



Request for Proposal

for a

Hosted Credit Card Payment System

RFP #2730

Date issued: July 13, 2016

1. INTRODUCTION

1(A) City Information

The City of Lynnwood (the "City") is located in South Snohomish County approximately fifteen (15) miles north of Seattle and twelve (12) miles south of Everett. The City serves as the primary business center of south Snohomish County. The City has a population of over 35,000 and encompasses almost eight (8) square miles in Snohomish County. A mayor-council form of government administers the City with seven (7) elected Council members and an elected Mayor. The City's approximately 324 regular full-time employees, 17 regular part-time employees, and 139 part-time/seasonal employees provide an array of services including police, fire protection, emergency medical services, water distribution, sewage collection and treatment, street construction and maintenance, and parks and recreational facilities including a pool, a senior center, and a golf course. The City also has a municipal court and a jail facility that provide services locally and to other governmental agencies.

The Mayor directs all City operations. The City's address is 19100 44th Avenue West, P.O. Box 5008, Lynnwood WA 98046-5008.

The City has nine (10) central departments: Fire; Police; Human Resources; Public Works; Municipal Court; Economic Development; Administrative Services; Information Services; Parks, Recreation and Cultural Arts; and Community Development.

For more information about the City of Lynnwood, visit <http://www.lynnwoodwa.gov/> .

1(B) RFP Purpose/Summary

City of Lynnwood is seeking a relationship with a qualified and experienced organization to provide a Payment Gateway, Web Payments, and Merchant Services with a certified interface to Bridge Pay for use with Tyler Technologies (MUNIS), Tyler Cashiering, Munis Citizen Self Service Portal for UB Payments, and EnerGov Citizen Self Service Portal.

The City is seeking a vendor to enable its customers to electronically process all consumer credit card, debit card and ACH payments made across multiple payment environments, including through the Internet, Call Center, IVR, Kiosk, Point of Sale, and Bill presentment and payment.

To aid in the success of each deployment, the vendor will provide professional services for project management, systems integration and payment optimization and will work with the City's back office systems, specifically MUNIS, Tyler Cashiering and EnerGov, to provide an easy transition and implementation process.

The City of Lynnwood currently does nearly 60,000 credit card and web transactions annually for Utility Billing, Permitting, and other various non-recreational programs accounting for nearly six (6) million dollars of credit card processing.

1(C) RFP Cover Sheet

**CITY OF LYNNWOOD
RFP No. 2730
Hosted Credit Card Payment System
Response Cover Sheet**

- | | Yes | No |
|---|--------------------------|--------------------------|
| 1. Has your company operated at least one (1) year without interruption? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Has an owner of your company been convicted of a crime within the past ten (10) years? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Does any employee or official of the City have any financial or other interest in your firm? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. If selected, do you agree to execute a contract essentially the same in form as the sample contract attached as Section 7? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Does your company maintain insurance in amounts specified by City contract? (if no, this does not necessarily eliminate vendor from submittal):
If no describe differences: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Are there any claims pending against this insurance policy?
If yes, describe _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does your company maintain Professional Liability Insurance? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Has your company been in bankruptcy, reorganization or receivership in the last five (5) years? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Has your company been disqualified by any public agency from participation in public contracts? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Is your company licensed to do business in the State of Washington? | <input type="checkbox"/> | <input type="checkbox"/> |

Undersigned acknowledges that addenda _____ through _____ have been taken into account as part of this requirement.

The undersigned hereby accepts the terms and conditions as set forth herein. This page must be signed and dated by the vendor's representative who is legally authorized to contractually bind the vendor.

FULL LEGAL NAME OF COMPANY _____

TYPE OF BUSINESS Corporation Partnership (general) Partnership (limited)
 Sole Proprietorship Limited Liability Company

FEDERAL EMPLOYEE ID NUMBER (FEI): _____

ADDRESS _____

CITY/STATE/ZIP _____

EMAIL ADDRESS: _____

PHONE _____ FAX _____

NAME(PLEASE PRINT) _____ TITLE _____

SIGNED _____ DATE _____

LYNNWOOD BUSINESS LICENSE – To be obtained at award by the apparent successful vendor and at the vendor's expense. The successful vendor is responsible for compliance with Lynnwood business license requirements per LMC 5.06.01b, and 5.06.04b. Vendors may call 425-670-5159 for business license information.

2. RFP INSTRUCTIONS AND INFORMATION

2(A) RFP Timeline

Day/Date	Description
July 13, 2016	Advertisement announcing RFP placed in Everett Herald and Daily Journal of Commerce. RFP placed on City of Lynnwood website. RFPs available to vendors via email notification and access to website.
July 20, 2016	All questions due by July 20, 2016 on the question submittal form shown in section 6.
July 22, 2016	All pertinent questions posed by the above date on the required Question Submittal Form, Section 6, will be answered and posted as an addendum on the City website.
July 27, 2016 2:00 p.m.	RFP responses due to the Purchasing and Contracts Division at City Hall located at 19100 44 th Ave. W., Lynnwood, WA 98036. Respondents assume the risk of the method of dispatch chosen. The City assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual receipt of proposals. Proposals shall not be delivered by facsimile transmission or other telecommunication or electronic means.
July 28, 2016	Vendors' responses will be analyzed and scored by the evaluation team. The total score will factor heavily into the City's decision as to which vendors will be considered finalists.
July 29, 2016	A decision is made as to which vendor(s) will be finalists. All vendors will be notified of the City's decision.
August 9, 2016	Award to apparent successful vendor is made subject to successful negotiation of terms and conditions. Notice of award to apparent successful vendor posted on website.
August 2016	Contract negotiations begin
September 2016	Development, implementation plans begun.

2(B) This section intentionally left blank

2(C) RFP Coordinator

Sarah Yeckley	Procurement Supervisor	Physical Address: 19100 44 th Avenue West Lynnwood, WA 98036 Mailing Address: P.O. Box 5008 Lynnwood, WA 98046-5008 Email address: syeckley@LynnwoodWA.gov Any and all communication to the buyer relative to this requirement must be via email.
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2(D) RFP Evaluation Criteria

An evaluation team will evaluate the RFP responses received from each vendor. Prior to the selection of the award to the apparent successful vendor, the City of Lynnwood reserves the right to conduct on-site visits of any vendors' facilities and/or require any vendor to participate in a presentation to the evaluation team (and others) of the items contained in the RFP response and any other items deemed appropriate by the City of Lynnwood.

If an award is made as a result of this RFP, it shall be awarded to the vendor whose proposal is most advantageous to the City with price and other factors including, but not limited to, responses to the RFP questions; demonstrated technical ability and expertise; financial stability; reference calls and/or recommendations; memberships, licenses, ISO Certifications or any other applicable membership or certifications; presentations to the City evaluation team and others (if applicable); on-site visits at vendor's site (if applicable), product samples which the City may, at its discretion, request as part of the RFP process; any additional criteria deemed appropriate by the City which would lend itself to establishing the Service Provider's viability to perform the work as outlined in this RFP.

When determining whether a vendor is responsible, or when evaluating a vendor's proposal, the following factors will be considered, any one of which will suffice to determine if a vendor is either not a responsible vendor or if the vendor's proposal is not the most advantageous to the City:

2(D)1 The ability, capacity and skill of the vendor to perform the contract or provide the service required.

2(D)2 The character, integrity, reputation, judgment, experience and efficiency of the vendor.

2(D)3 Whether the vendor can perform the contract within the time specified.

2(D)4 The quality of performance of previous public and private contracts or services, including, but not limited to, the vendor's failure to perform satisfactorily or complete any written contract. The City's termination for default of a previous contract with a vendor shall be deemed to be such a failure.

2(D)5 The previous and existing compliance by the vendor with laws relating to the contract or services.

2(D)6 Evidence of collusion with any other vendor, in which case colluding vendors will be restricted from submitting further bids on the subject project or future tenders.

2(D)7 The vendor is not qualified for the work or to the full extent of the RFP.

2(D)8 There is uncompleted work with the City or others, or an outstanding dispute on a previous or current contract that might hinder, negatively affect or prevent the prompt completion of the work bid upon.

2(D)9 The vendor failed to settle bills for labor or materials on past or current public or private contracts.

2(D)10 The vendor has been convicted of a crime arising from a previous public contract, excepting convictions that have been pardoned, expunged, or annulled.

2(D)11 The vendor has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this state, in any other state, by the United States, or in a foreign country, province or municipality. Vendors shall affirmatively disclose to the City all such convictions, especially of management personnel or the vendor as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such affirmative disclosure shall be grounds, in the City's sole option and discretion, for termination for default subsequent to award or execution of the contract.

2(D)12 More likely than not, the vendor will be unable, financially or otherwise, to perform the work.

2(D)13 At the time RFP award, the apparent successful vendor must obtain a City of Lynnwood business license. Failure to do so will constitute a determination that the vendor is not responsive and may be disqualified.

2(D)14 Such other information as may be secured having a bearing on the decision to award the contract.

2(D)15 Any other reason deemed proper by the City.

2(E) Notices and Response Criteria

2(E)1 Good Faith

This RFP has been compiled in good faith. The information contained within is selective and subject to the City's updating, expansion, revision and amendment.

2(E)2 Right to Cancel

The City reserves the right to change any aspect of, terminate, or delay this RFP, the RFP process and/or the program which is outlined within this RFP at any time, and notice shall be given in a timely manner thereafter.

2(E)3 Not an Award

Recipients of this RFP are advised that nothing stated herein, or any part thereof, or any communication during the evaluation and selection process, shall be construed as constituting, offering or awarding a contract, representation or agreement of any kind between the City and any other party, save for a formal written contract, properly executed by both parties.

2(E)4 Property of the City

Responses to this RFP will become the property of the City, and will form the basis of negotiations of an agreement between the City and the apparent successful vendor.

2(E)5 City not Liable for Costs

The City is not liable and will not be responsible for any costs incurred by any vendor(s) for the preparation and delivery of the RFP responses, nor will the City be liable for any costs incurred prior to the execution of an agreement, including but not limited to, presentations by RFP finalists to the City.

2(E)6 City's Expectations

During the review of this document, please note the City's emphasis on the expectations, qualities, and requirements necessary to be positioned as an RFP finalist and successful vendor.

2(E)7 Waiver of Minor Administrative Irregularities

The City reserves the right, at its sole discretion, to waive minor administrative regularities contained in any proposal.

2(E)8 Single Response

A single response to the RFP may be deemed a failure of competition, and in the best interest of the City, the RFP may be cancelled.

2(E)9 Proposal Rejection; No Obligation to Buy

The City reserves the right to reject any or all proposals at any time without penalty. The City reserves the right to refrain from contracting with any vendor. The release of this RFP does not compel the City to purchase. The City may elect to proceed further with this project by interviewing firm(s) well -suited to this project, conducting site visits or proceeding with an award.

2(E)10 Right to Award

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially with the most favorable terms the vendor can offer.

2(E)11 Withdrawal of Proposals

Vendors may withdraw a proposal that has been submitted at any time up to the proposal closing date and time. To accomplish this, a written request signed by an authorized representative of the vendor must be submitted to the RFP Coordinator. The vendor may submit another proposal at any time up to the proposal closing date and time.

2(E)12 Non-Endorsement

As a result of the selection of a vendor to supply products and/or services the City is neither endorsing nor suggesting that the vendor's product is the best or only solution. The vendor agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

2(E)13 Proprietary Proposal Material

Any information contained in the proposal that is proprietary must be clearly designated. Marking the entire proposal as proprietary will be neither accepted nor honored. If a request is made to view a vendor's proposal, the City will comply according to the Open Public Records Act, chapter 42.17 RCW. If any information is marked as proprietary in the proposal, such information will not be made available until the affected vendor has been given an opportunity to seek a court injunction against the requested disclosure.

2(E)14 Errors in Proposal

The City will not be liable for any errors in vendor proposals. Vendors will not be allowed to alter proposal documents after the deadline for proposal submission.

The City reserves the right to make corrections or amendments due to errors identified in proposals by the City or the vendor. This type of correction or amendment will only be allowed for such errors as typing, transposition or any other obvious error. Vendors are liable for all errors or omissions contained in their proposals.

If, after the opening and tabulation of proposals, a vendor claims error and requests to be relieved of award, s/he will be required to promptly present certified work sheets. The RFP Coordinator will review the work sheets and if the RFP Coordinator is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the vendor may be relieved his/her proposal.

After opening and reading proposals, the City will check them for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between a price per unit and the extended amount of any proposal item, the price per unit will control. The City will use the total of extensions, corrected where necessary.

2(E)15 Bid Bond – A bid bond is not required.

2(E)16 Performance Bond -- A performance bond is not required.

2(E)17 Payment Bond – A payment bond is not required.

2(E)18 Funding

Any contract entered into as a result of this RFP is contingent upon the continued funding by the City of Lynnwood.

2(E)19 Terms of Payment

The City's terms of payment are Net 30. Payment will be made within thirty (30) days upon receipt of an undisputed invoice for goods that have been delivered and accepted. No down payment or advance payment of any kind will be made. Washington State law requires proof that the materials have been furnished, the services rendered or the labor performed as described before payment may be made. A vendor may submit an invoice for partial shipments or progress payments. All invoices must be submitted to:

City of Lynnwood
Accounts Payable
P O Box 5008
Lynnwood, WA 98046-5008

2(E)20 Title VI of the Civil Rights Act of 1964

The City of Lynnwood in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for award.

2(F) Non-Collusion Certification

**City of Lynnwood
RFP No. 2730
Hosted Credit Card Payment System**

NON-COLLUSION CERTIFICATION

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for this bid/quote, and is in all respects fair and without collusion or fraud.

The below signed vendor has not divulged to nor discussed or compared his/her proposal with other vendors and has not colluded with any other vendor or parties to proposal whatsoever. Note: No premiums, rebates or gratuities to any employee or agent are permitted either with, prior to, or after any delivery of materials and/or services. Any such violation will result in the cancellation of any resultant contract and/or return of material as applicable.

Company Name: _____

Mailing Address: _____

City, State, Zip: _____

Authorized Signature: _____

Typed/Printed Name: _____

Title: _____

Date: _____

3. SCOPE OF SERVICES

Vendor shall submit a response demonstrating their ability to meet each item in the below Scope of Services. Responses shall be formatted as indicated in Section 8 of this document.

The following are requirements for the Hosted Credit Card Payment System that must be provided:

1. Awarded vendor must fully integrate with Bridge Pay Payment Gateway (www.bridgepaynetwork.com) through one of the two options:
 - a. Be a Merchant Provider using one of the following certified Merchant processor platforms for the Bridge Pay Network:
 - i. TSYS
 - ii. Chase Paymentech
 - iii. Elavon
 - iv. First Data Nashville
 - v. First Data North
 - vi. First Data Omaha (EMV Compliant)
 - vii. Vantiv
 - b. Otherwise be a certified reseller for the Bridge Pay Network and include a merchant processing provider account that utilizes the above mentioned merchant processor platforms as an all in one package.
2. Transactions deposited within 24 to 36 hours to the City's bank account.
3. Must be PCI compliant at all levels.
4. Single reporting system across all payment types and services.
5. Department specific reporting supported through password controls to facilitate reconciliation.
6. Ability to have separate merchant account ID's to allow for different processing fees and rates based on the type of business the city provides.
7. Online Automated Clearing House (ACH) returns and credit card chargeback reporting.
8. Customize transaction-identifying data fields per e-commerce service to accommodate all the unique needs of each department including standard reporting and ad-hoc reporting.
9. Access online payment management tools to enable the City to administer all e-payments such as voids, credits, adjustments, reporting, customer service and verifications in real-time.
10. On-line merchant processing and gateway status indicator of electronic payment services.
11. Convenience fee and non-convenience fee support.
12. Supports all major credit cards, branded debit cards and have current or planned EMV chip support with Bridge Pay.
13. Transaction integrity checking reducing the risk of double payment.

14. Once implemented the City can select or change processors, add or remove financial institutions without any loss of time or investment in prior implementation efforts.
15. Separate monthly invoice for billing of any fees.

4. ADDITIONAL INFORMATION

Please provide your responses as indicated in the RFP Response Submittal checklist in Section 8.

4(A) Single Point of Responsibility/Accountability

4(A)1. The City's expectation is to have a single point of contact, i.e. a single point of authority and a single contracting entity for this project. This is of a critical nature for this RFP; a contract will NOT be awarded to a vendor who does not have this single point of accountability. Indicate your understanding of and compliance with this requirement.

4(B) General Questions

4(B)1 Do you meet our business size requirements? We strongly prefer not to award to any vendor if our business would represent more than fifty percent (50%) of the vendor's total revenue.

4(B)2. How many years has your company been in business? How long have you been providing these services? What is your company's primary line of business?

4(B)3. Provide a brief overview of your company (furnish your business philosophy, mission statement, management structure, organization chart, etc.).

4(B)4. How many employees do you have? What is the total years' experience your employees have in this profession; what is the average?

4(B)5. State the type of ownership of your company. Give the State and date of your incorporation if applicable. List headquarters and regional / full-service office locations, and website address.

4(B)6. Provide the key contact name, title, address, telephone and fax numbers. Also identify the person(s) authorized to contractually bind the organization. Provide resumes for owners and key sales personnel.

4(B)7. Please provide credit references to demonstrate your company's future viability.

4(B)8. Please provide status of any current or pending litigation against your company that might affect your ability to deliver the services that you offer.

4(B)9. Do you anticipate that your company will be acquired in the foreseeable future? Is your company planning to acquire any other companies? If yes, please provide the names of the companies and the nature of the business.

4(B)10. Include names of three (3) current customers (title, email address and phone numbers) that have had a scope of work similar to that described in this RFP and a letter of recommendation from each.

4(B)11. Please include reference names of former customers, if any, (title, email address and phone numbers) and the reasons for disengagement of your services.

4(B)12. What type of insurance coverage do you carry? Describe the amount of coverage.

4(B)13. Are you on either the Federal debar list or your home state debarred list?

4(C) Technical requirements

4(C)1. Please provide calculation for payments based on transactions of 5, 10, 25, 50 and 100 dollars. This should show how the City will be charged for a transaction.

4(D) Summary

Explain in one page or less how your solution will differentiate you from other vendors and why we should choose you as our successful vendor. List the unique features that give your company a competitive edge in the Hosted Credit Card Payment System industry.

5. PRICING SCHEDULE

The equipment, labor, and training prices below MUST remain firm for 60 -180 days after award, The City will entertain negotiations to determine any price adjustments for the next biennium. Any price adjustments through the life of this agreement will be mutually agreed upon in writing at the time of the adjustment.

5(A) Fees

Item	Description	Quantity	Unit Price	Total Price
1	Transaction Fees			
2	Processing Fees			
3				
4				
5	Vendor may add additional lines as needed			

5(B) Other Miscellaneous Fees – Please list any other fees not listed above

Item	Description	# of Hours	Hourly Rate	Total Price
1				
2				
3				
4				
5.	Vendor may add additional lines as needed			

5(C) Reimbursable Expenses (including Travel)

Please indicate below if there are any reimbursable expenses associated with this project.

- Alternate A: This proposal includes no reimbursable expenses.**
- Alternate B: This proposal includes the following reimbursable expenses which will be reimbursed at cost:**

Item	Type of Expense	Maximum \$\$ Per Item	Cumulative \$\$ Maximum
1			
2			
3			
4			
5.	Vendor may add additional lines as needed		

5(E) Reimbursable Expenses (including Travel)

Please indicate below if there are any reimbursable expenses associated with this project.

- Alternate A: This bid includes no reimbursable expenses.**
- Alternate B: This bid includes the following reimbursable expenses which will be reimbursed at cost:**

Type of Expense	Maximum \$\$ Per Item	Cumulative \$\$ Maximum
Parking		
Meals		
Travel		

5(F) Other

Vendor must list below **any and all** charges, expenses, and/or costs to be incurred by the City that are not included in this section. Failure to specifically and thoroughly enumerate such items may be a cause for disqualification.

6. QUESTION SUBMITTAL FORM

Questions regarding this RFP must be submitted in writing, in MS Word format on the form provided in this Section 6 (below) and returned via: email to the RFP Coordinator listed in Section 2(C), and only during the allotted timeframe detailed in the timeline, Section 2(A). Only **ONE** question per form is permitted; duplication of the form is acceptable in the event you have more than one question.

Answers to all pertinent questions from all Vendors will be returned to all RFP participants without identifying the Vendor making the inquiry.

START BELOW HERE --- use "CUT" and then "PASTE" to another MS Word document

HOSTED CREDIT CARD PAYMENT SYSTEM RFP #2730	RFP Questions Form
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RFP Section and Paragraph:		RFP Page Number:	
Submitted By:		Date Submitted:	
Email:		Phone:	
Company Name:			

Question:

All vendors are required to direct their questions to the RFP Coordinator listed in Section 2(C). Only one question per form is permitted.

7. SAMPLE CONTRACT

ROUTINE SERVICES CONTRACT

CITY OF LYNNWOOD

TITLE: Hosted Credit Card Payment System CONTRACT #2730

This Contract, dated effective the xxxxx of xxxxxx, 201x and is made and entered into by and between the City of Lynnwood ("the City") and xxxxxxxxxxxxxxxx ("Vendor").

Company Name:
Contact Name:
Vendor Address:
Vendor Phone:
Vendor Fax:
Vendor e-mail:

WHEREAS, the purpose of this Contract is for xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx; and

WHEREAS, the Vendor has the requisite training, skill and experience necessary to perform the services required by the City; and

WHEREAS, the parties desire to enter into this Contract setting forth the terms and conditions relating to the performance of the required services.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the City and Vendor mutually agree as follows:

1. Scope of Work.

Vendor shall perform the services described in Exhibit A attached hereto. All services, property and other items furnished or required to be furnished, together with all other obligations performed or required to be performed by Vendor under this Contract shall be collectively referred to herein as the Work. Vendor shall commence, perform and complete the Work in accordance with the schedule set forth in Exhibit A.

2. Term of Contract.

The term of this contract shall be XXX (X) years with XX (XX) additional one (1) year renewal terms, upon mutual written agreement by both parties.

3. Performance of Work.

Vendor shall begin the Work upon receipt of an approved purchase order from the City Purchasing and Contracts Division or a notice to proceed. Vendor shall perform the Work and accomplish such tasks as identified and designated as the responsibilities of Vendor throughout this Contract. Vendor shall have authority to incur costs and expenses necessary to perform the Work, subject to the limitations specified herein and any attachments.

4. Termination.

This Contract may be terminated by the City without cause upon ten (10) days' written notice to Vendor. Vendor will be paid for all Work performed prior to the termination date in accordance with the compensation provisions set forth in Exhibit B attached hereto. The City reserves the right to cancel this Contract with cause, effective at a time of its choosing, by providing written notice of termination to Vendor. Work in progress would be completed at the City's option.

This Contract is contingent upon the City Council's appropriation of sufficient funds for the Work contemplated under this Contract. In the event that sufficient funds are not appropriated for the Work, the City shall have the right to terminate the Contract, effective immediately, without termination charge or other liability, by providing written notice of termination to Vendor.

5. Vendor to Direct Work.

Vendor shall control and direct the performance of the Work pursuant to this Contract, subject to the City's oversight. The City reserves the right to inspect, review and approve the Work of Vendor to assure that it has been completed as specified, before payment.

6. Performance Standard.

16. All duties by Vendor or designees shall be performed in a manner consistent with accepted practices for other similar Work. Must be PCI compliant at all levels.

7. Compensation.

a. Total Compensation: The City agrees to pay compensation for the satisfactory performance of the Work in accordance with Exhibit B, which compensation shall not exceed \$_____ without prior written authorization from City. Payment shall be made after review and authorization by the City. Said authorization shall be conditioned upon the submittal of an invoice setting forth a breakdown of the services performed and costs incurred. Such payment shall be full compensation for Work performed and/or services rendered and for all supervision, labor supplies, materials, equipment or use thereof, and for all other expenses and incidentals necessary to complete the Work.

b. Additional Services. Additional services, if any, beyond the initial scope of work shall be compensated at the same compensation rate as defined above. Such additional work must have the prior written approval of the City.

c. Disputed Work. If the City believes in good faith that some portion of Work has not been completed satisfactorily, the City may request Vendor to repair the Work before the City is obligated to make payment for such Work. In such event, the City will clearly and reasonably provide to Vendor an explanation of the City's concern regarding the Work performed and the remedy that the City expects from Vendor. If the Vendor does not provide a sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the Work not properly completed.

d. Method of Payment. Vendor shall submit an invoice for the compensation for Work performed. An itemized billing statement in a form approved by the City will be submitted to provide a detailed description of the Work performed during the month, the number of hours spent performing such Work, any reimbursable costs and expenses that have been approved by the City and were incurred in connection with such Work. Accurate invoices must have the Purchase Order Number clearly marked on the invoice and will be paid net thirty (30) days, after receipt of an undisputed invoice. Invoices shall be submitted to the following address:

City of Lynnwood
Attn: Accounts Payable
PO Box 5008
Lynnwood WA 98046-5008

8. Representations.

Vendor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

Vendor will provide and maintain trained personnel and adequate facilities and equipment to perform the Work.

9. Independent Contractor.

It is the intention and understanding of the parties that Vendor shall be an independent contractor and that the City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other

benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. Vendor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of Vendor shall not be deemed to convert this Contract to any employment contract. It is recognized that Vendor may or will be performing services during the term of the Contract for other parties and that the City is not the exclusive user of the Vendor's services.

10. Inspection.

Work under this Contract shall be subject to review and examination by the City at all times, and shall be subject to its approval. Vendor shall periodically confer with the City during the course of Work. Vendor shall prepare and present any information and materials (e.g. a detailed outline of completed work) as may be pertinent, necessary, or requested by the City to determine the adequacy of the Work as it progresses or to determine Vendor's progress.

The making (or failure or delay in making) such examination shall not relieve Vendor of responsibility for performance of the Work in accordance with this Contract, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. Vendor shall provide the City sufficient, safe and proper facilities and equipment for such inspections and free access to such facilities.

11. Prevailing Wages.

If required by the specifications or by RCW 39.12, prevailing wages shall be paid. Vendor specifically agrees to comply with RCW 39.12 and to file all required forms, certifications, and affidavits necessary to comply with Federal and State laws before final payment shall be made to the Vendor. The latest prevailing wage rate information is available per the State of Washington, Department of Labor and Industries, Industrial Relations Division.

12. Record-Keeping and Right to Audit.

Vendor shall promptly furnish the City with such information related to the Work as may be requested by the City. Until the expiration of twenty-four (24) months after final payment of the compensation payable under this Contract, Vendor shall provide the City access to (and the City shall have the right to examine, audit and copy) all of Vendor's books, documents, papers and records which are related to Work or this Contract.

13. Property and Confidential Information.

Vendor shall not, without the prior written consent of the City, disclose to third parties any information received in connection with Work unless:

- (a) The information is known to Vendor before receiving the same directly or indirectly in connection with Work;
- (b) The information is in the public domain at the time of disclosure by Vendor; or
- (c) The information is received by Vendor from a third party who does not have an obligation to keep the same confidential.

14. Indemnification.

Subject to limitations herein, Vendor releases and shall defend, indemnify, and hold harmless the City and its officials, officers, employees and agents from and against all claims, cost liabilities, damages, and expenses, (including, but not limited to, reasonable attorney's fees) arising directly out of or in connection with:

- (a) Any fault, negligence, strict liability or product liability of Vendor in connection with the Work or this Contract;
- (b) Any lien asserted upon any property of the City in connection with Work or this Contract;
- (c) Any failure of Vendor or Work to comply with any applicable law, ordinance, rule, regulation, order, license, permit and other requirement, now or hereafter in effect, of any governmental authority; or
- (d) Any breach of, or default under, this Contract by Vendor.

This indemnification provision shall apply to the full extent permitted under applicable law. However, nothing in this provision shall require Vendor to indemnify the City against any liability for damages arising out of bodily injury or property damages caused by or resulting from negligence of the City.

Further, in the case of concurrent negligence of Vendor and the City, Vendor shall be required to indemnify the City only to the extent of the negligence of the Vendor.

Vendor releases and shall defend, indemnify and hold harmless the City and its officials, officers, employees and agents from and against all claims, cost, liabilities, damages, expenses (including, but not limited to reasonable attorney's fees), and royalties based upon any actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or other intellectual property right by any Work. Further, if any Work infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right, Vendor shall either:

- (a) Procure for the City the right to use such intellectual property rights; or
- (b) Modify such Work so that the Work no longer infringes or misappropriates any such right.

15. City of Lynnwood Business License. Vendor shall obtain a City of Lynnwood business license before performing any Work. The cost of obtaining the business license is at the expense of the Vendor and shall not be reimbursed by the City.

16. Insurance.

Vendor must provide the insurance as set forth in Exhibit C attached hereto.

17. Warranty.

Vendor hereby warrants that all Work furnished under this Contract will fully meet all requirements for quality of workmanship and all other requirements of the specifications for such Work. Vendor shall be required to obtain and assign to the City all available warranties from each manufacturers or suppliers for any parts, equipment or other materials incorporated into the Work. Vendor agrees to provide such additional warranties for the Work as may be described and set forth in Exhibit A.

18. Notices.

Any notices required or permitted to be given under this Contract shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by electronic transmission in the form of email or facsimile, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

To City:

Purchasing and Contracts
City of Lynnwood
P.O. Box 5008
Lynnwood, WA 98046-5008
Fax: 425-771-6144

To Vendor:

or to such other address as may be designated in writing by the parties.

19. General Provisions.

- a. Entire Agreement. This Contract, including its attachments, contains the entire understanding between City and Vendor with respect to the Work. Any prior, contemporaneous, or oral agreements, promises, negotiations or representations not expressly set forth herein, are of no force or effect. Subsequent modifications or amendments to this Contract shall be in writing and shall be signed by the parties to this Contract. Services to be performed by Vendor for City that are outside the scope of services of this Contract shall be performed pursuant to written agreements separately negotiated.
- b. No Gifts and Gratuities. Vendors must not offer, nor can City employees accept, gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with City business practices. It is also unlawful for anyone to offer another, to influence or cause him or her to refrain from submitting a bid. Vendors and City employees must strictly adhere to the applicable statutes and ordinances for ethics in contracting and purchasing, including the

Lynnwood Code of Ethics, Chapter 2.94 LMC, and the Code of Ethics for Municipal Officers, Chapter 42.23 RCW. This provision is applicable to any business practice, whether a contract condition, bid practice, or at any activity related to City business.

- c. No Conflict of Interest. Vendor confirms that Vendor does not have a business interest or close family relationship with any City officer or employee who was, is, or will be involved in vendor selection, negotiation, drafting, signing, administration or evaluation of Vendor's performance.
- d. Compliance with Law. Vendor shall comply with all applicable federal, state and local laws in effect at the time of the performance of the Work under this Contract.
- e. Licenses, Permits and Similar Authorization. Vendor, at no expense to City, shall secure and maintain in full force and effect during the term of this Contract, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
- f. Law/Venue. This Contract shall be interpreted and enforced in accordance with the laws of the State of Washington. Any litigation arising out of or in connection with this Contract shall be filed and conducted in Snohomish County Superior Court.
- g. Attorneys' Fees. If any party commences or files any litigation against the other party relating to the performance, enforcement or breach of this Contract, the prevailing party in such action shall be entitled to all costs, including attorneys' fees and costs and any such fees and costs incurred on appeal.
- h. Severability Clause. If any provision of this Contract is declared invalid, illegal or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Contract shall continue in full force and effect, and no provisions shall be deemed to depend upon any other provision unless so expressed herein.
- i. Survivability. The obligations of Vendor under all provisions of this Contract, which may reasonably be interpreted or construed as surviving the completion, termination, or cancellation of this Contract, shall survive the completion, termination or cancellation of this Contract.
- j. No Waiver. Failure or delay by the City to declare any breach or default immediately upon occurrence shall not waive such right. Failure of the City to declare a breach or default does not act as a waiver of the City's right to declare another breach or default.
- k. Authority. Each party warrants and represents that such party has full and complete authority to enter into this Contract and each person executing this Contract on behalf of a party warrants and represents that he/she has been fully authorized to execute this Contract on behalf of such party and that such party is bound by the signature of such representative.
- l. Assignment, Subcontracting, Delegation. Vendor may not (by contract, operation of law, or otherwise) delegate, subcontract or assign performance of the Work to any other person or entity without the prior written consent of the City. Any such delegation or subcontracting without the City's prior written consent shall be voidable at the City's option.

IN WITNESS WHEREOF, the City and Vendor have executed this Contract as of the date first above written.

CITY OF LYNNWOOD

VENDOR NAME

Nicola Smith, Mayor

Signature

Date

Printed Name

Title

Date

CONTRACT REVIEW ACKNOWLEDGEMENT

This sample Contract has been reviewed and

() is acceptable

OR

() is acceptable as noted

Signed _____

Printed Name _____

Company Name _____

Date _____

8. RFP RESPONSE SUBMITTAL CHECKLIST

Vendor shall submit a response in the following format:

1. Vendor shall create one original response (**labeled “original”**) with original signature (See Tab 1) and **two (2) identical copies** (for a **total of three (3)** responses).
2. The **original and each of the two (2) identical copies** shall be submitted in its own three-ring binder of sufficient size to contain the response.
3. The **original and each of the two (2) three-ring binders** shall be sent to the Purchasing Coordinator at the address shown in Section 2C, on or before the due date shown in Section 2A and in a box of sufficient size to hold all the responses.
4. In addition to the copies specified above the Vendor **MUST** include a CD of the entire response which shall be placed inside the front cover of the original response.
5. The RFP name must be shown on the lower left-hand corner of the box.
6. The **original and each of the two (2) copies** shall be indexed with tabs as follows:

Tab #	Section	Description
1	1C	RFP Cover Sheet
2	4B	Answers to General Questions
3	4C	Answers to Technical Questions
4	5	Pricing Schedules (Section 5A-D)

This checklist is intended merely as an aid to the Vendor in providing a response to this RFP. The Vendor retains the sole responsibility for accuracy and completeness of the response.