

## AGENDA

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, July 11, 2024 - 6:00 PM**

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

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### CORRESPONDENCE NOT PREVIOUSLY RECEIVED BY COUNCIL

### COMMENTS FROM THE PUBLIC

### COMMITTEE CHAIR REPORT

### CITY MANAGER REPORT/PRESENTATIONS/BRIEFINGS

- INTRODUCTION OF PUBLIC WORKS DIRECTOR
- INTRODUCTION OF INCOMING POLICE CHIEF
- REDONDO RESTROOM REPLACEMENT PROJECT

### CONSENT AGENDA

#### Item 1. APPROVAL OF VOUCHERS

**Motion** is to approve the payment vouchers through July 03, 2024 and payroll transfers through July 05, 2024 in the attached list and further described as follows:

EFT Vendor Payments	#10319-10380	\$476,490.84
Accounts Payable Checks	#165931-165950	\$43,991.87
Payroll Checks	#19846-19853	\$9,009.96
Payroll Advice	#10044-10216	\$505,765.81

Total Checks and Wires for A/P & Payroll: \$1,035,258.48

[Approval of Vouchers](#)

#### Item 2. PUBLIC WORKS CONTRACTS - REDONDO RESTROOM REPLACEMENT PROJECT

**Motion 1** is to direct administration to bring forward a budget amendment to the 2024-2029 Capital Improvement Plan and the 2024 Capital Budget to include the amended Redondo Restroom Replacement Project as described herein, and include such amendment in the next available budget amendment ordinance.

**Motion 2** is to approve the Public Works Contract with Christensen Inc. General Contractor, for the Redondo Restroom Replacement Project in the amount of \$1,882,952.93, authorize a project construction contingency in the amount of \$190,000.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.

**Motion 3** is to approve the Consultant Services Contract with Exeltech Consulting Inc. to provide Construction Administration and Inspection Services for the Redondo Restroom Replacement Project in the amount of \$275,617.56, and further authorize the City Manager to sign said Task Assignment substantially in the form as submitted.

[Public Works Contracts - Redondo Restroom Replacement Project](#)

- Item 3. ALLEYWAY NAMING AND COMMEMORATIVE STREET NAME  
**Motion 1** is to move to enact Draft Ordinance no. 24-026, naming the Marina District alleyway from South 223rd Street to South 227th Street 'Backstage Alley'.

**Motion 2** is to move to enact Draft Resolution no. 24-056, establishing a commemorative name of 'Waterland Way' for the portion of South 223rd Street between Marine View Drive and Cliff Avenue.

[Alleyway Naming and Commemorative Street Name](#)

**NEW BUSINESS**

- Item 1. NEW AGENDA ITEMS FOR CONSIDERATION – 10 Minutes

**COUNCILMEMBER REPORTS**

(4 minutes per Councilmember) - 30 minutes

**PRESIDING OFFICER'S REPORT**

**EXECUTIVE SESSION**

**NEXT MEETING DATE**

July 25, 2024 City Council Regular Meeting

**ADJOURNMENT**

**CITY OF DES MOINES**  
**Voucher Certification Approval**

**July 11, 2024**

**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 July 11, 2024 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through July 3, 2024 and payroll transfers through July 5, 2024 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
Claims Vouchers:				
EFT's		10319	10380	476,490.84
Accounts Payable Checks		165931	165950	43,991.87
Total Vouchers paid				520,482.71
Payroll Vouchers				
Payroll Checks	7/5/2024	19846	19853	9,009.96
Payroll Advice		10044	10216	505,765.81
Total Paychecks & Direct Deposits				514,775.77
Total checks and wires for A/P & Payroll				1,035,258.48

## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Works Contracts - Redondo  
Restroom Replacement Project

FOR AGENDA OF: July 11, 2024

DEPT. OF ORIGIN: Public Works

ATTACHMENTS:

1. CIP Budget Worksheet
2. Public Works Contract
3. Exeltech Consulting, Inc. Consultant  
Services Contract for Construction  
Administration and Inspection Services
4. Christensen Inc. General Contractor Bid  
Proposal Package
5. Engineers Recommendation

DATE SUBMITTED: July 3, 2024

CLEARANCES:

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *[Signature]*

**Purpose and Recommendation**

The purpose of this agenda item is for City Council to direct administration to bring forward an amendment to the 2024-2029 Capital Improvement Plan and 2024 Capital Budget (Attachment 1), seek City Council approval of the Public Works Contract with Christensen Inc. General Contractor (Attachment 2), and seek approval of the Consultant Services Contract with Exeltech Consulting, Inc. (Attachment 3) to provide Construction Administration and Inspection Services for the Redondo Restroom Replacement Project. The following motion(s) will appear on the Consent Agenda:

### **Suggested Motions**

**Motion 1:** “I move to direct administration to bring forward a budget amendment to the 2024-2029 Capital Improvement Plan and the 2024 Capital Budget to include the amended Redondo Restroom Replacement Project as described herein, and include such amendment in the next available budget amendment ordinance.”

**Motion 2:** “I move to approve the Public Works Contract with Christensen Inc. General Contractor, for the Redondo Restroom Replacement Project in the amount of \$1,882,952.93, authorize a project construction contingency in the amount of \$190,000.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.”

**Motion 3:** “I move to approve the Consultant Services Contract with Exeltech Consulting Inc. to provide Construction Administration and Inspection Services for the Redondo Restroom Replacement Project in the amount of \$275,617.56, and further authorize the City Manager to sign said Task Assignment substantially in the form as submitted.”

### **Background**

The Redondo restroom facility has exceeded its expected service life and is showing significant degradation and deterioration. Given the current location of the restroom facility situated over tidelands, maintenance of the facility has become unsustainable due to the corrosive environment and aging timber piles. With the current restroom sited over the water, there are infrastructure challenges that are exacerbated with the saltwater environment.

The Redondo Restroom Replacement Project includes removing the existing restroom structure, disposal of existing creosote treated timber and constructing a new concessions/restroom building located within the Redondo Parking Lot. Associated civil improvements adjacent to the new restroom building will also be installed, including some infrastructure for the new parking lot payment system.

At the June 8, 2023 City Council meeting, the City passed Ordinance No. 23-022 providing for the issuance, sale and delivery of limited tax general obligation bonds for the purpose of constructing public amenities and capital improvements. The Redondo Restroom Project (MCCIP0018) was included in the bond.

At the September 24, 2023 City Council meeting, the City accepted a grant from the Washington State Recreation and Conservation Office (RCO) in the amount of \$681,903.00.

In the spring of 2024, City staff successfully secured all required federal, state, and local permits for the Redondo Fishing Pier and Restroom.

On April 17, 2024, a bid opening was held for the combined Redondo Fishing Pier and Restroom Replacement Project. However, only one bid was received and it exceeded the engineering estimate. As a result, City Council directed staff to reject the bid.

In an effort to construct the restroom facility this summer, and not jeopardize grant funding associated with it, staff worked with the design consultant to re-work the design to phase the restroom facility separately from the fishing pier. Upon plan completion, the Redondo Restroom Replacement Project was advertised for solicitation of bids with a Bid Opening on for June 18, 2024.

## **Discussion**

### **Budget Amendment (Motion #1)**

The City Council approved a bond in the amount of \$26 million for elements of Marina and Redondo redevelopment. \$1,736,000 of the bond proceeds were allocated to the Redondo Restroom Replacement Project. This allocation of the bond proceeds was not reflected on the 2024-2029 Capital Improvement Plan and 2024 Capital Budget.

The proposed CIP Project Worksheet (Attachment 1) for the Redondo Restroom Project MCCIP0018 illustrate full funding for the proposed improvements based on the Responsive Low Bid Proposal (Attachment 4) as well as construction contingency.

### **Construction Contract (Motion #2)**

The Redondo Restroom Replacement was advertised for bids in accordance with state law, and requirements for competitive bidding of public works contracts. One was received for the project. The bid was publicly opened and read out loud on June 18, 2024 by the City Clerk and summarized below.

## **BID RESULTS**

<u>Engineer's Estimate (including tax)</u>	<u>\$1,610,124.49</u>
<u>Contractor Name</u>	<u>Bid Proposal</u>
Christensen Inc. General Contractor	\$1,882,952.93 (Responsive Low Bid)

The bid proposal and contractor qualifications have been reviewed and staff finds that the low bid is responsive and recommends award of the contract to Christensen Inc. General Contractor (Attachment 5).

### **Construction Administration and Inspections Services Task Assignment (Motion #3)**

Engineering consultants are needed in order to supplement and expand the capability of City staff for Construction Administration and Inspection of the Project. In December of 2023, City staff prepared and advertised a Request for Proposal (RFP) for construction administration and inspection of the project. The City received three proposals from consulting firms that were reviewed and scored by a committee of City staff. Staff determined through this review process that Exeltech Consulting was best qualified to provide Construction Administration and Inspection Services and requested their services (Attachment 2).

The scope of work for Exeltech Consulting includes the following services: conducting a pre-construction conference involving key stakeholders; conduct weekly construction meetings; working with property owners and businesses to coordinate construction and minimize impacts; preparing daily diaries documenting issues and progress; reviewing construction schedule commitments; review and approval of proposed material submittals; responding to contractor requests for information to clarify construction requirements; preparing change orders and work instructions; engineer solutions to unforeseen problems; conduct material testing to meet specifications; performing daily inspections to ensure quality workmanship, managing various environmental compliance commitments, and delivery of all construction documentation to the City meeting applicable Washington State Department of Transportation (WSDOT) Local Agency Guidelines (LAG) requirements.

Exeltech Consulting has demonstrated satisfactory qualifications for Construction Administration and Inspection services on other City projects such as the Saltwater Bridge Seismic Retrofit, Redondo Boardwalk, and the North Marina Bulkhead and Restroom Replacement Projects.

### **Alternatives**

#### **(Motion #1) - Not Pursue Budget Amendment – Defer Project**

The City Council could elect to not act on the motion, thereby deferring the project and rejecting all Bid Proposals. This is not recommended given the strategic partnerships and associated \$681,903 in grant funding from RCO, \$1,736,000 in bond proceeds, busy current bidding climate, and expected future cost inflation.

#### **(Motion #2) - Reject bid**

The City Council could direct staff to reject the Bid Proposal and re-submit for construction bids at a later time. However, this would only delay the project and jeopardize the approved RCO grant. Re-bidding the project will most likely result in higher construction cost due to inflation.

#### **(Motion #3) - Not Approve Consultant Services Contract with Exeltech Consulting**

The City Council could elect not to approve the Consultant Services Contract with Exeltech Consulting for Construction Administration and Inspection Services. The City does not have adequate resources to perform complete Construction Administration and Inspection in compliance with general project requirements. Council could direct staff to re-advertise for proposals, but this will cause project delay and potential need to re-bid the project.

### **Financial Impact**

The City's amended CIP Budget Worksheets include revenues to accommodate full project funding for the Public Works Contract and Consultant Agreement for Construction Administration and Inspection.

### **Recommendation**

Staff recommends the adoption of the motion(s).

### **Council Committee Review**

The Transportation and Municipal Facilities Committees have been routinely updated on the status of this project.

**CITY OF DES MOINES**  
**2024-2029 CAPITAL IMPROVEMENT PLAN**  
(Amount in Thousands)

Redondo Restroom

Project # MCCIP0018

- Previous Project # 310.086

CIP Category: Park Facility &amp; Playground Projects

Managing Department: Plan, Build &amp; PW Admin

*Summary Project Description:*

Demolish existing restroom and replace with smaller pre-fab structure across the street. Replace restroom foundation with surface similar to rest of plaza and add railings.

**Justification/Benefits:** The existing restrooms is approximately 35 years old and are functionally obsolete. The restrooms are built on a pier with all of the plumbing hanging below the structure where it can and has been destroyed by storms.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	95	-	95
Land & Right of Way	-	-	-
Construction	1,741	470	2,209
Contingency	80	108	190
<b>Total Expenditures</b>	<b>1,916</b>	<b>578</b>	<b>2,494</b>

Funding Sources	Current Budget	Requested Change	Total Budget
REET 2	77	-	77
Debt Proceeds	1,157	578	1,735
State of Washington Grants (RCO Secured)	682	-	682
<b>Total Funding</b>	<b>1,916</b>	<b>578</b>	<b>2,494</b>
Funding Shortfall/Excess	-	-	-

ANNUAL ALLOCATION							
Project to Date 12/31/22	Scheduled Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028	Plan Year 2029
69	26	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	250	1,959	-	-	-	-	-
-	-	190	-	-	-	-	-
<b>69</b>	<b>276</b>	<b>2,149</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Project to Date 12/31/22	Scheduled Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028	Plan Year 2029
69	-	8	-	-	-	-	-
-	268	1,467	-	-	-	-	-
-	-	682	-	-	-	-	-
<b>69</b>	<b>268</b>	<b>2,157</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>



**PUBLIC WORKS CONTRACT**  
**between City of Des Moines and**  
**Christensen Inc. General Contractor**

THIS CONTRACT is made and entered into this [Enter Day] day of [Enter Month], [Year], by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Christensen Inc. General Contractor organized under the laws of the State of Washington, located and doing business at 2840 Crites St SW Suite 100, Tumwater WA 98512, and Colin Christensen] (hereinafter the "Contractor").

**CONTRACT**

The parties agree as follows:

**I. DESCRIPTION OF WORK.**

Contractor shall perform the services for the City as specifically described in Exhibit "A" Scope and Schedule of Work, attached hereto and incorporated herein by reference.

Work to be performed under this contract is as follows:

This Contract provides for the improvement of City of Des Moines Redondo Restroom Replacement. Work includes removing existing restroom structure, disposal of existing creosote treated timber, removing concrete curb and sidewalk, removing asphalt concrete pavement, roadway excavation, installing drainage structures, sanitary sewer connections, water service, electrical service, HMA Paving, slurry seal, landscaping, pavement markings, restroom and concessions building, traffic control, cement concrete sidewalk, cement concrete curb and gutter, cement concrete pedestrian curb, boat wash facilities, trash receptacles, pedestrian guardrail, and other work.

a. Contractor 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 such services are performed.

b. The Contractor shall provide and furnish any and all labor, materials, tools, equipment and utility and transportation services along with all miscellaneous items necessary to perform this Contract except for those items mentioned therein to be furnished by the City.

c. All work shall be accomplished in a workmanlike manner in strict conformity with the attached plans and specifications including any and all Addenda issued by the City, City Regulations and Standards, other Contract Documents hereinafter enumerated.

In addition, the work shall be in conformance with the following documents which are by reference incorporated herein and made part hereof:

- (i) the Standard Specifications of the Washington State Department of Transportation (WSDOT) (current edition);
- (ii) the American Public Works Association (APWA) (current edition);
- (iii) the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (current edition);
- (iv) the Standard Plans for Road, Bridge and Municipal Construction (as prepared by the WSDOT/APWA current edition);
- (v) the American Water Works Association Standard (AWWA) (current edition), and;
- (vi) shall perform any changes in the work in accord with the Contract Documents.

d. Any inconsistency in the parts of the Contract and the documents referenced in section I c above shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

- 1. Terms and provisions of the Contract
- 2. Addenda,
- 3. Proposal Form,
- 4. Special Provisions, including APWA General Special Provisions, if they are included,
- 5. Contract Plans,
- 6. Amendments to the Standard Specifications,
- 7. WSDOT Standard Specifications for Road, Bridge and Municipal Construction,
- 8. Contracting Agency's Standard Plans (if any), and
- 9. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

**II. TIME OF COMPLETION.** The parties agree that work on the tasks described in Section I above and more specifically detailed in Exhibit A attached hereto will begin immediately upon execution of this Contract. Upon the effective date of this Contract, the Contractor shall complete the work described in Section I within 100 working days. If said work is not completed within the time specified, the Contractor agrees to pay the City the sum specified in Section VI - Liquidated Damages of this contract.

**III. COMPENSATION.** The City shall pay the Contractor a total amount not to exceed \$1,882,952.93, including applicable Washington State Sales Tax, for the work and services contemplated in this Contract. If the work and services to be performed as specified in Exhibit A "Scope and Schedule of Work" is for street, place, road, highway, etc. as defined in WAC 458-20-171, then the applicable Washington State Retail Sales Tax on this contract shall be governed by WAC 458-20-171 and its related rules for the work contemplated in this Contract. The Contractor shall invoice the City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor's request until the work is complete and accepted by the City. The City's payment shall not constitute a waiver of the City's right to final inspection and acceptance of the project.

- A. Retainage. The City shall hold back a retainage in the amount of five percent (5%) of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW, whichever is later. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.
- B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City's payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.
- C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD

RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

**IV. INDEPENDENT CONTRACTOR.** The parties understand and agree that Contractor is a firm skilled in matters pertaining to construction and will perform independent functions and responsibilities in the area of its particular field of expertise. Contractor and its personnel, subcontractors, agents and assigns, shall act as independent contractors and not employees of the City. As such, they have no authority to bind the City or control employees of the City, contractors, or other entities. The City's Public Works Director or his or her designated representative shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

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

**V. TERMINATION.** The City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

- A. The Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the Contract work.
- B. The Contractor's failure to complete the work within the time specified in this Contract.
- C. The Contractor's failure to make full and prompt payment to subcontractors or for material or labor.
- D. The Contractor's persistent disregard of federal, state or local laws, rules or regulations.
- E. The Contractor's filing for bankruptcy or becoming adjudged bankrupt.
- F. The Contractor's breach of any portion of this Contract.

If the City terminates this Contract for good cause, the Contractor shall not receive any further money due under this Contract until the Contract work is completed. After termination, the City may take possession of all records and data within the Contractor's possession pertaining to this project which may be used by the City without restriction.

**VI. Liquidated Damages.** This section of the Contract shall apply only in the event of a delay in the completion of the work within the timeframe specified in the Contract. This being a Public Works project performed for the benefit of the public, and there being a need for the completion of the project in the time specified in the Contract, City and Contractor agree that damages for delay in the performance or completion of the work are extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide the work for the benefit of the health, safety and welfare of the public, the failure to complete the work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

Although difficult to quantify and ascertain, City and Contractor agree that the sum listed as liquidated damages represents a fair and reasonable forecast of the actual damage caused by a delay in the performance or completion of the work specified in the Contract. In addition, City and Contractor agree that the liquidated damages set forth below are intended to compensate the City for its loss and damage caused by delay. The liquidated damages are not intended to induce the performance of Contractor.

Contractor declares that it is familiar with liquidated damages provisions, and understands their intent and purpose. By signing this Contract, Contractor further declares that it understands the liquidated damages provision of this contract, that it is a product of negotiation, and that it is a fair estimation of the damage and loss that City will suffer in the event of delay.

City and Contractor further agree that the contractor shall not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes.

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **\$2,824.43** shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

In the event that the Contract is terminated by City for cause pursuant to the general conditions of the contract, this liquidated damages section shall apply, but only to the extent that the contract is delayed. In addition to liquidated damages, City shall be permitted to recover from Contractor the cost of completion of the work if the cost of completion exceeds the original sum of money agreed upon.

**VII. PREVAILING WAGES.** Contractor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work and an Affidavit of prevailing wages paid after completion of the work. The Statement of Intent to Pay Prevailing Wages," shall include Contractor's

registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Contractor shall pay prevailing wages in effect on the date the bid is accepted or executed by Contractor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries must be submitted to the City by Contractor. It shall be the responsibility of Contractor to require all subcontractors to comply with Chapter 39.12 RCW and this section of the Contract.

**VIII. Hours of Labor.** Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

**IX. Compliance with Wage, Hour, Safety, and Health Laws.** The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

**X. Days and Time of Work.** Unless otherwise approved by the City, the working hours for this project will be limited to the following hours:

Monday through Friday: 7:00 a.m. to 7:00 p.m.

Saturday, Sunday and Holidays: 8:00 a.m. to 5:00 p.m.

**XI. Workers' Compensation.** The Contractor shall maintain Workers' Compensation insurance in the amount and type required by law for all employees employed under this Contract who may come within the protection of Workers' Compensation Laws. In jurisdictions not providing complete Workers' Compensation protection, the Contractor shall maintain Employer's Liability Insurance in the amount, form and company satisfactory to the City for the benefit of all employees not protected by Workers' Compensation Laws.

The Contractor shall make all payments arising from the performance of this Contract due to the State of Washington pursuant to Titles 50 and 51 of the Revised Code of Washington.

Whenever any work by the Contractor under the authority of this Contract is on or about navigable waters of the United States, Workers' Compensation coverage shall be extended to include United States Longshoreman and harbor worker coverage. The Contractor shall provide the City with a copy of the necessary documentation prior to the start of any activity.

**XII. CHANGES.** The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within seven (7) calendar days of the date Contractor 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 Contractor'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 Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor 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 Contractor fails to require a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

The Contractor 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 Contractor 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.

**XIII. CLAIMS.** If the Contractor 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 Contractor may file a claim as provided in this section. The Contractor shall give written notice to the City of all claims within seven (7) calendar days of the occurrence of the events giving rise to the claims, or within seven (7) calendar days of the date the Contractor 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 Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Contractor'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 Contractor'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 Contractor is asserting a schedule change or disruption.
- B. Records. The Contractor 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 Contractor'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. Contractor'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 Contractor 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 Contractor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

**XIV. LIMITATION OF ACTIONS.** CONTRACTOR 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 CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

**XV. WARRANTY.** Upon acceptance of the contract work, Contractor must provide the City a warranty bond for one year in the amount of the contract value specified in Section III above and in a form acceptable to the City. In the event any defects are found within the first year, the warranty bond shall be extended for an additional year. The Contractor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any parts are repaired or replaced, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.



**XVI. DISCRIMINATION.** In the hiring of employees for the performance of work under this Contract or any sub-contract, the Contractor, its sub-contractors, or any person acting on behalf of the Contractor or sub-contractor 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.

**XVII. INDEMNIFICATION.** Contractor 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 the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

The City's inspection or acceptance of any of Contractor'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 Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

**XVIII. INSURANCE.** The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors.

**No Limitation.** Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**A. Minimum Scope of Insurance**

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

**B. Minimum Amounts of Insurance**

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

**C. Other Insurance Provisions**

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

**D. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

**E. Verification of Coverage**

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing insurance of the Contractor before commencement of the work.

**F. Subcontractors**

The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

**E. Notice of Cancellation**

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

**F. Failure to Maintain Insurance**

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

**G. Working On, Over, or Near Navigable Waters**

This Contract involves work on or adjacent to and/or work contributing to commerce on Navigable Waters of the United States, as defined by the U.S. Code of Federal Regulations. The Contractor therefore shall provide proof of insurance coverage in compliance with the statutory requirements of the U.S. Longshore and Harbor Workers' Compensation Act.

If the Contractor is working from barges or any other watercraft, owned or non-owned, the Contractor must maintain Protection and Indemnity (P&I) insurance providing coverage for actions of the crew to third parties in the amount of at least \$2,000,000 each occurrence or accident. The Public Entity shall be named by endorsement as an additional insured on the Contractor's Protection and Indemnity insurance policy. The Contractor must also provide proof of insurance coverage in compliance with the statutory requirements of the Merchant Marine Act of 1920 (Jones Act).

**XIX. WORK PERFORMED AT CONTRACTOR'S RISK.** Contractor 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 Contractor's own risk, and Contractor 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.

**XX. Bond - Separate Payment and Performance Bond Required.** Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish both a performance bond and a payment bond to the City, both in the full amount of the bid with a surety company as surety. The purpose of the bonds is to ensure that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such

Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bonds shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company providing such bond shall agree to be bound to the laws of the state of Washington, and subjected to the jurisdiction of the state of Washington and the King County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bonds are is supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than \$35,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bond, elect to have the City retain 50% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

**XXI. Debarment.** The Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

## **XXII. 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 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.

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 XVII 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 the 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 Contractor.

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

G. 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.

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

I. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

J. 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





## **CONSULTANT SERVICES CONTRACT between the City of Des Moines and Exeltech Consulting, Inc.**

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Exeltech Consulting, Inc. organized under the laws of the State of Washington, located and doing business at 8729 Commerce Place Drive NE, Suite A, Lacey, WA 98516 (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:

"Scope of Work for Construction Management and Inspection Services - Redondo Restroom Replacement" attached hereto as Exhibit "A" is incorporated herein by reference.

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 within the time specified in each task order and as specified in Exhibit "A".

### **III. COMPENSATION.**

- A. The City shall pay the Consultant, based on time and materials, an amount not to exceed two hundred seventy-five thousand, six hundred seventeen dollars and fifty-six cents (\$275,617.56) for the services described in this Contract. 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 Exhibit "A" for its services contracted for herein shall remain locked at the negotiated rate(s) for a period of one (1) year from the effective date of this Contract.

CONSULTANT SERVICES CONTRACT  
(Various)

- 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 forty-five (45) 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, 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

CONSULTANT SERVICES CONTRACT 2  
(Various)



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).

**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

CONSULTANT SERVICES CONTRACT 3  
(Various)

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 Contract, 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. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

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

**No Limitation.** Consultant's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Consultant to the coverage

CONSULTANT SERVICES CONTRACT 4  
(Various)

provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**A. Minimum Scope of Insurance.** Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

**B. Minimum Amounts of Insurance:** Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

**C. Other Insurance Provisions.**

1. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

**D. Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

**E. Verification of Coverage** Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not

CONSULTANT SERVICES CONTRACT 5  
(Various)

necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contract before commencement of the work.

**F. Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

**G. Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

**H. City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

**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

CONSULTANT SERVICES CONTRACT 6  
(Various)

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 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 Contract, 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.

CONSULTANT SERVICES CONTRACT 7  
(Various)

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.

I. 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.

J. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

**IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.**

**CONSULTANT:**

By: \_\_\_\_\_  
(signature)

Print Name: \_\_\_\_\_

Its \_\_\_\_\_  
(Title)

DATE: \_\_\_\_\_

**CITY OF DES MOINES:**

By: \_\_\_\_\_  
(signature)

Print Name: Tim George

Its City Manager  
(Title)

DATE: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney  
DATE: \_\_\_\_\_

**NOTICES TO BE SENT TO:**

**CONSULTANT:**

Kevin Weed  
Exeltech, Inc.  
8729 Commerce Pl Dr NW, Suite A  
Lacey, WA 98516  
(425)359-6004 (telephone)  
kweed@xltech.com (fax/email)

**NOTICES TO BE SENT TO:**

**CITY OF DES MOINES:**

Allyssa Beaver  
City of Des Moines  
21630 11<sup>th</sup> Avenue S., Suite A  
Des Moines, WA 98198  
(206)870-6725 (telephone)  
abeaver@desmoineswa.gov (fax/email)

**Scope of Services  
City of Des Moines  
Redondo Restroom Replacement Project  
Construction Management Services**

**June 2024**

**Prepared by:**

Exeltech Consulting, Inc  
8729 Commerce Pl Dr NE, Suite A  
Lacey, WA 98516





## Table of Contents

INTRODUCTION.....	2
PROJECT DESCRIPTION .....	2
ASSUMPTIONS .....	2
1. PROJECT MANAGEMENT.....	4
1.1 General Project Management.....	4
1.2 Monthly Invoices.....	4
2. PRE-CONSTRUCTION ACTIVITIES .....	4
2.0 Readvertising Restroom Project and Bid Support .....	4
2.1 Construction Team Preparation.....	5
2.2 Pre-construction Conference.....	5
2.3 Pre-construction Photographs.....	5
3. CONTRACT ADMINISTRATION FOR CONSTRUCTION .....	5
3.1Project Meetings .....	5
3.2Project Communication .....	6
3.3Submittal Management.....	6
3.4Inspection Services .....	7
3.5Claims/Change Order Administration .....	8
3.6Monthly Construction Contract Schedule Review.....	9
3.7Prepare Monthly Contractor Payments .....	9
3.8Document Reviews.....	10
3.9Record Drawings.....	10
3.10 Materials Testing .....	10
3.11 Engineer of Record.....	10
3.12 Project Closeout.....	11

## INTRODUCTION

Des Moines (hereinafter ("City")) is the Contracting Agency for this Scope of Services. Exeltech Consulting, Inc (hereinafter "Consultant") will work under the City's Project Manager and will provide construction management and inspection services to support the City throughout the construction of the Redondo Restroom Replacement Project (hereinafter "Project"). Services generally include project management, documentation control, inspection, materials testing, arborist consultation and contract administration during the construction of the Project, as further detailed in this scope of services.

The Consultant's Construction Management Team for this scope of work will consist of Exeltech's Project Manager, Office Engineer and Field Inspector. Materials testing will be provided by MTC as a project expense. Arborist consultation will be provided by Davey Resource Group.

The Consultant will act as the direct point of contact for correspondence sent to and received from the Contractor and will work to facilitate discussions between the Contractor and the City.

## PROJECT DESCRIPTION

The proposed improvements to the City of Des Moines Restroom Replacement Project will construct the following:

- Site Civil Improvements
- New Restroom Building
- Demolish and Removal of Existing Restroom
- 

## ASSUMPTIONS

1. The level of services is based on a Construction Contract is assumed to be 100 working days. The Consultant's Construction Management Team will begin pre-construction activities approximately one (1) month prior to construction and will continue to provide post-construction activities for approximately one (1) month after construction completion. The scope of services is therefore based on a duration of 80 working days during construction, plus pre & post construction tasks as defined in the scope.
2. Contractor's work is anticipated to take place during daylight hours on a single shift of 8 to 10 hours per day, 4 to 5 days per week for 100 working days.

3. Services will be performed in accordance with the WSDOT Local Agency Guidelines (LAG) and the WSDOT Construction Manual.
4. Project construction is assumed to be continuous and without a suspension.
5. The Consultant's Construction Management Team is assumed to include the following labor resources (on average) during the duration of the construction contract:
  - One Project Manager, average 8 hrs per week during construction.
  - One part time Sr. Field Inspector, average 8 hours per week
  - One full time Inspector, average 45 hours per week
  - One Office Engineer, average 16 hrs per week
  - Engineer of Record and Environmental Team Support
  - Materials Testing Firm
  - Design Architect

Professional services will be limited to the assumed hours/costs established in Exhibit E-1, unless additional services are authorized by the City.

The project construction sequence is assumed to remain the same even if duration of activities change.

6. To streamline communication, project direction from the City will be channeled through Consultant's Construction Management Team, who will also serve as the primary point of communication with the Contractor.
7. Exeltech's Project Manager will report directly to, and communication flow will be directly to/from the City's Project Manager.
8. Project documentation will be maintained in the Consultant's web-based documentation software and filed in accordance with standard filing protocol. At the completion of the project, the original project documentation will be transferred to the City.
9. Hazardous materials and or archaeological discoveries/conditions are not known to be present at the project site, but will be properly dealt with if encountered.
10. The Construction Management Team will have direct access to communicate with the EOR through the RFI process and will receive timely responses to requests.
11. The Consultant will lead the coordination between the Contractor's activities and the impacts to the community.
12. Construction surveying will be done by the Contractor.

13. Observations/Inspections by the Construction Management Team will not in any way relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

## 1. PROJECT MANAGEMENT

### 1.1 General Project Management

Throughout the duration of the project, the Project Manager's activities will include coordination and oversight of the Construction Management Team's operations, including inspection, office engineering, answering questions regarding contract administration, and offering advice to the City on construction issues.

The Consultant will work with the City to develop and monitor the scope, schedule, and budget for the construction management services on the project. Any issues or changes that arise will be proactively communicated and documented with the City's Project Manager.

Consultant Resources: Project Manager

### 1.2 Monthly Invoices

The Consultant's monthly invoices for the services provided with this Agreement will document the efforts of the Construction Management Team.

Prior to the first billing, the Consultant will coordinate with the City on an acceptable format for the Consultant's monthly Invoices.

Consultant Resources: Project Manager, Administration

Deliverables:

- Monthly Invoices and Progress Reports

## 2. PRE-CONSTRUCTION ACTIVITIES

### 2.0 Readvertising Restroom Project and Bid Support

The Consultant will update the plans, specifications and estimates for the Redondo Restroom Replacement without the Fishing Pier Replacement. Assist the City in advertising the project for the Redondo Restroom Replacement Project. Provide bid support and recommendation of the apparent low bid contractor.

Consultant Resources: Engineering of Record, Design Engineer, Landscape Architect, Environmental Scientist

Subconsultants – Merrick Lentz Architect

Deliverables:

- Redondo Restroom Replacement PS&E Package
- Bid Tabulation

## 2.1 Construction Team Preparation

The Consultant will prepare a Construction Communications and Documentation Plan that will outline delivery strategy for coordinating the anticipated activities. This document will be reviewed in detail with the project team at a meeting shortly after Notice to Proceed (NTP).

Consultant Resources: Project Manager, Document Control

Deliverables:

- Construction Communication and Documentation Plan

## 2.2 Pre-construction Conference

The Consultant will participate in a Pre-construction Conference prior to the Contractor beginning work. The Consultant will assist in development of an agenda, based on the City's template, and relevant project distribution information for the City's review and approval prior to the Conference. The

At the Pre-construction conference, the City will facilitate discussions with the Contractor concerning the plans, specifications, schedules, issues with utilities, unusual conditions, federal, state, and local requirements, EEO, DBE requirements, and any other items that will result in better project understanding among the parties involved.

Consultant Resources: Project Manager, Document Control, Inspector's

Deliverables:

- Pre-construction Conference agenda and materials
- Pre-construction Conference meeting minutes

## 2.3 Pre-construction Photographs

The Consultant will take pre-construction photographs which will document the existing condition of the Project right-of-way, and relevant buildings and structures adjoining the site. Photos will be cataloged as to their location, date, and other relevant information. The Consultant will provide a copy of the pre-construction photographs to the City in digital format.

Consultant Resources: Inspector

Deliverables:

- Pre-construction Photographs

# 3. CONTRACT ADMINISTRATION FOR CONSTRUCTION

## 3.1 Project Meetings

The Consultant will attend various project related meetings with the Contractor (including weekly project meetings at the project site). The Consultant will prepare the agenda, keep meeting minutes, and the action item list for each of

the weekly Project meetings. The Consultant may also be required to attend and participate in weekly safety tool box meetings as conducted by the Contractor. No minutes will be provided for safety meetings but will be noted in the inspector's daily report.

Consultant Resources: Project Manager, Field Inspector, Document Control

Deliverables:

- Meeting Agendas and Minutes for weekly progress meetings

### 3.2 Project Communication

The City will carry the primary responsibility for public involvement/outreach. The Consultant will assist the City with responses to public inquiries about the project. The Consultant will develop and regularly maintain a communication log that documents project inquiries (by phone, e-mail, or in person) and their resolution. The Consultant will develop responses to inquiries within 24 hours and follow up as necessary.

The Consultant is the primary contact for any adjacent property owners and will remain in contact with them as necessary throughout the project.

Consultant Resources: Project Manager, Field Inspector

Deliverables:

- Communications Log

### 3.3 Submittal Management

Project submittals will be logged and tracked by the Consultant. The Consultant will coordinate and process the receipt, distribution, review and compilation of comments; and monitor and track the processing of RFI's, submittals, samples, shop drawings, steel reinforcing details, bar lists, mix designs, test reports, traffic control plans, change orders, payment requests, certified payrolls, and other submittals from the Contractor for compliance with the contract documents.

In cooperation with the City and the EOR, the Consultant will prepare a matrix that identifies key submittals that will be transmitted to the design engineer and/or the City for review and approval, and those that will be processed by the Consultant.

The Consultant will track and approve the processing of Request for Approval of Materials (RAM's) and review and distribute as necessary. Contractor submittals to City staff and/or EOR for will be submitted for approval, including proposed designs, construction methods and procedures for the various components of the structures, formwork and false work submittals, catalog cuts, and shop drawings for compliance with the Contract documents. The Consultant will seek technical expertise from the EOR when required for clarification or resolution of Contract drawings.

The Consultant will process the requests for sublet; and will review and

approve the requests according to the specification 1-08.1.

The Consultant will review and respond on the SPCC / Erosion Control Plan and will monitor the Contractor's administration of the Plan.

Consultant Resources: Project Manager, Document Control

Deliverables:

- Submittal Tracking Log
- Digital Copy of Contractor Submittals with Approvals (RAMs, RFIs, Submittals)

### 3.4 Inspection Services

The Consultant will inspect on-site construction methods, products, materials, and activities for conformance with the project plans, specifications, Contract documents, submittals and applicable codes and design standards with the ROM. Any non-conformances, deviations, defects or deficiencies observed will be documented and communicated to the City.

The Inspector will be the City's representative to coordinate and facilitate the Contractor's work with Utilities, and the adjoining property owners on the project.

The Consultant will track and inspect materials deliveries, storage and protection for compliance. The Consultant will coordinate the technical inspection and verify acceptance testing for project materials and constructed components as specified by the ROM.

The Consultant will document observed non-conforming work, and as necessary in conjunction with the design team make recommendations to the City for corrective measures. In addition, the Construction Management Team will notify the Contractor immediately and proactively work with the Contractor to resolve such issues. Resolution of nonconforming issues/item, will be tracked to assure that corrective work is completed. As necessary, disputes will be elevated to the proper level.

The Consultant will prepare Inspector's Daily Reports (IDRs) by utilizing the Headlight program, documenting weather conditions, labor, equipment, and materials used, material and equipment deliveries to the site, phases of work being undertaken with start and stop times, work by bid item number, environmental permit compliance, Contractor contacts made, visitors to the site, quality of work, shortages, requests for change orders, engineer directives and/or clarifications, design issues, safety, traffic management, accidents, any notices received, interfaces with other agencies and government officials, identification of different site conditions and contaminated materials and the influence of external events such as weather and strikes which may affect the cost or completion schedule for the work. IDR's will be posted to e-Room by the end of the next day's shift.

The Consultant will provide daily reports on any Force Account items on the WSDOT 422-008 form, and document and calculate the amount to be paid for

work performed on the force account.

The Consultant will use WSDOT form 422-635 to document and record field calculations and notes.

The Consultant will provide a weekly statement of working days to the Contractor and a copy to the file.

The Consultant will provide pictorial documentation through weekly progress photos during the construction period. The construction photographs will be in digital format and cataloged by date. Construction photographs will be posted to e-Room on a weekly basis. On a routine basis there will be progress photos taken in the same location and angle as the pre-construction photos.

Consultant Resources: Project Manager, Inspectors, Document Control

Deliverables:

- Inspector Daily Reports w/ Construction Photographs
- Force Account Sheets
- Field Note Records

### 3.5 Claims/Change Order Administration

The Consultant will work to resolve day-to-day construction disputes which may occur during the course of the Project and will promptly inform the City of notices of changes or claims/issues raised by the Contractor.

The Consultant will assist and work on behalf of the City in preparing and negotiating claims, change order costs and time extensions by evaluating the Contractor's proposal and performing a preliminary evaluation of the contents of the change or claim and obtaining factual information concerning the change or claim to evaluate merit and entitlement. The Consultant will prepare independent cost estimates based on the alleged cause of claims or proposed changes submitted by the Contractor. Upon successful change order negotiations, the Consultant will prepare the final change order for execution by the City and the Contractor. Where applicable, the Consultant will prepare alternate estimates based on varying scenarios of the change or claim cause. These estimates will be transmitted to the City and will be used in claim or change order rulings and negotiations. Delays and extra work will be monitored and tracked. The Consultant will advise the City of the acceptability of price and time extension prior to submittal to the Contractor for their signature.

The Consultant will coordinate with and obtain written concurrence from the EOR on the description of work for each change order, which will be included as an attachment to the change order.

The Consultant will prepare and maintain a Change Order Report which will be provided to the City on a weekly basis. The report will document and track change order information pertaining to proposed and executed change orders and their effect on the contract price as of the date of the report.



The Consultant will coordinate emergency change order work as directed by the City.

If necessary, the Consultant will provide dispute resolution procedures and expert witness deposition during litigation (associated time not included in current budget).

Minor items of work, per the contract bid item, will be approved by the City's Project Manager before the Consultant directs the Contractor to proceed with the work.

Consultant Resources: Project Manager, Document Control, Sr. Field Inspector

Deliverables:

- Change order with backup support
- Change Order tracking log

### 3.6 Monthly Construction Contract Schedule Review

The Consultant will perform an initial detailed schedule review of the Contractor provided CPM for conformance with the contract documents and will discuss related schedule issues or concerns with the City.

On a monthly basis, the Consultant will review and respond to the Contractor's updated construction schedule and compare with field-observed progress.

The Consultant will monitor and regularly report to the City regarding schedule compliance. If issues arise, the Consultant will report to the City with suggested resolutions, and coordinate with Contractor in the development of recovery schedules, as needed, to address delays caused by either events or issues within the Contractor's control or other events or issues beyond the Contractor's control.

The Consultant will advise the City and make recommendations for exercising the City's contract prerogatives, including giving the Contractor notice to accelerate the project progress, withhold payment for cause, and other prerogatives available in-an-effort to achieve contract and schedule compliance.

Consultant Resources: Project Manager, Document Control

Deliverables:

- Digital Copy of Contractor Provided Schedules

### 3.7 Prepare Monthly Contractor Payments

The Consultant will track installed quantities and prepare a monthly pay estimate for the City to make payment to the Contractor based on measured quantities of work performed for each bid item. The Consultant will have the Contractor review the estimate and resolve any discrepancies prior to sending it the City for processing. As necessary, the Consultant will prepare correspondence explaining payment recommendations.

Consultant Resources: Project Manager, Office Engineer, Field Inspector

Deliverables:

- Monthly Contractor pay estimate
- Backup Field Note Records

### 3.8 Document Reviews

The Consultant will conduct periodic internal quality documentation audits to monitor that documentation is complete and accurate. The audit will be conducted by the project manager. The Consultant's project team will then respond to findings and recommendations from the audit.

Consultant Resources: Project Manager

Deliverables:

- Document Review Memo

### 3.9 Record Drawings

The Consultant will maintain a set of red line drawings on a half size plan sheets that shows revisions to the plans that were constructed in the field. This will be provided to the City at the completion of the project. This will be used to verify Contractor provided Record Drawings.

Consultant Resources: Field Inspector

Deliverables:

- Red line Construction Record Drawings

### 3.10 Materials Testing

The Consultant will coordinate and manage materials testing required on the Project. The Consultant will document and evaluate results of testing, and address deficiencies. The Consultant will use Materials Testing & Consulting (MTC) to perform necessary field and lab testing of granular materials, Hot Mix Asphalt (HMA), and other materials requiring testing. Testing will be for those items requiring physical acceptance testing in accordance with the project plans and specifications. Testing will be done according to the Local Agency Guidelines (LAG) and the WSDOT Construction Manual (as modified by the LAG manual). Specifically, this includes Table 9-3.7 of the WSDOT Construction Manual as modified by Section 52.3 Quality Control of the LAG.

Consultant Resources: MTC, Document Control

Deliverables:

- Materials testing reports

### 3.11 Engineer of Record

The Consultant will provide availability of the Engineer of Record and key design team members including the Architect to support the project during construction. Team members will be available to respond to design questions, RFI, RAM and Submittal reviews. Inspection support as needed.

Consultant Resources: Engineer of Record, Landscape Architect, Design Engineer, Environmental

Subconsultants – Merrick Lentz Architect

Deliverables:

- RFI's, RAM's and Submittal Responses
- Attendance at meetings per request

### 3.12 Project Closeout

When appropriate, the Consultant will make a recommendation for issuance of substantial construction completion. The Consultant will coordinate with the City, the engineer of record, sub-consultants, Utilities, and other affected agencies to perform a project walk through and inspection and oversee production of a comprehensive list of deficiencies and punch list items to be completed by the Contractor. The punch list and Certificate of Substantial Completion will be prepared by the Consultant and issued by the City. The Consultant will sign-off on punch list work as it is completed in accordance with the Contract documents.

Following completion of punch list work, the Consultant will recommend that the City and/or Utilities accept the Project. Once involved entities have accepted the Project in writing, the Consultant will prepare a Certificate of Physical Completion, which will be issued by the City.

The Consultant will prepare and/or finalize necessary reports and documentation for the Project, including the final pay estimate, comparison of preliminary and final quantities, record of material samples and tests, material certifications, affidavit of wages paid, and affidavit of amount paid to DBE participants.

Upon completion of work on the Project, the Consultant will deliver Project documents to the City for permanent storage. Project documentation will be neatly organized and labeled in standard filing boxes. A copy of digital files related to the construction project, including e-mails, will be provided to the City on a mass storage device (thumb drive, or approved equivalent). The Consultant may keep a copy of the project documents for their records.

Consultant Resources: Project Manager, Office Engineer, Field Inspector

Subconsultant: Merrick Lentz Architects

Deliverables:

- Certificate of Substantial Completion with punch list
- Physical completion letter and recommendation of final acceptance letter
- Post-construction Photographs
- Construction Record Drawings
- Project records at the completion of the contract

Des Moines  
Redondo Restroom Replacement  
Project

Exeltech Consulting, Inc.  
Scope of Services

**Fee Determination - Summary Sheet**

**Project Name:** Redondo Restroom Replacement Project  
**Client Name:** City of Des Moines  
**Task Description:** Construction Management Services  
**Consultant Fee Determination:** Exeltech

**Start Date**

**End Date**

**Project #** 243x

Classification	Man Hours		Hourly Rate		Dollars
Principal-in-Charge	2	x	\$290.93	=	\$581.86
Project Manager	154	x	\$184.88	=	\$28,470.75
Sr. Field Inspector	138	x	\$193.84	=	\$26,749.37
Field Inspector	814	x	\$118.49	=	\$96,454.12
Document Control	354	x	\$127.60	=	\$45,170.40
Engineer of Record	74	x	\$237.10	=	\$17,545.70
Design Engineer	84	x	\$116.15	=	\$9,756.18
Landscape Architect	48	x	\$193.81	=	\$9,302.74
Environmental Specialist	32	x	\$194.16	=	\$6,212.96
Administrator	14	x	\$98.11	=	\$1,373.50
<b>Total Hours</b>	<b>1,714</b>				
<b>Total DSC</b>				=	\$241,617.56
<b>Overhead (OH Cost - Including Salary Additives)</b>					
OH Rate x DSC	<u>160.00%</u>	x		=	N/A
<b>Included in Hourly Rate</b>					
<b>Fixed Fee (FF)</b>					
FF Rate x DSC	<u>30.00%</u>	x		=	N/A
<b>Included in Hourly Rate</b>					
<b>Reimbursables</b>					
<u>Itemized</u>	Quantity	Units	Rate		
MTC - Materials Testing	1	@	\$15,000.00	=	\$15,000.00
Merrick Lentz Architects	1	@	\$12,300.00	=	\$12,300.00
Mileage	10,000	Est @	\$0.670	=	<u>\$6,700.00</u>
<b>Reimbursables Total</b>					<b>\$34,000.00</b>
<b>Grand Total</b>					<b><u>\$275,617.56</u></b>

## **Bidders Checklist**

---

The Bidder's attention is called to the following forms which must be executed in full as required:

(a) **Proposal**

The unit prices bid must be shown in the space provided. Show unit prices in both words and figures. Final sheet on proposal must be filled in and signed by the bidder. Refer to Instructions for Bidders regarding submittal of proposals.

All schedules on the Bid Proposal must be completed, or the bid shall be considered non-responsive. Basis for award shall be total Bid for all Schedules included in the Proposal.

The Owner will correct obvious mathematical errors in bid proposals.

b) **Bond Accompanying Bid**

This form is to be executed by the Bidder and the surety company unless bid is accompanied by a cashier's check or certified check. The amount of this bond shall be not less than five percent (5%) of the total bid, including sales tax, if applicable, and may be shown in dollars or on a percentage basis. On federally funded projects, a surety's name must also appear on the United States' Treasury Department's list of authorized sureties - Circular 570 as amended.

(c) **Non-Collusion Affidavit**

This form must be filled in, signed, and notarized.

(d) **Statement of Bidder's Qualifications**

(e) **Statement of Proposed Subcontractors and Material Suppliers**

All subcontractors must be approved in writing by the Engineer prior to commencing any work.

(f) **Certification of Compliance with Wage Rate Statues**

(g) **Statement of Bidder Responsibility Criteria**

## Proposal

---

### Redondo Restroom Replacement Project

TO: Honorable Mayor and City Council  
City of Des Moines  
21630 11th Avenue South  
Des Moines, WA 98198

**The undersigned Bidder hereby certifies that he has examined the site of all the proposed work under this Contract and that he has read and thoroughly understands the Plans, Specifications and other Contract Documents pertaining to this Contract, that he is fully aware of the construction problems and costs involved, and proposes to perform all work for the following stated prices.**

The undersigned bidder hereby agrees to start construction within ten (10) days after the date stated in the Notice to Proceed, and to complete the contract within 100 working days thereafter. This period shall be known as the "Contract Time" for the purposes of the project.

The project is subject to retail sales and use tax per WAC 458-20-170, commonly known as Rule 170. The Contractor shall collect from the Contracting Agency, retail sales tax on the full contract price. The Contracting Agency will automatically add the sales tax to each payment to the Contractor.

All schedules on the Bid Proposal must be completed, or the bid shall be considered non-responsive. Basis for award shall be total Bid for all Schedules included in the Proposal.

The Owner will correct obvious mathematical errors in bid proposals.

Unit prices for all items, all extensions and the total amount of bid must be shown. All entries must be typed or entered in ink.

Show unit prices in figures. Where conflict occurs between the unit price and the total amount named for any item, the unit price shall prevail, and totals shall be corrected to conform thereto.

## Proposal Form

City of Des Moines

### Redondo Restroom Replacement Project

Note: Unit prices for all items, all extensions, and the other total amount of the Bid must be shown. All entries must be typed or entered in ink.

Item No.	Spec. Section	Item Description	Est. Qty.	Units	Unit Price	Amount
1	1-09.7	MOBILIZATION	1	L.S.	\$ 11,032.32	\$ 11,032.32
2	SP 2-02	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	1	L.S.	\$ 99,290.88	\$ 99,290.88
3	SP 2-02	REMOVING CEMENT CONC. SIDEWALK	220	S.Y.	\$ 55.16	\$ 12,135.55
4	SP 2-02	REMOVING CEMENT CONC. CURB	305	L.F.	\$ 5.52	\$ 1,682.43
5	SP 2-02	REMOVING ASPHALT CONC. PAVEMENT	270	S.Y.	\$ 33.10	\$ 8,936.18
6	8-22	REMOVING PAINT LINE	100	L.F.	\$ 50.75	\$ 5,074.87
7	2-03	ROADWAY EXCAVATION	64	C.Y.	\$ 44.13	\$ 2,824.27
8	2-03	COMMON BORROW INCL. HAUL	50	C.Y.	\$ 82.74	\$ 4,137.12
9	SP7-04	4" PVC SDR-35 PIPE	20	L.F.	\$ 33.10	\$ 661.94
10	SP 7-04	6" PVC SDR-35 PIPE	90	L.F.	\$ 38.61	\$ 3,475.18
11	SP7-01	FOOTING DRAINS	115	L.F.	\$ 49.65	\$ 5,709.23
12	7-05	CATCH BASIN TYPE 1	4	EACH	\$ 4,412.93	\$ 17,651.71
13	7-04	TESTING STORM SEWER PIPE	110	L.F.	\$ 11.03	\$ 1,213.56
14	SP 7-06	TRENCH DRAIN	22	L.F.	\$ 165.48	\$ 3,640.67
15	7-19	SEWER CLEANOUT	5	EACH	\$ 1,103.23	\$ 5,516.16



Item No.	Spec. Section	Item Description	Est. Qty.	Units	Unit Price	Amount
16	7-17	TESTING SEWER PIPE	80	L.F.	\$ 27.58	\$ 2,206.40
17	7-17	PVC SANITARY SEWER PIPE 6 IN. DIAM.	80	L.F.	\$ 55.16	\$ 4,412.93
18	8-24	SHORING OR EXTRA EXCAVATION CL. B	500	S.F.	\$ 11.03	\$ 5,516.16
19	SP7-17	PVC PIPE CASING 8 IN. DIAM.	10	L.F.	\$ 55.16	\$ 551.62
20	SP 7-17	SEWER MAIN CONNECTION 6 INCH DIAM.	1	EACH	\$ 5,516.16	\$ 5,516.16
21	7-12	GATE VALVE 2 IN.	3	EACH	\$ 1,103.23	\$ 3,309.70
22	7-15	SERVICE CONNECTION 2 IN. DIAM	1	EACH	\$ 2,758.08	\$ 2,758.08
23	SP7-09	WATER SERVICE DOUBLE CHECK VALVE ASSEMBLY 2 IN.	1	EACH	\$ 8,825.86	\$ 8,825.86
24	7-09	PVC PIPE FOR WATER MAIN 2 IN. DIAM.	60	L.F.	\$ 55.16	\$ 3,309.70
25	SP7-15	DOUBLE HOSE BIB	1	EACH	\$ 1,103.23	\$ 1,103.23
26	SP7-15	DRINKING FOUNTAIN	1	EACH	\$ 7,722.62	\$ 7,722.62
27	4-04	CRUSHED SURFACING BASE COURSE	33	TON	\$ 55.16	\$ 1,820.33
28	4-04	CRUSHED SURFACING TOP COURSE	69	TON	\$ 55.16	\$ 3,806.15
29	5-04	HMA CL. 1/2 IN. PG 64-22	24	TON	\$ 426.79	\$ 10,242.85
30	5-03	HMA SAWCUT AND SEAL	500	L.F.	\$ 3.31	\$ 1,654.85
31	2-09	SLURRY SEAL, TYPE 2	1,090	S.Y.	\$ 5.52	\$ 6,012.61
32	8-01	INLET PROTECTION	10	EACH	\$ 110.32	\$ 1,103.23
33	8-01	EROSION CONTROL AND WATER POLLUTION PREVENTION	1	L.S.	\$ 11,032.32	\$ 11,032.32
34	SP 8-02	TOPSOIL TYPE A	20	C.Y.	\$ 110.32	\$ 2,206.40

Exhibit A: Bid Documents

10

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see [www.bxwa.com](http://www.bxwa.com) - Always Verify Scal

Item No.	Spec. Section	Item Description	Est. Qty.	Units	Unit Price	Amount
35	8-02	PSIPE SHRUBS, 4" POTS	154	EACH	\$ 16.55	\$2,548.47
36	8-02	PSIPE SHRUBS, 1 GAL	51	EACH	\$ 27.58	\$1,406.62
37	SP 8-02	BARK OR WOOD CHIP MULCH	15	C.Y.	\$ 110.32	\$1,654.85
38	8-01	HIGH VISIBILITY SILT FENCE	50	L.F.	\$ 22.06	\$1,103.23
39	8-04	CEMENT CONC. TRAFFIC CURB AND GUTTER	5	L.F.	\$ 88.26	\$441.29
40	8-04	CEMENT CONC. TRAFFIC CURB	320	L.F.	\$ 66.19	\$21,182.05
41	8-22	PAINT LINE	130	L.F.	\$ 39.16	\$5,091.42
42	1-10	PROJECT TEMPORARY TRAFFIC CONTROL	1	L.S.	\$5,516.16	\$5,516.16
43	SP 6-06	STREAMBED COBBLES 8 IN.	4	TON	\$ 132.39	\$529.55
44	2-09	STRUCTURE EXCAVATION CLASS B INCL. HAUL	210	C.Y.	\$ 55.16	\$11,583.94
45	SP 1-05	STRUCTURE SURVEYING	1	L.S.	\$ 5,516.16	\$5,516.16
46	SP 1-05	ROADWAY SURVEYING	1	L.S.	\$5,516.16	\$5,516.16
47	8-14	CEMENT CONC. SIDEWALK	290	S.Y.	\$ 140.11	\$40,632.03
48	8-14	CEMENT CONC. CURB RAMP TYPE PERPENDICULAR	1	EACH	\$3,309.70	\$3,309.70
49	7-05	CONNECTION TO DRAINAGE STRUCTURE	2	EACH	\$1,654.85	\$3,309.70
50	SP 7-05	LOCKING SOLID METAL COVER AND FRAME FOR CATCH BASIN	3	EACH	\$ 827.42	\$2,482.27
51	1-04	MINOR CHANGE	1	CALC	\$20,000.00	\$20,000.00
52	SP 1-04	INSPECTOR'S TRAILER AND SITE FIELD OFFICE BUILDING	1	L.S.	\$16,548.48	\$16,548.48
53	SP 1-05	RECORD DRAWINGS (minimum Bid \$2,500)	1	L.S.	\$2,758.08	\$2,758.08
54	SP 8-27	TRASH RECEPTACLES	2	EACH	\$1,103.23	\$2,206.46

Exhibit A: Bid Documents

11

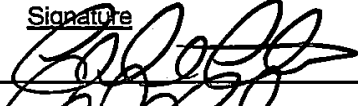
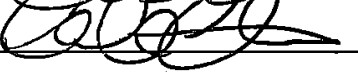
Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see [www.bxwa.com](http://www.bxwa.com) - Always Verify Scal

Item No.	Spec. Section	Item Description	Est. Qty.	Units	Unit Price	Amount
55	SP 8-02	LANDSCAPE BOULDER THREEE MAN	3	EACH	\$ 330.97	\$992.91
56	SP7-15	REMOVE AN REPLACE HOSE HANGER	1	EACH	\$ 220.65	\$ 220.65
57	SP 1-05	ADA FEATURES SURVEYING	1	L.S.	\$5,516.16	\$5516.16
58	SP 6-06	BULKHEAD TIMBER PEDESTRIAN RAILING	60	L.F.	\$ 82.74	\$4,964.54
59	SP 8-20	FUTURE FISHING PIER CONDUIT	1	L.S.	\$ 9,377.47	\$9,377.47
60	SP 8-20	FUTURE PARKING SYSTEM CONDUIT	1	L.S.	\$ 4,412.93	\$4,412.93
61	SP 8-20	RELOCATE AND PROTECT WIFI ANTENNA	1	L.S.	\$ 2,758.08	\$2,758.08
62	SP 6-20	RESTROOM AND CONCESSIONS BUILDING	1	L.S.	\$1,260,994.18	\$1,260,994.18

Subtotal:	1,708,666.92
+ Sales Tax <del>(10.1%)</del> <sup>(10.2%)</sup>	174,284.03
Total:	1,882,950.95

### Addenda Acknowledgement

Receipt is hereby acknowledged for the following Addenda:

<u>Addendum No.</u>	<u>Date Received</u>	<u>Signature</u>
01	06/14/2024	
02	06/17/2024	

The bidder acknowledges that bids must be submitted for all Bid Alternatives. Partial Bids shall not be considered.

Bid proposal to be submitted in a sealed envelope marked "Bid Enclosed" for Redondo Restroom Replacement.

Form of a Bid Bond

BID BOND DEPOSIT

Herewith find deposit in the form of a \_\_\_\_\_ (state whether certified check, cashier's check, bid bond, or postal money order)

for the amount of \_\_\_\_\_, which amount is not less than five percent (5%) of the total bid, including sales tax.

Signature \_\_\_\_\_

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Christensen, Inc., General Contractor, as Principal, and Travelers Casualty and Surety Company of America, as Surety, are held and firmly bound unto the City of Des Moines, as Obligor, in the penal sum of Five percent of total amount bid dollars (\$5% of T.A.B. \_\_\_\_\_) for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

The Condition of this obligation is such that if the Obligor shall make award to the Principal for the **Redondo Restroom Replacement**, according to the terms of the proposal or bid made by the Principal therefore and the Principal shall duly make and enter into a contract with the Obligor in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligor; or, if the Principal shall in case of failure so to do, pay and forfeit to the Obligor the penal amount of the deposit specified in the call for bids; then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligor, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS 10 DAY OF June, 2024.

Principal

Bellie Stuart

Surety

Received return of deposit in the sum of \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_





**Travelers Casualty and Surety Company of America**  
**Travelers Casualty and Surety Company**  
**St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Billie Stuart** of **OLYMPIA**, **Washington**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

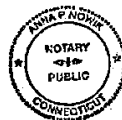
By: \_\_\_\_\_

Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026



Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 10 day of June, 2024.



Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.**  
**Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**

Non-collusion Affidavit

City of Des Moines


STATE OF WASHINGTON)

) ss.

County of King )

Colin Christensen, being first duly sworn on his oath, says he is Executive Vice President and that the bid above submitted is a genuine and not a sham or collusive bid, or made in the interest or on behalf of any person not therein named; and he further says that the said Bidder has not directly or indirectly induced or solicited any bidder on the above work or supplies to put in a sham bid, or any other person or corporation to refrain from bidding; and that said Bidder has not in any matter sought by collusion to secure to (her)(him)self an advantage over any other bidder or bidders.

Signature



Subscribed and sworn to before me this 18 day

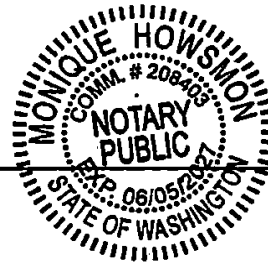
of June, 2024.



Notary Public in and for the State of Washington

Centralia, WA

Residing at



My commission expires

June 05, 2027

### Statement of Bidder's Qualifications

Each bidder submitting a proposal on work included in these Plans and Specifications shall prepare and submit as part of this bid the following schedule:

1. Name of bidder: Christensen Inc. General Contractor
2. Business address and telephone number:  
2840 Crites St SW Suite 100, Tumwater, WA 98512  
(360) 709-0330
3. How many years has said bidder been engaged in the contracting business under present firm name:  
30
4. Contracts now in hand (gross amount):  
\$ 22.4 Million
5. General character of work performed by said company:  
Contractor - remodels, TI's, and new builds. Concrete, demo, framing, roofing, siding, metal building erection.
6. List of more important projects constructed by said company, including approximate costs and dates:  
VRF Exp. LFD, \$3,048,480, 11/2022 - TBD  
Station 45, \$6,593,000, 06/2022 - 03/2024  
SKHS Pool Mod, \$7,750,500, 03/2022 - 10/2023
7. List of company's major equipment:  
Dump truck, excavator, forklift, snorkel, scissor lift.



8. Bank references:

TwinStar Credit Union, Alexis Alverson, (360) 485-8221

9. Dept. of Labor and Industries' firm number:

867,973-00

10. Dept. of Revenue registration number:

601-546-765

Name of Bidder Christensen Inc. General Contractor

By Colin Christensen

Title Executive Vice President

Date 06/18/2024

### Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address  
and Telephone Number

Description of Work

Holmberg

Plumbing

Capital Heating

HVAC

Elite Electric

Electric

Material Suppliers

Material (major items only)

Western Wood products

CLT

Dexton Panels

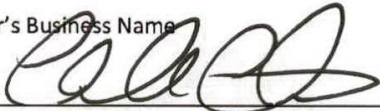
Exterior Panels

### Certification of Compliance with Wage Payment Statues

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date June 18, 2024, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Bidder's Business Name



Signature of Authorized Official\*

Colin Christensen

Printed Name

Executive Vice President

Title

06/18/2024

Date

Tumwater

City

WA

State

Check One:

Sole Proprietorship ☐

Partnership ☐

Joint Venture ☐

Corporation ☒

State of Incorporation, or if not a corporation, State where business entity was formed:

Washington

If a co-partnership, give firm name under which business is transacted:

*\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

### Statement of Bidder Responsibility Criteria

I, by signing the proposal and this statement, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned persons(s), firm, association, or corporation meet all the bidder responsibility criteria for public works contracts under RCW 39.04.350.
2. That the undersigned persons(s), firm, association, or corporation meet all the bidder responsibility as identified in the Contract Documents.
3. That by signing the proposal and this form, I am deemed to have signed and to have agreed to the provisions of this statement.
4. That by signing the proposal and this form, if omissions are found the bidder will be deemed an unresponsive bidder or if awarded a public works project, the contract will be immediately terminated by the Contracting Agency.

**Contract Title:** Redondo Restroom Replacement, City of Des Moines

**Bidder's Business Name:** Christensen Inc. General Contractor

**Bidder's Name:** Colin Christensen

**Bidder's Signature:**  \_\_\_\_\_

**Bidders Title:** Executive Vice President

**Date:** 06/18/2024

### Certification of Non-Segregated Facilities

The Bidder certifies that s/he does not maintain or provide for his/her employees any segregated facilities at any of her/his establishments; and that s/he does not permit her/his employees to perform their services at any locations under her/his control where segregated facilities are maintained. The undersigned certifies further that s/he will not maintain or provide for her/his employees any segregated facilities at any of her/his establishments, and that s/he will not permit her/his employees to perform their services at any location under her/his control where segregated facilities are maintained. The undersigned agrees that a breach of this certification will be in violation of the Equal Opportunity clause set forth in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

The undersigned agrees that, except where s/he has obtained identical certification from subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that s/he will obtain identical certifications from subcontractors and that s/he will retain such certifications in her/his files.

Date: 06/18/2024

Signature: 

Name/Title: Colin Christensen, Executive Vice President

Vendor Name: Christensen Inc. General Contractor

Address: 2840 Crites St SW Suite 100

City/State/Zip: Tumwater, WA 98512



June 27, 2024

Mr. Khai Le, PE  
City of Des Moines  
21650 11<sup>th</sup> Avenue South  
Des Moines, WA 98198-6317

Re: Redondo Restroom Replacement Project Award Recommendation

Dear Mr. Le:

We recommend approval of award to Christensen, Inc. for the Redondo Restroom Replacement Project, based on the following:

- The Bid has been reviewed against the Lag Manual requirements (46.26) and WSDOT Standard Specification Division 1.
- During review of the submitted bid proposal by Christensen, Inc. on June 18, 2024, an error was found in the unit price for Bid Item 24. We notified Christensen, Inc. of the apparent error and asked them to make corrections to resolve the error. They resubmitted the bid proposal with the correction on June 20, 2024.
- Bid Tabulation and Christensen, Inc. Bid Package are included with this letter.

Based on the Corrected Bid prices we recommend accepting the Christensen, Inc. Bid Price including tax in the amount of \$1,882,952.93. This amount exceeds the engineers estimate by \$272,828.44 (16.9%), and is justified based on the following items:

- Christensen Inc. acknowledged their unit price error for Bid Item 24, they corrected their bid and resubmitted the bid proposal.
- Minor math errors exist in several of the total bid item amounts provided by Christensen Inc. These are corrected in the final bid tabulation, resulting in an increase of \$1.80 in total bid amount before sales tax.
- The lump sum Item No. 62 – “Restroom and Concession Building” is the primary difference between Engineers Estimate and Bid Proposal. The bid proposal for Bid Item 62 “Restroom and Concession Building” is \$364,424.59 over the Engineers estimate. This cost increase is likely a result of inflation, creating uncertainty for cost and availability of restroom materials.
- We only received one bid; however, we had the results from the April 3, 2024, Schedule A – Redondo Fishing Pier and Restroom Replacement Project in the amount of \$2,393,315.27 for comparison. The readvertised Restroom Replacement Project includes everything from Schedule A plus existing restroom removal. Christensen, Inc. bid proposal is approximately 25% lower than the April 3, 2024, bid amount.

8729 Commerce Place Drive NE  
Suite A  
Lacey, WA 98516  
T. 360.357.8289  
F. 360.357.8225  
www.xltech.com



Page 2

- Re-advertising would not likely increase competition, nor would it produce a lower bid.

If you have any further questions, please contact me.

Respectfully Submitted,  
EXELTECH CONSULTING, INC.



Kevin E Weed, PE  
Director of Construction Management

KEW:jfa

Enclosure



## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Alleyway Naming and  
Commemorative Street Name

ATTACHMENTS:

1. Draft Ordinance no. 24-026
2. Draft Resolution no. 24-056

FOR AGENDA OF: July 11, 2024

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: July 2, 2024

CLEARANCES:

- ☐ City Clerk \_\_\_\_\_
- ☒ Communications W. M. M. M.
- ☒ Community Development D. Hopp
- ☐ Courts \_\_\_\_\_
- ☐ Emergency Management \_\_\_\_\_
- ☐ Finance \_\_\_\_\_
- ☐ Human Resources \_\_\_\_\_
- ☒ Legal /s/ MH
- ☐ Marina \_\_\_\_\_
- ☐ Police \_\_\_\_\_
- ☐ Parks, Recreation & Senior Services \_\_\_\_\_
- ☒ Public Works WPS

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: [Signature]

#### **Purpose and Recommendation**

The purpose of this agenda item is to consider Draft Ordinance no. 24-026 which would give the name “Backstage Alley” to the newly activated alleyway in downtown Des Moines and Draft Resolution no. 24-056 which would create a commemorative name of “Waterland Way” for the section of South 223rd Street from Marine View Drive South to Cliff Avenue South.

#### **Suggested Motion**

**Motion #1:** “I move to enact Draft Ordinance no. 24-026, naming the Marina District alleyway from South 223rd Street to South 227th Street ‘Backstage Alley’.”

**Motion #2:** “I move to enact Draft Resolution no. 24-056, establishing a commemorative name of ‘Waterland Way’ for the portion of South 223rd Street between Marine View Drive and Cliff Avenue.”



### **Background**

The alleyway that runs north/south through the Marina District between Marine View Drive and 7th Ave S. does not currently have a name. In recent years the City has invested in improvements to the alleyway in an effort to increase pedestrian access and activate the alleyway with retail and dining opportunities. Naming the alleyway is an additional method of raising awareness and promotion of this innovative area within the City.

The City's Citizen's Advisory Committee (CAC) was tasked with collecting ideas for a name. Members gathered input from their neighbors as well as shared a survey link created by the City to facilitate idea collection. The online survey was also shared with the public via methods such as the Waterland Blog and local PTSA groups. It was agreed that no "contest" or "honor" would be promised to the individual whose name submission was selected. Instead, the entire CAC would be recognized for their collective work on this project. All naming ideas were submitted Monday, April 22, for compilation and distribution to CAC members ahead of their April 24 meeting. During the meeting, attendees voted for their top three choices, which were then consolidated into an overall top three for submission to the City Council.

A total of 391 naming suggestions were submitted to the CAC. From this long list of suggestions, the CAC narrowed it down to a select few, with the top three recommendations to the Council being:

- Backstage Alley (10 votes)
- Jack's Alley (10 votes)
- Waterland Alley/Way (5 votes)

The CAC presented the full list of suggestions and their recommendation of the top three choices to the Council at the June 6, 2024 City Council study session, where the Council did not reach consensus on a choice. The Council revisited the issue at the June 27, 2024 regular Council meeting and directed staff to prepare a draft ordinance designating the alley as "Backstage Alley." In a subsequent motion, the Council further directed staff to prepare a draft resolution creating a commemorative name for South 223rd Street between Marine View Drive and Cliff Avenue South of "Waterland Way". The draft legislation is the subject of this agenda item.

### **Discussion**

Draft Ordinance 24-024 would officially name the alleyway "Backstage Alley." The alley would be posted with official City street signs bearing the name and businesses fronting the alley could request a "Backstage Alley" address.

Draft Resolution 24-056 would provide for a commemorative name for the section of South 223rd Street from Marine View Drive to Cliff Avenue South. The section would remain South 223rd Street officially, but secondary street signs would be installed in the same manner as for the section of 24th Avenue South designated as "Rainier Drive South" near Mt. Rainier High School.

### **Alternatives**

For each motion, the City Council may:

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

**Financial Impact**

Staff estimates that fabricating and installing street signs to execute both designations will cost approximately \$2,000.00.

**Recommendation**

N/A.

**CITY ATTORNEY'S FIRST DRAFT 07/02/2024**

**DRAFT ORDINANCE NO. 24-026**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** naming a portion of the alleyway located between Marine View Drive South and 7th Avenue South lying between South 223rd Street and South 227th Street.

**WHEREAS**, the City of Des Moines has invested in improvements to the alleyway located between Marine View Drive and 7th Avenue South including undergrounding utilities, and

**WHEREAS**, these improvements are intended to increase pedestrian access and activate the alleyway with retail and dining opportunities as part of a larger campaign to revitalize the downtown Marina District, and

**WHEREAS**, creating a distinctive and memorable name for the alley will create a cohesive identity and brand that can be used to market the businesses located on the alley, and

**WHEREAS**, the Citizen's Advisory Committee ("CAC") was tasked with soliciting suggestions to name the alley and to propose final candidates for the name, and

**WHEREAS**, the CAC presented their list of over 300 potential names suggested by the community and three final recommendations to the City Council at the June 6, 2024 Council study session, and

**WHEREAS**, one of the final choices presented, "Backstage Alley", referenced the redevelopment of the Des Moines Theater to provide an arts and performance space and living spaces in the heart of downtown, and

**WHEREAS**, the development of the Des Moines Theater is projected to be a cornerstone and driver of the development of the alley, and

**WHEREAS**, following additional deliberation at the June 27 regular City Council meeting, the City Council determined that "Backstage Alley" would best represent the intended development pattern for the alley and create a specific sense of place for the alley, and

Ordinance No. \_\_\_\_  
Page 2 of 3

**WHEREAS**, because the alley is not currently named, no properties are currently addressed on the alley and will not be affected by this designation, and

**WHEREAS**, the City Council finds that this Ordinance is appropriate and necessary; now therefore,

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

**Sec. 1.** The Des Moines City Council hereby designates the portion of the alleyway running approximately north and south lying between Marine View Drive South and 7th Avenue South "Backstage Alley" between South 223rd Street and South 227th Street pursuant to DMMC 12.50.070.

**Sec. 2. 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. 3. Effective date.** This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council in accordance to law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_\_, 2024 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2024.

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

APPROVED AS TO FORM:

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

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

ATTEST:

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

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**CITY ATTORNEY'S FIRST DRAFT    07/02/2024**

**DRAFT RESOLUTION NO.    24-056**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, establishing a commemorative street name of "Waterland Way" for the portion of South 223rd Street between Marine View Drive South and Cliff Avenue South in the City of Des Moines.

**WHEREAS**, the City of Des Moines has embarked on a campaign to remake the Marina District to create a continuous vibrant, walkable neighborhood flowing from Marine View Drive down South 223rd Street and the soon to be constructed Marina Steps to the Marina floor, and

**WHEREAS**, this campaign includes activation and naming of the alley between Marine View Drive and 7th Avenue South to encourage the development of a dining and retail row, and

**WHEREAS**, the City Council was presented with community-generated suggestions to name the alley by the Citizen's Advisory Committee at the June 6, 2024 Council study session, and

**WHEREAS**, the City Council determined at the June 27, 2024 regular City Council meeting that "Backstage Alley" best represented what the City was trying to create through activating the alley, and

**WHEREAS**, the City Council found that a second suggested name, "Waterland Way" was also a worthy street name to celebrate the Waterland City and serve the revitalization effort for the Marina District, and

**WHEREAS**, the portion of South 223rd Street stretching from Marine View Drive South to Cliff Avenue South where in the future it will meet the Marina Steps is a vital connection for the evolving Marina District, and

**WHEREAS**, marking this connection with a commemorative name of "Waterland Way" adds to and enhances the branding and place making begun with the activation and renaming of Backstage Alley, and

**WHEREAS**, marking this connection will encourage pedestrian travel between downtown and the Marina, and

Resolution No. \_\_\_\_  
Page 2 of \_\_\_\_

**WHEREAS**, the City Council finds that this Resolution is appropriate and necessary; now therefore,

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

**Sec. 1.** A commemorative street name, Waterland Way, is hereby established for that portion of South 223rd Street between Marine View Drive South and Cliff Avenue South. The official street name shall remain South 223rd Street.

**Sec. 2.** The commemorative street name shall become effective when posted by the Planning, Building and Public Works Department.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this \_\_\_\_ day of \_\_\_\_\_, 2024 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2024.

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

APPROVED AS TO FORM:

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

ATTEST:

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