



**Des Moines**  
WATERLAND CITY

**AGENDA**  
**DES MOINES CITY COUNCIL**  
**REGULAR MEETING**  
**City Council Chambers**  
**21630 11th Avenue S, Suite C**  
**Des Moines, Washington**  
**Thursday, October 9, 2025 - 6:00 PM**

Members of the public who wish to provide comment during the meeting via Zoom must register in advance. To register, please email [cityclerk@desmoineswa.gov](mailto:cityclerk@desmoineswa.gov) by 12:00 p.m. (noon) on the Wednesday prior to the meeting. [Click Zoom Link Here.](#)

City Council meeting can be viewed live on the City's website, Comcast Channel 21/321, on the City's [YouTube](#) channel.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATIONS**

**CORRESPONDENCE NOT PREVIOUSLY RECEIVED BY COUNCIL**

**COMMENTS FROM THE PUBLIC**

**REGIONAL COMMITTEE REPORT**

**CITY MANAGER REPORT/PRESENTATIONS/BRIEFINGS**

- Item 1. SHARK CAPITAL OF THE WORLD  
Presentation by Rus Higley, MaST Center
  
- Item 2. 2025/2026 MID-BIENNIUM BUDGET REVIEW  
Staff Presentation by Finance Director Jeff Friend  
[2025-2026 Mid-Biennium Budget Review](#)

## CONSENT AGENDA

Item 1. APPROVAL OF VOUCHERS

**Motion:** To approve the payment vouchers through September 25, 2025 and payroll transfers through September 20, 2025 in the attached list and further described as follows:

EFT Vendor Payments	#12479-12526	\$392,808.18
Wires	#3092-3096	\$112,161.87
Accounts Payable Checks	#167047-167072	\$192,728.41
Payroll Checks	#20021-20021	\$ 637.46
Payroll Advice	#14962-14962	\$ 2,000.20
Payroll Advice	#14963-15127	\$481,264.79
Payroll Advice	#15128-15128	\$ 2,000.20

Total Checks and Wires for A/P & Payroll: \$1,183,601.11

[Approval of Vouchers](#)

Item 2. HEMSTAD CONSULTING CONTRACT

**Motion:** To approve the Agreement with Hemstad Consulting in an amount not to exceed \$93,500, and authorize the City Manager to sign the Agreement substantially in the form as submitted.

[Hemstad Consulting Contract](#)

## UNFINISHED BUSINESS

Item 1. MANAGEMENT AGREEMENT AND LICENSE BETWEEN CITY OF DES MOINES AND NWS HOLDINGS (PERFECT GAME) FOR STEVEN J. UNDERWOOD FIELDS

Staff Presentation by Public Works Director Mike Slevin

[Management Agreement and License between City of Des Moines and NWS Holdings \(Perfect Game\) for Steven J. Underwood Fields](#)

Item 2. PUBLIC SAFETY SALES TAX

Staff Presentation by Finance Director Jeff Friend

[Public Safety Sales Tax](#)

## NEW BUSINESS

Item 1. OPENGOV ASSET MANAGEMENT SOFTWARE PURCHASE

Staff Presentation by Surface Water/Environmental Engineering Manager Tyler Beekley

[OpenGov Asset Management Software Purchase](#)

- Item 2. TELECOMMUNICATIONS FRANCHISE AGREEMENT WITH FORGED FIBER 37, LLC – 1st Reading  
Staff Presentation by Assistant City Attorney Matthew Hutchins  
[Telecommunications Franchise Agreement with Forged Fiber 37, LLC](#)
- Item 3. NEW AGENDA ITEMS FOR CONSIDERATION – 10 Minutes

**COUNCILMEMBER REPORTS**

(4 minutes per Councilmember) - 30 minutes

**PRESIDING OFFICER’S REPORT**

**EXECUTIVE SESSION**

PERFORMANCE OF A PUBLIC EMPLOYEE UNDER RCW 42.30.110(1)(g) - 20 Minutes

**NEXT MEETING DATE**

October 23, 2025 City Council Regular Meeting

**ADJOURNMENT**

[Projected Future Agenda Items](#)



**Des Moines**  
WATERLAND CITY

# Mission & Vision

Des Moines is a waterfront community committed to maintaining a safe, sustainable environment, while ensuring a high quality of life for all to live, work and play.

## VISION

To be the premier waterfront destination in the Pacific Northwest.

## VALUES

Core Values of the City of Des Moines are:

- Safety
- Sustainability
- Integrity
- Transparency
- Innovation

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: 2025/2026 Mid-Biennium Budget  
Review

FOR AGENDA OF: October 9, 2025

DEPT. OF ORIGIN: Finance

ATTACHMENTS:  
1.

DATE SUBMITTED: October 1, 2025

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *ML*
- Human Resources \_\_\_\_\_
- Legal */s/TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *Katherine Coffey*

**Purpose**

To inform Council of the 2025/2026 mid-biennium review schedule and process.

**Background**

The State of Washington permits local governments to budget on either an annual basis (every year) or biennial basis (every two years). On March 28, 2024, the City Council unanimously approved a switch from annual budgeting to biennial budgeting.

The advantages of biennial budgeting are:

- Efficiency and Reduced Administrative Burden
  - Because staff aren't preparing a full budget every year, they can dedicate more time to monitoring performance, evaluating service delivery, and reporting outcomes.
- Longer-Term Planning and Stability
  - A two-year horizon encourages looking beyond short-term fixes and supports alignment with strategic plans, capital projects, and policy initiatives.
- Reduced politicization of the Budget
  - Full budget years do not occur during election years
- Flexibility with a Mid-Biennium Review
  - Washington State law (RCW 35A.34) requires a mid-biennium review. This ensures the council can make necessary adjustments for revenue changes, economic shifts, or new priorities, while still keeping the efficiency of a two-year framework.

**Discussion**

A key question raised during the biennial budgeting discussion was: “What happens during the off year?” The following schedule outlines important dates of the mid-biennium review.

Mid-Biennium Review			
Major Steps in Process	City Manager/ Management Team	Citizen's Advisory Board	City Council
Call for mid-biennium review and adjustments	July 7, 2025		
Mid-biennium adjustment requests due to Finance	August 7, 2025		
Determine/Discuss Budget Assumptions/Economic Trends	August-2025		
Budget meetings with departments	August 7, 2025 thru September 10, 2025		
Finance/City Manager review Capital Improvements Plan (CIP)	October 10, 2025		
Finance/City Manager review budget adjustments	October 17, 2025		
Update of Five-Year Forecast	September 11, 2025 thru October 21, 2025		
Property Tax - First Public Hearing			October 23, 2025
Budget presentation to Citizen's Advisory Board		October 29, 2025	
CIP Presented to Council - Committee of the Whole			November 6, 2025
<b>Recommended 2025/2026 Budget Adjustment available to Council and Public</b>	<b>November 7, 2025</b>		
Property Tax - Second Public Hearing			November 13, 2025
CIP - First Reading			November 13, 2025
2025-2026 Budget Adjustments: First Public Hearing			November 13, 2025
CIP - Second Reading			December 11, 2025
2025-2026 Budget Adjustments: Second Public Hearing			December 11, 2025



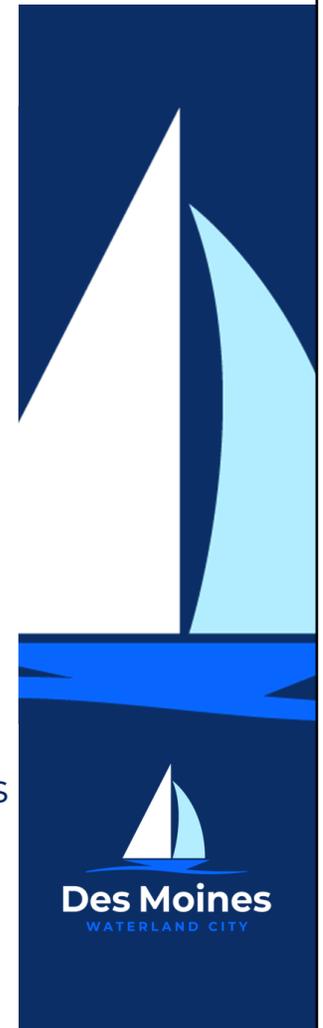
# 2025/2026 Mid-Biennium Review

October 9, 2025



# Biennial Budgeting

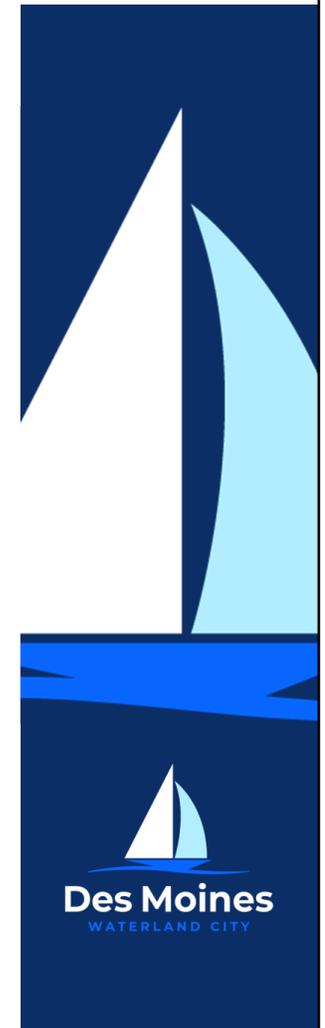
- Municipal Biennial Budget Act of 1985
  - Annual (one year at a time)
  - Biennial Budgeting (every two years)
- The City Council:
  - Approved a change to biennial budgeting on March 28, 2024
  - Adopted the City's first biennial budget on December 12, 2024
- In Washington State, cities and counties that adopt biennial budgets are required to complete a mid-biennium review.



# Key Dates – July – September

City Manager and Management Team:

- Call for budget review and adjustments
- Discuss budget assumptions/economic Trends
- Hold budget meetings with departments

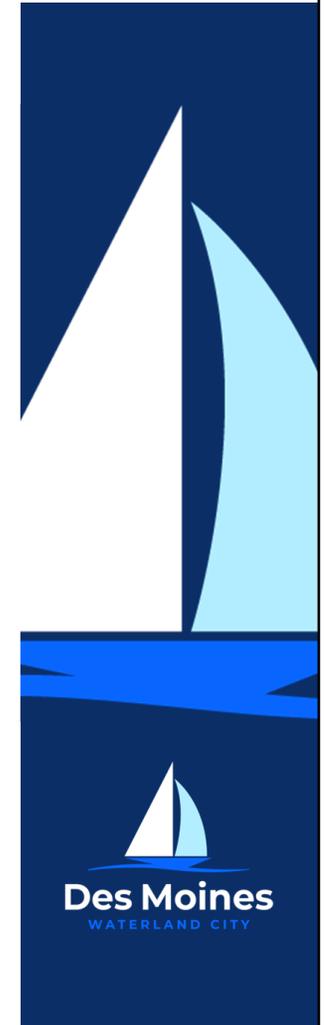


# Key Dates – October



## **October Timeline**

- **Oct 10** – Finance/City Manager review CIP
- **Oct 17** – Finance/City Manager review budget adjustments
- **Oct 21** – complete Five-Year Forecast
- **Oct 23** – Property Tax – First Public Hearing
- **Oct 29** – Community Advisory Board presentation

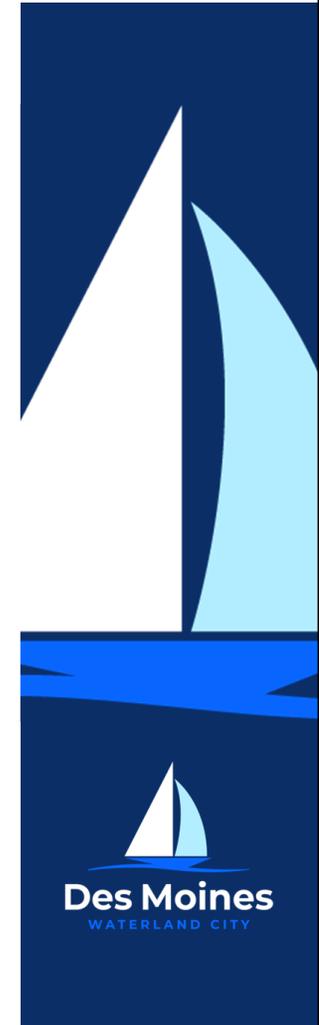


# Key Dates – November



## November Timeline

- **Nov 6** – CIP presented to Committee of the Whole
- **Nov 7** – Recommended 2025/2026 Budget  
Adjustments available to Council and Public
- **Nov 13** – Property Tax – Second Public Hearing
  - CIP First Reading
  - 2025/2026 Budget Adjustments – First Public Hearing

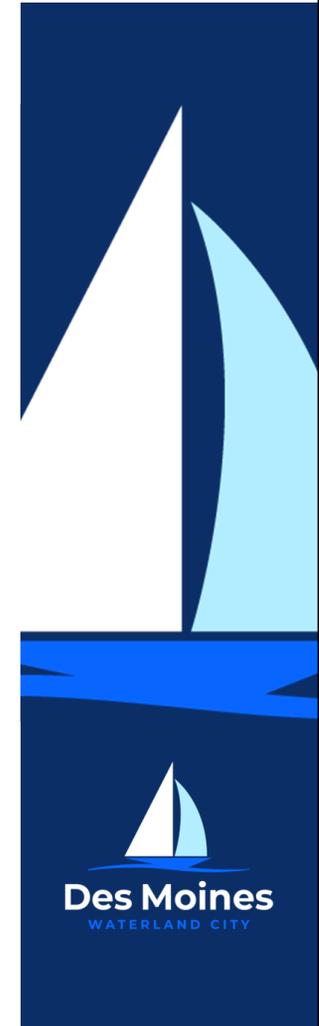


# Key Dates – December



 **December Timeline**

- **Dec 11** – CIP Second Reading
  - 2025/2026 Budget Adjustments – Second Public Hearing



# QUESTIONS?



 [WWW.DESMOINESWA.GOV](http://WWW.DESMOINESWA.GOV)  206-878-4595  21630 11TH AVENUE SOUTH, SUITE A DES MOINES, WA 98198

**CITY OF DES MOINES**  
**Voucher Certification Approval**  
**October 9, 2025**  
**Auditing Officer Certification**

Voucher transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of **October 9, 2025** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through September 25, 2025 and payroll transfers through September 20, 2025 included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer:

  
 \_\_\_\_\_  
 Jeff Friend, Finance Director

		# From	# To	Amounts
<b>Claims Vouchers:</b>				
EFT's		12479	12526	392,808.18
Wires		3092	3096	112,161.87
AP Checks		167047	167072	192,728.41
<b>Total Vouchers paid</b>				<b>697,698.46</b>
<b>Payroll Vouchers</b>				
Payroll Checks	9/5/2025 Off	20021	20021	637.46
Payroll Advice	Cycle	14962	14962	2,000.20
Payroll Advice	9/20/2025	14963	15127	481,264.79
Payroll Advice		15128	15128	2,000.20
<b>Total Paychecks &amp; Direct Deposits</b>				<b>485,902.65</b>
<b>Total checks and wires for A/P &amp; Payroll</b>				<b>1,183,601.11</b>

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Hemstad Consulting Contract

FOR AGENDA OF: October 9, 2025

ATTACHMENTS:

DEPT. OF ORIGIN: Administration

- 1. Consulting Contract

DATE SUBMITTED: October 1, 2025

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Finance *ML*
- Human Resources \_\_\_\_\_
- Legal */s/TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval of a Contract with Hemstad Consulting for the purpose of legislative advocacy and intergovernmental relations on behalf of the City. The following motion will appear on the consent calendar:

**Suggested Motion**

**Motion:** "I move to approve the Agreement with Hemstad Consulting in an amount not to exceed \$93,500, and authorize the City Manager to sign the Agreement substantially in the form as submitted."

**Background**

On an annual basis, the City Council establishes legislative priorities for support or opposition by the City for specific legislative and regulatory proposals forthcoming in the State or Federal legislatures. Over the last several years, in an effort to facilitate successful outcomes for these legislative priorities, the City has contracted with Hemstad Consulting to advocate and lobby on the City's behalf.

**Discussion**

The proposed Agreement will extend the current arrangement with Hemstad Consulting through December of 2026 under the same terms as previously existed.

**Alternatives**

Do not extend the Contract or extend it on a more limited basis. This is not recommended given the success that the City has seen since Hemstad Consulting has been engaged to advocate on the City's behalf.

**Financial Impact**

Funds for this Agreement have been included in the City budget for 2026.

**Recommendation**

Administration recommends approval of the motion.

## **CONSULTANT SERVICES CONTRACT between the City of Des Moines and Hemstad Consulting**

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Hemstad Consulting organized under the laws of the State of Washington, located and doing business at 130 Sherman St. NW, Olympia, Washington, 98502 (hereinafter the "Consultant").

### **I. DESCRIPTION OF WORK.**

Consultant shall perform the following services for the City in accordance with the following described plans and/or specifications:

Intergovernmental relations on behalf of the City of Des Moines. This will mostly be State Legislative relations as detailed in the annual Council-approved Legislative Agenda.

Consultant will also assist with Congressional appropriations/earmarks and some regional outreach projects as agreed and any other projects as mutually agreed.

Consultant further represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time those services are performed.

**II. TIME OF COMPLETION.** The parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Contract. Upon the effective date of this Contract, Consultant shall complete the work described in Section I.

### **III. COMPENSATION and DURATION**

A. The City shall pay the Consultant a flat rate of \$6,000 per month for the term of this Contract plus expenses. Duration is October 1, 2025 through December 31, 2026, fifteen (15) months total. Expenses are capped at no more than \$3,500 for this period. Consultant will not charge travel/parking/minor expenses around the Legislative buildings. Mileage for other Des Moines' meetings will be billed at current IRS standard mileage rates, any other expenses will be billed at actual cost with no mark-up. Expenses beyond mileage need to be approved by the City in advance. The total amount of this contract shall not exceed **\$93,500** for the services and expenses described in this Contract unless this Agreement is amended. This is the maximum amount to be paid under this Contract for the work described in Section I above and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract. The Consultant agrees that the amount budgeted for as set forth in Section I for

CONSULTANT SERVICES CONTRACT 2  
(Various)

its services contracted for herein shall remain locked at the negotiated rate(s) for a period of fifteen (15) months from the effective date of this Contract. The contract can be extended on mutual written approval.

- B. The Consultant shall submit monthly payment invoices to the City for work performed, and a final bill upon completion of all services described in this Contract. The City shall provide payment within thirty (30) days of receipt of an invoice. If the City objects to all or any portion of an invoice, it shall notify the Consultant and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

**IV. INDEPENDENT CONTRACTOR.** The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Consultant has the ability to control and direct the performance and details of its work; however, the City shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

**V. CHANGES.** The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Consultant determines, for any reason, that a change order is necessary, Consultant must submit a written change order request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Consultant knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Consultant's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Consultant on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Consultant shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Consultant fails to require a change order within the time specified in this paragraph, the Consultant waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Consultant disagrees with the equitable adjustment, the Consultant must complete the change order work; however, the Consultant may elect to protest the adjustment as provided in subsections A through E of Section VI, Claims, below.

The Consultant accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by Consultant as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

**VI. CLAIMS.** If the Consultant disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Consultant may file a claim as provided in this section. The Consultant shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims,

CONSULTANT SERVICES CONTRACT 3  
(Various)

or within fourteen (14) calendar days of the date the Consultant knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Consultant unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Consultant's written claim shall include the information set forth in subsections A, items 1 through 5 below.

**FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.**

- A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
1. The date of the Consultant's claim;
  2. The nature and circumstances that caused the claim;
  3. The provisions in this Contract that support the claim;
  4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
  5. An analysis of the progress schedule showing the schedule change or disruption if the Consultant is asserting a schedule change or disruption.
- B. Records. The Consultant shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Consultant's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

- C. Consultant's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Consultant also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).
- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Consultant completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

CONSULTANT SERVICES CONTRACT 4  
(Various)

**VII. LIMITATION OF ACTIONS.** CONSULTANT MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONSULTANT'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

**VIII. TERMINATION.** Either party may terminate this Contract, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Contract. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project, which may be used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

**IX. DISCRIMINATION.** In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

**X. INDEMNIFICATION.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The City's inspection or acceptance of any of Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Contract.

**XI. INSURANCE.** The Consultant shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property

CONSULTANT SERVICES CONTRACT 5  
(Various)

which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**XII. EXCHANGE OF INFORMATION.** The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to Consultant for the purpose of completion of the work under this Contract.

**XIII. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.** Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Consultant will be safeguarded by the Consultant. Consultant shall make such data, documents, and files available to the City upon the City's request. The City's use or reuse of any of the documents, data and files created by Consultant for this project by anyone other than Consultant on any other project shall be without liability or legal exposure to Consultant.

**XIV. CITY'S RIGHT OF INSPECTION.** Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

**XV. WORK PERFORMED AT CONSULTANT'S RISK.** Consultant shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Consultant's own risk, and Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

**XVI. MISCELLANEOUS PROVISIONS.**

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law.

1. Alternative Dispute Resolution. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written agreement of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the

CONSULTANT SERVICES CONTRACT 6  
(Various)

parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

2. Applicable Law and Jurisdiction. This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract 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. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section X of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of this Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Consultant.

F. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the terms of this Contract shall prevail.

G. Compliance with Laws. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Consultant's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.

H. Business License. Contractor shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.

CONSULTANT SERVICES CONTRACT 7  
(Various)



**A G E N D A I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Discussion on Potential Management Agreement and License between City of Des Moines and NWS Holdings (Perfect Game) for Steven J. Underwood Fields

ATTACHMENTS: Agreement

FOR AGENDA OF: October 9, 2025

DEPT. OF ORIGIN: City Manager's Office

DATE SUBMITTED: September 30, 2025

CLEARANCES:

- City Clerk *SK*
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Finance *HL/RL*
- Human Resources \_\_\_\_\_
- Legal */s/TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works *MPS*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

**Purpose and Recommendation:** The purpose of this item is for the City Council to consider a Management Agreement and License between the City of Des Moines and NWS Holdings, LLC for Steven J. Underwood Park fields.

**Suggested Motion**

**Motion:** "I move to approve the Management Agreement with NWS Holdings for the management, improvement and operation of the Steven J. Underwood baseball fields and authorize the City Manager to sign the contract substantially in the form as submitted."

## **Background**

The Steven J. Underwood (SJU) Sports Complex is owned, operated, and maintained by the City of Des Moines. During the COVID-19 pandemic, field use came to a halt, and since that time, rental activity has not returned to pre-pandemic levels. At the same time, operational and maintenance costs have continued to rise. Current rental and usage fees no longer cover expenses, and the facility is now operating at an annual deficit of more than \$100,000.

Des Moines was approached by Perfect Game USA, a national baseball tournament organizer, in July of 2025 to see if the City would be interested in exploring a long-term lease to operate and maintain the SJU complex. The intent of the lease would be to allow Perfect Game to utilize and maintain the fields as part of regional baseball tournament infrastructure.

The City of Everett recently entered into a lease with Perfect Game under a similar arrangement, and the City has reviewed that lease agreement and spoken with City of Everett officials.

The City Council was briefed about this lease at the September 11, 2025, City Council meeting. After the discussion, staff finalized the terms of an agreement with Perfect Game. Based on Council discussion the following terms were added:

- Hours of operation limited to minimize possible disruptions to surrounding area
- Discount for Des Moines residents and groups has increased to 50%
- Sponsorship signage revenue will be shared between Perfect Game and the City. The City will retain 20% of revenue from signage sales

Additionally, since that meeting, Perfect Game has shown interest in installing artificial turf on the infield turf, which would involve a significant financial investment by Perfect Game.

### Key Points in Potential Lease:

- Term of Arrangement: Ten-year lease, with option for one additional ten-year renewal if both parties agree
- NWS Holdings (Perfect Game) responsible for:
  - Manage and operate the fields under agreed standards
  - Reimburse City for all utility costs including water, electricity, surface water, and gas
  - Pay \$1,100/ month for janitorial costs related to the SJU bathrooms
  - Offer programs, tournaments, rentals, and summer youth camps:
    - Discounts: 50% weekday rental discount for Des Moines residents; 50% off summer camps for Des Moines youth (with waivers for low-income families)
  - Develop and implement an annual service plan and maintenance plan
  - Maintain most field equipment, fixtures, above ground irrigation and grounds at its cost
  - Carry required insurance (general liability \$2M, property, workers comp, auto as needed)
  - Allow for City use of fields with timely coordination ahead of time

- Use best efforts to limit the hours of use to 10 PM on Sunday- Thursday and 11 PM on Friday-Saturday
- City of Des Moines responsible for:
  - Retain ownership of the property
  - Maintain ballfield lighting, playground, parking lot, restroom/concession roofs, and underground irrigation system
  - Approve service plans, fees, and improvements
  - Retain rights to inspect and access the property
  - Approve marketing, signage, and sponsorships

The proposed agreement also includes initial capital improvement of soil improvements and grass restoration and installation of artificial turf for the infields. Perfect Game will pay for all design, construction and permitting costs associated with any capital improvements, and the improvements become City property upon completion.

In the past, the City has organized recreational t-ball for young kids. The City will continue to offer this program and utilize the baseball field at the Field House. Perfect Game primarily focuses on “select” sports so we do not believe this will cause a conflict for either party.

Perfect Game has indicated they anticipate hosting numerous tournaments and recreational programs at the fields, which will bring in a significant number of visitors to the community.

In the spring and summer, the goal is to host about 25 tournament events between March and July. In the fall, the target is to host 8 to 12 tournament events between September and November. During a tournament weekend, the complex is expected to host 18 total teams per day, with an average of 12 players per team, totaling about 216 players. With an average of 2.5 spectators per player, that equates to approximately 540 spectators per weekend.

Perfect Game currently runs recreational programs nationally, and while none are currently offered in this region, the goal is to establish them locally. These programs would register recreational players ages 9–14, form league teams, and schedule weeknight games.

Perfect Game has indicated that they expect to draw teams primarily from the greater metro area, so a significant increase in hotel usage is not anticipated. However, the influx of weekend tournament visitors may have a positive impact on local businesses and restaurants.

**Alternatives**

The City could choose to continue operating and maintaining the SJU Complex directly. However, with recent reductions in parks staff, the facilities would likely remain underutilized, while all maintenance costs would continue to be borne by the City.

**Financial Impact**

If a favorable lease agreement could be negotiated, then the city would forgo the majority of operational maintenance costs as well as receiving a small fee for the facilities. Estimated maintenance and operational savings through a lease agreement would be estimated at approximately \$100,000 per year.

**DRAFT Management Agreement and License**

This Agreement is dated as of \_\_\_\_\_, 2025, and is between the CITY OF DES MOINES, a Washington municipal corporation (*the "City"*), and NWS HOLDINGS, LLC, a Washington limited liability company (*"NWS"*).

**RECITALS**

- A. The City owns and operates a number of parks and recreational programs as part of its parks and recreation services.
- B. The City and NWS desire to enter into this Agreement to provide for the management, improvement, and operation of the ballfield complex, Fields 1-3 at Steven J. Underwood Park.

**AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**BASIC PROVISIONS**

<b>Manager/ Licensee</b>	NWS Holdings, LLC.	
	P.O. Box 706	
	Puyallup, WA 98371	
	Contact Name: Lee Larson	
	Contact Email: llarson@perfectgame.org	
<b>Term</b>	Beginning Date: October 1, 2025 End Date: September 31, 2035	Extension Terms are as set forth in Exhibit D.
<b>Ballfield Property</b>	Steven J. Underwood Ballfield Complex, Fields 1-3 ("SJU Park")  A depiction of the Ballfield Property is attached as Exhibit A, together with a legal description of the real property of which the Ballfield Property is a part.	

<b>City Notice Address</b>																									
<b>Monthly Fee</b>	<table border="1" data-bbox="621 491 1317 905"> <thead> <tr> <th data-bbox="621 491 1024 527">Time Period</th> <th data-bbox="1024 491 1317 527">Monthly Fee</th> </tr> </thead> <tbody> <tr><td data-bbox="621 527 1024 562">2025</td><td data-bbox="1024 527 1317 562">\$0</td></tr> <tr><td data-bbox="621 562 1024 598">2026</td><td data-bbox="1024 562 1317 598">\$0</td></tr> <tr><td data-bbox="621 598 1024 634">2027</td><td data-bbox="1024 598 1317 634">\$0</td></tr> <tr><td data-bbox="621 634 1024 669">2028</td><td data-bbox="1024 634 1317 669">\$0</td></tr> <tr><td data-bbox="621 669 1024 705">2029</td><td data-bbox="1024 669 1317 705">\$0</td></tr> <tr><td data-bbox="621 705 1024 741">2030</td><td data-bbox="1024 705 1317 741">\$0</td></tr> <tr><td data-bbox="621 741 1024 777">2031</td><td data-bbox="1024 741 1317 777">\$0</td></tr> <tr><td data-bbox="621 777 1024 812">2032</td><td data-bbox="1024 777 1317 812">\$0</td></tr> <tr><td data-bbox="621 812 1024 848">2033</td><td data-bbox="1024 812 1317 848">\$0</td></tr> <tr><td data-bbox="621 848 1024 884">2034</td><td data-bbox="1024 848 1317 884">\$0</td></tr> <tr><td data-bbox="621 884 1024 905">2035</td><td data-bbox="1024 884 1317 905">\$0</td></tr> </tbody> </table> <p data-bbox="678 909 1284 1003">NWS must also pay leasehold excise tax, as applicable. NWS shall pay utility costs for the property, including electricity, water, gas and surface water.</p>	Time Period	Monthly Fee	2025	\$0	2026	\$0	2027	\$0	2028	\$0	2029	\$0	2030	\$0	2031	\$0	2032	\$0	2033	\$0	2034	\$0	2035	\$0
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<b>City-Provided Services to Ballfield Property</b>	<p data-bbox="544 1104 1377 1262">City will provide electricity, water, and gas for the Ballfield Property which will be paid by NWS for the actual cost. This payment is in addition to the monthly fee. The City will provide janitorial services to the restrooms, NWS will pay the City an additional fee of \$1,100 per month for the restroom janitorial services.</p>																								
<b>Exhibits</b>	<p data-bbox="544 1381 1305 1528">Exhibit A: Legal Description/ Depiction of Ballfield Property Exhibit B: Standards for Operation and Management of Ballfield Property Exhibit C: NWS Initial Project Exhibit D: Extension Term Exhibit E: City Owned Inventory List</p> <p data-bbox="544 1562 1308 1623">All exhibits and attachments to exhibits are incorporated into this Agreement.</p>																								

GENERAL PROVISIONS

- 1. BALLFIELD PROPERTY.** The City licenses to NWS the Ballfield Property to manage and use as set forth in this Agreement and to provide the Services (as defined in Exhibit B). NWS has examined the Ballfield Property and is in all respects familiar with the Ballfield Property and the improvements at the Ballfield Property. NWS accepts the

Ballfield Property and its improvements in their "as is" condition. NWS further acknowledges and agrees that (a) except as specifically provided in this Agreement, the City has made no representations or warranties to NWS with respect to the Ballfield Property, (b) any express or implied representations or warranties made by or on behalf of the City prior to the date hereof, unless expressly set forth in this Agreement, are hereby revoked and canceled and shall have no force or effect, (c) NWS is not relying on any representations or warranties by any person regarding the Ballfield Property, and (d) except as may be otherwise specifically provided in this Agreement, the City has no obligation to maintain, repair, replace or construct any improvements to the Ballfield Property.

2. **USE OF BALLFIELD PROPERTY.** During the Agreement Term, NWS will use the Ballfield Property in accordance with this Agreement:

- (a) NWS shall be the City's manager and operator of the Ballfield Property and provide the Services in accordance with the use, management and operational standards set forth in Exhibit B. The City will provide assistance and service only to the extent provided in Exhibit B and this Agreement.
- (b) NWS shall construct improvements on the Ballfield Property in accordance with Exhibit C.

NWS shall use the Ballfield Property only for the purposes stated above and in Exhibit B and attached hereto. NWS shall not use or permit the use of the Ballfield Property for any other purpose or use without the prior written consent of the City, which may be withheld at the City's sole discretion. NWS shall abide by the rules and regulations consistent with this Agreement governing SJU Park that may be made by the City from time to time. NWS shall use reasonable methods to induce customers, field-users, clients and all persons invited by NWS to observe such rules and regulations. NWS shall use best efforts to limit the hours of use to 10PM on Sunday-Thursday and 11PM on Friday-Saturday.

3. **MONTHLY FEE AND LEASEHOLD EXCISE TAX.**

- (a) Monthly Fee. NWS shall pay the City the monthly fee, utility payment, custodial costs and other amount owing as set forth in the Basic Provisions. During the term of this Agreement, NWS shall pay the fees and payments stated in the Basic Provisions by the tenth (10th) day of each calendar month of the Term to:

Finance Department  
City of Des Moines  
21630 11<sup>th</sup> Ave S,  
Des Moines, WA 98198

or such other place as the City may from time to time designate in writing. If any monthly fee or other amount due to the City hereunder is, at any time, ten (10) or more days past due, NWS shall pay a late charge equal to ten percent (10%) of the past due monthly fee(s). In addition, interest will accrue on the past due amount from the date due until paid in full at a per annum rate, which is the lesser of the highest interest rate permitted by applicable law or twelve percent (12%) per annum. NWS shall make all monthly fee payments without deduction or offset unless otherwise specifically allowed by this Agreement.

- (b) Leasehold Excise Tax. NWS shall pay the City, all leasehold excise tax, as required by RCW 82.29A or successor statute, in lieu of real property taxes, and any taxes levied or assessed in lieu of the foregoing, in whole or in part (collectively, "leasehold excise tax"). Leasehold excise tax is calculated by the State of Washington using a percentage multiplier of either payment required under this Agreement or an imputed fair market value, and as a result, NWS shall be responsible for any increases in leasehold excise tax that result from an increase in monthly fees for the Ballfield Property or otherwise over the term of the Agreement, or for the increases due to an increase in the statutory rate during the term of this Agreement. If NWS provides the City with a proof of exemption from payment of leasehold excise tax issued by the Washington State Department of Revenue, then NWS shall not be required to pay leasehold excise tax for the period that such exemption is effective. If the exemption is of limited duration, NWS shall be required to obtain documented renewal of such exemption and provide such to the City in order to claim continued exemption under this Agreement.

- 4. **TERM.** The Term of this Agreement is from the Beginning Date to the End Date as set forth in the Basic Provisions, unless terminated earlier as set forth in this Agreement. The Term may be extended by agreement of both parties for one additional ten-year terms as set forth in Exhibit D attached hereto.

5. **TERMINATION.**

- (a) The City may terminate this Agreement after NWS Event(s) of Default in circumstances as set forth in Section 15. This right is in addition to any other rights at law or in equity.
- (b) The City may terminate this Agreement at any time for public convenience during the initial Term or any Extension Term effective upon at least six months prior written notice to NWS, with the City paying NWS the Convenience Termination Payment (defined below) as set forth in Exhibit C (or Exhibit D, as applicable). The Convenience Termination Payment is complete compensation to NWS for the City's termination of this Agreement for convenience.

- (c) NWS may provide final notice of uncured default after City Event(s) of Default in accordance with Section 16 below. If after such notice City Event(s) of Default are not cured and certain payments made to NWS as required in Section 16, then the City will be deemed for all purposes to have elected to terminate this Agreement for convenience, with the City paying NWS the Convenience Termination Payment as set forth in Exhibit C (or Exhibit D, as applicable). The Convenience Termination Payment is complete compensation to NWS for any and all previous City noncompliance with the Agreement up to the Agreement termination date and for the City's termination of the Agreement for convenience.
6. **COMPLIANCE WITH LAW.** NWS shall not do anything or permit anything to be done in or about the Ballfield Property which will in any way violate or conflict with any applicable federal, state or local law. This includes without limitation NWS compliance with chapter 39.12 RCW (Prevailing Wages) as applicable. Unless otherwise provided in this Agreement or agreed in writing by the City, NWS must at NWS's sole cost acquire all permits required by law or regulation necessary for NWS use of the Ballfield Property.
7. **INSPECTION AND RIGHT-OF-ENTRY.** The City and its agents shall have the right, but not the duty, to enter upon and inspect the Ballfield Property at any time to determine whether NWS is complying with the terms of this Agreement.
8. **MAINTENANCE OF BALLFIELD PROPERTY.**
- (a) NWS shall at all times throughout the Term keep the Ballfield Property in good order, condition and repair. NWS shall maintain the Ballfield Property in a safe, clean, orderly and neat appearance, and shall not permit any offensive odors to emit from the Ballfield Property and shall not commit waste nor permit any waste to be committed in the Ballfield Property. NWS shall not use or permit the use of the Ballfield Property in any manner that may create a nuisance. NWS shall use care to avoid damaging or destroying City property by reason of its operations pursuant to this Agreement. Any damage caused by NWS to the City or other property shall be promptly repaired or replaced by NWS.
  - (b) Except to the extent this Agreement or the current Agreed Service Plan (as described in attached Exhibit B) specifically states otherwise, NWS at NWS's sole cost is responsible for maintenance of the Ballfield Property.
    - i. Except for maintenance attributable (a) to NWS's breach of its obligations under this Agreement, (b) to NWS's acts or omissions or those of NWS's employees, agents or contractors, or (c) to improvements made by NWS, the City will maintain at the City's cost the ballfield lighting (including ballasts, poles and bulb changes), the

playground, the parking lot, repair/replacement of the restroom/concession roof, and the repair/replacement of underground utility/sewer pipes. This does not include irrigation or above-ground plumbing, all of which are the responsibility of NWS. NWS is responsible for maintenance for all other Ballfield Property real property, fixtures and equipment, including: bleachers, foul poles, flagpole and message boards, restroom sinks, urinals, toilets, and hand dryers, ball returns, dug out covers, and fence caps.

- (c) NWS will develop an annual written comprehensive maintenance plan for the annual approval of the City's Public Works Director or designee. The plan will include, but is not limited to, details of the NWS' s delivery of daily, weekly, monthly, quarterly, and annual tasks associated with athletic field maintenance and cultural and grooming practices. The plan will also include maintenance of any surrounding grass or vegetation, physical structures supporting the ballfield complex such as restroom and storage areas. The annual plan will also highlight any requested and unresolved maintenance or facility replacement needs that are the responsibility of the City.
- (d) If NWS's maintenance of the Ballfield Property is not in compliance with this Agreement or the approved annual written comprehensive maintenance plan, the City shall have the right, but not the duty, to provide written notice to NWS in accordance with Section 16 below. However, in the event of non-compliant emergency conditions or circumstances requiring immediate attention to prevent injury or property damage, the City shall have the right, but not the duty, to immediately enter upon the Ballfield Property to remedy the non-compliant emergency conditions or circumstances requiring immediate attention to prevent injury or property damage (and the City may bar use of Ballfield Property until such remedy is complete), and NWS shall reimburse the City for all costs and expenses incurred by the City in connection with the remedy of such conditions or circumstances within thirty (30) days after demand.

9. **THE CITY'S ACCESS FOR REPAIRS.** The City reserves the right to make repairs, alterations, connections or extensions to the Ballfield Property or to the utility lines within the Ballfield Property, so long as such repairs, alterations, connections or extensions are not inconsistent with this Agreement. Except in cases of emergency conditions or circumstances requiring immediate attention to prevent injury or property damage (in which case the City has the right, but not the duty, to enter the Ballfield Property as necessary for the repair work and may bar use of Ballfield Property until such work is complete), the City and NWS will reasonably cooperate to schedule City work under this Section at mutually agreeable times. This Section 9 does not create any duty on

the part of the City to make repairs.

10. **ALTERATIONS; SIGNS.** Except as may be otherwise provided in Exhibit B attached hereto, NWS shall not make or permit to be made any alterations, additions, improvements or installations in or to the Ballfield Property (including telecommunication facilities), or place signs or other displays visible from outside of the Ballfield Property, without first obtaining the written consent of the City, which may be withheld in the City's sole discretion. Except as may be otherwise provided in Exhibit C attached hereto, prior to any alteration of the Ballfield Property, NWS will supply the City with a drawing and any necessary specifications relating to its proposed alteration of the Ballfield Property. The City's review, comments, and approval shall not create any City liability for any action or inaction relating to such review, and NWS shall remain wholly responsible for the safety, adequacy, suitability, utility, and constructability of its alteration. NWS shall be authorized to perform alterations only to the extent and under such terms and conditions as the City, in its absolute discretion, shall specify. All alterations performed by NWS shall be (a) completed in accordance with the plans and specifications approved by the City; (b) completed in accordance with all applicable law (including, without limitation, Chapter 39.12 RCW); (c) carried out promptly in a good and workmanlike manner; (d) completed with all new materials; and (e) free of defects in materials and workmanship.
11. **SUBLETTING AND ASSIGNMENT.** This Agreement and the license hereunder are personal to NWS and may not be transferred, assigned, sublet, conveyed, pledged, inherited, encumbered, or hypothecated. Except as may be specifically allowed under Exhibit B, NWS shall not sublet the whole or any part of the Ballfield Property, nor assign this Agreement, or any part thereof, without the prior written consent of the City, which consent may be withheld at the City's sole discretion. This Agreement is not assignable by operation of law.
12. **CITY-PROVIDED SERVICES, UTILITIES AND OTHER CHARGES.**
  - (a) City-Provided Services. The City shall provide the Ballfield Property with services, if any, as described in the Basic Provisions of this Agreement. NWS shall pay the City for utility services as set forth in the Basic Provisions. With respect to a City failure to provide water, sewer, electricity and/or gas service as required under this Agreement to the Ballfield Property, if such failure continues for a period of more than seven days after NWS has delivered to the City written notice thereof, then NWS is not obligated to pay utility payments until the failure is cured, with monthly fees and utility payments for portions of a month prorated daily.
  - (b) Utilities and Other Charges. With respect to services other than those described as City-provided in the Basic Provisions of this Agreement, NWS shall be responsible for, and pay prior to delinquency, all charges for utilities or services

used or consumed on or supplied to the Ballfield Property. NWS shall pay when due all license fees, excise taxes, business and occupation taxes and any other fees and taxes pertaining to the business conducted on the Ballfield Property and all personal property taxes levied with respect to all NWS's personal property located at the Ballfield Property.

**13. SURRENDER OF BALLFIELD PROPERTY/REMOVAL OF PERSONAL PROPERTY.**

NWS shall, at the expiration or earlier termination of this Agreement, surrender and deliver the Ballfield Property to the City (i) in as good or better condition as when received by NWS from the City or as later improved, reasonable use and wear excepted, and (ii) free from any occupancy by any person. Upon the expiration or earlier termination of this Agreement, NWS may remove its personal property and equipment if (i) such items are readily moveable and are not attached to the Ballfield Property; (ii) such removal is completed prior to the expiration or earlier termination of this Agreement; and (iii) NWS immediately repairs all damage caused by or resulting from such removal. The NWS project(s) (as described in Exhibit C or Exhibit D, as applicable) shall become the property of the City and shall remain upon and be surrendered with the Ballfield Property, in good condition, reasonable use and wear excepted. Alterations other than such NWS projects shall become the property of the City and shall remain upon and be surrendered with the Ballfield Property unless the City requires their removal. If removal is required, NWS shall, at its sole cost and expense, remove all (or such portion as the City shall designate) of alterations of the Ballfield Property by NWS, repair any damages resulting from such removal and return the Ballfield Property to the same condition as existed prior to such alterations of the Ballfield Property by NWS.

**14. FORCE MAJEURE.** Whenever a Party has an obligation under this Agreement (other than with respect to the payment of money to a Party or to bankruptcy/insolvency), non-performance of the obligation by such Party shall be excused for, and the period of time for the performance of the obligation shall be extended by, the number of days that the performance is actually delayed due to (a) general strikes, (b) acts of God, (c) war, (d) terrorist acts, (e) civil disturbances, (f) floods, (g) earthquakes, (h) fires, (i) pandemics, (j) the failure of any governmental entity to approve and issue any business, occupancy, or special-use permit when the Party has submitted a complete application for such permit and such Party is legally entitled to approval and issuance based on the complete application, (k) failures or disruptions by non-Party utility providers such electric, gas, and internet providers, or (i) other causes beyond the reasonable control of the performing Party, and, with respect to NWS' performance, any delays incurred by NWS as a result of the nonperformance or delay by the City of any of its obligations hereunder, and, with respect to the City's performance, any delays incurred by the City as a result of the nonperformance or delay by NWS of any of its obligations hereunder ("Force Majeure"). Any Party claiming a right to a Force Majeure extension shall notify the other Party in writing immediately of the claimed right to an extension and the

specific claimed basis for the extension. Any extension of time under this Section 14 is in addition to the cure periods provided under Sections 15 and 16 below or elsewhere in this Agreement. In the event of Force Majeure occurring after the completion of the NWS Initial Project that is beyond the reasonable control of NWS and that causes NWS to be completely unable to operate its business on the Ballfield Property, then, effective on written notice thereof from NWS to the City, NWS is not obligated to pay monthly fees or utility payments until such Force Majeure no longer causes NWS to be completely unable to operate its business on the Ballfield Property, with monthly fees and utility payments for portions of a month prorated daily.

15. **NWS EVENT OF DEFAULT.** Each of the following occurrences is an "NWS Event of Default":

- (a) **Payment Default.** It is an NWS Event of Default for NWS to fail to pay to the City the monthly fee or utility payments or any other amount due under this Agreement if such failure continues for a period of more than ten (10) days after the City has delivered to NWS written notice thereof. If the total outstanding amount including interest of NWS Event(s) of Default under this subsection (a) exceeds \$5,000, then the City may elect one or more of the following options:
  - i. The City may turn off water, sewer, electricity and/or gas service to the Ballfield Property until overdue amounts are paid in full.
  - ii. The City may seek judgment from a court of competent jurisdiction for the overdue amounts.
  - iii. The City may deliver a notice of termination as set forth below in this Section 15.
- (b) **Failure to Complete NWS Project(s).** It is an NWS Event of Default for NWS to fail to complete the required NWS Initial in accordance with the attached **Exhibit C** and **Exhibit D**, in which case this Section 15 does not apply and remedies for such NWS Event(s) of Default are as set forth in **Exhibit C** and **Exhibit D**.
- (c) **Abandonment.** It is an NWS Event of Default for NWS to abandon or vacate the Ballfield Property or any substantial portion of the Ballfield Property combined with the non-payment of monthly fee. If such abandonment with monthly fee non-payment occurs more than three consecutive months, then the City may issue a notice of termination as set forth below in this Section 15.
- (d) **Other Defaults.** Except as otherwise provided in this Section or elsewhere in this Agreement, it is an NWS Event of Default for NWS to fail to perform, comply with, or observe any other agreement or obligation of NWS under this Agreement **(including without limitation failure to maintain or repair the Ballfield Property as required under this Agreement or failure to provide**

**the Services as set forth in the attached Exhibit B)** if such failure continues for a period of more than thirty days after City has delivered to NWS written notice thereof or such shorter or longer period expressly provided elsewhere in this Agreement (provided, if the nature of NWS's failure is such that more time is reasonably required in order to cure, an NWS Event of Default shall not be deemed to have occurred and such failure may be cured if NWS commences to cure such failure within such period and thereafter reasonably, continuously, and diligently pursues the cure to completion). If NWS does not so proceed to cure the NWS Event(s) of Default under this subsection (d), then the City may undertake one or more of the following remedies:

- i. The City may enter upon the Ballfield Property and/or take other action(s) as reasonably necessary to remedy the NWS Event(s) of Default (and the City may bar use of Ballfield Property until such remedy is complete), and NWS shall reimburse the City for all costs and expenses incurred by the City in connection with the remedy, plus a 20% administration fee thereon, within thirty (30) days after demand.
  - ii. The City may seek specific performance for the NWS Event(s) of Default from a court of competent jurisdiction.
  - iii. The City may turn off water, sewer, electricity and/or gas service to the Ballfield Property until the NWS Event(s) of Default are cured.
  - iv. The City may issue a notice of termination as set forth below in this Section 15.
- (e) Insolvency. The filing of a petition by or against NWS is an NWS Event of Default if such filing (i) is in any bankruptcy or other insolvency proceeding; (ii) seeks any relief under any state or federal debtor relief law; (iii) is for the appointment of a liquidator or receiver for all or substantially all of NWS's property or for NWS's interest in this Agreement; or (iv) is any assignment for the benefit of creditors proceeding; however, if such a petition is filed against NWS, then such NWS Event of Default will be deemed cured if NWS has the proceedings initiated by such petition dismissed within ninety (90) days after its filing. If the proceedings are not so dismissed, then the City may issue a notice of termination as set forth below in this Section 15.

The City may deliver to NWS a written notice of termination in the circumstances as set forth above in this Section 15. Within thirty (30) days after such delivery (or such longer time as the City in its sole discretion may provide), NWS must (1) cure the NWS Event(s) of Default; (2) pay all amounts due and owing to the City under this Agreement, so that NWS is fully current under the Agreement; and (3) pay to the City a \$2500 reinstatement fee. If such cure and payments do not so occur, then this Agreement terminates upon the

expiry of the thirty (30) days (except for provisions necessary for the City to exercise its remedies hereunder) and NWS must immediately surrender and deliver the Ballfield Property to the City in accordance with Section 13 above.

#### 16. CITY EVENT OF DEFAULT.

Except as otherwise provided in this Section or elsewhere in this Agreement, it is a **"City Event of Default"** for the City to fail to perform, comply with, or observe any agreement or obligation of the City under this Agreement **(including without limitation failure to maintain or repair the Ballfield Property as required under this Agreement)** when such failure continues for a period of more than thirty (30) days after NWS has delivered to the City written notice thereof or such shorter or longer period expressly provided elsewhere in this Agreement (provided, if the nature of the City's failure is such that more time is reasonably required in order to cure, a City Event of Default shall not be deemed to have occurred and such failure may be cured if the City commences to cure such failure within such period and thereafter reasonably, continuously and diligently pursues the cure to completion). If the City does not so proceed to cure the City Event of Default, then NWS may undertake one or more of the following:

- (a) With respect to maintenance and repair of the Ballfield Property, NWS may take such actions as reasonably necessary to remedy the City Event(s) of Default, and NWS may recover from the City all costs and expenses incurred by NWS in connection with the remedy, plus an 20% administration fee thereon, by deduction of such amounts from monthly fees and utility payments otherwise due and/or by demand for payment, which the City will pay within thirty (30) days after demand.
- (b) NWS may seek specific performance from a court of competent jurisdiction.
- (c) In the event that the uncured City Event(s) of Default are material, causing NWS to lose a substantial portion of the overall benefit to NWS of this Agreement, then NWS may issue a final notice of uncured default as set forth below in this Section 16.

NWS may deliver to the City a written final notice of uncured default in the circumstances set forth above in this Section 16. In order for such notice to be effective, a copy of the notice must be delivered to the Office of the City Attorney and labelled "Final Notice of Uncured Default under SJU Park Ballfield Management Agreement and License." NWS may not deliver a final notice of uncured default if at time of delivery there exists an uncured NWS Event of Default beyond the applicable cure period. Within thirty (30) days after such notice delivery (or such longer time as NWS in its sole discretion may provide), the City must (1) cure the City Event(s) of Default and (2) pay to NWS a \$2500 reinstatement fee. If such cure and payments do not so occur, then the

Agreement terminates upon expiry of the thirty (30) days and the City will be deemed for all purposes to have elected to not cure the City Event(s) of Default and instead to have exercised the City's right to terminate this Agreement for convenience under Section S(c) above, with payment to NWS of the Convenience Termination Payment as set forth in Section S(c) and Exhibit C (or Exhibit D, as applicable).

## 17. INDEMNIFICATION

- (a) Indemnity. NWS shall indemnify, defend and hold harmless the City against and from any and all claims, actions, damages, liability, costs and expenses for personal injury or property damage, including attorney's fees, arising out of or relating to (a) NWS's use of the Ballfield Property or from the conduct of NWS's business or from any activity, work, or other things done or permitted by NWS in or about the Ballfield Property, (b) any breach or default in the performance of any obligation on NWS's part to be performed under the terms of this Agreement, (c) any act or omission, negligence or NWS misconduct of NWS, or any officer, agent, employee, guest, or invitee of NWS, and from all costs, damages, attorneys' fees and liabilities incurred in defense of any such claim in any action or proceeding brought thereon. NWS, as a material part of the consideration to the City, hereby assumes all risk of damage to property or injury to persons in, upon or about the Ballfield Property from any cause other than and to the extent of the City's gross negligence or willful misconduct. NWS shall give prompt notice to the City in case of casualty or accident in the Ballfield Property. This Section shall survive the expiration or termination of this Agreement. For the purposes of this Agreement, the claims, actions, damages, liability and expenses for which NWS must indemnify, defend and hold harmless the City are referred to as "**Covered Claims.**" In this Section, the term "City" means the City, and its officers, employees, agents, and contractors.
- (b) Concurrent Fault. This Section does not purport to indemnify the City against liability for Covered Claims caused by or resulting from the sole gross negligence or willful misconduct of the City or from an uncured City Event of Default. If Covered Claims are caused by or result from the concurrent negligence of (i) the City and (ii) NWS, its agents, servants, employees, officers, subcontractors, sublicensees, successors or assigns, then this Section will provide the City the maximum indemnification permitted by law.
- (c) Washington Law. This Section is specifically and expressly intended to constitute a waiver of NWS 's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide the City with a full and complete indemnity from claims made by NWS and its employees, to maximum extent allowed by law. THE CITY AND NWS ACKNOWLEDGE THAT THE

INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

- (d) Waiver and Release. The City shall not be liable to NWS, or its directors, officers, shareholders, agents, employees, invitees, sublicensees, contractors or subcontractors, for any loss, injury or damage to NWS or any other person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless, and then only to the extent, it is caused by or results from the gross negligence or willful misconduct of the City or its employees or from an uncured City Event of Default. As a material part of the consideration to the City for this Agreement, NWS hereby waives and releases all claims against the City with respect to all matters for which the City has disclaimed liability pursuant to the provisions of this Agreement.

**18. INSURANCE/WAIVER OF SUBROGATION.**

- (a) NWS Insurance. NWS shall, throughout the Term, at its own expense, keep and maintain in full force and effect each and every one of the following policies, each of which shall be endorsed as needed to provide that the insurance afforded by these policies is primary and that all insurance carried by the City and the City's self-insurance is strictly excess and secondary and shall not contribute with NWS's liability insurance:
  - (i) A policy of commercial general liability insurance, including a contractual liability endorsement covering NWS's obligations under Section 15 above, insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Commencement Date of this Agreement of not less than Two Million Dollars (\$2,000,000.00) per occurrence and location. NWS shall include the City and the City's officers, elected officials, employees, agents, and volunteers as additional insureds. The limit shall be reasonably increased during the Term at the City's request. This policy (or a separate policy acceptable to the City) must include athletic participant coverage.
  - (ii) "Special Form" property insurance (which is commonly called "all risk") covering NWS's alterations and any and all furniture, fixtures, equipment, inventory, improvements and other property in or about the Ballfield Property which is not owned by the City, for the then, entire current replacement cost of such property.
  - (iii) A policy of worker's compensation insurance if and as required by applicable law and employer's liability insurance with limits of no less than One Million and No/100 Dollars (\$1,000,000.00). The limit shall be reasonably increased during the Term at the City's request.

- (v) In the event NWS acquires company automobiles, a policy of comprehensive automobile liability insurance, including loading and unloading, and covering owned and hired vehicles with limits of no less than One Million Dollars (\$1,000,000 .00} per occurrence. The limit shall be reasonably increased during the Term at the City's request.
- (b) All insurance policies required under this Section shall be with companies having a rating according to Best's Insurance Key Rating Guide for Property - Casualties of no less than A- Class VII. Each policy shall provide that it is not subject to cancellation, lapse or reduction in coverage except after thirty (30} days' written notice to the City. NWS shall deliver to the City, prior to the commencement of its occupation of the Ballfield Property and, from time to time thereafter, at the City's request, certificates evidencing the existence and amounts of all such policies and copies of such insurance policies. There shall be no deductible amount applicable with respect to NWS' policy of commercial general liability insurance, unless approved in advance by the City in writing. Deductibles for NWS' "special form" property insurance shall be commercially reasonable and customary. There shall be no self-insured retention with respect to the insurance requirements under this Section, unless approved in advance in writing by the City in its sole discretion.
- (c) If NWS fails to acquire or maintain any insurance or provide evidence of insurance required by this Section, the City may, but shall not be required to, obtain such insurance or evidence and the costs associated with obtaining such insurance or evidence shall be payable by NWS to the City on demand together with a fee for overhead and administrative expenses equal to 10% of such costs.
- (d) Waiver of Subrogation. NWS intends that its property loss risks shall be borne by reasonable insurance carriers to the extent above provided, and NWS hereby agrees to look solely to, and seek recovery only from, its respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. NWS hereby waives all rights and claims for such losses, and waives all rights of subrogation of its respective insurers, provided such waiver of subrogation shall not affect the rights to the insured to recover thereunder. NWS agrees that its respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no material additional premium is charged therefor.

#### **19. HAZARDOUS MATERIALS.**

- (a) NWS shall not cause or permit any storage, use, sale, release, generation or disposal of any Hazardous Materials (as defined below) in, on or about the

Ballfield Property; provided, however, NWS shall be permitted without notice or the City's written consent to handle, store, use or dispose of products containing small quantities of Hazardous Materials, such as ordinary cleaning and ordinary maintenance products used by NWS for cleaning and maintenance in the reasonable and prudent conduct of the approved use on the Ballfield Property. NWS further covenants and agrees that at all times during the Term of this Agreement, NWS shall comply with all applicable Environmental Laws (as defined below), now or hereafter in effect, regulating NWS's occupation and/or operation and/or use of the Ballfield Property.

- (b) **"Hazardous Materials"** means any waste, pollutant, contaminant, chemical, petroleum product, pesticide, fertilizer, substance, or material that is defined, classified, or designated as hazardous, toxic, radioactive, dangerous, or other comparable term or category under any Environmental Laws (as defined below), including, but not limited to, gasoline, oil or any byproducts or fractions thereof, polychlorinated biphenyls, per- and polyfluoroalkyl substances, asbestos, paints, solvents, lead, cyanide, radioactive material, or any other materials which have adverse effects on the environment or the health and safety of persons.
- (c) **"Environmental Laws"** means all federal, state, and local laws, statutes, rules, regulations, ordinances, and codes, and any judicial or administrative interpretation thereof or requirement thereunder, now or hereafter in effect, relating, to the regulation or protection of human health, safety, the environment and natural resources, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §§ 5101 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001 et seq.), and any similar or comparable state or local laws.
- (d) NWS liability under this Section 19 is limited to storage, use, sale, release, generation or disposal of Hazardous Materials caused by NWS or permitted by NWS. All portions of this Section 19 shall survive the expiration or termination of this Agreement.

**20. CASUALTY/ TAKING BY PUBLIC AGENCY.**

- (a) Casualty. If the Ballfield Property (or necessary access to the Ballfield Property) is damaged by fire, earthquake or other casualty so that NWS is not reasonably able to operate its business on the Ballfield Property (**"Casualty"**), NWS shall give

immediate written notice to the City. If (1) the City reasonably estimates that the Ballfield Property and access thereto can be repaired to substantially the condition which existed prior to the Casualty within one hundred eighty {180} days after the City is notified by NWS of such damage and (2) there are sufficient insurance proceeds available to the City to make such repair, then the City shall proceed with reasonable diligence to so repair the damage and this Agreement shall not terminate, but no monthly fees or utility payments will be due or payable for the period from the date of the notice to the City until the repair is sufficiently complete for NWS to be able to reasonably operate its business on the Ballfield Property. If either of the conditions set forth in (1) and (2) of the previous sentence are not satisfied, then the City may elect, in its sole and absolute discretion, to either:

- i. repair the damage, in which case this Agreement shall continue, but no monthly fees or utility payments will be due or payable for the period from the date of the notice to the City until the repair is sufficiently complete for NWS to be able to reasonably operate its business on the Ballfield Property; or
- ii. terminate this Agreement, in which case the City will pay NWS, to the extent allowed by the City's insurance policies, an amount from insurance proceeds actually received by the City as follows:
  - a. If the Casualty occurs during the initial Term, City will pay the amount from such insurance proceeds that is reasonably attributable as of the date of the Casualty to the value of the NWS Initial Project (and the value of additional approved projects during the initial Term under Section F of Exhibit C, if any); or,
  - b. If the Casualty occurs during the Extension Term, City will pay the amount from such insurance proceeds that is reasonably attributable as of the date of the Casualty to the value of the NWS Extension Term Project (and the value of additional approved projects during the Extension Term under Section F of Exhibit C, if any).

Notice of the City's election shall be delivered to NWS within thirty (30) days after the date the City receives written notice of the damage. Failure by the City to deliver notice within the specified period shall be treated as an election not to repair and to terminate this Agreement. NWS agrees to look to the provider of NWS' insurance for coverage for the loss of NWS' use of the Ballfield Property, damage to NWS' property, and for any other

related losses or damages incurred by NWS during any reconstruction period following a Casualty.

(b) Taking/Acquisition by Public Agency. If the Ballfield Property (or necessary access to the Ballfield Property) is taken or acquired by public or quasi-public agency (other than the City) under any power of eminent domain or condemnation or other authority or threat thereof such that NWS is unable to operate its business, then (1) if the taking or acquisition is permanent, then this Agreement shall terminate on the date of such taking or acquisition or (2) if the taking or acquisition is temporary, then NWS may elect to either terminate this Agreement or continue this Agreement, in which no monthly fees or utility payments will be due or payable until NWS is able to reasonably operate its business on the Ballfield Property. In any termination under (1) or (2) of the preceding sentence, NWS shall have no claim or interest in or to any payment or award of damages for such taking or acquisition, except that the City will, upon receipt of such payment or award, pay NWS an amount from such payment or award as follows:

- i. If the taking or acquisition occurs during the initial Term, the City will pay the amount of such payment or award of damages that is reasonably attributable as of the date of the taking or acquisition to the value of the NWS Initial Project (and the value of additional approved projects during the initial Term under Section F of Exhibit C, if any); or
- ii. If the taking or acquisition occurs during the Extension Term, the amount of such payment or award of damages that is reasonably attributable as of the date of the taking or acquisition to the value of the NWS Extension Term Project (and the value of additional approved projects during the Extension Term under Section F of Exhibit C, if any).

Subject to the payment to NWS as described in this subsection (b), the City reserves all rights to payments or damages for any public or quasi-public agency taking or acquisition relating to the Ballfield Property or to SJU Park; NWS assigns to the City any right NWS may have to such payments or damages; and NWS shall make no claim against the City for damages for termination of this Agreement or interference with NWS' business. NWS shall have the right, however, to claim and recover from the taking or acquiring agency compensation for any loss to which NWS may be entitled for NWS' moving expenses or other relocation costs if they are awarded separately to NWS in the taking or acquisition.

## 21. MISCELLANEOUS.

- (a) Notices. All notices to be given by the Parties shall be in writing and may either be served personally, delivered by overnight courier (such as UPS or Fed Ex)

or deposited in the United States mail, postage prepaid, by either registered or certified mail to the notice addresses provided in the Basic Provisions of this Agreement. A Party may change its notice address (or email address) effective on written notice to the other party. All such notices shall be deemed delivered and effective on the earlier of (i) the date received or refused for delivery, or (ii) five (5) calendar days after having been deposited in the United States Postal Service, postage prepaid. In lieu of the foregoing, either Party may deliver any notice (except notices for Event(s) of Default or notices of Agreement termination or final notices of uncured default) to the other Party's email address in the Basic Provisions, in which case the notice shall be deemed delivered and effective upon sending.

- (b) Liens. NWS shall keep the Ballfield Property free and clear of all liens and encumbrances arising from or out of its use and occupancy of the Ballfield Property. If any lien is filed against the Ballfield Property or adjacent or underlying property owned by City as a result of the action or inaction of NWS or its employees, agents or contractors, NWS shall upon demand promptly have the lien released or provide City with a bond in the amount required by City to remove the lien of record. Nothing in this Agreement, including this subsection, shall be deemed as a concession that the Ballfield Property, or any other City-owned property, is subject to lien under Washington law.
- (c) No Waiver of Covenants. No waiver of any default hereunder shall be implied from any omission by either party to take any action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. The subsequent acceptance of monthly fees by the City shall not be deemed to be a waiver of any preceding breach by NWS of any agreement, condition or provision of this Agreement, other than the failure of NWS to pay the particular fee so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such fee. One or more waivers of any breach of any covenant, term, or condition of this Agreement shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.
- (d) No Consequential Damages. Notwithstanding any contrary provision herein, the City shall not be liable under any circumstances for injury or damage to, or interference with, NWS's business, or for any consequential, incidental or special damages, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring. This subsection (d) does not limit the Convenience Termination Payment.

- (e) Nature of License. The City does not warrant its title or ownership of the Ballfield Property, but the City confirms that it otherwise has the right and authority to enter into this Agreement. This license granted hereunder is not exclusive, but the City may only use the Ballfield Property to the extent consistent with NWS' rights under this Agreement. No possessory interest is granted to NWS in the Ballfield Property. This Agreement does not create any rights in any third party.
- (f) Uses Specifically Prohibited. Without limiting the generality of Section 2 above, any use of the Ballfield Property for the following purposes is expressly prohibited and is an NWS Event of Default under this Agreement requiring immediate cure:
1. Any use of the Ballfield Property to support or oppose any political party, political platform, ballot measure, and/or candidate for federal, state or local elective office;
  2. Any use of the Ballfield Property by groups, organizations, or entities to promote unlawful discrimination based upon race, color, ethnicity, age, religion, handicap, gender or sexual orientation; and
  3. Any use of the Ballfield Property that is prohibited under applicable federal, state and local regulations, specifically including without limitation the Des Moines Municipal Code.
- (g) No Third-Party Beneficiary. This Agreement is executed for the exclusive benefit of the signatory parties and their respective successors and assigns. Nothing herein shall be construed as creating any enforceable right, interest, claim or cause of action in or for any third-party.
- (h) No Employment or Agency Relationship. Nothing herein shall be construed as establishing an employment or agency relationship between the City and any employee, agent or contractor of NWS, or between NWS and any employee, agent or contractor of the City.
- (i) Regulatory Authority Reserved. NWS expressly acknowledges that the City is a municipal corporation organized under the laws of the state of Washington and has executed this Agreement in its capacity as owner of the Ballfield Property. Nothing in this Agreement shall be construed as waiving, abridging or otherwise limiting the City of Des Moines' regulatory authority, police power and/or legislative discretion, which are hereby expressly reserved in full. Without prejudice to the foregoing, nothing in this Agreement shall be construed as entitling NWS to receive any permit, license or other regulatory approval, or as waiving or excusing NWS's compliance with any applicable regulatory process.
- (j) Risk of Loss to NWS's Property. NWS bears all risk of any and all damage and

loss to NWS's property being on the Ballfield Property, except as may be provided otherwise in this Agreement.

(k) No Liability. NWS agrees that the City, its officials, officers, and employees shall have no liability or obligation whatsoever as a result of any defect or condition of the Ballfield Property, including without limitation latent defects. The City shall have no obligation for any repairs, maintenance, Improvements as defined herein, and/or work of any kind except as expressly set forth in this Agreement.

(l) Public Records Disclosure. NWS expressly acknowledges that the City is an "agency" as defined by Chapter 42.56 RCW, and is fully subject to the provisions governing the disclosure of public records codified in that statute. To the extent required or otherwise authorized by said statutes or other applicable law:

Any public records submitted to or generated by the City in connection with this Agreement are potentially subject public to inspection and upon request. NWS expressly waives any claim or cause of action against the City arising out of such disclosure.

NWS shall fully cooperate with and assist the City with respect to any request for public records received by the City and related to any public records generated, produced, created and/or possessed by NWS and related to this Agreement. Upon written demand by the City, NWS shall furnish the City with full and complete copies of any such records within ten business days. NWS's failure to timely provide such records upon demand shall be deemed a breach of this Agreement. To the extent that the City incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, NWS shall fully indemnify and hold harmless City therefor.

(m) Applicable Law and Jurisdiction. Alternative Dispute Resolution. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

Applicable Law and Jurisdiction. This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute

resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract 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. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law.

- (n) **Modification.** No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and NWS.
- (o) **Entire Contract.** The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, the more specific terms of the Exhibits shall prevail.
- (p) **Business License.** NWS shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.
- (q) **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

IN WITNESS WHEREOF, the City and NWS have executed this Agreement.

**EXHIBIT A**

**LEGAL DESCRIPTION/ DEPICTION OF BALLFIELD PROPERTY**

**EXHIBIT B**

**STANDARDS FOR OPERATION AND MANAGEMENT OF BALLFIELD  
PROPERTY**

As described in this Exhibit, NWS is the operator and manager for all aspects of the Ballfield Property, which is SJU Park Ballfield Complex, Fields 1-3. The services provided by NWS under this Exhibit, which include without limitation the management and operation of the Ballfield Property as set forth below, are referred to as the "***Services.***" NWS shall provide the Services in a generally accepted business-like manner consistent with both parties' objective of operating high-quality sport fields.

**1. Programs, Fees, and Schedules:**

- A. NWS will develop, coordinate, and provide athletic services, programs, tournaments, field rentals, and camps for a range of ages and user groups, including, but not limited to, youth, teen, and adult groups of all abilities and genders. So long as field rentals are consistent with this Agreement, prior approval by the City of field rentals is not required.
- B. NWS will provide for a 50% discount to City of Des Moines residents for weekday

rentals, specifically Monday – Friday.

- C. NWS will provide quality activities and appropriate levels of staff according to schedule of programs and activities, using athletic field standards/best practices.
- D. NWS will offer youth camps during the summer months (June/July/August). Des Moines residents will be entitled to a 50% discount off of the daily or weekly rate. NWS will coordinate with the City’s Public Works Director or designee on offering a complete fee waiver for those qualifying youth who can demonstrate family income under a designated low-income amount.
- E. In order to not conflict with City programming, NWS will not offer a T-ball program.
- F. NWS will work with the Public Works Director or designee to implement and review annually (or periodically) user fees adjustments for athletic field use. All fees charged by NWS for use of the Ballfield Property is subject to the prior approval of the Public Works Director or designee. These agreed fees will be included in the annual Agreed Service Plan (described below). Unless otherwise in an Agreed Service Plan, fees collected by NWS belong to NWS, and NWS is responsible for all applicable taxes on all such fees. The City acknowledges and agrees that user fees charged by NWS will increase from year to year during the Term of this Agreement or extension thereof.
- G. Unless otherwise determined by the City in writing, NWS will require all field users to either (1) execute a waiver and release in a form pre-approved by the Office of the City Attorney or (2) submit a certificate of insurance to the Public Works Director or designee showing the City of Des Moines as an additional insured with commercial general liability limits of at least \$1 million per occurrence. The limits shall be reasonably increased during the Term at the City's request.

**2. Staffing, Supervision, and Training:**

- A. NWS will adopt and implement athletic field operational and safety standards consistent with industry practices for athletic facilities similar to the Ballfield Property.
- B. NWS will ensure that all staff have a valid Washington State Patrol background check performed annually, and that NWS's employees meet City eligibility requirements in regard to Washington State Patrol background check information.
- C. NWS will ensure that all staff are appropriately trained in the safe and effective operations of athletic field operations and maintenance.

**3. Marketing:**

- A. At NWS's request, the City will provide a location on the exterior of the Ballfield Property for NWS to install a sign. This sign must be preapproved by the City and

such approval is at the City's sole discretion. NWS shall not place any other signs or other displays visible from outside of the Ballfield Property, without first obtaining the consent of the City, which may be withheld in City's sole discretion.

- B. Any co-branded marketing materials and online collateral must be approved by the City before being published.
- C. No sponsorship signage may be sold or displayed without first obtaining the prior written approval of the City, which is at the City's sole discretion. Some examples of what will not be approved: signage that endorses products that are obscene, libelous, political, religious, or that endorses alcohol or drugs. Twenty percent of revenue from the sale of sponsorship signage will go to the City.

**4. Concessions:**

- A. All items sold must be appropriate for sale in a public park. No alcoholic beverages or drugs can be sold or consumed on Ballfield Property. If NWS sells food and beverages, NWS will maintain all required licenses.
- B. The City is not responsible for lost, stolen, damaged or unsold inventory.
- C. NWS may enter into subcontracts for subcontractors to provide concessions on the Ballfield Property. Each subcontract must provide that the subcontract automatically terminates when this Agreement terminates. Prior City approval of subcontractors or subcontracts is not required. However, all subcontractor staff must have a valid Washington State Patrol background check performed annually, and subcontractor staff must meet City eligibility requirements regarding Washington State Patrol background check information.

**5. Inventory and Inspections:**

NWS will maintain an inventory of all SJU Park Ballfield Complex, Field 1-3 equipment and supplies. The initial inventory list of City-owned items is Exhibit E to the Agreement. The Agreed Service Plans will update Exhibit E as necessary. The items on Exhibit E will remain the property of the City. No such items may be removed from Ballfield Property without City written approval. NWS acknowledges that unneeded City property can only be disposed of by a City surplus process. The City will not replace the items shown in Exhibit E when they are no longer usable. Replacement will be the responsibility of the NWS. Except to the extent specifically provided otherwise in a current Agreed Service Plan, NWS is responsible at NWS' s cost for the maintenance and repair of City-owned property shown in Exhibit E to this Agreement.

**6. Storage:**

The City Public Works Director, or designee may allow from time to time NWS to store NWS's property on the Ballfield Property or elsewhere in SJU Park. Such storage is at NWS's sole risk.

**7. Recordkeeping:**

- A. NWS will maintain copies of release waivers, and documentation of the number of participants and spectators in attendance, inspections performed, maintenance performed, and any accidents or incidents that happen on site. Documentation will shall be made available upon request of City staff.
- B. NWS will notify the Public Works Director, or designee, as soon as possible when an accident or incident occurs involving the Ballfield Property. NWS is responsible for completing appropriate City forms for reporting accidents and incidents and submitting them to the Public Works Director or designee within one business day.

**8. Other NWS Responsibilities and Requirements:**

- A. NWS will not remove or consume any property belonging to the City or City employees.
- B. Hazardous conditions shall be immediately remedied or secured to prevent further damage and/or protect SJU Park Baseball Complex visitors from injury. It is the responsibility of the NWS to provide close supervision of all operations when on site.
- C. NWS will ensure that employees comply with all Washington State industrial regulations and practices.
- D. NWS shall not enter into contracts regarding the Ballfield Property without the prior written approval of each such contract by the Public Works Director or designee, except this approval is not required for concessions subcontracts under Section 4 of this Exhibit B or for facility rental or field use contracts. Every subcontract must contain a provision stating that the subcontract automatically terminates when this Agreement terminates.
- E. No reserved parking will be made available for the NWS, NWS staff, or NWS's customers. Parking is available on a first come, first serve basis.
- F. NWS will ensure that NWS maintains and remains in compliance with all legally required licenses.
- G. NWS will be responsible for providing first aid kits and replacing supplies as needed.
- H. NWS is responsible at NWS's cost for the care, maintenance, and replacement of its own personal property and equipment.
- I. The City reserves the right to close SJU Park, including the Ballfield Property (SJU

Park Ballfield Complex Fields 1-3) and associated parking lots in the event of inclement weather, natural disasters, hazardous situations, or other emergency building closures.

- J. City will work closely with NWS to schedule all planned closure dates to best avoid or reduce operational impacts. Whenever reasonably possible, the City will notify NWS no less than 30 days in advance of planned closures or maintenance activities that could affect NWS operations.

**9. Annual Agreed Service Plan:**

City and NWS understand that the Services may need to change from year -to-year based on changing circumstances. No later than November 1 of each year of the term of this Agreement, NWS will deliver to City for City approval a service plan proposal for the upcoming year. The proposal will contain specifics of the Services to be provided by NWS for the upcoming year, specifics about program fees and schedules, and will contain other matters as City's Public Works Director or designee may reasonably determine. The City will review the proposal and provide comment. The City acknowledges and agrees that user fees charged by NWS will increase from year to year during the Term of this Agreement or extension thereof. This review process will include a review of NWS's performance of this Agreement during the previous year. Once the City's Public Works Director or designee approves the NWS's proposal or NWS' s revised proposal, it will govern the Services for the upcoming year (as approved, the "**Agreed Service Plan**"). If there are delays in approval of a proposal for any reason, then the previous Agreed Service Plan will govern Services until there is a new Agreed Service Plan. If provisions of an Agreed Service Plan and this Agreement conflict, then this Agreement governs.

A proposed service plan will include the following information:

- ▶ Proposed fee schedule for services, to include any proposed fee changes for the upcoming year.
- ▶ Proposed written comprehensive maintenance plan for the property and any planned improvements or upgrades for the site.  
Data showing field equity usage by age and gender compared to national averages at similar sites.
- ▶ Annual customer service plan as well as anecdotal information regarding customer satisfaction, customer conflict resolution details, and response times to customer inquiries.
- ▶ Other information as may be required by the City' s Public Works Director or designee.

The first Agreed Service Plan is attached to this Exhibit B.

**Attachment to Exhibit  
B First Agreed Service  
Plan  
(2025-2026)**

- Fee Schedule for Services
- Maintenance plan
- Field equity plan on fields 1-3@ SJU Park
- Annual Customer Service Plan

**EXHIBIT C**

**NWS INITIAL PROJECT**

A. **NWS Initial Project.** NWS will construct the following improvements on the Ballfield Property at no cost to the City:

<b>Improvement Name</b>	<b>Description</b>
Infield synthetic turf installation	NWS will install synthetic turf for the SJU Park ballfields 1-3.  Contractor shall follow surfacing manufacturer's installation and drainage specifications and recommendations, meet City of Des Moines stormwater standards and adhere to the State of Washington Department of Ecology (WDOE) requirements (based on current Stormwater Management Manual for Western Washington).  Contractor shall meet all Site Development requirements, including stormwater, and secure all necessary permits.

NWS will provide all licenses, insurance, Washington State Labor and Industries affidavits and any other documents as required by the City of Des Moines.

**B. NWS Initial Project Design.**

1. Approval of Plans and Specifications. NWS is solely responsible for design of the NWS Initial Project. NWS will cause the design of the NWS Initial Project to be in accordance with all applicable laws and industry standards. During design of the Project, NWS will provide the Public Works Director with the plans and specifications of the NWS Initial Project for review, comment, and approval, which approval is at the Parks & Facilities Director's sole discretion. The plans and specifications so approved are referred to as the **"Director-Approved Plans."** NWS will not begin construction of the Project until NWS has received such written approval from the Public Works Director. The Public Works Director approval is solely for the purposes of proceeding with the Project under this Agreement and is not a City warranty or any endorsement whatsoever of the NWS Initial Project design, which is the NWS's sole responsibility. The Public Works Director review, comments, and approval shall not create any City liability for any action or inaction relating to such review, and NWS shall remain wholly responsible for the safety, adequacy, suitability, utility, and constructability of its project.

2. Permits and Approvals. NWS or its contractor at its own cost will obtain all permits and other approvals as may be required for the NWS Initial Project. The Public Works Director approval in subsection B.1 above is in addition to and does not replace any such permits or other approvals.

**C. NWS Project Construction.**

1. NWS will construct the NWS Initial Project at no cost to the City in accordance with Director-Approved Plans, all NWS Initial Project permits and approvals, and all applicable laws.

2. **NWS and each contractor and subcontractor engaged in construction, alterations or improvements under this Exhibit shall pay all workers, laborers, or mechanics employed in the performance of any part of such work an amount not less than the prevailing rate of wages established for each trade or occupation as established by the Washington Department of Labor and Industries, in accordance with Chapter 39.12 RCW (Prevailing Wages).**

3. **NWS cannot begin construction without proper filing(s) of Statement(s) of Intent to Pay Prevailing Wages with the Department of Labor and Industries.**

4. The NWS Initial Project shall be carried out in a good and workmanlike manner; completed with all new materials; and free of defects in materials and workmanship.

5. During construction, NWS will meet monthly with the Public Works Director or designee to review construction progress and provide operational updates.

**D. Deadlines/NWS Construction Cost.**

1. Project Application Deadline. NWS will diligently pursue obtaining all necessary permits and approvals from government agencies for the NWS Initial Project if applicable. NWS must submit complete applications for any such required permits and approvals for the NWS Initial Project no later than \_\_\_\_\_ months after the date of this Agreement, unless the Public Works Director or designee provides a later deadline in writing. A failure to so submit complete applications is an NWS Event of Default, and, if NWS does not cure such failure within thirty (30) days after written notice thereof from the City, then the City may terminate this Agreement effective upon delivery of written notice to NWS, with NWS paying any outstanding monthly fees accruing up to the Agreement termination date.

2. Project Commencement Deadline. NWS must commence installation of the synthetic turf no later than 12 months after NWS has received all necessary permits and approvals for the NWS Initial Project, unless the Public Works Director or designee provides a later deadline in writing. A failure to so commence installation is an NWS Event of Default, and, if NWS does not cure such failure within thirty (30) days after written notice thereof from the City, then the City may terminate this Agreement effective upon delivery of written notice to NWS, with NWS paying any outstanding monthly fees accruing up to the Agreement termination date.

3. Project Completion Deadline. NWS must achieve completion of the entire NWS Initial Project no later than 12 months after NWS commences installation of the synthetic turf, unless the Public Works Director or designee provides a later deadline in writing. Failure to so complete is an NWS Event of Default under the Agreement and, if NWS does not cure such failure within ninety (90) days after written notice thereof from the City, then the City may terminate this Agreement effective upon delivery of written notice to NWS, with NWS paying any outstanding monthly fees accruing up to the Agreement termination date. "Completion" means that (i) the entire NWS Initial Project is ready for use and is constructed in accordance with the Director-Approved Plans and applicable permits, (ii) all laborers, materialmen and subcontractors have been paid in full together with all taxes paid (and the Affidavit(s) of Wages Paid have been filed with the Department of Labor and Industries) and (iii) NWS has submitted the NWS Initial Project Total Cost as set forth in subsection (4) below.

4. NWS Initial Project Total Cost. As one requirement of achieving completion, NWS must submit to the City the total cost paid by NWS for the NWS Initial Project, including costs of construction, labor, material, design, and permits (the "***NWS Initial Project Total Cost***"). NWS must submit all reasonably requested breakdowns and back-up information for the NWS Initial Project Total Cost.

5. Ownership of Project. The NWS Initial Project is property of the City upon completion. The fact that the NWS Initial Project becomes City Property does not affect obligations the City may have to make a Convenience Termination Payment.

6. Force Majeure. For the avoidance of doubt, the parties confirm that Agreement Section 14 (Force Majeure) applies to this Exhibit C. However, Force Majeure extensions of the

deadlines in D.1, D.2, or D.3 above will not exceed a cumulative total of 6 months.

**E. Convenience Termination Payment**

In the event that the City terminates this Agreement for convenience, the City must pay to NWS the Convenience Termination Payment no later than the Agreement termination date. The "*Convenience Termination Payment*" will be calculated as follows:

*Convenience Termination Payment =*

$$1.2 \times (\text{NSI Project(s) total cost}) \times \frac{\text{days remaining}}{4015} - \text{other payments}$$

*"NWS Project(s) Total Cost"* is the cost established under Section D.4 above for the NWS Initial Project (plus costs for additional approved projects under Section F below, if any).

*"Days Remaining"* means the number of days between the Agreement termination date and December 31, 2030.

*"Other Payments"* means the total of all other payments due from NWS to the City as of the Agreement termination date, such as, but not limited to, monthly fees and utility payments accruing up to the Agreement termination date and any interest thereon.

Example Calculation: With the initial Term as 1.1.26 to 12.31.30, if the NWS Project(s) Total Cost is \$2,000,000 and the termination date is 12.31.30, then the Convenience Termination Payment would equal:

$$= 1.2 \times (\$2,000,000) \times \frac{1825}{4015} = \$1,090,909.09$$

The Convenience Termination Payment only applies to termination for convenience under Agreement Section 5(b) and Section 5(c) and does not apply to any other termination in the Agreement. The City will pay the Convenience Termination Payment within thirty (30) days after the Agreement termination date.

**F. Additional NWS Projects.** NWS may request to undertake at NWS's sole cost one or more additional projects on the Ballfield Property. If the Public Works Director or designee approves the request (which is at the Director or designee's sole discretion), then such project will be undertaken by NWS using the same procedures and requirements as set forth in this Exhibit, with deadlines as mutually agreed in writing at the time of such approval.

## **EXHIBIT D**

### **EXTENSION TERM**

NWS shall have the option to extend the Term of this Agreement for one Extension Term of ten years (the, "*Extension Term*"). For clarity, this means that at maximum the Agreement can be extended until 2045.

In order to extend the Agreement for the Extension Term, both parties must agree to the extension. NWS shall provide written notice of intent to extend to the City no earlier than nine {9} month prior to the expiration of the initial Term and no later than three (3) months prior to the expiration of the initial Term, unless the Public Works Director provides in writing an extension of such notice date.

The Extension Term shall be upon the same terms, covenants and conditions as the initial Term, except for the following:

- (1) In exchange for the Extension Term, the parties may agree to additional projects.

**EXHIBIT E**

**CITY-OWNED INVENTORY LIST - UNDERWOOD INVENTORY**

<b>ITEM</b>	<b>AMOUNT</b>	<b>SERIAL NUMBER</b>	<b>INVENTORY Id #</b>
<b>FIELD EQUIPMENT</b>			
White bases	18		
Orange bases	5		
Orange bases attached to white bases	3		
Heavy duty home plate	1		
cement base inserts	5		
<b>FIELD MAINTENANCE ITEMS</b>			
Ball field play bags 2525p	3		
All sport field #1 conditioner	2		
<b>SUPPLIES</b>			
case of toilet paper	¾ case		
Boxes of softballs	8		
<b>TOOLS</b>			
Ballfield rakes	3		
Brooms	2		
Shovels	3		
Pickaxe	1		
Rake	1		
<b>LARGE EQUIPMENT</b>			
John Deere 1200 Hydro Drag	1	1TC1200HKCT0501 46	P-116
John Deere Gator	1	W04X2SD030615	P-109
John Deere 2653B Trim-Reel mower	1	1TC2653TCGT0950 93	P-105

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Public Safety Sales Tax

FOR AGENDA OF: October 9, 2025

ATTACHMENTS:

- 1. Draft Ordinance no. 25-053
- 2. RCW 82.14.345

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: September 30, 2025

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Finance *[Signature]*
- Human Resources \_\_\_\_\_
- Legal */s/TG*
- Marina \_\_\_\_\_
- Police *[Signature]*
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

**Purpose and Recommendation**

The purpose of this agenda item is for the Council to consider on second reading Draft Ordinance 25-053 which would enact a 0.1% additional sales and use tax for criminal justice purposes. This item will be placed on the consent agenda.

**Suggested Motion**

**Motion 1:** "I move to approve Draft Ordinance 25-053, imposing a public safety sales and use tax."

### **Background**

On May 19, 2025, the Governor signed into law Engrossed Substitute House Bill 2015. The law, which took effect July 27, 2025, creates two new sources of revenue for local jurisdictions to help fund criminal justice activities in order to promote public safety. The first source of revenue was through the creation of a new local law enforcement grant program to provide direct support to local and tribal law enforcement agencies in hiring, retaining, and training law enforcement officers, peer counselors, and behavioral health personnel working in co-response to increase community policing and public safety.

The second new source of revenue, relevant to this item, was the creation of a new sales and use tax available to cities and counties additional to, and not subject to any offset from, any other sales and use tax imposed. The amount of the tax equals 0.1% of the selling price in the case of a sales tax, or value of the article used in the case of a use tax.

To be eligible to impose the tax, a city's law enforcement agency must meet the requirements to be eligible to receive grant funds under ESHB 2015. These requirements include:

- Issue and implement policies and practices consistent with RCW 43.17.425 and 10.93.160, and the office of the attorney general's keep Washington working act guide, model policies, and training recommendations for state and local law enforcement agencies;
- Participate in Criminal Justice Training Commission (CJTC) training as required by RCW 43.101.455 and 36.28A.445;
- Issue and implement policies and practices regarding use of force and de-escalation tactics, including, but not limited to, duty to intervene and training and use of canine teams;
- Implement use of force data collection and reporting when the program is operational;
- Issue and implement policies and practices addressing firearm relinquishment pursuant to court orders;
- 25% officer completion rate with the commission's 40-hour crisis intervention team training;
- 100% officer compliance rate for those officers required to complete trauma-informed, gender-based violence interviewing, investigation, response, and case review training developed or approved by the CJTC, and if requested by the commission, participated in agency case reviews;
- Received funding from a sales and use tax authorized pursuant to RCW 82.14.340 or 82.14.450, or authorized pursuant to RCW 82.14.345 before the awarding of the grant;
- A chief of police, marshal, or sheriff who is certified by the criminal justice training commission pursuant to this chapter and who has not been convicted of a felony or a gross misdemeanor involving moral turpitude, dishonesty, fraud, or corruption; and
- Issue and implement policies and practices that prohibit volunteers who assist with agency work from enforcing criminal laws, including that they must be clearly identifiable by the public as distinguishable from peace officers and any identifying insignia must be officially issued by the agency and used only when on duty.

The agency is required to submit documentation to CJTC establishing that the agency meets all of the requirements in order to collect the tax.

Additionally, a city is not eligible to impose the tax if the voters have within the last year either rejected a ballot proposition to impose a criminal justice sales and use tax authorized under RCW 82.14.450 or repealed a council-imposed criminal justice sales and use tax authorized under RCW 82.14.340.

Monies received from the tax can only be used for criminal justice purposes. This is defined as “activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice and behavioral health systems occurs.” This would include traditionally understood criminal justice purposes such as police recruitment and retention or courts, as well as the following examples specified in ESHB 2015:

- Domestic violence services, such as those provided by domestic violence programs, community advocates, and legal advocates;
- Staffing adequate public defenders to provide appropriate defense for individuals;
- Diversion programs;
- Reentry work for inmates;
- Local government programs that have a reasonable relationship to reducing the numbers of people interacting with the criminal justice system including, but not limited to, reducing homelessness or improving behavioral health;
- Community placements for juvenile offenders; and
- Community outreach and assistance programs, alternative response programs, and mental health crisis response including, but not limited to, the recovery navigator program.

#### **Discussion**

After making one minor clarification to policy, Des Moines Police believes they meet the policy, practice, and training requirements to be eligible for either a grant or to impose the sales and use tax under the new law. The Department has developed policies on use of force and the Keeping Washington Working Act which has been reviewed by the Attorney General’s office. The City receives proceeds from King County’s public safety sales tax, satisfying that requirement.

The final outstanding requirement related to participation is a use of force data collection and reporting program. At the time ESHB 2015 passed, the referenced program was not yet finalized. Recently, DMPD has signed a data sharing agreement with WSU and worked with Lexipol to put a new database in place that is WADEPS compliant for use of force investigations, which should put the Department in compliance with this requirement.

The Department has submitted a letter with attachments demonstrating compliance with the requirements to the CJTC. CJTC shall verify compliance within 45 days or notify the City of any deficiencies. If the deficiencies cannot be corrected, the proceeds of the tax will be withheld until CJTC can confirm compliance.

The proposed tax would be an additional one tenth of one cent per dollar on purchases of taxable goods and services in the City of Des Moines, bringing the total rate from 10.2% to 10.3%. Based on sales tax revenue over the past few years, the annual proceeds from the proposed tax would total approximately \$450,000 in the first years. These funds would be restricted by law to criminal justice purposes. Anticipated needs in this area that could be funded by the tax include police recruitment and retention, increased public defender costs, mental health crisis response, alternative response programs, or any other qualifying public safety priority the Council decides.

If the Council wished to begin collecting the tax on January 1, 2026, the City would need to notify the State Department of Revenue by October 18, 2025. For an April 1, 2026 starting date, DOR would need to be notified by January 6, 2026.

The draft ordinance had a first reading at the October 2, 2025 City Council meeting and was passed to a second reading on the October 9, 2025 regular Council meeting. An ordinance regarding a special

revenue fund to administer the funds will be brought to Council in the future at which time further restrictions on use of the funds can be considered.

**Alternatives**

The Council may:

1. Pass the draft ordinance as presented
2. Pass the draft ordinance with changes
3. Decline to pass the draft ordinance

**Financial Impact**

The proposed sales and use tax is projected to bring in approximately an additional \$450,000 per year for criminal justice purposes. Implementation of this tax or not will not affect the ability of DMPD to apply for grants from the new program.

**Recommendation**

Staff recommends the Council pass the draft ordinance as presented.

**CITY COUNCIL'S FIRST DRAFT 09/30/2025**

**DRAFT ORDINANCE NO. 25-053**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to finance, imposing a sales and use tax for public safety purposes as authorized by RCW 82.14.345, fixing the rate of the tax, defining the permissible uses of the proceeds of the tax, and adding and codifying a new chapter to Title 3 DMMC entitled "Additional Sales and Use Tax for Public Safety."

**WHEREAS**, the Washington State Legislature enacted Engrossed Substitute House Bill (ESHB) 2015 in the 2025 Regular Session, and

**WHEREAS**, ESHB 2015 is intended to improve public safety funding by providing resources to local governments through the creation of a grant program and enabling local governments to enact an additional public safety sales and use tax, and

**WHEREAS**, Section 201 of ESHB 2015, codified at RCW 82.14.345, permits cities and counties who meet certain requirements to enact a 0.1% sales and use tax by June 30, 2028, the proceeds of which can only be used for criminal justice purposes, and

**WHEREAS**, a dedicated additional sales and use tax for criminal justice purposes would provide much needed funding for the City of Des Moines to protect public safety in a time of scarce resources, and

**WHEREAS**, a city may not impose the public safety sales and use tax authorized under RCW 82.14.345 if the voters have repealed by referendum a tax imposed pursuant to RCW 82.14.340 or rejected a ballot proposition to impose a tax pursuant to RCW 82.14.450 in the previous 12 months, and

**WHEREAS**, the City of Des Moines has neither repealed by referendum a tax imposed pursuant to RCW 82.14.340 nor rejected a ballot proposition to impose a tax pursuant to RCW 82.14.450 in the previous 12 months, and

**WHEREAS**, RCW 82.14.345 requires that any city seeking to impose a sales and use tax for public safety purposes meet the requirements of RCW 43.101.540, and

Ordinance No. \_\_\_\_  
Page 2 of 4

**WHEREAS**, the City of Des Moines has issued and implemented policies and practices that meet the requirements of RCW 43.101.540, and

**WHEREAS**, on September 26, 2025 the City submitted documentation to the Criminal Justice Training Commission (CJTC), in the form and manner prescribed by the CJTC, demonstrating that the City meets the requirements as required by law, and

**WHEREAS**, the City Council finds that the City has met the requirements under RCW 82.14.345(1)(c), permitting the City to impose a sales and use tax for criminal justice purposes under RCW 82.14.345, and

**WHEREAS**, the City Council finds that implementation of a sales tax to fund public safety services is necessary and appropriate to protect public health, welfare, and the environment; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Findings.** The City Council adopts all of the "whereas" sections of this Ordinance as findings to support this Ordinance.

**Sec. 2. Imposition.** Beginning January 1, 2026, there is imposed a sales or use tax, as the case may be as authorized by RCW 82.14.345, upon every taxable event, as defined in RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to chapters 82.08 and 82.12 RCW. The tax shall be in addition to any other taxes imposed or levied under any existing law or ordinance.

**Sec. 3. Rate.** The rate of tax imposed by section 2 of this ordinance shall be one tenth of one percent (0.1%) of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

**Sec. 4. Use of tax monies received.** When required by RCW 82.14.345(3), moneys received from the sales and use tax

Ordinance No. \_\_\_\_  
Page 3 of 4

imposed by section 1 of this ordinance shall be used only for the purposes provided in RCW 82.14.350(3).

**Sec. 5. Administration - Collection.** The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.540.

**Sec. 6. Contract with Department of Revenue.** The City Manager or the City Manager's designee is authorized to enter into a contract with the Department of Revenue for the administration of this tax.

**Sec. 7. Reporting.** When required by RCW 82.14.345(4) the City shall, within one calendar year of imposition of the tax and annually thereafter, make a report to the Association of Washington Cities on how the moneys received from the tax were expended.

**Sec. 8. Codification.** Sections 2 through 7 of this ordinance shall be codified as a new chapter in Title 3 DMMC entitled "*Additional Sales and Use Tax for Public Safety Purposes.*"

**Sec. 9. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

**Sec. 10. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_\_, 2025 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2025.

Ordinance No. \_\_\_\_  
Page 4 of 4

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published:

Effective Date:

**RCW 82.14.345****Sales and use tax for criminal justice purposes.**

(1)(a) By June 30, 2028, the legislative authority of a qualified city or county may authorize, by resolution or ordinance, a sales and use tax in accordance with the terms of this chapter. The resolution or ordinance must include a finding that the city or county has met the requirements under (c) of this subsection.

(b) If a city or county legislative authority has not adopted a resolution or ordinance to impose the tax under (a) of this subsection by June 30, 2028, the city or county may submit an authorizing proposition to the city or county voters at a primary or general election, and if the proposition is approved by the majority of persons voting, impose the sales and use tax under this section.

(c) A qualified city or county may impose the tax authorized under this section only if the city or county meets the requirements to receive a grant under RCW **43.101.540**. A city or county that has not issued and implemented policies and practices as required under RCW **43.101.540** (3) and (4) may not impose the tax authorized under this section.

(d) To establish that the city or county qualifies under (c) of this subsection, the city or county must submit documentation, in a form and manner prescribed by the criminal justice training commission, demonstrating the city or county meets the requirements of RCW **43.101.540**. A city or county that wishes to impose the tax authorized under this section may submit documentation to the commission before the commission finalizes the form and manner of such submittals and may not be penalized for doing so. However, once the commission has established the form and manner of the submission, all cities and counties must make submissions as prescribed.

(i) If the commission, in consultation with the office of the attorney general, is unable to verify the submittal within 45 calendar days of receipt, the commission shall notify the city or county of any deficiencies.

(ii) The city or county may, at this time, and conditioned on the city or county submitting supplemental documentation rectifying the stated deficiencies, authorize the tax established under this section. The commission shall thereafter notify the city or county of any outstanding deficiencies within 45 calendar days of receipt of the supplemental documentation.

(iii) If the city or county has not rectified all deficiencies within 180 calendar days of its initial submittal under this section, as verified by the criminal justice training commission, the office of the state treasurer must withhold \$100,000 of the tax collected under this section each month until the month in which the city or county comes into compliance with the requirements of RCW **43.101.540** as verified by the criminal justice training commission.

(e) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state pursuant to chapters **82.08** and **82.12** RCW upon the occurrence of any taxable event within such city or county.

(2) The rate of tax under this section equals 0.1 percent of the selling price, in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys received from the tax imposed under this section must be expended for criminal justice purposes.

(4)(a) Cities and counties who impose the tax authorized under this section shall, within one calendar year of imposition of the tax and annually thereafter, make a report to either the association of Washington cities or the Washington state association of counties on how the moneys received from the tax were expended.

(b) By December 1, 2025, and annually thereafter, the association of Washington cities and Washington state association of counties shall compile all information received pursuant to (a) of this subsection and submit a report to the appropriate committees of the legislature detailing the purposes for which each city and county expended the moneys received from the tax.

(5) For purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Criminal justice purposes" means activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice and behavioral health systems occurs, and which includes:

- (i) Domestic violence services, such as those provided by domestic violence programs, community advocates, and legal advocates, as those terms are defined in RCW **70.123.020**;
- (ii) Staffing adequate public defenders to provide appropriate defense for individuals;
- (iii) Diversion programs;
- (iv) Reentry work for inmates;
- (v) Local government programs that have a reasonable relationship to reducing the numbers of people interacting with the criminal justice system including, but not limited to, reducing homelessness or improving behavioral health;
- (vi) Community placements for juvenile offenders; and
- (vii) Community outreach and assistance programs, alternative response programs, and mental health crisis response including, but not limited to, the recovery navigator program.

(b) "Qualified city or county" means either a city or county where the voters have not repealed by referendum a tax imposed pursuant to RCW **82.14.340** or rejected a ballot proposition to impose a tax pursuant to RCW **82.14.450** in the previous 12 months.

[ **2025 c 350 s 201.** ]

**A G E N D A I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: OpenGov Asset Management Software Purchase

FOR AGENDA OF: October 9, 2025

ATTACHMENTS:

- 1. VertoSoft Purchase Order #135
- 2. Sourcewell Contract

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: October 1, 2025

CLEARANCES:

- City Clerk \_\_\_\_\_
  - Community Development \_\_\_\_\_
  - Courts \_\_\_\_\_
  - Director of Marina Redevelopment \_\_\_\_\_
  - Emergency Management \_\_\_\_\_
  - Finance *MS*
  - Human Resources \_\_\_\_\_
  - Legal */s/TG*
  - Marina \_\_\_\_\_
  - Police \_\_\_\_\_
  - Parks, Recreation & Senior Services *AJ*
  - Public Works *WPS*
- APPROVED BY CITY MANAGER  
FOR SUBMITTAL: \_\_\_\_\_

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval to purchase OpenGov asset management software including the necessary implementation support. The purchase order for this purchase is included as Attachment 1. The following motion will appear on the Consent Calendar:

**Suggested Motion**

**Motion:** “I move to approve the purchase of the OpenGov asset management software identified in attachment 1 for a total amount of \$177,217.94, authorize a management reserve of \$15,000, and further authorize the City Manager to sign said Contract substantially in the form as submitted.”

**Background**

Asset management software has long been a vital tool in Public Works operations, enabling staff to manage, track, inspect, and maintain assets in the field. With Council approval on January 12, 2012, the Public Works Department implemented the Cityworks Asset Management Software to monitor stormwater management and transportation assets, including catch basins, underground piping, water quality and detention facilities, traffic signs, and roadway markings.

For the past 13 years, Cityworks has served as the City’s primary asset management system. However, over time, system updates, workflow adjustments, and evolving program needs have reduced its overall usability, reliability, and effectiveness.

In 2025, Surface Water Management staff began evaluating options to either improve Cityworks or transition to a new platform. Following a thorough review, staff determined that migrating to OpenGov would best meet the City’s operational needs. OpenGov offers the ability to design a modern asset management program tailored to current requirements, while also providing enhanced features such as unlimited user licenses, task automation, and lifecycle condition score analysis.

**Discussion**

**Sourcewell Contract:**

Vertosoft, the distributor of OpenGov software, offers a cooperative procurement contract (Attachment 2) to government entities through the Sourcewell Service Cooperative. Sourcewell’s procurement process streamlines competitive solicitation and meets or exceeds local contracting requirements.

**Purchase Order:**

By utilizing the Sourcewell contract, Vertosoft provided the City with a scope of work and cost proposal that can be processed through the City’s purchase order system. The purchase order (Attachment 1) includes professional services for the implementation of OpenGov and the migration of existing Cityworks data, six days of on-site technical support and staff training, and the 2025–2026 annual software licensing fees for the Surface Water Management, Transportation, Parks and Recreation, and Facilities modules.

**Alternatives**

City Council may choose not to approve the purchase. In that case, Public Works Maintenance would continue to use existing maintenance and reporting methods. Surface Water Management and portions of Transportation assets would remain managed through the Cityworks platform, while all other Public Works assets would continue to be tracked and reported manually without the benefit of asset management software.

**Financial Impact**

The Surface Water Utility has been the primary driver for improving the City’s asset management system and is able to support implementation costs through its stormwater capacity grant funding. The Utility will receive \$120,000 in noncompetitive grant funding in 2026, with eligibility to reimburse expenditures incurred as early as July 2025. Ongoing annual software fees for each department will be incorporated into their respective operating budgets.

Professional Services Implementation, Training, Data Migration:	\$78,717.00
Surface Water Management 2025/2026 Fee:	\$53,157.29
Transportation 2025/2026 Fee:	\$15,497.22
Parks & Rec. 2025/2026 Fee:	\$14,349.21
Facilities 2025/2026 Fee:	\$15,497.22
Management Reserve:	\$15,000.00
<b>Total Cost:</b>	<b>\$192,217.94</b>

**Recommendation**

Staff recommends adoption of the motion.

**Council Committee Review**

Not applicable.

**CITY OF DES MOINES**

Finance Division  
 21630 11<sup>TH</sup> Avenue South  
 Des Moines WA 98198-6317  
 Phone 206.870.6511 Fax 206.870.6540



**PURCHASE ORDER**

THE FOLLOWING NUMBER MUST APPEAR ON ALL RELATED CORRESPONDENCE, SHIPPING PAPERS, AND INVOICES:

**P.O. NUMBER: BPBW 09/25/2025 #135**

**TO:**  
 Vertosoft  
 1602 Village Market Blvd SE, Ste. 320  
 Leesburg, VA 20175  
 Contact: Carly Moore  
 Phone: (540)998-8361  
 Email: carly.moore@vertosoft.com

**SOLD TO/SHIP TO:**  
 City of Des Moines  
 Tyler Beekley  
 21650 11<sup>th</sup> Ave S  
 Des Moines, WA 98198-6317  
 (206)870.6869  
 tbeekley@desmoineswa.gov

P.O. DATE	REQUISITIONER	SHIPPED VIA	F.O.B. POINT	TERMS
09/25/2025	Tyler Beekley		Des Moines	30 Days

QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
1	Term 1	11/01/2025 – 12/31/2025 Reimbursable Travel Expenditures		\$ 86,610.27 \$ 5,600.00
1	Term 2	01/01/2026 – 12/31/2026		\$ 85,007.67
See attached quote #: Q-15189				

Authority: At the direction of the Des Moines City Council, taken at an Open public meeting on 10/09/2025. If approved, this will be used as intent to create and purchase the Asset Management Program.	SUBTOTAL	\$
	10.2% SALES TAX	
	SHIPPING & HANDLING	
	OTHER	
	TOTAL	\$177,217.94

1. Please send two copies of your invoice.
2. Enter this order in accordance with the prices, terms, delivery method, and specifications listed above.
3. Please notify us immediately if you are unable to ship as specified.
4. Send all correspondence to: Address above

**INTERNAL INSTRUCTIONS:**  
 CHARGE TO DM CITY CODES:  
 45003001.541000 \$131,874.29  
 10142001.541000 \$ 15,497.22  
 00157501.541000 \$ 14,349.21  
 00157401.541000 \$ 15,497.22

Ordered by: Tyler Beekley  
 Date: 10.09.2025

Authorized by: Michael P Slevin III, P.E.  
 PW Director  
 Date: 09.25.2025



## Statement of Work

City of Des Moines, WA

Creation Date: 09/24/2025  
SoW Expiration Date: 12/22/2025  
Document Number: PS-09904.3  
Created by: Brittany Worthy

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# OpenGov Statement of Work

## 1. **Project Scope and Understanding**

This Statement of Work (“SOW”) outlines the Professional Services OpenGov will provide to City of Des Moines, WA (“Customer”) under the applicable Order Form. Professional Services or technical requirements not listed in this SOW are out of scope.

## 2. **Exhibits**

The following exhibits are incorporated by reference and are part of this SOW:

2.1. Exhibit 1: Implementation Activities

2.1.1. Enterprise Asset Management

## 3. **OpenGov Responsibilities**

OpenGov will provide a framework for planning, communication, progress tracking, and coordination for activities in Exhibit 1. In collaboration with Customer, OpenGov will develop and maintain the Project Plan. The “Project Plan” is a detailed, living document that defines how the project will be executed, including tasks, timelines, milestones, and team assignments. OpenGov will monitor progress against the Project Plan, coordinate adjustments to tasks and schedules as needed, and conduct status meetings as agreed to by the parties. OpenGov will provide weekly status reports, a Project Charter, and a RAID register (Risks, Actions, Issues, and Decisions). The “Project Charter” is a high-level document outlining the project’s purpose, goals, key stakeholders, success criteria, and major milestones.

## 4. **Customer Responsibilities**

The Customer will appoint a primary point of contact with authority to make binding decisions (“Customer’s Project Manager”). This person will coordinate internal resources, assign subject matter experts (“SMEs”), and oversee implementation. Responsibilities include attending status meetings, making timely decisions, providing requested information, escalating issues internally, and collaborating on the Project Plan and Change Order process, if applicable.

Customer acknowledges that the success of this project is contingent on its full participation. Customer must provide data within ten (10) business days of a request, maintain consistent data formats and access throughout the project, and allocate the necessary Customer resources and time to support deliverables and meet agreed-upon timelines.

Any failure by Customer to meet its responsibilities under this SOW (each, a “Customer Delay”) will automatically suspend the affected obligations of OpenGov for the duration of the Customer Delay and for a reasonable restart period thereafter. All affected milestones, delivery dates, and service-level commitments

will be extended on a day-for-day basis (or as otherwise reasonably necessary) to account for the Customer Delay, and may result in an adjustment of the fees if OpenGov incurs additional time, materials, or other costs as a result. Under no circumstances will any consequence of a Customer Delay constitute a breach by OpenGov of this SOW or of the Agreement, nor will OpenGov be liable for any failure to meet a performance obligation that is caused, in whole or in part, by a Customer Delay.

**5. Project Delivery**

OpenGov will perform services under this SOW remotely and provide up to two (2) onsite trips for project-related activities. Customer will provide a suitable workspace, including a conference room with attendee capacity, non-public Wi-Fi, and AV equipment. Travel expenses are estimated not to exceed \$5,600. OpenGov may use a combination of OpenGov personnel and OpenGov-trained implementation partners to deliver the services described in this SOW.

**6. Estimated Schedule**

The estimated duration of this work is eight (8) months. The specific timeline, including order of delivery of the suite(s), will be determined during the project planning activities in the Initiate Phase. Services are estimated to begin within two (2) weeks and no later than four (4) weeks from contract signature. OpenGov reserves the right to adjust the schedule based on the availability of Customer or OpenGov resources, and the timeliness of deliverables provided by the Customer.

**7. Acceptance Procedure**

OpenGov will submit completed deliverables to the Customer's Project Manager for review. Within five (5) business days of receipt, the Customer's Project Manager will either provide written acceptance or a list of requested revisions. In the event there are requested revisions, the subsequent review period for acceptance will follow the same timeline until final acceptance. If Customer does not respond within this period, the deliverable will be deemed accepted. Once a deliverable is accepted, any requested changes will require a paid Change Order.

Acceptance milestones and review timelines will be tracked in the Project Plan. Both parties acknowledge that delays in task completion or unresolved issues may impact the project timeline. If OpenGov determines in good faith that Customer is not fulfilling its responsibilities under this SOW, OpenGov may place services on hold following a minimum of five (5) business days' written notice. The notice will specify the actions needed to progress the project. During the hold period, OpenGov

may reallocate resources without penalty and will not be responsible for resulting delays.

**8. Modifications**

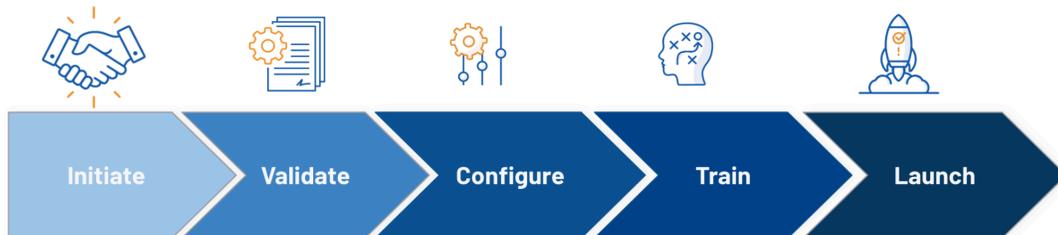
The fees and estimated timeline are based on the scope and assumptions in this SOW. If either party determines that a change to the scope is necessary, the parties will collaborate to define the required modification, which may result in fee adjustments based on OpenGov's standard rates. All modifications must be documented in a written Change Order and signed by both parties ("Change Order"). Examples of changes include revisions to the project timeline, deliverables, or resource allocation.

**9. Communication and Escalation Procedure**

OpenGov and Customer agree to maintain regular communication in alignment with the Project Plan to ensure progress, resolve questions promptly, and minimize risk. Both parties will raise any issues or concerns in a timely manner. If challenges are not resolved through standard project discussions, Customer and OpenGov Project Managers will escalate to their respective executive leadership teams to jointly determine a resolution and align on a path to successful implementation.

# Exhibit 1: Implementation Activities

OpenGov Implementation Methodology Overview



Every OpenGov implementation follows a five-phase hybrid methodology designed to ensure a structured and collaborative deployment. The phases are:

1. Initiate – OpenGov provisions access and performs initial system setup.
2. Validate – OpenGov works with the Customer to confirm requirements and review initial configurations.
3. Configure – OpenGov completes system configuration as outlined in this SOW.
4. Train – OpenGov provides training to system administrators and/or end users, as applicable.
5. Launch – OpenGov provides post-go-live support and transitions the Customer to OpenGov’s Customer Success Team.

Each implementation is structured around these phases. Deliverables, sign-offs, and completion criteria are aligned to the relevant phase.

## Enterprise Asset Management

Use Cases Build for Enterprise Asset Management:

- Transportation
- Parks and Rec
- Facilities
- Stormwater

### Initiate

OpenGov will:

- Setup a hosted sandbox and a hosted production OpenGov Asset Management environment, if one does not already exist

- Conduct one (1) remote session to review customer assets (see asset section below), source data, GIS capabilities, ESRI authentication, and single sign on identity provider (if applicable).

OpenGov Assumptions:

- OpenGov assumes that the customer is responsible for performing quality control measures on its data in EAM.

Completion Criteria:

- The project kicked off with an initial project timeline delivered.

## **Validate**

OpenGov will:

- Provide a three-day (3-day) onsite validation workshop to increase our understanding of Customer business and functional goals. Through workshops and interviews, OpenGov will identify best fit scenarios for OpenGov Asset Management and provide a brief including any challenges as well as recommendations for OpenGov Asset Management best practices relevant to Customer implementation.
- Provide a template file to be utilized by Customer staff to populate resources, libraries, and users/roles data that OpenGov will import into OpenGov Enterprise Asset Management.
- Provide up to two (2) remote sessions for Customer technical GIS staff to configure Esri Feature Services for the bidirectional GIS integration and authentication.

Completion Criteria:

- Completion of requirements gathering workshop.

## **Configure**

### **Configurations**

OpenGov will:

- Provide configuration services, including:
  - o Up to ten (10) custom fields and up to two (2) custom layouts per asset type listed in the Assets section below
  - o Up to thirty (30) custom fields and up to ten (10) custom layouts to be utilized in any of the shared areas of the system, such as Tasks
  - o Up to twenty (20) automations
  - o Up to twenty (20) preventative maintenance plans

OpenGov Assumptions:

- Implementation of any custom modification developed by OpenGov; your internal staff; or any third-party is not included in the scope of this project unless specifically listed above.

## Data Services

OpenGov will:

- Provide one sandbox and one production data load service through standard import/export functionality. OpenGov will provide template documents for data population. Once populated by Customer staff, OpenGov will load the data into Customer sandbox or production OpenGov Asset Management environment. Data loads may include data such as:
  - Parent level asset records
  - Asset location (spatial x/y) attributes
  - Parent level resource (Labor, Equipment Material, Vendor) records
  - Resource Rate (Labor, Equipment, Material) records
  - Standard system libraries
- Provide service for Customer historical data listed below:
  - CityWorks data related to: assets, work history, total cost history, request history, and attachments.
  - For the custom data conversion service(s) listed above, OpenGov will provide:
    - A review of the historical data along with recommendations for OpenGov Asset Management best fit.
    - A field map workshop, which will identify where and how historical data will appear within OpenGov Asset Management
    - A test conversion service to facilitate data conversion validation and testing
    - One revision of the field map used for the test conversion service
    - A production conversion service utilizing the final, approved field map
  - All data must be accessible to OpenGov from a SQL DB, SQL View, Access DB or Comma Delimited Files.
  - Maximum historical record count:
    - Requests : 150,000
    - Tasks: 1,000,000
    - Overall Asset count: 2,000,000
  - Exclusions:
    - Child records and associated child-level attributes, condition inspection history, and resources.

OpenGov Assumptions:

- OpenGov assumes that the customer is responsible for performing quality control measures on its data in EAM.
- Data conversion services from other software system(s) or sources (including Navigator databases) are not included in the scope of this project unless specifically listed above.

## Assets

OpenGov will:

- Provide installation and training on the following asset types:

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- o Transportation(8)
  - Bridge; Light Fixture; Pavement; Sign; Guardrail; Marking; Pavement Area; Support
- o Parks and Recreation (10)
  - Athletic Space; Fence; Park; Park Structure; Playground Equipment; Bench; Landscape Area; Park Amenity; Playground; Tree
- o Facilities (25)
  - Facility; Other Site Construction; Selective Building Demolition; Site Improvement; Site Preparation; Facility Floor; Basement Construction; Conveying; Exterior Enclosures; Facility Electrical; Facility Equipment; Fire Protection; Foundations; Furnishings; HVAC; Interior Construction; Interior Finishes; Plumbing; Roofing; Site Electrical Utilities; Site Mechanical Utilities; Spaces; Special Construction; Stairs; Superstructure
- o Stormwater (9)
  - Storm Basin; Storm Channel; Storm Culvert; Storm Facility; Storm Inlet; Storm Manhole; Storm Outlet; Storm Pipe; Storm Pump
- o Up to two (2) Custom Asset Type(s) to be determined during Requirements Gathering.

Completion Criteria:

- Customer sign-off on ability to login and access to the sandbox.

## **Train**

### Foundational Training

- Provide remote train-the-trainer training, up to two (2) hours, on overall system navigation and functionality to help familiarize Customer staff with the software environment and its common functions. Training topics include:
  - o Dashboards
  - o Standard KPI/ROI Gadgets
  - o Logins/Permission
  - o Layers
  - o Filters
  - o Maps
  - o Grids
  - o System Navigation
  - o Views (List & Detail)
  - o Standard Reports
  - o Attachments
  - o Requests, Work, Assets, Resources, Reports, and Administrator Tabs

OpenGov assumptions:

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- OpenGov assumes that the customer is responsible for testing its workflows, automations, integrations, and configurations within the EAM and will update the configurations as part of its testing and training activities.

### Train the Trainer Training Event

- Provide a three-day (3-day) onsite "train-the-trainer" training event. The training agenda will be defined and agreed upon by both OpenGov and Customer project manager. To avoid redundancy, and to utilize service time efficiently, training may cover a subset of the assets listed in the Asset section of the scope. Topics may include any of the following:
  - Request Management:
    - Requests
    - Requesters
    - Task Creation from Requests
    - Issue library (including settings such as Applies to Asset and Non-Location)
    - OpenGov recommended best practices for Request and Requester Management
  - Work Management:
    - Create Task(s)(Asset/Non-Asset)
    - Assignments (Add, Edit, Remove)
    - Task Menu Actions
    - Related Work Items
    - Create Work Order
    - Associate Task to WO
    - Repeat Work Orders
    - Work Order Menu Actions
    - Enter Resources
    - Timesheets
    - Activity library (including settings such as Applies to Asset, Inspection, Key Dates, Cost, and Productivity)
    - OpenGov recommended best practices for Work Management
  - Asset Management:
    - Asset Details
    - Preventative Maintenance Plans
    - Inspections
    - Linked assets (if applicable)
    - Container/Component Relationships (if applicable)
    - OpenGov recommended best practices for Asset Management
  - Resource Management:
    - Resource Details
    - Labor/Equipment Rates
    - Material Management (Stock, Usage, Adjustments)
    - Vendor Price Quotes
    - OpenGov recommended best practices for Resource Management
  - OpenGov Mobile:

- Overall system functionality (Navigation, Interface, Maps, Attachments, Sorting)
- Work Management
  - Create and Update Tasks (Asset/Non-Asset)
  - Assign Tasks
  - Enter Resources
  - Inspections
- Asset Management
  - Create and Update Assets
- Request Management
  - View and Update Requests
  - View Requester information
  - Create Task from Request
- OpenGov recommended best practices for mobile device use
- o Administrator:
  - Administrator:
    - User Administration, Role Administration, Asset Administration, Record Filter Administration, Import/Export, Scheduled Process Log, Error Log
  - Settings:
    - System Settings, Map Administration, Geocode Settings, GIS Integration settings, Asset Color Manager
  - Manager:
    - Layout Manager, Library Manager, Preventative Maintenance, Asset Condition Manager, Notification Manager, Structure Manager, Automation Manager

### Core Training:

- Provide remote train-the-trainer training, up to two (2) sessions on OpenGov Asset Builder. Training topics include:
  - o OpenGov Asset Management Administrator
    - Structure Manager
    - Library Manager
    - Layout Manager
    - User/Role Configurations
  - o OpenGov recommended best practices for expanding the system's use and/or building assets
- Provide Preventative Maintenance Plans remote train-the-trainer training, up to two (2) sessions. Training topics include:
  - o Preventative Maintenance
  - o OpenGov recommended best practices for proactive asset management
- Provide Advanced Inspections, Asset Condition Manager, and Asset Risk remote train-the-trainer training, up to three (3) sessions. Training topics include:
  - o Performance Management
    - Prediction Groups

- Minimum Condition Groups
    - Activities and Impacts
    - Criticality Factor
    - Install/Replaced Dates
  - o Business Risk Exposure
    - Risk
    - Consequence of Failure
    - Probability of Failure
  - o OpenGov recommended best practices for Asset Risk Functionality , advanced inspections and condition management
  - Provide Internal Request remote train-the-trainer training, up to two (2) sessions.  
Training topics include:
    - o Internal Requests
      - Users
      - Views
      - Issue Library settings and management
    - o OpenGov recommended best practices for advanced request management
- Completion Criteria
- Core Training and train-the-trainer has been conducted.

## **Launch**

OpenGov will:

- Provide up to eight (8) hours, remote, web conferences, of working sessions to answer any questions following solution acceptance.

Completion Criteria:

- Go Live Support has been conducted.



1602 Village Market Blvd SE, Suite 320  
Leesburg, VA20175 USA

**Cage Code:** 7QV38  
**UEI Number** Y7D5MXRU2839  
**DUNS#** 080431574  
**Federal Tax ID:** 81-3911287  
**Business Size:** Small Business

**Date:** 9/25/2025, 12:48 PM

**Phone:** 571 707-4130  
**Fax:** 571-291-4119  
**Email:** sales@vertosoft.com

**Vertosoft Contact:** Carly Moore  
**Phone:** (540) 998-8361  
**Email:** carly.moore@vertosoft.com

## Vertosoft Quote for OpenGov - City of Des Moines, WA

**Contract:** Sourcewell: 060624-VTO

**Quote #:** Q-15189  
**Expires On:** 10/31/2025

**Quote For:**  
**Name:**  
**Company:** City of Des Moines, WA  
**Email:**  
**Phone:**

**Ship To**  
City of Des Moines, WA  
Tyler Beekley  
206-870-6869  
tbeekley@desmoineswa.gov

PAYMENT TERMS	DELIVERY METHOD	PAYMENT METHOD	VERTOSOFT CUST ID	SUPPLIER REF #
Net 30	Electronic	Check/ACH/Credit Card		

Overall POP Start Date: 11/1/2025  
Overall POP End Date: 12/31/2028

Term 1 11/01/2025-12/31/2025

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OG-TWAQ-B100150M-AR-3Y	Asset Management - Between \$100-150 Million - 3Y	1.00	\$5,316.17	\$5,316.17
OG-TWAW-B100150M-AR-3Y	Facilities Domain - Between \$100-150 Million - 3Y	1.00	\$2,122.90	\$2,122.90
OG-TWAY-B100150M-AR-3Y	Parks & Recreation Domain - Between \$100-150 Million - 3Y	1.00	\$1,965.65	\$1,965.65
OG-TWBB-B100150M-AR-3Y	Stormwater Domain - Between \$100-150 Million - 3Y	1.00	\$1,965.65	\$1,965.65
OG-TWBC-B100150M-AR-3Y	Transportation Domain - Between \$100-150 Million - 3Y	1.00	\$2,122.90	\$2,122.90
OG-PSBG-B100150M-OT-0Y	Professional Services Deployment - Prepaid - Between \$100-150 Million - 0Y	340.00	\$215.05	\$73,117.00
<b>Term 1 TOTAL:</b>				<b>\$86,610.27</b>

Billed as Incurred and Not to Exceed

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OG-Travel-Expense-Reimb	OpenGov - designed for reimbursable travel expenditures. **Estimate expense	5,600.00	\$1.00	\$5,600.00
<b>Billed as Incurred and Not to Exceed TOTAL:</b>				\$5,600.00

Term 2 01/01/2026-12/31/2026

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OG-TWAQ-B100150M-AR-3Y	Asset Management - Between \$100-150 Million - 3Y	1.00	\$33,491.91	\$33,491.91
OG-TWAW-B100150M-AR-3Y	Facilities Domain - Between \$100-150 Million - 3Y	1.00	\$13,374.32	\$13,374.32
OG-TWAY-B100150M-AR-3Y	Parks & Recreation Domain - Between \$100-150 Million - 3Y	1.00	\$12,383.56	\$12,383.56
OG-TWBB-B100150M-AR-3Y	Stormwater Domain - Between \$100-150 Million - 3Y	1.00	\$12,383.56	\$12,383.56
OG-TWBC-B100150M-AR-3Y	Transportation Domain - Between \$100-150 Million - 3Y	1.00	\$13,374.32	\$13,374.32
<b>Term 2 TOTAL:</b>				\$85,007.67

Term 3 01/01/2027-12/31/2027

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OG-TWAQ-B100150M-AR-3Y	Asset Management - Between \$100-150 Million - 3Y	1.00	\$35,166.51	\$35,166.51
OG-TWAW-B100150M-AR-3Y	Facilities Domain - Between \$100-150 Million - 3Y	1.00	\$14,043.03	\$14,043.03
OG-TWAY-B100150M-AR-3Y	Parks & Recreation Domain - Between \$100-150 Million - 3Y	1.00	\$13,002.74	\$13,002.74
OG-TWBB-B100150M-AR-3Y	Stormwater Domain - Between \$100-150 Million - 3Y	1.00	\$13,002.74	\$13,002.74
OG-TWBC-B100150M-AR-3Y	Transportation Domain - Between \$100-150 Million - 3Y	1.00	\$14,043.03	\$14,043.03
<b>Term 3 TOTAL:</b>				\$89,258.05

Term 4 01/01/2028-12/31/2028

PART #	DESCRIPTION	QTY	UNIT PRICE	EXTENDED
OG-TWAQ-B100150M-AR-3Y	Asset Management - Between \$100-150 Million - 3Y	1.00	\$36,924.83	\$36,924.83
OG-TWAW-B100150M-AR-3Y	Facilities Domain - Between \$100-150 Million - 3Y	1.00	\$14,745.19	\$14,745.19
OG-TWAY-B100150M-AR-3Y	Parks & Recreation Domain - Between \$100-150 Million - 3Y	1.00	\$13,652.88	\$13,652.88
OG-TWBB-B100150M-AR-3Y	Stormwater Domain - Between \$100-150 Million - 3Y	1.00	\$13,652.88	\$13,652.88
OG-TWBC-B100150M-AR-3Y	Transportation Domain - Between \$100-150 Million - 3Y	1.00	\$14,745.19	\$14,745.19
<b>Term 4 TOTAL:</b>				\$93,720.97

**Grand Total: \$360,196.96**

### Quote Terms

By purchasing the products and services described in this order form, the Customer is expressly agreeing to the End User Agreement published at <https://www.vertosoft.com/terms-and-conditions-opengov>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

Credit Card Orders: Additional fees may apply if paying by credit card.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number or Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.



**Solicitation Number: RFP #060624**

**CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Vertosoft LLC, 1602 Village Market Blvd. SE, Suite 320, Leesburg, VA 20175 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Software Solutions and Related Services for Public Sector and Education Administration from which Supplier was awarded a contract in Categories 1, 2, and 4.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

**1. TERM OF CONTRACT**

A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.

**EXPIRATION DATE AND EXTENSION.** This Contract expires October 25, 2028, unless it is cancelled sooner pursuant to Article 22. This Contract allows up to three additional one-year extensions upon the request of Sourcewell and written agreement by Supplier. Sourcewell retains the right to consider additional extensions beyond seven years as required under exceptional circumstances.

B. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

**2. EQUIPMENT, PRODUCTS, OR SERVICES**

A. EQUIPMENT, PRODUCTS, OR SERVICES. Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

### 3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. **SALES TAX.** Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. **HOT LIST PRICING.** At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

#### **4. PRODUCT AND PRICING CHANGE REQUESTS**

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;

- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

## **5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS**

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

## **6. PARTICIPATING ENTITY USE AND PURCHASING**

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized

subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

## **7. CUSTOMER SERVICE**

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

#### **8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT**

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted

price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

#### **9. AUTHORIZED REPRESENTATIVE**

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

#### **10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE**

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

### **11. INDEMNITY AND HOLD HARMLESS**

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

### **12. GOVERNMENT DATA PRACTICES**

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

### **13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT**

#### **A. INTELLECTUAL PROPERTY**

1. *Grant of License.* During the term of this Contract:
  - a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.

b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

#### **14. GOVERNING LAW, JURISDICTION, AND VENUE**

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

#### **15. FORCE MAJEURE**

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

#### **16. SEVERABILITY**

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

#### **17. PERFORMANCE, DEFAULT, AND REMEDIES**

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

### 18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for products liability-completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:  
\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:  
\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability.* During the term of this Contract, Supplier will maintain coverage for all claims the Supplier may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Supplier's professional services required under this Contract.

Minimum Limits:  
\$2,000,000 per claim or event  
\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:  
\$2,000,000 per occurrence  
\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. **ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE.** Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

## **19. COMPLIANCE**

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

## **20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION**

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcwell if this certification changes at any time.

## **21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS**

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with

the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and

records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. **PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322).** A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. **FEDERAL SEAL(S), LOGOS, AND FLAGS.** The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. **NO OBLIGATION BY FEDERAL GOVERNMENT.** The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. **FEDERAL DEBT.** The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. **CONFLICTS OF INTEREST.** The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

**22. CANCELLATION**

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

Vertosoft LLC

Signed by:  
*Jeremy Schwartz*  
C0FD2A139D06489...  
By: \_\_\_\_\_  
Jeremy Schwartz  
Title: Chief Procurement Officer  
Date: 10/23/2024 | 2:51 PM CDT

Signed by:  
*H. Jay Colavita*  
CE362D9DCA75431...  
By: \_\_\_\_\_  
Jay Colavita  
Title: President  
Date: 10/23/2024 | 2:47 PM CDT

# RFP 060624 - Software Solutions and Related Services for Public Sector and Education Administration

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## Vendor Details

Company Name: Vertosoft  
Does your company conduct business under any other name? If yes, please state: Virginia  
Address: 1602 Village Market Blvd SE  
Suite 320  
Leesburg, Virginia 20175  
Contact: Ashlianne Shigley  
Email: ashlianne.shigley@vertosoft.com  
Phone: 571-799-9578  
HST#: 81-3911287

## Submission Details

Created On: Tuesday May 14, 2024 10:42:32  
Submitted On: Wednesday June 19, 2024 16:27:20  
Submitted By: Chet Hayes  
Email: chet@vertosoft.com  
Transaction #: 24e4534c-d2ba-49f8-8719-aa21f40b0e00  
Submitter's IP Address: 173.72.254.97

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**Specifications**

**Table 1: Proposer Identity & Authorized Representatives**

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Vertosoft LLC
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Vertosoft LLC has no subsidiaries.
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Vertosoft
4	Provide your CAGE code or Unique Entity Identifier (SAM):	CAGE: 7QV38. UEI: Y7D5MXRU2839.
5	Proposer Physical Address:	1602 Village Market Blvd SE Ste. 320 Leesburg, VA 20175
6	Proposer website address (or addresses):	www.vertosoft.com
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Name: Jay Colavita Title: President Address: 1602 Village Market Blvd SE Ste. 320 Leesburg, VA 20175 Email: contracts@vertosoft.com Phone: 703-568-4703
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Name: Ashlianne Shigley Title: Government Contracts Program Manager Address: 1602 Village Market Blvd SE Ste. 320 Leesburg, VA 20175 Email: ashlianne.shigley@vertosoft.com Phone: 571-799-9578
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Name: Chet Hayes Title: CTO Address: 1602 Village Market Blvd SE Ste. 320 Leesburg, VA 20175 Email: chet@vertosoft.com Phone: 571-707-4137

**Table 2: Company Information and Financial Strength**

Line Item	Question	Response *
10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Vertosoft LLC (Vertosoft) is a technology services company that focuses on delivering innovative and emerging technologies to public sector organizations across the country. Established in 2016, Vertosoft has deep knowledge and experience supporting all phases of the acquisition life cycle. We specialize in providing services to emerging technology companies and the public sector agencies they serve. Our forte is strategic sourcing, which streamlines the time required to provide critical technology and services to government end-users at competitive prices. We provide Sourcewell members the flexibility, agility, and responsiveness of a small company with the experience of a large organization. Vertosoft's staff is widely respected and relied upon for its professional, ethical business approach. Our success is based upon the leadership of a highly-experienced management team, and our staff has deep expertise in meeting each agency's specific requirements and the technology required to satisfy those requirements. Our core values include an innovative mindset, an entrepreneurial spirit, and a deep knowledge and experience supporting all phases of government sales and acquisition lifecycle. We are widely respected and relied upon for our professional, ethical, and industry certified business process.
11	What are your company's expectations in the event of an award?	An award from Sourcewell represents an opportunity for a beneficial partnership between Vertosoft, Sourcewell, and its members. This partnership ensures that Sourcewell members gain access to leading-edge technologies that are exclusively available through Vertosoft's robust catalog. As an awarded supplier under Sourcewell's rigorous selection process, Vertosoft gains a prestigious platform to showcase its innovative solutions. Sourcewell, in turn, enhances its offerings with a broader and more advanced range of technology solutions. We believe that the strongest and most effective partnerships are built on a foundation of collaboration. We are committed to working hand-in-hand with Sourcewell to tailor solutions that precisely address the diverse needs of Sourcewell members, ensuring a relationship where progress and mutual satisfaction are the mainstays.
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Vertosoft is a fast-growing and financially sound company that delivers high-quality software solutions to the public sector. Since 2016, we have achieved an impressive annual growth rate of 30-60%, reaching \$74M in revenue in 2021 and over \$178M in 2023. We have zero debt, and we invest our own funds to meet the diverse needs of our clients and partners. The financial statements that we have provided attest to our solid and stable performance.  You can find our 2023 Financial Statements within the "Step 2 - Documents" portion of the submission under "Financial Strength and Stability" for reference.
13	What is your US market share for the solutions that you are proposing?	Vertosoft is dedicated to introducing innovative and emerging technologies within the public sector. While our data on non-public sector market share is not within our purview, we are proud to state that for a substantial portion of the suppliers we represent, Vertosoft handles between 80% to 100% of all their public sector transactions. This significant figure demonstrates our strong position and influence in the public sector technology market.

Bid Number: RFP 060624

Vendor Name: Vertosoft

14	<p>What is your Canadian market share for the solutions that you are proposing?</p>	<p>The proposed solutions from our suppliers have a significant and growing presence in the Canadian market. Although specific market share values are not available, we can provide insights into their influence and adoption across various sectors in Canada.</p> <p>UKG (Ultimate Kronos Group) is widely recognized in Canada for its comprehensive human capital management (HCM) solutions. Many Canadian organizations across public and private sectors leverage UKG's workforce management and HR solutions to enhance operational efficiency and employee engagement. Diligent's governance, risk, and compliance solutions are trusted by numerous Canadian enterprises and public sector organizations. Their tools are known for enhancing board governance and regulatory compliance, making them a preferred choice in Canada. Trintech's financial close management software is used by several leading Canadian companies to streamline their financial operations. Their solutions are appreciated for improving accuracy and efficiency in financial processes.</p> <p>Visual Lease has a notable presence in the Canadian market, with its lease management solutions being adopted by organizations to ensure compliance with lease accounting standards and improve financial performance. OpenGov is a trusted partner for many Canadian government entities, providing financial and performance management solutions that promote transparency, efficiency, and data-driven decision-making. Cornerstone's cloud-based learning and talent management solutions are widely adopted by Canadian businesses and educational institutions, supporting continuous learning and professional development. Udacity's online learning platform is popular among Canadian learners and organizations for its cutting-edge courses in technology and business, which help enhance workforce skills and adaptability.</p> <p>Ivy.ai's AI-powered chatbot and virtual assistant solutions are utilized by various Canadian educational institutions and businesses to improve customer service and engagement through automated support. Fleet DM's fleet management solutions are implemented by several Canadian organizations to optimize their fleet operations, reduce costs, and enhance operational efficiency. Urban SDK's data analytics and visualization tools are used by Canadian urban planners and policymakers to improve city infrastructure and enhance urban development through data-driven insights.</p> <p>Autura's automotive solutions support Canadian automotive businesses with real-time data and analytics on vehicle performance and maintenance, helping improve efficiency and decision-making. Fluxx Labs' grant management software is adopted by several Canadian philanthropic organizations and government agencies to streamline the grant application and management process. Swiftly's public transit solutions are employed by Canadian transit agencies to provide real-time data and analytics, improving transit operations and rider experience. Spare Labs, based in Canada, provides demand-responsive transportation solutions that are widely used by Canadian transit agencies to enhance mobility and accessibility in urban and rural areas. Public Input's community engagement platform is utilized by various Canadian municipalities to facilitate public participation and gather citizen feedback, enhancing community involvement in governance.</p>
15	<p>Has your business ever petitioned for bankruptcy protection? If so, explain in detail.</p>	<p>No, Vertosoft has never petitioned for bankruptcy protection.</p>
16	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>Vertosoft is best categorized as a distributor/dealer/reseller.</p> <p>Answer to a): Due to the fact that Vertosoft has proposed a wide variety of solutions for this submission, we have attached the proposed suppliers Letter of Authorizations to fulfill this requirement. Letters of Authorization can be found in the "Step 2 - Documents" portion of the submission under "Upload Additional Documentation." A zip folder titled "LOAs" has been uploaded accordingly.</p>
17	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>Vertosoft was formed with the sole focus of serving the public sector market with the most advanced emerging technology available. To support this mission, Vertosoft has implemented and adheres to a comprehensive set of internationally recognized standards and certifications, demonstrating our commitment to quality, security, and regulatory compliance. These certifications include those held directly by Vertosoft as well as those maintained by our third-party partners and subcontractors.</p> <p>Vertosoft has implemented the International Organization for Standardization (ISO) 9001:2015 standard, a globally recognized benchmark for quality management systems (QMS). This certification underscores our dedication to maintaining the highest standards of quality in our processes and services, ensuring that we consistently meet or exceed the rigorous requirements set by government agencies.</p> <p>Recognizing the complexity and interdependence of global information technology supply chains, Vertosoft holds a certificate for the Open Trusted Technology Provider™ Standard (OTTPS), which is approved as ISO/IEC 20243:2015. This certification is critical for mitigating the risk of maliciously tainted and counterfeit products, thereby ensuring the integrity and security of our supply chain.</p> <p>Many of Vertosoft's cloud-native suppliers are FedRAMP certified. FedRAMP is a government-wide program that standardizes security and risk assessments for cloud technologies, promoting the adoption of secure cloud services across the federal government. Additionally, our suppliers also hold StateRAMP certifications, which extend these stringent security protocols to state and local government entities, ensuring consistent protection and compliance.</p> <p>To further bolster our commitment to data security, many of our suppliers are SOC 2 Type II certified. This certification involves a rigorous audit process that evaluates an organization's information systems against strict criteria for security, availability, processing integrity, confidentiality, and privacy. SOC 2 Type II certification is particularly crucial for service providers managing customer data in the cloud, ensuring that data is secure and protected from unauthorized access.</p> <p>Furthermore, several of our suppliers are certified to the ISO/IEC 27001 standard. This international standard provides a robust framework for information security management systems (ISMS), enabling organizations to manage the security of assets such as financial information, intellectual property, and employee details, as well as information entrusted by third parties.</p>
18	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>In Vertosoft's 7+ years as a company, we have never been suspended or debarred.</p>

**Table 3: Industry Recognition & Marketplace Success**

Line Item	Question	Response *
19	Describe any relevant industry awards or recognition that your company has received in the past five years	- INC 5000 2022 AND 2023 - Washington Business Journal Top Performing Small Technology Companies 2022 AND 2023 - Washington Business Journal Fast 50 2022 AND 2023 - Washington Business Journal Fast 50 2021 - Most Promising Public Sector Solution Providers 2021 - Best Places to Work 2021, 2022, 2023, & 2024
20	What percentage of your sales are to the governmental sector in the past three years	99.12%
21	What percentage of your sales are to the education sector in the past three years	3.48%
22	List any state, provincial, or cooperative purchasing contracts that you hold.  What is the annual sales volume for each of these contracts over the past three years?	TIPS: 220105 -- \$7,346,338.43 NCPA-OMNIA: 01-165 -- \$4,770,754.68 BuyBoard: 692-23 -- \$420,658.61 Texas DIR: DIR-TSO-4227 -- \$13,782,528.51 California Multiple Award Schedule: 3-23-06-1020
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold.  What is the annual sales volume for each of these contracts over the past three years?	GSA: GS-35F-688GA -- \$45,306,418.77 2GIT: 47QTCA21A002A -- \$4,394,961.23 DoD ESI: N66001-21-A-0092 -- \$259,717.60 ITES-SW2: W52P1J-20-D-0067 -- \$19,225,960.62

**Table 4: References/Testimonials**

**Line Item 24.** Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *
Judiciary Courts of the State of Kansas	Jeff Peter	(785) 291-3054
University of Alabama	Julie Shelton	(205) 348-7917
County of Davidson, NC	Joel Hartley	(336) 242-2032

**Table 5: Top Five Government or Education Customers**

**Line Item 25.** Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
State of West Virginia	Government	West Virginia - WV	Enterprise Lease Platform, Community Engagement and Citizen Engagement, Financial Reporting Software	Average Deal Size: \$928,509	\$9,874,122
State of Montana	Government	Montana - MT	Regulatory Publication Platform, Financial Reporting	Average Deal Size: \$164,987	\$3,009,236
Florida Department of Corrections	Government	Florida - FL	Budgeting and Planning Software	\$2,134,236	\$2,134,236
State of Maryland	Government	Maryland - MD	Enterprise Agile Planning Solution, Financial Reporting, Cloud Native Automation, Budgeting Software	Average Deal Size: \$155,339	\$1,777,514
City of San Antonio Texas	Government	Texas - TX	Transparency Platform	Average Deal Size: \$345,839	\$1,020,000

**Table 6: Ability to Sell and Deliver Service**

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable.

Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *

26	Sales force.	<p>Vertosoft's strategic positioning across the United States reflects our commitment to providing exceptional service and support for all our clients, including the prospect of serving Sourcewell's nationwide needs. Our corporate headquarters in Leesburg, VA, doubles as the national sales support center, orchestrating thousands of transactions across all 50 states, as well as extending our reach into Canada. This centralized hub ensures that we maintain a cohesive strategy and a consistent level of service across all jurisdictions.</p> <p>We bolster our national presence with additional locations strategically placed in Charleston, SC; Charlottesville, VA; Denver, CO; Philadelphia, PA; Portland, ME; and Tacoma, WA. These offices are not mere points on a map; they are integral parts of a cohesive network that extends Vertosoft's capabilities and brings our services closer to Sourcewell members.</p> <p>Our sales force, a dedicated team of 45 full-time individuals, is not just a number. Each member is a specialist, aligned with specific software suppliers to act as both a force multiplier for our partners and a trusted advisor to our public sector clients. This ensures that each Sourcewell member receives tailored attention and expertise that aligns with their unique missions and challenges.</p> <p>Beyond our sales team, Vertosoft has crafted a core group of key individuals who will directly support this contract, including:</p> <p>Executive Sponsor: Jay Colavita, President  Contract Management: Ashlianne Shigley, Government Contracts Program Manager  Technical Executive: Chet Hayes, CTO  Accounts Payable: Hannah Xiu, CFO  Sales Leadership: Josh Slattery, VP of Technology Sales  Sales Operations: Nur Rahman, Director of Operations  Contract Marketing: Mary Dawson, Digital Marketing Manager  Financial Reporting: Michael DiPlacido, Government Business Analyst</p> <p>These leaders are not just overseeing operations; they are actively engaged in ensuring that every Sourcewell member receives the highest level of service and support.</p> <p>The size of our team is a testament to our efficiency and dedication. With Vertosoft, Sourcewell will not be engaging with a cumbersome, slow-moving entity, but a nimble, responsive organization where every employee carries the weight of their expertise and commitment to public service. Our agility allows us to pivot and adapt to the changing needs of Sourcewell members, ensuring that each entity receives the attention and resources it deserves.</p> <p>We are not just proposing a vendor-client relationship; we are offering a partnership where Sourcewell's needs are met with precision, professionalism, and a personal touch that only a team like Vertosoft's can provide. With our nationwide network, specialized team, and the direct involvement of our leadership, Sourcewell can be confident in Vertosoft's ability to meet and exceed their nationwide requirements.</p>
27	Dealer network or other distribution methods.	<p>Vertosoft is a software distributor and reseller and can sell directly to any of the Sourcewell participating entities across the United States. Vertosoft also maintains a broad partner network across the country that is comprised of companies that fall into a wide variety of disadvantaged categories such as women owned, service-disabled veteran owned, minority owned, etc. With this wide partner network, Vertosoft can help Sourcewell participating entities meet specific procurement goals related small or disadvantaged business.</p> <p>Our reliable partner network of nearly 300 companies is made up of top industry participants (some being Sourcewell contract holders) such as BlueTech, GovSmart, Enterprise Technology Solutions, SHI, Insight Public Sector, New Tech, and Strategic Communications, just to name a few.</p>
28	Service force.	<p>As a software distributor and reseller, Vertosoft works directly with the software manufacturers and their service partners to provide needed service, rather than maintaining a large service force. These partners reside both in the United States and in Canada. We work heavily with multiple services providers for UKG, one of the proposed solutions in this submission. They are as follows: Worldgate, Project Genetics, Covalence, JK Seva, Fase Group, HRchitect, Mosaic Consulting Group, Jubilant LLC, PredictiveHR, Sability LP, and more. Service providers we commonly work with for other technologies include F.H. Black, Trintech, Aeyon, and ClearSulting.</p>
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	<p>Vertosoft can act as both a distributor and reseller to help make the ordering process for Sourcewell participating entities as smooth and easy as possible. Here's how the process is tailored to meet the software-centric requirements:</p> <p>When Vertosoft Acts as a Distributor:</p> <ol style="list-style-type: none"> <li>1. Selection and Consultation: A Sourcewell entity selects their required software solutions with the possibility of consultation from Vertosoft and/or the software supplier to ensure the best fit for their needs.</li> <li>2. Authorized Reseller Engagement: The entity then engages with an authorized reseller partner of Vertosoft to place the order. This partnership combines the local touch of a reseller with the extensive software offerings of Vertosoft. This could also help participating entities to achieve socio-economic goals when possible.</li> <li>3. Order Coordination: Once the order is placed with the reseller, Vertosoft coordinates with the software supplier to fulfill the order. Vertosoft's role as a distributor ensures that the software supplier delivers the order effectively through the reseller partner.</li> </ol> <p>When Vertosoft Acts as Both Distributor and Reseller:</p> <ol style="list-style-type: none"> <li>1. Direct Order Placement: In scenarios where Vertosoft assumes the combined role, the Sourcewell entity places the order directly with Vertosoft, eliminating any thirdparty interaction.</li> <li>2. Order Fulfillment: Vertosoft then takes on the responsibility of coordinating directly with the software supplier to fulfill the order. This direct line ensures clarity, efficiency, and expediency in delivery.</li> <li>3. Post-Order Support: Regardless of the role, Vertosoft provides comprehensive post-order support, assisting with software entitlement, license management, and technical queries.</li> </ol> <p>In both scenarios, Vertosoft's involvement guarantees a streamlined process that caters to the digital nature of the products offered. With no physical inventory to manage, the focus remains on prompt service and precise fulfillment of software orders, ensuring that Sourcewell entities receive the right software solutions at the right time, with Vertosoft as their dedicated point of contact.</p>
30	Describe your strategy related to implementation, integration, and use of implementation partners.	<p>Vertosoft's strategy for implementation, integration, and use of implementation partners is designed to ensure the successful and seamless deployment of solutions for our customers. Our approach is comprehensive, collaborative, and client-focused, with the ultimate goal of providing irrefutable value. We currently collaborate with nearly 50 implementation partners who are industry leaders in their specialty, consistently engaging with them for their highly skilled expertise and streamlined project facilitation. We view implementation partners as valuable extensions of any given project.</p>

31	<p>Describe in detail the process and procedure of your customer service program, if applicable.</p> <p>Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.</p>	<p>Vertosoft is fully committed to delivering exceptional customer service to Sourcewell members through our comprehensive Customer Success Program. Our approach is designed to provide rapid, knowledgeable, and tailored support to ensure that our clients maximize the benefits of our technology solutions.</p> <p>Upon commencement of our partnership, Sourcewell members will be assigned a dedicated Customer Success Manager (CSM) team. This team, comprised entirely of U.S. citizens, boasts an intimate understanding of various software manufacturers' entitlement systems, license management processes, and technical support frameworks. This ensures that the support provided is not only expert but also directly aligned with the nuances of the public sector's operational requirements.</p> <p>To facilitate immediate and seamless communication, we provide a dedicated toll-free number and a specific email address that directly connects Sourcewell members to their CSM team. This direct line of contact is designed to eliminate delays and streamline the resolution process.</p> <p>Our CSM team pledges to deliver on the following key customer service aspects:</p> <p>Software Entitlement Management Support: Expert assistance in managing and optimizing software entitlements.</p> <p>Customized License Reporting and Usage: Tailored reports that provide insights into software usage and compliance status, aiding in informed decision-making.</p> <p>Service Desk Management Portal: Sourcewell members will have access to 'VertoDesk', our robust service management portal, allowing them to open and manage service tickets efficiently with the CSM team.</p> <p>Technical Outreach and Advisory Sessions: Scheduled sessions to discuss new solutions, technology roadmaps, and to offer strategic advice tailored to the unique needs of Sourcewell members.</p> <p>Our response-time capabilities are a cornerstone of our customer service commitment. The CSM team guarantees prompt attention to all inquiries and issues, with an initial response time target within one business hour of contact. We strive to resolve queries and service tickets swiftly, with a focus on first-contact resolution whenever possible.</p> <p>To ensure these service goals are consistently met, Vertosoft incentivizes our CSM team based on key performance indicators that include response times, resolution times, and customer satisfaction levels. Regular reporting on these metrics, including the volume of calls, emails, and the status of service tickets, will be provided to Sourcewell to maintain transparency and encourage continuous improvement.</p> <p>Our dedicated CSM team, responsive service capabilities, and strategic incentives all serve one purpose: to provide Sourcewell members with an unparalleled customer service experience that not only meets but exceeds their expectations for support and strategic guidance.</p>
32	<p>Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.</p>	<p>Vertosoft's core business is selling to the Public Sector, both the State &amp; Local and Federal Government. We have dedicated the entire business to our only customer being the Government due to the expanse and nuance of the Government as a customer. Due to this, this makes our ability as a software distributor and reseller to sell directly to any of the Sourcewell participating entities across the United States extremely plausible and within our normal reach. We look forward to working with Sourcewell participating entities to provide the solutions proposed as part of this solicitation.</p>
33	<p>Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.</p>	<p>Vertosoft is committed to delivering high-quality software and related services to public sector and education administration entities, including those across Canada. Our ability and willingness to serve Sourcewell participating entities in Canada are rooted in the following key aspects:</p> <ul style="list-style-type: none"> <li>- Vertosoft LLC has established a legal presence in Canada and has the ability to quote in CAD.</li> <li>- We have an established, proven track record of success via direct transactions, as well as through our number of Canadian partners.</li> <li>- Vertosoft offers comprehensive training and implementation services tailored to the specific needs of our customers.</li> </ul> <p>For any related services that we are proposing, we provide remote options, ensuring that Canadian entities can maximize the value of Vertosoft's solutions, while encountering minimal disruption to their daily operations.</p> <ul style="list-style-type: none"> <li>- We are best able to serve the Canadian territories and provinces that conduct business in English.</li> </ul>
34	<p>Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.</p>	<p>Vertosoft is currently equipped to and has done business with all 50 states of the US. We are also equipped to do business with all required areas of Canada.</p>
35	<p>Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract.</p> <p>Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?</p>	<p>Vertosoft anticipates being able to fully serve any participating entity sectors through this proposed contract, and looks forward to the opportunity of doing so.</p>
36	<p>Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.</p>	<p>Vertosoft has no specific restrictions related to participating entities in Hawaii and Alaska.</p>

Table 7: Marketing Plan

Line Item	Question	Response *
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<p>37</p>	<p>Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.</p>	<p>Vertosoft has crafted a robust marketing strategy to ensure the successful promotion of the Sourcewell contract opportunity. Our approach is multifaceted, designed to leverage our expertise and resources to educated and engage public sector entities about the advantages of using this contract vehicle for their technology solution acquisitions.</p> <p>The text in the following questions (#37-40) covering the Marketing Plan is meant to work in tandem with what we have submitted as an attachment under the "Step 2 - Documents" portion of the submission under "Marketing Plan/Samples."</p> <p>Dedicated Sales Team Effort:</p> <p>Vertosoft's seasoned public sector sales team, armed with extensive experience in leveraging national contracts, will actively collaborate with Sourcewell's marketing division. The objective is to enlighten public sector organizations about the benefits and efficiencies gained by utilizing this contract for their technology purposes.</p> <p>Partnership with Software Manufacturers:</p> <p>Our Software Manufacturer Partners, who have well-established national sales forces, will integrate the promotion of this contract into their sales strategies. In their interactions with public sector entities, they will advocate for the use of this contract as the preferred procurement vehicle for acquiring state-of-the-art technology solutions.</p> <p>Proactive Communication and Media Outreach:</p> <p>Within the first 14 days post-award, Vertosoft will disseminate a co-branded press release, announcing the contract award with detailed insights into the contract specifics. This announcement will be bolstered by strategic social media campaigns, targeting public sector organizations to inform and promote the contract's utilization.</p> <p>Online Presence and Accessibility:</p> <p>A dedicated Vertosoft website will be launched within 30 days of award notice, featuring the standard Sourcewell logo. This line resource will serve as a comprehensive hub, housing the original RFP, contract documents, product summaries, marketing materials, and direct links to the Sourcewell website. Additionally, we will establish a dedicated toll-free number and email address exclusively for Sourcewell participating entities, facilitating effortless access and inquiries.</p> <p>Direct Engagement Campaign:</p> <p>Within 60 days of the award, Vertosoft will initiate a targeted email and direct contact campaign. This initiative is designed to notify both existing and prospective public sector agencies about the contract. The communication will offer detailed guidance on how to effectively leverage the contract for future technology solution procurements. Vertosoft's marketing strategy is a testament to our commitment to not only inform but also empower participating agencies with the tools and knowledge to enhance their operational capabilities through this contract with Sourcewell.</p>
<p>38</p>	<p>Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.</p>	<p>Vertosoft employs a sophisticated array of digital technologies and data analytics to enhance the effectiveness of our marketing initiatives. Here's an outline of our strategy:</p> <p>Social Media Utilization: We leverage social media platforms to engage with our audience, utilizing targeted advertising and organic content strategies. By analyzing user interaction data, we tailor our content to increase engagement, foster community building, and enhance brand awareness.</p> <p>Metadata Analysis: By harnessing metadata from various digital channels, we gain insights into customer behavior, preferences, and trends. This information allows us to optimize our content for search engines and improve the visibility of our digital assets.</p> <p>Customer Relationship Management (CRM) Systems: Our CRM systems are integrated with marketing automation tools that utilize digital data to personalize communication and track the customer journey. This ensures that marketing campaigns are relevant and timely, increasing conversion rates.</p> <p>Data-Driven Decision Making: We employ analytics tools to evaluate the performance of our marketing campaigns across digital channels. By understanding key performance indicators (KPIs), we can make informed decisions to refine our marketing tactics.</p> <p>Content Personalization: Using data analytics, we personalize content for various segments of our audience. This approach ensures that the messaging resonates with the specific needs and interests of each segment, improving engagement and conversion rates.</p> <p>Predictive Analytics: By analyzing past and current data trends, we employ predictive analytics to anticipate future behaviors and preferences. This allows us to stay ahead of market trends and adapt our marketing strategies accordingly.</p> <p>Digital Engagement Tracking: We track engagements and interactions across our digital channels to understand what content performs best. This enables us to replicate successful tactics and drop ineffective ones.</p> <p>Email Marketing Optimization: We use digital data to segment our audience and tailor email marketing campaigns, enhancing open rates and click-through rates. Through these technologically driven strategies, Vertosoft ensures that our marketing efforts are not just widespread, but also precise, relevant, and effective, leading to a stronger market presence and higher ROI on marketing investments.</p>
<p>39</p>	<p>In your view, what is Sourcewell's role in promoting contracts arising out of this RFP?</p> <p>How will you integrate a Sourcewell-awarded contract into your sales process?</p>	<p>Vertosoft recognizes the immense value of a Sourcewell contract and the significant benefits it provides to Sourcewell contract holders. Therefore, we view it as very important that Sourcewell and Vertosoft have a symbiotic relationship in the promotion of a contract award. We view Sourcewell's involvement in the successful promotion of our contract to include, but not necessarily be limited to:</p> <ol style="list-style-type: none"> <li>1. Promotion via Sourcewell Channels: Leverage Sourcewell's established communication channels, such as the official website, newsletters, and direct emails to regularly inform and update participating entities of the contract and its benefits. We would also like to establish an official landing page on Sourcewell's website to highlight Vertosoft's contract, similarly to how we would do on our own website.</li> <li>2. Co-Branded Marketing Materials: Partner with Vertosoft to create co-branded marketing materials that combine the credibility and reputation of Sourcewell with the innovative offerings of Vertosoft, reinforcing the contract's value proposition.</li> <li>3. Educational Webinars and Workshops: Organize and host educational webinars and workshops that elucidate the contract's features and instruct participating entities on how to leverage the offerings to effectively meet their needs.</li> <li>4. Social Media Engagement: Utilize Sourcewell's social media platforms to engage with the participating entity base, increase contract visibility, and encourage discussions around the contract's usage and benefits.</li> <li>5. Case Studies and Testimonials: Develop and share success stories and/or testimonials from customers who have seen great value through Vertosoft suppliers on the contract. This will provide real-world, timely examples of the value of Vertosoft's solutions and demonstrate the effectiveness of a properly leveraged Sourcewell contract awarded to Vertosoft.</li> </ol>

40	<p>Are your products or services available through an e-procurement ordering process?</p> <p>If so, describe your e-procurement system and how governmental and educational customers have used it.</p>	<p>All solutions proposed under this RFP are available for electronic delivery, either via download for on-premises installed software, or as a Software-as-a-Service (SaaS) offering, but not through an online e-procurement ordering system.</p>
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**Table 8: Value-Added Attributes**

Line Item	Question	Response *
41	<p>Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities.</p>	<p>As a leading distributor of innovative software solutions for the public sector, Vertosoft is uniquely positioned to offer a range of product-related training programs. Our training offerings are as diverse as our product portfolio, varying significantly based on each supplier's specific technology and approach.</p> <p>Product Training Overview: Our training programs are designed to enhance the effective use and understanding of the software products we distribute. Recognizing that training needs vary from one supplier to another, we offer:</p> <p>1. Standardized Training Programs:</p> <ul style="list-style-type: none"> <li>- Offered for: Widely used software products with uniform functionalities.</li> <li>- Details: These programs cover basic operations, user interface navigation, and standard application features.</li> <li>- Provider: Trained professionals with comprehensive knowledge of specific software.</li> <li>- Costs: Generally included with the purchase of software licenses.</li> </ul> <p>2. Advanced and Specialized Training:</p> <ul style="list-style-type: none"> <li>- Offered for: Software requiring specific skill sets or knowledge for optimal use.</li> <li>- Details: Advanced operational techniques, customization options, and in-depth feature exploration.</li> <li>- Provider: Specialists or even developers from the software supplier, ensuring an authoritative understanding of the product.</li> <li>- Costs: Priced separately, reflecting the advanced level and specialized nature of the training.</li> </ul> <p>3. Customizable Training Solutions:</p> <ul style="list-style-type: none"> <li>- Offered for: Software with flexible or adaptable functionalities.</li> <li>- Details: Tailored training modules developed in conjunction with the software supplier, focusing on the unique needs of each Sourcewell entity.</li> <li>- Provider: A collaborative team of Vertosoft experts and supplier representatives. Costs: Varies based on the training scope, duration, and specific requirements.</li> <li>- Unique Value Proposition: Vertosoft's strength lies in our ability to connect Sourcewell entities with a wide range of software training options, directly correlating to the diverse products offered by our suppliers. This approach ensures that each entity receives the most relevant, effective training for their chosen software solutions, maximizing the benefits and impact of their technology investments</li> </ul>
42	<p>Describe any technological advances that your proposed products or services offer.</p>	<p>Vertosoft stands at the forefront of technological innovation, providing cutting-edge solutions tailored for Core Administrative Systems, Education and Public Sector Information and Work Management, and Public Engagement and Specialized Services. Our offerings, derived from partnerships with emerging tech companies, seamlessly integrate into your operations, delivering significant benefits:</p> <p>In Core Administrative Systems, Vertosoft's proposed solutions enhance automation and improve decision-making. Leveraging technologies such as AI-driven financial close processes from Blackline, and predictive analytics and financial automation from Trintech, our solutions streamline operations and optimize resource management. This enables public sector and educational institutions to effectively manage administrative tasks and improve overall operational efficiency.</p> <p>For Education and Public Sector Information and Work Management, Vertosoft's solutions redefine efficiency in information and work management. By auto-generating designs and content, and developing novel data models, these tools significantly reduce time-to-market and foster innovation. For instance, Cornerstone onDemand's AI-powered learning management system personalizes learning paths and provides advanced analytics, while OpenGov's data-driven decision-making tools offer deep insights, trend analysis, and predictive forecasting crucial for strategic planning and operational efficiency. Moreover, platforms like Udacity offer cutting-edge learning programs in emerging technologies, further empowering institutions to unlock the full potential of their data.</p> <p>In the realm of Public Engagement and Specialized Services, Vertosoft offers robust solutions that enhance communication and interaction with the community. AI-powered platforms, including chatbots and virtual assistants from Ivy.ai, facilitate efficient handling of inquiries and provide real-time data analytics. PublicInput's platform uses AI to analyze public feedback and sentiment, enhancing community engagement. These solutions streamline processes, reduce response times, and provide 24/7 support, thereby promoting stronger community relationships and trust.</p>

<p>43</p>	<p>Please describe your software innovation maturity related to the following technology areas:</p> <ul style="list-style-type: none"> <li>o Machine learning</li> <li>o Natural language processing</li> <li>o Virtual assistants/chatbots</li> <li>o Predictive analytics</li> <li>o Big data analytics</li> <li>o AI/Generative AI</li> </ul>	<p>Vertosoft, along with our suppliers, offer Sourcewell participating entities advanced capabilities across key technology areas including machine learning, natural language processing, virtual assistants/chatbots, predictive analytics, big data analytics, and AI/Generative AI. The following companies Autura, Blackline, Cornerstone OnDemand, Diligent, Floqast, Fluxx Labs, Ivy.ai, OpenGov, Public Input, Red Rover, Schoox, Spare Labs, Swiftly, Thridline, Trintech, Udacity, UKG, Urban SDK, and Visual Lease demonstrate exceptional innovation maturity in these fields, offering cutting-edge solutions aligned with the most advanced technology available.</p> <p>Machine Learning:</p> <p>UKG: Utilizes machine learning to enhance workforce management solutions, providing predictive scheduling, workforce forecasting, and advanced analytics to optimize labor costs and improve employee engagement.</p> <p>Natural Language Processing (NLP):</p> <p>Ivy.ai: Specializes in NLP to power intelligent chatbots and virtual assistants for higher education institutions, facilitating seamless communication and support for students and staff.</p> <p>Udacity: Leverages NLP in their educational platforms to provide personalized learning experiences, adaptive content, and intelligent tutoring systems.</p> <p>Virtual Assistants/Chatbots:</p> <p>Ivy.ai: Offers advanced chatbot solutions that utilize AI and NLP to provide real-time, automated support for various user queries, improving customer service efficiency.</p> <p>Cornerstone OnDemand: Integrates virtual assistants into their learning and talent management solutions, providing users with immediate assistance and enhancing overall user experience.</p> <p>Predictive Analytics:</p> <p>Floqast: Utilizes predictive analytics to streamline and optimize financial close processes, providing actionable insights that help organizations forecast and manage financial outcomes more effectively.</p> <p>Swiftly: Applies predictive analytics to improve public transportation systems, offering real-time data and predictive insights to enhance transit operations and rider experience.</p> <p>Big Data Analytics:</p> <p>OpenGov: Employs big data analytics to provide governments with comprehensive financial management and transparency solutions, enabling data-driven decision-making and improved public service delivery.</p> <p>Urban SDK: Uses big data analytics to provide urban planners and policymakers with actionable insights to improve city infrastructure, transportation, and overall urban development.</p> <p>AI/Generative AI:</p> <p>Red Rover: Implements generative AI to enhance their employee onboarding solutions, creating personalized and engaging onboarding experiences that streamline the integration of new hires.</p> <p>Spare Labs: Utilizes AI and generative AI to optimize demand-responsive transportation systems, improving efficiency and accessibility for transit agencies and riders.</p> <p>Comprehensive Innovation Across Technology Areas:</p> <p>Diligent: Provides governance, risk, and compliance solutions that integrate AI and machine learning to enhance decision-making and risk management processes.</p> <p>Trintech: Delivers financial close management software that incorporates predictive analytics and AI to automate and optimize financial operations.</p> <p>Visual Lease: Uses machine learning and big data analytics to offer lease management solutions that improve compliance and financial performance.</p> <p>Thridline: Applies advanced machine learning and AI techniques to enhance their security and compliance monitoring solutions.</p> <p>Blackline: Utilizes AI and machine learning to streamline and automate accounting and finance processes, providing real-time visibility and control.</p> <p>Public Input: Uses big data analytics and AI to facilitate public engagement and community feedback, providing governments with deeper insights and more effective decision-making.</p> <p>Fluxx Labs: Employs AI and big data analytics to improve grant management and impact measurement for philanthropic organizations.</p> <p>Autura: Leverages machine learning and predictive analytics to enhance automotive industry solutions, improving vehicle performance and customer satisfaction.</p> <p>Schoox: Implements AI and machine learning in their learning management systems to provide personalized training and development programs.</p> <p>Together, these companies represent a robust and comprehensive suite of solutions that showcase our collective expertise and innovation maturity in key technology areas. By offering suppliers with the latest advancements in machine learning, natural language processing, virtual assistants, predictive analytics, big data analytics, and AI, Vertosoft and our suppliers are well-positioned to deliver exceptional value and transformative outcomes for Sourcewell participating entities.</p>
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<p>44</p>	<p>Describe connectivity and integration capabilities between your offered solution(s) and other software systems.</p>	<p>The diversity of connectivity and integration capabilities available are as varied and diverse as the suppliers we are proposing for this opportunity, ensuring seamless interoperability and comprehensive functionality across various software systems. We have provided a brief subset of some of the integration capabilities below.</p> <p>Autura supports integrations with Salesforce, Hubspot, Zoho CRM, SAP, Oracle ERP, Microsoft Dynamics 365, Geotab, Samsara, and Verizon Connect, along with an API and SDK to assist with other connections.</p> <p>Blackline's financial close management software integrates with major ERP systems such as SAP, Oracle, and Microsoft Dynamics. It offers APIs and pre-built connectors to streamline data flow between financial systems and enhance process automation.</p> <p>Cornerstone OnDemand's learning and talent management systems integrate seamlessly with a variety of HRIS, payroll, and other enterprise systems, utilizing open APIs, connectors, and integration hubs to ensure data synchronization and workflow automation. Specifically, Cornerstone integrates with Workday, enabling smooth data flow for HR, payroll, and talent management processes, which supports unified reporting, automated data updates, and streamlined workflows. The system also integrates with SAP SuccessFactors, allowing for the synchronization of employee data, performance metrics, and learning management information, thus providing a comprehensive talent management solution. Furthermore, integration with Oracle HCM Cloud ensures synchronized HR data, payroll information, and talent management processes, enhancing data accuracy and operational efficiency. Cornerstone's compatibility with ADP helps synchronize payroll data, employee information, and compliance reporting, facilitating easier workforce data management across systems.</p> <p>Additionally, Cornerstone integrates with UKG Pro (formerly UltiPro) to offer seamless HR, payroll, and talent management capabilities, promoting real-time data synchronization and efficient workflow automation. Integration with Microsoft Dynamics 365 allows for the connection of HR and talent management data, enabling comprehensive analytics and streamlined operations. The integration with PeopleSoft ensures that employee records, payroll data, and HR processes are synchronized, providing a unified platform for managing workforce information. Finally, Cornerstone's integration with Kronos aligns time and attendance data with HR and payroll systems, ensuring accurate payroll processing and compliance with labor regulations. These integrations enable Cornerstone to provide a cohesive and efficient experience for managing HR processes, payroll, and employee development, supporting comprehensive workforce management and development strategies across various enterprise systems.</p> <p>Ivy.ai's AI-powered chatbot and virtual assistant solutions integrate seamlessly with a variety of systems to enhance customer service and engagement. Utilizing open APIs and connectors, Ivy.ai ensures smooth data flow and operational efficiency across educational institutions and businesses. Specifically, Ivy.ai integrates with CRM systems like Salesforce and HubSpot to streamline customer interactions, ensuring data from chatbot interactions is accurately captured and enhancing customer relationship management and marketing efforts. In learning management systems such as Canvas and Blackboard, Ivy.ai provides educational institutions with seamless student support, automating responses to inquiries and facilitating course navigation.</p> <p>Additionally, Ivy.ai integrates with student information systems like Banner and PeopleSoft to automate administrative tasks, providing instant access to academic information and assisting with enrollment processes. For HRIS, Ivy.ai works with systems like Workday and SAP SuccessFactors to offer automated HR support, addressing employee queries related to benefits, leave balances, and payroll details. Furthermore, integrations with content management systems like WordPress and Drupal enable Ivy.ai to enhance user engagement on websites by providing real-time support and guiding visitors. These integrations collectively enable Ivy.ai to deliver a cohesive and efficient experience for managing customer interactions, student support, and HR services, significantly improving operational efficiency and user satisfaction.</p> <p>OpenGov provides robust integration capabilities to enhance its financial and performance management solutions for government agencies. It integrates seamlessly with major Enterprise Resource Planning (ERP) systems such as SAP, Oracle, and Microsoft Dynamics, enabling comprehensive financial management and streamlined operations. OpenGov connects with financial systems like QuickBooks, NetSuite, and Sage Intacct, facilitating accurate financial reporting and budget management. Its platform also integrates with Customer Relationship Management (CRM) systems like Salesforce, enabling improved citizen engagement and service delivery. OpenGov supports data visualization and analytics tools such as Tableau and Power BI, providing real-time insights and data-driven decision-making. For document and records management, it integrates with systems like Laserfiche and SharePoint, ensuring efficient document handling and compliance. Additionally, OpenGov connects with geographic information systems (GIS) like Esri, enhancing spatial data analysis and planning capabilities. These integrations ensure that OpenGov's solutions provide comprehensive, efficient, and secure financial and performance management, enhancing the ability of government agencies to deliver transparent and effective public services.</p> <p>UKG (Ultimate Kronos Group) offers extensive integration capabilities across various systems to enhance workforce management solutions. It integrates with major Human Capital Management (HCM) systems like Workday, Oracle HCM Cloud, and SAP SuccessFactors for seamless HR and payroll operations. UKG also connects with payroll systems such as ADP, Ceridian Dayforce, and Paychex to ensure accurate payroll processing. Its integration with ERP systems like SAP ERP, Oracle ERP, and Microsoft Dynamics 365 streamlines workforce planning and financial management. UKG's connectivity extends to CRM systems, including Salesforce, HubSpot, and Zoho CRM, aligning workforce management with customer relationship activities. Time and attendance systems like Kronos, Tanda, and Deputy are supported for efficient scheduling and tracking. Additionally, UKG integrates with Learning Management Systems (LMS) such as Cornerstone OnDemand, SAP Litmos, and Udemy for Business to enhance employee training and development. Benefits administration systems like Benefitfocus, Alight Solutions, and Businessolver are also supported, ensuring comprehensive benefits management. For secure access, UKG integrates with Single Sign-On (SSO) solutions like Okta, Microsoft Azure Active Directory, and Ping Identity. These integrations ensure UKG's solutions provide comprehensive, efficient, and secure workforce management across diverse business environments.</p>
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<p>45</p>	<p>Describe your migration, customization, configuration, and upgrade processes.</p>	<p>Each of the suppliers being proposed has a variety of methodologies they follow to ensure success. For example, OpenGov's implementation methodology ensures a smooth transition and successful adoption of their solutions through a structured approach consisting of several key phases: Initiate, Validate, Configure, Customize, Train, Test, Launch, and Support and Upgrade.</p> <p>In the Initiate phase, OpenGov provides customer entity configuration and creates system administrator accounts, granting access to the system. This phase concludes with customer sign-off on product access.</p> <p>During the Validate phase, OpenGov develops a Solution Blueprint based on the customer's requirements and confirms the data migration and validation strategy. The customer signs off on the Initial Draft Solution Blueprint to complete this phase.</p> <p>The Configure phase involves configuring the deliverables as outlined in the project scope, with customer sign-off confirming the completion and acceptance of all configuration deliverables.</p> <p>Customization follows in the next phase, based on specific customer requirements detailed in the Solution Blueprint. This includes custom feature development, integration with other systems, and workflow customizations. This phase concludes with customer sign-off on the completed customizations.</p> <p>Training is provided through instructor-led virtual sessions, covering both administrators and end users as specified in the project scope. Customer sign-off confirms the completion of training.</p> <p>OpenGov conducts thorough testing of the system in the Test phase, including user acceptance testing (UAT), to ensure all configurations and customizations work as expected. The customer signs off on the successful completion of the testing phase.</p> <p>The Launch phase includes providing HyperAdopt support post Go-Live to ensure successful adoption, with customer sign-off transitioning the project from active deployment to Customer Success.</p> <p>In the Support and Upgrade phase, OpenGov provides ongoing support to ensure the system continues to meet customer needs, regularly releasing updates and upgrades to enhance functionality and security. Customers are notified of upcoming upgrades, and OpenGov works with them to schedule and implement these upgrades with minimal disruption, concluding with customer sign-off on major upgrades to confirm successful implementation.</p> <p>UKG uses the following methodology:</p> <p>Project Management UKG guides the life cycle of the UKG HCM implementation, providing best practices to ensure successful deployment. The UKG Project Manager partners with the Customer Project Manager to develop the project plan, manage risks, and ensure objectives are achieved. The Customer Project Manager manages resources, secures executive sponsor buy-in, leads change management, liaises between UKG and project stakeholders, administers project changes, and resolves issues.</p> <p>Welcome Phase In the Welcome Phase, UKG and the Customer team lay the foundation for a successful implementation. This includes assigning stakeholders, defining areas of responsibility, reviewing expectations and goals, discussing project assumptions, and establishing meeting cadences. The UKG Project Manager will also discuss the project plan, change management, testing, and end-user training activities with the Customer Project Manager. This phase concludes with the start of the Requirements phase.</p> <p>Requirements Phase During the Requirements phase, UKG discusses specific configurations and identifies necessary modifications with the Customer. This involves discovery sessions with key department stakeholders and reviewing internal process changes based on industry best practices. The aim is to minimize configuration changes outside the preconfigured solution. These discussions help in making informed decisions about processes, testing scenarios, and end-user training.</p> <p>Build Phase In the Build phase, UKG completes the agreed-upon configurations. The Customer provides necessary employee data from legacy systems, configures hardware if applicable, and attends recommended training. Working sessions are held to review the configuration and navigation of the UKG HCM solution. The Customer also designates System Administrators who actively participate in all activities to ensure they can maintain and troubleshoot the solution post-implementation.</p> <p>Test Phase During the Test phase, the Customer leads User Acceptance Testing (UAT) with support from UKG. The Customer assigns resources to conduct unit tests, documents outcomes, and communicates issues to UKG for resolution. Concurrently, the Customer develops change management strategies and communication plans to ensure user adoption, prepares deployment groups, and rolls out end-user training.</p> <p>Go-Live Phase In the Go-Live phase, the configured and tested solution is deployed to end users. The project's goals, success criteria, change management, end-user training, and risk management efforts culminate in this phase. The Customer signs off on an agreed Deployment Plan for the UKG HCM system. UKG supports one deployment group and provides a thirty-day warranty period before transitioning to UKG Global Support (Success Care) for post-implementation support.</p>
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46	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Vertosoft maintains a corporate Sustainability Policy which is provided below:</p> <p>Vertosoft LLC strives to be a leader in environmental sustainability and believes that a successful future for our business and the customers we serve depends on the sustainability of the environment, communities, and economies in which we operate.</p> <p>As a responsible corporate citizen, we bear a responsibility to consider the impacts of our actions and how they affect the environment both directly in terms of our own operation, and indirectly through our purchasing decisions, the products, and services we offer to our customers and the business opportunities we pursue.</p> <p>We are committed to minimizing the impact of our operations on the environment and to demonstrating leadership by integrating environmental considerations into all our business practices.</p> <p>We are committed to protecting the environment through responsible management of our operations and give appropriate weight and consideration to this environmental policy when making future planning and investment decisions.</p> <p>Vertosoft LLC will set targets and objectives, within the scope of the environmental management system, to achieve continual improvement and a sustainable development;</p> <p>Vertosoft LLC will establish and periodically review and report progress on objectives and targets in the pursuit of continual improvement in our environmental management system for the purpose of enhancing our environmental performance and ongoing prevention of pollution.</p> <p>Vertosoft LLC will minimize the environmental impacts of our own operations through best practice management of use of our energy, transportation, material consumption, water use, waste and emissions. Vertosoft will also encourage suppliers, subcontractors, retailers and recyclers of our products to adopt the same environmental principals as Vertosoft LLC;</p> <p>Vertosoft LLC will raise employee awareness and support employee creativity and enthusiasm with respect to implementing our environmental policies, guidelines, programs, and initiatives. Vertosoft will also continually promote environmental awareness, responsibility, and best practices and to support the environmental sustainability culture of our company through education and in-house initiatives to reduce our environmental footprint.</p> <p>Guided by our Sustainability Policy, Vertosoft provides each employee with an Ocean Bottle "GO" water bottle. Each bottle is made from at least 67% recycled materials, and each bottle purchased funds the collection of 1,000 ocean-bound plastic bottles. To date, our usage of these bottles has funded the removal of over 40,000 ocean-bound plastic bottles.</p> <p>Vertosoft has also installed an in-office point-of-use water system that is connected to the building water supply. This system is estimated to save 4,000 bottles annually.</p> <p>Another policy that Vertosoft has put in place that is driven by our Sustainability Policy is our 'Work from Home' program. Employees that are eligible for this program can work from home 2 days a week. It is estimated that this policy saves ~10.67 metric tons of carbon emissions over the course of a year.</p> <p>In addition to these items, Vertosoft requires all electronic equipment to be Energy STAR certified, and where available, EPEAT registered. We prioritize products made from recycled materials and those with minimal, eco-friendly packaging. Vertosoft also selects products designed for longevity and ease of upgrade to extend their usable life. One specific example is our laptops. Vertosoft's laptops have an average lifespan of 5 years, as compared to many corporate laptops that have a lifespan of approximately 3 years.</p>
47	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>Several providers in our proposal demonstrate a strong commitment to sustainability through various certifications and eco-labels. UKG and Diligent both hold ISO 14001 certification for environmental management systems, underscoring their dedication to reducing environmental impact. Trintech, a member of the Green Business Certification Inc. (GBCI), reinforces its green business practices. Visual Lease partners frequently use Energy Star-certified equipment, promoting energy efficiency. OpenGov operates in LEED-certified facilities, reflecting their commitment to environmentally friendly building practices. Fluxx Labs, as a certified B Corporation, meets high standards of social and environmental performance. These certifications and practices highlight the focus on energy efficiency, sustainability, and green initiatives among our proposed solution providers.</p>
48	Describe your strategy related to ecosystem partners for additional functionalities or capabilities.	<p>Our strategy for leveraging ecosystem partners to enhance functionalities and capabilities revolves around building a robust network of integrations and collaborations that amplify the strengths of our core solutions. By partnering with leading providers across various domains, we ensure that our customers can access a comprehensive suite of tools and services that seamlessly integrate with our offerings, enhancing overall efficiency and effectiveness.</p> <p>For instance, UKG (Ultimate Kronos Group) collaborates with numerous HRIS and payroll systems such as Workday, SAP SuccessFactors, and ADP, enabling seamless data flow and operational efficiencies. These integrations allow organizations to unify their workforce management and HR processes, providing a cohesive user experience. Similarly, Diligent's governance, risk, and compliance solutions are enhanced through partnerships with other compliance tools and risk management systems, ensuring comprehensive governance and regulatory adherence.</p> <p>OpenGov's financial and performance management solutions benefit from integrations with ERP systems like SAP and Oracle, as well as data visualization tools such as Tableau and Power BI. This strategic collaboration enables government entities to leverage advanced analytics and reporting capabilities, driving data-driven decision-making. Cornerstone OnDemand's learning and talent management systems integrate with CRM systems like Salesforce and HubSpot, as well as LMS platforms like Canvas and Blackboard, ensuring that educational institutions and businesses can provide seamless learning experiences and robust talent management.</p> <p>Additionally, Ivy.ai's AI-powered chatbot solutions integrate with various CMS, LMS, and HRIS platforms, offering enhanced customer service, student support, and HR functionalities. By partnering with ecosystem players such as WordPress, Drupal, and Workday, Ivy.ai ensures that its AI-driven solutions are easily accessible and highly effective across different use cases.</p>
49	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or HUB partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>Vertosoft LLC is a Certified Virginia Small Business Concern, number 725842 for reference. We have attached a copy of our Small, Women-owned, and Minority-owned Business (SWaM) certificate under the "Step 2 - Documents" portion of the submission - "WMBE/MBE/SBE or Related Certificates"</p>

<p>50</p>	<p>What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?</p>	<p>Presales Engineering Talent</p> <p>Vertosoft's focus on emerging and innovative technologies are supported by experienced technical resources to identify the best overall solution for Sourcewell members. Vertosoft Account Managers are trained presales specialists who focus on specific technology domains such as Cloud Computing, Machine Learning and Artificial Intelligence, Cybersecurity, and Big Data and Analytics. Partnered with dedicated engineering resources from the software supplier, Vertosoft can provide Sourcewell participating entities with important insights about the technology solutions to best meet the member's needs.</p> <p>Quality and Responsiveness</p> <p>Vertosoft maintains an ISO 9001:2015 certification that demonstrates Vertosoft's commitment to the highest level of quality and customer satisfaction. Our Quality Management program supports our core business processes and provides the tools through which we measure, control, and improve these processes which include:</p> <ul style="list-style-type: none"> <li>- Maintaining product catalogs and price lists on different government contract vehicles.</li> <li>- Error free quoting to the government on behalf of our technology partners.</li> <li>- Efficient purchase order (PO) processing from our government customers.</li> <li>- Efficient PO delivery to our technology partners.</li> <li>- Accurate invoice creation for government customers for solutions delivered by our technology partners.</li> <li>- Payments to our technology partners upon payment from the government.</li> <li>- Customer satisfaction measurement with the overall procurement process experience through Vertosoft.</li> </ul> <p>Dedicated Customer Success Management Team</p> <p>Vertosoft will assign a dedicated Customer Success Manager (CSM) team to Sourcewell participating entities. The assigned CSM team will all be US citizens with knowledge of the different software manufacturer's software entitlement systems, license management processes, and technical support systems. Vertosoft provides a dedicated 1-800 number and email address that will connect participating entities directly with the dedicated CSM team. The CSM will be able to provide Sourcewell and participating entities with the following benefits:</p> <ul style="list-style-type: none"> <li>- Software Entitlement management support</li> <li>- Customized license reporting and usage</li> <li>- Service Desk Management Portal – ability to open and manage service tickets with Vertosoft CSM team</li> <li>- Technical Outreach and Advisory Sessions</li> </ul> <p>Vertosoft's CSM team will assist Sourcewell and participating entities with tracking the usage for each product. The CSM team will provide Sourcewell metrics on the calls/emails into the Vertosoft 1-800 and dedicated email address along with open/closed service tickets to help Sourcewell understand the volume and scale of support being requested and provided. Vertosoft will also provide Sourcewell participating entities with access to VertoDesk, which is a software entitlement portal where assigned participating entities can see the list of current software entitlements.</p> <p>Marketing and Training</p> <p>Each of the software suppliers supported by Vertosoft provides complimentary webinars to Sourcewell member agencies to help them better understand different features within the tool, so that agencies can maximize the investment in the technology.</p> <p>Vertosoft also hosts 'Tech-Days' where we bring emerging technology suppliers to our public sector customers where they can engage in technical deep dives, learn about product roadmaps, and get key industry updates and insights. Within the first 14 days post award, Vertosoft will issue a co-branded press release announcing the award and specific details of the contract. This will be combined with targeted social media postings to promote the use of the contract for eligible public sector organizations. Within 30 days of award, Vertosoft will launch a dedicated web site with the Sourcewell standard logo. The website will have a copy of the original request for proposal, a copy of the contract, summary of products being offered, marketing materials, and a link to Sourcewell website. Vertosoft will also include a dedicated toll-free number and email address for Sourcewell participating entities. Within 60 days of award, Vertosoft will execute a dedicated email and contact campaign to notify existing and potential public sector agencies about the contract and provide guidance on how to leverage the contract in the future.</p> <p>Secure Software Supply Chain</p> <p>Executive Order 14028, "Improving the Nation's Cybersecurity" called to establish baseline security standards for development of software. As part of this effort, Vertosoft is working with our suppliers to develop a 'software bill of materials' (SBOM) to help public sector agencies better understand the nested libraries that make up the software components they are using.</p> <p>Minority and Women Business Enterprise (MWBE) and HUB Participation</p> <p>Vertosoft believes that a diverse supplier base is important to our overall success as an organization. This is evident by hundreds of services and resell partners that Vertosoft works with around the country that are either minority, women owned, service-disabled veteran, certified 8(a), or HUB Zone companies. These partners comply our software supplier's diversity programs and help public sector agencies meet their own goals for diversity.</p> <p>Government Financing and Structured Payment Plans</p> <p>Vertosoft offers extended payment plans and subscription billing for technology purchases to help align structured payments to government program budgets while meeting government guidelines. Vertosoft's deep understanding of the government acquisition process allows us to provide the government with simplified terms and conditions and flexible payment options. We also can provide utility-based pricing and quarterly or monthly subscription billing for cloud-based SaaS software.</p>
<p>51</p>	<p>If applicable, how does your solution facilitate increased citizen engagement and feedback in public sector processes?</p>	<p>We are proposing solutions PublicInput, OpenGov, and Ivy.ai to facilitate increased citizen engagement and feedback in public sector processes. They do so with their unique capabilities that you can read more about below:</p> <p>PublicInput provides an all-in-one engagement and communications platform that enables government agencies to actively connect with their communities. The solution includes various tools like public surveys, virtual town halls, social media integration, and data analytics. By facilitating transparent communication and enhancing equitable citizen participation, PublicInput empowers governments to receive actionable insights through real-time feedback and representative reporting. This platform supports effective decision-making and strengthens community trust by creating an inclusive engagement environment.</p> <p>OpenGov's Community Feedback software is specifically designed to enhance public sector processes through the collection and analysis of public feedback. The solution streamlines the process of gathering input via surveys and comment tracking, ensuring transparency and robust citizen engagement. With real-time feedback analysis, OpenGov enables informed decision-making based on community insights, fostering harmonious relationships between governments and citizens by efficiently utilizing public feedback to inform policies and services.</p> <p>Ivy.ai offers an AI-powered platform for Citizen Relationship and Engagement Management, featuring chatbots and virtual assistants that improve communication between governments and citizens. The solution provides automated responses, multi-channel support, and real-time data analytics, facilitating efficient handling of inquiries and enhancing citizen engagement. By streamlining processes, reducing response times, and providing 24/7 support, Ivy.ai promotes stronger community relationships and trust, thereby contributing to increased citizen engagement and feedback in public sector processes.</p>

52	<p>How does your solution support digital transformation initiatives within the public sector, including cloud adoption, mobile access, and digital service delivery?</p>	<p>Our proposed solution, supported by a diverse group of innovative suppliers, robustly supports digital transformation initiatives within the public sector, emphasizing cloud adoption, mobile access, and digital service delivery.</p> <p>UKG (Ultimate Kronos Group): UKG's cloud-based workforce management solutions facilitate seamless cloud adoption, providing scalable and secure HR, payroll, and workforce analytics. Their mobile access capabilities ensure that public sector employees can manage schedules, track time, and access critical HR information from anywhere, enhancing operational efficiency and employee engagement.</p> <p>Diligent: Diligent's governance, risk, and compliance solutions are cloud-based, offering secure, scalable platforms that support public sector needs. Their mobile applications enable government officials to access lease data and manage risks, and ensure compliance on the go, streamlining governance processes and improving transparency.</p> <p>Trintech: Trintech's cloud-based financial close management software supports public sector financial transformation by automating complex financial processes. Their solutions offer mobile access to financial data and workflows, enabling finance teams to collaborate and manage financial operations from anywhere, ensuring accuracy and efficiency.</p> <p>Visual Lease: Visual Lease provides cloud-based lease management solutions that enhance compliance and financial performance for public sector organizations. Their mobile-friendly platform allows users to access lease data and perform management tasks remotely, supporting efficient lease administration and real-time decision-making.</p> <p>OpenGov: OpenGov's cloud-based financial and performance management solutions are designed specifically for the public sector, facilitating efficient cloud adoption. Their mobile-friendly platforms enable government officials to access budget data, performance metrics, and financial reports on the go, enhancing transparency and decision-making capabilities.</p> <p>Cornerstone OnDemand: Cornerstone offers cloud-based learning and talent management solutions that support public sector digital transformation. Their mobile applications allow government employees to access training, performance reviews, and development resources anytime, anywhere, promoting continuous learning and professional growth.</p> <p>Udacity: Udacity provides cloud-based educational platforms that support digital transformation through online learning. Their mobile-accessible courses enable public sector employees to develop new skills and stay updated with the latest technologies, enhancing workforce capabilities and adaptability.</p> <p>Ivy.ai: Ivy.ai's AI-powered chatbot and virtual assistant solutions support digital service delivery by providing instant, automated responses to public inquiries. Their cloud-based, mobile-friendly platforms ensure that citizens can access information and services anytime, improving public engagement and satisfaction.</p> <p>Urban SDK: Urban SDK offers cloud-based data analytics and visualization tools that support smart city initiatives. Their mobile-accessible platform allows city planners and officials to access real-time data on urban environments, facilitating informed decision-making and efficient urban management.</p> <p>Autura: Autura's cloud-based automotive solutions support public sector digital transformation by providing real-time data and analytics on vehicle performance and maintenance. Their mobile-friendly platforms enable efficient fleet management and decision-making from any location.</p> <p>Fluxx Labs: Fluxx Labs' cloud-based grant management software supports public sector digital transformation by streamlining the grant application and management process. Their mobile-accessible platform allows grant managers to track and manage grants on the go, improving efficiency and accountability.</p> <p>Swiftly: Swiftly's cloud-based public transit solutions support digital transformation by providing real-time data and analytics for transit operations. Their mobile applications enable transit agencies to monitor performance, optimize routes, and improve service delivery, enhancing the public transportation experience.</p> <p>Spare Labs: Spare Labs' cloud-based, demand-responsive transportation solutions support public sector mobility initiatives. Their mobile-friendly platform allows users to book and manage rides in real-time, improving accessibility and efficiency in public transportation services.</p> <p>By leveraging the capabilities of these innovative suppliers, our solution robustly supports the public sector's digital transformation initiatives, promoting cloud adoption, mobile access, and enhanced digital service delivery to improve operational efficiency and public engagement.</p>
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**Table 9A: Warranty**

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure.

You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
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53	Do your warranties cover all products, parts, and labor?	<p>Vertosoft is committed to providing comprehensive warranty coverage across the wide variety of suppliers we propose to meet the needs of Sourcewell participating entities. In general, our warranties cover products, parts, and labor, although specific terms and conditions may vary between suppliers. To ensure Sourcewell participating entities have a clear understanding of the warranties they can expect, we have included detailed warranty information from several key suppliers. This will provide a transparent view of the warranty coverage for products, parts, and labor, demonstrating our commitment to quality and customer satisfaction.</p> <p>OpenGov Warranty:</p> <p>General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.</p> <p>Professional Services Warranty. OpenGov further represents and warrants that the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must give written notice of any claim under this warranty to OpenGov within 90 days of performance of such work to receive such warranty remedies.</p> <p>Software Services Warranty. OpenGov further represents and warrants that for a period of 90 days after the subscription start date specified in the Order Form, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Customer must give written notice of any claim under this warranty to OpenGov during the Subscription Term. OpenGov's entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the fee for such Software Services to the Reseller.</p> <p>By Customer. Customer represents and warrants that (a) it has all right and authority necessary to enter into and perform this Agreement; and (b) OpenGov's use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.</p> <p>Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.</p> <p>UKG Warranty:</p> <p>Mutual Warranties. Each Party hereby warrants that (a) it has the full right and authority to enter into this Agreement; and (b) the performance of its obligations and duties under this Agreement does not conflict with or result in a breach of any other agreement of such Party or any judgment, order, or decree by which such Party is bound.</p> <p>Subscription Services Warranty. UKG warrants that the Subscription Services will substantially conform with the Documentation and that the functionality of the Subscription Services will not be materially diminished or adversely modified. In the event of a breach of the warranty described in this Section, as Customer's exclusive remedy and UKG's sole obligation, UKG will make commercially reasonable efforts to remedy such breach without additional cost to Customer, provided that if UKG cannot substantially remedy such breach, then Customer may terminate the affected Subscription Services in accordance with Section 7.2.2. Customer agrees to report any nonconformance of the Subscription Services within thirty (30) days of its discovery and provide UKG with reasonable information and assistance to enable UKG to reproduce or verify the non-conforming aspect of the Subscription Services.</p> <p>Professional, Support, and Training Services Warranty. UKG warrants that the Professional Services, Support Services, and Training Services will be performed by qualified personnel in a good and professional manner. In the event UKG breaches the warranty described in this Section, as Customer's exclusive remedy and UKG's sole obligation, UKG will reperform the deficient Professional, Support, or Training Service, at UKG's cost, provided that if UKG cannot substantially remedy such breach, then UKG will refund any fees prepaid by Customer for the affected Services. Customer must report any deficiencies in such Services, including Professional Services, within thirty (30) days of the completion of the Services.</p> <p>Disclaimer. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, UKG DISCLAIMS ALL OTHER WARRANTIES NOT SET FORTH IN THIS AGREEMENT, EITHER EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, QUALITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE, IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES. UKG DOES NOT REPRESENT, WARRANT, OR COVENANT THAT THE SERVICES OR ANY OTHER PRODUCT OR SERVICE PROVIDED HEREUNDER WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOME JURISDICTIONS AND CUSTOMER MAY HAVE WARRANTY RIGHTS UNDER LAW WHICH MAY NOT BE WAIVED OR DISCLAIMED. ANY SUCH WARRANTY RIGHTS EXTEND ONLY FOR THIRTY (30) DAYS FROM THE EFFECTIVE DATE OF THIS AGREEMENT (UNLESS AND ONLY TO THE EXTENT SUCH LAW PROVIDES OTHERWISE).</p> <p>Due to providing detailed examples in this text section for Warranty, we have not uploaded any attachments within the "Step 2 - Documents" portion of the submission under "Warranty Information." If interested in reading more supplier warranties, please navigate to the zip file entitled "EULAs" within the "Step 2 - Documents" portion of the submission under "Standard Transaction Document Samples."</p>
54	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	There are no usage restrictions or other limitations that adversely affect coverage.
55	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	The majority of the proposed solutions are software-based, ensuring that troubleshooting and warranty repairs are conducted remotely. This approach eliminates the need for technicians to travel, thereby avoiding additional expenses for travel time and mileage. Remote troubleshooting offers several advantages, including faster response times, reduced downtime, and increased convenience for Sourcewell participating entities. By leveraging advanced remote support technologies, we can quickly diagnose and resolve issues without the delays associated with scheduling and dispatching on-site technicians. This not only enhances the efficiency of our support services but also aligns with sustainable practices by reducing the carbon footprint associated with travel. Consequently, Sourcewell participating entities benefit from a more responsive and eco-friendly warranty service, ensuring that their operations continue smoothly and without unnecessary interruptions.
56	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs?  How will Sourcewell participating entities in these regions be provided service for warranty repair?	The proposed solutions are software-based, allowing us to provide comprehensive support and warranty repairs remotely, without the need for certified technicians to travel to specific geographic locations. This approach ensures that all Sourcewell participating entities, regardless of their location within the United States or Canada, receive timely and effective service for warranty repairs.
57	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	In general, each supplier included in our proposal will provide warranties for their respective software solutions. This warranty coverage extends even if the software solution incorporates third-party or open-source software components. Each supplier is responsible for the warranty service of their products, ensuring that Sourcewell participating entities receive consistent and reliable support directly from the source of the solution. This approach allows for specialized expertise and ensures that any warranty issues are addressed efficiently by the original manufacturers who are best equipped to handle their specific products. By relying on each supplier to manage their warranties, we ensure that all components of our proposed solutions are covered under appropriate and effective warranty terms.

58	What are your proposed exchange and return programs and policies?	<p>The exchange and return programs and policies vary from supplier to supplier. To provide Sourcewell with a clear understanding of what to expect, we have highlighted the diverse policies of a few key suppliers, illustrating the variations across the proposed solutions.</p> <p>UKG (Ultimate Kronos Group): In the event of termination, UKG's policy ensures that all fees are paid by the customer for services rendered through the effective date of termination. If the termination is due to UKG's breach of the agreement, any prepaid fees for services not rendered before the termination date will be credited back to the customer's account, with any remaining amounts refunded within thirty days. This approach ensures financial fairness and transparency, providing peace of mind to customers regarding their investments in UKG's solutions.</p> <p>OpenGov: OpenGov's exchange and return policies are outlined in their subscription terms. The agreement commences upon execution and continues until the end date specified on the order form, with provisions for renewal and termination. If either party materially breaches the agreement and fails to cure the breach within thirty days of written notice, the non-breaching party may terminate the agreement. Upon termination, customers are required to pay in full for all services rendered up to the termination date, and OpenGov will cease providing services. This structured approach ensures that both parties are protected and that services are delivered effectively up to the termination point.</p> <p>BlackLine: BlackLine's policy includes a refund or payment on termination clause. If the customer terminates the agreement pursuant to the specified terms, BlackLine will issue a prorated refund for any payment corresponding to the period after the effective termination date. Conversely, if BlackLine terminates the agreement, the customer must pay any unpaid fees covering the remainder of the current term. This policy guarantees that customers are only billed for the services they receive, ensuring a fair and equitable financial arrangement.</p>
59	Describe any service contract options for the items included in your proposal.	<p>Vertosoft provides comprehensive service contract options to support the solutions proposed. We include a range of implementation, training, and support services to ensure successful deployment and ongoing operation of our solutions.</p> <p><b>Implementation Services:</b></p> <ul style="list-style-type: none"> <li>-Project Kick-off &amp; Oversight: Initial meetings to introduce the project team, develop a high-level project plan, and establish regular status updates.</li> <li>-Configuration &amp; Integration: Custom setup and integration of solutions tailored to specific organizational needs, including data migration and system configuration.</li> <li>-Prototyping &amp; Validation: Creation of solution prototypes using customer data to validate processes and outcomes, with iterative refinement sessions.</li> </ul> <p><b>Training Services:</b></p> <ul style="list-style-type: none"> <li>-Onboarding &amp; Enablement Training: Remote and on-site training options are available, providing hands-on experience with the solutions. Training sessions cover system navigation, user access administration, and utilization of platform features.</li> <li>-Specialized Training Programs: Tailored training programs for different user groups, including administrators and end-users, ensuring all staff are proficient in using the solutions.</li> </ul> <p><b>Support Services:</b></p> <ul style="list-style-type: none"> <li>-24/7 Customer Support: Continuous support for high-priority issues, with prioritized response times based on issue severity. Medium and low-priority issues are addressed during business hours.</li> <li>-Technical Escalation &amp; Remote Support: Access to technical experts for complex issue resolution, including remote support capabilities for real-time assistance.</li> <li>-Ongoing Maintenance &amp; Updates: Regular updates and maintenance to keep the systems current and functioning optimally. Includes monitoring and management of system performance and security.</li> </ul> <p><b>Additional Support Options:</b></p> <ul style="list-style-type: none"> <li>-Success Manager: Dedicated resource to provide best practices guidance and ensure optimal use of the solutions.</li> <li>-Feature Review &amp; Activation Assistance: Support for reviewing and activating new features as they become available, along with industry best practices reviews and configuration optimization.</li> </ul> <p>These service contract options are designed to provide robust support throughout the lifecycle of the solutions, from initial deployment to ongoing management, ensuring Sourcewell participating entities maximize the value of its investment in our solutions.</p> <p>Examples of service options and SOWs have been provided "Step 2 - Documents" portion of the submission under "Upload Additional Documentation." A folder entitled "Services Information" provides in depth details as well as past examples on what could be expected of a project including services.</p>

**Table 9B: Performance Standards or Guarantees**

Describe in detail your performance standards or guarantees, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your performance materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
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60	Describe any performance standards or guarantees that apply to your services	<p>Vertosoft collaborates with a wide array of software suppliers, each bringing their unique performance standards and guarantees to the table. While specifics may vary depending on the supplier, the following are general aspects that are commonly addressed:</p> <p>Service Availability: Many of our suppliers aim for high service availability, striving to ensure their platforms are accessible and functional during key operational hours. This commitment is subject to variations based on the individual supplier's capabilities and service model.</p> <p>Software Quality Assurance: Several of our suppliers adhere to rigorous quality testing protocols, ensuring that their software meets industry standards for reliability and functionality. This may include regular updates and security patches.</p> <p>Timely Delivery: Suppliers generally commit to delivering software products in a timely manner. The exact timelines and delivery mechanisms can vary, depending on the nature of the software and the distribution channels used.</p> <p>Technical Support and Maintenance: Support and maintenance services are often provided, with the scope and responsiveness varying by supplier. This can range from basic troubleshooting to comprehensive technical assistance and regular maintenance.</p> <p>Compliance and Security: Most suppliers ensure that their software and services comply with relevant industry norms, legal standards, and security protocols, though the specifics of these compliance measures can differ.</p> <p>Customization and Integration Support: Depending on the supplier, there may be options for customization and integration support to align the software with specific business needs and systems.</p> <p>Performance Metrics: Some suppliers may offer transparency through performance metrics reporting, such as uptime statistics and customer support response times, though the level of detail and frequency of such reporting can vary.</p> <p>Continuous Improvement: Many suppliers engage in continuous improvement efforts based on client feedback and industry developments, aiming to enhance service quality and client experience over time.</p> <p>It is important to note that the specific performance standards and guarantees are subject to the individual terms and policies of each software supplier in Vertosoft's network. As such, we recommend reviewing the detailed terms and conditions provided by each supplier for precise information.</p>
61	Describe any service standards or guarantees that apply to your services (policies, metrics, KPIs, etc.)	<p>Each supplier provides different levels of SLAs and guarantees, and the following examples illustrate the type of service standards available.</p> <p>Visual Lease Service Standards: Visual Lease ensures high service standards for its customers, as outlined in their Service Level Agreement (SLA). They commit to a monthly uptime of 99.0% for their production environments, excluding planned maintenance periods. Scheduled maintenance is communicated in advance, typically taking place during non-business hours. In the event that Visual Lease does not meet the uptime commitment, they offer service credits based on the percentage of monthly uptime achieved.</p> <p>Visual Lease categorizes technical issues into four severity levels, each with specific response and resolution time targets. For instance, critical issues (Severity 1) should receive a response within one hour during support hours, and a resolution is aimed within one calendar day. Visual Lease provides disaster recovery capabilities with defined objectives for backup retention, business continuity, recovery point, and recovery time, ensuring the availability and integrity of customer data.</p> <p>UKG Service Standards: UKG provides robust support and service standards through their various support plans, including Gold, Platinum, and Platinum Plus. They offer priority-based support, ensuring customers with the most critical issues are serviced first. High priority issues receive a response within 30 minutes or immediately via rapid response, while medium and low priority issues have response times of one hour and two hours, respectively. UKG's support is available 24/7/365 for high-priority issues, with business hours support for other issues.</p> <p>UKG's support services include technical escalation, management escalation, and remote support through web-based screen-sharing tools. They also offer access to the UKG Community for how-to articles, discussion boards, and case management. UKG's SLAs ensure continuous effort on high-priority events, leveraging a team-based approach to resolve issues swiftly and efficiently. They provide detailed documentation, knowledgebase access, and regular service releases to keep their software up-to-date and functioning optimally.</p> <p>We have uploaded the two example documents within the "Step 2 - Documents" portion of the submission - "Upload Additional Documentation" The folder entitled "SLAs" includes the mentioned Visual Lease SLA and UKG SLA.</p>
62	Describe your data integrity and protection standards, data backup, recovery, and secure storage solutions.	<p>Our suppliers prioritize the protection and integrity of customer data, employing robust strategies for data backup, recovery, and secure storage. While each supplier may approach these aspects differently, the following examples illustrate the comprehensive measures in place to safeguard customer information.</p> <p>Cornerstone OnDemand: Cornerstone's customer environments and disaster recovery capabilities are hosted in AWS regions and colocation data centers in the U.S., with plans to migrate production environments fully to AWS. The production sites are in US-West-1 (N. California) and US-West-2 (Oregon), with disaster recovery sites in US-West-2 and US-East-1 (N. Virginia). AWS was selected for its high service availability and strong data protection controls, ensuring that all connectivity and security measures are maintained. Additionally, Cornerstone uses Equinix colocation data centers in El Segundo, CA, and Ashburn, VA, with strict access controls, including biometric hand scanners and restricted entry to authorized personnel only. Furthermore, Cornerstone leverages Google Cloud Platform (GCP) for its machine learning platform and content-related microservices, ensuring secure connectivity and data protection using redundant IPsec tunnels and Palo Alto firewalls. Cornerstone adheres to several compliance certifications, including SSAE18 SOC 1 &amp; SOC 2, ISAE 3402 Type II, ISO/IEC 27001:2013, ISO/IEC 27018:2014, and ISO/IEC 27701:2019.</p> <p>OpenGov: OpenGov employs infrastructure provided by AWS, utilizing services such as EC2 and RDS with security best practices recommended by AWS. OpenGov's security infrastructure includes AES 256 encryption for data at rest and TLS 1.2 encryption for data in transit. Additional protection is provided by Cloudflare, acting as a web application firewall. OpenGov uses a multi-AZ deployment strategy for enhanced availability and durability, capturing regular backups and snapshots stored in regional data centers. This approach ensures data replication in real-time across AWS and Azure availability zones, minimizing data loss to one minute in the event of a fault. OpenGov has also passed SOC 2 audits, with the latest SOC 2 Type 2 report available upon request.</p> <p>Visual Lease: Visual Lease hosts its application on AWS, employing a network architecture that places web servers in a public subnet and database servers in a private subnet, accessible only from approved sources. Data at rest is protected with AES-256 bit encryption, and data in transit is secured with SSL (TLS 1.2) encryption and SSH (SFTP) for managed file transfers. Visual Lease leverages AWS Backup, a fully managed backup service, ensuring data integrity and protection.</p>

63	What are your policies and governance features regarding large language models and generative AI?	<p>Vertosoft implements a robust governance framework to ensure the responsible use of generative AI within our solutions. Our approach includes several key components to align with industry best practices. We adhere to ethical AI principles to ensure responsible use, avoid biases, and respect user privacy and data security. We maintain transparency by clearly communicating how AI technologies are used, including the types of data processed and the purposes of AI-generated outputs, ensuring users are informed and can provide informed consent. Our data privacy and security measures comply with regulations such as GDPR and CCPA, and we implement encryption and other security measures to protect sensitive data used in AI models.</p> <p>Regular audits and updates to our AI models help identify and mitigate biases, ensuring fair outcomes for all users. We ensure human oversight by reviewing AI-generated outputs, especially in critical decision-making processes, to prevent potential errors or unintended consequences. We establish clear accountability mechanisms for AI deployment, defining roles and responsibilities for managing and overseeing AI systems. Vertosoft also aims for relevant certifications and conducts regular compliance checks to ensure our AI systems meet industry standards and regulatory requirements.</p> <p>Continuous improvement efforts are made through ongoing research and development to enhance the accuracy, efficiency, and ethical considerations of our AI technologies. By adopting these best practices, Vertosoft ensures that our use of generative AI aligns with industry standards for ethical and responsible AI deployment, providing innovative solutions while maintaining high standards of trust and integrity. For more specific information, our detailed policies and practices regarding generative AI are available upon request.</p>
64	User Accessibility: How does your software ensure accessibility for all users, including those with disabilities, in compliance with standards?	<p>Vertosoft and our suppliers are committed to ensuring that software solutions are accessible to all users, including those with disabilities, in compliance with established accessibility standards such as the Web Content Accessibility Guidelines (WCAG) and Section 508 of the Rehabilitation Act. Our suppliers, including OpenGov, Thirdline, and PublicInput, prioritize accessibility and have developed Voluntary Product Accessibility Templates (VPATs) to demonstrate their compliance with these standards.</p> <p>OpenGov: OpenGov's software is designed with accessibility in mind, ensuring that all users, including those with disabilities, can effectively use their solutions. OpenGov adheres to WCAG 2.1 and Section 508 standards, providing a VPAT that details their compliance. Their platform includes features such as keyboard navigation, screen reader compatibility, and high-contrast modes to accommodate users with various disabilities. OpenGov regularly updates their accessibility features based on user feedback and advances in accessibility technology to ensure an inclusive user experience.</p> <p>Thirdline: Thirdline is dedicated to making their software accessible to everyone. They follow WCAG and Section 508 guidelines and provide a comprehensive VPAT to outline their compliance. Thirdline's software includes customizable interface settings, alternative text for images, and support for assistive technologies like screen readers and voice recognition software. They continuously assess and enhance their accessibility features to ensure all users can navigate and utilize their solutions effectively.</p> <p>PublicInput: PublicInput ensures their platform is accessible to all users, including those with disabilities, by adhering to WCAG 2.1 and Section 508 standards. They offer a detailed VPAT to demonstrate their commitment to accessibility compliance. PublicInput's software includes features such as text-to-speech capabilities, keyboard shortcuts, and adjustable text sizes. They engage with accessibility experts and users to regularly review and improve their platform, ensuring it meets the highest accessibility standards.</p>

**Table 10: Payment Terms and Financing Options**

Line Item	Question	Response *
65	Describe your payment terms and accepted payment methods.	Vertosoft accepts Net 30 payment terms as is what is commonly seen/offered among State and Local Government entities. Our accepted payment methods are via ACH, check, and credit card.
66	Describe any leasing or financing options available for use by educational or governmental entities.	Vertosoft offers extended payment plans and subscription billing for technology purchases to help align structured payments to government program budgets while meeting government guidelines. Vertosoft's deep understanding of the government acquisition process allows us to provide the government with simplified terms and conditions, and flexible payment options. We also can provide utility-based pricing and quarterly or monthly subscription billing for cloud-based SaaS software.
67	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	We have attached the End User License Agreements (EULAs) or applicable terms & conditions document for the software suppliers we are proposing as part of this submission. End User License Agreements/terms documents can be found in the "Step 2 - Documents" portion of the submission under "Standard Transaction Document Samples." A zip folder titled "EULAs" has been uploaded accordingly.
68	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Yes, we do accept the e P-card procurement and payment process for any orders less than \$50,000. There is a 3% processing fee associated with these transactions.

**Table 11: Pricing and Delivery**

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
69	Describe your pricing model (e.g., line-item discounts or product-category discounts).  Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Due to the number of suppliers we are proposing and thus the large number of parts this brings, Vertosoft is providing a percentage discount off our catalog.  The % discount will be off the named supplier/OEM MSRP. This approach will make it simplistic for Sourcewell participating entities to calculate the cost of any given part using the formula: Sourcewell price = MSRP – (MSRP * % discount). For example, if the supplier discount is 10%, and the MSRP is \$100, the cost to the Sourcewell participating entity would be \$90.00, shown as: \$100 – (100*0.10) = \$90.00.  We have provided an Excel Spreadsheet titled "Sourcewell pricing" that contains detailed pricing information in the "Step 2 - Documents" section of the submission under "Pricing."
70	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	As stated in our answer to Question #69, Vertosoft is proposing a large number of suppliers as a part of our submission and therefore a one size fits all approach regarding a pricing discount is not feasible. In the "Sourcewell pricing" Excel file (previously referenced as submitted in "Step 2 - Documents" section of the submission under "Pricing") we have different percentage discounts listed that are dependent upon the supplier. The discount range is anywhere from 1-50% off MSRP.
71	Describe any quantity or volume discounts or rebate programs that you offer.	There are no quantity or volume discounts or rebate programs available from the proposed software suppliers. Our discounts provided off of MSRP are designed to be competitive without the need for such programs. In most cases this is negotiated on a deal-by-deal basis, as needed.
72	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	For any requests or items that are considered "open market," Vertosoft will provide a quote that is labeled as such.
73	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response.  This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	There are no elements regarding the total cost of acquisition that are not included in our response.
74	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	There are typically no additional costs such as freight, delivery, or shipping associated with our transactions as all of our products are non-tangible (i.e. software licenses)
75	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	We do not have any specific freight, shipping, delivery terms and/or programs available for Alaska, Hawaii, Canada, or any offshore delivery.
76	Describe any unique distribution and/or delivery methods or options offered in your proposal.	We do not have any unique distribution or delivery methods associated with our transactions. We do, however, have the ability to work through our software suppliers to provide license Proof of Entitlement or Proof of Delivery (PoE/PoD) upon transaction completion.  This ensures Sourcewell participating entities buying products through Vertosoft benefit from an additional layer of security - guaranteeing transparency, accountability, and confidence in receiving the intended products and services.

**Table 12: Pricing Offered**

Line Item	The Pricing Offered in this Proposal is: *	Comments
77	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

**Table 13: Audit and Administrative Fee**

Line Item	Question	Response *
78	<p>Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell.</p> <p>This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.</p> <p>Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.</p>	<p>Vertosoft is committed to providing the highest quality of service to Sourcewell through this contract. To facilitate this high level of service, Vertosoft maintains an ISO 9001:2015 certification that demonstrates Vertosoft's commitment to the highest level of excellence and customer satisfaction. Our Quality Management program supports our core business processes and provides the tools through which we measure, control, and improve these processes which include:</p> <ul style="list-style-type: none"> <li>- Maintaining product catalogs and price lists on different government contract vehicles.</li> <li>- Error free quoting to the government on behalf of our technology partners.</li> <li>- Efficient Purchase Order (PO) processing from our public sector customers.</li> <li>- Efficient PO delivery to our technology partners. Accurate invoice creation for public sector customers for solutions delivered by our technology partners.</li> <li>- Customer satisfaction measurement with the overall procurement process experience through Vertosoft.</li> <li>- Accurate and timely fee remittance.</li> </ul> <p>Due to the number of other contracts we hold and currently report monthly and/or quarterly on, Vertosoft has established a tailored, streamlined process for contract reporting. Therefore, we are confident that we can successfully deliver quarterly reports to Sourcewell within 45 days following the end of each quarter, meeting all the required fields specified in the contract template.</p> <p>Oracle NetSuite, the ERP (Enterprise Resource Planning) tool used by Vertosoft currently generates monthly reports on all invoiced transactions, already including the relevant fields from the Sourcewell contract template, such as entity name, address, contact details, price, date, etc.</p> <p>Typically received in the first week of the month, our Contracts team reviews the transactions within the report and transposes them into the specified contracting template or portal to issue successful fee payments. The administrative fee is also inputted at the Sourcewell account level and will auto-apply to all Sourcewell transactions in the report, ensuring the proper fee is always remitted.</p> <p>We ensure Sourcewell participating entities receive the proper pricing through our quoting system, CPQ by Salesforce. This will have Sourcewell contract pricing pre-loaded upon contract execution to eliminate manual processes and potential human error.</p>
79	<p>If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.</p>	<p>Vertosoft will employ a Quality Assurance Surveillance Plan (QASP) to benchmark, measure, and improve the effectiveness of our business and technical operations that support the contract. The QASP will be administered and controlled by a separate Quality Assurance Manager to independently monitor and evaluate business and technical activities each quarter. Results and any changes from quarterly evaluations will be shared with Sourcewell. Vertosoft has tailored a QASP for relevant functions to include responsiveness to the Public Sector and Education Administration Software Solutions RFP, timeliness for order processing and delivery, and accuracy and timeliness of contract deliverable requirements.</p> <p>Metric: Administrative Fee</p> <p>Surveillance Method: Inspection</p> <p>Performance Standard: Acceptable performance is met by timely submission and accuracy of reports and remittance of payments.</p> <p>Quality Level: 100%</p> <p>Reporting Methods: Quarterly reporting to Sourcewell</p> <p>Metric: Quarterly Sales Reporting</p> <p>Surveillance Method: Inspection</p> <p>Performance Standard: Acceptable performance is met by timeliness and accuracy of the report</p> <p>Quality Level: 100%</p> <p>Reporting Methods: Quarterly reporting to Sourcewell</p> <p>Metric: Quote Accuracy</p> <p>Surveillance Method: Inspection</p> <p>Performance Standard: All quotes issued to Sourcewell participating entities utilize the correct contract pricing. This is made possible through our quoting system, CPQ by Salesforce, that has contract pricing pre-loaded to eliminate manual processes and potential human error.</p> <p>Quality Level: 100%</p> <p>Reporting Methods: Quarterly reporting to Sourcewell</p>
80	<p>Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods.</p> <p>(See the RFP and template Contract for additional details.)</p>	<p>Vertosoft LLC proposes a 1.25% administrative fee. This fee will keep the contract competitive against Vertosoft's other contract offerings and accelerate the internal adoption of the contract, all whilst ensuring we have the necessary mechanisms in place to provide superior value to Sourcewell's participating entities.</p>

**Table 14: Depth and Breadth of Offered Equipment Products and Services**

Proposers including solutions offered within the scope of Categories 1, 2, 3, and 4 within its singular proposal must designate they are seeking award in **Category 5** in the Sourcewell Procurement Portal. Proposers seeking award in Category 1, 2, 3, or 4, as defined herein must make that designation below. Proposers may only receive an award within the Category(-ies) they designate. Sourcewell reserves the right to re-categorize any designation as it deems appropriate.

Line Item	Category Selection	Offering *	
81	Category 1: Core Administrative Systems	<input checked="" type="radio"/> Yes <input type="radio"/> No	*
82	Category 2: Education and Public Sector Information and Work Management	<input checked="" type="radio"/> Yes <input type="radio"/> No	*
83	Category 3: Asset and Risk Management	<input type="radio"/> Yes <input checked="" type="radio"/> No	*
84	Category 4: Public Engagement and Specialized Services	<input checked="" type="radio"/> Yes <input type="radio"/> No	*
85	Category 5: Integrated Enterprise Solutions	<input type="radio"/> Yes <input checked="" type="radio"/> No	*

**Table 15: Category 1 - Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types of software are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Proposers submitting a proposal in Category 1 will be submitting in the broad category that includes Core Administrative Systems. See RFP Section II. B. 1 for details.

We will not be submitting for Table 15: Category 1 - Depth and Breadth of Offered Equipment Products and Services

Line Item	Category or Type	Offered *	Comments
86	Human Resources Software	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing UKG (Ultimate Kronos Group) for this category, Human Resources Software.</p> <p>UKG, or Ultimate Kronos Group (formerly known as Kronos) is a leading provider of HR, payroll, and workforce management solutions. UKG Ready and UKG Pro are the two HR offerings we are proposing for this category, which constitute the Human Capital Management (HCM) offering of UKG. UKG Ready is ideal for small to mid-sized organizations, while UKG Pro is ideal for large organizations.</p> <p>UKG's HR solutions are designed to help entities manage their human capital effectively. Features of the platform include centralized data management, flexible workflows, advanced reporting and analytics, employee self-service, and compliance tools. UKG solutions streamline administrative tasks, facilitate data-driven decision-making, and empower employees with self-service options. These tools help improve efficiency, ensure compliance, and foster a positive workplace culture, ultimately driving greater outcomes.</p>
87	Financial Performance, Spend, or Expense Management Software	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing Diligent, Trintech, Visual Lease, ThirdLine, and FloQast for this category, Financial Performance, Spend, or Expense Management Software.</p> <p>Diligent is a leading GRC (Governance, Risk, and Compliance) SaaS company that gives organizations the tools and solutions they need to bring clarity to complex risk, elevate impactful insights and get ahead of a world that is constantly changing. Diligent currently empowers more than 1 million users and 700,000 board members and leaders. Diligent's Audit Management solution for government and education streamlines the audit process with automated workflows, advanced analytics, and real-time data integration. It ensures compliance, continuous control monitoring, and effective management of audit workpapers.</p> <p>Trintech Inc. is a leading global provider of cloud-based, integrated reconciliation and financial close solutions for Finance &amp; Accounting departments. From high volume transaction matching, to automating and managing balance sheet reconciliations, intercompany accounting, journal entries, close management tasks, to governance, risk and compliance – Trintech's portfolio of financial solutions, including its Cadency® Platform (for large enterprises) and Adra® Suite (for mid-market organizations), help manage all aspects of the reconciliation and financial close processes.</p> <p>Visual Lease is the #1 lease optimization software provider. Visual Lease help organizations become compliant with FASB, IFRS and GASB lease accounting standards, while simultaneously improving the financial, legal and operational performance of their leases. The easy-to-use SaaS platform is embedded with more than three decades of best practices from major corporations and leading industry professionals. Visual Lease's award-winning solutions are used by 80+ organizations to manage 500,000+ real estate, equipment and other leased assets. Committed to ongoing innovation and unparalleled customer service, Visual Lease helps organizations transform their lease compliance requirements into financial opportunities.</p> <p>ThirdLine's financial analytics software for government and education offers deployable analytics within a week, providing real-time risk assessments, monitoring of ARPA/SLFRF funds, and cost-control planning. Designed by accountants, it addresses common challenges such as resource constraints, talent retention, and pandemic-related disruptions with a low-cost, no-code platform that enhances fraud detection and financial oversight.</p> <p>FloQast is the leading provider of accounting workflow automation created by accountants for accountants. FloQast enables customers to streamline processes such as automated reconciliations, documentation requests, and other workflows that impact the month-end close, financial reporting, and payroll.</p>
88	Accounts Payable, Accounts Receivable, Billing, or Revenue Collection Solutions	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing Blackline and InvoiceCloud for this category, Accounts Payable, Accounts Receivable, Billing, or Revenue Collection Solutions.</p> <p>Blackline's cloud-based financial operations management and market-leading customer service help companies move to modern accounting by unifying their data and processes, automating repetitive work, and driving accountability through visibility. Blackline provides solutions to manage and automate financial close, accounts receivable and intercompany accounting processes, helping large enterprises and midsize companies across all industries do accounting work better, faster, and with more control.</p> <p>InvoiceCloud provides a complete, simple, and secure electronic bill presentment and payment solution. The SaaS platform provides flexible and always up to date online payment solutions that can be configured to meet the unique needs of your organization. InvoiceCloud's simple to use interface engages customers throughout the payment process to deliver your highest ever e-payment adoption rates.</p>
89	Procure-to-Pay and Contract Management Systems	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing OpenGov for this category, Procure-to-Pay and Contract Management Systems.</p> <p>OpenGov's Procurement software is a comprehensive, collaborative procurement suite designed for government agencies to streamline their entire procurement lifecycle. Trusted by over 1,600 agencies, the platform enhances supplier engagement and evaluation speed, supports compliance, and centralizes contract management. These features work to expedite processes by up to 75%, all while offering compliant solicitation development. Users experience increased efficiency, reduced stress, and higher vendor participation. Additionally, OpenGov provides dedicated support with account managers, training, and live assistance.</p> <p>OpenGov Procurement capabilities:</p> <ul style="list-style-type: none"> <li>- Develop Solicitations</li> <li>- Engage Suppliers</li> <li>- Evaluate and Award</li> <li>- Manage Contracts</li> </ul>

**Table 16: Category 2 - Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types of software are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Proposers submitting a proposal in Category 2 will be submitting in the broad category that includes Education and Public Sector Information and Work Management. See RFP Section II. B.

Bid Number: RFP 060624

Vendor Name: Vertosoft

1 for details.

We will not be submitting for Table 16: Category 2 - Depth and Breadth of Offered Equipment Products and Services

Line Item	Category or Type	Offered *	Comments
90	Student Information System (SIS)	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing Red Rover and UKG (Ultimate Kronos Group) for this category, Student Information System (SIS).</p> <p>Red Rover has been built from the customer-first perspective, delivering on the features that education professionals yearn for – an easy-to-use, adaptive, and delightful experience that grows with any school district, flexible and customizable to what educators tell us they need. With Red Rover, administrators can assess staffing needs, teachers/other full-time staff can declare time off, and substitutes can connect with openings tailored to their skill sets. Although our service is rooted in technology, our people are our most valued asset. Our culture of trust and transparency allows us to adapt to evolving client needs more effectively and helps create meaningful, enduring relationships.</p> <p>UKG's, or Ultimate Kronos Groups (formerly known as Kronos) K-12 solutions streamline workforce management for school districts, providing tools for timekeeping, scheduling, talent management, and compliance. By optimizing resources and enhancing employee experiences, UKG helps districts focus more on student success. The platform reduces compliance risks and supports efficient HR processes, making it easier for schools to manage their staff and improve operational efficiency.</p>
91	Learning Management System (LMS)	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing Cornerstone OnDemand, Schoox, and Udacity for this category, Learning Management System (LMS).</p> <p>Cornerstone OnDemand's Learning Management System (LMS) enhances employee training and development with personalized learning paths, content libraries, and robust analytics. The platform supports compliance, skill development, and performance management, helping organizations to effectively upskill their workforce. Cornerstone's LMS provides tools for creating, managing, and tracking learning programs, ensuring employees have access to both relevant and engaging content.</p> <p>Schoox's Learning Management System (LMS) offers a flexible and intuitive platform for employee training and development. The LMS features social personalized learning paths, comprehensive analytics, and social collaboration tools to track progress and measure effectiveness. The LMS supports various content formats and integrates with other HR systems to streamline administrative tasks and enhance the user learning experience.</p> <p>Udacity is a global, online training platform powering digital transformation and accelerated time-to-market initiatives for Public Sector, Fortune 500 and Global 2000 enterprises. Udacity programs provide industry-created practitioner skills through a series of "Nanodegree" programs consisting of online courses and real-world projects in artificial intelligence, machine learning, data science, autonomous systems, and cloud computing among other disciplines. In partnership with Udacity's experts, they will co-design a tailored transformation journey to solve acute workforce challenges to deliver next-level results.</p>
92	Work Management Software	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing Wrike and Ivy.ai, and for this category, Work Management Software.</p> <p>Wrike offers a versatile work management platform designed to streamline project planning, collaboration, and execution. It features customizable workflows, real-time collaboration tools, and robust reporting capabilities to enhance productivity and transparency. Wrike integrates with various applications, empowering your teams to do their best work with 360° visibility. Wrike is suitable for handling complex projects and enhancing team productivity, as it offers a unified platform for information and communication that enables teams to remain aligned and work in real time.</p> <p>Ivy.ai is an innovative technology company specializing in AI-powered chatbots and omnichannel communication platforms, designed to enhance customer support. Ivy.ai has made significant strides in leveraging AI to provide accurate, 24/7/365 assistance across various sectors, including government, education, and healthcare. The company's solutions are distinguished by their ability to seamlessly integrate with an organization's existing knowledge sources, ensuring up-to-date and consistent information delivery. With a focus on ease of deployment and maintenance, Ivy.ai's chatbots are built quickly and require no coding for upkeep, thanks to their industry-leading crawler technology and unique shared brain structure. This approach ensures a unified user experience across all communication channels, underlining Ivy.ai's commitment to driving efficiency and improving engagement through cutting-edge AI technology. Leveraging Ivy.ai, many public sector entities have seen material results, either by saving thousands of dollars, or by having call/agent volume reduced by significant percentages.</p>

93	Enterprise Content Management/Records Management	<input checked="" type="radio"/> Yes <input type="radio"/> No	Vertosoft is proposing IBM and Quadient for this category, Enterprise Content Management/Records Management.  IBM ranks among the world's largest information technology companies, providing a wide spectrum of software, services, and hardware offerings. Vertosoft is proud to be an IBM Gold Partner and authorized to sell IBM's entire portfolio of software. IBM creates value for clients by providing integrated solutions and products that leverage data, information technology, deep expertise in industries and business processes, trust and security, and a broad ecosystem of partners and alliances. IBM solutions provide clients with new capabilities that change their businesses and allow them to connect with their customers and employees in different ways. These solutions use a leading portfolio of enterprise systems and software, consulting and IT implementation services, cloud, digital, and cognitive offerings, which are all supported by one of the world's leading research organizations.  Quadient is the driving force behind the world's most meaningful customer experiences. By focusing on three key solution areas, Intelligent Communication Automation, Parcel Locker Solutions and Mail-Related Solutions, Quadient helps simplify the connection between people and what matters. Quadient's records management solution offers comprehensive document digitization to enhance efficiency and compliance. It features automated workflows, secure storage, and easy retrieval of records, ensuring accuracy and accessibility. The platform supports regulatory compliance, reduces manual processes, and integrates with existing systems for seamless operations.
94	Enrollment Management Systems	<input checked="" type="radio"/> Yes <input type="radio"/> No	Vertosoft is proposing Red Rover and UKG (Ultimate Kronos Group) for this category, Enrollment Management Systems.  UKG, or Ultimate Kronos Group (formerly known as Kronos) Ready Benefits offers a comprehensive enrollment management system designed to streamline benefits administration for organizations. It features intuitive self-service enrollment, automated eligibility tracking, and real-time analytics to enhance employee engagement and simplify benefits management. The platform ensures compliance, reduces administrative burden, and provides a seamless experience for both HR teams and employees.  Red Rover's enrollment management system is tailored for K-12 schools, focusing on efficient substitute management and attendance tracking. The platform streamlines the hiring and onboarding process, ensures compliance with state regulations, and provides real-time analytics. Its goal is to enhance operational efficiency and improve substitute teacher experiences, ensuring that schools maintain seamless operations.

**Table 17: Category 3 - Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types of software are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Proposers submitting a proposal in Category 3 will be submitting in the broad category that includes Asset and Risk Management. See RFP Section II. B. 1 for details.

We will not be submitting for Table 17: Category 3 - Depth and Breadth of Offered Equipment Products and Services

Line Item	Category or Type	Offered *	Comments
95	Computerized Maintenance Management System (CMMS)	<input type="radio"/> Yes <input type="radio"/> No	
96	Facility Management Software	<input type="radio"/> Yes <input type="radio"/> No	
97	Energy Management Software	<input type="radio"/> Yes <input type="radio"/> No	
98	Insurance and Risk Management	<input type="radio"/> Yes <input type="radio"/> No	
99	Environmental, Health, and Safety (EHS) management	<input type="radio"/> Yes <input type="radio"/> No	

**Table 18: Category 4 - Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types of software are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Proposers submitting a proposal in Category 4 will be submitting in the broad category that includes Public Engagement and Specialized Services . See RFP Section II. B. 1 for details.

We will not be submitting for Table 18: Category 4 - Depth and Breadth of Offered Equipment Products and Services

Line Item	Category or Type	Offered *	Comments
100	Court, Corrections, and Justice System	<input checked="" type="radio"/> Yes <input type="radio"/> No	Vertosoft is proposing Soma Global for this category, Court, Corrections, and Justice System.  SOMA Global has been a leading provider of cloud-native critical-response public safety software solutions since 2017. SOMA's team of public safety veterans and mission-driven developers are focused on enabling agency partners to focus on what matters most, fulfilling their mission in the communities they serve. Through world-class customer service in combination with SOMA Telos™ and SOMA Global's modern-cloud software solutions, operations are a unified ecosystem of pre-built applications, workflows, automations and data interoperability that can be rapidly configured based on the specific needs of your agency and community.

101	Municipal Services, Inspections, Licensing, Grants, Tax, and Permitting Management Solutions	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing OpenGov, Atura, Fluxx Labs, Urban SDK, Swifly, Spare Labs, and Transit App for this category, Municipal Services, Inspections, Licensing, Grants, Tax, and Permitting Management Solutions.</p> <p>OpenGov offers comprehensive solutions for Municipal Services, Inspections, Licensing, Grants, Tax, and Permitting Management. The Permitting and Licensing solution streamlines application processes, enhances transparency, and reduces approval times through a user-friendly interface and automation features. It supports efficient workflows for permits, licenses, and inspections. The Tax and Revenue solution improves tax administration with real-time data access, automated workflows, and robust reporting capabilities. It ensures compliance, enhances revenue collection, and provides detailed insights for informed decision-making.</p> <p>Atura (previously known as AutoReturn) is an innovative towing ecosystem that not only ensures swift and efficient vehicle recovery, but also keeps more tow operators on the road and more law enforcement protecting the community. Using a state-of-the-art SaaS platform combined with towing industry expertise, Atura has disrupted outdated, analog systems and transformed the towing industry into a seamlessly integrated ecosystem that benefits law enforcement agencies, tow operators, and vehicle owners. This system optimizes resource use, improves road safety, and reduces secondary crashes, saving time for officers and dispatchers. Atura significantly enhances community safety by promptly removing dangerous, illegally parked, or abandoned vehicles from the streets.</p> <p>Fluxx Labs' (dba Fluxx) cloud-based grant management software helps government agencies manage their data in one place, reduce the time to respond and collaborate with grantees and team members, and connect your systems to a single source of the truth. Fluxx supports your end-to-end grantmaking operations: from Notices of Funding Opportunities to Pre-award application intake and review to post-award payments and reporting requirements — and all in one intuitive and integrated platform. Its modern solution helps reduce complexity for Grantors, ease administrative burden on grantees, improve visibility into the grants process and mitigate compliance risk through robust audit trails. With a centralized data-driven platform, all information is connected in a single solution for grants management.</p> <p>Urban SDK is the nation's leading Traffic Calming software. It provides Traffic Speed, Volume, and Delay metrics for ALL local roads in your municipality, displayed on dynamic maps. Urban SDK works with 100+ Public Works Departments to aid with: traffic calming measures, pre and post-implementation studies, safety analysis, fielding public complaints, and reporting to council.</p> <p>Swifly is a single platform to unify your public transit data. Swifly's products combine to form a single, powerful platform that centers your transit agency on the industry's most accurate data, thereby improving service reliability and operational efficiency for municipalities. Swifly's cloud infrastructure and subscription model simplify how agencies build their transit data stack. It provides real-time data for vehicle locations, optimizing operations and planning. Swifly improves passenger information reliability, boosts operational efficiency, and integrates seamlessly with existing systems.</p> <p>Spare Labs is on a mission to help accelerate the global shift to autonomous vehicles by enabling anyone to create and manage a smart transportation network in seconds. With Spare Platform, Spare's core product, anyone can plan, launch, operate, and analyze a smart transportation network, all from one place. Spare's platform supports ADA paratransit and micro transit services, enhancing access and operational efficiency. Spare's technology automates workflows, reduces costs, and improves rider experiences with real-time data and flexible service options. The platform integrates with local fleets and ensures compliance, making it an ideal choice for municipalities seeking to optimize transit services.</p> <p>Transit is the public transit app that makes life better without a car in more than 300 cities worldwide. Millions of public transit riders rely on its accurate real-time updates, intuitive step-by-step navigation, and helpful crowdsourcing features. It provides real-time departure information, trip planning, and seamless integration with various transit modes including bikeshare, scooters, and ride hail services. Transit collaborates with transit agencies to improve urban mobility, making it easier for municipalities to manage and optimize their transportation services.</p>
102	Parks and Recreation Software	<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>Vertosoft is proposing OpenGov for this category, Parks and Recreation Software.</p> <p>OpenGov's Parks and Recreation Software offers a robust platform for managing park assets, financials, and community engagement. It streamlines operations with key features such as online reservations and payments, maintenance tracking, activity registration, facility scheduling, and comprehensive financial reporting. The software supports efficient operations and enhances transparency with real-time data access and automated workflows. It also facilitates better community interaction through intuitive, user-friendly portals, making it easier for citizens to access park services and amenities.</p>

103	Citizen Relationship/Engagement Management	<input checked="" type="radio"/> Yes <input type="radio"/> No	Vertosoft is proposing PublicInput, OpenGov, and Ivy.ai for this category, Citizen Relationship/Engagement Management.  PublicInput provides an all-in-one engagement and communications platform, enabling governments agencies to connect with the communities they serve. The solution includes tools for public surveys, virtual town halls, social media integration, and data analytics. It facilitates transparent communication, enhances equitable citizen participation, and provides actionable insights through real-time feedback and representative reporting. PublicInput supports effective decision-making and strengthens community trust by creating an inclusive engagement environment.  OpenGov's Community Feedback software is designed to collect and analyze public feedback. The solution streamlines the process of gathering and analyzing public input through surveys and comment tracking. It enhances transparency and citizen engagement by providing real-time feedback analysis, enabling informed decision-making based on community insights. This platform fosters harmonious relationships between governments and their citizens by ensuring that public feedback is efficiently collected and utilized to inform policies and services.  Ivy.ai offers an AI-powered platform for Citizen Relationship and Engagement Management, providing chatbots and virtual assistants that enhance communication between governments and citizens. The solution features automated responses, multi-channel support, and real-time data analytics, enabling efficient handling of inquiries and improved citizen engagement. Ivy.ai helps streamline processes, reduce response times, and provide 24/7 support, thereby promoting stronger community relationships and trust.
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**Table 19: Category 5 - Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types of software are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Proposers submitting a proposal in Category 5 will be submitting in the broad category that includes Integrated Enterprise Solutions. See RFP Section II. B. 1 for details.

We will not be submitting for Table 19: Category 5 - Depth and Breadth of Offered Equipment Products and Services

Line Item	Category or Type	Offered *	Comments
104	Comprehensive suites that encompass Enterprise Resource Planning (ERP) and at least one solution from EACH category 1-4 above	<input type="radio"/> Yes <input checked="" type="radio"/> No	

**Table 20: Depth and Breadth of Offered Equipment Products and Services**

Line Item	Question	Response *
105	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	A detailed description of the solutions we are proposing have been incorporated into the subcategories we are responding to as follows:  - Table 15: Category 1 - Depth and Breadth of Offered Equipment Products and Services - Table 16: Category 2 - Depth and Breadth of Offered Equipment Products and Services - Table 18: Category 4 - Depth and Breadth of Offered Equipment Products and Services
106	Equipment and accessories related to the offering of systems or solutions described in subsections categories 1-5 above, including but not limited to, hardware, peripherals, and accessories	UKG (Ultimate Kronos Group) offers timeclocks that integrate seamlessly with their Human Capital Management offering, providing robust functionalities for workforce management.
107	Services related to the offering of systems or solutions described in categories 1-5, including, but not limited to, hosting, cloud migration, modernization, customization, integration, implementation, installation, maintenance, training, data collection, import, export and backup, record-keeping and reporting, mobile, cloud, and web-based applications or platforms, customer service, auditing, compliance, security, and technical and user support	Vertosoft offers a comprehensive range of services to support the solutions described in the categories we are responding to, categories 1, 2, and 4. Our service offerings are designed to ensure successful deployment, seamless integration, and ongoing operation of the proposed solutions. These services include but are not limited to:  Implementation Services: - Project Kick-off & Oversight - Configuration - Integration  Training Services: - Onboarding - Enablement Training - Specialized Training Program  Support Services: - Remote Support - Ongoing Maintenance & Updates  Additional Services: - Cloud Migration - Modernization - Customization - Installation - Data Services - Record-Keeping & Reporting - Auditing & Compliance - Security

**Table 21: Exceptions to Terms, Conditions, or Specifications Form**

**Line Item 108. NOTICE:** To identify any exception, or to request any modification, to Sourcewell standard Contract terms, conditions, or specifications, a Proposer must submit the proposed exception(s) or requested modification(s) via redline in the Contract Template provided in the "Bid Documents" section. Proposer must upload the redline in the "Requested Exceptions" upload field. All exceptions and/or proposed modifications are subject to review and approval by Sourcewell and will not automatically be included in the Contract.

Do you have exceptions or modifications to propose?	Acknowledgement *
	<input type="radio"/> Yes <input checked="" type="radio"/> No

**Documents**

**Ensure your submission document(s) conforms to the following:**

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Pricing](#) - Vertosoft LLC Pricing - Sourcewell 060624.xlsx - Wednesday June 19, 2024 15:28:50
- [Financial Strength and Stability](#) - 2023 Financial Statement\_Vertosoft.pdf - Tuesday June 18, 2024 12:06:19
- [Marketing Plan/Samples](#) - Vertosoft Sourcewell Marketing Plan.pdf - Tuesday June 18, 2024 13:04:17
- [WMBE/MBE/SBE or Related Certificates](#) - VA small business certification.pdf - Wednesday May 22, 2024 10:41:45
- Warranty Information (optional)
- [Standard Transaction Document Samples](#) - EULAs.zip - Wednesday June 19, 2024 08:22:46
- Requested Exceptions (optional)
- [Upload Additional Document](#) - Additional Documentation.zip - Wednesday June 19, 2024 13:17:58

**Addenda, Terms and Conditions**

**PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE**

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
  1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
  2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
  3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Chet Hayes, CTO, Vertosoft LLC

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the obligations contemplated in the solicitation proposal.

Yes  No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

Bid Number: RFP 060624

Vendor Name: Vertosoft

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
<b>Addendum 17 Software Solutions RFP 060624</b> Mon June 3 2024 10:31 AM	☑	1
<b>Addendum 16 Software Solutions RFP 060624</b> Thu May 30 2024 10:38 AM	☑	4
<b>Addendum 15 Software Solutions RFP 060624</b> Tue May 28 2024 02:32 PM	☑	2
<b>Addendum 14 Software Solutions RFP 060624</b> Fri May 24 2024 03:00 PM	☑	4
<b>Addendum 13 Software Solutions RFP 060624</b> Tue May 21 2024 04:25 PM	☑	1
<b>Addendum 12 Software Solutions RFP 060624</b> Mon May 20 2024 06:33 PM	☑	1
<b>Addendum 11 Software Solutions RFP 060624</b> Fri May 17 2024 03:19 PM	☑	2
<b>Addendum 10 Software Solutions RFP 060624</b> Thu May 16 2024 01:38 PM	☑	4
<b>Addendum 9 Software Solutions RFP 060624</b> Tue May 14 2024 03:18 PM	☑	2
<b>Addendum 8 Software Solutions RFP 060624</b> Thu May 9 2024 12:50 PM	☑	1
<b>Addendum 7 Software Solutions RFP 060624</b> Wed May 8 2024 01:39 PM	☑	1
<b>Addendum 6 Software Solutions RFP 060624</b> Tue May 7 2024 12:00 PM	☑	2
<b>Addendum 5 Software Solutions RFP 060624</b> Fri May 3 2024 01:56 PM	☑	1
<b>Addendum 4 Software Solutions RFP 060624</b> Thu May 2 2024 12:30 PM	☑	1
<b>Addendum 3 Software Solutions RFP 060624</b> Tue April 30 2024 03:17 PM	☑	1
<b>Addendum 2 Software Solutions RFP 060624</b> Mon April 22 2024 02:21 PM	☑	1
<b>Addendum 1 Software Solutions RFP 060624</b> Fri April 19 2024 02:53 PM	☑	1

**AMENDMENT #1  
TO  
CONTRACT # 060624-VTO**

THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell** and **Vertosoft LLC** (Supplier).

Sourcewell awarded a contract to Supplier to provide Software Solutions and Related Services for Public Sector and Education Administration to Sourcewell and its Participating Entities, effective October 23, 2024, through October 25, 2028 (Contract).

The parties wish to amend the Proposal to ensure compliance with Sourcewell’s Procurement Policy and standard government procurement practices.

NOW, THEREFORE, the parties amend the Contract as follows:

1. Line item 69 of “Table 11: Pricing and Delivery” of the Proposal is deleted in its entirety and replaced with the following: “Due to the number of suppliers we are proposing and thus the large number of parts this brings, Vertosoft is providing a percentage discount off our catalog by supplier. This table, with each supplier listed alphabetically can be found under contract documentation on Vertosoft’s Sourcewell landing page, titled “Contract 060624-VTO-Price Information.” This table will be updating accordingly when new additions, removals, etc. are approved through Contract. A Master Price File will also be internally maintained and made available upon request.”
  
2. Line item 70 of “Table 11: Pricing and Delivery” of the Proposal is delete in its entirety and replaced with the following: “Vertosoft is proposing a large number of suppliers as a part of our submission and therefore a one size fits all approach regarding a price discount is not feasible. The file labeled “Contract 060624-VTO-Price Information” on the contract documentation portion of Vertosoft’s Sourcewell page will be the source for supplier discounts, ranging from 0-50% off MSRP.”

Except as amended by this Amendment, the Contract remains in full force and effect.

**Sourcewell**

**Vertosoft LLC**

Signed by:  
 By: Jeremy Schwartz  
C0FD2A139D06489...  
 Jeremy Schwartz, Chief Operating Officer

DocuSigned by:  
 By: Jay Colavita  
B85871DC292A47C...  
 Jay Colavita, President

Date: 2/19/2025 | 11:34 PM CST

Date: 2/19/2025 | 7:57 PM PST

**A G E N D A I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Telecommunications Franchise Agreement with Forged Fiber 37, LLC

FOR AGENDA OF: October 9, 2025

DEPT. OF ORIGIN: Legal

ATTACHMENTS:

1. Draft Ordinance No. 25-085
2. Application Cover Letter dated July 16, 2025

DATE SUBMITTED: October 1, 2025

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Finance *MZ*
- Human Resources \_\_\_\_\_
- Legal */s/TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works *MPS*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to conduct a first reading of a telecommunications Franchise Agreement with Forged Fiber 37, LLC for the installation of fiber optic facilities in City right-of-way.

**Suggested Motion**

**Motion 1: "I move to pass Draft Ordinance No. 25-085 regarding a telecommunications Franchise Agreement with Forged Fiber 37 to a second reading on October 23, 2025."**

**Background**

A franchise agreement authorizes an entity to make use of the city streets for the purpose of carrying on the business in which it is generally engaged, that is, of furnishing service to members of the public. The grant of a franchise is a special privilege that allows particular individuals to profit from the use of the city streets in a manner not generally available to the public as a common right. The legislature has

granted authority to cities to grant a nonexclusive franchise. RCW 35A.47.040. Once granted, a franchise is a contract which is binding on both the grantor and the grantee.

Forged Fiber 37 submitted a telecommunications franchise application in July of 2025 seeking to deploy fiber optic cables and equipment in City right-of-way to provide voice and data service to businesses and residential customers. Forged Fiber 37 is owned and operated by AT&T, and is currently acquiring the fiber assets and associated facilities that are owned by Lumen that are currently in City right of way.

The City has a standard telecommunications franchise template that was used as the basis for this agreement.

### **Discussion**

The key terms of the franchise agreements are detailed below. The terms of the agreements are consistent with the approved telecommunications franchises previously issued by the City.

1. **Franchise Term:** The term of the Franchise is for 10 years. After 5 years, if either party identifies a specific issue that needs to be addressed, the parties are required to meet to negotiate. This language requires the parties to discuss such issues in good faith at the half-way mark of the 10 year term. The term will extend another 10 years unless either party notifies the other in writing 180 days before the end of the Agreement.
2. **Relocation:** Forged Fiber is solely responsible for relocation costs unless state law requires otherwise. RCW 35.99.060 applies specifically to telecommunications franchises and requires cities to share in some relocation costs for specific instances where a city requires relocation for a private party's benefit or if a city requires relocation twice within a 5 year period.
3. **Right of Way Management, Planning, and Operations:** The Franchise reflects current City practice. Forged Fiber is required to follow City permitting processes prior to installation of facilities or any work in the right-of-way.
4. **Indemnification and Insurance:** The Agreement provides that Forged Fiber will indemnify the City for actions of the company or their agents. Forged Fiber is required to maintain \$5,000,000 in automobile and general liability insurance coverage. This coverage exceeds any reasonably expected liability that could occur from this Agreement.
5. **Franchise Fee:** Forged Fiber will pay the City a one-time franchise fee of \$5,000. This flat fee is consistent with RCW 35.21.860 which requires that a franchise fee be limited to the actual administrative expenses incurred by the City in the negotiation of the franchise. This amount will reimburse the City for the staff costs of the negotiations over the last several months.
6. **Taxes:** Under DMMC 3.68.060(3) the City imposes a 6% tax on telephone businesses. To the extent that revenue is received from the installation of these facilities, the City will receive 6%.
7. **Abandonment:** The Franchise requires that Forged Fiber remove any facilities that have been abandoned in the right of way at their own expense. The City has the option to allow them to be abandoned in place or removed.
8. **Vacation** – The proposed language is an accurate reflection of current practice and does not restrict the City's authority to vacate a right of way. The Agreement requires the City to notify Forged Fiber of a vacation so that they can obtain an easement if one is needed.

**9. Collaboration on City projects** – This Agreement expressly calls out RCW 35.99.070 which requires a service provider that is operating in public right-of-way to provide the City with additional duct or conduit for the City’s purposes. The City would receive this benefit at cost under the Franchise Agreement.

**10. Additional Terms** – The majority of the remainder of the Agreement is boilerplate legal language. All language and terms have been thoroughly reviewed and negotiated and the City’s interests are protected throughout these Agreements.

**Alternatives**

1. Pass the Draft Ordinance to a second reading.
2. Do not pass the Draft Ordinance and provide rationale for not passing.

**Financial Impact**

The City will receive an initial \$5,000 to cover the City’s costs of the negotiation of this Franchise Agreement. Additionally, the City will receive all permitting costs for work to be conducted and any additional staffing time that is spent administering this Agreement can be billed to Forged Fiber.

Finally, the City will receive 6% utility tax on the telephone business conducted by Forged Fiber.

**Recommendation**

The Legal Department, Planning, Building, and Public Works, and Finance Department recommend passing the Draft Ordinance to a second reading.

**DRAFT ORDINANCE NO. 24-087**

**AN ORDINANCE OF THE CITY OF DES MOINES** granting a non-exclusive Franchise to construct, install, operate, maintain, repair, or remove telecommunications facilities within the public ways of the City of Des Moines ("City") to Forged Fiber 37, LLC, a Delaware limited liability company ("Grantee"). Grantee's telecommunications facilities shall not include antennas and support structures specifically for attaching antennas that are used for personal wireless communications services. The City and Grantee are sometimes hereinafter collectively referred to individually as a "party" and collectively as the "parties."

**WHEREAS**, Forged Fiber 37, LLC, a Delaware limited liability company, is a competitive telecommunications company providing telecommunication services, including voice, internet and data services, which desires to occupy the City of Des Moines rights-of-ways to install, construct, operate, and maintain its telecommunications facilities and network for the purpose of providing services to its customers at locations within the City, and

**WHEREAS**, the Grantee has represented to the City that it provides internet access services or acts as a service provider as such term is defined in RCW Section 35.99.010, and

**WHEREAS**, Grantee has applied to the City for a non-exclusive telecommunications service franchise to enter, occupy, and use public ways to construct, install, operate, maintain, and repair telecommunications facilities to offer and provide telecommunications service for hire, sale, or resale in the City, and

**WHEREAS**, the City is authorized by applicable law to grant one or more nonexclusive franchises within the boundaries of the City, and

**WHEREAS**, the 1934 Communications Act, as amended relating to telecommunications providers recognizes and provides local government authority to manage the public rights-of-way and to require fair and reasonable compensation on a competitively neutral and nondiscriminatory basis, and

**WHEREAS**, a franchise does not include, and is not a substitute for any other permit, agreement, or other authorization

required by the City, including without limitation, permits required in connection with construction activities in public ways which must be administratively approved by the City after review of specific plans, and

**WHEREAS**, Grantee shall be responsible for its actual costs in using, occupying and repairing public ways, and

**WHEREAS**, the City and Grantee desire to effectuate good coordination of the use of the rights-of-way, and

**WHEREAS**, the City Council finds that the franchise terms and conditions contained in this Ordinance are in the public interest; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Definitions.**

(1) **Use of words and phrases.** For the purposes of this Franchise, the following terms, phrases, words, and their derivations will have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined will have the meaning ascribed to those words in the Des Moines City Code (DMMC), or in the Federal Communications Act of 1934 as amended, unless inconsistent herewith. The headings contained in this Franchise are to facilitate reference only, do not form a part of this Franchise, and shall not in any way affect the construction or interpretation hereof. The words "shall," "will," and "must" are mandatory, and the word "may" is permissive or directory.

(2) "Abandonment" means the disconnection by the Grantee of specific Facilities from the telecommunications system.

(3) "Affiliate" means any Person who owns or controls, is owned by or controlled by, or is under common ownership or control with Grantee.

(4) "Cable Act" means the Cable Communications Policy Act of 1984 as amended and as may be amended from time to time during the term of this Franchise (47 U.S.C. § 521 et seq., as amended).

(5) "Cable service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(6) "City Council" means the governing body of the City.

(7) "Communications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(8) "Communications applications fees and charges" includes fees and charges connected to right-of-way management, construction permit, permit design fee, building permit, encroachment permit, inspections and pavement restoration.

(9) "Communications service" means the offering of communications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(10) "Communications system" or "system" means only those facilities necessary for Grantee to provide Communications services.

(11) "Conduit" means optical cable housing, jackets, or casing, and pipes, tubes, or tiles used for receiving and protecting wires, lines, cables, and communication and signal lines.

(12) "Costs" means costs, expenses, and other financial obligations of any kind whatsoever.

(13) "Dark fiber" means properly functioning optical cable which is not used or available for use by Grantee or the general public, but may be made available for use under lease to third parties.

(14) "Effective date" means five days following the publication of this Franchise or a summary thereof occurs in an official newspaper of the City as provided by law.

(15) "Emergency" means a condition of immediate and imminent danger to the health, safety, and welfare of property or persons located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots or wars.

(16) "Facilities" means, collectively, any and all telecommunications transmission systems and appurtenances owned by Grantee, now and in the future, in the Franchise Area, including, but not limited to, wire, radio, optical cable, electromagnetic or other similar types of equipment and related appurtenances in any way comprising part of the System.

(17) "FCC or Federal Communications Commission" means the agency as presently constituted by the United States Congress or any successor agency with jurisdiction over telecommunications service matters.

(18) "Fiber optic" means a transmission medium of optical fiber cable, along with all associated optronics and equipment, capable of carrying telecommunication service by means of electric light-wave impulses.

(19) "Franchise area" means the area within the jurisdictional boundaries of the City, including any annexed areas, to be served by Grantee as specified in this Franchise.

(20) "Gross Revenues" means all gross revenues received by Grantee or its affiliates from the provision of intrastate telephone business activities in the City of Des Moines, as described in Utility Tax below.

(21) "Incremental costs" means the actual and necessary costs incurred which exceed costs which would have otherwise been incurred.

(22) "Optical cable" means wires, lines, cables and communication and signal lines used to convey communications by fiber optics.

(23) "Open Video System" means a facility consisting of a set of transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, provided that the Federal Communications Commission has certified that such system complies with 47 CFR 76.1500 et seq.

(24) "Person" means any individual, firm, partnership, association, joint stock company, trust, corporation, company, governmental entity.

(25) "Public ways or rights-of-way" includes the surface, the air space above the surface, and the area below the surface of any public street, highway, parkway, circle, lane, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the City holds any property interest or exercises any rights of management or control and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation, repair, and maintenance of a Telecommunication System. No reference in this Franchise to a public right-of-way shall be deemed to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation, repair, and maintenance of a Telecommunication System, and the Grantee shall be deemed to gain only those rights which the City has the undisputed right and power to give. For this Franchise, public ways and rights-of-way are limited to the areas above the ordinary high water mark of Puget Sound.

(26) "Route map" means a geographic representation of the Grantee's Telecommunication System as it exists within the public right-of-way and within private easements in the Franchise area.

(27) "Subscriber" means any Person who or which purchases, leases, rents, obtains or subscribes to Telecommunications Service provided by Grantee by means of or in connection with the Grantee's Telecommunications System.

(28) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's

choosing, without change in the form or content of the information as sent and received.

(29) "Telecommunications applications fees and charges" includes fees and charges connected to right-of-way management, construction permit, permit design fee, building permit, encroachment permit, inspections and pavement restoration.

(30) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Telecommunications service shall also include offering Internet access, private line service, front- and back-haul transport and/or leasing dark fiber directly to the public or third parties.

(31) "Telecommunications system" or "system" means only those facilities necessary for Grantee to provide Telecommunications service.

(32) "Underground facilities" means facilities located under the surface of the ground, other than underground foundations or supports for overhead facilities.

(33) "Utility poles" means poles, and crossarms, devices, and attachments directly affixed to such poles which are used for the transmission and distribution of electrical energy, signals, or other methods of communication.

(34) "Wireless Communications Facilities" means the site, wireless communications support structures, antennas, accessory equipment structures, and appurtenances used to transmit, receive, distribute, provide or offer personal wireless communications services. Wireless communications facilities include, but are not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, and electronic switching equipment.

**Sec. 2. Franchise - Grant of authority.**

(1) **Use of public rights-of-way.** There is hereby granted to Grantee the right and privilege, to have, acquire, construct, reconstruct, upgrade, repair, maintain, use, and operate in the

City a Telecommunications System, and to have, acquire, construct, reconstruct, repair, maintain, use, and operate in, over, under, and along the present and future Public rights-of-way of the City all necessary Facilities, including without limitation, desirable wires, cables, electronic conductors, underground conduits, vaults, and other structures and appurtenances necessary for the construction, maintenance, and operation of Grantee's Telecommunications system in the Franchise Area. Grantee or Affiliates shall not install or construct facilities within the City's Public Rights-of-Way which are not authorized by this Franchise or lawfully allowed by applicable local, state, or federal law.

(2) **Additional services/compensation.** By granting this Franchise, the City does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered over the Telecommunication system which are not Telecommunication services. Upon request, Grantee shall inform City of any non-Telecommunication and/or Telecommunication services offered over the Telecommunication system of which Grantee or its Affiliates are aware. By accepting this Franchise, Grantee does not waive any right it has under law to challenge the City's requirement for authorization to provide non-Telecommunication Services.

(3) **Responsibility for costs.** Except as expressly provided otherwise, any act that Grantee is required to perform under this Franchise shall be performed at Grantee's cost. If Grantee fails to perform work that it is required to perform within the time provided for performance or a cure period, the City may perform the work and bill the Grantee for documented costs. The Grantee shall pay the amounts billed within thirty (30) days. The parties agree that any amounts paid pursuant to this Section are not Franchise fees and fall within one or more of the exceptions to the definition of Franchise fee under federal law. Nothing in this section is intended to affect in any way (by expansion or contraction) Grantee's rights under applicable law governing the ability to impose any costs, including but not limited to the rates charged.

(4) **Publication costs.** Any and all costs of publication related to this Franchise which may be required by law or action of City Council shall be borne by Grantee. Any

payments made by the City under this provision are to be reimbursed to the City within thirty (30) days of Grantee's receipt of the invoice.

(5) **Franchise non-exclusive.** The rights, privileges of any franchise granted pursuant to chapter 20.04 of the Des Moines Municipal Code (DMMC) shall be nonexclusive. This Franchise shall not be construed as any limitation upon the right of the City, through its proper officers, to grant to other persons or corporations, including itself, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways by Franchise, permit or otherwise. The City shall not authorize or permit any Person providing telecommunications services to enter into the Public rights-of-way in any part of the City on terms or conditions that, when viewed collectively, are generally more favorable or less burdensome to such Person than those applied to the Grantee pursuant to this Franchise.

(6) Nothing in this Franchise excuses Grantee of its obligation to identify its facilities and proposed facilities and their location or proposed location in the public ways and to obtain use and/or development authorization and permits from the City before entering, occupying, or using public ways to construct, install, operate, maintain, repair, or remove such facilities.

(7) Nothing in this Franchise excuses Grantee of its obligation to comply with applicable codes, rules, regulations, and standards subject to verification by the City of such compliance.

(8) Nothing in this Franchise shall be construed to limit taxing authority or other lawful authority to impose charges or fees, or to excuse Grantee of any obligation to pay lawfully imposed charges or fees. Notwithstanding any other provision of this Franchise, nothing in this Franchise is intended to alter, amend, modify or expand the taxes and fees that may lawfully be assessed on Franchisee's business activities under this Franchise under applicable law.

(9) Nothing in this Franchise grants authority to Grantee to impair or damage any City property, public way, other ways or other property, whether publicly or privately owned.

(10) Nothing in this Franchise shall be construed to create a duty upon the City to be responsible for construction of facilities or to modify public ways to accommodate Grantee's facilities.

(11) Nothing in this Franchise shall be construed to create, expand, or extend any liability of the City to any third party user of Grantee's facilities or to otherwise recognize or create third party beneficiaries to this Franchise.

(12) Nothing in this Franchise shall be construed to permit Grantee to unlawfully enter or construct improvements upon the property or premises of another.

(13) Nothing in this Franchise grants authority to Grantee to enter, occupy or use City property, nor to install or construct facilities within the City's Public rights-of-way which are not authorized by this Franchise or lawfully allowed by applicable local, state, or federal law.

(14) Nothing in this Franchise grants authority to Grantee to provide or offer cable service as cable service is defined in 47 U.S.C. § 522(6), Open Video System services. This Franchise does not relieve Grantee of any obligation it may have to obtain from the City separate authorization to provide Cable or Open Video System services, or relieve Grantee of its obligation to comply with any such authorizations that may be lawfully required.

(15) Grantee may use its facilities authorized by this Franchise to provide telecommunications service only as expressly provided in this Franchise.

**Sec. 3. Term evaluation, and renewal.**

(1) This Franchise shall run for a period of ten (10) years unless extended or terminated sooner as hereinafter provided. This Franchise shall commence after the effective date of this Franchise and in accordance with the written acceptance requirements herein.

(2) Should the Parties fail to formally renew this Franchise prior to the expiration of the ten (10) year renewal period, the Franchise shall automatically continue on a month to month period until renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

(3) On the fifth (5th) anniversary of this Franchise, if either party identifies one or more specific issues that the party believes may require a reevaluation of one or more of the material terms of this Franchise, the Parties agree to discuss such issues diligently and in good faith. Notwithstanding the foregoing, either party may at any time during the term of this Franchise, request a clarification of a term, or seek an amendment to, this Franchise.

**Sec. 4. Compliance with City, state, and federal laws.**

(1) **Compliance with applicable laws.** Grantee shall at all times comply with all laws, rules, and regulations of the City, state and federal governments and any administrative agencies thereof which are applicable to all businesses in the City and/or all users of the Public rights-of-way. The express provisions of this Franchise constitute a valid and enforceable contract between the parties.

(2) **Other ordinances.** This Franchise and all rights and privileges granted hereunder are subject to, and the Grantee must exercise all rights in accordance with, applicable law, as amended over the Franchise term. However, this Franchise is a contract, subject only to the City's exercise of its police powers and applicable law, and in case of any conflict between the express terms of this Franchise and any ordinance enacted by the City, this Franchise shall govern, except where such ordinance would result in a competitor to Grantee having more favorable franchise

terms than Grantee in which case City will notify Grantee and offer Grantee the opportunity to amend this Franchise consistent with such terms. This Franchise does not confer rights or immunities upon the Grantee other than as expressly provided herein. The Grantee reserves the right to challenge provisions of any ordinance that conflicts with its contractual rights, and does not waive its right to challenge the lawfulness of a particular enactment, including on the grounds that a particular action is an unconstitutional impairment of contractual rights.

(3) **Police power of the City.** Construction, maintenance, and operation of Grantee's Telecommunication system and all property of Grantee subject to the provisions of this Franchise shall be subject to all lawful police powers, rules, and regulations of the City. The Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise area. The City reserves the right to use, occupy and enjoy any Public rights-of-way or other public places for any purpose, including without limitation, the construction of any water, sewer or storm drainage system, installation of traffic signal systems, intelligent transportation systems, street lights, trees, landscaping, bicycle paths and lanes, equestrian trails, sidewalks, other pedestrian amenities, other City services, or uses not limited to the enumerated items as listed herein, and other public street improvement projects. The City shall have the power at any time to order and require Grantee to remove or abate any pole, line, tower, wire, cable, guy, conduit, electric conductor, or any other structure or facility that is dangerous to life or property. In the event Grantee, after written notice, and the unencumbered ability to comply, fails or refuses to act within thirty (30) days of such written notice, City shall have the power to remove or abate the same at the expense of Grantee, all without compensation or liability for damages to Grantee except in instances when the damage is caused by negligence or willful misconduct of the City or its agents. Any conflict between the terms or conditions of this Franchise and any other present or future exercise of the City's police powers will be resolved in favor of the exercise of the City's police power.

(4) **Notification in the event of preemptive law.** Grantee shall use its best efforts to notify the City of any change in

law that materially affects Grantee's rights or obligations under this Franchise.

(5) **Amending franchise to conform to subsequent law.** The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or a City Ordinance enacted pursuant to such federal or state statute or regulation, upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

**Sec. 5. Conditions of public rights-of-way occupancy.**

(1) **Use permits and/or development authorization.** Grantee shall obtain use, right-of-way construction, and/or development authorization and required permits from the City and all other appropriate regulatory authorities prior to constructing or installing facilities or performing other work in the franchise area. Grantee shall provide the following information for all facilities that it proposes to construct or install:

(a) Engineering plans, specifications and a network map of the proposed facilities and their relation to existing facilities, in a format and media requested by the City in sufficient detail to identify:

(i) The location and route of the proposed facilities;

(ii) When requested by the City, the location of all overhead and underground public utility, communication, cable, water, sewer, drainage and other facilities in the public way along the proposed route, provided the information is readily observable or obtainable from the City;

(iii) When requested by the City, the location(s), if any, for interconnection with the communication facilities of others;

(iv) The specific trees, structures, improvements, facilities and obstructions, if any, that Grantee proposes to temporarily or permanently alter, remove or relocate.

(b) If Grantee is proposing to install overhead facilities, the Grantee shall provide evidence that the proposed overhead installation is in compliance with all applicable provisions of the Des Moines Municipal Code. The Grantee shall also provide evidence of Grantee's authorization to use each utility pole along the proposed route together with any conditions of use imposed by the pole owner(s) for each pole, and written acknowledgement by the Grantee that if the overhead facilities are subsequently relocated underground, the Grantee shall relocate underground at no cost to the City, except as otherwise provided in RCW Section 35.99.060.

(c) If Grantee is proposing to install underground facilities in existing ducts or conduits within the public ways, information in sufficient detail to identify:

(i) Evidence of ownership or authorization to use such ducts or conduits;

(ii) Conditions of use imposed by the owner(s) of the ducts or conduits;

(iii) If known to Grantee or reasonably ascertainable to Grantee, the total capacity of such ducts or conduits; and

(iv) If known to Grantee or reasonably ascertainable to Grantee, the amount of the total capacity within such ducts or conduits which will be occupied by Grantee's facilities.

(d) If Grantee is proposing to install underground facilities in new ducts or conduits within the public ways:

(i) The location proposed for new ducts or conduits;

(ii) The total capacity of such ducts or conduits; and

(iii) The initial listing of co-located facilities located within Grantee constructed or installed ducts or conduits.

(e) A preliminary construction schedule and completion date together with a traffic control plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) for any construction.

(f) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities.

(g) Such other documentation and information regarding the facilities requested by the City.

(h) The requirements of this section do not apply to installation of optical cable necessary to connect a customer of Grantee to a previously approved facility; provided that neither excavation nor trenching in the public right-of-way is required; that the optical cable does not cross a distance of more than eighty (80) feet from its point of connection to the approved facility and the point where it exits the public right-of-way; that the optical cable connection meets or exceeds all applicable technical standards required by law; that the optical cable connection is durable and installed in accordance with good engineering, construction, and installation practices and does not interfere with the public use of the public ways, or adversely affect public health, safety or welfare; that the optical cable connection is constructed and installed to conform to all applicable federal, state, local, and industry codes, rules, regulations, and standards; and that the optical cable connection does not damage or impair the City's public way or property.

(i) The requirements of this section do not apply to repair or maintenance of a previously approved overhead facility; provided that the location and size of the previously

approved facility is not materially changed; that no additional new facilities are constructed or installed; that the repair or maintenance activities are conducted in accordance with good engineering, repair, and maintenance practices and do not interfere with the public use of the public ways, or adversely affect public health, safety, or welfare; that maintenance or repair activities conform to all federal, state, local, and industry codes, rules, regulations, and standards; and that the repair or maintenance activities comply with the City Code.

(2) **Construction and installation requirements.**

(a) Grantee's System shall be constructed and maintained in such manner as not to interfere with in-place sewers, water pipes or any other property of City, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been placed in rights-of-way by, or under, City's authority.

(b) All facilities shall be constructed and installed in such manner and at such points so as not to inconvenience City or public use of the public ways or to adversely affect the public health, safety or welfare and in conformity with plans approved by the City, except in instances in which deviation may be allowed by the City.

(c) Interference with use of streets. When installing, locating, constructing or maintaining Facilities, the Grantee shall not interfere with the use of any street to any greater extent than is necessary, and shall leave the surface and subsurface of any such street in as good condition as it was prior to performance by the Grantee of such work, to the satisfaction of the City.

(d) The Grantee shall apply for, obtain, and comply with the terms of all permits required under Des Moines Municipal Code sections regulating construction and maintenance within the right-of-way for any work done upon Grantee Facilities. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner. Grantee shall have the sole responsibility for obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or

authorization necessary to construct, operate, maintain or repair or expand the System, and to construct, maintain and repair any part thereof.

(e) The Telecommunications system constructed, maintained and operated by virtue of this Franchise, shall be so constructed, maintained and operated in accordance with all applicable engineering codes adopted or approved by the City, State of Washington, federal government and/or engineering profession and in accordance with any applicable Statutes of the State of Washington, rules and regulations of the applicable Washington regulatory authority, Ordinances of the City or of any other governmental regulatory commission, board or agency having jurisdiction over Grantee.

(f) The construction plans and Grantee's operations shall conform to all federal, state, local, and industry codes, rules, regulations, standards and laws. Grantee must cease work immediately if the City determines that Grantee is not in compliance with such codes, rules, regulations, or standards, and may not begin or resume work until the City determines that Grantee is in compliance. The City shall not be liable for any costs arising out of delays occurring as a result of such work stoppage.

(g) Neither approval of plans by the City nor any action or inaction by the City shall relieve Grantee of any duty, obligation, or responsibility for the competent design, construction, and installation of its facilities. Grantee is solely responsible for the supervision, condition, and quality of the work done, whether it is performed by itself or by its contractors or agents.

(h) Except as to emergency repairs, Grantee shall, prior to excavating within any street, alley or other public place, and installing any conduit, overhead cable or equipment therein, file with the City Manager or designee plans and specifications thereof showing the work to be done, the location and nature of the installation to be made, repaired or maintained, and a schedule showing the times of beginning and completion and shall secure a permit from the City before proceeding with any such work. The Grantee shall conform to all applicable requirements of the City Code, as it currently exists or as it may be amended.

(i) All construction and/or maintenance work as provided herein shall be performed in conformity with the plans and specifications filed with the City and with the permit or permits issued, except in instances in which deviation may be allowed thereafter in writing pursuant to an application by the Grantee.

(j) Excavation work requiring a permit from the City shall only commence upon the issuance of applicable permits by the City, which permits shall not be unreasonably withheld or delayed. However, in the event of an emergency requiring immediate action by Grantee for the protection of the Facilities, City property or other persons or property, Grantee may proceed without first obtaining the normally required permits. In such event Grantee must (1) take all necessary and prudent steps to protect, support, and keep safe from harm the Facilities, or any part thereof; City property; or other persons or property, and to protect the public welfare, health and safety; and (2) as soon as possible thereafter, must obtain the required permits and comply with any mitigation requirements or other conditions in the after-the-fact permit.

(k) In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City Manager or designee in writing as promptly as possible, before such repair or emergency work commences, or as soon thereafter as possible, if advance notice is not practical. The City may act, at any time, without prior written notice in the case of emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances.

(l) Unless such condition or regulation is in conflict with a federal or state requirement, the City may condition the granting of any permit or other approval that is required under this Franchise, in any manner reasonably necessary for the safe use and management of the public right-of-way or the City's property including, by way of example and not limitation, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and rights-of-way improvements, private facilities and public safety.

(m) New facilities shall be constructed in accordance with the following terms and conditions:

(i) Facilities shall be installed within the Grantee's existing underground duct or conduit whenever excess capacity exists.

(ii) Overhead facilities shall be installed on pole attachments to existing utility poles only, and then only if space is available.

(iii) Whenever all existing telephone and electric utilities are located underground within public ways, the Grantee must also locate its facilities underground.

(iv) Whenever all new or existing telephone and electric utilities are located or relocated underground within public ways, the Grantee that currently occupies the same public ways shall concurrently relocate its Facilities underground at its own expense, except as otherwise provided in RCW Section 35.99.060.

(n) Display of right-of-way permit. The Grantee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Manager or designee at all times when construction work is occurring.

(o) Construction schedule. The Grantee shall submit a written construction schedule to the City Manager or designee prior to commencing any work in or about the public ways in accordance with City regulations.

(p) Locator service compliance. The Grantee, before commencing any construction in the public ways, shall call for location in accordance with RCW 19.122.

(q) Placement. All facilities, and structures shall be located and placed in accordance with a valid permit so as to cause minimum interference with the rights and reasonable convenience of adjacent property owners. All facilities shall be maintained in a safe condition, and in good order and repair. Suitable barricades, flags, lights, flares, or other devices shall be used during construction activities at such times and places as

are reasonably required for the safety of the public. Any poles or other fixtures placed in any street by the Grantee shall be placed in such manner as not to interfere with the usual travel on such public way. Exact placement within the right-of-way shall be coordinated with the City and other utilities in order to provide for maintenance and future expansion, as well as, for the safety of the public. The City reserves the reasonable right as to final placement.

(r) Completion of construction. The Grantee shall promptly complete all construction activities so as to minimize disruption of the public ways and other public and private property. All construction work authorized by a permit within public ways, including restoration, must be completed within 90 calendar days of the date of issuance or at such other interval as the City may specify in writing upon issuance of the permit.

(s) Non-complying work. Upon order of the City Manager or designee, all work which does not comply with the provisions of this Franchise shall be brought into compliance with this Franchise.

(t) The City reserves the right to install, and permit to be installed, sewer, electric, phone, gas, water and other pipelines, cables, conduits and related appurtenances and to do, or permit to be done, any underground or overhead work in, across, along, over or under a public way or other public place occupied by Grantee. The City also reserves the right to construct new streets and public utilities and to alter the design of existing streets and public utilities. In performing such work, the City shall not be liable to Grantee for any damage, except in the event of the contributory negligence or willful misconduct of the City or its contractors, but nothing herein shall relieve any other person or entity from the responsibility for damages to Grantee's Facilities. The City will use its best efforts to provide Grantee with reasonable advance notice of plans by other persons to open the public ways.

**(3) Coordination of construction and installation activities.**

(a) Grantee shall coordinate its construction and installation activities and other work with the City and all other

users of the public ways, including utilities located within the franchise area.

(b) All construction or installation locations, activities and schedules shall be coordinated, as ordered by the City, to minimize public inconvenience, disruption or damages.

(c) At least forty-eight (48) hours prior to entering a public way to perform construction and installation activities or other work, Grantee shall give notice, at its cost, to owners and occupiers of property adjacent to such public ways indicating the nature and location of the work to be performed. Such notice shall be physically posted by door hanger. Grantee shall make a good faith effort to comply with the property owner or occupier's preferences, if any, on location or placement of underground facilities, consistent with sound engineering practices.

(d) The City shall give reasonable advance notice to Grantee of plans to open public ways for construction or installation of facilities; provided, however, the City shall not be liable for damages for failure to provide such notice, except in the event of the contributory negligence or willful misconduct of the City or its contractors. When such notice has been given, Grantee shall provide information requested by the City regarding Grantee's future plans for use of the public way to be opened. When notice has been given, Grantee may only construct or install facilities during such period that the City has opened the public way for construction or installation.

(4) **Relocation.** Grantee shall relocate its facilities as ordered by the City Manager or designee at no expense or liability to the City, except as otherwise provided in RCW Section 35.99.060, when there is construction, alteration, repair or improvement of a public way. Grantee shall complete the relocation by the date specified by the City. Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change or relocation. Grantee shall relocate its facilities at its own expense except where the Grantee had paid for the relocation costs of the same facilities at the request of the City within the past five (5) years, the Grantee's share of the cost of

relocation will be paid by the City if it requested the subsequent relocation or as otherwise provided in RCW Section 35.99.060.

**(5) Temporary removal, adjustment or alteration of facilities.**

(a) Grantee shall temporarily remove, adjust or alter the position of its facilities at its cost, except as otherwise provided in RCW Section 35.99.060, at the request of the City for public projects, events, or other public operations or purposes.

(b) Grantee shall locate the precise horizontal and vertical location of its underground facilities by excavating upon request of the City. If the City's request is in support of a City project, the Grantee shall complete this service within 14 days at no cost to the City, except as otherwise provided in RCW Section 35.99.060. If the City's request is in support of a third party's project, the Grantee shall be entitled to recover its cost from the project sponsor as set forth in RCW Section 35.99.060.

(c) If any person requests permission from the City to use a public way for the moving or removal of any building or other object, the City shall, prior to granting such permission, require such person or entity to make any necessary arrangements with Grantee for the temporary removal, adjustment or alteration of Grantee's facilities to accommodate the moving or removal of said building or other object. In such event, Grantee shall, at the cost of the person desiring to move or remove such building or other object, remove, adjust or alter the position of its facilities which may obstruct the moving or removal of such building or other object, provided that:

(i) The moving or removal of such building or other object which necessitates the temporary removal, adjustment or alteration of facilities shall be done at a reasonable time and in a reasonable manner so as to not unreasonably interfere with Grantee's business, consistent with the maintenance of proper service to Grantee's customers;

(ii) Where more than one route is available for the moving or removal of such building or other object, such building or other object shall be moved or removed along the route

which causes the least interference with the operations of Grantee, in the sole discretion of the City;

(iii) The person obtaining such permission from the City to move or remove such building or other object may be required to indemnify and save Grantee harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the moving or removal of such building or other object, to the extent such injury or damage is caused by the negligence or willful misconduct of the person moving or removing such building or other object or the negligence or willful misconduct of the agents or employees of the person moving or removing such building or other object; and

(iv) Completion of notification requirements by a person who has obtained permission from the City to use a public way for the moving or removal of any building or other object shall be deemed to be notification by the City.

(d) The City may require Grantee to temporarily remove, adjust or alter the position of Grantee's facilities as the City may reasonably determine to be necessary at no cost to the City, except as otherwise provided in RCW Section 35.99.060, for work deemed needed by the City in the Rights-of-Way. The City shall not be liable to Grantee or any other party for any direct (except as a result of the negligence or willful misconduct of the City or its contractors), indirect, consequential, punitive, special or other damages suffered as a direct or indirect result of the City's actions.

(e) The temporary removal, adjustment or alteration of the position of Grantee's facilities shall not be considered relocation for any purpose whatsoever, except as otherwise provided in RCW Section 35.99.060.

(6) **Tree trimming.** The Grantee shall have the authority to trim trees or other natural growth on public property or which overhang streets, alleys, sidewalks and public ways of the City so as to prevent the branches of such trees from coming in contact with the Grantee's wires, cables or other equipment that may be damaged due to continued contact. Grantee takes full responsibility for removing debris when the work is complete. All

trimming is to be done at the sole expense and responsibility of Grantee.

Trimming of trees and shrubbery within or overhanging the public ways to prevent contact with Grantee's Facilities shall be done in such a manner to cause the minimum amount of damage to trees and shrubs. If in the City's determination, trees are excessively damaged as a result of the work undertaken by or on behalf of Grantee, Grantee shall pay the City, within 30 days of submission of a statement by the City, the reasonable cost of any treatment required to preserve a tree or shrub or the cost for removal and replacement of the tree or shrub with landscaping of equal value or the value of the tree or shrub prior to the damage or removal, as determined by the City Manager or designee.

Any trimming or removal of trees or shrubs shall be done in full compliance with the City's Ordinances and all other laws or regulations of the City.

**(7) Underground installation.**

(a) The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities, provided such requirement is applied on a non-discriminatory basis as required under applicable state or federal law.

(b) Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Grantee shall underground the Grantee Facilities in the manner specified by the City Manager or designee at no expense or liability to the City, except as otherwise provided in RCW Section 35.99.060. Where other utilities are present and involved in the undergrounding project, Grantee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trench excavation, backfill, and restoration, and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

(c) Grantee shall abide by chapter 19.122 RCW (Washington State's "Underground Utilities" statutes) and will

further comply with and adhere to local procedures, customs and practices relating to the one call locator service program.

(8) **Ducts and conduits.**

(a) If the Grantee is constructing underground conduit for its own use, the City may require the Grantee construct excess conduit, ducts, and related access structures in the public ways for the City, provided that the City enters into a contract with the Grantee consistent with RCW 80.36.150. The contract rates to be charged should recover the incremental costs of the Grantee, calculated as the difference between what the Grantee would have paid for the construction of its facilities and the additional cost only of construction of the City's excess conduit, ducts, and related access structures. If the City makes the additional conduit available to any other entity for the purposes of providing telecommunications service or cable service for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the Grantee shall recover at least the fully allocated costs of the Grantee. The Grantee shall state both contract rates in the contract. The City shall inform the Grantee of the use, and any change in use, of the requested conduit, ducts, and related access structures, if any, to determine the applicable rate to be paid by the City.

(b) The City shall not require that the additional conduit space be connected to the access structure and vaults of the Grantee.

(c) Except as expressly provided in this section, Grantee shall not charge the City for any costs, of any kind whatsoever, for facilities provided by Grantee in accordance with this section.

(d) The provisions of this section shall conform to the requirements of RCW 35.99.070.

(9) **Location of Grantee facilities.**

(a) From time to time, the City, or its representatives, may request identification of the specific location of Grantee System facilities installed in the City's rights of way during the term of this Franchise. The Grantee agrees to respond to such request within forty-eight (48) hours of the receipt of the request, excluding delays due to weather or other conditions. In the event that Grantee cannot locate such information within forty-eight (48) hours, Grantee shall notify the City. If Grantee fails to notify the City of its facilities locations within forty eight (48) hours, and damage is caused to Grantee's facilities as a direct result, the Grantee shall hold the City harmless from all liability, damage, cost or expense resulting from the City's actions in this regard unless such damage was caused by the negligence or willful misconduct of the City or its agents.

(b) Report of underground facilities. From time to time the City may require to design or construct right-of-way improvements in a specific area, the City or its designee may require the Grantee to submit a report of existing underground system facilities for a specific area of the City that will be impacted as a result of a planned right-of-way improvement. Within thirty (30) days after receipt by the Grantee of a request from the City or its designee, the Grantee shall submit a report of underground system facilities that shall comply with the following provisions:

(i) Certification by an engineer licensed in the State of Washington employed by the Grantee that the report accurately depicts the location of all system facilities, including drop service lines to individual subscribers, if any. The accuracy of this report shall be noted based upon the capability of the locating equipment used.

(ii) The accurate depth of the underground facility, as may be available based upon the capability of the locating device used. The accuracy of this information shall be noted.

(iii) Submittals shall be provided in hardcopy, and if available, electronically as an AutoCAD or ArcView file.

(iv) The City and Grantee recognize the importance of making best efforts to communicate during the planning and construction phases of right-of-way improvement projects. To that end, the City and Grantee agree to work cooperatively and to be reasonable and timely in requesting and providing necessary information. In the event the City reasonably determines that more precise information is needed for a specific aspect of a right-of-way project, the Grantee agrees to take the necessary steps to provide such precise information within thirty (30) days of receipt of request. If it is necessary for the Grantee to pot-hole or excavate and restore portions of the right-of-way to respond to the City's information request, the Grantee agrees to take such steps at its expense, , except as otherwise provided in RCW Section 35.99.060, and the City agrees to waive all permitting and inspection fees therefore.

(c) Within sixty (60) days of the effective date of this Franchise, Grantee shall provide the City with a current route map of the Telecommunication System located within the City. Upon City request, but no more often than once each year during the term of this Franchise, the Grantee shall provide the City with an updated route map showing the changes that have occurred in the Telecommunication System.

(d) Grantee agrees to obtain facilities location information from other users of the Public rights-of-way prior to Grantee's construction, reconstruction, maintenance, operations and repair of the Grantee's System facilities.

(10) **Removal and abandonment of facilities.** In the event that the use of any part of the Grantee's system is discontinued for any reason for a continuous period of twelve (12) months, or in the event such system equipment or facilities have been installed in any public ways or rights-of-way without complying with the requirements of this Franchise or other City ordinances, or the Franchise has been terminated or has expired, upon receiving ten (10) business days prior written demand from the City, the Grantee shall promptly remove, at its expense, such affected equipment or Facilities, other than any which the City may permit

to be abandoned in place, from the public ways of rights-of-way. Said removal shall be completed within one-hundred eighty (180) days from receipt of the City's written demand. In the event of such removal, the Grantee shall promptly restore the public ways or rights-of-way from which such property has been removed to a condition satisfactory to the City. Any affected equipment or facilities of the Grantee remaining in place one-hundred eighty-one (181) days after the termination or expiration of the Franchise, and upon written notice from the City, shall be considered permanently abandoned. The City may extend such time not to exceed an additional ninety (90) days with prior written request from the Grantee, and such request shall not be unreasonably withheld. Any equipment or facilities of the Grantee that the City allows to be abandoned in place shall be abandoned in such manner as the City shall prescribe. Upon permanent abandonment of the equipment or facilities of the Grantee in place, the equipment or Facilities shall become that of the City, and the Grantee shall submit to the City Clerk an instrument in writing, to be approved by the City Attorney, transferring to the City the ownership of such equipment or facilities. None of the foregoing affects or limits the Grantee's rights to compensation for an involuntary abandonment of its equipment or facilities under state or federal law.

(11) **Safety and maintenance requirements.**

(a) All work authorized and required under this Franchise will be performed in a safe, thorough, and workmanlike manner.

(b) Grantee, in accordance with applicable federal, state, and local safety requirements shall, at all times, employ ordinary care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to occur. All facilities, wherever situated or located, shall at all times be kept in a good, safe, and suitable condition. If a violation of a safety code or other applicable regulation is found to exist by the City, the City may, after discussions with Grantee, establish a reasonable time for Grantee to make necessary repairs. If the repairs are not made within the established time frame, the City may make the repairs itself at the cost of the Grantee or have them made at the cost of Grantee.

(c) If Grantee fails to commence, pursue or complete any work required by law, this Franchise or any applicable permit to be done in any public way within the time prescribed and to the satisfaction of the City, the City may at its discretion cause the work to be done. Grantee shall pay to the City the reasonable costs of the work in an itemized report provided by the City to Grantee within 30 days after receipt of such report.

(d) Grantee, and any person acting on its behalf, shall provide a traffic control plan that conforms to the latest edition of the Manual of Uniform Traffic Control Devices (MUTCD). Said plan shall use suitable barricades, flags, flagmen, lights, flares, and other measures as required for the safety of all members of the general public during the performance of work, of any kind whatsoever, in public ways to prevent injury or damage to any person, vehicle, or property. Grantee shall implement and comply with its approved traffic control plan during execution of its work. The traffic control plan shall be developed and kept on site in Grantee's possession for all work impacting vehicular and pedestrian traffic. Traffic control plans may be modified as necessary by the Grantee to achieve effective and safe traffic control. All road closures requested by Grantee require a detour plan submitted at least 48 hours in advance and prior City approval unless there is an emergency.

(e) Grantee shall maintain its facilities in proper working order. Grantee shall restore its facilities to proper working order upon receipt of notice from the City that facilities are not in proper working order. The City may, after discussions with Grantee, establish a reasonable time for Grantee to restore its facilities to proper working order. If the facilities are not restored to proper working order within the established time frame, the City may restore the facilities to proper working order or have them restored at the cost of Grantee.

(f) The City shall have the right to inspect all construction and installation work performed by Grantee pursuant to this Franchise to the extent necessary to ensure compliance by Grantee. On an ongoing basis, Grantee shall certify to the City that Grantee's work is being performed and completed in a satisfactory manner.

(g) On notice from the City that any work is being performed contrary to the provisions herein, or in an unsafe or dangerous manner or in violation of the terms of any applicable permit, laws, regulations, ordinances or standards, the City may issue a stop work order and Grantee shall stop the work immediately. The City shall issue a stop work order in writing, unless given verbally in the case of an emergency, and provide the order to the individual doing work or post it on the work site. A copy of the order shall be sent to Grantee, and the order must indicate the nature of the alleged violation or unsafe condition and the conditions under which Grantee may resume work.

(12) **Removal of unauthorized facilities.** Within thirty (30) days following written notice from the City, Grantee shall, at its expense, remove unauthorized facilities and restore public rights-of-way and other property to as good a condition as existed prior to construction or installation of its facilities. Any plan for removal of said facilities must be approved by the City prior to such work. Facilities are unauthorized and subject to removal in the following circumstances:

(a) Upon expiration, termination, or cancellation of this Franchise;

(b) Upon abandonment of the facilities. Facilities shall be deemed abandoned if they are unused by Grantee as described in Section 5(10);

(c) If the facilities were constructed or installed prior to the effective date of this Franchise; unless such facilities were constructed or installed upon the condition of subsequent approval of this Franchise with the consent of the City; or unless Grantee acquired such facilities from a pre-existing user of the City's rights of way, and no notice of unauthorized facilities was received by the assignor from City prior to the date the facilities were acquired by Grantee.

(d) If the facilities were constructed, installed, operated, maintained, or repaired without the prior issuance of required use and/or development authorization and permits;

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(e) If the facilities were constructed or installed or are operated, maintained or repaired in violation of the terms or conditions of this Franchise; or

(f) If the facilities are unauthorized for any reason whatsoever.

(13) **Restoration of public ways and other property.**

(a) Whenever necessary, after construction or maintaining any of Grantee's Facilities within the Rights-of-Way, the Grantee shall, without delay, and at Grantee's sole expense, except as otherwise provided in RCW Section 35.99.060, remove all debris and restore the surface and subsurface disturbed by Grantee as nearly as possible to as good or better condition as it was in before the work began. Grantee shall replace any property corner monuments, survey reference or equipment that were disturbed or destroyed during Grantee's work in the rights-of-way. Such restoration shall be done in a manner consistent with applicable codes and laws and to the City's satisfaction and specifications where applicable. Grantee agrees to pay all costs and expenditures required on the rights-of-way as a result of settling, subsidence, or any other need for repairs or maintenance resulting from excavations made by Grantee for necessary trench patch maintenance, for a period of ten years from the date such maintenance was performed, normal wear and tear excepted. Favorable weather conditions permitting, Grantee agrees to repair rights-of-way as a result of settling, subsidence, or other needed repairs or maintenance resulting from excavations made by the Grantee upon 30 days notice, unless there is an emergency, in which case such work shall be completed upon forty-eight (48) hours' notice excluding weekends and holidays. If Grantee fails to undertake such repairs as herein provided, the City may perform the repairs at Grantee's expense.

(b) Landscape restoration. All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, operation, repair or replacement of the Grantee's facilities, shall be replaced or restored, at the Grantee's expense to the condition existing prior to performance of the work, except as otherwise provided in RCW Section 35.99.06.

(14) **Poles, structures, and property owned by others.** If and when the Grantee is authorized to install communication facilities aerially in accordance with chapter 12.48 of the Des Moines Municipal Code (DMMC), Grantee must obtain written approval from the owners of utility poles, structures and property not owned by Grantee prior to attaching to or otherwise using such poles, structures or property, and provide proof of such approval to the

City. The City makes no representation and assumes no responsibility for the availability of utility poles, structures, and property owned by third parties for the installation of Grantee's facilities. The City shall not be liable for the unavailability of utility poles, structures, and property owned by the City or third parties for any reason whatsoever. The installation of facilities by Grantee on or in the poles, structures, or property owned by others shall be subject to and limited by the owner's authority to enter, occupy, and use public ways. In the event that the authority of the owner of poles, structures, or property to enter, occupy, and use the public ways either expires, terminates, or is cancelled, the authority of Grantee to construct, install, operate, maintain, and repair Grantee's facilities at such locations may be immediately cancelled at the sole option of the City. The City shall not be liable for the costs for removal of facilities arising from expiration, termination, or cancellation of any pole owner's authority to enter, occupy, or use public ways for any reason whatsoever.

**Sec. 6. Indemnification and liability and assumption of risk.**

(1) Indemnification / Hold Harmless. The Grantee shall defend, indemnify and hold the City, 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 activities or operations performed by the Grantee or on the Grantee's behalf under this Franchise agreement, except for injuries and damages caused by the contributory negligence or willful misconduct of the City.

(2) The City shall give the Grantee written notice of any claim or of the commencement of any action, suit or other proceeding covered by this section. If a claim or action arises, the City or any other indemnified party shall then tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. However, the failure of the City to provide such notice in writing to Grantee shall not relieve Grantee of its duties and obligations under this Section, provided that Grantee is given sufficient advance notice to perform its duties under this Section. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee'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.

(3) Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the City, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

(4) **Damages and penalties.** By acceptance of this Franchise, Grantee specifically agrees that it will pay, all damages or penalties which the City, its officers, agents, employees, or contractors may legally be required to pay as a result of damages arising out of copyright infringements and all other damages arising out of Grantee's or Grantee's agents' installation, maintenance, or operation of the telecommunications System, except as specifically referenced elsewhere in this Franchise, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise, subject to Section 635A of the Cable Act and applicable law.

(5) **Expenses.** If any action or proceeding is brought against the City or any of its officers, agents, or employees for claims for damages or penalties described in this Section, the Grantee, upon written notice from the City, shall assume the investigation of defense and fully control any resolution or compromise thereof, including the employment of counsel and the payment of all expenses including the reasonable value of any services rendered by any officers, agents, employees or contractors of the City which are not unreasonably duplicative of services provided by Grantee and its representatives. The City shall fully cooperate with the Grantee.

(6) **Separate counsel.** The City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and the Grantee shall pay the reasonable fees and expenses of such separate

counsel if representation of both the Grantee and the City by the same attorney would be inconsistent with accepted canons of professional ethics and if separate counsel is employed with the approval and consent of the Grantee, which shall not be unreasonably withheld.

(7) **Assumption of risk.** Grantee assumes the risk of damage to its facilities located in the City's public ways from activities conducted by third parties or the City, its elected officials, officers, employees, agents, or representatives, except in the event of the negligence or willful misconduct of any one or more of the above persons. Grantee releases and waives any and all claims against the City, its elected officials, officers, employees, agents, and representatives for damage to or destruction of the Grantee's facilities except to the extent any such damage or destruction is caused by or arises from the negligence or willful misconduct of the City. Grantee bears sole responsibility to insure its property.

**Sec. 7. Insurance.**

(1) Grantee shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to Persons or damage to property which may arise from or in connection with this Franchise by the Grantee, their agents, representatives, employees or subcontractors.

(a) **Amounts of Insurance.** In accordance with applicable law, the Grantee shall maintain throughout the term of this Franchise the following insurance limits:

(i) Automobile Liability. Commercial automobile liability insurance policy in the amount of Five Million Dollars (\$5,000,000) combined single limit each accident for bodily injury and property damage covering all owned, hired, and non-owned vehicles).

(ii) Commercial General Liability. A commercial general liability insurance policy issued by a company duly authorized to do business in the State of Washington insuring the Grantee with respect to the installation, maintenance, and operation of Grantee's Telecommunication System in the amount of Five Million Dollars (\$5,000,000) per occurrence for bodily injury

and property damage and Five Million Dollars (\$5,000,000) general aggregate. The City shall be included as an additional insured as their interest may appear under this Agreement under Grantee's Commercial General Liability insurance policy.

(iii) Excess General Liability. Excess or Umbrella Liability coverage at limits of One Million Dollars (\$1,000,000) per occurrence and annual aggregate providing coverage above the primary Commercial General, Commercial automobile liability and employer's liability insurance.

(iv) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington. This requirement may be satisfied instead through the Grantee's primary Commercial General and Automobile Liability coverage, or any combination thereof.

(b) Other Insurance Provisions. The insurance policies are to contain the following provisions for Automobile Liability and Commercial General Liability insurance:

(i) The Grantee's insurance coverage shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Grantee's insurance and shall not contribute with it.

(ii) Upon receipt of notice from its insurer(s), Grantee shall endeavor to provide Grantor with thirty (30) days prior written notice of cancellation of any coverage that isn't replaced.

(c) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-: VII.

(d) Verification of Coverage. Upon acceptance of the Franchise, Grantee shall furnish the City with original certificates and blanket additional insured endorsement, evidencing the insurance requirements of the Grantee.

(e) Subcontractors. Grantee shall require any contractor or subcontractor to obtain and maintain substantially

the same insurance with substantially the same limits as required of Grantee.

(f) **Self-Insurance.** Grantee shall have the right to self-insure its property insurance coverage.

(2) **Endorsements.** Grantee agrees that with respect to the insurance requirements contained above, excluding Workers Compensation, all insurance certificates will contain the following required provisions:

(a) Include the City and its officers, employees, and elected representatives as an additional insured as their interest may appear under this Agreement.

(b) Shall be on an occurrence basis and shall be primary coverage of all losses resulting from Grantee's operations covered by the policies.

(3) **Insurance term.** The insurance required above shall be kept in full force and effect by Grantee during this Franchise and thereafter until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of Grantee's Telecommunication System, should such removal be required by City Council or undertaken by Grantee.

(4) **Issuing companies.** Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments which all are set at the sole risk of the Grantee.

(5) **No limit on liability.** Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

**Sec. 8. Performance bond and security fund.**

(1) **Amount.** The Grantee shall provide the City with a financial guarantee in the amount of One Hundred Thousand Dollars (\$100,000) running for, or renewable for, the duration of the construction of Grantee's facilities in the City, in a form and substance acceptable to the City. This Franchise performance bond shall be separate and distinct from any other bond or deposit required.

(2) **Damages.** In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described.

(a) Before any draws are made on the Franchise performance bond, the City Manager or designee shall give written notice to the Grantee:

(i) Describing the act, default or failure to be remedied, or the damages, cost or expenses which the City has incurred by reason of the Grantee's act or default;

(ii) Providing a reasonable opportunity for the Grantee to first remedy the existing or ongoing default or failure, if applicable, but in no event less than thirty (30) days;

(iii) Providing a reasonable opportunity for the Grantee to pay any moneys due the City, but in no event less than thirty (30) days, before the City draws on the Franchise performance bond, if applicable;

(iv) That the Grantee will be given an opportunity to review the act, default or failure described in the notice with the City Manager or designee.

(b) The Grantee shall replace the Franchise performance bond within thirty (30) days after written notice from

the City Manager or designee that there is a deficiency in the amount of the Franchise performance bond.

(3) **Security fund.** In addition to the performance bond, Grantee shall establish and maintain a security fund in the amount of twenty-five thousand dollars (\$25,000), at its cost, with the City by depositing such monies, letters of credit, or other instruments in such form and amount acceptable to the City within 30 calendar days of the effective date of this Franchise. No sums may be withdrawn from the fund by Grantee without consent of the City. The security fund shall be maintained at the sole expense of Grantee so long as any of the Grantee's facilities occupy a public way.

(a) The fund shall serve as security for the performance of this Franchise, including any claims, costs, damages, judgments, awards, attorneys' fees or liability, of any kind whatsoever, the City pays or incurs, including civil penalties, because of any failure attributable to Grantee to comply with the provisions of this Franchise or the codes, ordinances, rules, regulations, standards, or permits of the City.

(b) Before any sums are withdrawn from the security fund, the City shall give written notice to Grantee:

(i) Describing the act, default or failure to be remedied, or the claims, costs, damages, judgments, awards, attorneys' fees or liability which the City has incurred or may pay by reason of Grantee's act or default;

(ii) Providing a reasonable opportunity for Grantee to first remedy the existing or ongoing default or failure, if applicable, but in no event less than thirty (30) days;

(iii) Providing a reasonable opportunity for Grantee to pay any monies due the City, but in no event less than thirty (30) days, before the City withdraws the amount thereof from the security fund, if applicable; and

(iv) Grantee will be given an opportunity to review the act, default or failure described in the notice with the City or his or her designee.

(c) Grantee shall replenish the security fund within thirty (30) days after written notice from the City that there is a deficiency in the amount of the fund.

(d) Insufficiency of the security fund shall not release or relieve Grantee of any obligation or financial responsibility.

**Sec. 9. Taxes, charges, and fees.**

(1) **Franchise fee.** RCW 35.21.860 currently prohibits a municipal franchise fee for permission to use the right of way to provide internet access services. Based on the representations of Grantee, it is the City's understanding that Grantee will use the right of way to provide internet access services. If this prohibition is removed or does not apply to future services, Grantee understands the City may assess a reasonable franchise fee in accordance with the City Code, so long as local, State or federal law does not otherwise prohibit such fee.

(2) **Utility tax.** The parties further understand that RCW 35.21.870 currently limits the rate of City tax upon telephone business activities to six percent (6%) of Gross Receipts, unless a higher rate is approved by vote of the people. The parties agree, however, that nothing in this Franchise shall limit or expand the City's power of taxation, as now or may hereafter exist. Grantee understands that some of its business activities in the City of Des Moines as identified herein may be taxable activities subject to the six percent (6%) gross receipts tax rate, as imposed under the City's telephone business tax, adopted in Des Moines Municipal Code Chapter 3.68, subject to such activities being deemed taxable under applicable state and federal laws. This provision does not limit the City's power to amend Des Moines Municipal Code Chapter 3.68 as may be permitted by law, including increases to the tax rate. Notwithstanding any other provision of this Franchise, nothing in this Franchise is intended to alter, amend, modify or expand the taxes and fees that may lawfully be assessed on Franchisee's business activities under this Franchise under applicable law.

(3) **Permit and administrative fees.** Grantee shall also pay and be responsible for all charges and fees (authorized under applicable law) imposed to recover actual administrative expenses

incurred by the City that are directly related to receiving and approving this Franchise, any use and/or development authorizations which may be required, or any permit which may be required, to inspecting plans and construction, or to the preparation of a detailed statement. Regular application and processing charges and fees imposed by the City shall be deemed to be attributable to actual administrative expenses incurred by the City but shall not excuse Grantee from paying and being responsible for other actual administrative expenses incurred by the City.

(a) Grantee shall pay a franchise processing fee of \$5,000 within 30 calendar days of the effective date of this Franchise.

(b) Grantee shall pay fees according to applicable sections of the City Code.

(4) Grantee shall pay and be responsible for taxes permitted by law.

(5) In addition to penalties and other remedies for which Grantee may be subjected, the City reserves the right to impose site-specific charges (authorized under applicable law) for placement of structures used to provide telecommunications services.

**Sec. 10. Access to facilities and universal service.**

(1) Grantee shall provide access to its facilities by hire, sale, or resale on a nondiscriminatory basis. Grantee shall make its telecommunications services available to any customer within its franchise area who shall request such service whenever feasible, without discrimination as to the terms, conditions, rates or charges for the Grantee's services; provided, however, that nothing in this section shall prohibit Grantee from making any reasonable classifications among differently situated customers.

(2) Grantee may provide Internet access to users of City property, at locations requested by the City, if it is practicable, upon Grantee's then-current market rates for such service and pursuant to a separate services agreement. Grantee and the City may enter into a separate agreement or agreements regarding the

allocation of costs to construct, install, operate, maintain, repair, and remove facilities needed to provide such access; provided, however, that nothing herein shall require the City to accept construction or installation of facilities on City property.

**Sec. 11. Acquisition of facilities.** Upon Grantee's acquisition of any facilities in the public way, or upon any addition or annexation to the City of any area in which Grantee has facilities, such facilities shall immediately be subject to the terms of this Franchise without further action of the City or Grantee.

**Sec. 12. Vacation of public ways.** The City reserves the right to vacate any public way which is subject to rights, privileges, and authority granted by this Franchise. If Grantee has facilities in such public way, the City shall reserve an easement for Grantee, if requested by Grantee.

**Sec. 13. Duty to provide information.** Grantee's obligations under this section are in addition to those provided elsewhere in this Franchise. Within thirty (30) days of a written request from the City, Grantee shall furnish the City with all requested information sufficient to demonstrate:

(1) That Grantee has complied with all requirements of this Franchise;

(2) That taxes, fees, charges, or other costs owed or payable by Grantee have been properly collected and paid.

**Sec. 14. Records.**

(1) Grantee will manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. The City will have access to, and the right to inspect, any documents and records of Grantee and its affiliates that are reasonably necessary for the enforcement of this Franchise or to verify Grantee's compliance with terms or conditions of this Franchise. Grantee will not deny the City access to any of Grantee's records on the basis that Grantee's documents or records are under the control of any affiliate or a third party.

(2) All documents and records maintained by Grantee shall be made available for inspection by the City at reasonable times and intervals; provided, however, that nothing in this section shall be construed to require Grantee to violate state or federal law regarding subscriber privacy and/or the privacy of Grantee's Indefeasible Right of Use ("IRU") holders, lessees, or customers, nor shall this section be construed to require Grantee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature.

(3) One copy of documents and records requested by the City will be furnished to the City at the cost of Grantee. If the requested documents and records are too voluminous or for security reasons cannot be copied or removed, then Grantee may request, in writing within thirty (30) days of the City's request, that the City inspect them at Grantee's local office. If any documents or records of Grantee are not kept in a local office and/or are not made available in copies to the City, and if the City determines that an examination of such documents or records is necessary or appropriate for the enforcement of this Franchise, or to verify Grantee's compliance with terms or conditions of this Franchise, then all reasonable travel and related costs incurred in making such examination shall be paid by Grantee.

(4) At the request of the city, Grantee shall provide the City with an annual report on the number of feet of right-of-way Grantee occupies in the City and the services Grantee is providing in the City. Grantee may request all or a portion of such information be protected from disclosure under the Washington Public Records Act (RCW 42.56).

**Sec. 15. Assignment or transfer.** Grantee's rights, privileges, and authority under this Franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of Grantee, by operation of law or otherwise, except as provided herein, or without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Any transfer, assignment or disposal of Grantee's rights, privileges, and authority under this Franchise may be subject to reasonable conditions as may be prescribed by the City.

(1) No rights, privileges, or authority under this Franchise shall be assigned, transferred, or disposed of in any manner within twelve (12) months after the effective date of this Franchise.

(2) Absent extraordinary and unforeseeable circumstances, no Grantee facility, for which separate City permits for construction have been obtained, shall be assigned, transferred, or disposed of by Grantee before construction of the facility has been completed and restoration has been performed to the satisfaction of the City.

(3) Grantee and the proposed assignee or transferee shall provide and certify the following information to the City not less than one hundred and fifty (150) days prior to the proposed date of assignment, transfer, or disposal:

(a) Complete information setting forth the nature, terms and conditions of the proposed assignment, transfer, or disposal;

(b) Any other information reasonably required by the City; and

(c) A transfer application fee in an amount to be determined by the City to recover actual administrative costs directly related to receiving and approving the proposed assignment, transfer, or disposal.

(3) No assignment, transfer, or disposal may be made or shall be approved unless the assignee or transferee has the legal, technical, financial, and other requisite qualifications to operate, maintain, repair, and remove facilities constructed or installed pursuant to this Franchise and to comply with the terms and conditions of this Franchise.

(4) Any transfer, assignment, or disposal of rights, privileges, and authority under this Franchise may be conditioned on such transferee or assignee obtaining its own Franchise agreement with City.

(5) Notwithstanding anything to the contrary contained in this Franchise, any transaction which singularly or collectively

result in a change of fifty percent (50%) or more of the ownership or working control (regardless of the percentage) of the Grantee or affiliated entities having fifty percent (50%) or more of the ownership or actual working control (regardless of the percentage) of Grantee, or of control of the telecommunications capacity or bandwidth of Grantee, shall not be considered an assignment or transfer requiring City approval. Transactions between affiliated entities are exempt from City approval; provided that, Grantee shall promptly notify the City within a reasonable period of time after any change in, or transfer of, or acquisition by any other party of control of Grantee. Every change, transfer, or acquisition of control of Grantee shall cause a review of the proposed transfer. City approval shall not be required for mortgaging purposes or if said transfer is from Grantee to another person controlled by Grantee.

(6) All terms and conditions of this Franchise shall be binding upon all permitted successors and assigns of Grantee and all persons who obtain ownership or working control of any facility constructed or installed pursuant to this Franchise.

**Sec. 16. Violations, noncompliance, and other grounds for termination or cancellation.**

(1) This Franchise, and any right, privilege or authority of Grantee to enter, occupy or use public ways may be terminated or cancelled by the City for the following reasons:

(a) Violation of or noncompliance with any term or condition of this Franchise by Grantee;

(b) Violation of or noncompliance with the material terms of any use and/or development authorization or required permit by Grantee;

(c) Construction, installation, operation, maintenance, or repair of facilities on, in, under, over, across, or within any public way without Grantee first obtaining use and/or development authorization and required permits from the City and all other appropriate regulatory authorities;

(d) Unauthorized construction, installation, operation, maintenance, or repair of facilities on City property;

(e) Misrepresentation or lack of candor by or on behalf of Grantee in any application or written or oral statement upon which the City relies in making the decision to grant, review or amend any right, privilege or authority to Grantee;

(f) Abandonment of facilities;

(g) Failure of Grantee to pay taxes, fees, charges or costs when and as due, unless subject to a proper and timely legal protest; or

(h) Insolvency or bankruptcy of Grantee.

(2) In the event that the City believes that grounds exist for termination or cancellation of this Franchise or any right, privilege or authority of Grantee to enter, occupy or use public ways, Grantee shall be given written notice and a reasonable period of time, not less than thirty (30) days, to furnish evidence:

(a) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation, noncompliance, or other grounds for termination or cancellation;

(b) That rebuts the alleged violation, noncompliance, or other grounds for termination or cancellation; or

(c) That it would be in the public interest to impose some penalty or sanction less than termination or cancellation.

(3) In the event that Grantee fails to provide evidence reasonably satisfactory to the City as provided in subsection (2) of this section, the City shall refer the apparent violation, noncompliance, or other grounds for termination or cancellation to the City Council. The City Council shall provide the Grantee with notice and a reasonable opportunity to be heard concerning the matter.

(4) If the City Council determines that the violation, noncompliance, or other grounds above for termination or cancellation exist, then, Grantee shall, at the election of the

City Council, forfeit all rights, privileges and authority conferred under this Franchise or any use and/or development authorization or permit granted by the City, and this Franchise and any such use and/or development authorization or permit may be terminated or cancelled by the City Council. The City Council may elect, in lieu of the foregoing and without any prejudice to any of its other legal rights and remedies, to pursue other remedies, including obtaining an order compelling Grantee into compliance or to take corrective action, or to recover damages and costs incurred by the City by reason of Grantee's actions or omissions. The City Council shall utilize the following factors in analyzing the nature, circumstances, extent, and gravity of the actions or omissions of Grantee:

- (a) Whether the misconduct was egregious;
- (b) Whether substantial harm resulted;
- (c) Whether the violation was intentional;
- (d) Whether there is a history of prior violations of the same or other requirements;
- (e) Whether there is a history of overall compliance; and
- (f) Whether the violation was voluntarily disclosed, admitted or cured.

(5) The City Council's choice of remedy shall not excuse Grantee from compliance with any term or condition of this Franchise or the material terms of any use and/or development authorization or required permit. Grantee shall have a continuing duty to remedy any violation, noncompliance, or other grounds for termination or cancellation. Further, nothing herein shall be construed as limiting any remedies that the City may have, at law or in equity, or the Grantee may have at law or in equity, for enforcement of this Franchise and any use and/or development authorization or permit granted to Grantee.

**Sec. 17. Notices.**

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(1) Any regular notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

CITY:

City Manager  
City of Des Moines  
21630 11<sup>th</sup> Ave. S., Ave A  
Des Moines, WA 98198

GRANTEE:

Forged Fiber 37, LLC c/o AT&T  
Attn.: Legal Dept - Network Operations  
Re: Des Moines / Franchise Agreement (WA)  
208 S. Akard Street  
Dallas, TX 75202-4206

with a copy (except for invoices) to:

E-mail: FF\_Right\_Of\_Way@att.com

(2) Grantee shall additionally provide a phone number and designated responsible officials to respond to emergencies. After being notified of an emergency, Grantee shall cooperate with the City and make its best efforts to immediately respond to minimize damage, protect the welfare, health and safety of the public and repair facilities to restore them to proper working order. Annually, on request of the City, Grantee will meet with City emergency response personnel to coordinate emergency management operations and, at least once a year, at the request of the City, actively participate in emergency preparations.

**Sec. 18. Non-waiver.** The failure of either party to exercise any rights or remedies under this Franchise or to insist upon compliance with any terms or conditions of this Franchise shall not be a waiver of any such rights, remedies, terms or conditions of this Franchise by the party and shall not prevent the party from demanding compliance with such terms or conditions at any future time or pursuing its rights or remedies.

**Sec. 19. Eminent domain.** This Franchise is subject to the power of eminent domain and the right of the City Council to repeal, amend or modify the Franchise in the interest of the public. In any proceeding under eminent domain, the Franchise itself shall have no value.

**Sec. 20. Limitation of liability.** Except as otherwise set forth in this Franchise, administration of this Franchise may not be construed to create the basis for any liability on the part of the City, its elected officials, officers, employees, agents, and representatives for any injury or damage; or by reason of any schedule or specification review, inspection, notice and order, permission, or other approval or consent by the City; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of this Franchise by the City; or for the accuracy of plans submitted to the City.

**Sec. 21. Damage to facilities.** Except as otherwise set forth herein, unless caused by or arising out of the active sole negligence, gross negligence, or intentional conduct of the City, the City shall not be liable for any damage to or loss of any facilities as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind on, in, under, over, across, or within a public way done by or on behalf of the City.

**Sec. 22. Resolution of disputes and governing law.**

(1) **Alternative dispute resolution.** If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Franchise or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of

its own counsel, experts, witnesses, and preparation and presentation of evidence.

(2) **Applicable law and jurisdiction.** This Franchise shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Franchise 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. In any claim or lawsuit for damages arising from the parties' performance of this Franchise, each party shall pay its own legal costs and attorneys' fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XVII of this Contract.

**Sec. 23. Severability.** If any section, sentence, clause or phrase of this Franchise or its application to any person or entity should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Franchise or its application to any other person or entity.

**Sec. 24. Miscellaneous.**

(1) **Equal employment and nondiscrimination.** Throughout the term of this Franchise, Grantee will fully comply with all applicable equal employment and nondiscrimination provisions and requirements of federal, state, and local laws, and in particular, FCC rules and regulations relating thereto.

(2) **Local employment efforts.** Grantee will use reasonable efforts to utilize qualified local contractors, including minority business enterprises and woman business enterprises, whenever the Grantee employs contractors to perform work under this Franchise.

(3) **Descriptive headings.** The headings and titles of the sections and subsections of this Franchise are for reference

purposes only and do not affect the meaning or interpretation of the text herein.

(4) **Force majeure.** Grantee shall not be required to perform any covenant or obligation in this Franchise, or be liable in damages to the City, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by an act of God or force majeure. An "act of God" or "force majeure" is defined for purposes of this Franchise as strikes, lockouts, sit-downs, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including inclement weather which prevents construction), acts of the public enemy, wars, terrorism, insurrections, and/or any other cause not reasonably within the control of Grantee.

(5) **No joint venture.** Nothing herein will be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with the other.

(6) **Actions of the City or Grantee.** In performing their respective obligations under this Franchise, the City and Grantee will act in a reasonable, expeditious, and timely manner. Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material breach of this Franchise, and sufficient grounds for the City to invoke any relevant remedy.

(7) **Counterparts.** This Franchise may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Franchise shall be deemed to possess the full force and effect of the original.

(8) **Entire agreement.** This Franchise represents the entire understanding and agreement between the parties with respect to the subject matter and supersedes all prior oral and written negotiations between the parties.

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(9) **Modification.** The parties may alter, amend or modify the terms and conditions of this Franchise upon written agreement of both parties to such alteration, amendment or modification.

(10) **Rights granted.** This Franchise does not convey any right, title or interest in public ways, but shall be deemed only as authorization to enter, occupy, or use public ways for the limited purposes and terms stated in this Franchise. Further, this Franchise shall not be construed as any warranty of title.

(10) **Contractors and subcontractors.** Grantee's contractors and subcontractors must be licensed and bonded in accordance with the City's ordinances, rules, and regulations. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee.

**Sec. 26. Publication.** The City Clerk is authorized and directed to publish a summary hereof.

**Sec. 27. Effective date.** This Ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law, but if, and only if, the Grantee has endorsed this Ordinance and accepted the terms and conditions thereof.

**PASSED BY** the City Council of the City of Des Moines this day of , and signed in authentication thereof this day of , .

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

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City Clerk

Published:

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**ACCEPTANCE:**

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) agrees that it will not oppose the City's intervening, to the extent that the City is legally entitled to do so, in any legal or regulatory proceeding affecting the Telecommunication System; (3) accepts and agrees to comply with each and every provision of this Franchise; and (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

By: \_\_\_\_\_

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

Date: \_\_\_\_\_

Title: \_\_\_\_\_



July 16, 2025

Tim George  
City Attorney  
City of Des Moines  
21640 11<sup>th</sup> Avenue. S.  
Des Moines, WA 98198

VIA Email Delivery: [TGeorge@desmoineswa.gov](mailto:TGeorge@desmoineswa.gov)

**RE: Forged Fiber 37, LLC Franchise Application for City of Des Moines**

Dear Mr. George,

Our client, AT&T, has signed a purchase agreement to purchase a portion of the fiber business of Lumen Technologies, Inc. and its affiliates ("Lumen"), which includes fiber assets and associated facilities that are located within the rights-of-way of the City of Des Moines. The proposed transaction was announced on May 21, 2025, and is proceeding with the relevant federal regulatory approvals. In advance of transfer of any assets, AT&T seeks to obtain all necessary rights to own and construct facilities within the rights-of-way in the county under the legal entity, Forged Fiber 37, LLC, which will take possession of the fiber assets once transferred from Lumen.

This is a request for a new Franchise Agreement. Lumen will maintain any existing Franchises for those assets it is retaining (including copper and enterprise fiber). The applicant is requesting a city-wide Franchise to install, operate, maintain, repair, replace, and upgrade conduit, fiber optic cables, mule tape, buffer tubes, vaults, splice cases (aerial and buried), poles, and related facilities in the rights of way. To assist in your review, the following documents will be included with this application:

- Franchise Application
- Letter of Authorization
- Application fee of \$2,500

Thank you very much for your time and consideration. Our goal is to have the franchise agreement in place at the time the sale between Forged Fiber 37, LLC/AT&T and Lumen closes at the end of the year so that the authorization for ownership of the fiber assets is properly in place.

July 17, 2025

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If you have any additional questions, please contact me at (206) 446-0448 or [sunny.ausink@wirelesspolicy.com](mailto:sunny.ausink@wirelesspolicy.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Sunny Ausink".

Sunny Ausink  
Director, Land Use Entitlements  
(206)446-0448  
[sunny.ausink@wirelesspolicy.com](mailto:sunny.ausink@wirelesspolicy.com)