



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 30-2022

ELECTRONIC DISTRIBUTION MAILING LIST SOLUTION

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 ELECTRONIC DISTRIBUTION MAILING LIST SOLUTION

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 12:00 noon Winnipeg time, August 11, 2022.

B2.2 The Contract Administrator or the Manager of Materials may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B2.1.

B3. ENQUIRIES

B3.1 All enquiries shall be directed to the Contract Administrator identified in D5.1.

B3.2 If the Proponent finds errors, discrepancies or omissions in the Request for Proposal, or is unsure of the meaning or intent of any provision therein, the Proponent shall promptly notify the Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.

B3.3 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator to all Proponents by issuing an addendum.

B3.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator only to the Proponent who made the enquiry.

B3.5 All correspondence or contact by Proponents with the City in respect of this RFP must be directly and only with the Contract Administrator. Failure to restrict correspondence and contact to the Contract Administrator may result in the rejection of the Proponents Proposal Submission.

B3.6 The Proponent shall not be entitled to rely on any response or interpretation received pursuant to B3 unless that response or interpretation is provided by the Contract Administrator in writing.

B3.7 Any enquiries concerning submitting through MERX should be addressed to:
MERX Customer Support
Phone: 1-800-964-6379
Email: merx@merx.com

B4. CONFIDENTIALITY

B4.1 Information provided to a Proponent by the City or acquired by a Proponent by way of further enquiries or through investigation is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator. The use and disclosure of the confidential information shall not apply to information which:

- (a) was known to the Proponent before receipt hereof; or
- (b) becomes publicly known other than through the Proponent; or
- (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.

B4.2 The Proponent shall not make any statement of fact or opinion regarding any aspect of the Request for Proposal to the media or any member of the public without the prior written authorization of the Contract Administrator.

B5. ADDENDA

- B5.1 The Contract Administrator may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Request for Proposal, or clarifying the meaning or intent of any provision therein.
- B5.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.
- B5.3 Addenda will be available on the MERX website at www.merx.com.
- B5.4 The Proponent is responsible for ensuring that he/she has received all addenda and is advised to check the MERX website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.
- B5.5 The Proponent shall acknowledge receipt of each addendum in Paragraph 10 of Form A: Bid/Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.
- B5.6 Notwithstanding B3, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D5.

B6. SUBSTITUTES

- B6.1 The Work is based on the Materials and methods specified in the Request for Proposal.
- B6.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.
- B6.3 Requests for approval of a substitute will not be considered unless received in writing by the Contract Administrator at least five (5) Business Days prior to the Submission Deadline.
- B6.4 The Proponent shall ensure that any and all requests for approval of a substitute:
- (a) provide sufficient information and details to enable the Contract Administrator to determine the acceptability of the Material or method as either an approved equal or alternative;
 - (b) identify any and all changes required in the applicable Work, and all changes to any other Work, which would become necessary to accommodate the substitute;
 - (c) identify any anticipated cost or time savings that may be associated with the substitute;
 - (d) certify that, in the case of a request for approval as an approved equal, the substitute will fully perform the functions called for by the general design, be of equal or superior substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance;
 - (e) certify that, in the case of a request for approval as an approved alternative, the substitute will adequately perform the functions called for by the general design, be similar in substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance.
- B6.5 The Contract Administrator, after assessing the request for approval of a substitute, may in his/her sole discretion grant approval for the use of a substitute as an "approved equal" or as an "approved alternative", or may refuse to grant approval of the substitute.
- B6.6 The Contract Administrator will provide a response in writing, at least two (2) Business Days prior to the Submission Deadline, to the Proponent who requested approval of the substitute.

- B6.6.1 The Contract Administrator will issue an Addendum, disclosing the approved materials, methods and products to all potential Proponents. The Proponent requesting and obtaining the approval of a substitute shall be responsible for disseminating information regarding the approval to any person or persons he/she wishes to inform.
- B6.7 If the Contract Administrator approves a substitute as an “approved equal”, any Proponent may use the approved equal in place of the specified item.
- B6.8 If the Contract Administrator approves a substitute as an “approved alternative”, any Proponent bidding that approved alternative may base his/her Total Bid Price upon the specified item but may also indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B21.3.
- B6.9 No later claim by the Contractor for an addition to the Total Bid Price because of any other changes in the Work necessitated by the use of an approved equal or an approved alternative will be considered.

B7. PROPOSAL SUBMISSION

- B7.1 The Proposal shall consist of the following components:
- (a) Form A: Bid/Proposal;
 - (b) Form B: Prices; and
 - (c) Form N: Requirements.
- B7.2 The Proposal should also consist of the following components:
- (a) Firm Profile and Experience (Section C) in accordance with B11;
 - (b) Migration and Training Approach (Section D), in accordance with B12; and
 - (c) Solution Usability (Section E) in accordance with B13.
- B7.3 Further to B7.1 all components of the Proposal shall be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Proposal.
- B7.4 Further to B7.2, all components of the Proposal should be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely.
- B7.5 Proposal format, including number of pages, size of pages and, font, etc., will not be regulated, except that the Proposal should contain a table of contents, page numbering and should be in the Sections identified above. Proponents are encouraged to use their creativity to submit a Proposal which provides the requested information for evaluation and other information which illustrates the strength of their proposed solution.
- B7.6 The Proposal shall be submitted electronically through MERX at www.merx.com.
- B7.6.1 Proposals will **only** be accepted electronically through MERX.
- B7.7 Proponents are advised that inclusion of terms and conditions inconsistent with the Request for Proposal, will be evaluated in accordance with B22.1(a).
- B7.8 Any cost or expense incurred by the Proponent that is associated with the preparation of the Proposal shall be borne solely by the Proponent.

B8. PROPOSAL

- B8.1 The Proponent shall complete Form A: Bid/Proposal, making all required entries.

- B8.2 Paragraph 2 of Form A: Bid/Proposal shall be completed in accordance with the following requirements:
- (a) if the Proponent is a sole proprietor carrying on business in his/her own name, his/her name shall be inserted;
 - (b) if the Proponent is a partnership, the full name of the partnership shall be inserted;
 - (c) if the Proponent is a corporation, the full name of the corporation shall be inserted;
 - (d) if the Proponent is carrying on business under a name other than his/her own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.
- B8.2.1 If a Proposal is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B8.2.
- B8.3 In Paragraph 3 of Form A: Bid/Proposal, the Proponent shall identify a contact person who is authorized to represent the Proponent for purposes of the Proposal.
- B8.4 Paragraph 13 of Form A: Bid/Proposal shall be signed in accordance with the following requirements:
- (a) if the Proponent is a sole proprietor carrying on business in his/her own name, it shall be signed by the Proponent;
 - (b) if the Proponent is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
 - (c) if the Proponent is a corporation, it shall be signed by its duly authorized officer or officers;
 - (d) if the Proponent is carrying on business under a name other than his/her own, it shall be signed by the registered owner of the business name, or by the registered owner's authorized officials if the owner is a partnership or a corporation.
- B8.4.1 The name and official capacity of all individuals signing Form A: Bid/Proposal should be entered below such signatures.
- B8.5 If a Proposal is submitted jointly by two or more persons, the word "Proponent" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Proponents in the Proposal and the Contract, when awarded, shall be both joint and several.

B9. PRICES

- B9.1 The Proponent shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- B9.1.1 Notwithstanding C12.2.3, prices on Form B: Prices shall not include the Goods and Services Tax (GST) or Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable.
- B9.1.2 Prices stated in response to B9.1 shall not include any costs which may be incurred by the Consultant with respect to any applicable funding agreement obligations as outlined in D32. Any such costs shall be determined in accordance with D32.
- B9.1.3 Implementation, maintenance and licensing costs should include the following:
- (a) If Contractor is providing software under a perpetual license, provide perpetual licensing or license purchase costs.
 - (b) Installation and Setup – Provide costs for complete installation, configuration and testing of the Solution.
 - (c) Administrator Training – Provide costs for training City of Winnipeg system administrator resources and providing access to IT technical documentation.

- (d) Train the Trainer Training – Provide costs for training City staff trainers. (These City staff trainers will in turn train end users of the Solution.) Include costs of providing access to Solution documentation.
- (e) If third party software products are required to provide the complete Solution as specified, provide perpetual licensing, license purchase costs, ongoing support costs, and implementation costs related to third party software products.
- (f) Maintenance/ Support/ Annual Licensing, including, if applicable, upgrade and hosting fees and per transaction fees (e.g. fee per email sent) for the usage volumes indicated on Form B Prices;
- (g) User support – The Contractor shall provide support for City system administrators on incidents Monday to Friday, 8 am to 5 pm Central time. As well, the Contractor shall provide support to City system administrators post-implementation who require advice or have questions on how to reconfigure the Solution to meet evolving business needs.
- (h) Additional miscellaneous costs.

B9.2 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.

B9.3 Where applicable, payments to Non-Resident Contractors are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B10. FORM N: REQUIREMENTS

B10.1 Proponent shall complete Form N: Requirements, making all required entries.

B11. FIRM PROFILE AND EXPERIENCE (SECTION C)

B11.1 Proposals should include:

- (a) details demonstrating the history and experience of the Proponent and Subcontractors in configuring and implementing three projects of similar complexity, scope and value and with similar types of organizations within the past five years.

B11.2 For each project listed in B11.1(a), the Proponent should submit:

- (a) description of the project;
- (b) role of the contractor;
- (c) client (company or organization name);
- (d) reference information (one current name and title with telephone number and email address per project).

B11.2.1 Where applicable, information should be separated into Proponent and Subcontractor project listings.

B11.3 The Proposal should include general firm profile information, including previous firm names (if applicable), years in business, average volume of work, number of employees, list of current clients using the proposed Solution, and other pertinent information for the Proponent and all Subcontractors.

B12. MIGRATION AND TRAINING APPROACH (SECTION D)

B12.1 Describe your firm's delivery approach and team organization during the performance of Services, using project specific details, so that the evaluation committee has a clear understanding of the methods the Proponent will use in the delivery of migration and training services.

- B12.2 Approach should be presented in accordance with the Scope of Services identified in D2.
- B12.3 Proposals should include:
- (a) Data migration approach, including approach for eliminating duplicate subscribers on import if one person is on multiple lists;
 - (b) High level training plan;
 - (c) Project schedule, complete with Key Personnel assignments, durations (weekly timescale) and milestone dates or events;
 - (d) Description of collaboration, review, quality assurance, and approval processes to ensure data migration and training meet City requirements;
 - (e) Anticipated project start date, assuming contract is signed by November 1, 2022.
- B12.4 For each Key Personnel or role identified in the project schedule in B12.3(c), list the approximate duration and percentage of the person's time (e.g. 25% of an FTE) to be deployed or the approximate number of hours effort required during the major components of the Work in accordance with D3.2.
- B12.5 The Proponent's schedule should include resourcing requirements from the City in their implementation plan, including the approximate duration and percentage of the person's time (e.g. 25% of an FTE) or the approximate number of hours effort required during the major components of the Work in accordance with D3.2.

B13. SOLUTION USABILITY (SECTION E)

- B13.1 The Proponent should describe how the proposed Solution is designed to be user-friendly and intuitive. Include a description of the global design features within the Solution that assist and guide the user when performing routine tasks.
- B13.2 In their response the Proponent should address the points below (as applicable) with respect to the proposed Solution:
- (a) Consistency across functions and screens;
 - (b) Number of clicks to perform critical functions is minimized;
 - (c) Help text, wizards, or visual elements such as a graphic showing next steps provide guidance and nudge users in the right direction;
 - (d) Data needed by users to make decisions or process information is presented in one screen;
 - (e) User can apply sorts and filters to displayed data and customize data views to their needs;
 - (f) Icons or menu items for critical functions are easy to locate and understand;
 - (g) Data visualization techniques are applied, to facilitate understanding of presented data.
 - (h) Navigation can be effectively done without a mouse when applicable;
 - (i) Self-explanatory messages that clearly indicate resolutions are present where appropriate; and
 - (j) The ability to undo actions is provided where appropriate.

B14. DISCLOSURE

- B14.1 Various Persons provided information with respect to this Work. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.
- B14.2 These Companies, all of which provided cost estimates and/or descriptions or demos of electronic distribution mailing list solutions that they offer, are:

- (a) Aurea (Aurea List Manager)
- (b) Campaign Monitor (Campaign Monitor and Emma)
- (c) Constant Contact
- (d) Cyberimpact
- (e) Envoke
- (f) Granicus (govDelivery)
- (g) Sendinblue

B15. CONFLICT OF INTEREST AND GOOD FAITH

B15.1 Further to C3.2, Proponents, by responding to this RFP, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B15.2 Conflict of Interest means any situation or circumstance where a Proponent or Key Personnel proposed for the Work has:

- (a) other commitments;
- (b) relationships;
- (c) financial interests; or
- (d) involvement in ongoing litigation;

that could or would be seen to:

- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Proposals or award of the Contract; or
 - (ii) compromise, impair or be incompatible with the effective performance of a Proponent's obligations under the Contract.
- (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of its participation in the RFP process or the Project; or
- (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the RFP process) of strategic and/or material relevance to the RFP process or to the Project that is not available to other proponents and that could or would be seen to give that Proponent an unfair competitive advantage.

B15.3 In connection with its Proposal, each entity identified in B15.2 shall:

- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Project;
- (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the RFP process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Contract Administrator; and
- (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.

B15.4 Without limiting B15.3, the City may, in its sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Proponent to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in its sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

- B15.5 Without limiting B15.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in its sole discretion:
- (a) disqualify a Proponent that fails to disclose a perceived, potential or actual Conflict of Interest of the Proponent or any of its Key Personnel;
 - (b) require the removal or replacement of any Key Personnel proposed for the Work that has a perceived, actual or potential Conflict of Interest that the City, in its sole discretion, determines cannot be avoided or mitigated;
 - (c) disqualify a Proponent or Key Personnel proposed for the Work that fails to comply with any requirements prescribed by the City pursuant to B15.4 to avoid or mitigate a Conflict of Interest; and
 - (d) disqualify a Proponent if the Proponent, or one of its Key Personnel proposed for the Project, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.
- B15.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in its sole discretion.

B16. QUALIFICATION

- B16.1 The Proponent shall:
- (a) undertake to be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Proponent does not carry on business in Manitoba, in the jurisdiction where the Proponent does carry on business; and
 - (b) be financially capable of carrying out the terms of the Contract; and
 - (c) have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract.
- B16.2 The Proponent and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <https://www.winnipeg.ca/matmgt/Templates/files/debar.pdf>
- B16.3 The Proponent and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) have successfully carried out work similar in nature, scope and value to the Work;
 - (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract;
 - (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba); and
 - (d) have completed the Accessible Customer Service online training required by the Accessibility for Manitobans Act (AMA) (see B16.4 and D8).
- B16.4 Further to B16.3(d), the Proponent acknowledges they and all Subcontractors have obtained training required by the Accessibility for Manitobans Act (AMA) available at <http://www.accessibilitymb.ca/training.html> for anyone that may have any interaction with the public on behalf of the City of Winnipeg.
- B16.5 The Proponent shall submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Proponent and of any proposed Subcontractor.

- B16.6 Further to B16.3(b), the Proponent shall, within five (5) Business Days of a request by the Contract Administrator, provide proof satisfactory to the Contract Administrator of the following:
- B16.6.1 That all information and materials acquired by the Proponent, or to which the Proponent may be given access, if successful under this Request for Proposal shall be treated in accordance with D6 by providing:
- (a) confirmation that Confidential Information shall be maintained for the full term of the Contract at minimum, unless otherwise directed by the City in writing;
 - (b) a description of how the Proponent's proposed Solution meets the requirements in D6, including:
 - (i) how the proposed Solution meets the requirements for rapid repatriation of Confidential Information;
 - (ii) the data format of the Confidential Information once extracted from the proposed Solution;
 - (iii) the proposed Solution's ability to purge Confidential Information based on City approved records retention and disposition schedules; and
 - (iv) how the Proponent would address official, time sensitive access to information requests.
- B16.6.2 If the Solution is cloud-hosted, that Confidential Information shall be stored, transported, and transmitted ("**Sited**") in a secure jurisdiction by providing:
- (c) written confirmation that Confidential Information shall not be Sited outside of Canada, and that no duplicates or portions thereof shall be sited outside of Canada, in whole or in part; or
 - (d) written confirmation that the Confidential Information shall be Sited in a proposed alternative jurisdiction that will apply equivalent or greater protections to the Confidential Information, and that no duplicates or portions thereof shall be sited outside of said proposed alternative jurisdiction, in whole or in part, and shall provide full details of such proposed alternative, including:
 - (i) what Confidential Information will not be Sited in Canada;
 - (ii) under what circumstances the above Confidential Information will not be Sited in Canada; and
 - (iii) where the above Confidential Information will be Sited.
 - (e) The City reserves the right to assess proposed alternative jurisdictions and may in its sole discretion determine whether such proposed alternative jurisdictions provide equivalent or greater protections to the Confidential Information than Canada.
- B16.6.3 If the Solution is cloud-hosted, the proposed Solution is compliant with ISO/IEC standards 27001, 27002, 27017, and 27018 (or equivalent), by providing:
- (f) a certificate of compliance with ISO/IEC 27001 (or a functionality equivalent standard, as determined by the City, such as the AICPA SOC auditing framework NIST SP 800-53) from an accredited certification body; or
 - (g) a written description of how the proposed Solution complies with ISO/IEC 27001, 27002, 27017, and 27018 (or functionally equivalent standards, as determined by the City, such as the AICPA SOC auditing framework or NIST SP 800-53).
- B16.6.4 Further to B16.6.3, the City reserves the right to assess any proposed functional equivalents to the ISO/IEC standards, and may in its sole and absolute discretion determine whether such proposed functional equivalents provide a satisfactorily equivalent level of protection.
- B16.6.5 The City further reserves the right to assess any written descriptions of compliance with the ISO/IEC standards (or equivalents) to determine whether such written descriptions provide evidence of compliance that is satisfactory to the City, in its sole and absolute discretion.
- B16.7 The Proponent shall, within five (5) Business Days of a request by the Contract Administrator, provide copies of any additional agreements or documents that the Proponent will request the

City to sign or agree to (for example, End User Licensing Agreements (EULAs) for the Solution, Terms of Service, etc.) pursuant to E1.3.

B16.8 The City reserves the right to assess any proposed functional equivalents to the ISO/IEC standards, and may in its sole and absolute discretion determine whether such proposed functional equivalents provide a satisfactorily equivalent level of protection.

B16.9 The City further reserves the right to assess any written descriptions of compliance with the ISO/IEC standards (or equivalents) to determine whether such written descriptions provide evidence of compliance that is satisfactory to the City, in its sole and absolute discretion.

B17. OPENING OF PROPOSALS AND RELEASE OF INFORMATION

B17.1 Proposals will not be opened publicly.

B17.2 After award of Contract, the Contract amount and the name of the successful Proponent and their address will be available on the MERX website at www.merx.com.

B17.3 The Proponent is advised any information contained in any Proposal Submission may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).

B17.3.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Proposal Submission identified by the Proponent as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B17.4 Following the award of Contract, a Proponent will be provided with information related to the evaluation of his/her submission upon written request to the Contract Administrator.

B18. IRREVOCABLE OFFER

B18.1 The Proposal(s) submitted by the Proponent shall be irrevocable for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B18.2 The acceptance by the City of any Proposal shall not release the Proposals of the other responsive Proponents and these Proponents shall be bound by their offers on such until a Contract for the Work has been duly formed and the contract securities have been furnished as herein provided, but any Bid shall be deemed to have lapsed unless accepted within the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B19. WITHDRAWAL OF OFFERS

B19.1 A Proponent may withdraw his/her Proposal without penalty prior to the Submission Deadline.

B20. INTERVIEWS AND PRODUCT DEMONSTRATIONS

B20.1 The Contract Administrator may, in his/her sole discretion, interview Proponents during the evaluation process.

B20.2 The Contract Administrator may, in his/her sole discretion, ask Proponents to provide product demonstrations to given scenarios. Scenarios could include any of the requirements outlined in Form N Requirements. The City expects that the Proponent would be demonstrating a functional version of their proposed Solution.

B20.3 The Proponent will bear all costs associated with or incurred in the preparation and presentation of its proposal, including, if applicable, costs incurred for interviews or product demonstrations.

B21. NEGOTIATIONS

- B21.1 The City reserves the right to negotiate details of the Contract with any Proponent. Proponents are advised to present their best offer, not a starting point for negotiations in their Proposal Submission.
- B21.2 The City may negotiate with the Proponents submitting, in the City's opinion, the most advantageous Proposals. The City may enter into negotiations with one or more Proponents without being obligated to offer the same opportunity to any other Proponents. Negotiations may be concurrent and will involve each Proponent individually. The City shall incur no liability to any Proponent as a result of such negotiations.
- B21.3 If, in the course of negotiations pursuant to B21.2, the Proponent amends or modifies a Proposal after the Submission Deadline, the City may consider the amended Proposal as an alternative to the Proposal already submitted without releasing the Proponent from the Proposal as originally submitted.

B22. EVALUATION OF PROPOSALS

- B22.1 Award of the Contract shall be based on the following evaluation criteria:
- | | |
|--|-------------|
| (a) compliance by the Proponent with the requirements of the Request for Proposal or acceptable deviation therefrom: | (pass/fail) |
| (b) qualifications of the Proponent and the Subcontractors, if any, pursuant to B16: | (pass/fail) |
| (c) Form N Requirements: Requirements listed as mandatory | (pass/fail) |
| (d) Price | 20% |
| (i) Total Bid Price | 15% |
| (ii) Pricing Model | 5% |
| (e) Form N Requirements: Requirements not listed as mandatory | 50% |
| (f) Firm Profile and Experience (Section C): | 10% |
| (g) Migration and Training Approach (Section D): | 10% |
| (h) Solution Usability (Section E) | 10% |
- B22.2 Further to B22.1(a), the Award Authority may reject a Proposal as being non-responsive if the Proposal Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Proposal, or waive technical requirements or minor informalities or irregularities if the interests of the City so require.
- B22.3 Further to B22.1(b), the Award Authority shall reject any Proposal submitted by a Proponent who does not demonstrate, in its Proposal or in other information required to be submitted, that it is qualified.
- B22.4 If, in the sole opinion of the City, a Proposal does not achieve a pass rating for B22.1(a) and B22.1(b), the Proposal will be determined to be non-responsive and will not be further evaluated.
- B22.5 Further to B22.1(d)(i), the Total Bid Price shall be the sum of year one through year five prices provided on Form B: Prices.
- B22.5.1 Further to B22.1(d)(ii), the Pricing Model shall be evaluated considering the detailed information requested with Form B: Prices,
- B22.6 Further to B22.1(d), the Award Authority may reject a proposal as being non-responsive if it exceeds the funds available as shown in D3.5.

- B22.7 Further to B22.1(c) and B22.1(e), requirements in Form N: Requirements will be evaluated considering the information requested and submitted in accordance with B10.
- (a) Further to B22.1(c), requirements listed as mandatory are scored on a pass/ fail basis. Proponent submission shall meet these mandatory requirements in order to be deemed in compliance. If the explanation in the Comments column indicates the proposed Solution meets the requirements in some way other than as stated, the City of Winnipeg, at its sole discretion, will deem if the deviation is acceptable.
 - (b) Further to B22.1(e), requirements not listed as mandatory will be scored in accordance with the response provided by the Proponent.
- B22.8 Further to B22.1(f), Firm Profile and Experience will be evaluated considering the experience of the organization on projects of comparable size and complexity, as well as other information requested, in accordance with B11.
- B22.9 Further to B22.1(g), Migration and Training Approach will be evaluated considering the information requested and submitted in accordance with B12.
- B22.10 Further to B22.1(h), Solution Usability will be evaluated considering the information requested and submitted, in accordance with B13.
- B22.11 Notwithstanding B22.1(f) to B22.1(h), where Proponents fail to provide a response to B7.2(a) to B7.2(c), the score of zero may be assigned to the incomplete part of the response.
- B22.12 Proposals will be evaluated considering the information in the Proposal Submission and any interviews or product demonstrations held in accordance with B20.
- B22.13 Where references are requested, the reference checks to confirm information provided may not be restricted to only those submitted by the Proponent, and may include organizations representing Persons, known to have done business with the Proponent.
- B22.14 This Contract will be awarded for year one only (including implementation, maintenance and licensing costs, as described in B9.1.3).
- (a) Further to B22.5, D3.1, and D3.2, the Total Bid Price will be used for evaluation purposes, and the potential subsequent award of maintenance and licensing costs for subsequent years will be determined at a later date.

B23. AWARD OF CONTRACT

- B23.1 The City will give notice of the award of the Contract, or will give notice that no award will be made.
- B23.2 The City will have no obligation to award a Contract to a Proponent, even though one or all of the Proponents are determined to be qualified, and the Proposals are determined to be responsive.
- B23.2.1 Without limiting the generality of B23.2, the City will have no obligation to award a Contract where:
- (a) the prices exceed the available City funds for the Work;
 - (b) the prices are materially in excess of the prices received for similar work in the past;
 - (c) the prices are materially in excess of the City's cost to perform the Work, or a significant portion thereof, with its own forces;
 - (d) only one Proposal is received; or
 - (e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.
- B23.3 Where an award of Contract is made by the City, the award shall be made to the qualified Proponent submitting the most advantageous offer.

- B23.4 Further to Paragraph 7 of Form A: Bid/Proposal and C4, the City may issue an award letter to the successful Proponent in lieu of execution of Contract Documents
- B23.4.1 The Contract documents as defined in C1.1(o)(ii) in their entirety shall be deemed to be incorporated in and to form a part of the award letter notwithstanding that they are not necessarily attached to or accompany said award letter.
- B23.5 Following the award of contract, a Proponent will be provided with information related to the evaluation of his/her Proposal upon written request to the Contract Administrator.
- B23.6 If, after the award of Contract, the Project is cancelled, the City reserves the right to terminate the Contract. The Proponent will be paid for all Services rendered up to time of termination.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Supply of Services* (Revision 2020-01-31) are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for Supply of Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm
- C0.2 A reference in the Request for Proposal to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Supply of Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for Supply of Services*, these Supplemental Conditions are applicable to the Work of the Contract.

D2. BACKGROUND

D2.1 The City of Winnipeg is looking to upgrade or replace its email marketing software. This software provides complete mailing list functionality, including the ability for communications officers to manage the mailing lists and generate emails and newsletters using templates preconfigured for various types of mailings. The software also handles the actual distribution of the emails and provides analysis and reporting on number of emails sent, number of unsubscribes, and number of unsuccessful sends.

D2.2 The current software package deployed at the City is used by a number of different departments. Communications officers within each department manage the lists independently and handle drafting the emails themselves using the preconfigured templates. Each email list has its own template, which can be text-only or include both text and images.

D2.3 The City sends a number of different types of emails to subscribers: notifications in response to a City event, e.g. parking ban for snow plowing or mosquito fogging; weekly newsletters that include information on services, programs or events the City offers; daily employee newsletters; and frequent police media releases.

D2.4 Subscribers can sign up for lists themselves on the City's website at https://winnipeg.ca/WpgMail/subscribe_all.stm. Email addresses can also be uploaded into the software from external sources, e.g. the employee newsletter is sent to employees based on email addresses of active employees downloaded from the City's HR system and updated daily.

D3. SCOPE OF SERVICES

D3.1 The Work to be done under the Contract shall consist of the provision of an Electronic Distribution Mailing List Solution (the "Solution") for a one year period from the Start Date with the option of four (4) mutually agreed upon one (1) year extensions or the mutually agreed upon purchase of additional transactions to accommodate up to four (4) additional years of use.

D3.1.1 The City may negotiate the extension option with the Proponent within ninety (90) Calendar Days prior to the expiry date of the Contract. The City shall incur no liability to the Proponent as a result of such negotiations.

D3.1.2 Changes resulting from such negotiations shall become effective on the anniversary date of the respective year. Changes to the Contract shall not be implemented by the Contractor without written approval by the Contract Administrator.

D3.1.3 Proponents are advised that, in future, the City may be participating in collaborative procurement initiatives with other levels of government. Accordingly, extensions to this Contract may not be exercised.

D3.2 The major components of the Work are as follows:

- (a) Transition planning;
- (b) Installation/Implementation;
- (c) Data migration;
- (d) Administrator and Train the Trainer training on Solution functionality, including:
 - (i) Creating a template

- (ii) Managing and maintaining lists
 - (iii) Building subscribe/unsubscribe forms
 - (iv) Member segmentation
 - (v) Creating and launching mailings
 - (vi) Report creation and generation
 - (vii) How/ where to access Solution documentation
- (e) Live access to the Solution for users;
- (f) Maintenance and support.
- D3.3 Notwithstanding D3.1, the type and quantity of Work to be performed under this Contract is subject to annual approval of monies therefore in a budget by Council. Proponents are advised that monies have been approved for work up to and including December 31, 2022.
- D3.3.1 In the event that Council does not approve the annual budget for any year during this Contract, the City reserves the right to alter the type or quantity of work performed under this Contract, or to terminate the Contract, upon one hundred and twenty (120) Calendar Days written notice by the Contract Administrator. In such an event, no claim may be made against the City for damages of any kind resulting from the termination, including, but not limited to, on the ground of loss of anticipated profit on Work.
- D3.4 Notwithstanding D3.1, in the event that operational changes result in substantial changes to the requirements for Work, the City reserves the right to alter the type or quantity of work performed under this Contract, or to terminate the Contract, upon thirty (30) Calendar Days written notice by the Contract Administrator. In such an event, no claim may be made for damages on the ground of loss of anticipated profit on Work.
- D3.5 The funds available for this Contract for year one are \$20,000.

D4. DEFINITIONS

- D4.1 When used in this Request for Proposal:
- (a) “**Configuration**” means any change to the Solution **not** requiring source code changes completed by the Contractor to provide the specified functionality;
 - (b) “**Customization**” means any change, enhancement, etc. to the Solution requiring source code changes completed by the Contractor to provide the specified functionality;
 - (c) “**Key Personnel**” means each person proposed by the Proponent who will be providing support in the technical and project management aspects of the Work specified in Part D – Supplemental Conditions;
 - (d) “**List**” means a list of subscribed email addresses for a specific topic. For example, there are separate lists for: parking ban notifications; mosquito fogging notifications; library newsletter; and employee newsletter;
 - (e) “**List Administrator**” means City of Winnipeg employee responsible for managing mailing lists (uploading/ deleting subscribers manually as required), creating new content for mailings, and responsible for scheduling and triggering mailings to be sent to the subscription list;
 - (f) “**Mailing**” means a unique email to subscribers to a list. For example, an email sent to 10,000 subscribers of the list on August 15, 2021 would constitute a single mailing. A subsequent email sent on August 30 to the same list of subscribers would constitute a different mailing
 - (g) “**Proponent**” means any Person or Persons submitting a Proposal for Services;
 - (h) “**Solution**” means the software program to be provided by the Contractor pursuant to this Contract. For the avoidance of doubt, the term Work, as used in this Contract, includes the provision of the Solution, but is not limited to the provision of the Solution, and also

includes the additional scopes of Work (configuring, testing implementing and providing support) as detailed pursuant to D3.

- (i) **“Start Date”** means the date on which the parties agree to commence the Work.
- (j) **“Subscriber”** is the member of a list who has signed up (provided their email address) to receive mailings about a topic. A subscriber can be a member of multiple lists;
- (k) **“System Administrator”** means a City of Winnipeg employee responsible for setting up users and passwords and for the upkeep, configuration, and reliable operation of the Solution, including setting up branding in templates;
- (l) **“Template”** means a fill-in-the-blanks template that users can complete with the text for a particular list. The template includes branding and appropriate logo as well as standard headers and footers, e.g. unsubscribe information and link. Templates can be customized for the different list topics.
- (m) **“User”** refers in general to any person making use of the Solution..

D5. CONTRACT ADMINISTRATOR

D5.1 The Contract Administrator is:

Ashley Sokal
Manager of Web & Social Media
Customer Service & Communications
City of Winnipeg
Telephone No. 204-918-1508
Email Address : ASokal@winnipeg.ca

D5.2 At the pre-commencement meeting, the Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D6. INFORMATION MANAGEMENT

The following provisions are in addition to any preceding obligations of confidentiality contained in these conditions. All requirements apply to both the Contractor and the Solution offered by the Contractor.

- D6.1 The Contractor acknowledges that The Freedom of Information and Protection of Privacy Act (“**FIPPA**”, the “**Act**”) imposes obligations on the City to collect, store, use, disclose, and destroy “personal information”, as that term is defined in FIPPA, (“**Personal Information**”) in the strictest of confidence and in accordance with that Act.
- D6.2 While this Contract is in effect, and at all times thereafter, the Contractor and its Representatives shall treat as confidential any and all Confidential Information which it acquires or Uses, or to which it is given access, or which in any other way it comes into possession or knowledge of, during the course of the performance of the Contract. For the purposes of this Contract, Personal Information shall be considered to be Confidential Information.
- D6.3 The Contractor shall be deemed an “information manager”, as that term is defined by Section 1 of FIPPA and referenced in Section 44.1 of FIPPA, and any Use of Personal Information by the Contractor or its Representatives shall be done pursuant to and in accordance with that Act.
- D6.4 Further to C23, all Confidential Information is and shall remain the property of the City.
- D6.5 Neither the Contractor nor its Representatives shall disclose or appropriate to their own use, or to the use of any third party, all or any part of the Confidential Information without the prior written consent of the City. The Contractor and its Representatives shall not at any time make any public announcement, press release, or statement of fact or opinion regarding the RFP, the Contract, the Work, the City and/or its Representatives, or the Confidential Information without the prior written authorization of the City.

- D6.6 While this Contract is in effect and at all times thereafter the Contractor shall:
- (a) only Use the Confidential Information for the purposes expressly permitted by the City, and only to the extent necessary to perform its obligations under this Contract;
 - (b) ensure that access to the Confidential Information is only provided or permitted on a “need to know” basis, and that access, when given, shall be the minimum amount necessary to accomplish the task;
 - (c) not disclose or permit the disclosure of the Confidential Information or any copies thereof, whether in whole or in part, in any form or medium, to any third party, including Subcontractors or agents, without the prior written consent of the Contract Administrator;
 - (d) not reproduce any Confidential Information, in whole or in part, in any form or medium, without the express prior written consent of the City; and
 - (e) inform its Representatives of the obligations imposed upon it under this Contract and FIPPA, and shall take whatever steps are necessary to ensure that all of its Representatives comply with those obligations, including (but not limited to) binding said Representatives to terms no less strict than those herein through written confidentiality agreements.
- D6.7 Upon request, or upon expiration or termination of this Contract for any reason, the Contractor shall rapidly repatriate to the City a complete, accurate copy of the Confidential Information (in a form satisfactory to the City), and upon confirmation from the City that said copy is acceptable shall thereafter destroy the Confidential Information (including all copies in any form) in a manner which adequately protects the confidentiality of the Confidential Information within two (2) weeks, unless otherwise directed by the City in writing.
- D6.8 The Contractor shall put into place reasonable security arrangements, including administrative, technical, and physical safeguards that ensure the confidentiality and security of the Confidential Information. The standard of such security arrangements shall be the greater of:
- (a) the standards the Contractor has in place to protect its own confidential information; or
 - (b) the standards imposed on the Contractor by the City.
- D6.9 Upon becoming aware of any unauthorized Use of the Confidential Information (a “**Confidentiality Breach**”), the Contractor shall immediately notify the City in writing, take all reasonable steps to prevent the recurrence of any such Confidentiality Breach, and notify the City of said steps in writing.
- D6.10 Upon receiving a subpoena or other validly issued administrative or judicial order seeking Confidential Information, the Contractor shall provide the City with prompt notice thereof, deliver a copy of its proposed response to the City, and thereafter be entitled to comply with the demand to the extent permitted or required by law (unless the demand has been time-limited, quashed, or extended). The Contractor shall cooperate with the City in the defense of the demand, if so requested by the City.
- D6.11 The Contractor and its Representatives shall comply with all directives issued by the City with respect to safeguarding or otherwise ensuring the confidentiality of the Confidential Information, and shall cooperate with the City so that the City can verify that the Contractor has complied, and is complying, with its obligations hereunder.

D7. NOTICES

- D7.1 Except as provided for in C22.4, all notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the Contractor shall be sent to the address or facsimile number identified by the Contractor in Paragraph 2 of Form A: Bid/Proposal.
- D7.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in, D7.3

or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator identified in D5.

- D7.3 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications required to be submitted or returned to the City Solicitor shall be sent to the following facsimile number or via submission to the following website:

The City of Winnipeg
Legal Services Department
Attn: Director of Legal Services
Facsimile No.: 204 947-9155

<https://winnipeg.ca/shared/mailforms/city/contact.asp?Recipient=cshlamp>

D8. ACCESSIBLE CUSTOMER SERVICE REQUIREMENTS

- D8.1 The Accessibility for Manitobans Act (AMA) imposes obligations on The City of Winnipeg to provide accessible customer service to all persons in accordance with the Customer Service Standard Regulation ("CSSR") to ensure inclusive access and participation for all people who live, work or visit Winnipeg regardless of their abilities.
- D8.1.1 The Contractor agrees to comply with the accessible customer service obligations under the CSSR and further agrees that when providing the Goods or Services or otherwise acting on the City of Winnipeg's behalf, shall comply with all obligations under the AMA applicable to public sector bodies.
- D8.1.2 The accessible customer service obligations include, but are not limited to:
- (a) providing barrier-free access to goods and services;
 - (b) providing reasonable accommodations;
 - (c) reasonably accommodating assistive devices, support persons, and support animals;
 - (d) providing accessibility features e.g. ramps, wide aisles, accessible washrooms, power doors and elevators;
 - (e) inform the public when accessibility features are not available;
 - (f) providing a mechanism or process for receiving and responding to public feedback on the accessibility of all goods and services; and
 - (g) providing adequate training of staff and documentation of same.

SUBMISSIONS

D9. AUTHORITY TO CARRY ON BUSINESS

- D9.1 The Contractor shall be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Contractor does not carry on business in Manitoba, in the jurisdiction where the Contractor does carry on business, throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D10. INSURANCE

- D10.1 The Contractor shall provide and maintain the following insurance coverage:
- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause, contractual liability, non-owned automobile liability and products and completed operations cover, to remain in place at all times during the performance of the Work;

- (b) Professional Liability insurance in the amount of at least \$250,000 per occurrence and \$500,000 aggregate to remain in place for 12 months following completion of the services.

D10.2 Deductibles shall be borne by the Contractor.

D10.3 All policies shall be taken out with insurers licensed in the Province of Manitoba.

D10.4 The Contractor shall provide the Contract Administrator with a certificate(s) of insurance, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in C4.1 for the return of the executed Contract Documents, if applicable.

D10.5 The Contractor shall not cancel, materially alter, or cause the policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the Contract Administrator.

D10.6 The City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of this agreement.

SCHEDULE OF WORK

D11. COMMENCEMENT

D11.1 The Contractor shall not commence any Work until he/she is in receipt of a notice of award from the City authorizing the commencement of the Work.

D11.2 The Contractor shall not commence any Work until:

- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D9;
 - (ii) evidence of the insurance specified in D10; and
 - (iii) the direct deposit application form specified in D15.
- (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.

D12. COVID-19 SCHEDULE DELAYS

D12.1 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the Work shall be performed by the Contractor with due consideration to the health and safety of workers and the public, directives from health authorities and various levels of government and in close consultation with the Contract Administrator.

D12.2 If the Contractor is delayed in the performance of the Work by reason of the COVID-19 pandemic, the Work schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.

D12.3 A minimum of seven (7) Calendar Days prior to the commencement of Work, the Contractor shall declare whether COVID-19 will affect the start date. The Contractor shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of Material or work by others.

D12.4 For any delay related to COVID-19 and identified after Work has commenced, the Contractor shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D12.3. Failure to provide this notice will result in no additional time delays being considered by the City.

D12.5 The Work schedule will be adjusted to reflect delays accepted by the Contract Administrator.

D12.6 Any time or cost implications as a result of COVID-19 and in accordance with the above, as confirmed by the Contract Administrator, shall be documented in accordance with C7.

D13. RECORDS

D13.1 The Contractor shall keep detailed records of the services supplied under the Contract.

D13.2 The Contractor shall record, as a minimum, for each item listed on Form B: Prices:

- (a) order date(s);
- (b) service date(s); and
- (c) description and quantity of services provided.

D13.3 The Contractor shall provide the Contract Administrator with a copy of the records for each quarter year within fifteen (15) Calendar Days of a request of the Contract Administrator.

MEASUREMENT AND PAYMENT

D14. INVOICES

D14.1 Further to C12, the Contractor shall submit an invoice for each portion of work performed to:

The City of Winnipeg
Corporate Finance - Accounts Payable
4th Floor, Administration Building, 510 Main Street
Winnipeg MB R3B 1B9
Facsimile No.: 204- 949-0864
Send Invoices to CityWpgAP-INVOICES@winnipeg.ca
Send Invoice Inquiries to CityWpgAP-INQUIRIES@winnipeg.ca

D14.2 Invoices must clearly indicate, as a minimum:

- (a) the City's purchase order number;
- (b) date of delivery;
- (c) delivery address;
- (d) type and quantity of work performed;
- (e) the amount payable with GST and MRST shown as separate amounts; and
- (f) the Contractor's GST registration number.

D14.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D15. PAYMENT

D15.1 Further to C12, the City shall make payments to the Contractor by direct deposit to the Contractor's banking institution, and by no other means. Payments will not be made until the Contractor has made satisfactory direct deposit arrangements with the City. Direct deposit application forms are at https://winnipeg.ca/finance/files/Direct_Deposit_Form.pdf.

D16. PAYMENT SCHEDULE

D16.1 Payment Schedule (Progress Payments):

- (a) The Proponent should provide in their project proposal a payment schedule that clearly states payment amounts and conditions associated to specific project milestones. The conditions of the milestones must be clear and precise, i.e. evaluate that a project

milestone is reached and all deliverables associated to that milestone have been produced to the satisfaction of the City, prior to issuing payments.

D16.1 Further to C12, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

WARRANTY

D17. WARRANTY

D17.1 Notwithstanding C13, Warranty does not apply to this Contract.

DISPUTE RESOLUTION

D18. DISPUTE RESOLUTION

D18.1 If the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator, the Contractor shall act in accordance with the Contract Administrator's opinion, determination, or decision unless and until same is modified by the process followed by the parties pursuant to D18.

D18.2 The entire text of C21.4 is deleted, and amended to read: "Intentionally Deleted"

D18.3 The entire text of C21.5 is deleted, and amended to read:

- (a) If Legal Services has determined that the Disputed Matter may proceed in the Appeal Process, the Contractor must, within ten (10) Business Days of the date of the Legal Services Response Letter, submit his written Appeal Form, in the manner and format set out on the City's Materials Management Website, to the Chief Administrative Officer, and to the Contract Administrator. The Contractor may not raise any other disputes other than the Disputed Matter in his Appeal Form.

D18.4 Further to C21, prior to the Contract Administrator's issuance of a Final Determination, the following informal dispute resolution process shall be followed where the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator ("Dispute"):

- (a) In the event of a Dispute, attempts shall be made by the Contract Administrator and the Contractor's equivalent representative to resolve Disputes within the normal course of project dealings between the Contract Administrator and the Contractor's equivalent representative.
- (b) Disputes which in the reasonable opinion of the Contract Administrator or the Contractor's equivalent representative cannot be resolved within the normal course of project dealings as described above shall be referred to a without prejudice escalating negotiation process consisting of, at a minimum, the position levels as shown below and the equivalent Contractor representative levels:
 - (i) The Contract Administrator;
 - (ii) Supervisory level between the Contract Administrator and applicable Department Head;
 - (iii) Department Head.

D18.4.1 Names and positions of Contractor representatives equivalent to the above City position levels shall be determined by the Contractor and communicated to the City at the pre-commencement or kick off meeting.

D18.4.2 As these negotiations are not an adjudicative hearing, neither party may have legal counsel present during the negotiations.

D18.4.3 Both the City and the Contractor agree to make all reasonable efforts to conduct the above escalating negotiation process within twenty (20) Business Days, unless both parties agree, in writing, to extend that period of time.

D18.4.1 If the Dispute is not resolved to the City and Contractor's mutual satisfaction after discussions have occurred at the final escalated level as described above, or the time period set out in D18.4.3, as extended if applicable, has elapsed, the Contract Administrator will issue a Final Determination as defined in C1.1(v), at which point the parties will be governed by the Dispute Resolution process set out in C21.

THIRD PARTY AGREEMENTS

D32. FUNDING AND/OR CONTRIBUTION AGREEMENT OBLIGATIONS

D32.1 In the event that funding for the Work of the Contract is provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada, the following terms and conditions shall apply, as required by the applicable funding agreements.

D32.2 Further to D32.1, in the event that the obligations in D32 apply, actual costs legitimately incurred by the Contractor as a direct result of these obligations ("Funding Costs") shall be determined by the actual cost to the Contractor and not by the valuation method(s) outlined in C7.4. In all other respects Funding Costs will be processed in accordance with Changes in Work under C7.

D32.3 For the purposes of D32:

- (a) "**Government of Canada**" includes the authorized officials, auditors, and representatives of the Government of Canada; and
- (b) "**Government of Manitoba**" includes the authorized officials, auditors, and representatives of the Government of Manitoba.

D32.4 Modified Insurance Requirements

D32.4.1 Where applicable, the Contractor will be required to provide wrap-up liability insurance in an amount of no less than two million dollars (\$2,000,000) inclusive per occurrence. Such policy will be written in the joint names of the City, Contractor, Consultants and all sub-contractors and sub-consultants and include twelve (12) months completed operations. The Government of Manitoba and its Ministers, officers, employees, and agents shall be added as additional insureds.

D32.4.2 If applicable the Contractor will be required to provide builders' risk insurance (including boiler and machinery insurance, as applicable) providing all risks coverage at full replacement cost, or such lower level of insurance that the City may identify on a case-by-case basis, such as an installation floater.

D32.4.3 The Contractor shall obtain and maintain third party liability insurance with minimum coverage of two million dollars (\$2,000,000.00) per occurrence on all licensed vehicles operated at the Site. In the event that this requirement conflicts with another licensed vehicle insurance requirement in this Contract, then the requirement that provides the higher level of insurance shall apply.

D32.4.4 Insurers shall provide satisfactory Certificates of Insurance to the Government of Manitoba prior to commencement of Work as written evidence of the insurance required. The Certificates of Insurance must provide for a minimum of thirty (30) days' prior written notice to the Government of Manitoba in case of insurance cancellation.

D32.4.5 All policies must be taken out with insurers licensed to carry on business in the Province of Manitoba.

D32.5 Indemnification By Contractor

D32.5.1 In addition to the indemnity obligations outlined in C17 of the General Conditions for Services, the Contractor agrees to indemnify and save harmless the Government of Canada and the Government of Manitoba and each of their respective Ministers, officers, servants, employees, and agents from and against all claims and demands, losses, costs, damages, actions, suit or other proceedings brought or pursued in any manner in respect

of any matter caused by the Contractor or arising from this Contract or the Work, or from the goods or services provided or required to be provided by the Contractor, except those resulting from the negligence of any of the Government of Canada's or the Government of Manitoba's Ministers, officers, servants, employees, or agents, as the case may be.

D32.6 Records Retention and Audits

D32.6.1 The Contractor shall maintain and preserve accurate and complete records in respect of this Contract and the Work, including all accounting records, financial documents, copies of contracts with other parties and other records relating to this Contract and the Work during the term of the Contract and for at least six (6) years after Total Performance. Those records bearing original signatures or professional seals or stamps must be preserved in paper form; other records may be retained in electronic form.

D32.6.2 In addition to the record keeping and inspection obligations outlined in C6 of the General Conditions for Services, the Contractor shall keep available for inspection and audit at all reasonable times while this Contract is in effect and until at least six (6) years after Total Performance, all records, documents, and contracts referred to in D32.6.1 for inspection, copying and audit by the City of Winnipeg, the Government of Manitoba and/or the Government of Canada and their respective representatives and auditors, and to produce them on demand; to provide reasonable facilities for such inspections, copying and audits, to provide copies of and extracts from such records, documents, or contracts upon request by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada and their respective representatives and auditors, and to promptly provide such other information and explanations as may be reasonably requested by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada from time-to-time.

D32.7 Other Obligations

D32.7.1 The Contractor consents to the City providing a copy of the Contract Documents to the Government of Manitoba and/or the Government of Canada upon request from either entity.

D32.7.2 If the Lobbyists Registration Act (Manitoba) applies to the Contractor, the Contractor represents and warrants that it has filed a return and is registered and in full compliance with the obligations of that Act, and covenants that it will continue to comply for the duration of this Contract.

D32.7.3 The Contractor shall comply with all applicable legislation and standards, whether federal, provincial, or municipal, including (without limitation) labour, environmental, and human rights laws, in the course of providing the Work.

D32.7.4 The Contractor shall properly account for the Work provided under this Contract and payment received in this respect, prepared in accordance with generally accepted accounting principles in effect in Canada, including those principles and standards approved or recommended from time-to-time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, applied on a consistent basis.

D32.7.5 The Contractor represents and warrants that no current or former public servant or public office holder, to whom the Value and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post Employment, or the Conflict of Interest Act applies, shall derive direct benefit from this Contract, including any employment, payments, or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation.

D32.7.6 The Contractor represents and warrants that no member of the House of Commons or of the Senate of Canada or of the Legislative Assembly of Manitoba is a shareholder, director or officer of the Contractor or of a Subcontractor, and that no such member is entitled to any benefits arising from this Contract or from a contract with the Contractor or a Subcontractor concerning the Work.

PART E - SPECIFICATIONS

GENERAL

E1. APPLICABLE SPECIFICATIONS

- E1.1 These Specifications shall apply to the Work, including the Solution.
- E1.2 Proponents are reminded that requests for approval of substitutes as an approved equal or an approved alternative shall be made in accordance with B6. In every instance where a brand name or design specification is used, the City will also consider approved equals and/or approved alternatives in accordance with B6.
- E1.3 The Solution's End User Licensing Agreement (EULA), as well as any other agreement which the Proponent proposes to have signed, or agreed to, by the City (such as Terms of Service), must either be compliant with all relevant terms of the Contract (including, without limitation, the obligations imposed upon the Contractor by D6) or be sufficiently negotiable to meet the same standards.

E2. SERVICES

- E2.1 The Work shall include provision of all items, services, and resources required for the complete functioning of the proposed Solution, including but not limited to the cost of all applications, software (including 3rd party), add-ons, patches, peripherals/ accessories, implementation/ installation, testing, initial annual subscription, licensing, professional support, and/ or training.
- E2.2 The Contractor shall provide support for City System Administrators on incidents Monday to Friday, 8 am to 5 pm central time. As well, the Contractor shall provide support to City System Administrators post-implementation who require advice or have questions on how to reconfigure the Solution to meet evolving business needs.
- E2.3 The Contractor shall provide maintenance and support for the Solution, including upgrades and hosting (if applicable).

E3. SOLUTION REQUIREMENTS

- E3.1 The Contractor shall provide the Solution in accordance with the requirements specified herein and in B16, D6, and Form N: Requirements.
- E3.2 The major components of the Electronic Distribution Mailing List Solution are as follows.
- (a) Mailing list administration functionality: Ability for list administrator to create, modify, delete and upload subscriber email addresses. The administrator for one list cannot view the subscribers of another list that they are not the administrator of. A list administrator could have access to manage multiple lists.
 - (b) Subscription functionality: Ability for members of public to subscribe or unsubscribe via a web form on the City's website; and allows the subscriber to unsubscribe from individual or multiple lists at once.
 - (c) Template and content creation functionality: Ability to create different email templates for different mailing lists, e.g. the template for a Libraries newsletter is different from the template for notification of a parking ban. Text content of emails can be created using a WISYWYG editor, with no coding or programming knowledge required.
 - (d) Email distribution: Ability to send up to 100,000 emails per hour and schedule distribution in advance.
 - (e) Reporting functionality:
 - (i) Ability to provide robust reporting, per mailing, on:
 - ◆ number of successful sends
 - ◆ delivery failures,

- ◆ bounces,
 - ◆ opens (total and unique),
 - ◆ number of unique click-throughs vs drop-offs.
 - ◆ clickthroughs by URL (total and unique),
- (ii) Ability to report, at the level of the individual subscriber, on which emails the subscriber was sent and which emails they opened.
- (iii) Ability to keep reports indefinitely.