



INTERNATIONAL CITY/COUNTY
MANAGEMENT ASSOCIATION
777 N Capitol St. NE, Ste. 500
Washington, DC 20002-4201
202.962.3680 | 202.962.3500 (f)
icma.org

NON-DISCLOSURE AGREEMENT

This mutual non-disclosure agreement (“Agreement”), made on _____, **2023** is:

BY AND BETWEEN: International City/County Management Association (ICMA)
777 North Capitol Street, NE Suite 500
Washington, DC 20002-4201

AND:

WHEREAS, one or more of the parties to this Agreement possess certain confidential and/or proprietary information and is/are willing to share such confidential and/or proprietary information with the other party for the purposes of discussions related to the **Request for Proposals (RFP) No. ICMAHO/FP&A/2023**. All such disclosures are subject to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the promises and agreements herein set forth, the Parties agree as follows:

1. APPLICABLE LAW

1.1 This Agreement shall be governed by the laws of the District of Columbia, excluding its conflict of law rules.

2. DEFINITIONS

2.1 For the purposes of this Agreement, the term “Disclosing Party” shall mean the party owning or controlling Confidential Information and making such Confidential Information available to the other party.

2.2 For the purposes of this Agreement, the term “Receiving Party” shall mean the party who receives Confidential Information from the Disclosing Party.

2.3 For the purposes of this Agreement, the term “Confidential Information” shall mean confidential and/or proprietary information under the ownership or control of one of the parties including, but not limited to, information relating to research, products, software, services, development, inventions, processes, engineering, marketing, techniques, customers, pricing, internal procedures, business and marketing plans or strategies, finances, employees and business opportunities disclosed by the Disclosing Party to the Receiving Party in writing, clearly labeled as proprietary in accordance with section 7 of this Agreement and transmitted by representatives

of either party to authorized personnel of the other party. The term “Confidential Information” expressly excludes information that:

- 2.3.1 Is in the public domain at the time it was disclosed or falls within the public domain, except through a breach of this Agreement; or
- 2.3.2 Is in Receiving party’s possession at the time of disclosure as shown by Receiving Party’s files and records immediately prior to the time of disclosure; or
- 2.3.3 Before or after it has been disclosed to Receiving Party, becomes part of the public knowledge or literature, not as a result of any action or inaction of Receiving Party, or
- 2.3.4 Is disclosed to Receiving Party by a third party not in violation of any obligation of confidentiality; or
- 2.3.5 Is approved for release by written authorization of the Disclosing Party, or
- 2.3.6 To the extent that such disclosure shall be required by a valid court order of other governmental body or applicable law, but only after the Disclosing Party has been notified in writing and has been provided a reasonable opportunity to take appropriate action to protect its legal interest in the Confidential Information.
- 2.3.7 Is independently developed by Receiving Party without reference to Confidential Information.
- 2.3.8 If only a portion of any Confidential Information falls within any one of the exceptions listed above, the remainder of such Confidential Information shall continue to be subject to this Agreement.

3. LIMITATION ON USE OF CONFIDENTIAL INFORMATION

- 3.1 The parties agree that the asserted Confidential Information disclosed under this Agreement derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means, by other persons who can obtain economic value from its disclosure or use.
- 3.2 All rights, title and interest in Confidential Information disclosed pursuant to this Agreement are reserved by the Disclosing Party, and the Receiving Party will not use such Confidential Information disclosed to it by the Disclosing Party to benefit itself or others, except for the limited purposes for which the Confidential Information is disclosed within the context of this Agreement. The Receiving Party will not disclose such Confidential Information to any third party unless and until expressly authorized in writing to do so by the Disclosing Party. The Receiving Party agrees not to copy, alter, modify, disassemble, reverse engineer or decompile any of the materials unless permitted in writing by the Disclosing Party.

4. PROTECTION OF CONFIDENTIAL INFORMATION

- 4.1 The Receiving Party shall exercise at least the same standard of care to prevent the disclosure or misuse of the Confidential Information as it exercises to prevent the disclosure or misuse of its

own Confidential Information, but in no event shall the Receiving Party exercise less than reasonable care. The Receiving Party shall limit dissemination of such Confidential Information to those persons within its organization who have a need to know such information to fulfill the purpose of this Agreement and who agree to be subject to the restrictions of this Agreement. Both parties agree not to disclose the fact or content of any negotiations to third parties without the written consent of the other party.

- 4.2 To the extent that technical data exchanged hereunder may be subject to United States Export Control Laws and Regulations, the parties agree to strictly abide by all applicable U.S. Export Control Laws and Regulations governing the transfer, export or re-export of such technical data.

5. TERM OF AGREEMENT

- 5.1 Confidential information shall be maintained in confidence by the receiving party for a period of three (3) years from the date of this Agreement which shall be the date on which it has been executed by both parties. The time for information exchange shall terminate one (1) year from the date of this Agreement. During this period, the receiving party shall not divulge such information to any third party without the prior written consent of the disclosing party. The receiving party shall treat such information with the same degree of care as it accords to its own proprietary information, but it shall not be responsible for unauthorized disclosures by persons who are or have been in its employ.
- 5.2 The respective obligations of the parties relating to limitations on the use and/or disclosure of Confidential Information under this Agreement shall survive termination of this Agreement.

6. RETURN OF CONFIDENTIAL INFORMATION

- 6.1 All Confidential Information and copies thereof shall be returned to the Disclosing Party Disclosing Party's request for return of the materials, or at the time this Agreement expires, whichever is earlier, and, at the Disclosing Party's option, will either be: (i) promptly returned to Disclosing Party; or (ii) destroyed by Receiving Party (with Receiving Party providing written certification of such destruction).

7. MARKING OF CONFIDENTIAL INFORMATION

- 7.1 Confidential Information developed or disclosed by either party under this Agreement shall be clearly labeled and identified as Confidential Information by the Disclosing Party at the time of disclosure. When written identification of Confidential Information is not feasible at the time of such disclosure, the Disclosing Party shall provide such identification in writing promptly thereafter.

8. NO LICENSE

- 8.1 The Confidential Information shall remain the sole property of the Disclosing Party. No license is granted to Receiving Party under any patents, copyrights, mask work rights or other proprietary rights by the disclosure of any information hereunder, nor is any warranty made as to such information.

9. NOTICES

9.1 All notices or reports permitted or required under this Agreement shall be in writing and shall be by email, personal delivery, nationally recognized overnight courier service, facsimile transmission or by certified or registered mail, return receipt requested, and shall be deemed given upon the earlier of actual receipt or one (1) day after deposit with the courier service, receipt by sender of confirmation of electronic transmission or five (5) days after deposit in the mail. Notices shall be sent to the addresses set forth at the end of this Agreement or such other address as either party may specify in writing.

All notices shall be addressed to:

	Vendor	ICMA
Name		Sabina Agarunova
Title		Chief Financial Officer
Email Address:		sagarunova@icma.org
Phone Number:		202-962-3547

10. ENTIRE AGREEMENT

10.1 Both parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and further agree that it is the entire agreement between parties hereto which supersedes all prior agreements, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless in writing signed by the party against whom such modification or waiver is sought to be enforced.

NOW THEREFORE, the Parties hereto have caused this Agreement to be duly executed in their names by officials who are duly authorized as of the effective date set forth above.

FOR: International City/County Management Association (ICMA)

FOR:

Signature
Name: Sabina Agarunova
Title: Chief Financial Officer
Date Signed:

Signature
Name:
Title:
Date Signed: