

# **RFP ATTACHMENT I: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS**

## **HOW TO RESPOND TO THIS ATTACHMENT**

**By submitting a Response, the Respondent, on behalf of itself and its Partners/  
Subcontractors acknowledge and agree that:**

1. **RESPONDENT AUTHORIZATION:** The signatories are authorized by the Respondent to make representations for the Respondent and to obligate the Respondent to perform the commitments contained in its Response.
2. **RESPONDENT SELECTION:** Based on responses received to this Request for Qualifications (“RFP”), it is the intent of the Chief Administrative Officer (also referred to as “CAO”) to select the highest scoring and most responsive Respondent for contract negotiations. The intent notwithstanding, the City reserves the right to accept or reject any respondent if it is deemed to be in the best interest of the City. This RFP does not in any way limit the City’s right to solicit contracts for similar or identical services if, in the City’s sole and absolute discretion, it determines Responses received are inadequate to satisfy its needs.
3. **CONTRACT NEGOTIATIONS:** Consistent with the limitations noted above, the City will select the highest scoring Respondent(s) with whom the CAO’s staff will commence contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time or for a reasonable price with the selected Respondent, then the CAO’s Office, in its sole discretion, may terminate negotiations and begin contract negotiations with the next highest scoring Respondents. The selection of any Respondent for contract negotiations shall not imply acceptance by the City of all terms of the Response, which may be subject to further negotiation and approvals before the City may be legally bound thereby.
4. **NO GUARANTEE OF WORK OR COMPENSATION:** There is no guarantee of a minimal amount of work or compensation for any of the Respondents selected for contract negotiations.
5. **COMPLIANCE WITH LAWS AND REGULATIONS:** Respondent must comply with all applicable State, Federal, and local laws. In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this Response prior to their delivery, it shall be the responsibility of the successful Respondent to notify the City at once, indicating in their letter the specific regulation which required such alterations. The City reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
6. **STAFFING:** The key individuals listed and identified in the Response will be performing the work and will not be substituted with other personnel or reassigned to another project by the Respondent/Contractor without the City’s prior approval or request. The City, in its sole discretion, shall have the right to review and approve all staff assigned to provide services throughout the duration of the contracts negotiated under this RFP. Such approval by the City will not be unreasonably withheld. If selected for interviews, the Respondent’s key individuals, including partner/subcontractor representatives, will be required to meet with the City prior to selection for contract negotiations.

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7. **LEAD ROLE:** The selected Respondent(s) will be expected to take the lead role in project management and staff/subcontractor coordination. Responses should factor this assumption into pricing.

8. **CITY'S APPROVAL RIGHTS OVER SUBCONTRACTORS AND SUBCONTRACTOR PAYMENTS:** The City has approval rights over the use of all subcontractors. Respondents must identify all subcontractors in their Response and these subcontractors must conform to all City policies regarding subcontractors. Furthermore, each Respondent understands, acknowledges, and agrees that if it subcontracts with a third party for services, the Respondent accepts responsibility for full and prompt payment to the third party. Any dispute between the Respondent and the third party, including any payment dispute, will be promptly remedied by the Respondent. Failure to promptly remedy or to make **PROMPT** payment to a third party (subcontractor) may result in the withholding of funds from the Respondent by the City.

9. **CITY RESOURCES:** The City will arrange for Contractor's access to equipment and data as deemed appropriate by the City.

10. **ADMINISTRATIVE REQUIREMENTS:** see *RFP Attachment II*. Respondent must fulfill the City's administrative requirements for doing business with the City prior to contract award. Fulfillment is defined as completion, submission and approval by applicable City agencies of the forms and requirements referenced in RFP Attachment II.

11. **THE CITY'S TERMS AND CONDITIONS:** Respondent must be willing and able to meet all of the City's terms and conditions as stated in the City's standard professional services agreement ("Agreement"). Respondents wishing to negotiate modification of other terms and conditions must attach a copy of the City's Agreement referring to the specific portion of the Agreement to be changed, and show proposed changes (deleted sections with a strikeover and added sections in boldface type). The City's selection of any Respondent who proposes changes to the City's Agreement terms shall not be deemed as acceptance of the Respondent's proposed changes. Any changes proposed by Respondent to the city's Agreement terms must be clearly accepted by the City in writing.

12. **TERM OF COST AND WORK EFFORT ESTIMATE:** Submission of a Response signifies that the proposed services and prices are valid for the full possible term of the contract awarded under this RFP and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

The City may award contract(s), based on Responses received without discussion. A Respondent's initial cost and work effort estimate should, therefore, be based on the most favorable terms available. The City reserves the right to accept other than the lowest price offer and reject all Responses that are not responsive to this RFP.

13. **RELEASE OF LIABILITY:** The Respondent hereby releases all individuals, entities and firms from all claims and losses that may arise from said individuals, entities or firms providing information, comments, or conclusions to inquiries that the City of Burlington may make regarding the qualifications of any individual or firm seeking to be selected as a contractor or subcontractor in connection with this RFP. This release is freely given and will be applicable

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whether or not the responses by said individuals, entities or firms are accurate or not, or made willfully or negligently.

14. **FINANCIAL RESPONSIBILITY FOR RESPONSE COSTS**: The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Responses will become the property of the City and may be used by the City in any way deemed appropriate.

15. **CONTRACT TIMELINE**: Actual contract periods may vary, depending upon service and project needs. Any Respondent selected for a contract must be available to commence work no later than the estimated start date stated in the RFP. It will be the responsibility of any Respondent selected for contract negotiations to disclose, before negotiations commence, any limitations that may impact its ability to complete work in accordance with anticipated deliverables and timelines.

16. **OBJECTIONS TO RFP TERMS**: Should a Respondent object on any ground to any provision or legal requirement set forth in this RFP, the Respondent must, not more than ten (10) calendar days after the RFP is issued, provide written notice to the CAO's Office setting forth with specificity the grounds for the objection. The failure of a Respondent to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

17. **EXCEPTIONS TO THIS RFP**: All information requested in this RFP must be supplied. Respondents may clearly identify any exceptions to the RFP in this section and must provide a written explanation to include the scope of the exceptions, the ramifications of the exceptions for the City, and the description of the advantages or disadvantages to the City as a result of exceptions. The City, in its sole discretion, may reject any exceptions or specifications within the Response. Respondents may also provide supplemental information, if necessary, to assist the City in analyzing Responses.

18. **ERRORS AND OMISSIONS IN RFP**: Respondents are responsible for reviewing all portions of this RFP. Respondents are to promptly notify the CAO's Office, in writing, if the Respondent discovers any ambiguity, discrepancy, omission or other error in the RFP. Any such notification should be directed to the CAO's Office promptly after discovery, but in no event later than five (5) working days prior to the date for receipt of Responses. Modifications and clarifications will be made by addenda as provided below.

19. **INQUIRIES AND COMMUNICATIONS REGARDING RFP**: Inquiries regarding the RFP and all communications including notifications related to, exceptions or objections to, or of an intent to request written modification or clarification of, the RFP must be directed by mail or e-mail (fax is not acceptable) to:

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Rich Goodwin, Assistant Chief Administrative Officer  
City of Burlington  
City Hall  
149 Church Street  
Burlington, VT 05401

e-mail: [rgoodwin@burlingtonvt.gov](mailto:rgoodwin@burlingtonvt.gov)

20. **CHANGE NOTICES:** The CAO's Office may modify the RFP, prior to the Response due date, by issuing written addenda. The CAO's Office will make reasonable efforts to post notification of modifications in a timely manner. Notwithstanding this provision, the Respondent shall be responsible for ensuring that its Response reflects any and all addenda issued by the CAO's Office prior to the Response due date regardless of when the Response is submitted. Therefore, the City recommends that the Respondent call the Clerk/Treasurer's Office or check the City's website before submitting its Response to determine if the Respondent is aware of all addenda.

22. **REVISION OF RESPONSE:** Respondent may revise a Response on the Respondent's own initiative at any time before the deadline for responses. The Respondent must submit the revised response in the same manner as the original. A revised response must be received on or before the response due date.

23. **CONFLICTS OF INTEREST:** The successful Respondent will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest. The successful Respondent will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful Respondent might be deemed contractors under state and local conflict of interest laws. If so, such individuals will be required to submit information we require for independent contractors, to the City within ten (10) calendar days of the City notifying the successful Respondent that the City has selected the Respondent.

**RESPONDENTS ARE STRONGLY ADVISED TO CONSULT WITH THEIR LEGAL COUNSEL REGARDING THEIR ELIGIBILITY TO SUBMIT A RESPONSE FOR THIS RFP OR SUBSEQUENT RFPS/RFPS.**

24. **PUBLIC RECORDS:** Due regard will be given for the protection of proprietary information contained in all proposals received; however, vendors should be aware that all materials associated with this procurement are subject to the terms of the Vermont Access to Public Records Act (1 V.S.A. Chapter 5, Subchapter 3) and all rules, regulations and interpretations resulting from, and any other applicable rules, regulations or judicial decisions regarding access to the records of government. Contracts, contractors' bids, responses to

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solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request. Respondent understands that any writing presented under this RFP may be subject to public disclosure.

25. **RESERVATIONS OF RIGHTS BY THE CITY:** The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

- A. Waive or correct any defect or informality in any Response, response, or response procedure;
- B. Reject any or all Responses;
- C. Reissue a Request for Qualifications or Request for Responses;
- D. Prior to submission deadline for Responses, modify all or any portion of the selection procedures, including deadlines for accepting Responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the Responses;
- E. Procure any materials, equipment or services specified in this RFP by any other means; or
- F. Determine that no contract will be pursued.

26. **NO WAIVER:** No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a Respondent to observe any provision of this RFP. Failure by the Department to object to an error, omission or deviation in the Response in no way will modify the RFP or excuse the Respondent from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

27. **CERTIFICATION:** Each Respondent hereby certifies that it has carefully examined this RFP and documents attached hereto for terms, conditions, specifications, covenants, requirements, services, etc.; and the Respondent certifies that it understands the services requested, that the Respondent has knowledge and expertise to provide the proposed services submitted for consideration, and that its Response is based upon the terms, conditions, specifications, services, and requirements of this RFP and attachments. By its signature on this Attachment, the Respondent certifies that its Response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Response for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud, so that all Responses for the purchase will result from free, open and competitive proposing among all vendors, in compliance with the City's laws.

28. **ACCEPTANCE:** Submission of a Response indicates a Respondent's acceptance of the terms and conditions contained in this RFP unless clearly and specifically noted otherwise in the Response. The City may discontinue its selection, contract negotiations, or contract award processes with any Respondent if it is determined that the Respondent has not accepted the RFP terms and conditions contained herein.

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**Each Respondent, as part of its Response, must submit this document signed by a representative(s) authorized by the Respondent to make representations for the Respondent and to obligate the Respondent to perform the commitments contained in its Response.**

Acknowledged and Agreed:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

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Title

\_\_\_\_\_  
Firm Name

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City, State

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Phone Number

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