Managed Security Services

Request for Proposals

City of Overland Park, Kansas
8500 Santa Fe Drive
Overland Park, KS 66212
# TABLE OF CONTENTS

## Section A - General Information
- Where to Direct Inquiries .................................................. 3
- Deadline for Submitting Bids ........................................... 3
- Mailing Address for Bids ................................................. 3
- Definitions ........................................................................... 3
- Kansas Open Records Act .................................................... 4
- Overview ............................................................................. 4

## Section B - Proposal Requirements
- Requirements for a Proposal .............................................. 5
- Agreement to Specifications ............................................. 5
- Agreement ......................................................................... 5
- Term of Contract .............................................................. 5
- Tax Exempt ....................................................................... 5
- Proof of Insurance ........................................................... 6
- Background Check ............................................................ 6
- Evaluation Criteria ........................................................... 6
- Goals and Objectives of Request ....................................... 6
- Scope of Services ............................................................. 6
- Project Deliverables ......................................................... 7
- Project Assumptions ......................................................... 8
- Security Professional Requirements .................................. 8
- Desired Security Professional Skills .................................. 9
- Service and Response for Security Incidents ...................... 9
- Vendor Profile .................................................................. 9
- Vendor Background ........................................................ 10
- Description of Products and Services ............................... 11

## Section C – Proposal Sheet
- Vendor Contact ............................................................... 12
- Vendor Signature ............................................................. 12
- Cost Proposal ................................................................... 13

## Section D – References ...................................................... 15

## Section E – Agreement Template ........................................ 16-23
A1. The City of Overland Park, Kansas is requesting proposals for the purchase of Managed Security Services.

A2. Specifications for the Managed Security Services to be purchased are included in this Request for Proposal. All inquiries concerning this Request for Proposal should be directed to:

Shawna Irwin
Information Technology Department
City of Overland Park
8500 Antioch
Overland Park, KS 66212
shawna.irwin@opkansas.org
(913) 895-6070

Any clarifications made in response to questions received which could affect a vendor's response to this Request for Proposal will be posted on the City's website at http://www.opkansas.org/doing-business/bids-and-proposals/. The deadline for providing clarification is 5 p.m. on May 31, 2016.

A3. Sealed proposals will be received by the Overland Park City Clerk at the address listed below until 2:00 p.m. on June 7, 2016. Three printed copies must be included, along with an electronic copy on CD/DVD or USB drive in .pdf or other common format. Sealed proposals must be clearly marked on the outside of the envelope with the following description: "Managed Security Services". The mailing address for proposals is:

City Clerk
Re: Managed Security Services
Overland Park City Hall
8500 Santa Fe Drive
Overland Park, Kansas 66212

Proposals may be delivered in person or mailed to the City Clerk. However, any proposal which does not reach the City Clerk by the deadline time set forth above will not be accepted.

A4. The City reserves the right to accept or reject any and all proposals and to waive any technicalities or irregularities therein. No submitted proposal may be withdrawn for a period of ninety (90) days from the date set for the opening thereof.

A5. Definitions: The following terms are used in this Request For Proposal.

b. RFP: This Request For Proposal for Managed Security Services.
c. Vendor: A company that submits a proposal in response to this RFP.
d. SLA: Service Level Agreement.
A6. **Kansas Open Records Act:** The City is a Kansas municipality governed by the Kansas Open Records Act, K.S.A. 45-215 et. seq. (the “Act”). The Vendor understands and acknowledges that its response, once opened, is presumed to be an open record. If the Vendor submits information that is marked confidential, the particular exception from mandatory disclosure outlined in the Act must also be noted.

A7. **Overview:** The City is in the process of identifying firms who offer services to assist in establishing an Information Security Program provider that can satisfy the requirements defined in the RFP.
SECTION B
PROPOSAL REQUIREMENTS

B1. Requirements for a Proposal: Each proposal submitted must include the following in order to be accepted by the City:

   a. Proposal Sheets: Each proposal must include a completed Proposal Sheet. The Proposal Sheet information is to be provided on the form found in Section C.

   b. References: Each proposal must include 3 references. Each reference must include the name of the organization and the name, title and telephone number of a contact person within the organization. The reference information is to be provided on the reference sheet found in Section D.

   c. Vendor Background: Each proposal must include responses to the Vendor Background questions in section B17.

   d. Proposal Exceptions: Exceptions that a Vendor might have to any of the requirements found in this RFP must be fully explained in the Vendor’s proposal in a separate section under the heading “Proposal Exceptions”.

   e. Assumptions: List any assumptions made in formulating this RFP in a separate section under the heading “Assumptions”. Any questions about the specifications of this RFP should be addressed through the primary contact prior to submitting an RFP response.

   f. Additional Features: List any additional features not required by the specification in a separate section under the heading "Additions".

B2. Agreement to Specifications: By submitting a proposal, Vendor agrees to the specifications presented in this RFP except as noted in Vendor’s Proposal Exceptions. The contract between the City and the selected Vendor is to include and fully incorporate this RFP and the selected Vendor's response.

B3. Agreement: The City will negotiate an agreement with the qualified Vendor quoting the best value for Managed Security Services in substantially the same form as the Agreement Template (Section E) included in this RFP. The selected Vendor and the City will work together to develop Exhibit C, referenced in “Section I – Scope” of the Agreement, and “Section II – Compensation” of the Agreement. If an agreement cannot be successfully negotiated between the City and the selected Vendor within a reasonable time as determined by the City, the City will then attempt to negotiate an agreement with the qualified Vendor quoting the next best value. This process will continue with other Vendors until an agreement has been successfully negotiated or the City terminates efforts to negotiate an agreement.

B4. Term of the Contract: The City will enter into an initial two-year contract with the selected Vendor, thereafter renewable annually for additional one-year terms. As required by Kansas State Statutes, the contract will stipulate that the City reserves the right to terminate the contract without cause at the end of the City’s fiscal year by giving the selected Vendor thirty (30) days written notice.
B5. **Tax Exempt**: The City of Overland Park is exempt from taxes as set forth in K.S.A. 79-3606 as a political subdivision and proposals should be based accordingly.

B6. **Proof of Insurance**: The successful Vendor shall provide proof of insurance in the form, coverages, and amounts specified in (Section E Agreement Template) (Section XIV - Insurance Requirements) included in this RFP.

B7. **Background Check**: All Vendor employees working on the City account must be a U.S. Citizen or a non-U.S. citizen legally able to perform the work in or for the United States, must be at least 18 years of age, and must pass a finger print and name based criminal background check.

B8. **Evaluation Criteria**: The selection process includes, but is not limited to, a review and an evaluation of the RFP responses and reference checks.

Selection of a vendor will be based on:

a. Compliance with all requirements of this RFP
b. The degree to which each Vendor meets or exceeds the specifications
c. Proposal exceptions
d. Responses from references
e. Total cost of services

B9. **Goals & Objectives of Request**

The primary goals and objectives of the development of an Information Security Program are to:

1. Evaluate and provide guidance for direction of City’s Information Security Program
2. Itemize, catalogue, evaluate and, as necessary, develop City's Information Security Policies and Procedures
3. Identify, itemize, and categorize City's security information assets
4. Identify and confirm City's vulnerabilities to information systems from internal and external threats by conducting live penetration testing
5. Identify and confirm City's vulnerabilities to information systems from internal and external threats by auditing the current architectures and system configurations
6. Itemize, quantify, and rank City's information security risks, based upon the potential impacts to the organization
7. Minimize or eliminate business risks and exposures by identifying short and long term options and solutions for remediation of identified vulnerabilities
8. Determine the appropriate approach to develop or improve on existing Information Security Program
9. Recognize solutions to risks, vulnerabilities, and/or threats

B10. **Scope of Services**:

<table>
<thead>
<tr>
<th>Scope Parameter</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penetration Testing</td>
<td>Internet-Facing Hosts &amp; Internal Hosts</td>
</tr>
<tr>
<td>(annually)</td>
<td>• IP addresses testing</td>
</tr>
<tr>
<td></td>
<td>• Applications testing</td>
</tr>
<tr>
<td>Social Engineering</td>
<td>• Method to be agreed upon</td>
</tr>
</tbody>
</table>
Information Security Program Direction and Management (Virtual CISO) (ongoing)

**Evaluation and Creation of Information Security Program**
- Establish and/or evaluate Security Policies & Procedures to govern the security of the network, data, and applications.
- Develop and enhance an information security management framework based on industry best practices such as National Institute of Standards and Technology (NIST)
- Ensure that security programs are in compliance with relevant laws, regulations and policies to minimize or eliminate risk and audit findings.
- Facilitate a matrix and reporting framework to measure the efficiency and effectiveness of the program

**Information Security Program Management**
- Provide guidance to implement security processes based upon created Policies & Procedures to reduce, transfer and mitigate risk
- Develop, implement and monitor a strategic, comprehensive enterprise information security management program
- Create a risk-based process for vendor risk management, including the assessment and treatment for risks that may result from partners, consultants or other service providers.
- Review and provide recommendations for information security budgets
- Review and recommend information security awareness training programs for all employees, contractors and approved system users
- Define and facilitate the information security risk assessment process, including the reporting and oversight of treatment efforts to address negative findings.

*Provide notification to City of cyber threats as they develop*
- Monitor the external threat environment for emerging threats and advise on the appropriate course of action.

**Incident response planning**
- Provide recommendation and guidance for and evaluation of an incident response plan specific to the City’s environment
- Conduct tabletop exercises to practice incident response plan

**Project Deliverables as Identified in Section B11.**

### B11. Project Deliverables

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Description and Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary (upon initiation of agreement and annually thereafter)</td>
<td>Develop one-page executive summary, highlighting the key findings of the penetration analysis and Information Security Program review</td>
</tr>
<tr>
<td>Penetration Analysis Report (annually)</td>
<td>Report and document highlights and key engagement findings, conclusions, and recommendations regarding the vulnerabilities found during penetration testing</td>
</tr>
</tbody>
</table>
| Final Presentation  
(annually) | Prepare a yearly presentation to review the following:  
- Penetration analysis results  
- Overview of the current environment security posture  
- Recommended action plan |
| Security Policies  
and Procedures  
(ongoing) | Produce policies & procedures relevant to City’s environment to reduce, transfer and mitigate risk to the network and company data, and/or recommend enhancements to existing policies and procedures. |
| Corporate Security Assessment Report  
(annually) | Report and document highlights and key engagement findings, conclusions, and recommendations regarding the vulnerabilities found in all systems during assessment  
Detail the exposures associated with the security infrastructure and systems |
| Security Governance  
and Oversight  
(ongoing) | Provide Monthly Report on security metrics reflecting how well the security program is operating, report on overall City risk posture and new threats to the City executive team and key stakeholders. |
| Incident Response Plan  
(upon initiation of agreement and annually reviewed thereafter) | Develop Incident Response Plan with key City staff, including incident response plan documentation, developed specifically for the City’s existing infrastructure. |

**B12. Project Assumptions**

a. City will identify a senior Executive Sponsor to support the engagement. The Executive Sponsor will serve as the point of coordination to engage City’s executive core team members at key points during the project.

b. City will identify a Project Coordinator to provide operational assistance to the consulting team, to identify project participants, and to arrange meetings and associate logistics, etc.

c. City will confirm IP address ranges, provide telephone number ranges, and supply target lists.

d. City will provide access to necessary personnel for data gathering activities, such as interviews to obtain insight into the application development processes and procedures, as well as the nature of the application.

e. Any reports, data, analysis, presentations or any other information collected or created will remain the property of the City.

**B13. Security Professional Requirements:**

a. One (1) primary Security Professional and two (2) backup assigned to the City account

b. All Security Professionals assigned to the City will be full-time employees of the selected Vendor

c. All Security Professionals assigned to the City account must have:
   1. Minimum of five (5) years professional experience working as a Security Professional
2. Experience penetration testing for organizations of similar size or area of government
3. Experience developing and evaluating security policies and procedures
4. Experience reviewing security configurations within an existing infrastructure, such as for firewall network switching and firewall routing.
5. Experience evaluating security risks for organizations of similar size or area of government.
6. Experience evaluating threat environment

B14. Desired Security Professional Skills:
   a. The City staff would like the selected Vendor to have the following:
      1. Knowledge and understanding of relevant legal and regulatory requirements, such
         as Sarbanes-Oxley Act (SOX), Health Insurance Portability and Accountability Act
         (HIPAA), Payment Card Industry/Data Security Standard and Criminal Justice
         Information Systems (CJIS).
      2. Professional security management certification, such as a Certified Information
         Systems Security Professional (CISSP), Certified Information Security Manager
         (CISM), Certified Information Systems Auditor (CISA) or other similar credentials
      3. Experience with contract and vendor negotiations and review.

B15. Service and Response For Security Incidents: The selected Vendor shall provide a trouble
reporting and customer service number, which is answered by a human representative, employed
by the company. This service must be provided 24 hours per day, 7 days per week. The selected
Vendor shall have the ability to provide remote support via the City’s VPN or onsite support within
one (1) hour, whatever is needed.

B16. Vendor Profile:

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Please provide a brief description of your company and its products and services.</td>
<td></td>
</tr>
<tr>
<td>b. Please describe the benefits you believe the City will achieve through partnering with your company. Where possible quantify the expected benefits.</td>
<td></td>
</tr>
<tr>
<td>c. Please confirm the specific products and services that you are including in order to satisfy the RFP.</td>
<td></td>
</tr>
</tbody>
</table>
**B17. Vendor Background:**

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. How many clients does your company currently service?</td>
<td></td>
</tr>
<tr>
<td>b. Please describe any experience that your company has had working with government agencies.</td>
<td></td>
</tr>
<tr>
<td>c. Would we have an account team assigned to the City of Overland Park?</td>
<td></td>
</tr>
<tr>
<td>d. Describe the members of the assigned team and each person’s responsibilities.</td>
<td></td>
</tr>
<tr>
<td>e. Include the steps that your company takes to ensure the integrity and experience of your staff, e.g. background checks, etc.</td>
<td></td>
</tr>
<tr>
<td>f. How many customers does this account team handle?</td>
<td></td>
</tr>
<tr>
<td>g. Would the account team be local?</td>
<td></td>
</tr>
<tr>
<td>g. Provide an escalation list for the account team, with names, telephone numbers, and email addresses.</td>
<td></td>
</tr>
<tr>
<td>g. What is the procedure for when our account contact is out of the office?</td>
<td></td>
</tr>
<tr>
<td>h. Is there a procedure in place to ensure account coverage?</td>
<td></td>
</tr>
<tr>
<td>i. During normal business hours, whom would we contact for service and how would we make contact?</td>
<td></td>
</tr>
<tr>
<td>j. After normal business hours, whom would we contact for service and how would we make contact?</td>
<td></td>
</tr>
<tr>
<td>k. What are your procedures for providing status information and problem resolution time frames to the customer?</td>
<td></td>
</tr>
</tbody>
</table>
B18. **Description of Products and Services:**

The products and services included in your response should address the following:

1. Detailed description of proposed solution/services
2. Description of standard procedures throughout year to complete tasks outlined in RFP
3. Software tools that you will be using
4. Methodology of non-software based vulnerability assessments, e.g. site inspections, intrusion testing, social engineering, etc.
5. A description of your Quality Control Process
6. List any and/or all relationships with any third party vendors and/or subcontractors who may be included in your proposed solution(s).
## SECTION C
### PROPOSAL SHEET

### C1. Vendor Contact

<table>
<thead>
<tr>
<th>Vendor Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Contact Name:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Title:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Street Address:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>City, State, Zip:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Phone:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Email:</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

### C2. Vendor Signature

I have reviewed all of the general information and specifications in the RFP, have contacted the City regarding any needed clarifications, and submit this proposal with a full understanding of the specifications.

If selected by the City as the Vendor, I agree to abide by the terms and conditions specified in this RFP.

<table>
<thead>
<tr>
<th>Company Officer Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Title:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Signature:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Date:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Phone:</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Please itemize costs for services identified in Scope Parameters, Section B10, and then provide a total yearly cost.

Payment would be made as each itemized service is completed and accepted.

<table>
<thead>
<tr>
<th>Service</th>
<th>Year</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>1</td>
<td>$</td>
</tr>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>2</td>
<td>$</td>
</tr>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>3</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>1</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>2</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>3</td>
<td>$</td>
</tr>
</tbody>
</table>

Total Cost

<table>
<thead>
<tr>
<th>Service</th>
<th>Year</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>1</td>
<td>$</td>
</tr>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>2</td>
<td>$</td>
</tr>
<tr>
<td>Information Security Program Direction and Management (Virtual CISO)</td>
<td>3</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>1</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>2</td>
<td>$</td>
</tr>
<tr>
<td>Yearly Penetration Testing</td>
<td>3</td>
<td>$</td>
</tr>
</tbody>
</table>

C4. Bidders shall include all items necessary to provide the services specified. Additional items must be itemized and added to the list above so that the City has a complete listing of all products and services the bidder intends to bill for. Vendor price shall include ALL labor, materials, products, and services necessary to install and provide the services as specified. THE CITY SHALL NOT BE LIABLE FOR ADDITIONAL CHARGES THAT ARE NOT STATED IN YOUR PROPOSAL AND ALL COSTS INCURRED BY THE VENDOR IN RESPONDING TO THIS RFP SHALL BE THE RESPONSIBILITY OF THE VENDOR. All charges for overtime, installation, shipping, etc. must be included in your costs.
C5. Proposals shall not include sales tax/use tax for the State of Kansas per the exemption certificate for the project.
<table>
<thead>
<tr>
<th>1) Reference Company:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td></td>
</tr>
<tr>
<td>Contact Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Service(s) purchased:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2) Reference Company:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td></td>
</tr>
<tr>
<td>Contact Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Service(s) purchased:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3) Reference Company:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>City, State, Zip:</td>
<td></td>
</tr>
<tr>
<td>Contact Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Service(s) purchased:</td>
<td></td>
</tr>
</tbody>
</table>
SECTION E
AGREEMENT TEMPLATE

The following template shall be the basis of the Agreement between the City and the Selected Vendor.

THIS AGREEMENT is made and entered into this _____________ day of ____, 20__, by and between the City of Overland Park, Kansas, hereinafter referred to as “City,” and ________________, hereinafter referred to as “Contractor.”

SECTION I - SCOPE AND ORDER OF PRECEDENCE

Contractor shall provide to the City certain products and services as outlined in Exhibit C, a copy of which is attached hereto and incorporated by reference herein to the City’s complete satisfaction and in compliance with the Request for Proposal (RFP) in Exhibit A.

If there is a conflict among any of the Exhibits referenced above, the following order of precedence shall apply:

1. This Agreement, excluding exhibits
2. The Scope of Work (Exhibit C)
3. The RFP (Exhibit A)
4. The RFP Response (Exhibit B)

SECTION II - COMPENSATION

The City agrees to pay Contractor for all products and services as outlined in Exhibit G, a copy of which is attached hereto and incorporated by reference herein, $_______________. The Compensation will be paid to Contractor as follows:

SECTION III - DISPUTE RESOLUTION

City and Contractor agree that disputes relative to the products delivered and work performed should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without the parties’ express written consent.

SECTION IV - TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement at their convenience by giving the other party written notice. Agreement will be terminated on the first day of the month following the month in which a termination notice is received by either party. Any termination shall not relieve the City of its obligations to pay Contractor for functional hardware received or services satisfactorily performed through the effective date of termination.
SECTION V - ASSIGNMENT

Parties hereto agree that neither shall assign, sublet or transfer their interest in this Agreement without the written consent of the other and further agree that this Agreement binds the parties, their successors, trustees, assignees and legal representatives.

SECTION VI - PRIOR VERBAL OR WRITTEN STATEMENTS NOT BINDING

It is understood and agreed that the written terms and provisions of this Agreement shall supersede all prior verbal and written statements of any and every official and/or other representative of the City and Contractor and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever, the written Agreement. In the event that the City issues a purchase order, work order, invoice or similar document relating to services performed, such purchase order or similar document shall be for the City’s administrative purposes only and will not supplement, supersede, modify or affect any of the terms and conditions set forth herein.

SECTION VII - INDEPENDENT CONTRACTOR

Contractor is an independent contractor, and as such, neither Contractor nor its personnel are agents or employees of the City. Contractor is responsible for payment of any and all federal, state and local taxes.

SECTION VIII - HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to defend, indemnify and hold harmless the City and its agents and/or employees from any and all claims, settlements, and judgments including but not limited to those for bodily injury, physical property damage and/or death that are caused by the Contractor and within its control and/or those that arise out of Contractor’s or any of its agents, servants and/or employees’ negligent or intentional acts, and/or failure to act in the performance of this Agreement. Neither acceptance of the completed work, payment therefore or termination or expiration of this Agreement shall release Contractor of its obligation under this paragraph.

In the event of any proceeding (suit, claim, or action) against City arising from allegations that the hardware, software, or services, or part thereof, furnished by Contractor (hereinafter “Product”) infringes on a U.S. patent, copyright, trade secret, intellectual property, or other proprietary right of any third-party, Contractor will, if such a proceeding does not result from modifications to the Product made by City use of any Product in combination with other products not furnished by Contractor, defend City’s right, title, or interest in the Product, at Contractor’s expense, provided City promptly notifies Contractor in writing of the allegation. Contractor shall make such defense by counsel of its own choosing, and City shall cooperate with said counsel.

In the event any Product furnished hereunder is, in Contractor’s opinion, likely to or does become the subject of a claim of infringement of any duly issued patent or copyright or of any trade secrets or other intellectual property rights or other proprietary right of a third-party, Contractor may at its option and expense, procure for City the right to continue using the Product, or modify the Product to make it non-infringing but functionally the same, or replace the Product with a non-infringing equivalent.
SECTION IX - NON-DISCRIMINATION AND OTHER LAWS

A. Contractor agrees that:

1. Contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, national origin, ancestry or age;

2. In all solicitations or advertisements for employees, Contractor shall include the phrase, “equal opportunity employer,” or a similar phrase to be approved by the Kansas Human Rights Commission (the “Commission”);

3. If Contractor fails to comply with the manner in which Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Contractor shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City;

4. If Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, Contractor shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City; and

5. Contractor shall include the provisions of subsections (A)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor. The provisions of this section shall not apply if:
   a. Contractor employs fewer than four employees during the term of such contract; or
   b. If Contractor contracts with the City cumulatively total $5,000 or less during the fiscal year of the City.

B. Contractor further agrees that Contractor shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision in the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.
SECTION X - PROHIBITION AGAINST CONTINGENT FEES

Contractor warrants that it has not employed or retained any person, firm, or corporation, other than a bona fide employee working solely for Contractor, to solicit or secure the awarding of this Agreement based upon an arrangement that the person, firm or corporation would receive any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of this Agreement for the breach or violation of the foregoing provision, the City shall have the right to terminate the Agreement without liability and, at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

SECTION XI - APPLICABLE LAW, NONWAIVER

This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Kansas. The waiver of or failure to enforce any term or condition of this Agreement shall not be construed as a waiver of any other term or condition. If any provision is held to be unenforceable by a court or other tribunal, the enforceability of the other provisions shall not be affected.

SECTION XII – AGREEMENT TERM

The term of this Agreement shall commence on the date above first written and shall continue in force through the two (2) year period required by the RFP (the Initial Term). Thereupon, the Agreement will renew automatically for an additional term of _______ (____) year(s) unless either party gives written notice of intent to terminate thirty (30) days prior to the date the term expires.

Notwithstanding the foregoing, nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate this Agreement in whole or in part, with or without cause, at any time, subject to written notice to Contractor. Upon termination, the City shall compensate Contractor for all work satisfactorily completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed.

SECTION XIII – SUBCONTRACTORS

Contractor shall not subcontract any of the work or services required by this Agreement without the prior written approval of the City. Should Contractor request and the City agree to work being subcontracted, Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by said subcontractors, as Contractor is for the acts and omissions of the persons it directly employs.

SECTION XIV - INSURANCE REQUIREMENTS

Contractor shall secure and maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms approved by the City and shall name the City as an additional insured on the general liability and automobile liability. The City shall be notified by receipt of written notice at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate. Any claims-made policy forms must be maintained for a minimum of 2-years after the end of this Agreement.
A. **General Liability**
   - General Aggregate: $1,000,000
   - Products Completed Operations Aggregate: $1,000,000
   - Personal & Advertising Injury: $500,000
   - Each Occurrence: $500,000

B. **Automobile Liability:** Policy shall protect Contractor against claims for bodily injury and/or property damage arising from the ownership or use of all owned, hired and/or non-owned vehicles in the amount of no less than $500,000 Each Accident, Combined Single Limits, Bodily Injury, and Property Damage.

C. **Worker’s Compensation and Employer’s Liability:** This insurance shall protect Contractor against all claims under applicable state workers’ compensation laws. Contractor shall also be protected against claims for injury, disease or death of employees which, for any reason may not fall within the provisions of a workers’ compensation law. The policy limits shall not be less than the following:
   - Workers’ Compensation: Statutory
   - Employer’s Liability:
     - Bodily Injury by Accident $100,000 each accident
     - Bodily Injury by Disease $500,000 policy limit
     - Bodily Injury by Disease $100,000 each employee

D. **Professional Liability:** Contractor shall maintain throughout the duration of this Agreement plus a minimum of three additional years, Professional Liability Insurance in an amount not less than Two Million Dollars ($2,000,000) and shall provide the City with certification thereof.

E. **Cyber Liability:**
   - $5,000,000 Per Loss Including
     - Information Security & Privacy Liability
     - Privacy Breach Response

F. **Industry Ratings:** The City will only accept coverage from an insurance carrier who offers proof that it:
   1. Is authorized to do business in the State of Kansas;
   2. Carries a Best’s policyholder rating of A- or better; and
   3. Carries at least a Class VIII financial rating; or
   4. Is a company mutually agreed upon by the City and Contractor

**Subcontractors Insurance** –
If a part of the Agreement is to be sublet, the Contractor shall either:

1. Cover all subcontractors in its insurance policies if allowed to by Contractor’s insurance carrier, or
2. Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.
3. Whichever option is chosen, Contractor shall indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney’s fees, for bodily injury, physical property damage and/or death that arises out of a subcontractor’s or any of its agents, servants, and/or employees’ negligent acts, and or failure to act in the performance of this Agreement arising out of the acts or omissions of its subcontractors.

SECTION XV – ADJUSTMENT TO CONTRACT TERMS

Changes to the terms of this Agreement may be made only in writing and must be approved by the City and Contractor. Should a decision be made to amend the terms of this Agreement, the City and Contractor must mutually agree in writing to the amended terms.

SECTION XVI – CASH BASIS LAW

The City is obligated only to make payments under this Agreement as may be lawfully made from funds budgeted and appropriated for the purposes as set forth in this Agreement during the City’s current budget year. In the event the City does not so budget and appropriate the funds, the parties acknowledge and agree that they shall be relieved from all obligations, without penalty, under this Agreement.

SECTION XVII - SEVERABILITY CLAUSE

Should any provision of this Agreement be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement shall be unaffected thereby and shall continue to be valid and enforceable.
SECTION XVIII - EXECUTION OF AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officials on the day and year first above written.

CITY OF OVERLAND PARK, KANSAS [ Contractor___]  

Carl Gerlach, Mayor  

Date Date  

ATTEST:  

Marian Cook  
City Clerk  

APPROVED AS TO FORM:  

Tammy M. Owens  
Deputy City Attorney
CORPORATE ACKNOWLEDGMENT

STATE OF _______________  )
                              ) ss.
COUNTY OF _______________  )

BE IT REMEMBERED, That on this ______ day of _______________ , 2015, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came, the __________________________ of (Contractor)., a corporation duly organized, incorporated and existing under and by virtue of the laws of _______________, who is personally known to me to be the same person who executed as such officer the within instrument on behalf of said Corporation, and such person duly acknowledged the execution of the same to be the act and deed of said Corporation.

    IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

    Notary Public

My Commission Expires: