

AGENDA
REGULAR MEETING
DES MOINES CITY COUNCIL
January 26, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor Kaplan

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC:

At this time the audience is invited to comment on any topic to bring it to Council's attention. Please sign in prior to the meeting and limit comments to three minutes or less.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

Recognition for Human Services Committee Members - *who?*
Report on Aging Your Way Forum (Padden, Lathrop) -
kudos to PW on Snow management -

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to Motion is to approve minutes from the regular meeting of January 5, 2012

Item 2: APPROVAL OF VOUCHERS

Motion is to approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks \$

Payroll fund transfers in the total amount of \$

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are \$

Item 3: RECYCLING SERVICE CONTRACT AWARD

First Motion is to authorize the City Manager to sign the 2012-2013 CPG Grant No. G1200217 between the City of Des Moines and the Washington State Department of Ecology; the 2012 LHWMP Grant No. EHS 2309 between the City of Des Moines and the Seattle-King County Department of Public Health; and the 2012-2013 WR/R Grant No. 529824 between the City of Des Moines and the King County Department of Public Health.

Second Motion is to authorize the City Manager to sign the Professional Services Contract for the 2012-2013 Recycling Program between the City of Des Moines and Olympic Environmental Resources substantially in the form as submitted.

Item 4: MAYORAL APPOINTMENT TO THE DES MOINES LODGING TAX
ADVISORY COMMITTEE

Motion is to confirm the Mayoral appointment of Nancy Warren to the Des Moines Lodging Tax Advisory Committee effective immediately.

Item 5: SURPLUS PROPERTY - OBSOLETE OFFICE EQUIPMENT

Motion is to approve the surplus and disposal of one overhead projector; one book binder machine; one check protector machine; one sliding shelf, end-tab file cabinet; and three tape recorders.

NEW BUSINESS

1. 2012-2013 ON-CALL CIVIL ENGINEERING SERVICES CONTRACT AGREEMENTS *Don?*
Staff Presentation: Planning Building Public Works Director Grant Fredricks
2. CITYWORKS CONTRACT APPROVAL (WORK ORDER SYSTEM FOR PUBLIC WORKS) *Greg?*
Staff Presentation: Planning Building Public Works Director Grant Fredricks

NEXT MEETING DATE – February 2, 2012, City Council Study Session

ADJOURNMENT

MINUTES

**REGULAR MEETING
DES MOINES CITY COUNCIL**

January 5, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor Sheckler called the meeting to order at 7:34 p.m.

PLEDGE OF ALLEGIANCE Councilmember Scott led the flag salute.

ROLL CALL

Present were Mayor Sheckler; Mayor Pro-Tem Kaplan; Councilmembers Dan Caldwell, Jeanette Burrage, Matt Pina, Melissa Musser and Carmen Scott.

Staff present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Lorri Ericson; Planning Building and Public Works Director Grant Fredricks; Harbormaster Joe Dusenbury; Parks Recreation and Senior Services Director Patrice Thorell; Planning Manager Denise Lathrop; Development Services Manager Robert Ruth; Senior Planner Jason Sullivan; CIP Project Manager Scott Romano; Policy Analyst Sue Anderson; City Clerk Sandy Paul

SWEARING IN COUNCIL MEMBERS

City Clerk Paul administered the oath of office to newly elected Councilmember Jeanette Burrage to City Council Position #2. Bob Sheckler and Dan Caldwell were sworn to office on Tuesday, January 2, 2012, in City Council Chambers.

ELECTION OF MAYOR

Bob Sheckler declined to accept another term as mayor. Councilmember Sheckler nominated Dave Kaplan as Mayor for 2012-2013. There were no further nominations. Dave Kaplan was unanimously elected Mayor.

ELECTION OF MAYOR PRO-TEM

Councilmember Musser nominated Councilmember Pina to serve as Mayor Pro-Tem for 2012-2013. There were no further nominations. Councilmember Pina was elected on a unanimous vote to serve as Mayor Pro-Tem.

COMMENTS FROM THE PUBLIC:

Sandra Higgins, 27421 8th Avenue South, spoke about the healthy and vibrant community of Des Moines, speaking especially about outdoors activities, the farmer's market, marina, and existing healthy programs.

Louie (no last name given), PO box 98078, Des Moines, spoke about safe routes to schools. He commented that walking along Kent Des Moines Road is not safe and he would like to see more sidewalks in town.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Scott

- January 7 is the Des Moines to Duwamish Head sailboat race beginning at the Des Moines Marina

Councilmember Musser

- Invited the council to the Highline Community Coalition Cities and Schools Summit from 6:00-8:00 p.m. on January 19 for healthy hors d'oeuvres to be held at the Puget Sound Skills Center on 188th Street

Mayor Pro-Tem Pina

- Referred to the Community Coalition Cities and Schools Summit as a tool for the cities to meet, recognize opportunities to capitalize on healthy activities throughout the region
- Reminded Council and the audience that the Destination Des Moines events calendar lists many and varied activities in and around the Des Moines area
- He took his work team on the Argosy Cruise through Des Moines on December 15 and wished there had been more in attendance
- Sweetheart ball is February 10 at Landmark on the Sound
- Thanked his colleagues at the dais for supporting him for Mayor Pro-Tem

Councilmember Burrage

- Mentioned the bonfire at the Beach Park during the Christmas holidays
- Thanked Councilmember Musser for taking on the HEAL Grant and encouraged her to keep the council on a healthy track

PRESIDING OFFICER'S REPORT

- Newly elected Mayor Kaplan thanked the Council for choosing him as Mayor for the next two years. Thanked Bob Sheckler for his service and called the last two mayors *tough acts to follow*, saying he will apply the best of what he learned from both (Sheckler and Thomasson)
- Requested preferences for committee assignments from Councilmembers. Assignments will be made within the week
- A retreat will be held at Founder's Lodge on January 14. He encouraged Councilmembers to come to the retreat with their ideas for a brainstorming session for solving long and short term issues and process issues. He will seek an early budget start this year to better consider the challenges and opportunities
- Said there would be number of retreats and single or double topic study sessions
- Council will actively solicit public opinion
- Asked councilmembers to be prepared for discussion by thoroughly reading and understanding packets, asking questions of staff prior to council meetings
- Acknowledged his family who was in attendance

ADMINISTRATION REPORTS

- City Manager Piasecki pointed out the new dais funded by a Court grant which provides added safety. The jury box is too heavy to move so it is now located permanently. New councilmember name plates would black with white lettering
- The fishing pier at the Marina is closed due to repair of the bases of the posts along the pier.

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve minutes from the regular meetings of December 1, 8, and 13, 2011, and the Special Meeting to hold an Executive Session of December 8, 2011.

Item 2: Supplement to AMEC Consultant Contract for Public Works Yard Remediation Monitoring

Motion is to approve contract Supplement No. 3 for professional services with AMEC Earth and Environmental, Inc. for the groundwater remediation at the Public Works Yard in the amount of \$129,730.00, bringing the total amount for the contract to \$296,440.00, authorize the City Manager to approve additional supplements as necessary up to \$25,000.00 for the entire contract, and to authorize the City Manager to sign said supplement substantially in the form as submitted.

Item 3: Transportation Gateway Project: 24th Avenue South right-of-way acquisition: Swezea-Parcel #13.

Motion is to purchase 823 square feet of land from Bradford and Cynthia Swezea in the amount of \$7950.18; improvements at \$500.00 for *Just Compensation*; and an administrative settlement in the amount of \$790.00 for a grand total of \$9,240.00 (rounded to the nearest dollar) plus closing costs, and further to authorize the City Manager to sign the Statutory Warranty Deed, Construction Easement, and Real Property Voucher substantially in the form as submitted and accept the right-of-way on behalf of the City of Des Moines.

Item 4: Transportation Gateway Project: 24th Avenue South right-of-way acquisition: Prologis – Tax Parcel 092204-9059, Project Parcel #58; Tax Parcel 092204-9159, Project Parcel #59; Tax Parcel 092204-9412, Project Parcel #60.

Motion is to approve and accept three Construction Easements/Rights of Entry for Project Parcels Nos. 58, 59, and 60 granting permission from Prologis at no direct cost and further to authorize the City Manager to sign said documents substantially in the form as submitted on behalf of the City of Des Moines.

Item 5: Surplus of Property – Vehicles

Motion is to surplus the following 4 Police Crown Victoria vehicles, all of which are near or over 100,000 miles and further to authorize disposal of the equipment to FCI, Inc., for trade of services of setting up four new Police vehicles: 2007, 2FAHP71W77X148142; 2006, 2FAHP71W86X144485; 2005, 2FAHP71W15X147792; and another 2007, 2FAHP71W57X148141.

Item 6: Arts Commission Appointments

Motion is to confirm the Mayoral appointments of Jean Munro and Kathy Isaac to the Des Moines Arts Commission effective immediately, to fill two vacant three-year terms which will expire on December 31, 2014.

ACTION/DIRECTION

Councilmember Pina moved to adopt the Consent Agenda; Councilmember Musser, second. The motion passed, 7-0.

OLD BUSINESS

1. Draft Resolution No. 11-150 Public Records Indexing and Records Management Policy Pursuant to Chapter 42.56.RCW
Staff Presentation: City Attorney Pat Bosmans

ACTION/DIRECTION

Councilmember Sheckler moved to enact Draft Ordinance No. 11-135 repealing chapter 1.20 DMMC, *Public Records*; Councilmember Musser, second. The motion passed 7-0.

Councilmember Sheckler moved to adopt Draft Resolution No. 11-150, as amended, establishing the City's Public Records Policy to include indexing and a records management policy, and designating the City Clerk as the Acceptance Agent for Public Records Requests; Councilmember Musser, second. The motion passed, 7-0.

Mayor Kaplan read the ordinance into the record.

2. Reconsideration of Comprehensive Plan Amendments Ordinance No. 1528
Staff Presentation: Planning Manager Denise Lathrop

ACTION/DIRECTION

Councilmember Musser moved to suspend Council Rule 26 (a) to allow Ordinance No.12-001 to be considered on first reading; Mayor Pro-Tem Pina second. The motion passed 6-1. Councilmember Scott voted *no*.

Councilmember Musser moved to amend Ordinance No. 1528 by adopting the amendment language offered in Draft Ordinance no. 12-001; Councilmember Sheckler, second. Councilmember Burrage moved to amend the motion to delete *and rank* from section 3-0-04; Councilmembers Musser and Sheckler both accepted the friendly amendment. Councilmember Scott moved to further amend the motion to remove the words *mixed use zones within Des Moines neighborhoods*. The amendment died for lack of a second. The main motion, as amended, passed 4-3. Councilmembers Caldwell, Burrage, and Scott voted *no*.

NEW BUSINESS

1. Marina Development Process
Staff Presentation Harbormaster Joe Dusenbury

A list of possible stakeholders was presented to the City Council for selection to serve on a Marina Development Stakeholders Committee.

ACTION/DIRECTION

A committee of Stakeholder's was selected by the City Council consensus to create a Marina/Beach Park Business and Development Plan. Those citizens, Councilmembers and staff are as follows: Melissa Musser, Council representative; Lorri Ericson, Assistant City Manager, and Grant Fredricks, Planning Building Public Works Director, as staff representatives; Del Rivero as Marina Tenant Representative; Wayne Corey, as Condominium Representative (he is also president of the Farmer's Market); Charlene Shultz, Marina Business District Representative; and at-large Councilmember selection of Nussy Vorge, Cari Litowitz, Tony Hettler, Patricio Mendoza, Jim Melia, Shan Hoel, and Dave Markwell.

ADJOURNMENT

There being no further business to come before the City Council, Councilmember Pina moved to adjourn; Councilmember Scott, second. The vote was 7-0. The motion passed. The meeting was adjourned at 8:55 p.m.

NEXT MEETING DATE – January 12, 2012

January 14, 2012, City Council Goal Setting Retreat, Founder's Lodge at
Beach Park, 22030 Cliff Avenue South, Des Moines

Respectfully submitted,

Sandy Paul CMC
City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2012-2013 Recycling Program
Funding and Professional Services Contract

ATTACHMENTS:

1. Washington State Department of Ecology
Coordinated Prevention Grant (CPG) 2012-
2013 No. G1200217
2. Seattle & King County Department of
Public Health Local Hazardous Waste
Management Program (LHWMP) 2012
Grant No. EHS2309
3. King County Solid Waste Division Waste
Reduction and Recycling (WR/R) 2012-
2013 Grant No. 529824
4. Draft Professional Services Contract for the
2012-2013 Recycling Program

FOR AGENDA OF: January 26, 2012

DEPT. OF ORIGIN: Planning, Building and
Public Works

DATE SUBMITTED: January 12, 2012

CLEARANCES:

- ☒ Legal PB
- ☐ Finance NA
- ☐ Marina NA
- ☐ Parks, Recreation & Senior Services NA
- ☒ Planning, Building & Public Works NA
- ☐ Police NA
- ☐ Courts NA

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is to provide information to Council, enabling it to take action on both the acceptance of grants and the contracting of professional services for the City's Recycling Program for the service period of 2012-2013.

Suggested Motion

First Motion: I move to authorize the City Manager to sign the 2012-2013 CPG Grant No. G1200217 between the City of Des Moines and the Washington State Department of Ecology; the 2012 LHWMP Grant No. EHS2309 between the City of Des Moines and the Seattle-King County Department of Public Health; and the 2012-2013 WR/R Grant No. 529824 between the City of Des Moines and the King County Department of Public Health.

Second Motion: I move to authorize the City Manager to sign the Professional Services Contract for the 2012-2013 Recycling Program between the City of Des Moines and Olympic Environmental Resources substantially in the form as submitted.

Background

Grants

Staff is requesting Council authorize acceptance of three grants for the City's recycling program. The first grant is the 2012-2013 Washington State Department of Ecology's Coordinated Prevention Grant (CPG) Grant (Attachment 1). The second is the 2012 Seattle-King County Department of Public Health Local Hazardous Waste Management Program (LHWMP) Grant (Attachment 2). The third is for the 2012-2013 King County Solid Waste Division Waste Reduction and Recycling (WR/R) Grant (Attachment 3).

The subject grants will fund the City's semi-annual Household Waste Collection and Recycling Events, annual Business Recycling Events, and the purchase of products made from recycled materials for 2012 and 2013.

Professional Services Contract

In addition to maintaining funding for City recycling programs, this agenda item also requests Council secure professional services for planned events in 2012-2013. Specifically, a contract between the City of Des Moines and Olympic Environmental Resources (OER) is requested to be approved. Under the consultant contract, OER will be the event coordinator for all City residential and business recycling and collection events and the purchase of products made from recycled materials through December 2013.

Discussion

The City uses grant funds to sponsor recycling and collection events for Des Moines residents and promotes recycling or the use of recycled-content products. For the 2012-2013 Recycling Program, the City will sponsor two residential recycling collection events per year (i.e. the Fall and Spring events), co-sponsor one business recycling event per year with the Cities of Normandy Park and Burien, and purchase products made from recycled materials, e.g. recycled-product park benches, waste container surrounds, or subsidize the purchase of items such as rainbarrels or compost bins for residents.

This agenda item seeks City Council approval of the CPG contract for 2012-2013, the 2012 LHWMP contract, and the 2012-2013 WR/R contract. The CPG grant will allocate \$32,924 - \$43,924 to the City of Des Moines recycling program for household recycling events in 2012 and 2013. The LHWMP grant will allocate \$23,409.12 for household recycling collection events in 2012. The WR/R grant will allocate \$40,814 for household recycling collection events, business recycling collection events, and the purchase of products made from recycled materials for 2012 and 2013. The City Council is required to review all Interlocal Agreements between the City and other public agencies.

If the City Council accepts the CPG, LHWMP, and WR/R grants for 2012 and 2013, the City will continue to reduce the amount of hazardous and non-hazardous materials going into the local waste stream at no additional cost to the City. Action/acceptance of these grants must be submitted to the grantor agencies prior to February 2012 in order to secure grant funds.

Household Collection and Recycling Events – For over 15 years, the City has used grant monies to sponsor semi-annual Household Waste Collection and Recycling Events. The Spring and Fall Events have proven to be exceptionally popular among Des Moines residents because they provide a local site to recycle materials that are not accepted by the curbside recycling program. Residents will be able to recycle items including oil filters, porcelain toilets and sinks, large cardboard, petroleum based products,

antifreeze, tires, batteries, electronic equipment, scrap metals, appliances, propane tanks, and reusable household items. Additional items will be explored as the materials collected curbside have increased under the new garbage contract that began collection on November 1, 2011.

Business Recycling Event – The annual Business Recycling Events are typically held in July at the Washington Criminal Justice Training Center in SeaTac. The City will pool a portion of its grant resources with the Cities of Normandy Park and Burien to provide a comprehensive recycling event where businesses may drop off items including: clean scrap wood/pallets, electronic equipment, fluorescent lights, cellular phones, office recyclables/cardboard, toner cartridges, and plastics. As with the household collection and recycling events, the Business Recycling Event will accept the above items at little or no cost to business owners.

Products made from Recycled Materials – In order to support the recycling industry and close the recycling loop, the City will purchase products made from recycled materials. The City will support recycling programs by purchasing items such as recycled content rain barrels/compost bins for distribution and/or recycled content park benches/waste container surrounds. These products divert roughly twice their weight in plastic material from the waste stream when produced. The City may install the recycled content benches/waste container surrounds in highly visible areas with a notice that they are made from recycled content. The City would promote rain barrel/compost bin distribution to City residents and distribute them at City Recycling Collection Events.

Professional Services Contract – For more than 15 years, the City has negotiated a contract with Olympic Environmental Resources (OER) to be the Recycling Event coordinator. The 2010-2011 Contract with OER expired on December 31, 2011. The estimated budget for the 2012-2013 Recycling Program is \$108,147.12. Administration initiated a Request for Proposals (RFP) to make sure that all qualified consultants, including women and minority owned businesses, had a chance to compete for the contract.

One proposal, from Olympic Environmental Resources, was received. OER is a qualified candidate due to its extensive experience of working with King County cities for over twenty years on recycling and collection events identical to Des Moines' events. OER also has detailed knowledge of the grant process for King County, the Health Department, and the Department of Ecology. A draft version of the contract between the City of Des Moines and OER is included in this agenda item as Attachment 4.

Alternatives

1. The City Council may accept the 2012-2013 CPG Grant No. G1200217 between the City of Des Moines and the Washington State Department of Ecology; the 2012 LHWMP Grant No. EHS2309 between the City of Des Moines and the Seattle-King County Department of Public Health; and the 2012-2013 WR/R Grant No. 529824 between the City of Des Moines and the King County Department of Public Health, and authorize the City Manager to sign the Professional Services Contract for the 2012-2013 Recycling Program between the City of Des Moines and Olympic Environmental Resources.
2. The City Council may not accept the 2012-2013 CPG Grant No. G1200217 between the City of Des Moines and the Washington State Department of Ecology; the 2012 LHWMP Grant No. EHS2309 between the City of Des Moines and the Seattle-King County Department of Public Health; and the 2012-2013 WR/R Grant No. 529824 between the City of Des Moines and the King County Department of Public Health, and/or may not authorize the City Manager to sign

the Professional Services Contract with Olympic Environmental Resources and forego CPG, LHWMP, and/or WR/R grant funds.

3. The City Council may continue this Agenda Item and request that staff provides additional information on the CPG, LHWMP, and WR/R grant programs and the OER Professional Services Contract. Continuance of this item may result in loss of grant funds for the 2012-2013 grant cycle.

Financial Impact

If the City Council accepts the CPG, LHWMP, and WR/R grants, there will be no fiscal impact to the City related to Contract Numbers G1200217, EHS2309, and 529824. However, if the City Council does not accept the CPG, LHWMP, and WR/R grants, then the City will need to use General Fund monies to maintain the City's recycling program.

Recommendation or Conclusion

Staff recommends that the City Council choose Alternative 1, thereby accepting the 2012-2013 Washington State Department of Ecology CPG Grant, the 2012 Seattle-King County Department of Public Health LHWMP Grant, and the 2012-2013 King County Solid Waste Division Grant, and authorizing the City Manager to sign the OER Professional Services Contract substantially in the form as submitted.

Concurrence

Planning, Building and Public Works and the Legal Departments concur.

**COORDINATED PREVENTION GRANT AGREEMENT
BETWEEN THE
STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF DES MOINES**

Grant No.: G1200217

This is a binding agreement entered into by and between the state of Washington Department of Ecology, hereinafter referred to as ECOLOGY or DEPARTMENT, and the City of Des Moines, hereinafter referred to as the RECIPIENT, to carry out the activities described herein.

JURISDICTION:	City of Des Moines
MAILING ADDRESS:	21630 11th Avenue South, Suite D
CITY, STATE, ZIP:	Des Moines, WA 98198
RECIPIENT GRANT COORDINATOR:	Laura Techico
TELEPHONE:	(206) 870-6595
FAX:	(206) 870-6544
E-MAIL:	ltechico@desmoineswa.gov
RECIPIENT BILLING/INVOICE COORDINATOR:	Paul Devine (Olympic Environmental Resources)
TELEPHONE:	(206) 938-8262
FAX:	(206) 938-9873
E-MAIL:	pauldevine@msn.com
ECOLOGY GRANT OFFICER:	Taisa Welhasch
TELEPHONE:	(425) 649-7266
FAX:	(425) 649-7193
E-MAIL:	taisa.welhasch@ecy.wa.gov
FUNDING SOURCE	Local Toxics Control Account
MAXIMUM ELIGIBLE COST	\$43,898.67
STATE GRANT SHARE	\$32,924
LOCAL SHARE	\$10,974.67
STATE MAXIMUM GRANT PERCENT	75 %
FEDERAL TAX IDENTIFICATION NO.	91-6016496
EFFECTIVE DATE OF THE AGREEMENT	01-01-2012
EXPIRATION DATE OF THE AGREEMENT	06-30-2013

PART 1: SCOPE OF WORK

The task(s) set forth below summarize the RECIPIENT'S activities to be performed under this agreement. Costs are limited to those approved by ECOLOGY as outlined in the current scope of work and budget. The RECIPIENT must complete all deliverables by the expiration date of this agreement, including delivery of purchases, unless otherwise stated in the scope of work or approved by ECOLOGY in writing.

Note: The term "task" as used in this agreement is interchangeable with the term "project" as used on the online Solid Waste Information Clearinghouse and "element" as used on payment request forms.

The "Maximum Eligible Cost" is the maximum amount of eligible costs incurred by a RECIPIENT that ECOLOGY can be reimburse at a rate of 75 percent under this grant.

The RECIPIENT shall identify the work plan and activities by "Quarter". A quarter is defined by calendar year and begins with the first three months of the grant period. The RECIPIENT may negotiate changes to the work plan with the ECOLOGY grant officer. ECOLOGY shall document mutually agreed changes to the plan in writing.

The RECIPIENT is permitted to submit payment requests and progress reports to ECOLOGY coinciding with the Work Plan (instead of quarterly), but no more often than once per month.

CATEGORY: Waste Reduction and Recycling (WRR)

1. TASK TITLE: Recycling Collection Events - Residential

Maximum Eligible Task Cost: \$43,898.67

Task Description: The RECIPIENT, in conjunction with a consultant, will continue to host two residential recycling collection events for City residents in 2012 and one in 2013. The events will provide residents with the opportunity to divert hard-to-recycle items from the waste stream by collecting them for recycling in a convenient City location. Materials residents can bring to the event for reuse and /or recycling include used tires, used anti-freeze, used petroleum-based products, used oil filters, used motor oil, bulky yard waste (large material only), scrap wood, appliances, ferrous metals, nonferrous metals, electronic equipment, computer equipment/TV sets, cellular phones, porcelain toilets and sinks, propane tanks, and other materials such as mattresses and polystyrene whenever practical. The event will also serve as an opportunity to distribute educational materials on how to reduce waste and recycle using City sponsored or private sector recycling programs.

The RECIPIENT will credit the grant for any revenue received from the collection of fees or commodity sales on items the grant is supporting. Costs for disposal of non-recyclable components are not eligible unless they are a direct and unavoidable byproduct of a recycling activity (e.g. emptied jugs used for waste motor oil or antifreeze).

Costs covered under the E-Cycle Washington program are not CPG eligible. Furthermore, as of January 1, 2013, when implementation of the Mercury Containing Lights Law (Chapter 70.275 RCW) begins, expenses covered under the law will not be eligible for CPG reimbursement. Consult your grant officer for more information.

Goal Statement: The goal of this task is to decrease the amount of organic waste, moderate risk waste (MRW), and other hard-to-recycle items being landfilled or illegally dumped by holding collection events in a convenient City location for residents.

Outcome Statement: Over the 18-month grant period, the RECIPIENT expects to recycle between 115-125 tons of material from the residential waste stream and serve 1,150-1,300 households. Below is the summary of these estimated outcomes:

Organics diversion: 6-10 tons
MRW diversion: 12-15 tons
Recycling/Reuse: 90-100 tons
Residential contacts: 24,200
Residential participants: 1,150-1,300

Work Plan, Deliverables and Activities Timeline:

Quarter	Activity
Q1	Arrange date and site for event. Arrange event vendors. Develop event publicity, print, sort, and mail event flyer. Hold recycling collection event in March. Recycle materials collected. Prepare project progress report and payment request for grant reimbursement.
Q4	Arrange date and site for event. Arrange event vendors. Develop event publicity, print, sort, and mail event flyer. Hold recycling collection event in March. Recycle materials collected. Prepare project progress report and payment request for grant reimbursement.
Q5	Arrange date and site for event. Arrange event vendors. Develop event publicity, print, sort, and mail event flyer. Hold recycling collection event in March. Recycle materials collected. Prepare project progress report and payment request for grant reimbursement.

Method of Evaluation: The RECIPIENT will track and report, the number of events held, the number of event participants and the volume of each material collected in tons as reported from event vendors and from material delivered to recycling centers.

PART 2: BUDGET

TASK	Maximum Eligible Cost
[Category]: Waste Reduction and Recycling	\$ 43,898.67
1. [Task Title]: Recycling Collection Events - Residential	\$ 43,898.67
TOTAL MAXIMUM ELIGIBLE COST	\$ 43,898.67
STATE SHARE (75%)	\$ 32,924
LOCAL CASH MATCH (25%)	\$ 10,974.67

PART 3: BUDGET CONDITIONS

- A. ECOLOGY requires the RECIPIENT to provide a match of 25 percent of the maximum eligible cost with cash or interlocal costs. Interlocal costs are the only type of in-kind contributions the RECIPIENT may use as match.
- B. If parties are contributing to the local share of task costs (match) through interlocal-in kind contributions, the RECIPIENT shall negotiate a memoranda of understanding or other written agreement confirming the contribution between the parties. These agreements shall specify the exact work to be accomplished and be signed by all parties contributing to the local match of this task. Copies of these agreements shall be made part of the RECIPIENT'S grant file and submitted to ECOLOGY.
- C. Overhead is eligible at a rate up to 25 percent of staff salaries and benefits for actual time spent on tasks outlined in this agreement. Salaries and benefits to administer the grant agreement are eligible (excluding time spent to write a grant application).
- D. The RECIPIENT must submit a written request to ECOLOGY to amend budgets between grant tasks, to modify a scope of work, or for a budget increase or decrease. To increase or decrease the agreement's total maximum eligible cost or change the scope of work for any tasks as outlined in this grant agreement, ECOLOGY requires a formal amendment.
- E. The RECIPIENT must provide ECOLOGY with an updated Spending Plan when requested by ECOLOGY.
- F. Any work performed or costs incurred prior to the effective date or after the expiration date of this agreement will be at the sole expense of the RECIPIENT.

PART 4: SPECIAL TERMS AND CONDITIONS

A. BILLING

1. Unless otherwise approved in writing by ECOLOGY, the RECIPIENT shall submit a payment request to ECOLOGY at least quarterly (by calendar year), but no more often than once per month.
2. The RECIPIENT must submit payment requests on approved State Invoice Voucher forms: A19-1A, B1/B2, C1/C2. Until there is a change in agency policy, the recipient must submit an A-19 signed in blue ink by an authorized person. The B2 and C2 forms are acceptable in electronic format. The RECIPIENT must also include all backup documentation to support items listed on Form C1/C2. The budget is organized by task and therefore, the RECIPIENT shall itemize costs by task on Form C1/C2 and Form B1/B2. Forms B1 and C1 are used only when interlocal costs are used towards the 25% match.
3. Any income directly generated as a result of the activities funded by this grant shall be reported as a credit against the expenses of that activity, as required by ECOLOGY'S *Administrative Requirements for Recipients of Ecology Grants and Loans*, Ecology Publication #91-18.
4. Payment to RECIPIENT will be issued through Washington State's Department of Enterprise Services (DES). DES maintains a central vendor file for Washington state agency use to process vendor payments. This allows vendors to receive payments from all participating state agencies. RECIPIENTS must register as a state-wide vendor (SWV) by submitting a state-wide vendor registration form and an IRS W-9 form http://www.ofm.wa.gov/isd/vendors/payee_registration.doc to DES. If you have questions about the vendor registration process you can contact DES at the Payee Help Desk at (360) 664-7779 or email to payeehelpdesk@ofm.wa.gov.

B. REPORTING

1. The RECIPIENT shall submit a progress report with each payment request but no less often than quarterly unless otherwise approved by ECOLOGY. These reports shall include activities that support incurred costs shown on the C1 or C2 of the payment request, and must be submitted on-line through the Solid Waste Information Clearinghouse.
2. RECIPIENT's must submit a final report of task outcomes through the Solid Waste Information Clearinghouse. The final report must be submitted before ECOLOGY can process a final payment request.
 - a. Final Performance Analysis (FPA) reports are used for all *Planning and Implementation* tasks and special tasks in a solid waste enforcement grant (special tasks do not include regular solid waste enforcement work such as enforcing solid waste codes).
 - b. For *Solid Waste Enforcement* tasks, recipients must submit their final quarterly solid waste enforcement progress report.

C. DOCUMENTATION

1. The RECIPIENT shall submit supporting documents with each payment request. This includes cancelled checks, invoices, purchase receipts, payroll records, time and attendance records, contract award documents, and any document deemed relevant by ECOLOGY to establish the approval of an expense listed on Form C1/C2. Documentation shall be clear and legible and organized by task in the order in which it is itemized on Form C1/C2.
2. The RECIPIENT shall maintain grant related material and supporting documents including invoice vouchers sent to ECOLOGY in a common file. The Recipient shall keep all supporting documents for audit purposes for at least three years from the date the agreement is closed by ECOLOGY.
3. The RECIPIENT shall use the ECOLOGY provided Form E, or an equivalent time accounting document approved by ECOLOGY, to record staff hours being charged to the grant.

D. TRAINING

The RECIPIENT agrees to participate in any ECOLOGY recommended trainings related to managing a CPG agreement.

E. MINORITY AND WOMEN'S BUSINESS PARTICIPATION

The RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

- a) Include qualified minority and women's businesses on solicitation lists.
- b) Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e) Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
- f) The RECIPIENT should report payments made to qualified firms to ECOLOGY at the time of submitting each invoice. Please include the following information on ECOLOGY provided form (Form D).

- g) Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
- h) The total dollar amount paid to qualified firms under this invoice.

F. PROCUREMENT AND CONTRACTS

- a) The RECIPIENT shall provide written certification that it will follow its standard procurement procedures and/or applicable state law in awarding contracts; RECIPIENTS with no formal procurement procedures must certify that they have complied with the "Standards for Competitive Solicitation," found in Part V of the *Administrative Requirements for Recipients of Ecology Grants and Loans – Yellow Book*, Ecology Publication #91-18 (Revised September 2005).
- b) Upon issuance, the RECIPIENT shall submit a copy of all requests for qualifications (RFQs), requests for proposals (RFPs), and bid documents relating to this grant agreement to ECOLOGY'S grant officer.
- c) Prior to contract execution, the RECIPIENT shall submit all draft documents and a copy of the draft proposed contract to ECOLOGY'S grant officer for review. Following the contract execution, the RECIPIENT shall submit a copy of the final contract to ECOLOGY's assigned grant officer.
- d) Unless a specific purchase of equipment or real property is already written into the grant agreement, the RECIPIENT must submit a written request to ECOLOGY to purchase any equipment or real property (Property) with a single unit purchase price of \$5,000 or more. The request shall include the justification for the purchase of the property, the total cost, the intended use, and the anticipated useful life of the property. The request must be approved in writing by ECOLOGY prior to the purchase.

G. USE OF EXISTING CONTRACTS

The RECIPIENT may use existing contracts that conform to adopted procurement procedures and applicable state laws. The RECIPIENT shall notify ECOLOGY if it used contracts entered into prior to the execution of the grant agreement for performance of grant-funded activities. The RECIPIENT shall submit a copy of the contract to its assigned ECOLOGY grant officer. The grant eligibility of products or services secured by the RECIPIENT under existing contracts used to perform the scope of work in this agreement must be deemed allowable and reasonable by ECOLOGY prior to cost reimbursement.

H. PROPERTY AND EQUIPMENT MANAGEMENT AND DISPOSITION

For equipment or property purchased with a cost of at least \$5,000 per unit or functional system, the RECIPIENT must utilize an inventory control system, including physical inventory to document the ongoing use, a description of the item (including serial or vehicle identification number (VIN) when possible), and location. This information shall be submitted to ECOLOGY upon request until final disposition is made. The RECIPIENT shall investigate, document, and report to ECOLOGY any loss, theft or damage upon discovery of such conditions. The RECIPIENT will follow manufacturer recommended maintenance procedures to keep the property in good operating condition.

The RECIPIENT shall submit a written request to the ECOLOGY for any intent to change the use of the equipment as outlined in this grant agreement, including uses past the expiration date of this agreement. Disposition of the equipment shall be determined by ECOLOGY and documented in writing. A copy of the determination will be provided to the RECIPIENT upon ECOLOGY's closure of the grant agreement.

- If the equipment is necessary for the continued operation of the project or other projects administered through ECOLOGY, the grant officer may instruct the recipient to retain the equipment with no further compensation to ECOLOGY.
- If the project has no further significant use for the equipment, the grant officer may instruct the recipient to retain or sell the equipment and pay ECOLOGY an amount equal to ECOLOGY's share of the current fair market value, sale proceeds or other price agreed upon by the grant officer.
- The grant officer may instruct the recipient to transfer title to ECOLOGY or to a third party named by ECOLOGY who is eligible under existing statutes.

I. ALL WRITINGS CONTAINED HEREIN

This agreement, including the "General Terms and Conditions," Program Guidelines – Coordinated Prevention Grants 2012-2013, and ECOLOGY'S *Administrative Requirements for Recipients of Ecology Grants and Loans*, Ecology Publication #91-18, contain the entire understanding between the parties, and there are no other understandings or representations except as those set forth or incorporated by reference herein. No subsequent modification(s) or amendment(s) of this grant agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made part of this agreement.

J. ARCHEOLOGICAL AND CULTURAL RESOURCES

The RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to the archeological or cultural resources. RECIPIENT shall immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this agreement. In the event that historical or cultural artifacts are discovered at the project site, the RECIPIENT shall also notify the state historic preservation officer at the Department of Archaeology and Historic Preservation at (360) 586-3065. Applicability of the National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact historic properties (such as invasive sampling, dredging, or cleanup actions).

K. ENVIRONMENTALLY PREFERRABLE PURCHASING

In a joint effort to save costs, produce energy savings and prevent waste, the RECIPIENT agrees to use both sides of paper sheets for copying and printing. The RECIPIENT also agrees to purchase paper products with a high level of post consumer recycled content whenever it is comparable in quality, availability and price

PART 5: GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements of the Department of Ecology, SS-010 Rev. 04/04

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied

by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Recipients of Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6 herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.
3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g. recycled paper). For more information, see www.ecy.wa.gov/sustainability.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project

described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

IN WITNESS WHEREOF, the parties sign this Agreement:

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

CITY OF DES MOINES

Laurie G. Davies
Program Manager
Waste 2 Resources Program

Date

Date

Printed Name and Title of Signatory

APPROVED AS TO FORM ONLY Assistant Attorney General

PROCUREMENT CERTIFICATION FORM

Recipient: City of Des Moines

Grant Name: COORDINATED PREVENTION GRANT

Grant No.: G1200217

The undersigned, on behalf of the RECIPIENT, certifies that the RECIPIENT:

(RECIPIENT check and complete one of the following)

___ will follow RECIPIENT's own adopted procurement procedures and applicable state law in procuring grant-related public works contracts, professional and personal services contracts, and purchase agreements. The procurement procedures were adopted _____ (date) by _____ (adopting authority) and are recorded in _____ (document name).

___ having no applicable, adopted procurement procedures, will follow the Standards for Competitive Solicitation found in the Administrative Requirements for Ecology Grants and Loans, WDOE 91-18 (Revised September 2005) (AKA the "Yellow Book"), and applicable state laws in procuring grant-related public works contracts, professional and personal services contracts, and purchase agreements.

AUTHORIZED SIGNATURE DATE

TITLE

LEGAL COUNSEL SIGNATURE DATE

TITLE



King County Contract No. EHS2309
Federal Taxpayer ID No. 91-6016496

This form is available in alternate formats for people with disabilities upon request.

**KING COUNTY CONTRACT FOR SERVICES WITH OTHER GOVERNMENT, INSTITUTION,
OR JURISDICTION – 2012**

Department Division	Seattle-King County Dept. of Public Health (a.k.a. Public Health – Seattle & King County)/EHS	
Contractor	City of Des Moines	
Project Title	Local Hazardous Waste Management Program	
Contract Amount	Eleven Thousand Five Hundred Fifty Nine Dollars and Twelve Cents	
Contract Period	Start date: 01/01/2012	End date: 12/31/2012

THIS CONTRACT is entered into by KING COUNTY (the "County"), and City of Des Moines (the "Contractor"), whose address is 21630 11th Ave. S, Suite "D", Des Moines, WA 98198.

WHEREAS, the County has been advised that the following are the current funding sources, funding levels and effective dates:

FUNDING SOURCES	FUNDING LEVELS	EFFECTIVE DATES
COUNTY		
HW - Incorporated Cities	\$11,559.12	1/1/2012 - 12/31/2012
TOTAL	\$11,559.12	1/1/2012 - 12/31/2012

and

WHEREAS, the County desires to have certain services performed by the Contractor as described in this Contract, and as authorized by the 2012 Annual Budget.

NOW THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

I Incorporation of Exhibits

The Contractor shall provide services and comply with the requirements set forth in the following attached exhibits, which are incorporated herein by reference:

A Program Exhibits and Requirements

- Exhibit A: Scope of Work
- Exhibit B: Budget
- Exhibit C: Invoice

B King County Required Forms

- Exhibit D: Certificate of Insurance and Additional Insured Endorsement

II Term and Termination

- A** This Contract shall commence on 01/01/2012, and shall terminate on 12/31/2012, unless extended or terminated earlier, pursuant to the terms and conditions of the Contract.

- B This Contract may be terminated by the either party without cause, in whole or in part, prior to the date specified in Subsection II.A. above, by providing the other party thirty (30) days advance written notice of the termination.
- C The County may terminate this Contract, in whole or in part, upon seven (7) days advance written notice in the event: (1) the Contractor materially breaches any duty, obligation, or service required pursuant to this Contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Contract is terminated by the County pursuant to this Subsection II.C. (1), the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Contractor, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Contractor shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Contractor by the County.

- D If County or other expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth above in Subsection II.A., the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.

If the Contract is terminated as provided in this Subsection: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

Funding or obligation under this Contract beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in the Contract. Should such appropriation not be approved, this Contract will terminate at the close of the current appropriation year.

- E Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract or law that either party may have in the event that the obligations, terms, and conditions set forth in this Contract are breached by the other party.

III Compensation and Method of Payment

- A The County shall reimburse the Contractor for satisfactory completion of the services and requirements specified in this Contract, payable in the following manner:
Upon receipt and approval of a signed invoice as set forth in Exhibit C that complies with the budget in Exhibit B.
- B The Contractor shall submit an invoice and all accompanying reports as specified in the attached exhibits not more than 60 working days after the close of each indicated reporting period. The County will initiate authorization for payment after approval of corrected invoices and reports. The County shall make payment to the Contractor not more than 30 days after a complete and accurate invoice is received.
- C The Contractor shall submit its final invoice and all outstanding reports within 90 days of the date this Contract terminates. If the Contractor's final invoice and reports are not submitted by the day specified in this subsection, the County will be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice.
- D When a budget is attached hereto as an exhibit, the Contractor shall apply the funds received from the County under this Contract in accordance with said budget. The contract may contain separate budgets for separate program components. The Contractor shall request prior approval from the County for an amendment to this Contract when the cumulative amount of transfers among the budget categories is expected to exceed 10% of the Contract amount in any Contract

budget. Supporting documents necessary to explain fully the nature and purpose of the amendment must accompany each request for an amendment.

- E If travel costs are contained in the attached budget, reimbursement of Contractor travel, lodging, and meal expenses are limited to the eligible costs based on the following rates and criteria.
- 1 The mileage rate allowed by King County shall not exceed the current Internal Revenue Service (IRS) rates per mile as allowed for business related travel. The IRS mileage rate shall be paid for the operation, maintenance and depreciation of individually owned vehicles for that time which the vehicle is used during work hours. Parking shall be the actual cost. When rental vehicles are authorized, government rates shall be requested. If the Contractor does not request government rates, the Contractor shall be personally responsible for the difference. Please reference the federal web site for current rates: <http://www.gsa.gov>.
 - 2 Reimbursement for meals shall be limited to the per diem rates established by federal travel requisitions for the host city in the Code of Federal Regulations, 41 CFR § 301, App.A.
 - 3 Accommodation rates shall not exceed the federal lodging limit plus host city taxes. The Contractor shall always request government rates.
 - 4 Air travel shall be by coach class at the lowest possible price available at the time the County requests a particular trip. In general, a trip is associated with a particular work activity of limited duration and only one round-trip ticket, per person, shall be billed per trip.

IV Internal Control and Accounting System

The Contractor shall establish and maintain a system of accounting and internal controls which complies with applicable, generally accepted accounting principles, and governmental accounting and financial reporting standards.

V Debarment and Suspension Certification

Agencies receiving federal funds that are debarred, suspended, or proposed for debarment are excluded from contracting with the County. The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor also agrees that it will not enter into a subcontract with a contractor that is debarred, suspended, or proposed for debarment. The Contractor agrees to notify King County in the event it, or a subcontractor, is debarred, suspended, or proposed for debarment by any Federal department or agency. For more information on suspension and debarment, see Federal Acquisition Regulation 9.4.

VI Maintenance of Records/Evaluations and Inspections

- A The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records as may be deemed necessary by the County to ensure proper accounting for all Contract funds and compliance with this Contract.
- B In accordance with the nondiscrimination and equal employment opportunity requirements set forth in Section XIV. below, the Contractor shall maintain the following:
- 1 Records of employment, employment advertisements, application forms, and other pertinent data, records and information related to employment, applications for employment or the administration or delivery of services or any other benefits under this Contract; and
 - 2 Records, including written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate on this Contract, and any other information necessary to document the actual use of and payments to subcontractors and suppliers in this Contract, including employment records.

The County may visit, at any mutually agreeable time, the site of the work and the Contractor's office to review the foregoing records. The Contractor shall provide every assistance requested by the County during such visits. In all other respects, the Contractor shall make the foregoing

records available to the County for inspection and copying upon request. If this Contract involves federal funds, the Contractor shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.

- C Except as provided in Section VII of this Contract, the records listed in A and B above shall be maintained for a period of six (6) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with Revised Code of Washington (RCW) Chapter 40.14.
- D Medical records shall be maintained and preserved by the Contractor in accordance with state and federal medical records statutes, including but not limited to RCW 70.41.190, 70.02.160, and standard medical records practice. If the Contractor ceases operations under this Contract, the Contractor shall be responsible for the disposition and maintenance of such medical records.
- E The Contractor agrees to cooperate with the County or its agent in the evaluation of the Contractor's performance under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.56.
- F The Contractor agrees that all information, records, and data collected in connection with this Contract shall be protected from unauthorized disclosure in accordance with applicable state and federal law.

VII **Compliance with the Health Insurance Portability Accountability Act of 1996 (HIPAA)**

The Contractor shall not use protected health information created or shared under this Contract in any manner that would constitute a violation of HIPAA and any regulations enacted pursuant to its provisions. Contractor shall read and certify compliance with all HIPAA requirements at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>

VIII **Audits**

- A If the Contractor or subcontractor is a municipal entity or other government institution or jurisdiction, or is a non-profit organization as defined in OMB Circular A-133, and expends a total of \$500,000 or more in federal financial assistance and has received federal financial assistance from the County during its fiscal year, then the Contractor or subcontractor shall meet the respective A-133 requirements described in subsections VIII.B. and VIII.C.
- B If the Contractor is a non-profit organization, it shall have an independent audit conducted of its financial statement and condition, which shall comply with the requirements of GAAS (generally accepted auditing standards); GAO's Standards for Audits of Governmental Organizations, Programs, Activities, and Functions; and OMB Circular A-133, as amended, and as applicable. The Contractor shall provide a copy of the audit report to each County division providing financial assistance to the Contractor no later than six (6) months subsequent to the end of the Contractor's fiscal year. The Contractor shall provide to the County its response and corrective action plan for all findings and reportable conditions contained in its audit. When reference is made in its audit to a "Management Letter" or other correspondence made by the auditor, the Contractor shall provide copies of those communications and the Contractor's response and corrective action plan. Submittal of these documents shall constitute compliance with subsection VIII.A.
- C If the Contractor is a municipal entity or other government institution or jurisdiction, it shall submit to the County a copy of its annual report of examination/audit, conducted by the Washington State Auditor, within thirty (30) days of receipt, which submittal shall constitute compliance with subsection VIII.A.
- D If the Contractor, for-profit or non-profit, receives in excess of \$100,000 in funds during its fiscal year from the County, it shall provide a fiscal year financial statement prepared by an independent Certified Public Accountant or Accounting Firm within six (6) months subsequent to the close of the Contractor's fiscal year.

- E Additional audit or review requirements which may be imposed on the County will be passed on to the Contractor and the Contractor will be required to comply with any such requirements.

IX Corrective Action

If the County determines that a breach of contract has occurred, that is, the Contractor has failed to comply with any terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

- A The County will notify the Contractor in writing of the nature of the breach;
The Contractor shall respond in writing within three (3) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than ten (10) days from the date of the Contractor's response, unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- B The County will notify the Contractor in writing of the County's determination as to the sufficiency of the Contractor's corrective action plan. The determination of sufficiency of the Contractor's corrective action plan shall be at the sole discretion of the County;
- C In the event that the Contractor does not respond within the appropriate time with a corrective action plan, or the Contractor's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Section II.C.;
- D In addition, the County may withhold any payment owed the Contractor or prohibit the Contractor from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- E Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section II. Subsections B, C, D, and E.

X Dispute Resolution

The parties shall use their best, good-faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will make a good faith effort to continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve the dispute under this section.

XI Hold Harmless and Indemnification

- A In providing services under this Contract, the Contractor is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.
The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the Contractor, its employees, subcontractors and/or others by reason of this Contract. The Contractor shall protect, indemnify, and save harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Contractor's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the Contractor of work, services, materials, or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Contract.
- B The Contractor further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception which occurs due to the negligence, intentional act,

and/or failure, for any reason, to comply with the terms of this Contract by the Contractor, its officers, employees, agents, or subcontractors. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract or the Termination section.

- C The Contractor shall defend, indemnify, and hold harmless the County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Contractor, its officers, employees, subcontractors and/or agents in its performance or non-performance of its obligations under this Contract. In the event the County incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor.
- D The County shall defend, indemnify, and hold harmless the Contractor, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arise out of, or in any way result from, the negligent acts or omissions of the County, its officers, employees, or agents in its performance or non-performance of its obligations under this Contract. In the event the Contractor incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the County.
- E Claims shall include, but not be limited to, assertions that use or transfer of software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.
- F Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.
- G The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

XII Insurance Requirements

By the date of execution of this Contract, the Contractor shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the Contractor, its agents, representatives, employees, and/or subcontractors. The costs of such insurance shall be paid by the Contractor or subcontractor. The Contractor may furnish separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with the insurance requirements of this Contract. The Contractor is responsible for ensuring compliance with all of the insurance requirements stated herein. Failure by the Contractor, its agents, employees, officers, subcontractors, providers, and/or provider subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Contract. Specific coverages and requirements are at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>; contractors shall read and certify compliance.

XIII Assignment/Subcontracting

- A The Contractor shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the County. Said consent must be sought in writing by the Contractor not less than fifteen (15) days prior to the date of any proposed assignment.
- B "Subcontract" shall mean any agreement between the Contractor and a subcontractor or between subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (1) support services not related to the subject matter of this Contract, or (2) supplies.

- C The Contractor shall include Sections III.D., IV, V, VI, VII, VIII, XI, XII, XIV, XV, XXI, and XXV, in every subcontract or purchase agreement for services that relate to the subject matter of this Contract.
- D The Contractor agrees to include the following language verbatim in every subcontract, provider agreement, or purchase agreement for services which relate to the subject matter of this Contract:

"Subcontractor shall protect, defend, indemnify, and hold harmless King County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the negligent act or omissions of subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract. Subcontractor expressly agrees and understands that King County is a third party beneficiary to this Contract and shall have the right to bring an action against subcontractor to enforce the provisions of this paragraph."

XIV Nondiscrimination and Equal Employment Opportunity

The Contractor shall comply with all applicable federal, state and local laws regarding discrimination, including those set forth in this Section.

During performance of the Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification. The Contractor will make equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. Additional requirements are at <http://www.kingcounty.gov/healthservices/health/partnerships/contracts>; contractors shall read and certify compliance.

XV Conflict of Interest

- A The Contractor agrees to comply with applicable provisions of K.C.C. 3.04. Failure to comply with such requirements shall be a material breach of this contract, and may result in termination of this Contract pursuant to Section II and subject the Contractor to the remedies stated therein, or otherwise available to the County at law or in equity.
- B The Contractor agrees, pursuant to KCC 3.04.060, that it will not willfully attempt to secure preferential treatment in its dealings with the County by offering any valuable consideration, thing of value or gift, whether in the form of services, loan, thing or promise, in any form to any county official or employee. The Contractor acknowledges that if it is found to have violated the prohibition found in this paragraph, its current contracts with the county will be cancelled and it shall not be able to bid on any county contract for a period of two years.
- C The Contractor acknowledges that for one year after leaving County employment, a former county employee may not have a financial or beneficial interest in a contract or grant that was planned, authorized, or funded by a county action in which the former county employee participated during county employment. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former County employees involved in this transaction may result in the County's denying or terminating this Contract. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

XVI Equipment Purchase, Maintenance, and Ownership

- A The Contractor agrees that any equipment purchased, in whole or in part, with Contract funds at a cost of \$5,000 per item or more, when the purchase of such equipment is reimbursable as a Contract budget item, is upon its purchase or receipt the property of the County and/or

federal/state government. The Contractor shall be responsible for all such property, including the proper care and maintenance of the equipment.

- B The Contractor shall ensure that all such equipment will be returned to the County or federal/state government upon termination of this Contract unless otherwise agreed upon by the parties.

XVII Proprietary Rights

The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the party that produces such material or article. If any patentable or copyrightable material or article should result from the work described herein and is jointly produced by both parties, all rights accruing from such material or article shall be owned in accordance with US Patent Law. Each party agrees to and does hereby grant to the other party, irrevocable, nonexclusive, and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this Contract.

The foregoing products license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor which are modified for use in the performance of this Contract.

The foregoing provisions of this section shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor that are not modified for use in the performance of this Contract.

XVIII Political Activity Prohibited

None of the funds, materials, property, or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

XIX King County Recycled Product Procurement Policy

In accordance with King County Code 10.16, the Contractor shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Contract. In addition, the Contractor shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical in the fulfillment of this Contract.

XX Future Support

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted herein except as expressly set forth in this Contract.

XXI Entire Contract/Waiver of Default

The parties agree that this Contract is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Contract. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such through written approval by the County, which shall be attached to the original Contract.

XXII Contract Amendments

Either party may request changes to this Contract. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Contract.

XXIII Notices

Whenever this Contract provides for notice to be provided by one party to another, such notice shall be in writing and directed to the chief executive office of the Contractor and the project representative of the

County department specified on page one of this Contract. Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

XXIV Services Provided in Accordance with Law and Rule and Regulation

The Contractor and any subcontractor agree to abide by the laws of the state of Washington, rules and regulations promulgated thereunder, and regulations of the state and federal governments, as applicable, which control disposition of funds granted under this Contract, all of which are incorporated herein by reference.

In the event that there is a conflict between any of the language contained in any exhibit or attachment to this Contract, the language in the Contract shall have control over the language contained in the exhibit or the attachment, unless the parties affirmatively agree in writing to the contrary.

XXV Applicable Law

This contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue for any action hereunder shall be in the Superior Court for King County, Washington.

XXVI No Third Party Beneficiaries

Except for the parties to whom this contract is assigned in compliance with the terms of this contract, there are no third party beneficiaries to this contract, and this contract shall not impart any rights enforceable by any person or entity that is not a party hereto.

IN WITNESS HEREOF, the parties hereby agree to the terms and conditions of this Contract:

KING COUNTY

City of Des Moines

FOR

King County Executive

Signature

Date

NAME (Please type or print)

Date

Approved as to Form:

OFFICE OF THE KING COUNTY PROSECUTING ATTORNEY

PHSKC Contract # - Local Hazardous Waste Management Program

EXHIBIT A

CITY OF DES MOINES 2012 SCOPE OF WORK

The Local Hazardous Waste Management Plan (hereafter referred to as the "Plan") as updated in 1997 and 2010, was adopted by the partner agencies (King County Solid Waste Division, Seattle Public Utilities, King County Water and Land Resources Division and the Seattle-King County Department of Public Health) and cities located in King County. The Washington State Department of Ecology in accordance with RCW 70.105.220 subsequently approved the Plan. The City is an active and valued partner in the regional Local Hazardous Waste Management Program (hereafter referred to as the "Program").

The purpose of this Exhibit is to define the terms and conditions associated with the Program's funding of City activities performed under the auspices of the Plan and as approved by the Program's Management Coordination Committee (hereinafter referred to as the "MCC"). This Agreement further defines the responsibilities of the City and Seattle-King County Department of Public Health with respect to the transfer of Program monies.

Scope of Work

The City of Des Moines will organize two citywide household hazardous waste collection and recycling events. At these events the following materials will be collected and recycled: motor oil, motor oil filters, petroleum based products, antifreeze, batteries, CFC appliances and other materials if determined to be cost effective.

Responsibilities of the Parties

The responsibilities of the parties to this Contract shall be as follows:

A. The City

1. The City shall develop and submit project proposals and budget requests to the Program's Contract Administrator. Funds provided to the City by the Local Hazardous Waste Management Program pursuant to this Contract shall be used to implement hazardous waste programs and/or services as approved by the MCC.
2. For reimbursement the City shall submit the following to the Fund Manager:
 - a) An invoice (see Exhibit C). Invoices should be sent to the Fund Manager for approval and payment.
 - b) A brief description of activity accomplished and funds expended in accordance with the scope of work.
 - c) Copies of invoices for expenditures or a financial statement prepared by the City's finance department. The financial statements should include vendor names, a description of services provided, date paid and a check or warrant number.

3. The City shall notify the Fund Manager no later than December 15th regarding the amount of outstanding expenditures for which the City has not yet submitted a reimbursement request.
4. It is the responsibility of the City to comply with all applicable county, state and/or federal reporting requirements with respect to the collection and transfer of moderate risk wastes. The City shall report to the Contract Administrator the quantity, by type, of moderate risk waste collected using Program funds. The City shall also provide the Contract Administrator with copies of EPA's Non-Hazardous Waste Manifest or similar form, associated with the transport of moderate risk waste collected through Program-funded events.
5. The City is solely responsible for any and all spills, leaks or other emergencies arising at the facilities associated with the City's events or in any other way associated with activities conducted within the scope of this Contract. In the event of a spill or other emergency, the City is responsible for complying with all applicable laws and regulations.
6. The City agrees to appropriately acknowledge the Program in all media produced – in part or in whole – with Program funds. The intent of this provision is to further strengthen this regional partnership in the public's mind.
7. The City agrees to provide the Program with copies of all media material produced for local hazardous waste management events or activities that have been funded by the Program. The City also agrees to allow the Program to reproduce media materials created with Program money provided that the Program credits the City as the originator of that material.
8. This project shall be administered by Laura Techico at the City of Des Moines, 21630 11th Ave. S, Suite "D", Des Moines, at (206) 870-6595, (ltechico@desmoineswa.gov) or her designee.
9. Questions or concerns regarding any issue associated with this Exhibit that cannot be handled by the Contract Administrator or Fund Manager should be referred to the LHWMP Program Administrator for resolution.

B. Seattle-King County Department of Public Health

1. Seattle-King County Department of Public Health shall administer, via the attached Contract, the transfer of Program funds to the City for hazardous waste management events and activities.
2. Within ten (10) working days of receiving a request for reimbursement from the City, the Fund Manager shall either notify the City of any exceptions to the request which have been identified or shall process the request for payment. If any exceptions to the request are made, this shall be done by written notification to the City providing the reason for such exception. The Fund Manager will not authorize payment for activities and/or expenditures that are not included in the scope of work, unless the scope has been amended. The Fund Manager retains the right to withhold all or partial payment if the City's invoices are incomplete (e.g. they do not include proper documentation of expenditures for which reimbursement is being requested) or are not consistent with the submitted scope of work.

C. Program Contacts

Jay Watson
LHWMP Program Administrator
150 Nickerson Street, Suite 100
Seattle, WA 98109
206-352-8163
jay.watson@kingcounty.gov

Madelaine Yun
LHWMP Fund Manager
150 Nickerson Street, Suite 100
Seattle, WA 98109
206-352-7128
madelaine.yun@kingcounty.gov

Paul Shallow
LHWMP Contract Administrator
401 Fifth Avenue, Suite 1100
Seattle, WA 98104
206-263-8487
paul.shallow@kingcounty.gov

EXHIBIT B

2012 BUDGET

LOCAL HAZARDOUS WASTE MANAGEMENT PROGRAM

The City of Des Moines
21630 11th Ave S, Suite "D"
Des Moines, WA 98198

Component Description	Budget
Household Hazardous Waste Education	
Household Hazardous Waste Collection	\$11,559.12
TOTAL	\$11,559.12

EXHIBIT C

2012 INVOICE

LOCAL HAZARDOUS WASTE MANAGEMENT PROGRAM

From: The City of Des Moines
21630 11th Ave S, Suite "D"
Des Moines, WA 98198

To: Madelaine Yun, LHWMP Fund Manager
Local Hazardous Waste Management Program in King County
Public Health, Seattle & King County
150 Nickerson St., Suite 100
Seattle, WA 98109

Contract #EHS2309

Period of time: _____, 2012 to _____, 2012.

In performance of a signed Contract between King County and the City of Des Moines, I hereby certify that the following expenses were incurred during the above-mentioned period of time.

Signature

Date

Component Description	Budget	Current Expenses	Previous Charges	Balance
HHW Education				
HHW Collection	\$11,559.12			
TOTAL	\$11,559.12			

For Health Department Use Only

Local Hazardous Waste Management Program Approval:

Madelaine Yun

Date

INTERAGENCY AGREEMENT FOR 2012-2013

Between

KING COUNTY and the CITY OF DES MOINES

This two-year Interagency Agreement "Agreement" is executed between King County, a Charter County and political subdivision of the State of Washington, and the City of Des Moines, a municipal corporation of the State of Washington, hereinafter referred to as "County" and "City" respectively. Collectively, the County and City will be referred to as "Party" or "Parties."

PREAMBLE

King County and the City of Des Moines adopted the 2001 King County Comprehensive Solid Waste Management Plan, which includes waste reduction and recycling goals. In order to help meet these goals, the King County Solid Waste Division has established a waste reduction and recycling grant program for the cities that operate under the King County Comprehensive Solid Waste Management Plan. This program provides funding to further the development and/or enhancement of local waste reduction and recycling projects and for broader resource conservation projects that integrate with waste reduction and recycling programs and services. This grant program does not fund household hazardous waste collection activities. Program eligibility and grant administration terms are discussed in the Grant Guidelines, attached to this Agreement as Exhibit B. Grant funding for this program is subject to the yearly budget approval process of the King County Council.

Grant funding approved by the King County Council is available to all King County cities that operate under the King County Comprehensive Solid Waste Management Plan. The City will spend its grant funds to fulfill the terms and conditions set forth in the scope of work which is attached hereto as Exhibit A and incorporated herein by reference. The County expects that any information and/or experience gained through the grant program by the City will be shared with the County and other King County cities.

I. PURPOSE

The purpose of this Agreement is to define the terms and conditions for funding to be provided to the City of Des Moines by the County for waste reduction and recycling programs and/or services as outlined in the scope of work and budget attached as Exhibit A.

II. RESPONSIBILITIES OF THE PARTIES

The responsibilities of the Parties to this Agreement shall be as follows:

A. The City

1. Funds provided to the City by the County pursuant to this Agreement shall be used to provide waste reduction and recycling programs and/or services as outlined in Exhibit A. The total amount of funds available from this grant in 2012 shall not exceed \$20,407. The City understands that even though this Agreement is two years in duration, funding for this program is subject to the yearly budget approval process of the King County Council.
2. This Agreement provides for distribution of 2012 and 2013 grant funds to the City. However, 2013 funds are not available until January 1, 2013, and 2013 funding is contingent upon King County Council approval of the 2013 King County budget. The County shall notify the City in writing of the funding status.
3. During the two-year grant program, the City will submit a minimum of two, but no more than eight, progress reports to the County in a form approved by the County. Reports must be signed by a City official. These reports will include:
 - a. a description of each activity accomplished pertaining to the scope of work; and
 - b. reimbursement requests with either copies of invoices for each expenditure for which reimbursement is requested or a financial statement, prepared by the City's finance department, that includes vendor name, description of service, date of service, date paid and check number.

If the City chooses to submit up to the maximum of eight (8) progress reports and requests for reimbursement during the two year grant program, they shall be due to the County on the last day of the month following the end of each quarter - April 30, July 30, October 31, January 31 - except for the final progress report and request for reimbursement which shall be due by March 31, 2014.

If the City chooses to submit the minimum of two progress reports and requests for reimbursement during the two-year grant program, they shall be due to the County on January 31, 2013 and March 31, 2014.

Regardless of the number of progress reports the City chooses to submit, in order to secure reimbursement, the City must provide in writing to the County by the 5th working day of January 2013 and January 2014, the dollar amount of outstanding expenditures for which the City has not yet submitted a reimbursement request.

4. The City shall submit a final report to the County which summarizes the work completed under the grant program and evaluates the effectiveness of the projects for which grant funds were utilized, according to the evaluation methods specified in the scope of work. The final report is due within six months of completion of the project(s) outlined in the scope of work, but no later than June 30, 2014.

5. If the City accepts funding through this grant program for the provision of Waste Reduction and Recycling programs and projects for other incorporated areas of King County, the City shall explain the relationship with the affected adjacent city or cities that allows for acceptance of this funding and the specifics of the proposed programs and projects within the scope of work document related thereto.
6. The City shall be responsible for following all applicable Federal, State and local laws, ordinances, rules and regulations in the performance of work described herein. The City assures that its procedures are consistent with laws relating to public contract bidding procedures, and the County neither incurs nor assumes any responsibility for the City's bid, award or contracting process.
7. During the performance of this Agreement, neither the City nor any Party subcontracting under the authority of this Agreement shall discriminate on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental, or physical handicap in the employment or application for employment or in the administration or delivery of or access to services or any other benefits under this Agreement as defined by King County Code, Chapter 12.16.
8. During the performance of this Agreement, neither the City nor any Party subcontracting under the authority of this Agreement shall engage in unfair employment practices as defined by King County Code, Chapter 12.18. The City shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.
9. The City shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Agreement. The City shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical.
10. The City shall maintain accounts and records, including personnel, financial, and programmatic records, and other such records as may be deemed necessary by the County, to ensure proper accounting for all project funds and compliance with this Agreement. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and service provided in the performance of this Agreement.

These records shall be maintained for a period of six (6) years after termination hereof unless permission to destroy them is granted by the Office of the State Archivist in accordance with RCW Chapter 40.14. These accounts shall be subject to inspection, review or audit by the County and/or by federal or state officials as so authorized by law.
11. The City shall maintain a record of the use of any equipment that costs more than \$1,000 and is purchased with grant funds from King County for a total period of three (3) years. The records shall be compiled into a yearly evaluation report, a copy of which shall be submitted to King County by March 31 of each year through the year 2016.

12. The City agrees to credit King County on all printed materials provided by the County, which the City is duplicating, for distribution. Either King County's name and logo must appear on King County materials (including fact sheets, case studies, etc.), or, at a minimum, the City will credit King County for artwork or text provided by the County as follows: "artwork provided courtesy of King County Solid Waste Division" and/or "text provided courtesy of King County Solid Waste Division."
13. The City agrees to submit to the County copies of all written materials which it produces and/or duplicates for local waste reduction and recycling projects which have been funded through the waste reduction and recycling grant program. Upon request, the City agrees to provide the County with a reproducible copy of any such written materials and authorizes the County to duplicate and distribute any written materials so produced, provided that the County credits the City for the piece.
14. The City will provide the King County Project Manager with the date and location of each Recycling Collection Event provided by the City, as well as copies of any printed materials used to publicize each event, as soon as they are available but no later than thirty (30) days prior to the event. If there is any change in the date or the location of an event, the City will notify the County a minimum of thirty (30) days prior to the event. If the event brochure is required for admission to the City's event, the City is exempt from having to provide the brochure to King County.
15. If the City accepts funding through this grant program for the provision of recycling collection events for adjacent areas of unincorporated King County, the City shall send announcements of the events to all residences listed in the carrier routes provided by King County. The announcements and all other printed materials related to these events shall acknowledge King County as the funding source.
16. The City understands that funding for recycling collection events for adjacent areas of unincorporated King County will be allocated on a yearly basis subject to the King County Council's yearly budget approval process and that provision of funds for these events is not guaranteed for the second year of the grant program.
17. This project shall be administered by Laura Techico, Land Use Planner; 21630 11th Ave S, Suite "D"; Des Moines, WA 98198; Tel - (206) 870-6595; Fax - (206) 870-6544; Email - ltechico@desmoineswa.gov, or designee.

B. The County:

1. The County shall administer funding for the waste reduction and recycling grant program. Funding is designated by city and is subject to the King County Council's yearly budget approval process. Provided that the funds are allocated through the King County Council's yearly budget approval process, grant funding to the City will include a base allocation of \$5,000 per year with the balance of funds to be allocated according to the City's percentage of King County's residential and employment population. However, if this population based allocation formula calculation would result in a city receiving less than \$10,000 per year, that city shall receive an additional allocation that would raise their total grant funding to \$10,000 per year.

2. The City of Des Moines's budgeted grant funds for 2012 are \$20,407. Unspent 2012 funds may be carried over to 2013, but 2013 funds will not carry over to 2014.
3. The City of Des Moines's estimated grant funds for 2013 are \$20,407. 2013 funds are not available until January 1, 2013, and 2013 funding is contingent upon King County Council approval of the 2013 King County budget. Following approval of the 2013 King County budget, the County's grant program administrator will notify the City of the final 2013 grant funding in writing.
4. Within forty-five (45) days of receiving a request for reimbursement from the City, the County shall either notify the City of any exceptions to the request which have been identified or shall process the request for payment. If any exceptions to the request are made, this shall be done by written notification to the City providing the reason for such exception. The County will not authorize payment for activities and/or expenditures which are not included in the scope of work and budget attached as Exhibit A, unless the scope has been amended according to Section V of this Agreement. King County retains the right to withhold all or partial payment if the City's report(s) and reimbursement request(s) are incomplete (i.e., do not include proper documentation of expenditures and/or adequate description of each activity described in the scope of work for which reimbursement is being requested), and/or are not consistent with the scope of work and budget attached as Exhibit A.
5. The County agrees to credit the City on all printed materials provided by the City to the County, which the County duplicates, for distribution. Either the City's name and logo will appear on such materials (including fact sheets, case studies, etc.), or, at a minimum, the County will credit the City for artwork or text provided by the City as follows: "artwork provided courtesy of the City of Des Moines" and/or "text provided courtesy of the City of Des Moines."
6. The County retains the right to share the written material(s) produced by the City which have been funded through this program with other King County cities for them to duplicate and distribute. In so doing, the County will encourage other cities to credit the City on any pieces that were produced by the City.
7. The waste reduction and recycling grant program shall be administered by Morgan John, Project Manager of the King County Solid Waste Division.

III. DURATION OF AGREEMENT

This Agreement shall become effective on either January 1, 2012 or the date of execution of the Agreement by both the County and the City, if executed after January 1, 2012 and shall terminate on June 30, 2014. The City shall not incur any new charges after December 31, 2013. However, if execution by either Party does not occur until after January 1, 2012, this Agreement allows for disbursement of grant funds to the City for County-approved programs initiated between January 1, 2012 and the later execution of the Agreement provided that the City complies with the reporting requirements of Section II. A of the Agreement.

IV. TERMINATION

- A. This Agreement may be terminated by King County, in whole or in part, for convenience without cause prior to the termination date specified in Section III, upon thirty (30) days advance written notice.
- B. This Agreement may be terminated by either Party, in whole or in part, for cause prior to the termination date specified in Section III, upon thirty (30) days advance written notice. Reasons for termination for cause may include but not be limited to: nonperformance; misuse of funds; and/or failure to provide grant related reports/invoices/statements as specified in Section II.A.3. and Section II.A.4.
- C. If the Agreement is terminated as provided in this section: (1) the County will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and (2) the City shall be released from any obligation to provide further services pursuant to this Agreement.
- D. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or law that either Party may have in the event that the obligations, terms and conditions set forth in this Agreement are breached by the other Party.

V. AMENDMENTS

This Agreement may be amended only by written agreement of both Parties. Amendments to scopes of work will only be approved if the proposed amendment is consistent with the most recently adopted King County Comprehensive Solid Waste Management Plan. Funds may be moved between tasks in the scope of work, attached as Exhibit A, only upon written request by the City and written approval by King County. Such requests will only be approved if the proposed change(s) is (are) consistent with and/or achieves the goals stated in the scope and falls within the activities described in the scope.

VI. HOLD HARMLESS AND INDEMNIFICATION

The City shall protect, indemnify, and hold harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or issues whatsoever occurring from actions by the City and/or its subcontractors pursuant to this Agreement. The City shall defend at its own expense any and all claims, demands, suits, penalties, losses, damages, or costs of any kind whatsoever (hereinafter "claims") brought against the County arising out of or incident to the City's execution of, performance of or failure to perform this Agreement. Claims shall include but not be limited to assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.

VII. INSURANCE

- A. The City, at its own cost, shall procure by the date of execution of this Agreement and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of work pursuant to this Agreement by the City, its agents, representatives, employees, and/or subcontractors. The minimum limits of this insurance shall be \$1,000,000 general liability insurance combined single limit per occurrence for bodily injury, personal injury, and property damage. If the policy has an aggregate limit, a \$2,000,000 aggregate shall apply. Any deductible or self-insured retentions shall be the sole responsibility of the City. Such insurance shall cover the County, its officers, officials, employees, and agents as additional insureds against liability arising out of activities performed by or on behalf of the City pursuant to this Agreement. A valid Certificate of Insurance and additional insured endorsement is attached to this Agreement as Exhibit C, unless Section VII.B. applies.
- B. If the Agency is a Municipal Corporation or an agency of the State of Washington and is self-insured for any of the above insurance requirements, a written acknowledgement of self-insurance is attached to this Agreement as Exhibit C.

VIII. ENTIRE CONTRACT/WAIVER OF DEFAULT

This Agreement is the complete expression of the agreement of the County and City hereto, and any oral or written representations or understandings not incorporated herein are excluded. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval by the County, which shall be attached to the original Agreement.

IX. TIME IS OF THE ESSENCE

The County and City recognize that time is of the essence in the performance of this Agreement.

X. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Agreement is, for any reason, found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

XI. NOTICE

Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent to the King County Solid Waste Division and the City at the addresses provided below:

Morgan John, Project Manager, or a provided designee,
King County Solid Waste Division
Department of Natural Resources and Parks
201 South Jackson Street, Suite 701
Seattle, WA 98104-3855

If to the City:

Laura Techico, Land Use Planner
City of Des Moines
21630 11th Ave S, Suite "D"
Des Moines, WA 98198

IN WITNESS WHEREOF this Agreement has been executed by each Party on the date set forth below:

City

King County

(Title)

BY _____
Kevin Kiernan, Director
Solid Waste Division

For Dow Constantine, King County Executive

Date

Date

Exhibit A
King County Waste Reduction and Recycling Grant Program
City of Des Moines
2012/13 Scope of Work

A. Basic Information

1. City of Des Moines

2. Grant project manager: Laura Techico
Land Use Planner II
City of Des Moines
21630 11th Ave S, Suite "D"
Des Moines, WA 98198
Tel - (206) 870-6595
Fax - (206) 870-6544
Email - ltechico@desmoineswa.gov

3. Consultant name: Paul Devine
Olympic Environmental Resources
4715 SW Walker Street
Seattle, WA 98116
TEL - (206) 938-8262
FAX - (206) 938-9873
Email - pauldevine@msn.com

4. Budget: 2012
\$20,407.00

2013
\$20,407.00

Total: \$40,814.00

B. Scope of Work

1. Task One: Recycling Collection Events

A. Schedule - Spring and Fall, 2012/13

B. Task Activities

- Total Number of Recycling Collection Events – Four
- Materials to be collected:
 - Appliances

- Refrigerators and Freezers+
 - Ferrous Metals
 - Non-ferrous Metals
 - Mattresses
 - Styrofoam
 - Tires+
 - Lead Acid Batteries
 - Household Batteries
 - Porcelain Toilets and Sinks+
 - Propane Tanks+
 - Cardboard
 - Reusable Household Goods
 - Textiles
 - Used Motor Oil
 - Used Motor Oil Filters
 - Used Antifreeze
 - Used Petroleum Based Products
 - Bulky Yard Debris
 - Clean Scrap Wood
 - Concrete, Asphalt, Rock, and Brick (CRAB)
 - Electronic Equipment
- +User fees apply

- The following educational materials will be distributed:
 - Information on City Recycling Programs.
 - Educational Materials produced by King County Department of Natural Resources and Local Hazardous Waste Management Plan.
 - Other educational materials as appropriate.
- Event promotional methods
 - This event will be coordinated with King County and flyers will be sent to Des Moines households.
 - By distributing a promotional flyer through direct mailings.
 - By notices in City newsletters (whenever possible).
 - By posting a notice at City Hall and on the City cable channel and City web site (if available).
 - By publicizing the event through the King County Solid Waste Division Promotional Activities.

C) Task evaluation. Event reports will include:

- Number of vehicles attending
- Volume of each material collected
- Event cost by budget category
- Event comments
- Graphic or tabular comparison of 2012/13 volumes and vehicles with prior year's events

D) Task Budget: \$19,000.00

Estimated Costs	2012/13	2012	2012	2012	2013	TOTAL
	WRR	LHWMP	CPG	WRR	WRR	
City Staff Costs	\$1,800.00	\$1,155.91	\$2,195.00	\$900.00	\$900.00	\$5,150.91
Management/Staffing/Admin/Graphics	\$4,082.00	\$4,731.86	\$8,562.23	\$2,041.00	\$2,041.00	\$17,376.09
Event Staff Costs	\$0.00	\$0.00	\$4,400.00	\$0.00	\$0.00	\$4,400.00
Collection/Hauling Costs						
Wood Waste	\$1,600.00	\$0.00	\$500.00	\$800.00	\$800.00	\$2,100.00
Scrap Metal, Appliances, etc.	\$4,968.00	\$0.00	\$1,200.00	\$2,484.00	\$2,484.00	\$6,168.00
Tires	\$2,400.00	\$0.00	\$0.00	\$1,200.00	\$1,200.00	\$2,400.00
Used Oil/Antifreeze	\$0.00	\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00
Batteries	\$0.00	\$650.00	\$0.00	\$0.00	\$0.00	\$650.00
CRAB	\$1,600.00	\$0.00	\$500.00	\$800.00	\$800.00	\$2,100.00
Styrofoam	\$600.00	\$0.00	\$300.00	\$300.00	\$300.00	\$900.00
Printing/Mailing	\$0.00	\$2,000.00	\$3,000.00	\$0.00	\$0.00	\$5,000.00
Event Supplies	\$0.00	\$521.35	\$645.25	\$0.00	\$0.00	\$1,166.60
Other Expenses - rentals, etc	\$1,950.00	\$500.00	\$646.85	\$975.00	\$975.00	\$3,096.85
TOTALS	\$19,000.00	\$11,559.12	\$21,949.33	\$9,500.00	\$9,500.00	\$52,508.45

NOTE: Hourly rates for City staff are \$50.00 per hour. Hourly rates for consultants are as follows: project manager - \$70.00 and event staff - \$55.00.

E) Task Performance Objectives:

The City plans to send out approximately 8,100 promotional flyers to Des Moines single family households per event and publicize the event through King County promotional activities, including County websites and telephone assistance. The City anticipates collecting 70-85 tons of material from the local waste stream each year.

The benefits expected by the collection of these materials will be to divert them from the waste stream and process them for recycling. The event will also provide an opportunity to recycle moderate risk waste. The King County Health Department and Washington State Department of Ecology will pay for event expenses as well.

F) Task Impact Objectives:

By hosting Recycling Collection Events, Des Moines can reduce the amount of recyclable material finding their way to the local landfill. The Cities of Des Moines has a population of approximately 29,300. The City expects, based on past events, that 800-900 households will actively participate each year by bringing recyclable materials to the event for proper disposal and recycling. This will result in 70-85 tons of material diverted from the local waste stream for recycling each year.

In addition to diverting materials from the City waste stream, attracting residents to events provides an opportunity to distribute educational material on City and King County recycling programs. The educational materials can enhance the knowledge of residents and improve behavior in purchase, handling, and disposal of recyclable materials.

2. Task Two: Business Recycling Events

A) Task Schedule: Summer, 2012/13

B) Task Activities:

- Total Number of Business Recycling Events – Two
- Task Description - The City will implement two Business Recycling Events. The events will be held on a summer weekday at a central location in Des Moines or Normandy Park. The City will work with the City of Normandy Park businesses to participate in the events. Des Moines costs will be invoiced to the City of Des Moines.
- Materials to be collected:
 - Clean Scrap Wood/Pallets
 - Electronic/Computer Equipment
 - Computer Monitors+
 - TV Sets+
 - Refrigerators and Freezers+
 - Office Recyclables/Cardboard
 - Toner Cartridges
 - Cellular phones
 - Plastics
 - Other materials if feasible

+User fees apply
- The following educational materials will be distributed:
 - Information on City Recycling Programs.
 - Educational Materials produced by King County Department of Natural Resources and Local Hazardous Waste Management Plan.
 - Other educational materials as appropriate.
- Event promotional methods
 - By distributing a promotional flyer through direct mailings.
 - By notices in City/community newsletters/and local newspapers (whenever possible).
 - By posting a notice at City Hall and on the City cable channel and web site (if available).
 - By publicizing the event through the King County Solid Waste Division Promotional Activities.
- Task evaluation. Event reports will include:

- Number of vehicles attending
- Volume of each material collected
- Event cost by budget category
- Event comments
- Graphic or tabular comparison of 2012/13 volumes and vehicles with prior year's events

C) Task Budget: \$9,310.00

ESTIMATED COSTS	2012 Cost	2013 Cost	2012/13 Total
Staff Cost	\$465.50	\$465.50	\$931.00
Administration and Supplies	\$100.00	\$100.00	\$200.00
Consultant and Contractor Services	\$3,439.50	\$3,439.50	\$6,879.00
Flyer - Printing and Distribution Costs	\$650.00	\$650.00	\$1,300.00
Total	\$4,655.00	\$4,655.00	\$9,310.00

NOTE: Hourly rates for City staff are \$50.00 per hour. Hourly rates for consultants are as follows: project manager - \$70.00 and event staff - \$55.00.

E) Task Performance Objectives:

The City plans to send out approximately 1,000 promotional flyers to Des Moines businesses per event and publicize the event through King County promotional activities, including County websites and telephone assistance. The City anticipates collecting 15-20 tons of material from the Des Moines businesses waste stream over a two-year period. The benefits expected by the collection of these materials will be to divert them from the waste stream and process them for recycling.

F) Task Impact Objectives:

By hosting Business Collection Events, Des Moines can reduce the amount of recyclable material finding their way to the local landfill. The City of Des Moines has an employee population of approximately 5,700. The City expects that 65-85 businesses will actively participate each year by bringing recyclable materials to the event for proper disposal and recycling. This will result in 15-20 tons of material diverted from the local waste stream for recycling.

In addition to diverting materials from the City waste stream, attracting business to events provides an opportunity to distribute educational material on City and King County recycling programs. The educational materials can enhance the knowledge of business and improve behavior in purchase, handling, and disposal of recyclable materials.

3. Task Three: Purchase Products Made From Recycled Materials

A) Task Schedule: 2012/13

B) Task Activities:

In order to support the recycling industry and close the recycling loop, the City would like to purchase products made from recycled materials. Doing so will support recycling collection programs and help ensure the success of the recycling industry. The City will support recycling programs by purchasing items such as recycle content rain barrels/compost bins for distribution and recycled benches for City parks and open space areas. The rain barrels weigh approximately 40-50 pounds each and divert roughly twice that amount of plastic material from the waste stream when produced. Recycle content benches weigh approximately 600-800 pounds and divert roughly twice that amount of plastic material from the waste stream when produced. The City may install the recycled content benches in highly visible areas with a notice that the benches are made from recycled content. The City would promote these locations in newsletters and parks brochure as most of these will be installed in heavy recreational use areas. The City will promote rain barrel/compost bin distribution to City residents and distribute the rain barrels/compost bins at City Recycling Collection Events.

C) Task Budget: \$12,504.00

Recycled Product Purchase	2012 Cost	2013 Cost	2012/13 Total
Staff Cost	\$625.20	\$625.20	\$1,250.40
Purchase Recycled Products	\$5,626.80	\$5,626.80	\$11,253.60
TOTAL	\$6,252.00	\$6,252.00	\$12,504.00

D) Task Performance and Impact Objectives:

The goal of this program is to help ensure the success of the recycling industry by adding to the demand for products made from recycled materials. By purchasing products made from recycled content, the City will divert recyclable material from the waste stream. The City may distribute rain barrels to City residents and install the recycle content benches in highly visible areas and that will help promote recycled products. The City would promote these locations in our newsletters and parks brochures as most of these would be installed in heavy recreational use areas. The additional benefits of the rain barrels/compost bins are that they will help reduce household water consumption and reuse natural rainwater and have recycle organic material.

Grant Guidelines

Program Eligibility:

Grant funds may be used for any of the programs previously funded by the City Optional and Waste Reduction Recycling Programs, including residential and commercial waste reduction and recycling education programs, business assistance programs, and special recycling events. Cities may also use their funds on broader resource conservation programs, as long as they are part of an overall waste reduction/recycling program. Cities may choose to use their funding on one program or a combination of programs. For WR/R program ideas, please refer to the Program Eligibility section below.

Please note these lists are not exhaustive, but merely intended to provide some guidance on what is/isn't eligible. Cities may also refer to the currently adopted Comprehensive Solid Waste Management Plan for direction in program development. If you are unsure if your proposed program is eligible for funding, please call Morgan John (206-296-8443).

Eligible for funding:

- School WR/R education/implementation programs
- Kitchen food waste composting programs
- Reusable bag promotions
- Yard waste subscription promotions
- Outreach at community events
- Promoting new and existing WR/R programs through media, mail, and social networking
- Business recognition programs
- Recycling Collection Events, including collection of tires and mattresses
- Business, WR/R, residential education/communications
- Product stewardship initiatives - could be education programs or working with other agencies/organizations/businesses to implement programs
- City recycling programs and facilities
- Videos promoting WR/R programs

The following are eligible for funding on a case-by-case basis, as long as part of an overall WR/R Program. However, the County would not provide reimbursement if, for example, all of a city's grant dollars were used to sell/give away rain barrels or distribute compact fluorescent light bulbs.

- Water Conservation - i.e. Rain Barrels
- Energy Conservation
- Water Quality: integrated pest management; catch basin filters
- Demonstration gardens; interpretive signage; recycled-content park furnishings

The following are not eligible for funding:

- Collection of garbage, except for residual garbage related to the collection of recyclables.
- Collection of any household hazardous waste items including, but not limited to:
 - > Treated wood
 - > Paint
 - > Lead acid batteries
 - > Oil, gasoline, and antifreeze
 - > Florescent lights
- Household Hazardous Waste Education Programs

Cities should pursue funding through LHWMP or CPG for Household Hazardous Waste collection or education programs.

Grant Administration:

Requests for Reimbursement:

Cities may submit as few as two requests for reimbursement during the funding cycle, with the first request due by January 31, 2013 and the final request due no later than March 15, 2014. However, cities may submit requests for reimbursement as frequently as quarterly. Quarterly requests should be submitted on April 30, July 31, Oct. 31 and Jan 31 of each year, except for the final request for reimbursement, which is due no later than March 15, 2014. The Budget Summary Report Form (Attachment 4) must be used when submitting requests for reimbursement.

By December 31st of each year of the grant cycle, cities must notify SWD of their total expenditures for work that has been completed to-date, but for which requests for reimbursement have not yet been submitted.

Progress and Final Reports:

Progress reports describing program activities, accomplishments and evaluation results need to accompany each request for reimbursement. A final report describing the outcome of grant-funded activities is due with the final request for reimbursement. If, however, the city does not have the results of its program evaluation by the end of the grant cycle, the final narrative report may be submitted no later than six months after the end of the grant cycle on June 30, 2014. (Note: The final request for reimbursement would still need to be submitted by March 15, 2014.) All Progress and Final Reports need to be signed by a city official. Signed reports may be submitted via facsimile.

Amendments:

Formal amendments to grant ILAs are not necessary unless the city wishes to make significant changes to its scope of work and/or budget. In general, a significant change would be one in which the city wishes to add or delete a task from their scope of work. A minor change, such as moving dollars between tasks, would only require written notification, which may be submitted via e-mail. However, the city should contact the Division when considering changes to their scopes and budgets to determine if a formal amendment is needed.

**AGREEMENT BETWEEN THE CITY OF DES MOINES
AND OLYMPIC ENVIRONMENTAL RESOURCES FOR THE
2012-2013 DES MOINES RECYCLING PROGRAM**

THIS AGREEMENT, entered into as of this ____ day of _____, 2012, is by and between the CITY OF DES MOINES, a Washington municipal corporation, hereinafter referred to as the "City", and OLYMPIC ENVIRONMENTAL RESOURCES, hereinafter referred to as the "Contractor".

In consideration of the covenants and conditions set forth below, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to retain the Contractor to provide professional services for the 2012-2013 Recycling Program for the residents of the City as set forth below.

2. Scope of Work. Contractor agrees to furnish all materials, labor and other incidentals and to perform all services and work as described in this Agreement and the Contract Documents, which consist of this Agreement and the following Attachment A, which is by this reference incorporated herein:

Exhibit A: Scope of Work – 2012/13 Recycling Collection Events and Purchase of Products made from Recycled Materials

The following provisions modify and/or supersede any contrary language found in Attachment A, which shall remain in full force and effect except as expressly modified below:

- The City may call upon the Contractor for additional services that will be negotiated at that time; and,
- The Contractor will ensure compliance with applicable State Prevailing Wage Rates, which are set by the Washington Department of Labor and Industries.

3. Project Schedule. Contractor agrees to hold the Residential Recycling Collection Events in the south parking area of the Des Moines Marina or another suitable location during March and October 2012 and 2013 and the Business Collection and Recycling Events at the Washington Criminal Justice Training Center in Burien in July or August of 2012 and 2013. In addition, the contractor shall provide assistance as needed as the City purchases products made from recycled materials.

4. Payment. As full and adequate consideration for all work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work, the Contractor shall be paid a maximum amount of \$108,147.12 (One hundred and eight thousand, one hundred and forty seven dollars, and twelve cents) including tax, pending receipt of additional 2013 Local Hazardous Waste Management Plan and WA State Department of Ecology grant funds. This amount will be reduced by any billing from the City for staff oversight of the Recycling Program or if City staff is involved in purchasing

recycled content products directly. At the completion of any task described in the Scope of Work, the Contractor will submit an invoice to the City's designated representative. The invoice must include documentation of all work performed, vendor's billings, and receipts of purchase. Payment shall be made through the City's ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

5. City Administrative Costs. The Contractor agrees to reduce the total contract amount by up to ten percent to account for City staff involvement in overseeing recycling activities and programs. However, this reduction will not apply to the task of purchasing recycled content products unless City staff is directly involved in placing an order.

6. Insurance. By the date of execution of this Contract, the Contractor and its Subcontractors, if authorized, shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the Contractor, its agents, representative, employees, and/or subcontractors. The Contractor or subcontractor shall pay the cost of such insurance. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintains greater limits and/or broader coverage. Coverage should also include Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal Law. Any deductibles or self-insured retention must be declared to, and approved by, the City. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the City and shall be the sole responsibility of the Contractor.

The Contractor and its Subcontractors shall secure and maintain in force throughout the duration of this Agreement, insurance coverage sufficient to satisfy the following minimums:

Comprehensive Commercial General Liability:

\$1,000,000 combined single limit per occurrence.

\$2,000,000 aggregate.

The Contractor's Subcontractors shall secure and maintain in force throughout the duration of this Agreement, insurance coverage sufficient to satisfy the following minimums:

Commercial Automobile Liability:

\$1,000,000 combined single limit per accident for bodily injury and property damage.

The Contractor's Subcontractor(s) that accept batteries and petroleum-based products shall name the City of Des Moines and its officials, officers, agents, and employees as an additional named insured and shall provide a certificate of insurance and policy endorsements to the City. The

Contractor's Subcontractor(s) are required to carry the following insurance coverage sufficient to satisfy the following minimums:

Pollution Legal Liability Insurance:

\$1,000,000 per occurrence.

\$2,000,000 aggregate.

The Contractor's general liability policies shall name the City of Des Moines and its officials, officers, agents and employees as an additional named insured. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete certified copies of all required insurance policies at any time. A thirty (30) days advance written notice to the City is required in the event the insurer for the Contractor or the insurer for any subcontractor to the Contractor cancels or modifies the policy. Certificates of coverage, as set forth in this section shall be delivered to the City within fifteen (15) days of execution of this Agreement.

7. Performance Standards. Contractor's services, and all duties incidental or necessary thereto, shall be conducted and performed diligently and competently and in accordance with professional standards of conduct and performance, and consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

8. Modification. No change, alteration, modification, or addition to this Agreement will be effective unless it is in writing and properly signed by both parties.

9. Independent Contractor Status. The Contractor is considered an independent Contractor who shall at all times perform its duties and responsibilities and carry out all services as an independent Contractor and shall never represent or construe its status to be that of an agent or employee of the City, nor shall the Contractor be eligible for any employee benefits.

The Contractor acknowledges that all mandatory deductions, charges and taxes imposed by any and all federal, state, and local laws and regulations shall be the sole responsibility of the Contractor. The Contractor represents and warrants that all such deductions, charges and taxes imposed by law and/or regulations upon the Contractor are, and will remain, current. If the City is assessed, liable or responsible in any manner for those deductions, charges or taxes, the Contractor agrees to indemnify and hold the City harmless from those costs, including attorney's fees.

The Contractor shall provide, at its sole expense, all materials, manpower, equipment and utility services, and other necessities to perform fully and timely its duties and services under this Agreement, unless otherwise specified in writing.

The Contractor, at its sole expense, shall obtain and keep in force any and all necessary licenses, permits, and tax certificates. The Contractor shall maintain all necessary insurance as

specified in Section 6 to protect Contractor from losses and claims which may arise out of or result from performance of duties related to this Agreement, including Worker's Compensation and general liability, and others as may be required in writing.

The Contractor shall comply with all applicable federal, state and local laws, ordinances, rules and regulations, and shall assist the City in complying with all conditions concerning grants and other federal assistance under the laws of the City of Des Moines, King County, the State of Washington, and the United States of America. Contractor shall obtain a business license under Des Moines Municipal Code § 5.04.020 and shall pay business and occupation taxes as required by Des Moines Municipal Code § 3.84.060.

10. Business Licenses. The Contractor shall obtain, at its own expense, all permits and licenses required by the City or any other governmental authority and maintain the same in full force and effect during the terms of this Agreement.

13. Assignment. The Contractor shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Agreement or for any of the compensation due it hereunder, in whole or in part, except as authorized in writing by the City.

12. Indemnification. The Contractor and its Subcontractors shall defend, indemnify and hold the City, King County, City of Seattle or the State of Washington (when any funds for this Contract are provided by King County, City of Seattle or the State of Washington) its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The Contractor shall protect, indemnify and save harmless the City and its officers, agents and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Contractor's failure to pay any such compensation, wages, benefits or taxes; and/or (2) the supplying to the Contractor of work, services, materials, and/or supplies by Contractor employees or other suppliers in connection with or in support of the performance of this Contract.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

13. Amendments and Termination. Amendments to this agreement must be in writing and be signed by authorized representatives of each party hereto. Either party may terminate this agreement with thirty (30) days' written notice provided to the individuals set forth in Section 21 below. Upon receipt of the notice of termination, no additional services shall be performed beyond the fifth day following the notice unless the parties agree in writing to a later stop work

date. The City shall only be responsible for the payment of services as provided under the terms of this Contract.

14. Alternative Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this agreement, including any question regarding breach, termination or invalidity thereof, shall be resolved by arbitration in Seattle, Washington in accordance with the American Arbitration Association, or Judicial Dispute Resolution which rules are deemed to be incorporated by reference into this clause. The maximum number of arbitrators shall be three in any claim, suit, action or other proceeding relating in any way to this agreement or any claims arising out of this agreement, except as otherwise ordered. All arbitration fees shall be borne equally by the parties and the parties shall pay their own attorneys' fees and costs.

15. Applicable Law and Jurisdiction. This Agreement shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method is arbitration as set forth above, in the event any claim, dispute or action arising from or relating to this agreement cannot be submitted to arbitration, then it shall be commenced exclusively in the King County Superior Court or the United States District Court, Western District of Washington as appropriate. The prevailing party in any such action before the courts shall be entitled to recover its costs of suit and reasonable attorneys' fees.

16 Unenforceable Clauses: If one or more of the clauses of this Agreement is found to be unenforceable, illegal or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.

17. Severability. Should any term, provision, condition or other portion of this Agreement or its application be held to be inoperative, invalid or unenforceable, and the remainder of this Agreement still fulfills its purposes, the balance of this Agreement or its application or other circumstances shall not be affected thereby and shall continue in full force and effect.

18. Waiver. The waiver by either party of any breach of any terms, conditions, or provision of the Agreement shall not be deemed a waiver of such term, condition, or provision or any subsequent breach of the same or any condition or provision of this Agreement.

19. Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

20. Time of Essence. The Contractor acknowledges the importance to the City of the City's project schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement in a manner consistent with that schedule as attached hereto. The City understands, however, that the Contractor's performance must be governed by sound professional practices.

21. Notices. Any Notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and deposited into any post office as first-class, postage prepaid, certified mail, return receipt requested, and addressed to:

City of Des Moines:

Technical Matters

Laura Techico, Land Use Planner I
21630 13th Ave. S., Suite D
Des Moines, WA 98198
Phone: 206-870-6595
Fax: 206-870-6540
Email: ltechico@desmoineswa.gov

Company:

Contractual Matters

Paul Devine
4715 SW Walker St
Seattle, WA 98116
Phone: 206-938-8262
Fax: 206-938-9873
Email: pauldevine@msn.com

Technical Matters

Paul Devine, same

22. Concurrent Originals. This Agreement may be signed in counterpart originals.

23. Ratification and Confirmation. Any acts consistent with the authority and prior to the effective date of this Agreement are hereby ratified and confirmed.

24. Entire Agreement: This Agreement constitutes the complete and final agreement of the parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made on the subject matter, and may be modified only by a writing signed by both parties. Each party hereby acknowledges receipt of a copy of this Agreement executed by both parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF DES MOINES

CONTRACTOR

By _____
Anthony A. Piasecki
City Manager
City of Des Moines

By _____
Paul M. Devine
General Manager
Olympic Environmental Resources

Dated _____

Dated _____

APPROVED AS TO FORM:

Pat Bosmans
City Attorney

Dated _____

Attachment A – Des Moines-OER 2012-13 Contract

TASK ONE – Residential Recycling Collection Events

In 2012 and 2013, Olympic Environmental Resources (OER) will implement one spring and one fall Residential Recycling Collection Event. A total of four events will be implemented. Event hours will be 9:00 a.m. to 3:00 p.m. The parking lot at the Des Moines Marina or other suitable location will be the site of the events. Materials collected at the events will be bulky wood; CFC appliances*; ferrous and non-ferrous metals*; reusable clothing; reusable household goods; tires*; petroleum-based products and oil filters; antifreeze; lead acid batteries; porcelain toilets and sinks*; concrete, asphalt, rock, and brick; cardboard; Styrofoam; mattresses*; propane tanks*; cellular phones; electronic and computer equipment*; and TV sets*. Computer monitors and TV sets will be collected at the direction of the City.

Schedule – 2012 and 2013 – Spring Event – March, April, or May; Fall Event – October, November.

Personnel/Subcontractors – Olympic Environmental Resources staff, A-Plus Removal and Recycle, American Petroleum Environmental Services, Inc., All Battery Sales and Service, Tire Disposal and Recycling, Northwest Center, Seattle Goodwill, Waste Management, V&G Styro Recycle, Correctional Industries, Total Reclaim, Inc., Ecolights Northwest, as well as flyer production and supply and rental vendors.

Cost: \$86,333.12 (with estimated 2 year DOE CPG and KC Health Department funding)

Estimated Costs	2012	2013	TOTAL
City Staff Time	\$4,250.91	\$4,280.00	\$8,530.91
Management/Staffing/Admin/Graphics	\$15,335.09	\$15,335.09	\$30,670.18
Event Staff Costs	\$4,400.00	\$4,400.00	\$8,800.00
Collection/Hauling Costs			
Wood Waste	\$1,300.00	\$1,300.00	\$2,600.00
Scrap Metal, Appliances, etc.	\$3,684.00	\$3,684.00	\$7,368.00
Concrete	\$1,300.00	\$1,300.00	\$2,600.00
Tires	\$1,200.00	\$1,200.00	\$2,400.00
Used Oil/Antifreeze	\$2,000.00	\$2,150.00	\$4,150.00
Batteries	\$650.00	\$650.00	\$1,300.00
Styrofoam	\$600.00	\$600.00	\$1,200.00
Printing/Mailing*	\$5,000.00	\$5,137.13	\$10,137.13
Event Supplies	\$1,166.60	\$1,166.60	\$2,333.20
Other Expenses - rentals, etc	\$2,121.85	\$2,121.85	\$4,243.70
TOTALS	\$43,008.45	\$43,324.67	\$86,333.12

*Event flyers will be sent to all Des Moines single-family households.

TASK TWO – Business Recycling Collection Events

In 2012 and 2013, OER will implement one summer Business Recycling Collection Event. A total of two events will be implemented in conjunction with the cities of Burien and City of Normandy Park. Event hours will be 10:00 a.m. to 2:00 p.m. The parking lot at the WA Criminal Justice Training Center will be the location of the events. Materials collected at the event will be clean scrap wood/pallets; electronic/computer equipment; computer monitors*; office recyclables/cardboard; toner cartridges; cellular phones; plastics; and TV sets*. Fluorescent lights may be collected at the direction of the City as the cost is not eligible for reimbursement with county or state grants.

Schedule – 2012 event – July/August 2012. 2013 event – July/August 2013.

Personnel/Subcontractors – Olympic Environmental Resources staff, A-Plus Removal and Recycle, Glacier Recycle LLC, Total Reclaim, Inc., as well as flyer production and supply and rental vendors.

Cost: \$9,310.00

Estimated Costs	2012	2013	Total
City Staff Time	\$465.50	\$465.50	\$931.00
Administration and Supplies	\$100.00	\$100.00	\$200.00
Consultant and Contractor Services	\$3,439.50	\$3,439.50	\$6,879.00
Flyer - Printing and Distribution Costs	\$650.00	\$650.00	\$1,300.00
Total	\$4,655.00	\$4,655.00	\$9,310.00

*The consultant/subcontractors will be able to charge a user fee to offset the cost of collecting and recycling these items.

TASK THREE – Purchase Products Made From Recycled Materials

In order to support the recycling industry and close the recycling loop, OER will assist the City with the purchase products made from recycled materials. Doing so will support recycling collection programs and help ensure the success of the recycling industry. The City will support recycling programs by purchasing items such as recycle content rain barrels for distribution and recycled benches for City parks and open space areas. The City may install the recycled content benches in highly visible areas with a notice that the benches are made from recycled content. The City may also distribute rain barrels or compost bins at City Recycling Collection Events. OER will assist the City with the purchase, rain barrel/compost bin sale, and grant reimbursement of project costs.

Schedule – 2012 and 2013.

Cost: \$12,504.00

Estimated Costs	2012	2013	Total
Administration and Supplies	\$625.20	\$625.20	\$1,250.40
Administration and Supplies	\$140.00	\$140.00	\$280.00
Consultant and Contractor Services	\$900.00	\$900.00	\$1,800.00
Purchase Recycled Products	\$4,586.80	\$4,586.80	\$9,173.60
TOTAL	\$6,252.00	\$6,252.00	\$12,504.00

Total Cost: \$108,147.12

2012/13 Des Moines Recycling Grants

2012/13 King County Solid Waste Division WRR Grant	\$40,814.00
Subtotal	\$40,814.00

2012 King County Health Department Grant	\$11,559.12
2013 King County Health Department Grant - estimate	\$11,850.00
Subtotal	\$23,409.12

2012/13 WA State Dept of Ecology CPG Grant – through 6/30/13	\$32,924.00
2013 WA State Dept of Ecology CPG Grant – 7/1/13-12/31/13 - estimate	\$11,000.00
Subtotal	\$43,924.00

Subtotal*	\$108,147.12
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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Des Moines Lodging Tax Advisory
Committee

ATTACHMENT: Application and Letter of
Support

FOR AGENDA OF: January 26, 2012

DEPT. OF ORIGIN: Parks, Recreation & Senior
Services

DATE SUBMITTED: January 17, 2012

CLEARANCES:

- ☐ Legal NA
- ☐ Finance NA
- ☐ Marina NA
- ☒ Parks, Recreation & Senior Services
- ☐ Planning, Building & Public Works NA
- ☐ Police NA
- ☐ Courts NA

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to recommend City Council approval of the Mayor's appointment of Nancy Warren to the City of Des Moines Lodging Tax Advisory Committee as provide for in Ordinance No. 1319 to fill a vacant position representing the tourism industry.

Motion: "I move to confirm the Mayoral appointment of Nancy Warren to the Des Moines Human Lodging Tax Advisory Committee effective immediately."

Background

The City of Des Moines adopted Ordinance No. 1319 on March 27, 2003 which became effective April 26, 2003 for the purpose of establishing a Lodging Tax Advisory Committee. A Committee of at least five members is required for the collection of Des Moines' legal share of Hotel/Motel Tax. The tax must be used solely for paying for tourism promotion and for the acquisition and/or operation of tourism related facilities as specified in RCW 67.28.180.

Any proposal to impose a new hotel-motel tax, raise the rate of an existing tax, repeal an exemption from the hotel-motel tax, or change the use of the tax proceeds, must be submitted to the lodging tax advisory committee for review and comment. After a 45 day review /consultation period with the Lodging Tax Advisory Committee, final decision and action on matters of Lodging Tax collection and the expenditures of resources is made by City Council.

The City of Des Moines has entered into an Interlocal Agreement with the City of Tukwila whereby Des Moines' Hotel/Motel Tax funds collected pay for services provided by Seattle Southside Visitor Services in support of Des Moines' Tourism.

Discussion

By state law, a five member Lodging Tax Advisory Committee must be in place in order to collect Des Moines' 1% share of the Hotel/Motel Tax. This agenda requests Council approval of the appointment of Nancy Warren to the Lodging Tax Advisory Committee to fill a position vacated by Jane Ipsen. Ms. Warren's qualifications for the position are attached.

Alternatives

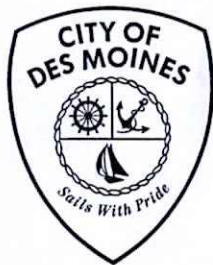
None provided.

Financial Impact

The City anticipates the collection of approximately \$20,000 Hotel/Motel Tax funds annually. As approved by City Council through an Interlocal Agreement, these funds are paid to the City of Tukwila in support of Seattle Southside Visitors Services' efforts to promote tourism on behalf of the City Des Moines.

Recommendation/Concurrence

Mayor Kaplan and City Administration supports the proposed appointment to the Des Moines Lodging Tax Advisory Committee.



CITY OF DES MOINES
APPLICATION FOR LODGING TAX ADVISORY COMMITTEE
21630 11th Avenue South
Des Moines, WA 98198

Nancy A. Warren
1305 S. 223rd Street
Des Moines, WA 98198
PHONE: Home 206.824.4768 Work 206.592.3343
Fax: do not use
E-Mail nwarren@highline.edu OR nancyw6050@aol.com

EMPLOYMENT/VOLUNTEER SUMMARY LAST FIVE YEARS: Program Manager for Instruction/Department Coordinator Hospitality/Tourism at Highline Community College (1999-present). Served as Chairwoman of Committee to Revitalize Arts Commission, then Chairwoman of Arts Commission and Arts Commission member. Have since served as volunteer on Performing Arts Committee.

Are you related to anyone presently employed by the City or a member of a City Board? no

Do you currently have an owning interest in either real property (other than your primary residence) or a business in the Des Moines? no

IN ORDER FOR THE APPOINTING AUTHORITY TO FULLY EVALUATE YOUR QUALIFICATIONS FOR THIS POSITION, PLEASE ANSWER THE FOLLOWING QUESTIONS USING A SEPARATE PAPER IF NECESSARY.

1. Specify the group you represent:

x Business/Organization Providing Programs & Services to Promote Tourism in Des Moines

Provide Details of this Representation: As Department Coordinator of the Hospitality/Tourism Educational program of HCC, I represent the college not only in the local community of Des Moines, but also in the greater Puget Sound community to the hospitality/tourism industry, and internationally in recruitment for the college. I work closely with the Port of Seattle and Airport Jobs, developing training programs for Port of Seattle employees and potential employees (Airport Jobs). I am a certified trainer in SuperHost (from Tourism BC) and train employees around the region in customer service. I am the curriculum developer and trainer for the new airport Rental Car Facility Shuttle Bus Drivers. I have extensive work in dealing with hoteliers in the area. I have been involved in discussions about the Artemis Hotel from the beginning, and am aware of the potential it brings to the community. I am very familiar with Seattle Southside and the work that they do for the area.

2. What problems, programs or improvements are you most interested in? I am most interested in economic development for the City of Des Moines, specifically through hospitality/tourism. I believe there is potential for this city because of our close proximity to the airport and equidistance between Seattle and Tacoma. I firmly believe there is opportunity for growth in the hospitality/tourism sector in the community, and understand the value of the 1% Lodging Tax.

3. Please list any Des Moines elective/appointive offices you have run/applied for previously. Have not recently applied for a position in Des Moines since my appointment to the Arts Commission. Have never run for public office.



Professional-Technical Education

MS 9-5
P.O. Box 98000
Des Moines, WA 98198-9800

January 11, 2012

Ms. Patrice Thorell
Parks, Recreation and Senior Services Director
1000 S. 220th Street
Des Moines, WA 98198

Dear Ms. Thorell:

I highly recommend Nancy Warren, Program Manager for Instruction and Department Coordinator of Hospitality/Tourism for the volunteer position of City of Des Moines Lodging Tax Advisory Committee.

Ms. Warren possesses outstanding administration skills, and would be a terrific asset to your committee. She brings a wealth of knowledge to any table, not only in the hospitality/tourism arena, but also in regards to the City of Des Moines, the Greater Puget Sound area, the State of Washington and the global community.

She has served the city in the past as a member of the Des Moines Arts Commission and is passionate about bringing positive changes to her community. She is very familiar with Seattle Southside, and works with them on a regular basis.

Her work in the hospitality/tourism training area is highly regarded by the Port of Seattle, Airport Jobs and the National Management Association, SeaTac Chapter. She is financially savvy and will not have any problems jumping into the 1% Lodging Tax Advisory Committee with 100% participation.

Do not hesitate to contact me for further information. Highline Community College wholeheartedly supports Ms. Warren in this endeavor.

Sincerely,

A handwritten signature in black ink, appearing to read "Alice Madsen".

Alice Madsen
Dean of Instruction/Professional-Technical Education

AGENDA ITEM

SUBJECT: Surplus Property

AGENDA OF: January 26, 2012

DEPT. OF ORIGIN: City Clerk *SW*

ATTACHMENTS:

DATE SUBMITTED:

None

CLEARANCES:

☒ Finance *ph*

☒ Administration *LAB*

APPROVED BY CITY MANAGER
FOR SUBMITTAL: _____

Purpose and Recommendation:

The purpose of this item is to surplus obsolete office equipment.

Suggested Motion:

The following motion will appear on the Consent Calendar:

"Motion is to approve the surplus and disposal of one overhead projector, one book binder machine, one check protector machine, one sliding shelf, end-tab file cabinet, and three tape recorders.

Background:

The overhead projector, book binder machine, check protector machine, a file cabinet and three tape recorders are obsolete and/or no longer in working order. They have no value since they are so obsolete and likely would not sell. Therefore the City Clerk has requested the City Council to declare this equipment as surplus and to be removed by the most practical and expedient means available.

Discussion:

None.

Alternatives:

None.

Financial Impact:

None.

Recommendation/Conclusion:

Administration recommends Council surplus the equipment as requested.

Concurrence:

N/A

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2012-2013 On-Call Consultant
Agreements for Civil Engineering
Services

ATTACHMENTS:

1. Consultant Agreements - Electronically
2. Request for Statements of Qualifications
3. Ranking by Civil Engineering Discipline
4. Standard Local Agency Agreement

AGENDA OF: January 26, 2012

DEPT. OF ORIGIN: Planning, Building & Public
Works

DATE SUBMITTED: January 10, 2012

CLEARANCES:

[X] Legal PO
[X] Finance ph
[] Marina N/A
[] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works 11/5
[] Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation:

The purpose of this Agenda Item is to seek City Council authorization of Consultant Agreements for On-Call Civil Engineering Services through December 31, 2013. The selected Consultants will provide engineering support on the City's approved Capital Improvement Program projects, will work on the Professional Services portions of the City's approved operating budgets as needed, will provide assistance on the review of development applications when necessary, and will be available to assist the City during emergency situations. This process was used successfully by the City since 2008 and has been discussed with the Public Safety and Transportation Committee.

Suggested Motion

Motion: "I move to approve Consultant Agreements for On-Call Civil Engineering Services (2012-2013) with AMEC, ESA Adolfson, Exeltech, Fehr & Peers, HDR, KPFF, KPG, Parametrix, Tetra Tech, each up to \$1,000,000.00, and the James W. Ellison up to \$500,000.00, and authorize the City Manager to sign said agreements substantially in the form as submitted."

Background:

Engineering consultants are needed in order to supplement and expand the capability of City staff on the design and construction of Capital Improvement Projects, to provide occasional assistance with development related reviews, and for other technical engineering work.

Among other things, RCW 39.80 requires that agencies advertise, conduct interviews if necessary, and ultimately select the most qualified consultant(s) to provide professional services. This selection process may not be based on the cost for those services.

In September of 2011, staff placed an advertisement for a Request for Qualifications (RFQ) from civil engineering firms interested in providing on-call engineering services to the City through the year 2013. A copy of the RFQ is provided as Attachment 2 for reference. Statements of Qualifications (SOQ) were received from 25 firms. Throughout October, a staff selection committee reviewed each of the SOQ's and ranked them based on their response to the criteria identified in the RFQ. The firms were also ranked on their ability to provide quality services in a wide variety of specific civil engineering disciplines. A summary showing the top three to four firms by civil engineering discipline is provided as Attachment 3 for reference. Of the 25 firms that submitted SOQ's, the committee selected ten of those firms to begin developing a scope of work and associated agreements in November and December.

Ten firms are needed in order to provide adequate redundancy of service in each specific discipline of civil engineering. This redundancy is necessary for several reasons. First, if staff is unable to successfully negotiate a specific Task Order Assignment with one consultant, staff can easily move to another consultant that is equally qualified to perform the task. Also, if a consultant is too busy to conduct a Task Order Assignment in a timely manner, staff needs to have at least one other consultant available to perform the work. Finally, if staff receives work from a consultant on a development project where the assistance of a third party consultant review is needed, and the developer's consultant is on our on-call roster, there would be a conflict of interest. Staff needs to have another consultant available to conduct the review in this case.

The selected consultant firms are the AMEC, ESA Adolfson, Exeltech, Fehr & Peers, HDR, James W. Ellison, KPFF, KPG, Parametrix, and Tetra Tech. Consultant Agreements have been developed and negotiated. Since these consultants will likely be utilized on projects that are Federally-funded, the form of the Agreement is based on the Standard Local Agency Agreement as required under the Local Agency Guidelines (LAG) Manual of WSDOT Highways and Local Programs. A copy of a standard LAG Agreement is provided as Attachment 4. Due to their size, copies of the actual agreements have been provided to the Council electronically (refer to Attachment 1).

Discussion:

The City has historically used consultants for providing professional services including design and construction management services, inspection services, and for preparing technical analyses on complex engineering related issues. Having consultants on-call streamlines the work effort required by City staff, and expedites the design and construction of projects.

Prior to 2008, staff selected consultants on a project by project basis. This process is very time consuming and in most cases, inefficient. In other words, for each and every project, an advertisement is placed, all submitted proposals are reviewed, interviews are conducted if necessary, and a consultant is selected for a specific project. In addition, staff typically advertised for professional services only after the Capital Improvement Program project budgets had been approved for a specific year. For

example, when the Pavement Management Program budget is approved (along with the other Capital Improvements), staff advertised an RFQ and went through the process of making a selection beginning early in the year (January or February). By the time a selection is made, a scope of work is prepared, and the agreement is finalized, several months have passed, costing valuable time. For the Pavement Management Program, this was problematic. Ideally, design of pavement improvements should begin in the early fall, be completed by January, and be ready for bid advertisement in February at the latest with the goal of starting the work in the late spring. Having consultants on-call over a multi-year timeframe is really ideal to support programs that are funded from a multi-year budget cycle process.

In late 2007, the Council authorized On-call Consultant Agreements for the years 2008 and 2009. This process was used again very successfully between 2010 and 2011. Having those Agreements in place greatly increased the productivity and efficiency of the staff. That increased productivity will certainly continue in 2012 and 2013 with the continuation of this on-call process.

With these agreements in place, all of the consultant selection process has been completed. As needed, staff will prepare a Task Order Assignment that identifies a specific work task or project to be performed. The selected consultant will meet with staff to develop a specific scope of work, schedule, and budget for the Task Order Assignment. Once finalized, the Task Order Assignment will be approved by the City Manager or the City Council, depending on the specific budget and City Manager contract authority for that Task Order Assignment.

Approving these Agreements does not obligate the City to assign any specific number of tasks, volume of work, or a specific contract value to any of these consultants. At any time during a funding year, all projects and subsequent Task Order Assignments may be subject to change including funding levels and project priorities. The City has reserved the right to add and or delete Task Assignments to meet other priorities.

The maximum potential value for these Agreements is set at \$1,000,000 for consultants that can provide a wide variety of civil engineering services. One consultant specifically requested a limit of \$500,000, as he provides a very specialized area of expertise.

Alternatives:

The Council could choose to have specific agreements prepared for each project at the time a project is started. Under this scenario, a specific agreement would have to be prepared, advertised, reviewed, and approved for each and every project, along with the scope of work, the schedule, and the budget. Also, under this scenario, the City would not have consultants available to provide assistance during emergency situations.

Financial Impact:

Approving these agreements will streamline the consultant selection process for the City, saving staff time and resources, including advertising costs.

Approving these Consultant Agreements will create no negative financial impact to the City.

Approving these Agreements does not require the payment of any funds to any of the identified consultants. Consultants will only be paid for services provided on individual and specific Task Order Assignments developed under these Agreements. Each Task Order Assignment will have its own specific scope, schedule, and budget. All Task Order Assignments will be for work within established

and approved City programs and budgets, or to assist the City in response to emergency situations requiring the assistance of engineering consultants.

The City Manager will approve Task Order Assignments that are within the City Manager's authorized limit. Task Order Assignments above that limit will be brought before the City Council for authorization.

Recommendation/Conclusion:

Staff recommends approval of the Consultant Agreements with the selected firms for on-call engineering services through December 31, 2013.

Concurrence:

The Planning, Building and Public Works, Finance, and Legal Departments concur.

**CITY OF DES MOINES
ENGINEERING SERVICES DEPARTMENT
REQUEST FOR QUALIFICATIONS
ON-CALL GENERAL CIVIL ENGINEERING SERVICES
2012 – 2013
Submittal Due Date: September 30, 2011**

GENERAL SCOPE:

The City of Des Moines is requesting statements of qualifications for firms interested in providing on-call General Civil Engineering Services for various City projects and tasks. The selected consultant(s) shall be responsible for preparing and/or reviewing civil engineering plans and specifications and where necessary, associated NEPA and or SEPA, studies, reports, and permits. The selected consultant(s) will be responsible for review of engineering aspects of selected developer plans. The selected consultant(s) will also provide predesign studies and final design assistance in support of City capital projects, operations, and maintenance including but not limited to, projects selected from the City of Des Moines adopted Transportation Improvement Plan. The City may also require architectural, landscape and/or urban design services in support of capital projects possibly including, but not limited to, arterial corridor planning, preservation of historic structures and/or improvements in the city center. The selected consultant(s) shall be available on an as-needed basis from January 1, 2012 to December 31, 2013. One or more consultant contracts will be considered under this solicitation, each with a maximum cost of up to \$1,000,000, incurred under multiple task order assignments. The Consultant(s) will be expected to respond on short notice to requests for technical services to resolve urgent task orders.

PROFESSIONAL SERVICES REQUIRED:

It is the intent of the City of Des Moines that the selected firm(s) will have experience in accomplishing similar work for municipal clients. The ideal firm(s) would be able to provide civil engineering services including the specialty areas of bridge and structural engineering, geotechnical engineering, pavement and roadway design, traffic engineering, transportation planning including preparation of comprehensive transportation plans, corridor studies and traffic impact fee programs, surface water management plans, utility plans, construction engineering and construction management. Other services requested of the selected consultant(s) may include survey, wetlands & environmental studies, permit acquisition, right-of-way services, materials testing, construction management and inspection, grant preparation, and other related work.

Work performed under this scope will consist of individually negotiated task order assignments processed under a consultant agreement. Work will be based upon a project scope that may involve any one or a combination of disciplines and expertise and therefore may require the participation of one or several individual specialists. Work on scoping and/or preparation of the individual task order assignments is not reimbursable.

In the case of projects covering two or more distinct phases, when the cost for the second phase depends on decisions reached during the first phase, the task order assignment should cover only the first phase. The consultant agreement(s) for preliminary engineering will state that the consultant may be considered for subsequent phases upon satisfactory performance on prior work and upon negotiation of an agreement for the subsequent phase(s). The City of Des Moines is not obligated to use the same consultant firm for all phases. Separate consultant task order assignments may be considered for each phase (e.g., one for preliminary engineering and another for construction engineering).

RFQ SUBMITTAL REQUIREMENTS AND EVALUATION CRITERIA:

Responses to this Request for Qualifications shall be limited to fifteen (15) single-sided pages, not including cover letter. A minimum of three references pertaining to the requested services must be listed, with current phone numbers and contact persons as a part of the RFQ. In addition, the consultant may submit a brochure describing the general capabilities of their firm along with the RFQ.

The RFQ's will be evaluated by a selection committee. If the selection committee cannot make definitive consultant selections, the City may choose to conduct oral interviews of top ranking firms. The committee will ultimately select Civil Engineering firms to be included on an on-call roster for 2012-2013.

The selection committee will use, but will not be limited to, the following criteria for consultant selection:

- Consultant's specialized experience and technical competence in performing the type of work requested in the general scope of work. The proposal document should list work experience specific to the consultant's staff members who would work for the City under this contract. (45 points)
- Demonstrated ability to perform work in a timely manner. (20 points)
- Demonstrated ability to be responsive, meet schedules and manage budgets. (30 points)
- Demonstrated ability to successfully work with municipalities and regulatory agencies. (25 points)
- Experience and ability to work on federally funded projects consistent with state and national requirements. (20 points)
- Experience with historically significant structures and municipal facilities. (10 points)

Total maximum points: 150

The City of Des Moines 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 respondents that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Five (5) copies of the response to this RFQ must be delivered to the City of Des Moines, 21650 11th Avenue South, Des Moines, WA 98198, Attention: Dan Brewer, by **4:00 PM on September 30, 2011**. Questions regarding this Request for Qualifications should be directed in writing, via e-mail only, to Scott Romano, at sromano@desmoineswa.gov by 12:00 PM September 23, 2011. City written responses will be available to interested parties on or before the COB September 26, 2011.

Published in the Daily Journal of Commerce: September 8, 2011 and September 15, 2011.

Local Agency Standard Consultant Agreement	Consultant/Address/Telephone 	
☐ Architectural/Engineering Agreement ☐ Personal Services Agreement Agreement Number _____	Project Title And Work Description 	
Federal Aid Number _____		
Agreement Type (Choose one) ☐ Lump Sum Lump Sum Amount \$ _____ ☐ Cost Plus Fixed Fee Overhead Progress Payment Rate _____ % Overhead Cost Method ☐ Actual Cost ☐ Actual Cost Not To Exceed _____ % ☐ Fixed Overhead Rate _____ % Fixed Fee \$ _____ ☐ Specific Rates Of Pay ☐ Negotiated Hourly Rate ☐ Provisional Hourly Rate ☐ Cost Per Unit of Work		
DBE Participation ☐ Yes ☐ No _____ %		
Federal ID Number or Social Security Number _____		
Do you require a 1099 for IRS? ☐ Yes ☐ No		Completion Date _____
Total Amount Authorized \$ _____		
Management Reserve Fund \$ _____		
Maximum Amount Payable \$ _____		

Index of Exhibits (Check all that apply):

- | | |
|--|--|
| ☐ Exhibit A-1 Scope of Work
☐ Exhibit A-2 Task Order Agreement
☐ Exhibit B-1 DBE Utilization Certification
☐ Exhibit C Electronic Exchange of Data
☐ Exhibit D-1 Payment - Lump Sum
☐ Exhibit D-2 Payment - Cost Plus
☐ Exhibit D-3 Payment - Hourly Rate
☐ Exhibit D-4 Payment - Provisional
☐ Exhibit E-1 Fee - Lump/Fixed/Unit
☐ Exhibit E-2 Fee - Specific Rates
☐ Exhibit F Overhead Cost
☐ Exhibit G Subcontracted Work
☐ Exhibit G-1 Subconsultant Fee | ☐ Exhibit G-2 Fee-Sub Specific Rates
☐ Exhibit G-3 Sub Overhead Cost
☐ Exhibit H Title VI Assurances
☐ Exhibit I Payment Upon Termination of Agreement
☐ Exhibit J Alleged Consultant Design Error Procedures
☐ Exhibit K Consultant Claim Procedures
☐ Exhibit L Liability Insurance Increase
☐ Exhibit M-1a Consultant Certification
☐ Exhibit M-1b Agency Official Certification
☐ Exhibit M-2 Certification - Primary
☐ Exhibit M-3 Lobbying Certification
☐ Exhibit M-4 Pricing Data Certification
☐ App. 31.910 Supplemental Signature Page |
|--|--|

THIS AGREEMENT, made and entered into this _____ day of _____, _____,
 between the Local Agency of _____, Washington, hereinafter called the "AGENCY",
 and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I General Description of Work

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II Scope of Work

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

III General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

V Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

VI Sub-Contracting

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

VII Employment

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII Nondiscrimination

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or it's employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X Changes of Work

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI Disputes

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

XII Venue, Applicable Law, and Personal Jurisdiction

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIV Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XVI Federal and State Review

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the Agency

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

XVIII Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XIX Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By _____ By _____

Consultant _____ Agency _____

Exhibit A-1 Scope of Work

Project No. _____

[illegible]

Documents To Be Furnished By The Consultant

[illegible]

Exhibit A-2
Scope of Work
(Task Order Agreement)

Each item of work under this AGREEMENT will be provided by task assignment. Each assignment will be individually negotiated with the CONSULTANT. The amount established for each assignment will be the maximum amount payable for that assignment unless modified in writing by the AGENCY. The AGENCY is not obligated to assign any specific number of tasks to the CONSULTANT, and the AGENCY'S and CONSULTANT'S obligations hereunder are limited to tasks assigned in writing. Task assignments may include but are not limited to, the following types of work:

- A. _____
- B. _____
- C. _____
- D. _____
- E. _____
- F. _____

Task assignments made by the AGENCY shall be issued in writing by a Formal Task Assignment Document similar in format to page 2 of this exhibit.

An assignment shall become effective when a formal Task Assignment Document is signed by the CONSULTANT and the AGENCY, except that emergency actions requiring a 24-hour or less response can be handled by an oral authorization. Such oral authorization shall be followed up with a Formal Task Assignment Document within four working days, and any billing rates agreed to orally (for individuals, subconsultants, or organizations whose rates were not previously established in the AGREEMENT) shall be provisional and subject to final negotiation and acceptance by the AGENCY.



Disadvantaged Business Enterprise Utilization Certification

(Optional - Use only when DBE Consultant is Utilized)

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract. If the bidder is relying on the good faith effort method to meet the DBE assigned contract goal, documentation in addition to the certificate must be submitted with the bid proposal as support for such efforts. The successful bidder's DBE Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMWBE, telephone 360-753-9693.

certifies that the Disadvantaged Business Enterprise

Name of Bidder _____

(DBE) Firms listed below have been contacted regarding participation on this project. If this bidder is successful on this project and is awarded the contract, it shall assure that subcontracts or supply agreements are executed with those firms where an "Amount to be Applied Towards Goal" is listed. (If necessary, use additional sheet.)

Name of DBE Certificate Number	Project Role * (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer, Service Provider)	Description of Work	Amount to be Applied Towards Goal **
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Disadvantaged Business Enterprise Subcontracting Goal: _____ DBE Total \$ _____ ***

* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.

** See the section "Counting DBE Participation Toward Meeting the Goal" in the Contract Document.

*** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly.

Exhibit C

Electronic Exchange of Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

- I. Surveying, Roadway Design & Plans Preparation Section
 - A. Survey Data
 - B. Roadway Design Files
 - C. Computer Aided Drafting Files
 - D. Specify the Agency's Right to Review Product with the Consultant
 - E. Specify the Electronic Deliverables to Be Provided to the Agency
 - F. Specify What Agency Furnished Services and Information Is to Be Provided
- II. Any Other Electronic Files to Be Provided
- III. Methods to Electronically Exchange Data
 - A. Agency Software Suite
 - B. Electronic Messaging System
 - C. File Transfers Format

Exhibit D-2

Payment (Cost Plus a Fixed Fee)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.

2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:

- a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
- b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
 - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost"
 - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

- D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit D-3

Payment (Negotiated Hourly Rate)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

1. **Hourly Rates:** The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibit "E" and "F" attached hereto and by this reference made part of this AGREEMENT. The rates listed shall be applicable for the first twelve (12) month period and shall be subject to negotiation for the following twelve (12) month period upon request of the CONSULTANT or the AGENCY. If negotiations are not conducted for the second or subsequent twelve (12) month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the AGENCY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.
2. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
 - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - d. All above charges must be necessary for the services provided under this AGREEMENT.
3. **Management Reserve Fund:** The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."

4. **Maximum Total Amount Payable:** The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
5. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly billing shall be supported by detailed statements for hours expended at the rates established in Exhibit "E", including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT'S employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
6. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

7. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit E-1
Consultant Fee Determination - Summary Sheet
(Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)

Project: _____

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	=	<u>Cost</u>
_____	_____	X	_____		\$	_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____

Total DSC = \$ _____

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of _____ % x \$ _____

Fixed Fee (FF):

FF Rate x DSC of _____ % x \$ _____

Reimbursables:

Itemized _____

Subconsultant Costs (See Exhibit G):

Grand Total _____

Prepared By: _____ Date: _____

Rate
Per Hour

Year	1990	1991	1992	1993	1994
1990	1990	1991	1992	1993	1994
1991	1991	1992	1993	1994	1995
1992	1992	1993	1994	1995	1996
1993	1993	1994	1995	1996	1997
1994	1994	1995	1996	1997	1998
1995	1995	1996	1997	1998	1999
1996	1996	1997	1998	1999	2000
1997	1997	1998	1999	2000	2001
1998	1998	1999	2000	2001	2002
1999	1999	2000	2001	2002	2003
2000	2000	2001	2002	2003	2004
2001	2001	2002	2003	2004	2005
2002	2002	2003	2004	2005	2006
2003	2003	2004	2005	2006	2007
2004	2004	2005	2006	2007	2008
2005	2005	2006	2007	2008	2009
2006	2006	2007	2008	2009	2010
2007	2007	2008	2009	2010	2011
2008	2008	2009	2010	2011	2012
2009	2009	2010	2011	2012	2013
2010	2010	2011	2012	2013	2014
2011	2011	2012	2013	2014	2015
2012	2012	2013	2014	2015	2016
2013	2013	2014	2015	2016	2017
2014	2014	2015	2016	2017	2018
2015	2015	2016	2017	2018	2019
2016	2016	2017	2018	2019	2020
2017	2017	2018	2019	2020	2021
2018	2018	2019	2020	2021	2022
2019	2019	2020	2021	2022	2023
2020	2020	2021	2022	2023	2024
2021	2021	2022	2023	2024	2025
2022	2022	2023	2024	2025	2026
2023	2023	2024	2025	2026	2027
2024	2024	2025	2026	2027	2028
2025	2025	2026	2027	2028	2029
2026	2026	2027	2028	2029	2030
2027	2027	2028	2029	2030	2031
2028	2028	2029	2030	2031	2032
2029	2029	2030	2031	2032	2033
2030	2030	2031	2032	2033	2034
2031	2031	2032	2033	2034	2035
2032	2032	2033	2034	2035	2036
2033	2033	2034	2035	2036	2037
2034	2034	2035	2036	2037	2038
2035	2035	2036	2037	2038	2039
2036	2036	2037	2038	2039	2040
2037	2037	2038	2039	2040	2041
2038	2038	2039	2040	2041	2042
2039	2039	2040	2041	2042	2043
2040	2040	2041	2042	2043	2044
2041	2041	2042	2043	2044	2045
2042	2042	2043	2044	2045	2046
2043	2043	2044	2045	2046	2047
2044	2044	2045	2046	2047	2048
2045	2045	2046	2047	2048	2049
2046	2046	2047	2048	2049	2050
2047	2047	2048	2049	2050	2051
2048	2048	2049	2050	2051	2052
2049	2049	2050	2051	2052	2053

Exhibit F **Breakdown of Overhead Cost**

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor		
Overhead Expenses:		
FICA		
Unemployment		
Health/Accident Insurance		
Medical Aid & Industrial Insurance		
Holiday/Vacation/Sick Leave		
Commission/Bonus/Pension		
Total Fringe Benefits		
General Overhead:		
State B&O Taxes		
Insurance		
Administration & Time Not Assignable		
Printing, Stationery & Supplies		
Professional Services		
Travel Not Assignable		
Telephone & Telegraph Not Assignable		
Fees, Dues & Professional Meetings		
Utilities & Maintenance		
Professional Development		
Rent		
Equipment Support		
Office, Miscellaneous & Postage		
Total General Overhead		
Total Overhead (General + Fringe)		
Overhead Rate (Total Overhead / Direct Labor)		

Exhibit G

Subcontracted Work

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)

Project: _____

Sub Consultant: _____

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
_____	_____	X	_____	\$	_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____

Total DSC = \$ _____

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of _____ % x \$ _____ = _____

Fixed Fee (FF):

FF Rate x DSC of _____ % x \$ _____ = _____

Reimbursables:

Itemized _____ = _____

SubConsultant Total _____ = _____

Prime Mark-Up _____ % X _____ = _____

Grand Total _____ = _____

Prepared By: _____

Date: _____

Exhibit G-3
Breakdown of Subconsultants Overhead Cost

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor		
Overhead Expenses:		
FICA		
Unemployment		
Health/Accident Insurance		
Medical Aid & Industrial Insurance		
Holiday/Vacation/Sick Leave		
Commission/Bonus/Pension		
Total Fringe Benefits		
General Overhead:		
State B&O Taxes		
Insurance		
Administration & Time Not Assignable		
Printing, Stationery & Supplies		
Professional Services		
Travel Not Assignable		
Telephone & Telegraph Not Assignable		
Fees, Dues & Professional Meetings		
Utilities & Maintenance		
Professional Development		
Rent		
Equipment Support		
Office, Miscellaneous & Postage		
Total General Overhead		
Total Overhead (General + Fringe)		
Overhead Rate (Total Overhead / Direct Labor)		

Exhibit H

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit I
Payment Upon Termination of Agreement
By the Agency Other Than for
Fault of the Consultant

(Refer to Agreement, Section IX)

Lump Sum Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Cost Plus Fixed Fee Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Specific Rates of Pay Contracts

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

Cost Per Unit of Work Contracts

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

Exhibit J

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 – Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit K

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 – Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 – Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Exhibit M-1(a)
Certification Of Consultant

Project No. _____
Local Agency _____

I hereby certify that I am _____ and duly authorized
representative of the firm of _____ whose address is
_____ and that neither I nor the above
firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Exhibit M-1(b)
Certification Of Agency Official

I hereby certify that I am the AGENCY Official of the Local Agency of _____,
Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an
express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or
consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of
Transportation and the Federal Highway Administration, U.S. Department of Transportation, in
connection with this AGREEMENT involving participation of Federal-aid highway funds, and is
subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Exhibit M-2
Certification Regarding Debarment, Suspension, and Other Responsibility
Matters-Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I) (B). of this certification; and
 - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): _____

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-3
Certification Regarding The Restrictions
of The use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm): _____

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of _____* are accurate, complete, and current as of _____.**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm _____

Name _____

Title _____

Date of Execution*** _____

* Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).

** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Supplemental Signature Page for Standard Consultant Agreement	Consultant/Address/Telephone
Agreement Number	Project Title And Work Description
Federal Aid Number	
Local Agency	

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the Local Agency of _____, Washington, hereinafter called the "AGENCY", and the above organization hereinafter called the "CONSULTANT".

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CONSULTANT

LOCAL AGENCY

By _____

By _____

Consultant _____

Agency _____

By _____

By _____

Consultant _____

Agency _____

By _____

Agency _____

By _____

Agency _____

Consensus Ranking DISCIPLINES

DISCIPLINES

[illegible][illegible]

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DESMOINES

RATING BY DISCIPLINE

Consensus Ranking

DISCIPLINES

Consensus Ranking	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Source Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Planning	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Technical Buildings	Traffic	Grants / Funding
Firm Name	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T	D B L T
Parsons	2	1	1	2	1	1	2	1	2	2	2	2	2	2	2	2	2
URS	1	2	3	4	2	1	2	2	1	1	3	2	1	1	1	1	1
URS Tech Mktg	3	2	4	3	2	2	3	2	4	2	2	2	2	2	2	2	2
URS	3	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
URS Consult Eng	3	2	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	3	1	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3

URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1

Krause & Assoc.	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS Design & Co.	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1

Gray & Osborne	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
URS	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1

[illegible]

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DES MOINES

RATING BY DISCIPLINE

Consensus Ranking

DISCIPLINES

Consensus Ranking																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
Firm Name	Civil Design			Structural Engineering			Geotechnical Engineering			Urban Design & Landscape			Surface Water Management			Traffic Engineering			Traffic Operations			Transportation Planning			Environmental Engineering and Permitting			Surveying			Utilities			Construction Management			Transit (Bus, Rail, Ferry)			Historical Buildings			Traffic			Grants / Funding																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DESMONES
 RATING BY DISCIPLINE
 Consensus Ranking
 DISCIPLINES

Consensus Ranking

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding			
DBILT	DB	0	B	L	T	DB	0	B	L	T	DB	0	B	L	T	DB	0	B	L	T
Pyramus	2	1	1	4	1	2	1	3	2	1	1	4	3	1	2	1	1	1	2	3
Yod	1	2	3	2	3	4	2	2	1	1	1	1	1	1	1	1	1	1	2	3
Test (see HCA)	4	2	4	1	3	2	2	2	3	3	2	4	2	3	4	2	3	2	4	3
URS	3	4	1	3	2	2	2	3	3	3	2	4	2	4	2	4	3	2	4	3
Gettysburg Eng.	3	2	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Carlson	3	3	1	3	4	4	4	3	4	4	3	3	2	4	2	4	3	2	4	3

Ken Ascent																				
James W. Elbert																				
ESA Architects																				
URS	4	1	1	2		2														

Karen & Assoc.						2														
S&R Design & Co.							1													
PAGE																				
Budline																				
DKS & Associates																				
URS Corporation						2														

Gray & Osborne							4													
Packard								4												
RHC Engineering									3											
Trail red Eng.																				
APG Surveying																				
Ono Roemer																				
the Trango Group																				
Shea, Carr & Jewell																				
dmp inc.																				

Consensus Ranking

[illegible]

Consensus Ranking

[illegible]

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DESMONES
 RATING BY DISCIPLINE
 Consensus Ranking
 DISCIPLINES

Consensus Ranking

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Tunnel (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants Funding
DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Paradigm	2 1 1 4	2 1 1 3	2 1 1 4	3 1 2	1 1 1 1	1 2 1 2	2 2 2 2	2 2 2 2	2 2 2 2	2 2 1 1	1 1 1 3	1 1 1 1	1 1 1 1	1 1 3	3 3	1 1 1 1	2 1 2 3
DFC	1 2 3 2	3 4	2	1 2 2 1	1 2 3 3	3 1	4 3 1	3	1 3 4	1 4 3 2	2 4 3 2	3 2 1	4 2 3	2 4	4 2	2 1 4	2 1 3 1
Terra Technica	4 2 1 1	3 2 2 2	3 3 2	2 3 3 1	3 3 4	2 2 1 2	3	3	3	3 3 2	2 2 4 2	2 4 2	4 2	4	4	3 3 2	4 3 3 2
ICM	3 4	4	4	4	4	4	3	4	4	4 3 2	2 2 4 2	2 3	4 2	4	4	3 3 2	4 3 3 2
del Conte Eng.	3 2	4 1 1 1	4	4	4	4	3	4	4	4 3	3 3	2 3	4	4	3 3 2	4 3 3 2	4
Bentley	3	1 3	4	3	4	4	4	4	4	2	3	3	4	2 3	1 2		

Tom Adams						2 1 1	1 1 4	1 1 1 2						2 1 3	3	2	4
James W. Benge						3	2	3 3	2 3							1 4	
ES&H/Johnson									1 1 1 1							2 2	
AMS			4 1 1 2	2				2	2 3							3	

Krause & Assoc.			2														
S&R Design & Co.				1													
PACE																	3 2
Budette																	
DWS & Associates						3	1							4 1			
URS Corporation					2			4	3			4		1 2			

Gray & Osborne				1	4							4 3				3	
Packland					3								4 2				
RH2 Engineering									4							4	1
Tierstedt Engr.		3															
AFS SwinkMap			3							4	1						
Ono Poremba																	
the Timpa Group					4												
Shea Carr & Jewell																	
depp, Inc.																	

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DESMOINES
 RATING BY DISCIPLINE
 Consensus Ranking
 DISCIPLINES

Consensus Ranking

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding
Des Moines	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
James W. Eason	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
URS Corporation	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Gray A. Osborne	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Packard	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
RHQ Engineering	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Trail Test Eng.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
APS Services	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Chas. Borsani	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
the Tinspo Group	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Shels Carr & Jewell	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
dhp, inc.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding
James W. Eason	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
URS Corporation	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Gray A. Osborne	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Packard	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
RHQ Engineering	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Trail Test Eng.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
APS Services	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Chas. Borsani	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
the Tinspo Group	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Shels Carr & Jewell	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
dhp, inc.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding
Krause & Assoc.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
S&R Design & Co.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
PACE	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Budline	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
DWS & Associates	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
URS Corporation	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding
Gray A. Osborne	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Packard	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
RHQ Engineering	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Trail Test Eng.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
APS Services	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Chas. Borsani	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
the Tinspo Group	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
Shels Carr & Jewell	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT
dhp, inc.	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT	DBLT

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DES MOINES

RATING BY DISCIPLINE

Consensus Ranking

DISCIPLINES

Consensus Ranking																				
Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Source Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Planning	Surveying	Utilities	Construction Management	Travel (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding				
	D	B	L	T	R	D	B	L	T	R	D	B	L	T	R	D	B	L	T	R
Parsons	2	1	1	2	1	1	1	2	2	2	2	2	2	2	2	2	2	2	2	2
URS	1	2	2	3	3	1	1	3	1	1	3	2	2	2	2	2	2	2	2	2
Clark Nexsen	3	2	4	1	3	2	2	3	3	3	2	2	2	2	2	2	2	2	2	2
HDR	3	4	4	4	4	4	4	4	3	3	2	4	2	4	4	3	3	2	4	3
Jeff Gossard Eng	3	2	4	1	1	1	1	1	4	2	3	3	2	4	4	3	3	2	4	3
Emmett	3	1	3	3	3	3	3	3	4	2	3	4	2	3	3	3	2	4	4	3
Enviro Partners																				
James W. Egan																				
ES&K Architects																				
ARC																				
Kraemer & Assoc.																				
S&R Design & Co.																				
PACE																				
BlueLine																				
D&S & Associates																				
URS Corporation																				
Gray & Osborne																				
PacLand																				
RH2 Engineering																				
TransTech Engr.																				
APS SurveyMap																				
Otto Rosenau																				
the Trippco Group																				
Shea Carr & Jewell																				
dmg inc.																				

EVALUATION OF CIVIL ENGINEERING FIRMS FOR CONTRACT WORK WITHIN CITY OF DESMOINES
 RATING BY DISCIPLINE
 Consensus Ranking
 DISCIPLINES

Consensus Ranking

Firm Name	Civil Design	Structural Engineering	Geotechnical Engineering	Urban Design & Landscape	Surface Water Management	Traffic Engineering	Traffic Operations	Transportation Planning	Environmental Engineering and Permitting	Surveying	Development Plan Review	Utilities	Construction Management	Transit (Bus, Rail, Ferry)	Historical Buildings	Trails	Grants / Funding
D&L T	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Donato	2	1	1	2	1	2	1	1	1	1	1	1	1	1	1	1	1
APC	1	2	3	3	4	2	2	1	1	1	1	1	1	1	1	1	1
Teri Lee HSCA	4	2	4	1	3	2	2	2	1	3	3	3	2	1	1	3	3
GR	3	4	4	4	4	4	4	3	3	3	3	3	4	4	3	3	3
Jeff Connelley	3	2	4	1	3	4	4	4	4	4	4	4	4	4	4	4	4
Smith	3	3	2	1	3	4	4	4	4	4	4	4	4	4	4	4	4

Ken Brown						2	1	1	1	1	1	1	1	1	1	1	1
James W. Eason						3	2	3	3	2	3	3	3	3	3	3	3
SEA Station																	
SEA						4	1	1	2	2	2	2	2	2	2	2	2

Kizart & Assoc.						2											
SW Design & Co.							1										
PACE																	
Blueline																	
DWS & Associates																	
UPS Corporation						2											

Gay & Osborne																	
Parkland																	
RH2 Engineering																	
Trans Tech Engr.																	
APCS StudioMap																	
Chris Roseman																	
the Tinnapp Group																	
Shea Carr & Jewell																	
dmp, inc.																	

Consensus Ranking DISCIPLINES

133

AGENDA ITEM

SUBJECT: Purchase of Cityworks and ESRI
Software to Support SWM and
Public Works Asset and
Maintenance Management

AGENDA OF: January 26, 2012

DEPT. OF ORIGIN: Planning, Building & Public
Works

DATE SUBMITTED: January 17, 2012

ATTACHMENTS:

1. Contract
2. Budget Information

CLEARANCES:

☒ Legal 

☒ Finance 

☐ Marina N/A

☐ Parks, Recreation & Senior Services

☒ Planning, Building & Public Works 

☐ Police N/A

☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose:

The purpose of this agenda item is to request authorization for a 2012 expenditure in the amount of \$56,264.00 to purchase software and associated implementation services to set up and deploy a web based Computerized Maintenance Management System (CMMS). Sufficient Surface Water Management (SWM) funds are available for this purchase.

Suggested Motions

Motion 1: "I move to approve a contract for the purchase of hardware, software and related consulting services from Cityworks and purchase of an ESRI ArcGIS Server, in support of SWM and Public Works maintenance management, and to authorize the City Manager to sign said contract substantially in the form as submitted."

Motion 2: "I move to direct the Finance Director to prepare a SWM 2012 budget amendment appropriating funds in the amount of \$56,264.00 for this purpose."

Background and Discussion:

The City has spent the past 2 ½ years locating and mapping City publicly and privately owned facilities in both the SWM and Streets programs. These facilities include catch basins, underground piping, storm water detention facilities, traffic signs and road markings. This is accomplished through the use of Global Positioning Systems (GPS) and then storing the collected data in a Geographic Information System (GIS). The next phase after mapping these assets is to leverage the collected data through the use of a CMMS. A CMMS software package maintains a computer database of information about these assets, the City's National Pollution Discharge Elimination System (NPDES) permit regulatory responsibilities, and the associated maintenance operations and activities of the organization. The City currently does not have a centralized or automated method of processing this data or the ability to

manage routine or preventative maintenance work orders associated with the collected data. This proposed Cityworks CMMS solution will be able to deliver the following:

- Issuance and tracking of asset and address-based routine and preventative work orders
- Processing of service requests by the public and City employees
- Generating and tracking tasks, activities and procedures
- Tracking, scheduling and issuing of required work orders for tests and inspections
- Flexible search and ad-hoc reporting capabilities
- Accurate inventory of all City assets
- Asset view/edit capabilities
- Mapped views of all inventoried systems and assets
- Detailed management reporting capabilities

Cityworks will allow City staff to substantially improve on its ability to effectively manage its assets and comply with NPDES permit requirements. More specifically, the system will provide a GIS-based platform necessary for the establishment of a routine and preventative maintenance program resulting in timely, centralized and systematic issuance of related work orders and required inspections. Subsequent analysis via the flexible reporting capabilities of the maintenance work performed will provide valuable data in terms of time efficiency, performance and automated material inventory and equipment use. City assets within all programs will benefit from the use of this system.

Equally but of more immediate importance will be the improvements to and efficiencies on how SWM complies with its current and future NPDES permit requirements. Accurate accounting of NPDES related activities will improve through work order automation and detailed reporting capabilities. Additional benefits should include added support and documentation for future state funding requests by the City.

With the implementation of this solution it is anticipated that there will be a considerable savings in staff's time as a result of more readily accessible information and development of more efficient and accountable maintenance methods and procedures via analysis of accurate historical data.

The Cityworks system, of which there are 5 generic licenses included, requires another GIS component which is called "ArcGIS Server". Two indirect benefits of these combined systems:

1. Licensing of technology that will allow the City to develop web based mapping applications for the public's use via the City website; currently the City does not have this capability;
2. This solution is a commercial "off-the-shelf" system currently being used by many neighboring jurisdictions and utility districts. We believe the use of Cityworks will enhance potential partnership opportunities with said entities through information sharing and cooperative efforts.

Alternative:

Council could choose not to approve the purchase, at which time SWM/NPDES and Public Works Maintenance would continue with current manual maintenance and reporting methods with little or no automated time management or reporting capabilities. This could jeopardize SWM's ability to efficiently comply with NPDES permit requirements and future funding and potentially expose the City to unnecessary maintenance costs and unforeseen liabilities due to reduced ability to more effectively track maintenance activities.

Financial Impact:

SWM has sufficient remaining fund balance to make this purchase in the amount of \$56,264.00. NPDES grant funds are also eligible for this purchase; many other jurisdictions have used NPDES funding for the purchase of this solution. Although the first year maintenance costs are included in this initial purchase price, starting in 2013 the City will need to budget approximately \$8,500 each year for all system maintenance and replacement needs. SWM will pay disproportionately lower annual maintenance costs beginning in 2013 in exchange for their initial purchase of the system. No other fund reimbursement is planned at this time for SWM's initial purchase of the system. Funds assessed twenty percent (20%) each for annual software maintenance include: SWM, Streets, All City Buildings and Parks Operations based on initial estimates. After the first year of operations, the use and fund benefits will be analyzed to ensure that SWM, Streets and General Fund integrity is maintained and inappropriate cross fund subsidization is not occurring.

Recommendation/Conclusion:

Staff recommends making this one time purchase in the amount of \$56,264.00 using SWM funds in order to increase time and cost efficiencies within our overall asset management and regulatory programs.

Concurrence:

City Manager; Planning, Building & Public Works, Parks; Legal and Finance Departments.

Azteca Systems, Inc.
11075 South State St.
Suite 24
Sandy, Utah 84070



Phone: (801) 523-2751
FAX (801) 523-3734
Email: info@cityworks.com
http://www.cityworks.com

CITYWORKS[®]
Update & Support Agreement
Contract No. _____

This agreement (Agreement) is between _____ (hereafter the User), as specified in paragraph 9.1, and **Azteca Systems, Inc.** (hereafter Azteca SystemsTM), a Utah corporation, with its principal place of business at 11075 South State Street, Suite #24 Sandy, Utah, 84070. Azteca Systems and the User have entered into a license agreement with respect to use of The Cityworks Software (the "Cityworks Software License Agreement"); and User also desires to secure software Cityworks update and support services from Azteca Systems with respect to such Software as more specifically enumerated in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

1.1 "Covered Software" shall mean the particular Software, scripts, interfaces and custom code identified in paragraph 9.3.

1.2 "Custom Applications" shall mean any scripts, interfaces, reports or program code requested by the Licensee, other than Program Modifications to the Cityworks applications that provide specific functionality uniquely designed for the Licensee. Any Custom Applications delivered to Licensee shall NOT become part of the Licensed Software unless otherwise specified in section 9.3. The Custom Applications scripts, interfaces, reports and program code shall be provided to the client as a deliverable and client shall have full ownership rights for the Custom Applications. However, Azteca Systems shall retain the right to utilize, modify and enhance the scripts, interfaces, reports or program code of the Custom Applications as Azteca Systems deems appropriate.

1.3 "Effective Date" shall mean the date on which User receives the Software Cityworks software from Azteca Systems in accordance with the Cityworks Software License Agreement, Contract No. _____, between User and Azteca Systems dated [Month] [Day] / [Year].

Attachment 1

1.4 "Licensed Software" shall mean the particular Software identified in the Cityworks Software License Agreement.

1.5 "Program Fixes" shall mean minor corrections to the Licensed Software to correct deviations in the Licensed Software. Any Program Fixes delivered to User shall become part of the Licensed Software under the Cityworks Software License Agreement.

1.6 "Program Modifications" shall mean new versions of or additions to the Licensed Software, which adds to or alters the function(s) of the Licensed Software and new modules or products adapted to interface with the Licensed Software and add to or alter the function(s) of the Licensed Software, requested by the User. Any Program Modifications delivered to User shall become part of the Licensed Software under the Cityworks Software License Agreement.

1.7 "Product Updates" are Program Fixes, Program Upgrades and Program Modifications.

1.8 "Program Upgrades" shall mean new versions of, or additions to, the Licensed Software prepared by Azteca Systems that improve its operating performance but do not add to or alter its basic function(s). Any Program Upgrades delivered to User shall become part of the Licensed Software.

1.9 "Software" shall mean Cityworks source code, machine-readable code, and related documentation.

1.10 "Update & Support Period" shall mean the initial Update and Support period commencing upon the Effective Date of this Agreement, as set forth in section 9.2, and any subsequent twelve-month period.

1.11 "Update & Support Agreement" or "Agreement" shall mean this Update & Support Agreement between Azteca Systems and User identified in paragraph 9.1, the terms and conditions of which are hereby incorporated by reference.

2. SUPPORT

2.1 The services to be provided during the Update & Support Period include Azteca Systems Product Updates to Azteca System's Cityworks applications including Program Fixes, Program Upgrades and Program Modifications (not Custom Applications). Azteca Systems will ensure upward compatibility for The Cityworks Software applications within a reasonable timeframe for minor and major ESRI[®] ArcGIS and Cityworks supported databases revisions. If identified as "Covered Software", Azteca Systems will ensure upward compatibility within a reasonable timeframe for Custom Applications when there are minor ArcGIS and Cityworks

supported databases revisions (for example, from rev 9.1 to rev 9.2). Azteca Systems will not ensure upward compatibility for Custom Applications when there are major ESRI ArcGIS and Cityworks supported databases revisions (for example, from rev 9.x to rev 10.x), Azteca Systems will make all reasonable efforts to provide upward compatibility.

2.2 Azteca Systems shall, without additional charge (except as allowed for in paragraph 3.4 and 7.3), during the term of this Agreement:

- (a) Make all reasonable efforts to provide those Program Fixes, if any, that are necessary to assure the Covered Software is functioning properly; provided User provides Azteca Systems with written notice specifying particularity in narrative, non-technical terms to the best of User staff's ability the apparent error in the system and the manner in which the Covered Software is not functioning properly (as provided in Section 8); and
- (b) Deliver to User any Program Upgrades relating to the Covered Software made available to others.
- (c) Provide Telephone User Support, Email Support, Web Support, during normal business hours Monday through Friday (excepting Holidays) and after hour emergency support through messaging service, and other benefits deemed appropriate by Azteca Systems (as set forth in Section 7).
- (d) Implement and maintain a means of secure, remote direct network access (VPN, Web-access, dial-up, etc) to the User's systems in order to perform thorough remote diagnostics and effect remote repairs, upgrades, and fixes.

2.3 The following items, among others, however, are specifically excluded as support services under this section of this Agreement:

- (a) interpretation of program results;
- (b) assistance with questions related to computer hardware and peripherals that are not related to the use of the Covered Software;
- (c) assistance with computer operating system questions not directly pertinent to the Covered Software or Program Modifications;
- (d) data debugging and/or correcting;

- (e) services necessitated as a result of any cause other than authorized ordinary and proper use by the User of the Covered Software, including but not limited to neglect, abuse, unauthorized modification, unauthorized updates or electrical, fire, water or other damage; and
- (f) consulting regarding Custom Applications created to function with the Covered Software unless the Custom Application is identified as Covered Software in paragraph 9.3.

3. CHARGES

3.1 For services hereunder, User shall pay Azteca Systems an annual fee. The annual fee for the initial Update & Support Period is set forth in paragraph 9.2, and shall be paid prior to the start of the initial Update & Support Period. The annual fee for successive Update & Support Periods (twelve-month periods commencing upon the anniversary of the initial Update & Support Period) shall become due prior to the end of the preceding paid-up Update & Support Period.

3.2 Upon 90 days written notice, the fee for Update and Support Periods listed in paragraph 9.2 subsequent to the third Update and Support Period may be adjusted by Azteca to reflect increases in costs of providing the services described herein and/or to reflect increases in the population, users, size, usage, and other factors of User; provided, however, that (a) if the above factors remain constant the increase in the pricing shall not exceed the Consumer Price Index and (b) if any such proposed cost increase is in User's opinion excessive, User shall be entitled to terminate this Agreement prior to the start of the applicable Update & Support Period and shall not be liable for any further payment under this Agreement. Azteca will notify User of the new pricing no later than 90 days prior to the annual renewal date of the year preceding the year for which such adjusted pricing applies.

3.3 In addition to charges due under this Agreement, User shall pay amounts equal to any sales tax, duties, or other consumption taxes, however designated, which are levied or based upon such charges, or upon this Update & Support Agreement.

3.4 In the event User and Azteca Systems agree it becomes necessary for Azteca Systems to be on-site to provide support for the Covered Software, the User will reimburse Azteca Systems for reasonable and customary travel expenses directly related to the on-site work. Azteca Systems shall provide an estimate and get the prior approval of User before incurring any costs for which it shall seek reimbursement from User under this Section. Any reimbursement shall be subject to Azteca providing verifiable documentation of such expenses to User. User reserves the right to require an audit of any such cost related records of Azteca to the extent reimbursement has been made by User under the terms of this Section.

4. LIMITED WARRANTY

4.1 Azteca Systems will provide support services for the Cityworks Software, Enhancements to Cityworks Software and Custom Applications created by Azteca Systems identified as Covered Software in paragraph 9.3. The support services are provided as part of the Azteca Systems Update and Support services and will be in force for the duration of this Agreement. Update & Support Periods beyond the initial Update & Support Period are renewable unless terminated as provided in Section 6 below. The Update and Support Services consists of software and documentation updates and access to technical support via telephone, email, web-based (MyCityworks.com) and after hours support via pager as set forth in Section 2 above. The User will provide Azteca Systems in writing the names of the User individuals who are authorized to contact Azteca Systems and request support services.

4.2 Azteca Systems warrants that trained personnel employed or contracted by Azteca Systems will perform the services performed hereunder in conformance with best industry standards.

4.3 With respect to the services provided hereunder and to the extent permitted by applicable law, this warranty is in lieu of all other warranties, whether written or oral, express or implied, including without limiting the generality of the foregoing, any warranty of non-infringement, merchantability or fitness for a particular purpose.

5. LIMITATION OF LIABILITY

5.1 The liability for Azteca Systems for damages arising under this Agreement shall be limited to the fees actually paid by User to Azteca Systems for the current Update and Support Period pursuant to Section 3 hereof. In no event shall Azteca Systems be liable for any incidental, indirect, special, or consequential damages whatsoever (including but not limited to lost profits) arising out of or related to the support and services provided hereunder by Azteca Systems, even though Azteca Systems may have been advised, know or should have known of the possibility of such damages, unless such damage is caused directly by Azteca System's actual negligence.

6. TERM AND TERMINATION

6.1 The effective date of this Agreement, as set forth in section 9.2, shall continue until terminated.

6.2 This Agreement shall be terminated upon termination of the Cityworks Software License Agreement and, after the initial Update & Support Period, may be terminated by either party upon 30 days' written notice prior to the end of the then

current Update & Support Period. If termination occurs during a successive Update & Support Period for which the User has paid the renewal fee in full, Azteca Systems shall return a prorated portion of the renewal fee for that period to the User.

7. PROCEDURES FOR ACCESSING SUPPORT

7.1 All problem categories from routine, non-critical and critical that occur during normal business hours shall procedurally occur as follows: 1) User's system administration staff as first line of support, 2) Azteca Systems staff as the second line of support. Azteca Systems will make all reasonable efforts to acknowledge all requests for support during normal business hours within 4 hours.

7.2 Prior to calling Azteca Systems for support services, the User will first attempt to isolate any problems that occur with the System. The User will try to reduce the problem down to a specific software or system component. If it is determined that the problem is The Cityworks Software component the User will first try and resolve the problem without Azteca Systems' involvement. If the User cannot resolve the problem or isolate the problem, the User will call Azteca Systems directly.

7.3 For critical problems that occur outside of Azteca Systems' normal business hours (8 AM to 5 PM, Mountain Time) and cannot be isolated and resolved by the User, Azteca Systems will provide an after-hours phone number or pager number that will forward the call or page to the currently assigned Azteca Systems support staff. Azteca Systems will make all reasonable efforts to acknowledge and respond to the request for support for critical problems that occur outside of normal business hours within 4 hours of receipt of the call from a designated and authorized User representative. Critical problems are defined as problems that cause several users to be unable to perform their duties. Depending upon the type of problem, Azteca Systems support staff may need to be sent from Azteca Systems offices to the User location. Azteca Systems project management will confer with the User's representative or project management before making this decision. The speed at which remote Azteca Systems staff can respond may be limited by the driving time or the airline flights that are available. The User will reimburse Azteca Systems for all reasonable and customary travel expenses associated with resolving the problem (pursuant to the provisions of paragraph 3.4). For routine and non-critical problems the User will submit support requests during normal business hours.

7.4 For all problems involving The Cityworks Software component that are resolved without Azteca Systems' involvement, the User will document the problem and the resolution and send a report to Azteca Systems so that it can be tracked, monitored, and historically recorded.

8. MISCELLANEOUS

8.1 Azteca Systems shall not be in default under this Agreement for its failure to perform or its delay in performing any obligation under this Agreement (other than the reimbursement of fees as set forth in paragraph 5.1) during any period of time during which such delay is due to fire, flood, earthquake, strike, labor trouble or other industrial disturbance, war (declared or undeclared), embargo, blockage, legal prohibition or governmental action, riot, insurrection, damage, destruction or any other cause beyond the control of Azteca Systems or any of its contractors preventing or delaying the performance of such obligation, provided that such obligation shall be performed immediately upon the termination of such cause preventing or delaying such performance; and provided further that the sole effect of any delay by Azteca Systems shall be a related delay in payment by the User pursuant to the relevant schedule.

8.2 The illegality, invalidity or unenforceability of any provision of the Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision. The provisions of this Agreement shall be enforceable to the extent permissible under the laws of the State of [enter name of the State].

8.3 This Agreement constitutes the entire agreement between the parties with respect to the subject matter; all prior statements, negotiations, and undertakings are superseded hereby, and may not be amended, modified or supplemented except in a writing executed by both parties, expressly purporting to amend this Agreement.

8.4 This Agreement may not be assigned by either party without the prior written consent of the other party, which consent will not be unreasonably withheld. User may not sublicense or encumber the Licensed Software without prior written consent of Azteca Systems.

8.5 Section headings herein are for the sake of convenience only and are not intended to affect in any way the meaning of this Agreement or the related paragraphs.

8.6 This Agreement becomes effective only upon execution by both parties. One fully executed copy of this Agreement shall be delivered by User to Azteca Systems at its office in Sandy, Utah 84070.

8.7 Until further written notice, all payments and notices relevant to this Agreement shall be sent to the following addresses:

Azteca Systems: Azteca Systems, Inc.

11075 South State St.
Suite 24
Sandy, UT 84070

User: The address set forth in paragraph 9.1.

9. IDENTIFICATION AND AMOUNTS

9.1 (a) User Name: _____

(b) User Contact: _____

Number and Street: _____

City/Province/Zip/Country: _____

Phone: _____ Email: _____

9.2 User Agreement: Between Azteca Systems and the User dated:

(a) Effective Date [mm / dd / yyyy] Initial _____
(Software delivery date)

(b) Initial Update & Support period and fee:

Fee: \$_____ (first year complimentary) Initial _____

From: [mm / dd / yyyy]

To: [mm / dd / yyyy]

(c) Renewal Date: Successive twelve-month periods from the Renewal Date specified below, subject to termination as provided in paragraph 6.2.

Renewal Date: [mm / dd / yyyy] Initial _____

Fee: \$_____ Initial _____

9.3 (a) Description of Covered Software:

_____ Initial _____

(b) Add-ons: _____ Initial _____
_____ Initial _____
_____ Initial _____

10. DATA CONFIDENTIALITY STATEMENT:

For any client data and / or confidential information (data) provided to Azteca Systems, we will take reasonable measures to assure that the data is not inappropriately accessed or distributed to any third-party. Data provided to Azteca Systems by the client will be loaded onto Azteca Systems servers or employee computers for the purpose of testing Cityworks software, database structure, or database values, and related ESRI software to resolve database or software performance issues, software enhancements and software defects ("bugs"). At no time will the data be distributed to individuals or organizations who are not Azteca Systems employees without first receiving written approval from the client. If requested by the client, and once the testing has been completed, Azteca Systems will delete all data provided by the client.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

Accepted and Agreed:

(User)

Azteca Systems, Inc.
(Azteca Systems)

By: _____
Authorized Signature

By: _____
Authorized Signature

Printed Name: _____

Printed Name: Brian L. Haslam

Title: _____

Title: President

Date: 10/25/2011

Date: 10/25/2011

Witness

Witness

By: _____

By: _____

Azteca Systems, Inc.
11075 South State St.
Suite 24
Sandy, Utah 84070



Phone: (801) 523-2751
FAX (801) 523-3734
Email: info@cityworks.com
http://www.cityworks.com

CITYWORKS®
SOFTWARE LICENSE AGREEMENT
Contract No. _____

This is a license agreement and not an agreement for sale. This license agreement (Agreement) is between [enter name of organization] (Licensee) and **Azteca Systems, Inc.** (Azteca Systems™), a Utah corporation, with its principal place of business at 11075 South State Street, Suite #24 Sandy, Utah, 84070, and gives Licensee certain limited rights to use the proprietary software The Software Cityworks and Related Materials. All rights not specifically granted in this Agreement are reserved to Azteca Systems.

1. Definitions: As used herein, the following words, phrases, or terms in this Agreement shall have the following meanings:

1.1 "The Software Cityworks" means the actual copy of all or any portion of the computer programs delivered as listed in paragraph 5.1 Licensed Software, inclusive of backups, updates, or merged copies permitted hereunder or subsequently supplied by Azteca Systems.

1.2 "Related Materials" means all of the printed materials, user documentation, training documentation, and confidential activation code for The Software Cityworks supplied by Azteca Systems under this Agreement.

1.3 "Effective Date" shall mean the date on which Licensee receives the Software Cityworks and Related Material from Azteca Systems.

2. Term: This Agreement shall become effective on the Effective Date and shall be valid for as long as Licensee complies with the Permitted Uses and Uses Not Permitted provisions of this Agreement. Azteca Systems may terminate this Agreement by 30 calendar days' prior written notice to Licensee if Licensee fails to comply with the Permitted Uses and Uses Not Permitted provisions of this Agreement. Unless otherwise agreed in writing, Licensee shall have 60 days after receiving notice of such failed compliance from Azteca Systems to cure the default. If this Agreement is terminated either under Section 8 or Section 17 below, Licensee shall then return to Azteca Systems all of The Software Cityworks, related modules, related updates, and any whole or partial copies, codes, modifications, and merged portions in any form. Azteca will for no additional charge to Licensee and at Licensee's option either grant a perpetual license to the Licensee which will allow Licensee to retain the ability to access records and data

contained in The Cityworks Software or will provide hard copies of all files needed by the Licensee. The parties hereby agree that all provisions which operate to protect the intellectual rights of Azteca Systems shall remain in force should breach occur.

3. Reservation of Ownership and Grant of License: Azteca Systems retains exclusive title and ownership of any copy of The Software Cityworks and Related Material licensed under this Agreement and grants to Licensee a personal, nonexclusive, nontransferable license to use The Software Cityworks and Related Materials pursuant to the terms and conditions of this Agreement. From the Effective Date, Licensee agrees to use reasonable effort to protect The Software Cityworks and Related Materials from unauthorized use, reproduction, distribution, or publication.

4. Copyright: The Software Cityworks and Related Material are owned by Azteca Systems and are protected by United States copyright laws and applicable international treaties and/or conventions. Licensee agrees not to export The Software Cityworks into a country which does not have copyright laws that will protect Azteca System's proprietary rights.

5. Licensing and/or Royalty Fees: In consideration of the License fees ("License Fees") paid under Purchase Order No. enter number, dated mm/dd/yyyy (see attachment A), Azteca Systems grants to Licensee a nonexclusive, nontransferable license to use the Licenses obtained under this Agreement as follows:

5.1 Licensed Software

Initial _____

Add-ons:

_____ Initial _____

5.2 Permitted Uses:

- Licensee may use the number of copies of The Software Cityworks specified in paragraph 5.1 for which License Fees have been paid on the computer systems(s) and/or specific computer networks(s) for Licensee's own internal use.
- Licensee may install the number of copies and modules of The Software Cityworks specified in paragraph 5.1 for which License Fees have been paid onto the permanent storage device(s) on the computer system(s) and/or specific computer network(s).
- Licensee may maintain one (1) copy of The Software Cityworks to a CD or DVD type medium for archival purposes during the term of this Agreement unless the right to make additional copies is granted to Licensee in writing by Azteca Systems. Regularly scheduled full system and partial system archival backups are allowable and specifically exempted from this provision.

- Licensee may use, copy, alter, modify, merge, reproduce, and create derivative works of the on-line documentation accessible on MyCityworks.com for Licensee's own internal use. The portions of the on-line documentation merged with other software, hard copy, and digital materials shall continue to be subject to the terms and conditions of this Agreement and shall provide the following copyright attribution notice acknowledging Azteca Systems proprietary rights in the on-line documentation: "Portions of this document include intellectual property of Azteca Systems and are used herein by permission. Copyright © 2011 Azteca Systems, Inc. All Rights Reserved."

5.3 Uses Not Permitted:

- Licensee shall not sell, rent, lease, sub-license, lend, assign, time-share, transfer or export, in whole or in part to unlicensed third parties, or provide access to prior or present versions of The Software Cityworks, any updates, or Licensee's rights under this Agreement. Nothing in this Section shall prevent use of and access to The Software Cityworks by Licensee's employees, agents or others performing work for or on behalf of the Licensee.
- Licensee shall not reverse engineer, decompile, or disassemble The Software Cityworks, or make any attempt to unlock or bypass The Software Cityworks keycode, as applicable, subject to local law.
- Licensee shall not make additional copies of The Software Cityworks and Related Materials beyond that described in the Permitted Uses section above.
- Licensee shall not remove or obscure any Azteca Systems copyright or trademark notices.

6. The Software Cityworks Update and Support: The Software Cityworks Update and Support: A one (1) year period of complimentary update and support services are provided to Licensee at no additional charge above the License Fees with each License effective from Effective Date. Update and support services consists of updates to The Software Cityworks and Related Materials, documentation updates and access to telephone user support, email support, web support, and other benefits deemed appropriate by Azteca Systems as outlined in the Attachment B - Complimentary Update and Support Services attached to this Agreement. Update and support services for The Software Cityworks beyond the complimentary period is available if Licensee and Azteca Systems have executed a Cityworks Update and Support Agreement. Fees for any such support services in excess of the complimentary period shall be governed by the Cityworks Update and Support Agreement.

7. Limited Warranty: Limited Warranty: Azteca Systems warrants that it owns or has the full right and authority and all associated intellectual property rights necessary to grant Licensee rights and licenses set forth in this Agreement to The Software Cityworks and Related Materials. Azteca Systems warrants that The Software Cityworks, unaltered, will substantially conform to the Related Materials for a period of one (1) year from the Effective Date ("Warranty Period"). Azteca Systems warrants that the media upon which The Software

Cityworks is provided will be free from defects in materials and workmanship under normal use and service during the Warranty Period.

AZTECA SYSTEMS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE CITYWORKS. AZTECA SYSTEMS DOES NOT WARRANT THAT THE OPERATIONS OF ITS RESPECTIVE SOFTWARE AND RELATED MATERIALS WILL BE UNINTERRUPTED AND/OR ERROR FREE.

8. Exclusive Remedy and Limitation of Liability: Exclusive Remedy and Limitation of Liability: One (1) year from the Effective Date and during the Warranty Period, Azteca System's entire liability and Licensee's exclusive remedy for breach of the warranties against defect(s) in materials and workmanship shall be to request Azteca Systems correct the defect(s) by whatever means reasonably available to Azteca Systems such as remedy the defect(s), or provide a suitable work around, or replace The Software Cityworks in accordance with the Cityworks Update and Support Agreement (if then in effect with Licensee). If Azteca Systems exhausts available remedies and is unable to remedy the defect(s) Licensee may by written notice of its election to Azteca Systems, terminate this Agreement for its convenience and have Azteca Systems return 100% of the License Fees paid upon the Licensee's return of The Software Cityworks to Azteca Systems. Azteca Systems shall not be liable for indirect, special, incidental, or consequential damages related to Licensee's use of The Software Cityworks, unless such damage is caused by Azteca System's actual negligence.

IN NO EVENT SHALL AZTECA SYSTEMS BE LIABLE TO THE LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOST SALES OR BUSINESS EXPENDITURES, INVESTMENTS, OR COMMITMENTS IN CONNECTION WITH ANY BUSINESS, LOSS OF ANY GOODWILL, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR USE OF THE SOFTWARE AND RELATED MATERIALS, UNLESS SUCH LOSS OR DAMAGE IS CAUSED BY AZTECA SYSTEM'S ACTUAL NEGLIGENCE.

9. Indemnity: Indemnity: Azteca Systems, at its own expense, will hold harmless, defend and indemnify Licensee from all claims that The Software Cityworks or Related Materials furnished under this Agreement infringes a U.S. Copyright or other intellectual property rights of a third party, provided that Licensee gives Azteca Systems prompt written notice of such claims and permits Azteca Systems the sole right to control the defense of such claims and provides Azteca Systems all reasonable cooperation.

As to The Software Cityworks which are or in the opinion of Azteca Systems may become subject to a claim of infringement, Azteca Systems, at its option, will obtain the right for Licensee to continue using The Software Cityworks or replace or modify The Software Cityworks so as to make them non-infringing. If none of the alternatives is available on commercially reasonable terms, then Licensee agrees to, upon Azteca Systems' written request, terminate for

convenience the Agreement upon the Licensee returning The Software Cityworks to Azteca Systems and Azteca Systems will refund to the Licensee 100% of the License Fees paid.

Azteca Systems will not indemnify or defend Licensee from any infringement claim resulting from Licensee's unauthorized modification or alteration of The Software Cityworks or Related Materials.

This section states Azteca System's entire obligation to Licensee and Licensee's sole and exclusive remedy for infringement.

10. Additional Software Licenses: Additional copies and modules of The Software Cityworks licenses may be ordered without signed amendments provided the following language is incorporated in the signed Purchase Order: *"By accepting this order, both parties agree to amend the Master Software License Agreement Contract No. [insert Contract Number] between [insert Licensee name] and Azteca Systems, Inc., dated [insert Master Software License Agreement date], which is incorporated herein by reference, to include the above software licenses, which are hereby licensed under the same terms and conditions."*

11. Export Regulations: Licensee acknowledges that this Agreement and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders relating to the export of computer software or know-how relating thereto. The Software Cityworks are determined to be Technical Data under United States export laws. Licensee agrees to comply with all laws, regulations, and orders of the United States in regard to any export of such Technical Data. Licensee agrees not to disclose or re-export any Technical Data received under this Agreement in or to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Licensee has obtained prior written authorization from Azteca Systems and the U.S. Office of Export Control.

12. Force Majeure:

Neither party shall be liable to the other for failure or delay in the performance of a required obligation during any period where such failure or delay is caused by strike, riot, fire, flood, natural disaster, or other similar cause beyond such party's control, provided that such party gives prompt written notice of such condition and resumes its performance as soon as possible.

13. Severability: If any provision(s) of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The provisions of this Agreement shall be enforceable to the extent permissible under the laws of the State of [enter name of State].

14. No Implied Waivers: No failure or delay by Azteca Systems or Licensee in enforcing any right or remedy under this Agreement shall be construed as a waiver of any future or other exercise of such right or remedy by Azteca Systems.

15. Order of Precedence: Any conflict between the terms of this License Agreement and any Purchase Order or other terms shall be resolved in favor of the terms of this License Agreement.

16. Governing Law: This Agreement, entered into in the County of [enter name of County] shall be construed and enforced in accordance with, and be governed by, the laws of the State of [enter name of State] without reference to conflict of laws principles. The parties hereby consent to the personal jurisdiction of the courts of this county and waive their rights to change venue.

17. Termination for Convenience: In the event that either funding from the Licensee or other sources is withdrawn, reduced, or limited, or the authority of the Licensee to perform any of its duties is withdrawn, reduced, or limited in any way after the Effective Date of this Agreement and prior to normal completion, the parties shall have the authority to exercise the Termination for Convenience option to terminate this Agreement, in whole or in part. If a party to this Agreement chooses to terminate for convenience that party may do so by thirty (30) days written notice to the other party.

If this Agreement is terminated for convenience, the Licensee is only liable for payment required by the terms of this Agreement for services rendered or software received and accepted prior to the Effective Date of termination.

Also, set forth elsewhere in this Agreement are specific provisions which allow the parties to terminate this Agreement for convenience (see Exclusive Remedy and Limitation of Liability provision).

18. Mediation Clause: Azteca Systems and Licensee will attempt to settle any claim or controversy arising out of this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. If those attempts fail then the dispute will be mediated by a mutually acceptable mediator to be chosen by Azteca Systems and the Licensee within thirty (30) days after written notice by one of the parties demanding non-binding mediation. Neither party may unreasonably withhold consent to the selection of a mediator. Azteca Systems and the Licensee will share the cost of the mediation equally. By mutual agreement, however, Azteca Systems and Licensee may postpone mediation until both parties have completed some specified limited discovery about the dispute. The parties may also agree to replace mediation with some other form of non-binding alternate dispute resolution procedure ("ADR").

Any dispute which cannot be resolved between the parties through negotiation or mediation within two (2) months of the date of the initial demand for it by one of the parties may then be submitted to a court of competent jurisdiction in the County of [enter name of County and State]. Both Azteca Systems and Licensee consent to jurisdiction by such a court. The use of any ADR procedures will not be considered under the doctrine of laches, waiver or estoppel to affect adversely the rights of either party. Nothing shall prevent either of the parties from

resorting to the judicial proceedings mentioned in this paragraph if (a) good faith efforts to attempt resolution of the dispute under these procedures have been unsuccessful; or (b) interim relief from the court is necessary to prevent serious and irreparable injury to one of the parties or others.

19. Entire Agreement: This Agreement constitutes the sole and entire agreement of the parties as to the matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating hereto. Except as otherwise expressly provided herein, any Amendments to this Agreement must be in writing and signed by an authorized representative of each party.

20. Data Confidentiality Statement: For any client data and / or confidential information (data) provided to Azteca Systems, we will take reasonable measures to assure that the data is not inappropriately accessed or distributed to any third-party. Data provided to Azteca Systems by the client will be loaded onto Azteca Systems servers or employee computers for the purpose of testing Cityworks software, database structure, or database values, and related ESRI software to resolve database or software performance issues, software enhancements and software defects ("bugs"). At no time will the data be distributed to individuals or organizations who are not Azteca Systems employees without first receiving written approval from the client. If requested by the client, and once the testing has been completed, Azteca Systems will delete all data provided by the client.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

Accepted and Agreed:

(Licensee)

Azteca Systems, Inc.
(Azteca)

By: _____
Authorized Signature

By: _____
Authorized Signature

Printed Name: _____

Printed Name: Brian L. Haslam

Title: _____

Title: President

Date: [mm / dd / yyyy]

Date: [mm / dd / yyyy]

Witness

Witness

By: _____

By: _____

Attachment A – Purchase Order

10/25/2011

Software License Agreement, Page 9 of 13

Attachment B – Complimentary Update and Support Services

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

1.1 "Licensed Software" shall mean the particular Software identified in the Cityworks Software License Agreement, paragraph 5.1, page 2, Software License Agreement.

1.2 "Custom Applications" shall mean any scripts, interfaces, reports or program code requested by the Licensee, other than Program Modifications to the Cityworks applications that provide specific functionality uniquely designed for the Licensee. Any Custom Applications delivered to Licensee shall NOT become part of the Licensed Software unless otherwise specified in section 5.1, page 2, Software License Agreement. The Custom Applications scripts, interfaces, reports and program code shall be provided to the client as a deliverable and client shall have full ownership rights for the Custom Applications. However, Azteca Systems shall retain the right to utilize, modify and enhance the scripts, interfaces, reports or program code of the Custom Applications as Azteca Systems deems appropriate.

1.3 "Effective Date" shall mean the date on which Licensee receives the Licensed Software from Azteca Systems (unless otherwise agreed to in writing by Azteca Systems and Licensee) in accordance with the Software License Agreement, Contract No. _____, between Licensee and Azteca Systems dated January 1, 2011.

1.4 "Program Fixes" shall mean minor corrections to the Licensed Software to correct deviations in the Licensed Software. Any Program Fixes delivered to Licensee shall become part of the Licensed Software under the Software License Agreement.

1.5 "Program Modifications" shall mean new versions of or additions to the Licensed Software, which adds to or alters the function(s) of the Licensed Software and new modules or products adapted to interface with the Licensed Software and add to or alter the function(s) of the Licensed Software, requested by the Licensee. Any Program Modifications delivered to Licensee shall become part of the Licensed Software under the Software License Agreement.

1.6 "Product Updates" are Program Fixes, Program Upgrades and Program Modifications.

1.7 "Program Upgrades" shall mean new versions of, or additions to, the Licensed Software prepared by Azteca Systems that improve its operating performance but do not add to or alter its basic function(s). Any Program Upgrades delivered to Licensee shall become part of the Licensed Software under the Software License Agreement.

1.8 "Software" shall mean Cityworks source code, machine-readable code, and related documentation.

1.9 "Complimentary Update & Support Period" shall mean the initial support period commencing upon the Effective Date of this Agreement.

2. SUPPORT

2.1 The services to be provided during the Complimentary Update & Support Period include Azteca Systems Product Updates to Azteca System's Cityworks applications including Program Fixes, Program Upgrades and Program Modifications (not Custom Applications). Azteca Systems will ensure upward compatibility for The Cityworks Software applications within a reasonable timeframe for minor and major ESRI® ArcGIS and Cityworks supported databases revisions. If identified as "Licensed Software", Azteca Systems will ensure upward compatibility within a reasonable timeframe for Custom Applications when there are minor ArcGIS and Cityworks supported databases revisions (for example, from rev 9.1 to rev 9.2). Azteca Systems will not ensure upward compatibility for Custom Applications when there are major ESRI ArcGIS and Cityworks supported databases revisions (for example, from rev 9.x to rev 10.x), Azteca Systems will make all reasonable efforts to provide upward compatibility.

2.2 Azteca Systems shall, with out additional charge (except as allowed for in paragraph 3.4), during the Complimentary Update and Support period:

- (a) Make all reasonable efforts to provide those Program Fixes, if any, that are necessary to assure the Licensed Software is functioning properly; provided Licensee provides Azteca Systems with written notice specifying particularity, in a narrative non-technical terms, to the best of Licensee staff's ability, the apparent error in the system and the manner in which the Licensed Software is not functioning properly (as provided in Section 8); and
- (b) Deliver to Licensee any Program Upgrades relating to the Licensed Software made available to others.
- (c) Provide Telephone Licensee Support, Email Support, Web Support, during normal business hours Monday through Friday (excepting Holidays) and after hour emergency support through messaging service, and other benefits deemed appropriate by Azteca Systems such as on-line support.
- (d) Implement and maintain a means of secure, remote direct network access (Web-access, dial-up, etc) to the Licensee's systems in order to perform thorough remote diagnostics and effect remote repairs, upgrades, and fixes.

2.3 The following items, among others, however, are specifically excluded as support services under this section of this Agreement:

- (a) interpretation of program results;
- (b) assistance with questions related to computer hardware and peripherals that are not related to the use of the Licensed Software;
- (c) assistance with computer operating system questions not directly pertinent to the Licensed Software or Program Modifications;
- (d) data debugging and/or correcting;
- (e) services necessitated as a result of any cause other than authorized ordinary and proper use by the Licensee of the Licensed Software, including but not limited to neglect, abuse, unauthorized modification, unauthorized updates or electrical, fire, water or other damage; and
- (f) consulting regarding Custom Applications created to function with the Licensed Software unless the Custom Application is identified as Licensed Software in paragraph 5.1, page 2, Software License Agreement.

3. PROCEDURES FOR ACCESSING SUPPORT

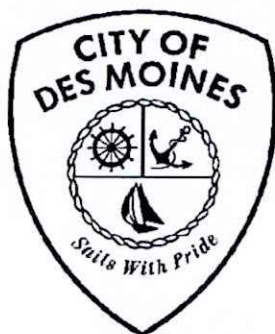
3.1 All problem categories from routine, non-critical and critical that occur during normal business hours shall procedurally occur as follows: 1) Licensee's system administration staff as first line of support, 2) Azteca Systems staff as the second line of support. Azteca Systems will make all reasonable efforts to acknowledge all requests for support during normal business hours within 4 hours.

3.2 Prior to calling Azteca Systems for support services, the Licensee will first attempt to isolate any problems that occur with the System. The Licensee will try to reduce the problem down to a specific software or system component. If it is determined that the problem is The Cityworks Software component the Licensee will first try and resolve the problem without Azteca Systems' involvement. If the Licensee cannot resolve the problem or isolate the problem, the Licensee will call Azteca Systems directly.

3.3 For critical problems that occur outside of Azteca Systems' normal business hours (8 AM to 5 PM, Mountain Time) and cannot be isolated and resolved by the Licensee, Azteca Systems will provide an after-hours phone number or pager number that will forward the call or page to the currently assigned Azteca Systems support staff. Azteca Systems will make all reasonable efforts to acknowledge and respond to the request for

support for critical problems that occur outside of normal business hours within 4 hours of receipt of the call from a designated and authorized Licensee representative. Critical problems are defined as problems that cause several users to be unable to perform their duties. Depending upon the type of problem, Azteca Systems support staff may need to be sent from Azteca Systems offices to the Licensee location. Azteca Systems project management will confer with the Licensee's representative or project management before making this decision. The speed at which remote Azteca Systems staff can respond may be limited by the driving time or the airline flights that are available. The Licensee will reimburse Azteca Systems for all reasonable and customary travel expenses associated with resolving the problem. For routine and non-critical problems the Licensee will submit requests for support during normal business hours.

3.4 For all problems involving The Cityworks Software component that are resolved without Azteca Systems' involvement, the Licensee will document the problem and the resolution and send a report to Azteca Systems so that it can be tracked, monitored, and historically recorded.



City of Des Moines

Purchase of Cityworks and ESRI Software January 26, 2012

Grant Fredricks, Planning, Building & Public Director
Greg Taylor, Public Works & Parks Maintenance Superintendent

Purpose

- Develop a Computerized Maintenance Management System (CMMS) using currently mapped City facilities & equipment
- Manage National Pollutant Discharge Elimination System (NPDES) permit compliance by tracking maintenance activities of SWM & privately owned facilities
- Enhance and automate asset management and reporting

Cityworks Deliverables

- Issue and track maintenance work orders
- Automated call center for public service requests
- Automated required test and inspection schedules
- Flexible search and ad-hoc reporting
- Accurate inventory of all City assets
- Asset view/edit capabilities
- Mapped views of all inventoried systems and assets
- Detailed management reporting capabilities
- Added efficiencies through data analysis
- Benefits to all City Departments with field assets
- Interface to other systems (accounting, billing, etc.)

How will we pay for Cityworks?

(Attachment ??? – p. ??? of Council Packet)

Cityworks License & Implementation	\$46,658
ArcGIS Server (required GIS component)	\$ 9,606
Total System Cost (incl. tax)	\$56,264

Revenue Sources:

- SWM Fund
- NPDES Grants

Cityworks Added Values

- Fully supported commercial program, currently in use by hundreds of jurisdictions nationally and many locally including Burien, SeaTac, Midway Sewer, Lakehaven UD & King County.
- Ability to share information with neighboring jurisdictions enhancing inter-local activities
- Interactive web based maps (similar to Google Maps) for public and staff use featuring City information
- Non-proprietary database compatible with other City systems

Questions & Further Discussion?

AGING YOUR WAY WORKSHOP
Wednesday, November 30th, 5:30-8pm
Des Moines Activity Center

Hosts: Senior Services and City of Des Moines

Purpose: Reach out to community members to ask them to create a vision for our community that will support them as they age.

Objectives:

- Brainstorm concrete projects that will help make this community vision a reality.
- Foster community volunteer leadership of project actions versus staff leadership.
- Ensure that our physical, mental and social needs are met as we age.

Workshop Details:

- Forty-eight participants including elected officials from Tukwila, Burien and SeaTac.
- Facilitated by, Jim Diers, "Mr. Neighborhood"- consultant
- Eight idea groups formed to brainstorm and draw their ideal community for aging

Resulting Citizen Leadership Projects:

(show the artist rendering of our community vision)

- Crosswalk flags in Downtown Des Moines
- Raising awareness of community events & programs
- Art Walk using empty store fronts
- Healthcare/Lifestyle changes, advocacy for health reform
- Neighborhood Watch networks to support homebound seniors
- Multigenerational projects
- More ADA accessibility (no committee)
- Local Shuttles for expanded SK County transportation (no committee)

Moving Forward

- Current city projects with the same objective: creating a healthy, active, livable community supporting and empowering citizen leadership:
 - City Healthy Eating, Active Living Initiative
 - Community Development focus on Livable Communities
 - Parks, Recreation and Senior Services Aging Your Way
 - Growing Transit Communities
 - Marina District and Midway Neighborhood Planning
- City Council goals realized by these projects:
 - Preserve and enhance livability for all generations
 - Improve economic stability, vitality and development
 - Encourage community involvement
 - Provide diverse recreational opportunities
- March 2012 Aging in Place Summit- Invitation only to key community leaders and elected officials. More details soon!
- Involvement of our city advisory committees & community partners: Planning Agency, Senior Services Advisory Committee, HEAL Technical Advisory Committee, Arts Commission, Destination Des Moines, Des Moines Legacy Foundation, Des Moines community clubs (North Hill, Huntington Park, etc.)
- Follow up Open House to be held in September 2012 at the activity center. Keynote presentation by Jim Diers. Stations for each community project to "show and tell" outreach to our community. Light dinner served.

