant stakeholders. The replacement of the current audio visual system does not necessarily have to be like-for-like. The City would like to see what is new in terms of innovative, streamlined, reliable, and secure technology that is scalable to accommodate future growth. The Proponent is not restricted to replace the exact same number of devices so long as the new design is coherent. The operation of this new technology stack must be simple and intuitive, such that operators new and experienced alike will be able to learn to use it quickly. Technologies meant for non-technical users should look pleasing and be intuitive, easy to understand and simple to operate. The City wants to see, in this audio visual redesign, as few unnecessary, intermediate components as possible. Having a simpler design not only benefits the operator, but also supports the City’s sustainability goal. The proposed solution should deliver a mature and modern user experience that promotes adoption and minimizes technical support.

The proposal would have to take into account that the City heavily uses the Microsoft ecosystem, therefore any new proposed hardware or software should be compatible with the Microsoft suite of products. Compatibility with other industry-standard platforms is also welcome, nonetheless.

There is a growing need for remote accessibility to these systems, both from a technician/operator and citizen’s perspective. We are living in a more digital world compared to 2014. The expectation now is to be able to reach, manage and control devices via web portal or similar. The popularity of obtaining information online, specifically watching video content, have also become an expectation in today’s world. Therefore, the City expects this refreshed technology stack to be remotely accessible and consumable.

2. FUNCTIONAL AND TECHNICAL REQUIREMENTS

The requirements for this RFP are divisible into four general categories: functional requirements, hardware & technical requirements, service level & support requirements,

and security requirements (the “**Council Chambers & Community Rooms Multimedia Refresh Requirements**”), all as described and embedded in Schedule A-1.

Proponents’ Proposals will be evaluated based upon the suitability of their proposed Solution(s) in relation to the Council Chambers & Community Rooms Multimedia Refresh Requirements. The functional requirements generally list the City’s desired/preferred or required general Council Chambers & Community Rooms Multimedia Refresh functionality. The technical requirements list the City’s desired or required general Council Chambers & Community Rooms Multimedia Refresh functionality in areas such as integration, user interface, and others. Most of the functional and technical requirements are preferred or highly preferred by the City, and Proponents will be evaluated on their ability to meet those requirements.

As part of their Proposal, Proponents should submit Schedule C-3-1 (Council Chambers & Community Rooms Multimedia Refresh Requirements Response), which is available as a separate attachment to this RFP, after filling-in the spreadsheet’s two right-most columns. Specifically, the Proponent should indicate if their Solution complies with each requirement by selecting the appropriate response code in the response code field, and also provide a description in the comments field that explains how their Solution meets each requirement. **Some of the Council Chambers & Community Rooms Multimedia Refresh Requirements are identified as mandatory, and must be met for the Proponent’s Solution to be considered.**

3. ELECTRICAL REDESIGN

Proponents are required to provide an electrical redesign in order to support the installation and operation of both the proposed Goods and the existing equipment.

a. Roles and Responsibilities of the Design-Builder

The responsibilities of the competing Proponents are expected to include:

- (a) Audio Visual schematic site plan;
- (b) Audio Visual schematic architectural floor plans, elevations, sections, simple renderings;
- (c) Architectural, structural, electrical, mechanical engineering memos and schematic plans, as applicable;
- (d) Design Services and construction schedule; and
- (e) other related documentation.

The responsibilities of the Design-Builder (the successful Proponent) to provide complete design services for the scopes below:

- (a) Audio Visual Design;
- (b) Electrical Design.

Note that this list is intended to assist the Design-Build Proponents in preparing their design teams by outlining scopes of Design Services. It is not intended as an exclusive or exhaustive list or as direction to the Proponent for separating the design services scopes. The design teams and organization are to be determined solely by each Proponent.

b. Overview of Requirements

The primary objectives of this Project are broken down into phases as followed:

Phase 1: Schematic Design

The Proponent will be required to develop an audio-visual schematic design for the Council Chambers, Committee Room 1E and Community Room 2E. Most hardware that will be replaced will occupy the same locations in the different rooms, except for new additions:

- Council Chambers
 - 2 PTZ cameras to be mounted on back granite bulkhead
- Community Room 1E
 - 2 ceiling-mounted microphones
 - 3-6 retractable, ceiling-mounted cameras
 - 2 wall-mounted touch screen room controllers
 - 1 active cooling device (e.g. fan or similar) within the AV cabinet
 - 1 power conditioner for AV rack and devices within rack
- Community Room 2E
 - 2 ceiling-mounted microphones
 - 3-6 retractable, ceiling-mounted cameras
 - 2 wall-mounted touch screen room controllers
 - 1 active cooling device (e.g. fan or similar) within the AV cabinet
 - 1 power conditioner for AV rack and devices within rack

The Proponent shall do the appropriate electrical, mechanical, structural remediations as required by the installation of new equipment, relocate equipment not being replaced to accommodate the new design, and update respective drawings to document any modification done to existing infrastructure.

Key Milestones:

- Detailed site review and assessment with the City to identify any potential issues or challenges;
- Cooperative design process where the Proponent will discuss the proposed audio-visual floorplan to the City and any concerns or challenges noted during the initial site review. With this feedback, the functionality and key design elements of the Council Chambers & Community Rooms Multimedia Refresh will be factored into the schematic and subsequent detailed design.

Phase 2: Design Development & Construction Documents

Following the approval of the schematic designs by the City, the Proponent will be required with the assistance and coordination of their assembled team of professionals, prepare the detailed design drawings and specifications. The design drawings will include coordination of the design development with the City.

Phase 3: Construction

During the construction phase of the Project, the Proponent will provide the expertise required to manage the construction, coordinate the trades' work, ensure quality of work, cost control and mitigate any construction delays.

The Proponent will be required to provide site inspections and support services during the construction phase.

Contractor to comply with all BC Fire Marshal, BC Workers' Compensation Board, BC Building Code of Canada, BC Electrical Inspector, National Fire Protection Association, and any other authorities having local jurisdiction. Failure to abide by these rules and regulations will result in being immediately escorted from the work site.

c. Reference Documents

Schedule A-2 – Supplementary Specifications and Schedule A-3 – Drawings are included as reference documents to assist design-build teams in preparing their Proposals. Reference documents may not form part of the Contract and Proponents are encouraged instead to develop their own design solutions. Proponents should not rely on the complete accuracy of these documents. If reliance on this information is desired, the Proponent should contact the author of the information and acquire approval directly.

d. Audio-Visual Redesign Deliverables

The final deliverable of the audio-visual redesign must be able to support the manufacturer's suggested requirements for operation for all proposed Goods and all existing hardware. The design should be durable and scalable to incorporate future technologies and hardware upgrades when current equipment and proposed Goods reach end of life.

As-built drawings, Operations & Maintenance manuals, and warranty lists must be delivered to the City within 2 weeks after installation is complete.

4. HARDWARE INSTALLATION REQUIREMENTS

Proponent to refer to Schedule A-2 for general communications, A/V and security specifications and installation standards.

COUNCIL CHAMBER

Cameras:

- Relocate two existing cameras (See Schedule A-3 – Drawings, Council Chamber Camera Markups.pdf, page E-1111a)
- Cover the façade of where the previous camera locations were
- Core the back granite bulkhead to install two additional cameras powered by PoE switches

Support Brackets/Racks:

- Existing TV mounting brackets can be reused
- Projector mounting brackets can be reused
- Control room rack can be reused

Theatre Production Areas:

- Point to point network connectivity with CAT6 to seven production areas (See Schedule A-3 – Drawings, A-601 Mark Up.pdf, page A-601)

COMMITTEE AND COMMUNITY ROOMS

AV Equipment & Power Conditioner:

- Expand existing ventilation holes inside the cabinet and expand the louvre on the outside wall (see reference pictures)
- Add a small exhaust/ventilation fan within the cavity in the wall (1E) or within existing AV cabinet (2E)
- Power conditioner for all devices within AV rack
- Existing AV rack can be reused

Conference Camera:

- Mount a camera retracting mechanism on the ceiling in the vicinity of the projector screen and conceals the camera within the lift casing or in the ceiling.
- Mounting should be seismically rated and can support a minimum weight of 19 kg
- Mount a camera on the appropriate retracting mechanism that can support a camera with minimum weight of 2 kg

Microphone Array:

- Cut a hole through the ceiling panel and mount the microphone array in a seismically-rated, stable manner and can also support a minimum weight of 5 kg

5. INSTALLATION GUIDELINES

- **City Hall Working Hours:** 8 AM-5 PM Mon-Fri. After hours work must be coordinated with Security and requires prior approval from City Project Manager.
- **Tools and Equipment:** The City will not provide any tools or equipment to the Proponent.
- **Delivery Guidelines:** City Hall P1 loading dock can be used for deliveries and drop off equipment and tools. Ensure proper communication with City Project Manager and Loading Dock Receiver prior to delivery.
- **Secure Storage of Equipment:** City can provide locked storage or staging area if there is space available. Ensure proper communication with City Project Manager if/when the need arises. The City is not responsible for damage or theft to equipment until they are installed.

- **Disposal of Waste Material:** Please ensure materials are deemed waste by the City before disposal. Proponent is responsible for appropriate disposal of all waste.
- **Permits:** Proponent is responsible for obtaining necessary permits. The permitting time frame depends on the City's work load. The Proponent is recommended to submit applications as soon as possible to mitigate schedule delays on the project.
- **Proponent Staff Security Check-In:** Proponent is responsible for providing a list of authorized personnel to the City, including subcontractors if any, for security purposes prior to the commencement of work on-site.

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SCHEDULE A-1 – FUNCTIONAL AND TECHNICAL REQUIREMENTS

The functional and technical requirements for the Services set out below.

For greater certainty, the requirements listed in **Schedule A-1 (Council Chambers & Community Rooms Multimedia Refresh Requirements)** and **Schedule C-3-1 (Council Chambers & Community Rooms Multimedia Refresh Requirements Response)** are identical. The only difference between the two Schedules is that Schedule C-3-1 contains two additional columns for the Proponent to enter information regarding its own Proposal.

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

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

Locate Folder: 1220-030-2022-041

SCHEDULE A-2 – SUPPLEMENTARY SPECIFICATIONS

1. IT Performance Spec Ver. 3.1 2020.pdf
2. Council Chamber Hardware List.xlsx

Supplementary Specifications may be viewed and/or obtained at the Managed File Transfer Service (MFT) link noted below. Printing will be the sole responsibility of the Contractor.

In the URL, or address field at the top, enter the following address: <https://mft.surrey.ca/> and hit “enter”.

Enter “surreybid” as the Username, “Welcome” as the password and then click “Login”

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

Login ID: surreybid

Password: Welcome

Folder: 1220-030-2022-041

SCHEDULE A-3 – DRAWINGS

1. Council Drawings - Reference.pdf
2. A-601 Mark Up.pdf
3. Council Chamber Camera Markups.pdf
4. 1E Camera and Mic Markups.jpg
5. 2E Camera and Mic Markups.jpg
6. Reference Pictures

Drawings may be viewed and/or obtained at the Managed File Transfer Service (MFT) link noted below. Printing will be the sole responsibility of the Contractor. **Drawings are provided for reference purposes only. The City of Surrey does not ensure the accuracy of the provided reference materials.**

In the URL, or address field at the top, enter the following address: <https://mft.surrey.ca/> and hit “enter”.

Enter “surreybid” as the Username, “Welcome” as the password and then click “Login”

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

Login ID: surreybid

Password: Welcome

Folder: 1220-030-2022-041

SCHEDULE B – DRAFT CONTRACT



**COUNCIL CHAMBERS & COMMUNITY ROOMS MULTIMEDIA REFRESH AND
IMPLEMENTATION SERVICES AGREEMENT**

Between

CITY OF SURREY

and

<<INSERT NAME OF CONTRACTOR>>

Reference No.: 1220-030-2022-041

Contract ID:

PO Number:

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**COUNCIL CHAMBERS & COMMUNITY ROOMS MULTIMEDIA REFRESH AND
IMPLEMENTATION SERVICES AGREEMENT**

AGREEMENT No.: 1220-030-2022-041

THIS AGREEMENT is effective this _____ day of _____, 202__.

BETWEEN:

CITY OF SURREY
13450 - 104th Avenue
Surrey, British Columbia, V3T 1V8

(the “**City**”)

OF THE FIRST PART

AND:

<<INSERT FULL LEGAL NAME AND ADDRESS OF CONTRACTOR>>

(the “**Contractor**”)

OF THE SECOND PART

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

Council Chambers & Community Rooms Multimedia Refresh

NOW THEREFORE THIS AGREEMENT WITNESSETH in consideration of the premises and payment of one (\$1.00) dollar and other good and valuable consideration paid by each of the parties to the other (the receipt and sufficiency of which is hereby acknowledged) the parties hereby covenant and agree with each other as follows:

1. INTERPRETATION

1.1 Definitions

The following terms will have the meanings set out below:

“**Agreement**” means this agreement between the City and the Contractor as described herein including the Appendices described in Section 1.2;

“**City Representative**” (or designate) who will have the duty of instituting and maintaining communication with the Contractor as to the requirements of the agreement including but not limited to receive security incident or breach notification;

“**Confidential Information**” means information supplied to, obtained by, or which comes to the knowledge of the Contractor and the City (or either of them) as a result of the performance of the Services and this agreement, which includes, but is not limited to Records, Personnel Information, information that relates to the business of the third party, and information that is subject to solicitor-client privilege;

“Data” has the same meaning as, and is interchangeable with the term **“Record”**;

“Data Breach” means any actual or reasonably suspected unauthorized access to or acquisition of Data;

“Dispute” has the meaning set out in section 19.1;

“Documentation” has the meaning set out in section 2.6;

“Enhancements” means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Services that the Contractor may develop or acquire and incorporate into its standard version of the Services or which the Contractor has elected to make generally available to its customers;

“Fees” has the meaning set out in section 5.1;

“Go-Live Date” means the date that the software has achieved final acceptance and is being used by the City;

“Goods” has the meaning set out in section 2.1;

“Indemnitees” has the meaning set out in section 8.1;

“Intellectual Property Rights” has the meaning set out in section 15;

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

“Marks” has the meaning set out in section 2.7;

“Personal Information” means recorded information about an identifiable individual and any other types of information that, alone or in combination, would reveal the identity of a particular individual, other than business contact information;

“Record” means information, whether in oral or written form (including books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means), that is supplied, obtained or created in the course of using, providing or configuring the Goods, Services and Software, or otherwise under this Agreement. For greater clarity, Records includes Documentation. In this Agreement, the term “Records” is interchangeable with “Data”;

“Security Incident” means any actual or reasonably suspected adverse event that compromises the availability, confidentiality, or integrity of the Data, or the ability of the City to access the Data;

“Services” has the meaning set out in section 2.1;

“Software” means the Software or Program(s) to be provided by the Contractor to the City under this Agreement;

“Source Code” means a set of instructions, written in programming language, that must be translated to machine instructions before the program can run on a computer. These instructions must be compiled into object code before the computer can understand them;

“Subscription Fee” shall mean the reoccurring fee paid to the Contractor as compensation for continued use of the Software;

“Term” has the meaning set out in section 2.4; and

“Time Schedule” means the milestones and dates set out in Appendix 3.

1.2 Appendices

The following attached Appendices are a part of this Agreement:

- (a) Appendix 1 – Scope of Services;
- (b) Appendix 1-A – Council Chambers & Community Rooms Multimedia Refresh Requirements;
- (c) Appendix 2 – Fees and Payment;
- (d) Appendix 3 – Time Schedule;
- (e) Appendix 4 – Key Personnel and Sub-Contractors;
- (f) Appendix 5 – Additional Services;
- (g) Appendix 6 – Privacy Protection Schedule; and
- (h) Appendix 7 – Confidentiality Agreement.

2. GOODS AND SERVICES

2.1 Goods and Services

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

This Agreement sets forth the terms and conditions under which the Contractor agrees to license the Software and provide all other services, data import/export, monitoring, support, backup and recovery, and training necessary for City’s productive use of such software, as further set forth in Appendix [], a future Appendix. The City shall perform its responsibilities set forth in the same Appendix [], a future Appendix. Contractor agrees to work with the City to ensure proper change management and assist in identifying any required technology upgrades within the City’s network in support of this implementation. Contractor and the City shall use commercially reasonable efforts to fulfill their respective obligations in a timely manner in order to achieve the agreed milestones and dates set forth in this Agreement.

Authorized Users. Unless otherwise limited in Appendix [], a future Appendix, City and any of its employees, agents, contractors, suppliers of services or other designated users that have a need to use the Services for the benefit of the City shall have the right to operate and use the same. As part of the Services, City shall have the responsibility for all user identification and password change management.

Non-exclusivity. Nothing herein shall be deemed to preclude the City from retaining the services of other persons or entities undertaking the same or similar functions as those undertaken by Contractor hereunder.

The City acquires the right to use the Services acquired under this agreement at any location under the direct control of the City.

Contractor agrees to extend the terms and conditions of this agreement, including pricing, to all current and future City locations at their request.

2.2 Additional Goods and Services

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

2.3 Standard of Care

- 2.3.1 The Contractor will perform the Services with that degree of care, skill and diligence normally provided by a qualified and experienced practitioner. The Contractor represents that it has the expertise, qualifications, resources and relevant experience to provide the Goods and Services.

2.4 Term

- 2.4.1 The term of this Agreement shall extend from the purchase of the Software until the "Go Live" date. Continuous one-year extensions shall continue thereafter for annual maintenance services. Such extensions shall be automatic, and shall go into effect without written confirmation, unless the City provides advance notice of the intention to not renew.
- 2.4.2 If the Term is extended, the provisions of this agreement will remain in force except where amended in writing by the parties.
- 2.4.3 If the City chooses to continue to use the Software beyond the 120-month term of this Agreement monthly license fees will continue to be paid throughout each extension in order to use the Software provided by the license grant as described in Section 12 of this Agreement.

2.5 Time

- 2.5.1 Time is of the essence.

2.6 Documentation

- 2.6.1 Documentation shall mean, collectively: **(a)** all materials published or otherwise made available to City by the Contractor that relate to the functional, operational and/or performance capabilities of the Services; **(b)** all user, operator, system administration,

technical, support and other manuals and all other materials published or otherwise made available by the Contractor that describe the functional, operational and/or performance capabilities of the Services; (c) any Requests for Information and/or Requests for Proposals (or documents of similar effect) issued by City, and the responses thereto from the Contractor, and any document which purports to update or revise any of the foregoing; and (d) the results of any presentations or tests provided by the Contractor to the City.

2.7 Marks

2.7.1 Marks shall mean the trademarks and/or trade names of Contractor as licensed to City hereunder.

2.8 Acceptance Testing

2.8.1 For purposes of acceptance of the Software solution (or portions thereof), the City intends to use the following staged acceptance procedure. All timeframes specified in the following procedures may be amended by the Time Schedule.

A. Written Deliverable: The Contractor should submit interim drafts of a written deliverable to the City for review. The City agrees to review and provide comments to the Contractor on each draft within ten (10) business days after receiving it from the Contractor. The City agrees to notify the Contractor in writing by the end of this time period either stating that the written deliverable is accepted in the form delivered by the Contractor or describing in reasonable detail any substantive deficiencies that must be corrected prior to acceptance of the written deliverable. If the Contractor does not receive any such deficiency notice from the City by the end of this time period, the written deliverable will be deemed to be accepted and an approved document marked "Provisionally Approved" and dated will be provided to the City. If the City delivers to the Contractor a timely notice of deficiencies and the items specified in the notice are deficiencies, the Contractor will promptly correct the described deficiencies and return to the City for approval. The City will not unreasonably withhold, delay or condition its approval of a final written deliverable.

2.8.2 The Contractor is responsible for tracking status of each deliverable including but not limited to the date in which it was submitted to the City and date returned.

B. Software Deliverable: Acceptance testing is an iterative process designed to determine whether the Software deliverable performs the functions described in its approved Specifications and to discover and remove defects through repeated testing cycles. In the event of conflicts between Specifications and Software Documentation the Specifications will prevail.

2.8.3 The Contractor will work with the City and make a good faith effort to develop a test plan with the requisite details, understanding the level of detail required may change depending on the complexity of the requested software deliverable and to test each software deliverable.

1. Software Acceptance: For each Software deliverable the City will have five (5) business days unless an alternate time is mutually agreed upon between Contractor and City. The Software acceptance test period for each Software deliverable will start within five (5) business days, unless an alternate start date is mutually agreed upon by the Contractor and the City, after the Software deliverable is installed at the City's designated site and the

Contractor has successfully completed the Contractor's installation test and notified the City that the Software deliverable is ready for testing. The Contractor will not be obligated to deliver a Software deliverable to City until the City demonstrates the readiness of the target technical platform and environment.

2. If the City determines during the Software acceptance test period that the Software deliverable contains a defect, the City will promptly send the Contractor a written notice reporting the alleged defect describing it to the Contractor in sufficient detail reasonably necessary for the Contractor to recreate it. The Contractor will modify the Software deliverable to remove the reported defect and will provide the modifications to the City for re-testing. The City will then re-test the modified portions of the Software deliverable promptly after receiving the modifications from the Contractor.

3. By the end of the Software acceptance testing period the City will provide the Contractor with a final written list reporting any outstanding defects. The City will have ten (10) business days after the receipt of the modifications to re-test the modified Software deliverable to confirm that the defects that were reported have been removed. If any defects that were reported have not been removed, the City will provide the Contractor with written notification by the end of the retesting period reporting any such defects.

4. The Contractor and the City each agrees to work diligently to achieve acceptance of Software deliverable at the earliest possible date.

2.9 Training

2.9.1 The Contractor shall provide a training plan in accordance with Appendix [], a future Appendix.

2.9.2 The City reserves the right to video and/or audio tape any and all training sessions, whether held at the City or the Contractor's site, or via teleconference. Use of such training tapes shall be strictly for City staff training purposes.

2.10 Warranties, Representations and Covenants

2.10.1 Warranty of the Software Solution

Commencing on the date that the City issues its notice of final acceptance, and extending for a period of one (1) year, the Contractor warrants that the Software furnished hereunder shall be free from programming errors and that the Software and hardware (if any) shall be free from defects in workmanship and materials and shall operate in conformity with the performance capabilities, scope of Services, functions and other descriptions and standards applicable thereto and as set forth in this agreement; that the Services shall be performed in a timely and professional manner by qualified professional personnel; and that the services, Software and hardware (if any) shall conform to the standards generally observed in the industry for similar services, Software and hardware. If the Contractor is not the original Software or hardware manufacturer, the Contractor shall obtain in writing the manufacturer's consent to pass through all Software and hardware warranties for the City's benefit. During this warranty period, the Contractor shall replace or repair any defect appearing in the Software or hardware, or deficiency in Service provided at no additional cost to the City. The Contractor's liability shall extend to all liabilities, losses, damages,

claims and expenses incurred by the City caused by any breach of any of the above warranties.

2.10.2 Warranty Against Planned Obsolescence

The Contractor warrants that the Services proposed to and acquired by the City under this agreement are new and of current manufacture, and that it has no current plans for announcing a replacement line that would be marketed by Contractor as a replacement for any of the Goods and/or Services provided to the City under this agreement and would result in reduced support for the product line within which the Software solution furnished to the City is contained. The Contractor further warrants that, in the event that a major change in hardware, software, or operating system occurs that radically alters the design architecture of the System and makes the current design architecture obsolete within five (5) years after full execution of this agreement, and if the City continues its annual maintenance contract with the Contractor, the Contractor shall provide the City with a replacement hardware, software, or operating system(s) that continues the full functionality of the systems, at no extra cost to the City.

2.10.3 General Warranties, Representations and Covenants

The Contractor represents and warrants that the Software and related products as described with this Agreement will perform in accordance with all Documentation, contract documents, Contractor marketing literature, and any other communications attached to or referenced in this Agreement.

The Contractor represents and warrants that the Software and related products, including all modifications contracted under the terms of this Agreement, will meet the requirements of the City as set forth in the Documentation.

The City has: (i) presented detailed technical specifications of the particular purpose for which the Software is intended; (ii) provided detailed descriptions and criteria of how the Software can be defined to accomplish a particular purpose; and (iii) defined the exact procedures and techniques to be employed in testing whether the Software has achieved the defined performance of this particular purpose. Given this advanced preparation concerning, and documentation about, the City's particular purpose, the Contractor, at the time this Agreement is in force, has (1) reason and opportunity to know the particular purpose for which the Software is required, and (2) that the City is relying on the Contractor's experience and knowledge of the Software to identify those components which are most suitable and appropriate. Therefore, the Contractor warrants that the Software included in this Agreement is fit for the purposes for which it is intended as described in this Agreement.

The Contractor represents and warrants that all products provided under this Agreement are compatible with and certified for use and operation in City's operating environment.

2.10.4 Continuity of Warranty

The City may continue the warranty protection described above by purchasing and paying for on-going annual support services described below. By doing so, all warranty, warranty

of fitness for a particular use, and resolution and response time warranty conditions above shall remain in effect, in perpetuity (except for the “Third party hardware” clause above), as long as payments for annual support are kept current.

2.10.5 Final Acceptance of the System

The Software shall be defined to be finally accepted by the City after the installation of the training, and successful completion of the following performance examinations: software performance examination, system functional competence examination, system capacity examination, full-load processing capacity examination, system availability examination, approval of as-built, training, and system documentation. The City and its consultants shall be the sole judge of whether all conditions for final acceptance criteria have been met.

2.10.6 No Liens

The Contractor warrants that the Software and Equipment is the sole and exclusive property of the Contractor and that the Contractor is authorized to provide full use of the Software to the City as provided herein and that such Software is not subject to any lien, claim or encumbrance inconsistent with any of the City’s rights under this agreement and that the City is entitled to and shall be able to enjoy quiet possession and use of the Software and Equipment without interruption by the Contractor or any other person making a claim under or through the Contractor or by right of paramount title.

2.10.7 Maintenance Services Warranty

The Contractor warrants that, in performing the Services, the Contractor shall strictly comply with the descriptions and representations as to the Services, including performance capabilities, accuracy, completeness, characteristics, configurations, standards, function and requirements, which appear in this Agreement. Its products shall be uniform in appearance and clean and presentable in accordance with generally applicable standards in the industry. Errors or omissions committed by the Contractor in the course of providing Services shall be remedied by the Contractor at its own expense.

2.10.8 Date Warranty

The Contractor warrants that all Software provided under this Agreement: (a) does not have a life expectancy limited by date or time format; (b) will correctly record, store, process, present calendar dates; (c) will lose no functionality, data integrity, or performance with respect to any date; and (d) will be interoperable with other software used by City that may deliver date records from the Software, or interact with date records of the Software (“Date Warranty”). In the event a Date Warranty problem is reported to the Contractor by City and remains unresolved after three calendar days, at City’s discretion, the Contractor shall send, at the Contractor’s sole expense, at least one qualified and knowledgeable representative to City’s premises. This representative will continue to address and work to remedy the failure, malfunction, defect, or nonconformity on City’s premises. This Date Warranty shall last perpetually. In the event of a breach of any of these representations and warranties, the Contractor shall indemnify and hold harmless the City from and against any and all harm, injury, damages, costs, and expenses incurred by the City or a customer of the City arising out of said Breach.

2.10.9 Physical Media Warranty

The Contractor warrants to the City that each licensed copy of Software provided by the Contractor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty."). The Physical Media Warranty does not apply to defects discovered more than thirty (30) calendar days after the date of acceptance of the Software copy by the City. The Contractor shall replace, at the Contractor's expense, including shipping and handling costs, any Software copy provided by the Contractor that does not comply with this Warranty.

2.11 **Software Upgrades and Enhancements**

2.11.1 The Contractor shall supply:

- (a) at no additional cost updated versions of the Software to operate on upgraded versions of operating systems, upgraded versions of firmware, or upgraded versions of web browsers;
- (b) at no additional cost interface modules that are developed by the Contractor for interfacing the Software to other Software products; and
- (c) at no additional cost updated versions of the Software that encompass improvements, extensions, maintenance updates, error corrections, or other changes that are logical improvements or extensions of the original Software supplied to the City.

2.11.2 Unless otherwise mutually agreed to in writing, the Contractor shall maintain any and all Third party Software products at their most current version and at no additional charge. However, the Contractor shall not maintain any Third-party Software versions, including one version back, if any such version would prevent the City from using any functions, in whole or in part, or would cause deficiencies in the system. Any additional costs that are charged by a Third-party Software manufacturer for an upgrade to a Third-party Software product that is not covered by such product's maintenance agreement shall be charged to and paid for by the Contractor.

2.11.3 Enhancements

The Contractor shall provide the City with all Enhancements and associated documentation that are provided as general releases to the Software, in whole or in part, as part of the service. Such Documentation shall be adequate to inform the City of the problems resolved including any significant differences resulting from the release which are known by the Contractor. The Contractor warrants that each such Enhancement general release shall be tested and perform according to the requirements. The Contractor agrees to correct corrupted Data that may result from any system deficiency introduced by the Enhancement at no cost to the City. Enhancements to correct any deficiency shall be provided to the City at no additional cost. Should the Contractor not be able to correct the Deficiency so that it complies with the requirements specified in Schedule A to the City's reasonable satisfaction in a timely manner, the City may terminate this Agreement.

2.12 Pandemic Restrictions

The parties acknowledge that this Agreement has been entered into during the on-going COVID-19 pandemic (the “**Pandemic**”). The Contractor advises that it is able to proceed with providing the Goods and performance of the Services under the Pandemic conditions and restrictions (collectively the “**Pandemic Restrictions**”) as they exist as of the date of this Agreement. The parties acknowledge that Pandemic Conditions may change so as to cause unavoidable interruptions or interference to the Contractor’s performance of the Goods and Services. The parties confirm:

- (a) notwithstanding the known existence of the Pandemic, Section 2.12 will apply to new Pandemic Restrictions, which arise after the date of this Agreement, whether anticipated or not, which reasonably interfere with the Contractor’s performance of the Services, such that upon the Contractor giving required notice shall be entitled to an extension of the time to provide the Goods and perform the Services, but shall not be entitled to reimbursement of any costs;
- (b) notwithstanding any such new Pandemic Restrictions, the Agreement will remain valid and in force, subject to the terms of the Agreement including, without limitation Section 17 (Workers’ Compensation Board and Occupational Health and Safety); and

if new Pandemic Restrictions occur that cause or threaten interruption of the Goods and Services the Contractor will give the City immediate notice, and a written plan of the interim steps the Contractor will take, if any, during the interruption of the Goods and Services, and when Pandemic Restrictions permit, provide the City with a written plan for the resumption of the Goods and Services.

3. PERSONNEL

3.1 Qualified Personnel

- 3.1.1 The Contractor agrees at all times to maintain an adequate staff of experienced and qualified employees and agents for efficient performance under this Agreement. The Contractor agrees that, at all times, the employees and agents of the Contractor furnishing or performing any Goods and Services shall do so in a proper, workmanlike, and dignified manner.
- 3.1.2 Without limiting the generality of the foregoing, the Contractor, and any personnel and sub-contractors performing all or any part of the Services, will, as required during the Term, obtain and maintain the level of security clearance, if any, required by the City or the Surrey Police Board/Surrey Police Department as applicable to the nature and/or scope of the Services, and will provide proof of such security clearance upon request and prior to providing, or continuing to provide, the Services.
- 3.1.3 The Contractor agrees that all persons working for or on behalf of the Contractor whose duties bring them upon the City’s premises shall obey the rules and regulations that are established by the City and shall comply with the reasonable directions of the City’s officers. The City may, at any time, require the removal and replacement of any of the Contractor’s employees for good cause.

- 3.1.4 The Contractor shall be responsible for the acts of its employees and agents while on the Client's premises. Accordingly, the Contractor agrees to take all necessary measures to prevent injury and loss to persons or property located on the City's premises. The Contractor shall be responsible for all damages to persons or property caused by the Contractor or any of its agents or employees. The Contractor shall promptly repair, to the specifications of the City, any damage that it, or its employees or agents, may cause to the City's premises or equipment; on the Contractor's failure to do so, the City may repair such damage and the Contractor shall reimburse the City promptly for the cost of repair.
- 3.1.5 The Contractor shall perform the services contemplated in the Agreement without interfering in any way with the activities of the City's staff, occupants of the facilities, or visitors.
- 3.1.6 The Contractor and its employees or agents shall have the right to use only those facilities of the City that are necessary to perform services under this Agreement and shall have no right to access any other facilities of the City. The City shall also extend parking privileges to properly identified members of the Contractor's full-time staff on the same basis as they are extended to City staff.
- 3.1.7 The City shall have no responsibility for the loss, theft, disappearance of, or damage to equipment, tools, materials, supplies, and other personal property of the Contractor or its employees, subcontractors, or material-men.
- 3.1.8 The Contractor will perform the Services using only those key personnel and subcontractors listed in Appendix 4. The Contractor will not engage any personnel or subcontractors, or sub-contract or assign its obligations under this Agreement, in whole or in part, without the prior written approval of the City and any attempt to do so shall be void and without further effect.

3.2 Identification of and Responsibility for Sub-Contractors

- 3.2.1 The Contractor 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 Contractor 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 Contractor.
- 3.2.2 The Contractor shall identify all of its strategic business partners related to the Services provided under this Agreement, including but not limited to all sub-contractors or other entities or individuals who may be a party to a joint venture or similar agreement with the Contractor, and who shall be involved in any application development and/or operations.

3.3 Separation of Duties and Non-Disclosure

- 3.3.1 The Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of the City's data to that which is absolutely necessary to perform job duties.

3.4 Right to Remove Personnel

- 3.4.1 The City shall have the right at any time to require that the Contractor remove from interaction with the City any Contractor representative who the City believes is detrimental to its working relationship with the service provider. The City shall provide the Contractor with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The Contractor shall not assign the person to any aspect of the contract or future work orders without the City's consent.

3.5 Sub-Contractors and Assignment

- 3.5.1 Except as provided for in Section 3.2, the Contractor 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.

3.6 Agreements with Sub-Contractors

- 3.6.1 The Contractor 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 Contractor 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 Contractor.

4. LIMITED AUTHORITY

4.1 Agent of City

The Contractor is not and this agreement does not render the Contractor an agent or employee of the City, and without limiting the above, the Contractor 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 provide the Goods and perform the Services. The Contractor will make such lack of authority clear to all persons with whom the Contractor deals in the course of providing the Goods and/or Services.

4.2 Independent Contractor

The Contractor 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 Contractor provides the Goods and performs the Services. The Contractor will determine the number of days and hours of work required to properly and completely perform the Goods and/or Services. The Contractor is primarily responsible for performance of the Goods and/or Services and may not delegate or assign any Services to any other person except as provided for in this agreement. The Contractor will be solely liable for the wages, fringe benefits, work schedules and work conditions of any partners, employees or sub-contractors.

5. FEES AND PAYMENT

5.1 Fees

The City will pay to the Contractor the fees as set out in Appendix [], a future Appendix (the “**Fees**”). Payment by the City of the Fees will be full payment for the Services and the Contractor will not be entitled to receive any additional payment from the City.

5.2 Payment

Payments will be made on a milestone basis and in a manner consistent with the payment schedule as set forth as Appendix [], a future Appendix. Milestones will be tied to specific deliverables. The Contractor shall only invoice upon the City’s approval of the deliverable. For software-only purchases, the Contractor may invoice for licenses/subscriptions upon contract execution, however annual maintenance and support charges will not begin until the “Go Live” date.

- (a) The Contractor will submit an invoice (the “Invoice”) to the City requesting payment of the portion of the Fees relating to the Services provided in accordance with the milestone deliverables, and including the following information:
 - (1) an invoice number;
 - (2) the Contractor’s name, address and telephone number;
 - (3) the City’s reference number for the Goods and/or Services: P.O. number _____;
 - (4) the percentage of Goods and/or Services completed at the end of the previous month;
 - (5) the total budget for the Goods and/or Services and the amount of the budget expended to the date of the Invoice;
 - (6) taxes (if any);
 - (7) 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 Contractor;
- (c) the City will pay the portion of the 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 Contractor until such time as the Contractor provides its Final Report to the City; and
- (d) if the Contractor offer 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 the receipt of the Invoice.

Invoices will be submitted by the Contractor **electronically** by email to: surreyinvoices@surrey.ca

5.3 Payment Schedule

- 5.3.1 Implementation and Licensing fees will be paid by City quarterly with invoicing to occur at the end of the last month of each quarter. Additional fees or ad hoc services will be invoiced in accordance with negotiated arrangements for each service period.

5.4 Records

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

5.5 Non-Residents

- 5.5.1 If the Contractor 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 Contractor; or
 - (b) the amount required under applicable tax legislation.

5.6 Advance Payment Prohibited

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

6. CITY RESPONSIBILITIES

6.1 City Information

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

6.2 City Decisions

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

6.3 Notice of Defect

If the City believes in good faith that some portion of the Services has not been completed satisfactorily, the City may require the Contractor to correct such work prior to the City making any payment. In such event, the City will provide the Contractor with an explanation of the concern and the remedy that the City expects. The City may withhold from any payment that is otherwise due, an amount that the City in good faith finds to be under dispute, of if the Contractor does not provide a sufficient remedy. The City may

retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

7. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

- 7.1 Contractor shall indemnify, defend and hold City harmless from any and all actions, proceedings, or claims of any type brought against City alleging that the Services and/or Documentation or City's use of the Services and/or Documentation constitutes a misappropriation or infringement upon any patent, copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any Third Party. Contractor agrees to defend against, and hold City harmless from, any claims and to pay all litigation costs, all reasonable attorneys' fees, settlement payments and all judgments, damages, costs or expenses awarded or resulting from any claim. City shall, after receiving notice of a claim, advise Contractor of it. City's failure to give Contractor timely notification of said claim shall not effect Contractor's indemnification obligation unless such failure materially prejudices Contractor's ability to defend the claim. City reserves the right to employ separate counsel and participate in the defense of any claim at its own expense.
- 7.2 If the Services and/or Documentation, or any part thereof, is the subject of any claim for infringement of any patent, copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any Third Party, or if it is adjudicated by a court of competent jurisdiction that the Services and/or Documentation, or any part thereof, infringes any patent, copyright, trademark, or other proprietary right or violates any trade secret or other contractual right of any Third Party, and City's use of the Services and/or Documentation, or any part of it, is enjoined or interfered with in any manner, Contractor shall, at its sole expense and within thirty (30) calendar days of such injunction or interference, either: (a) procure for City the right to continue using the Services and/or Documentation free of any liability for infringement or violation; (b) modify the Services and/or Documentation, or parts thereof, with non-infringing Services and/or Documentation of equivalent or better functionality that is reasonably satisfactory to City; or (c) replace the Services and/or Documentation, or parts thereof, with non-infringing Services and/or Documentation of equivalent or better functionality that is reasonably satisfactory to City.
- 7.3 Contractor shall have no obligation to indemnify City for a claim if: (a) City uses the Services in a manner contrary to the provisions of this Agreement and such misuse is the cause of the infringement or misappropriation; or (b) City's use of the Services in combination with any product or system not authorized, approved or recommended by Contractor and such combination is the cause of the infringement or misappropriation.
- 7.4 No limitation of liability set forth elsewhere in this agreement is applicable to the Intellectual Property Infringement Indemnification set forth herein.

8. INSURANCE AND DAMAGES

8.1 Indemnity

- 8.1.1 The Contractor will indemnify and save harmless the City and all of its elected and appointed officials, officers, employees, servants, representatives and agents (collectively the "**Indemnitees**"), from and against all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) for

damage to or destruction or loss of property, including loss of use, and injury to or death of any person or persons which any of the Indemnitees incur, suffer or are put to arising out of or in connection with any failure, breach or non-performance by the Contractor of any obligation of this agreement, or any wrongful or negligent act or omission of the Contractor or any employee or agent of the Contractor.

- 8.1.2 City hereby agrees to indemnify and hold Contractor and its affiliates, sub-contractors and agents (and each of their respective shareholders, officers, directors, employees and Contractors) harmless from and against any and all third party claims and resulting losses and damages including, but not limited to, reasonable legal fees, fines and expenses, resulting from, relating to or arising out of (i) any Software and documents, including but not limited to infringement of Intellectual Property Rights thereby (except to the extent such infringement is covered by Contractor's indemnity under Section 8.1), (ii) any breach of the terms and conditions of this agreement by City or (ii) the negligence or wilful misconduct of the City or its directors, officers, employees, contractors or agents.

8.2 Survival of Indemnity

- 8.2.1 The indemnity described in section 8.1.1 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.

8.3 Limitation of Liability

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

8.4 Contractor's Insurance Policies

- 8.4.1 The Contractor 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 five million (\$5,000,000) dollars inclusive per occurrence against death, bodily injury and property damage arising directly or indirectly out of the work or operations of the Contractor, 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 Contractors protective liability, blanket contractual, employees as additional insureds, broad form property damage, non-owned automobile, contingent employers liability, personal injury, and incidental medical malpractice. The City will be added as additional insured;
 - (b) professional errors and omissions insurance in an amount not less than one million (\$2,000,000) dollars insuring all professionals providing the Services from liability resulting from errors or omissions in the performance of the Services, with a 12-month maintenance period; and

- (c) automobile liability insurance on all vehicles owned, operated or licensed in the name of the Contractor in an amount not less than three million (\$3,000,000) dollars per occurrence for bodily injury, death and damage to property.

8.5 Insurance Requirements

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

8.6 Contractor Responsibilities

- 8.6.1 The Contractor 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 Contractor acknowledges and agrees that the Contractor 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 Contractor from responsibility for any amounts which may exceed these limits, for which the Contractor may be legally liable.

8.7 Additional Insurance

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

8.8 Waiver of Subrogation

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

9. TERMINATION

9.1 By the City

- 9.1.1 The City may at any time and for any reason by written notice to the Contractor terminate this agreement before the completion of all the Services, such notice to be determined by the City at its sole discretion. Upon receipt of such notice, the Contractor will perform no further Services other than the work which is reasonably required to terminate the Services and return the City's property to the City. Despite any other provision of this agreement, if the City terminates this agreement before the completion of all the Services, the City may pay to the Contractor all amounts owing under this agreement for Services provided by the Contractor up to and including the date of termination, plus reasonable termination costs in

the amount as determined by the City in its sole discretion. Upon payment of such amounts no other or additional payment will be owed by the City to the Contractor, 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.

9.2 Termination for Cause

9.2.1 The City may terminate this agreement for cause as follows:

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

9.2.2 If the City terminates this Agreement as provided by this Section, then the City 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 Contractor under this Agreement for the performance of the Services;
- (e) set-off the total cost of completing the Services incurred by the City against any amounts owing to the Contractor under this Agreement, and at the completion of the Services pay to the Contractor any balance remaining; and
- (f) if the total cost to complete the Services exceeds the amount owing to the Contractor, charge the Contractor the balance, which amount the Contractor will forthwith pay.

9.3 Curing Defaults

9.3.1 If either party is in default of any of its obligations under this Agreement, then either party may without terminating this Agreement, upon fourteen (14) days written notice to the defaulting party, remedy the default and set-off all costs and expenses of such remedy against any amounts owing to the defaulting party. Nothing in this Agreement will be interpreted or construed to mean that the non-defaulting party has any duty or obligation to remedy any default of the defaulting party. Parties agree to act reasonably and diligently to remedy issues.

10. APPLICABLE LAWS

10.1 Applicable Laws

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

10.2 Codes and By-Laws

10.2.1 The Contractor will provide the Services in full compliance with all applicable laws, and regulations.

10.3 Interpretation of Laws

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

11. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

11.1 No Disclosure

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

Refer to Attachment #1 for additional information.

11.2 Freedom of Information and Protection of Privacy Act

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

Refer to Attachment #2 for additional information.

11.3 Return of Property

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

12. GRANT OF LICENSE

12.1 License and Use

The Contractor grants to the City a nonexclusive, nontransferable, and perpetual license to use the executable code version of the Software identified in each Schedule under this Contract, along with the related documentation, and if indicated in an applicable Appendix [], a future Appendix, the Source Code for the Software. The license begins on the date identified in the applicable Appendix [], a future Appendix as the start date for the license

(the “Start Date”). Unless indicated otherwise in this agreement such use will be limited to use solely for the exercise of any function by the City. The applicable Appendix [], a future Appendix governing the license will describe the scope of each license granted to the City in further detail, and the City agrees to limit its use of the Software as described in the applicable Appendix [], a future Appendix. The City may not republish the Software or the documentation or distribute it to any third party, unless and only to the extent that this agreement or the scope of license in the applicable Appendix [], a future Appendix expressly so permits. The City will have a right to use the Software at any of its locations.

12.2 Restrictions and Limitations

12.2.1 The City acknowledges and agrees that:

- (a) it shall not copy, distribute, share, sublicense or otherwise reproduce any of the Software without the prior written permission of the Contractor;
- (b) it shall not authorize any third party to use, copy, modify, distribute, share, sublicense or otherwise reproduce any of the Software without the prior written permission of the Contractor;
- (c) it shall not attempt to decompile, reverse-engineer or otherwise disassemble any of the Software;
- (d) it shall not use any of the Software to create derivative works;
- (e) it shall not reproduce and not remove, obscure or amend any Contractor or third party proprietary notices contained in the Software;
- (f) it can only engage with the Contractor to provide any support and services to modify the Software. This will be done via maintenance support agreements.
- (g) it must have appropriate licenses from the operating system provider to use the product with the operating system;
- (h) it must have the appropriate licenses from the database provider to use the product with the database;
- (i) it shall comply with all applicable laws in performing its obligations hereunder and shall have obtained all necessary permits and governmental permissions required to perform its obligations under this Agreement;
- (j) it shall not distribute any Software to any person who infringes the Contractor’s rights in respect of the Software; and
- (k) any use of the Software not expressly authorized in this agreement, as well as any and all unauthorized, unsafe, hazardous, unlawful or illegal uses of the Software is expressly prohibited.

12.3 Authorized Copies

In addition to the copies of the Software authorized by the license in the applicable Appendix [], a future Appendix, the City may make a reasonable number of copies of the Software for backup, archival, disaster recovery, testing, development, and Software management purposes. And the City may use these copies for such purposes without paying any additional fee or charge, so long as any such additional copies are not used in a production environment while the production copy or copies of the Software are used for production. No other copies of the Software may be made by or for the City. With respect to the documentation for any Software, the City may make as many copies of it in either paper-based or electronic form as the City may reasonably require for its own internal purposes. Additionally, the City may incorporate portions of the documentation in other materials, such as training and reference manuals, provided that such materials are used

solely for the internal purposes of the City. If the Contractor has granted the City a license to use the Source Code for the Software, the City may make a reasonable number of copies of the Source Code, modify it, compile it, and otherwise use it as reasonably necessary to support its licensed use of the Software.

13. OWNERSHIP AND PROPRIETARY NATURE OF THE SOFTWARE

- 13.1 The Software and other related intellectual property are the confidential and proprietary products of Contractor or its licensors. The City acknowledges that the Contractor or its licensors retain all right, title and ownership to such products and the Marks; no such rights shall pass to the City except to the extent to which such rights are expressly granted by this Agreement.
- 13.2 All Intellectual Property Rights in any software services work performed by Contractor under any statement of works under this Agreement shall be owned by Contractor and be licensed to the City under the terms of Section 12.

14. INDEPENDENT SOFTWARE COMPONENTS

- 14.1 The City understands and agrees that any third party software provided to the City under this agreement is provided under license and is subject to the license terms of this agreement and the City shall comply with the trademarks and guidelines provided with the third party software as identified in herein or as provided to the City from time to time by Contractor.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 Intellectual Property is owned by the applicable content owner and, except as expressly set out herein, this Agreement does not grant either party any rights, implied or otherwise, to the other's Intellectual Property. For greater certainty:
- (a) The City acknowledges that the Contractor retains all right, title and interest in the Intellectual Property. The City acknowledges that it does not, by virtue of receiving a license to use the Intellectual Property, acquire any proprietary rights therein, other than the limited rights granted in this Agreement. The Contractor warrants that it is the sole owner of the Intellectual Property; and
 - (b) The Contractor acknowledges that the City retains all right, title and interest in the City's Intellectual Property. The Contractor acknowledges that it does not, by virtue of receiving a license to use the City's Intellectual Property in order to customize the Intellectual Property, acquire any proprietary right to the City's Intellectual Property, other than the limited rights granted under this Agreement. The City warrants that it owns the Intellectual Property that it provides to the Contractor for the purpose of customizing the Intellectual Property.
- 15.2 Neither party may transfer or assign its rights and obligations under this Agreement without first obtaining the other party's prior written consent.
- 15.3 Upon termination or expiry of this Agreement, all licenses granted in this Agreement shall be revoked and the Contractor shall remove the City's Intellectual Property from the software.

16. ESCROWING OF SOURCE CODE OF LICENSED SOFTWARE

- 16.1 After the parties execution of this Agreement and at written request of the City, the parties shall enter into a Source Code Escrow Agreement with a mutually agreed third-party escrow agent ("**Escrow Agent**") pursuant to which the Contractor will deposit a source code version of the software component of the Services other than any third party software with all necessary passwords, software keys, and related technical documentation (collectively, the "**Source Code**").
- 16.2. Each of the following shall constitute a "**Release Event**" for purposes of this Agreement and the Source Code Escrow Agreement:
- (a) in the event that the Contractor:
 - (i) makes an assignment in bankruptcy, or is subject to a bankruptcy order, under the *Bankruptcy and Insolvency Act (Canada)* or the bankruptcy and insolvency legislation of any other jurisdiction;
 - (ii) has made a general assignment for the benefit of its creditors; or
 - (iii) has terminated its on-going business operations or transfers all or substantially all of the assets or obligations associated with or set forth in this Agreement to a third party except in connection with a continuation of the Contractor's business;
 - (b) provided that, if the Contractor;
 - (c) is still providing the Services to the City; and
 - (d) is disputing an involuntary assignment or order described in subsection (i), (ii) or (iii) above, the Contractor shall have forty (40) calendar days after the receipt of the assignment or order, failing which a "Release Event" is deemed to have occurred.
- 16.3 All rights and licenses granted by the Contractor under this Agreement or the Source Code Escrow Agreement (including all licensed Software, Source Code, documentation and work product, are and shall be deemed to be rights and licenses to "intellectual property", as such term is used in and interpreted under Section 65.11(7) of the *Bankruptcy and Insolvency Act (Canada)* and Section 32(6) of the *Companies' Creditors Arrangement Act (Canada)* and the Escrow Agreement is "supplementary" to this Agreement. In each case, the City shall have all rights, elections and protections under the *Bankruptcy and Insolvency Act (Canada)*, the *Companies Creditors Arrangement Act (Canada)* and all other applicable bankruptcy, insolvency, restructuring and similar laws with respect to this Agreement, the Source Code Escrow Agreement and the subject matter hereof and thereof.
- 16.4 All fees and expenses charged by an escrow agent will be borne by the City.

17. WORKERS' COMPENSATION BOARD AND OCCUPATIONAL HEALTH AND SAFETY

- 17.1 The Contractor will, at its own expense, procure and carry full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in the supply of the Goods and Services. 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 Contractor. 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 Goods and Services have been paid in full.

- 17.2 The Contractor will provide the City with the Contractor's Workers' Compensation Board registration number and a letter from the Worker's Compensation Board confirming that the Contractor is registered in good standing with the Workers' Compensation Board.
- 17.3 The Contractor agrees that it is the prime contractor for the Services for the purposes of the *Workers Compensation Act*. The Contractor 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 Contractor will be responsible for appointing a qualified coordinator for insuring the health and safety activities for the location of the Services. That person will be the person so identified in this Agreement, and the Contractor will advise the City immediately in writing if the name or contact number of the qualified coordinator changes.
- 17.4 Without limiting the generality of any other indemnities granted by the Contractor in this agreement, the Contractor will indemnify and save harmless the Indemnitees from and against all claims, demands, causes of action, suits, losses, damages, costs, liabilities, expenses, judgments, 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.
- 17.5 The Contractor will ensure compliance with and conform to all health and safety laws, by-laws or regulations of the Province of British Columbia, including without limitation the *Workers Compensation Act* and Regulations pursuant thereto.
- 17.6 The City may, on twenty-four (24) hours written notice to the Contractor, install devices or rectify any conditions creating an immediate hazard existing that would be likely to result in injury to any person. However, in no case will the City be responsible for ascertaining or discovering, through inspections or review of the operations of the Contractor or otherwise, any deficiency or immediate hazard.
- 17.7 The Contractor understands and undertakes to comply with all the Workers' Compensation Board Occupational Health and Safety Regulations for hazardous materials and substances, and in particular with the "Workplace Hazardous Materials Information System (WHMIS)" Regulations. All "Material Safety Data Sheets (MSDS)" will be shipped along with the Goods and any future MSDS updates will be forwarded.

18. BUSINESS LICENSE

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

19. DISPUTE RESOLUTION

19.1 Dispute Resolution Procedures

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

(a) Negotiation

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

(b) Mediation

If all or any portion of a Dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Surrey, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs, and each party will bear its own costs of participating in the mediation.

(c) Litigation

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

20. JURISDICTION AND COUNCIL NON-APPROPRIATION

- 20.1 Nothing in this agreement limits or abrogates, or will be deemed to limit or abrogate, the jurisdiction of the Council of the City in the exercise of its powers, rights or obligations under any public or private statute, regulation or by-law or other enactment.
- 20.2 The Contractor 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 Contractor of its intention to terminate or reduce the services so affected within 90 days after the non-appropriation becomes final. Such termination shall take effect 90 days from the date of notification, shall not constitute an event of default and shall relieve the City, its officers and employees, from any responsibility or liability for the payment of any further amounts under this agreement.

21. GENERAL

21.1 Entire Agreement

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

Agreement supersedes and cancels all previous agreements between the parties relating to the provision of the Services.

21.2 Amendment

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

21.3 Contractor Terms Rejected

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

21.4 Survival of Obligations

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

21.5 Cumulative Remedies

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

21.6 Notices

21.6.1 Any notice, report or other document that either party 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 or email, five calendar days after posting. The addresses for delivery will be as follows:

(a) The City: City of Surrey, Surrey City Hall – <<insert department name/section>>
13450 - 104th Avenue
Surrey, British Columbia, V3T 1V8, Canada,

Attention:

Fax:

E-mail:

(b) The Contractor: [Full Legal Name]
[Street Address], [City], [Province/State]
[Postal or Zip Code]

Attention: [Contact Name/Position Title]

Business Fax:

Business E-mail:

21.7 Unenforceability

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

21.8 Headings

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

21.9 Singular, Plural and Gender

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

21.10 Waiver

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

21.11 Signature

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

21.12 Force Majeure

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

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

21.13 Compliance with Communicable Disease Plan

12.13.1 It is a material term of this agreement that the Consultant, and any personnel and subcontractors performing the Services who (a) will enter City facilities or (b) will be in

close physical proximity to City staff outdoors, comply with the City's Communicable Disease plan and requirements, including with respect to Consultant's personnel will perform a self-health assessment prior to beginning work each day on-site

21.14 Enurement

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

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

CITY OF SURREY

by its authorized signatory:

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

<<INSERT FULL LEGAL NAME OF CONTRACTOR>>

I/We have the authority to bind the Contractor.

(Legal Name of Contractor)

(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 7 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 1-A – COUNCIL CHAMBERS & COMMUNITY ROOMS MULTIMEDIA REFRESH REQUIREMENTS

APPENDIX 1-B – SUPPLEMENTARY SPECIFICATIONS

APPENDIX 1-C – CONTRACT DRAWINGS

APPENDIX 2 – FEES AND PAYMENT

APPENDIX 3 – TIME SCHEDULE

APPENDIX 4 – KEY PERSONNEL AND SUB-CONTRACTORS

APPENDIX 5 – ADDITIONAL SERVICES

APPENDIX 6 – PRIVACY PROTECTION SCHEDULE

APPENDIX 7 – CONFIDENTIALITY AGREEMENT

SCHEDULE C – FORM OF PROPOSAL

RFP Project Title: Council Chambers & Community Rooms Multimedia Refresh

RFP Reference No.: 1220-030-2022-041

Legal Name of Proponent:

Contact Person and Title: _____

Business Address: _____

Business Telephone: _____

Business Fax: _____

Business E-Mail Address: _____

TO:

City Representative: Sunny Kaila, Manager, Procurement Services

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.

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

- Schedule C-1 – Statement of Departures;
- Schedule C-2 – Proponent’s Experience, Reputation and Resources;
- Schedule C-3 – Proponent’s Proposed Solution;
 - Schedule C-3-1 – Council Chambers & Community Rooms Multimedia Refresh Requirements Response;
- Schedule C-4 – Proponent’s Example Implementation Schedule; and
- Schedule C-5 – Proponent’s Financial Proposal:
 - Schedule C-5-1 – Financial Worksheet;

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

4.0 I/We confirm that, if I/we am/are awarded a contract, I/we will at all times be the “prime contractor” as provided by the *Worker’s Compensation Act (British Columbia)* with respect to the Solution. I/we further confirm that if I/we become aware that another contractor at the place(s) of the Solution 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 of _____, 202_.

I/We have the authority to bind the Proponent.

(Legal Name of Proponent)

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

SCHEDULE C-1 - STATEMENT OF DEPARTURES

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

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 Contract 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 [Contractor's Certificate of Insurance](#);
- (d) City of Surrey or Intermunicipal Business License: Number _____;
- (e) If the Contractor’s Solution is subject to GST, the Contractor’s GST Number is _____; and
- (f) If the Contractor 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.

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) Provide a brief description of the Proponent's current business;
- (ii) Proponent's relevant experience and qualifications in delivering Services similar to those required by the RFP;
- (iii) Proponent's demonstrated ability to provide the Services;
- (iv) Proponent should describe their capability, capacity and plans for developing and supporting the deliverables, as well as describe contingency plans if the primary plan is not able to meet the project needs. The objectives for this RFP are as set out in Schedule A;
- (v) Using a format similar to the following, provide a summary of similar relevant contracts entered into by the Proponent in which the Proponent performed services comparable to the Services, including the jurisdiction the contract performed, the contract value, the date of performance. The City's preference is to have a minimum of three references.

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

- (vi) Proponent'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 City and how you would plan to manage these;
- (viii) Proponents should identify key personnel and their roles and responsibilities for all phases of the project. The Proponent should submit resumes and also a short narrative description of relevant experience for all proposed key personnel, for example:

- Account Manager
- Project Manager
- Design, Development and Implementation Manager
- Testing Manager
- Technical Architect

Name: _____

Responsibility: _____

Experience: _____

- (ix) Identify subcontractors, if any, the Proponent intends to use for the performance of the Services, describe the portion of the Services proposed to be subcontracted and a description of the relevant experience of the subcontractor, using a format similar to the following:

Subcontractor Name: _____

Subcontractor Services: _____

Experience: _____

SCHEDULE C-3 - PROPONENT'S PROPOSED SOLUTION

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

- (i) **Letter of Introduction.** Provide an introduction to the Proponent, including a short description of the Proponent and their administrative team;
- (ii) a narrative that illustrates an understanding of the City's requirements and Services and describing the proposed solution;
- (iii) a general description of the general approach and methodology that the Proponent would take in performing the Services including specifications and requirements;
- (iv) provide in detail how Proponent's proposed Solution meets the Council Chambers & Community Rooms Multimedia Refresh Requirements. Please complete **Council Chambers & Community Rooms Multimedia Refresh Requirements Response, Schedule C-3-1.**

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

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

Logon ID: surreybid

Password: Welcome

Locate Folder: 1220-030-2022-041

- (v) **Value Added:** The Proponent should provide a description of value-added, innovative ideas and unique services that the Proponent can offer to implement the City's requirements relevant to the scope of services described in this RFP; and

SCHEDULE C-4 - PROPONENT’S EXAMPLE IMPLEMENTATION SCHEDULE

Proponents should provide an estimated schedule, with major item descriptions and time indicating a commitment to perform the Contract within the time specified (use the spaces provided and/or attach additional pages, if necessary):

The period of construction is anticipated to be strictly between August 7 to September 8, 2023. Council meetings will resume on September 11, 2023; therefore, all work including testing and clean up must be done on or before September 8, 2023. All dates are subject to scheduling of City Council meetings.

Proponent should indicate:

- Deliverable Work Product
- Service Start Date
- Work Product Delivery Date
- City Review Period (showing start and completion dates)

Deliverables	Service Start Date	Work Product Delivery Date	City Review Period	
			Start Date	Completed Date
	-	-	-	-

SAMPLE

SCHEDULE C-5 - PROPONENT'S FINANCIAL PROPOSAL

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

1. Schedule C-5-1: Financial Worksheet

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

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

Locate Folder 1220-030-2022-041

3. Additional Expenses:

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

4. Payment Terms:

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

ATTACHMENT 1 – PRIVACY PROTECTION SCHEDULE
(Included for reference purposes – will be attached to final 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*, R.S.B.C. 1996, c. 165, including any regulation made under it, as may be amended or replaced from time to time;
 - (c) **“Agreement”** means the agreement between the City and the Contractor to which this Schedule is attached;
 - (d) **“business day”** means any day that is not a Saturday, Sunday or statutory holiday;
 - (e) **“City”** means the City of Surrey;
 - (f) **“contact information”** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
 - (g) **“Contractor”** means the person retained to perform the services under the Agreement;
 - (h) **“personal information”** means recorded information about an identifiable individual, other than contact information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the City and the Contractor dealing with the same subject matter as the Agreement;
 - (i) **“privacy course”** means the City’s online privacy and information sharing training course or another course approved by the City; and
 - (j) **“third party request for disclosure”** means a subpoena, warrant, order, demand or request from an authority inside or outside of Canada for the unauthorized disclosure of personal information to which the Act applies;
 - (k) **“service provider”** means a person retained under a contract to perform services for a public body; and
 - (l) **“Third Party Hosting Provider”** means a third party that provides a platform or hosting service through which the Contractor delivers the services under the Agreement and to whom personal information is not accessible and as such, for the purposes of this Schedule, is not considered a subcontractor.

Purpose

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

Acknowledgements

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

Collection of Personal Information

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

Privacy Training

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

Accuracy of Personal Information

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

Requests for Access to Information

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

Correction of Personal Information

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

Protection of Personal Information

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

Storage of and Access to Personal Information

16. The Contractor must comply with the requirements under the Act concerning storage of personal information outside of Canada, including, if required by the City, by supporting the City with completion of such assessments as may be required by law.
17. The Contractor must not change the location where personal information is stored without receiving prior authorization of the City in writing.

18. Without limiting any other provision of the Agreement, the Contractor will implement and maintain an access log documenting all access to personal information, including a list of all persons that access any personal information. The Contractor will provide a copy of the access log to the City upon request.
19. The Contractor will not authorize or assist a Third Party Hosting Provider to access any personal information without the prior written approval of the City.

Retention of Personal Information

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

Use of Personal Information

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

Metadata

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

Disclosure of Personal Information

23. Unless the City otherwise directs in writing, the Contractor may only disclose personal information to any person other than the City if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
24. If in relation to personal information, the Contractor:
 - (a) receives a third party request for disclosure;
 - (b) receives a request to disclose, produce or provide access that the Contractor knows or has reason to suspect is for the purpose of responding to a third party request for disclosure; or
 - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a third party request for disclosure,subject to section 25, the Contractor must immediately notify the City.
25. If the Contractor receives a third-party request described in section 24(a) or (b) but is unable to notify the City as required by section 24, the Contractor must instead:

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

Notice of Unauthorized Disclosure

- 26. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information, the Contractor must immediately notify the City.
- 27. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the City of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Inspection of Personal Information

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

Compliance with the Act and Directions

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

Notice of Non-Compliance

- 32. If for any reason the Contractor does not comply or anticipates that it will be unable to comply in any respect, with any provision in this Schedule, the Contractor must promptly notify the City of the

particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Agreement

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

Interpretation

34. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
35. Any reference to "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with the requirements of the Act applicable to them.
36. This Schedule will supersede and replace any Privacy Protection Schedule attached to any previous agreement between the City and the Contractor dealing with the same subject matter as the Agreement.
37. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
38. If a provision of the Agreement (including any direction given by the City under this Schedule) conflicts with a requirement of the Act, including any regulation made under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
39. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of the Agreement or the law of any jurisdiction outside Canada.
40. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.

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ATTACHMENT 2 – CONFIDENTIALITY AGREEMENT

PROJECT TITLE: Council Chambers & Community Rooms Multimedia Refresh

Reference No.: 1220-030-2022-041

BETWEEN:

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

(the “**City**”)

OF THE FIRST PART

AND:

(Insert Full Legal Name and Business Address)

(the “**Contractor**”)

OF THE SECOND PART

WHEREAS:

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

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

- 1. The 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, except as contemplated herein, will cause the City substantial and irreparable harm and injury and the City shall have the right to equitable and injunctive relief to prevent the unauthorized use or disclosure, and to such damages as there are occasioned by such unauthorized use or disclosure, and the 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 City, unless expressly authorized in writing to do so by the City, 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-contractor 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-contractor, 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 City, cause each of the said directors, officers, employees, and sub-contractors to execute a confidentiality agreement in a form satisfactory to the City, in its sole discretion.
3. The Contractor agrees not to use any of the Confidential Information disclosed to it by the City for its own use or for any purpose except to carry out the specific purposes designated by this Confidentiality Agreement.
4. The 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 a reasonable degree of care, and not less than that which the Contractor utilizes to protect its own confidential information of a similar nature.
5. The Contractor shall notify the City 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 City, 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 City proprietary and confidential notices and legends that appear on the original Confidential Information provided by the City unless authorized otherwise by the City. All copies shall be returned to the City upon request. Notwithstanding the foregoing, the Contractor may retain one (1) copy of all Confidential Information in the files of its general counsel for the sole purpose of ascertaining its rights and obligations in the event of a dispute hereunder, provided, however, that such retained Confidential Information shall be held in accordance with the confidentiality requirements of this Confidentiality Agreement.

7. The Confidential Information received by the Contractor and all formatting of the Confidential Information, including any alterations to the Confidential Information, shall remain the exclusive property of the City, and shall be delivered to the City by the Contractor forthwith upon demand by the City, with the exception of one (1) copy, consistent with Section 6 herein.
8. The Contractor acknowledges that the City is a public body subject to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) and as such the Confidential Information is protected pursuant to the provisions of FIPPA. The 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 City 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 City to disclose any of the information in accordance with FIPPA, and where it is alleged that disclosure of the information, or portion thereof, may cause harm to the 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 City.
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 City irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia to adjudicate any dispute arising out of this Agreement.
14. No provision of this Confidentiality Agreement shall be deemed to be waived by the City and no breach of this Confidentiality Agreement shall be deemed to be excused by the City unless such waiver or consent excusing such breach is in writing and duly executed by the City.

This Confidentiality Agreement is accepted and agreed to on this _____ day of _____, 202_.

I/We have the authority to bind the Contractor.

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

Business Email Address: _____

Business Telephone: _____

Business Facsimile: _____