January 4, 2021 -
Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City' s Facebook page, www.facebook.com/VancouverUS, or listen via the GoToMeeting conference call.

4:00-4:40 p.m. Shoreline Master Program Update and Periodic Review

Cayla Cothron, Associate Planner, 360-487-7899; Keith Jones, Senior Planner, 360-487-7887

Summary
Staff provided Council with an update on the periodic review and edits to the City's Shoreline Master Program.

4:40-6:00 p.m. Multifamily Tax Exemption Program Update - Proposed Work Program

Chad Eiken, Community and Economic Development Director, 360-487-7882; Peggy Sheehan, Community Development Programs Manager, 360-487-7952

Summary

Staff provided Council with an overview of the proposed work program for reviewing and updating the multifamily tax exemption program and sought preliminary Council feedback on specific elements of the program.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda and Public Hearing items were also facilitated via the GoToMeeting conference call.

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnerny-Ogle

Absent: None

Also present on the call were the following: Eric Holmes, City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brian Carlson, Interim Deputy City Manager; Brent Boger, Assistant City Attorney; Chad Eiken, Community and Economic Development Director; Keith Jones, Senior Planner; Jason Nortz, Development Review Manager; Peggy Sheehan, Community Development Programs Manager; Bryan Snodgrass, Principal Planner; Lisa Takach, Human Resources Director; and members of the public.

Approval of Minutes

Minutes - December 14, 2020

Motion by Councilmember Glover, seconded by Councilmember Fox, and carried unanimously to approve the meeting minutes of December 14, 2020.

Minutes - December 21, 2020

Motion by Councilmember Stober, seconded by Councilmember Fox, and carried unanimously to approve the meeting minutes of December 21, 2020.

Citizen Communication (Items 1-4) - see general protocol above

Mayor McEnerny-Ogle opened Citizen Communication and received the following testimony:

- Susan Steinbrenner, representing Evergreen Public Schools, stated she had submitted advanced written testimony regarding Item 2 (attached) and had no further comments at this time.

There being no further testimony, Mayor McEnerny-Ogle closed Citizen Communication.

Consent Agenda (Items 1-4)

City Attorney Jonathan Young stated staff had requested Item 2 be pulled and remanded for further review and development before Council considers action on the item.

Motion by Councilmember Paulsen, seconded by Councilmember Glover, and carried unanimously to approve Items 1, 3 and 4 of the Consent Agenda and remand Item 2 to staff.

1. Approval for One Year Health Insurance Stop Loss Policy with Symetra Life Insurance Company

Staff Report 001-21

Summary
City staff worked with its broker, Davidson Benefits Planning, to seek stop loss coverage for its self-insured health benefits program. Symetra Life Insurance Coverage was the successful bidder and continues to offer competitive renewal terms. Council approval is needed to provide payment on the premium for the policy.

The individual deductible included in the renewed policy is $250,000. The City's self-insurance covers eligible claims below that threshold. The aggregate reimbursement maximum per policy period included in the insurance is $2 million. The stop loss insurance covers prescription coverage as well as vision coverage.

Request: Authorize the City Manager or designee to sign all necessary contract documents and approve payment of premiums to Symetra Life Insurance Company for Stop Loss coverage consistent with the terms described above. Authorize the City Manager to approve any legal action necessary to enforce the terms of such contracts.

Lisa Takach, Human Resources Director, 360-487-8611

Motion approved the request.

2. **Adjustment to Evergreen School District Impact Fees - Four Seasons Apartments Phase II**

Staff Report 002-21

A RESOLUTION approving the reduction of school impact fees (SIF) for the Four Seasons Phase II Apartment Project pursuant to Vancouver Municipal Code Section 20.915.020(C).

Summary

The City's impact fee program requires school districts to prepare and adopt CFPs meeting the specifications of the Growth Management Act (GMA) and City ordinances. Impact fees are calculated in accordance with the local jurisdiction's formula, which is based on projected school facility costs necessitated by new growth contained in the District's CFP. The formula allocates a portion of the cost for new facilities to the single family and multi-family house that create the demand (or need) based on a student factor, or the average number of students who live in new single family and multi-family homes. The formula also provides a credit for state match and Bond Proceeds (or property taxes).

In December 2019 the City Council adopted the Evergreen Public Schools Capital Facilities Plan 2019-2025 as part of the annual Comprehensive Plan and zoning map corrections, and text changes. The current SIF is listed on page 14 in the attached Evergreen School District Capital Facilities Plan and is reflected within VMC Table 20.915.060-1 School District Impact Fees. The SIF for multi-family development decreased by approximately 50% per multi-family unit from $7,641 to $3,753.

Importantly, while the City Council establishes the school impact fees by ordinance, it merely collects such fees from developers on behalf of the school districts.

The City recently received a request from an approved multi-family project to reduce the impact fee amount that was assessed under the previous Evergreen Public Schools CFP. The project details are shown below:

1. Four Seasons Apartments Phase II - 92 unit development located at 11211 NE 20th St.

Per VMC 20.915.020.C, the impact fee for new multi-family development is *calculated at the time of site plan approval and due and payable at time of building permit issuance. The project noted above received site plan approval on March 12, 2019 prior to the current Evergreen Public Schools CFP being adopted. The development subsequently applied for building permits in 2020. As a result, the project would be required to pay the older Evergreen SIF of $7,641/unit that was in place at the time of site plan approval.*

VMC 20.915.070.C further allows the development approval authority setting the impact fee, upon application by the developer, to reduce or eliminate such fee if it is shown that the formulae contained in Sections VMC 20.915.060 School Impact Fees does not accurately reflect traffic, park, or school impacts, respectively. The City Council is the authority that sets the impact fees.

The proponent of the development is requesting that City Council reduce their SIF to the 2020 impact fee amount reflected in the current Evergreen Public Schools CFP because it is their position that the 2020 impact fee amount most accurately reflects that cost of the public school facility impacts.

Additionally, City staff has heard from Evergreen School District regarding this request and although they are not necessarily in support of these request they understand the code provision that exists that allow such a request to be made.

Request: Adopt a resolution approving the request to reduce the impact fee to the current 2020 Evergreen Public School impact fee for the Four Seasons Apartment Phase II project.

Jason Nortz, Development Review Manager, 360-487-7844

Item returned to staff for further development.

3. **Proposed Comprehensive Plan and Zoning map designation change - Gregory Landing**

Staff Report 003-21

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending Vancouver Comprehensive Plan and zoning map designations for property at 7401 NE 18th Street, tax lot 29378002; providing for severability; and establishing an effective date.

The applicant indicates that development of a 48-unit townhome *development will be proposed if the map designation change is approved, consisting of 3-4 bedroom units. In 2019, prior to the rezone application, the applicant obtained preliminary approval for a 125-unit mixed use market rate apartment building.*

The Planning Commission unanimously recommended approval at an October 27 public hearing, finding that the applicant's market study (see page 13 of hearing staff report) demonstrated there is sufficient existing commercial development and undeveloped commercial land in the surrounding area, and the proposed change would allow for likely future development of attached 3-4 bedroom townhomes which would expand rental opportunities for families in the area. One person testified at the Planning Commission hearing requesting more information about community benefits and how to ensure they are realized by future development that occurs following zone changes.

As noted previously, citywide there were 533 acres of vacant or underutilized commercially zoned land in 2018 according to the most recent Clark County modeling data available here, along with 1,192 acres of vacant or underutilized residential land. Local rezoning history was also considered by the Planning Commission in their review of this proposal, with data showing a recent trend towards proposed conversions of employment land to residential, but, with the exception of this year's Vancouver Innovation Center (VIC) proposal, in amounts that were small relative to available land supplies even when considered in the aggregate.

The following additional information has been gathered by staff:

- *There are currently 1.26 jobs per dwelling unit in the City of Vancouver, with unincorporated Clark County and the small cities all registering less than one job per household. See Attachment A. Historically employment has tended to concentrate somewhat more closely near a metropolitan region's core than population. King County data also included in Attachment A indicates the strength of that region's economy, as well as the impacts of relatively newer suburban job growth. Most of the King County jurisdictions have higher jobs-to-housing ratios than Vancouver, with some of the suburban cities also well ahead of Seattle.*

- *Both jobs and housing are needed in healthy communities. Higher levels of jobs to housing are generally associated with better fiscal and economic health, and lesser transportation impacts with fewer long work commutes outside the jurisdiction. More jobs and fewer housing units can have negative impacts on housing accessibility and affordability. Neither Vancouver's Comprehensive Plan nor CREDC's Clark County Comprehensive Economic Development Plan proscribe a specific jobs-to-housing target ratio.*

- *Immediately available studies on jobs-to-housing balance focus on the transportation rather than economic and fiscal implications, and in that context some suggest ratios in the range of 1.3 to 1.5 jobs per housing unit generally represent balance, depending heavily on local circumstances. See here and here.*

Fully estimating whether Vancouver has adequate land supplies and policies to meet future economic needs requires a more thorough analysis, which will be incorporated in the next full Comprehensive Plan update scheduled to begin in 2022 and be completed by 2025.

Complicating the issue is the need to assess future implications of the pandemic, the sharing economy, e-commerce and new transportation technology, among other trends evident since the current Comprehensive Plan was adopted in 2011.

City criteria for evaluating the proposed rezone call for comparison of likely development under the existing and proposed designations. If the current CC zoning is maintained, it is unknown whether the property would develop for commercial and residential mixed use as proposed by the applicant in 2019, or commercial only. If R-22 zoning is established, it is likely but not certain to develop as attached 3-4 bedroom townhomes. The relative citywide prevalence or scarcity of 3-bedroom rental units was also considered by the Council as part of the recent 112th Avenue rezone, with relevant information available here.

Request: On Monday, January 4, 2021, approve ordinance on first reading, setting date of second reading and public hearing for Monday, February 1, 2021.

Bryan Snodgrass, Principal Planner, 360-487-7946

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Motion approved the request.

4. Approval of Claim Vouchers

Request: Approve claim vouchers for January 4, 2021.

Motion approve claim vouchers for January 4, 2021, in the amount of $20,166,518.28.

Public Hearings (Items 5-7) - see general protocol above

5. **Development Agreement for Vancouver Clinic at Columbia Palisades**

Staff Report 004-21

A RESOLUTION relating to the approval of a development agreement pursuant to RCW Chapter 36.70B; reserving traffic capacity for Phase II expansion, acknowledging the applicants proportionate share fee for the SR-14/SE 192nd Ave interchange, establishing that zoning code requirements for the floor area ratio may be deferred until future full-build out of the site and vesting development regulations; authorizing the City Manager to execute a development agreement; and providing for an effective date.

Summary

Columbia Palisades is a master-planned development located at a former quarry at 192nd Avenue and SR-14. The 84.2-acre mixed-use master plan was approved by City Council in 2016 and includes 607,000 square feet of general office uses, 118,500 square feet of retail uses, a 100 room hotel, 50 single-family detached lots, 26 attached single-family dwelling units, and 286 multi-family dwelling units. In 2017, the applicant obtained approval of a subdivision that divided the master plan into 90 lots including 74 detached single-family residential lots, one multifamily lot and 15 commercial lots. In 2019, the applicant completed installation of infrastructure improvements including installation of a new roundabout at SE Brady Road and SE Columbia Palisades Drive, new roads, water, sewer and stormwater improvements and the final subdivision plat was recorded. The applicant recently applied for a master plan amendment that it is currently being reviewed by the Vancouver Hearing Examiner. If approved, the amendment would reduce the land area devoted to office by 15%, increase multi-family residential by 2% and increase non-office commercial by 12%.

According to the Riverview Gateway Subarea Plan dated February 2, 2009, the plan envisions a future with a vibrant and urban mix of residential, commercial, office and employment uses, linked by a network of parks, trails and open spaces with connections to surrounding neighborhoods.

The Vancouver Clinic is located on Lot 8 of the Columbia Palisades subdivision, 4500 SE Columbia Palisades Drive. Vancouver Clinic is the first commercial development to be constructed within the master plan. The project includes the recently completed 26,000 square foot clinic and a future 30,400 square foot addition.

No development agreement exists for Columbia Palisades, therefore Vancouver Clinic proposes a development agreement related to their lot only to achieve the following:

1) Acknowledges PM trip proportionate share fee for SR-14/SE 192nd Avenue Traffic Signal.

With the site plan review application for the Vancouver Clinic, the applicant's traffic engineer, Kittelson & Associates submitted a Transportation Impact Analysis (TIA) dated March 13, 2019. The study concluded that that all but one of the study intersections satisfy City and WSDOT operating standards. The stop controlled westbound approach to the SR-14/SE 192nd Avenue from the SR-14 westbound off ramp does not meet operating standards and is projected to operate at level of service (LOS) "F" during the weekday PM peak hour prior to site development.

The City of Vancouver, working with WSDOT, determined that a new traffic signal is needed to address the level of service issue at this intersection. City staff determined that the proportional share amount is $2,000 per PM Peak hour trip. The fee is due prior to final occupancy permit.

The fee for Phase I is $82,000 ($2,000 x 42 PM peak hour trips) and has been paid. Phase II fee would be paid with a future building permit.

2) Reserves traffic capacity
The applicant requests to reserve capacity for the Phase II expansion, 34,000 square feet. This would reserve1,098 average daily trips (ADT), 73 AM peak hour trips, 109 PM peak hour trips.

As stated in item #1 above, the applicant proposes to pay proportionate share for the new traffic signal at SR-14/SE 192nd Avenue and with the reserved capacity would not need to pay any additional proportionate share in the future. Staff anticipates all other study area intersections will continue to meet level of service standards for the foreseeable future.

3) Establishes a covenant for the minimum 0.5 floor area ratio (FAR).
The Riverview Gateway standards can be deferred until future full-build out of the site, rather than each phase having to meet this standard. The applicant has prepared a concept plan showing full building out would include a second office building and a total of approximately 96,500 square feet. The proposed covenant would ensure that any future development of the second phase must result in this requirement being met for the overall site.

4) Vests development to current development regulations.

At the December 14, 2020 workshop, Council asked whether, under the proposed agreement, future phases would not have to comply with anticipated development regulations that implement the forthcoming City's Climate Action Strategy. Staff affirmed that this would be the case.

Request: On January 4, 2021, subject to public hearing, adopt a resolution authorizing the City Manager to sign the Development Agreement with The Vancouver Clinic.

Keith Jones, Senior Planner, 360-487-7887

Councilmember Stober recused himself from the discussion and action for this item, noting his husband is employed by The Vancouver Clinic.

Keith Jones, Senior Planner, provided an overview of the request and proposed development agreement (DA).

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Mark Mantei, CEO of The Vancouver Clinic, urged the Council to approve the development agreement, noting the addition of this clinic will provide improved medical access on the east side of the city, the clinic has taken steps to reduce the carbon footprint of its facilities, and approval of the DA will provide some certainty for the clinic in a time of great uncertainty.

- Alison Moss, representing the applicant, thanked City staff for their work on this DA and noted that the applicant is not seeking to vest impact fees.

- Peter Fels, Vancouver, spoke in opposition to the vesting of current development regulations, as proposed in the development agreement, due to the compounding impact that could have on climate change and the potential conflict it could have with the City's future climate strategy.

- Randal Friedman, Camas, Washington, urged denial of the vesting of current development regulations due to the compounding impact that could have on climate change.

- Teresa Hardy, Vancouver, echoed the comments of the previous two speakers and urged the City not to approve vesting of any new projects under current development regulations.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Motion by Councilmember Hansen, seconded by Councilmember Lebowsky, and carried unanimously to adopt Resolution M-4115 approving the request. Councilmember Stober recused.

6. **Multifamily Tax Exemption: Johnson Mixed Use**

Staff Report 005-21

A RESOLUTION of the City Council of the City of Vancouver approving an agreement with IMJ Properties for a 10 year property tax exemption for the property located at 1605 Columbia Street (Tax Lot 52810000) in Vancouver, Washington, as specifically described in Exhibit A.

Summary

IMJ Properties is requesting a multifamily tax exemption for a three-story, mixed use building with 10 apartment units, a 1,904 square foot retail space and 9 parking spaces. The project site is located in the Vancouver City Center Vision District at 1605 Columbia Street. The project site is a single parcel with an existing single-family building. The structure will be demolished to accommodate the new development. The developer is working with tenants on a relocation plan.

The proposed building will include studio, and 1-bedroom units, two of which will be income restricted units.

The applicant is requesting a 10-year exemption where 20% of the total units are reserved for tenants earning up to 80% area median income. The HUD 80% area median income in the Portland/Vancouver MSA for a two-person household is $59,000. Limiting that income amount to 30% for housing costs, the maximum monthly affordable rent would be $1,475 per month.

Unit types will include:
8 studio units starting at $984 per month,
2 one-bedroom units at $1,634 per month.

The total estimated development cost is just over $2.5 million.

Over 20 years (with the exemption) the project is estimated to generate approximately $352,000 in taxes benefitting all taxing districts (ports, county, city, etc.) with $107,000 specifically generated for the City of Vancouver. Potentially foregone revenue during the exemption is estimated at just over $58,000 for all taxing districts and $21,000 specifically for Vancouver. Without the proposed development and exemption the site might remain underutilized foregoing the higher developed site tax revenues as well as income restricted residential housing units. Following the exemption period the project will return to the tax rolls at full taxable value.

Request: On Monday, January 4, 2021, following a public hearing, adopt a resolution approving an agreement with IMJ Properties and authorizing the City Manager or designee execute a multi-family housing limited property tax exemption agreement and take any and all action necessary to enforce the terms thereof.

Peggy Sheehan, Community Development Programs Manager, 360-487-7952

Peggy Sheehan, Community Development Programs Manager, provided an overview of the multifamily tax exemption (MFTE) program and the details about this proposed project.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Ian Johnson, the applicant, stated he is a longtime Vancouver resident and thanked the City for the opportunity to take advantage of the MFTE program.

- Glen Yung, Vancouver, expressed concerns about the MFTE program as a whole and urged the Council to deny this application until the Council is currently considering evaluation of and improvements to the program.

- Terry Ibert, Vancouver expressed concerns that no information had been provided about the impact of these tax exemptions on the City's ability to provide services.

- Teresa Hardy, Vancouver, stated that given the concerns about the MFTE program the Council had raised during its workshop, all MFTE applications should be postponed until further analysis of the program can be completed.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Councilmember Fox expressed concerns about the displacement of the resident who previously lived on the site of this property. City Attorney Jonathan Young stated Ms. Sheehan and Assistant City Attorney Brent Boger had researched this matter to ensure the prohibition of the displacement of current residents that is included in City code had not been violated. Ms. Sheehan confirmed that the applicant had worked out a relocation plan with the tenant to assist them with moving.

Councilmember Hansen asked whether all nine parking spaces are located in back of the building. Mr. Johnson confirmed all parking spaces are on site.

Motion by Councilmember Glover, seconded by Councilmember Lebowsky, and carried unanimously to adopt Resolution M-4116 approving the request.

7. **Multifamily Tax Exemption: Broadstone / Waterfront Block 17**

Staff Report 006-21

A RESOLUTION of the City Council of the City of Vancouver approving an agreement with VANCOUVER WATERFRONT APARTMENTS OWNER LLC for an 8 year property tax exemption for the property located at 1000 W Columbia Way (Tax Lot 49355000) in Vancouver, Washington, as specifically described in Exhibit A.

Summary

The applicant is requesting a multifamily tax exemption for a new mixed-use development. The project site is located in the Vancouver City Center Vision District on the Waterfront at 1000 W Columbia Way. The project site is currently vacant.

The proposed development will consist of a six-story mixed-use building containing 178 apartment units with 179 parking spaces in an internal parking structure.

The requested tax exemption is for 8-years where 20% of the total units are reserved for tenants earning 100% area median income or less. Currently the HUD 100% area median income in the Portland/Vancouver MSA for a four-person household is $92,100. Limiting the monthly housing costs to 30% of the gross monthly income, the maximum monthly affordable rent for this income level would be $2,302.50 per month. The area median income changes overtime and is recalculated annually by HUD.

The proposed residential portion of the development will include studio, 1-bedroom, and 2-bedroom units, 36 of which will be income restricted units.

Per the applicant the unit types and rents will be:

- *19 studio units at $1,550 per month,*
- *125 one-bedroom units at $1,955 per month.*
- *34 two-bedroom units at $2,825 per month.*

The total estimated development cost is $9.7 million. The City Center Redevelopment Authority reviewed and approved the development on December 3, 2020. Over 20 years (with the exemption) the project is estimated to generate nearly $7.6 million in taxes benefiting all taxing districts (ports, county, city, etc.) with $2 million specifically generated for the City of Vancouver. Potentially foregone revenue during the exemption is estimated at $2 million for all taxing districts and $743,000 specifically for Vancouver. Without the proposed development and exemption, the site might remain primarily vacant foregoing the higher developed site tax

revenues as well as income restricted residential housing units. Following the 8-year tax exemption period the project will return to the tax rolls at full taxable value.

Request: On Monday, January 4, 2021, following a public hearing, adopt a resolution approving an agreement with Vancouver Waterfront Apartments Owner LLC and authorizing the City Manager or designee to execute a multi-family housing limited property tax exemption agreement and take any and all action necessary to enforce the terms thereof.

Peggy Sheehan, Community Development Programs Manager, 360-487-7952

Ms. Sheehan provided an overview of the details of the proposed project.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- David Armesy, representing the applicant, stated he has been involved in a number of projects that utilized the MFTE program and expressed appreciation for the program.

- Glen Yung, Vancouver, expressed concerns about the transparency and apparent lack of data supporting the City's MFTE program. He urged the Council to place a moratorium on accepting MFTE applications until it could evaluate the program.

- Terry Ibert, Vancouver, expressed concerns about the number of MFTE projects approved over the last couple months and urged the Council to place a hold on the program until it had completed its analysis.

- Teresa Hardy, Vancouver, echoed the comments of the previous two speakers, and spoke in support of postponing the MFTE program until it can be reviewed for its effectiveness of improving density and affordability in Vancouver.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Councilmember Stober clarified that a previous proposal he had made would place a moratorium specifically on the tax exemption for projects being proposed at the 100 percent area median income (AMI) level, as he sees that option as not providing a discount on rents at all but allows developers to not provide any public benefit in return for the exemption. He stated he would oppose this project for that reason.

Councilmember Fox stated it has clearly been shown that the definition of affordability used in the MFTE program for Vancouver is not accurate, and even though this project is not being presented as "affordable" she would not be able to support it unless there was insulation of a portion of the units from increased rents in the future. She stated she also could not support projects at the 100 percent AMI level until improvements are made to the program.

Councilmember Paulsen stated the concerns expressed about this and the previous MFTE project illustrate the need for the Council and City staff to conduct the review of the program that has been proposed.

Motion by Councilmember Hansen, seconded by Councilmember Paulsen, and carried 5-2 to adopt Resolution M-4117 approving the request. Councilmembers Stober and Fox voted no.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

Adjournment

7:51 p.m.

____
Anne McEnerny-Ogle, Mayor

Attest:

____
Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video. The audio files are kept on file in the office of the City Clerk for a period of six years.

From:	Susan Steinbrenner
To:	Nortz, Jason; Eiken, Chad
Cc:	Boger, Brent; Delapena, Amanda; Mike Merlino
Subject:	1/4/2021 Council Agenda #2 - Adjustment to the Evergreen School District Impact Fees – Four Seasons Apartments Phase II
Date:	Monday, January 4, 2021 11:57:18 AM
Attachments:	image001.png

Hi Jason and Chad,

Just want to give you a heads up that I intend to testify tonight re: Agenda Item #2, Adjustment to the Evergreen School District Impact Fees – Four Seasons Apartments Phase II. The email below elaborates on the points that I will touch on tonight, and I would appreciate it if you include the email as part of my testimony.

As a preliminary matter, Evergreen Public Schools (the "District") was not informed that Jordan Ramis PC (the "Developer") paid school impact fees ("SIF") for the Four Seasons project (the "Project") under protest until December 14, 2020. Notification that SIFs are paid in protest is crucial for District capital expenditure planning and annual budgeting. Going forward, the District requests that the City provide notification of any SIFs paid under protest at the time the payments are made.

The District protests the Developer's request to adopt the current impact fee schedule for multi-family units, but not for single-family units for Project. As clearly stated in its December 11, 2020 letter to the City of Vancouver, the Developer believes that the current impact fee schedule should be applicable to the Project. However, the Developer only requests a refund for impact fees paid in connection with multifamily units, and makes no acknowledgement of fee adjustments that would result from the increase in SIFs for single family units (from $6,100 to $6,432) reflected in the current impact fee schedule. Nor does the proposed resolution adjusting the Developer's SIFs acknowledge single family units or the associated increase in SIFs. The Four Seasons North Project contains 113 remaining single-family units. Although the District disagrees with the Developer's position that the current fees are an inaccurate reflection of school impacts, if the City Council intends to move forward with the proposed resolution, the District firmly believes it must do so in a consistent and fair manner. If updates to SIFs are in order, they must be applied to not only multifamily units, but also to the Project's remaining single-family units. To do otherwise would essentially allow Developer's to pick and choose the fees they would like to pay, with little regard to the calculation and recalculation requirement for SIFs per the Vancouver Municipal Code.

The District also protests the Developer's request, reflected in the associated City Council resolution, to reduce SIFs for all units in the Project. The Developer only has a right to fee reductions for SIFs not yet collected or SIFs that were collected but paid under protest. Thus, the proposed SIF revisions should only apply to Project units for which fees will be collected after the Developer's formal written protest on December 11, 2020.

While the District agrees that the City Council has the authority to reduce SIFs under VMC 20.915.070(C), the Developer has made no substantiated claim that any of the three required criteria contained in this section of the Municipal Code apply in this situation. The three criteria are:

(i) the impact fee formula does not accurately reflect school impacts; (ii) due to unusual circumstances district improvements are not reasonably related to or would not reasonably benefit the proposed development; or (iii) the proposed development will include public facilities beneficial to the community pursuant to a separate concomitant rezone agreement. The applicable SIFs were correctly calculated when assessed pursuant to the Vancouver Municipal Code. Absent additional studies and data, the fact that the SIF schedule has changed since fees were initially assessed does not mean the original fees are an inaccurate reflection of school impacts.

Note also that VMC 20.915.070(C) requires that when making reductions to SIFs, such changes must be supported by "studies and data." To the District's knowledge, the Developer has presented no such studies or data.

The District would also like to point out that VMC 20.915.060(D) indicates that: "No new or revised school impact fees shall be effective until adopted by the council following a duly advertised public hearing to consider the school district's capital facilities plan or plan update." The District is unaware of any advertisement for a public hearing in advance of the January 4 meeting, and the inclusion of the impact fee resolution on the consent agenda suggests that the City Council does not indend to solicit public comment on the proposed SIF revisions at said meeting. The District requests that this matter be brought off the consent agenda for appropriate discussion of the issues.

Finally, it is the District's position that the Developer's request, and similar request from other developers, should not be viewed as merely a request to recalculate impact fees. Rather, these requests, if approved, suggest a change in the City's policy regarding the timing of calculation of SIFs. The District would support a policy change to bring impact fee assessment and collection closer together and would be happy to participate in Planning Commission work sessions and City Council meetings as needed to speak to SIF issues. In the interim, the District respectfully requests that the City Council reviews the points laid out above when considering the Developer's, and future developers', requests for SIF reductions.

Thank you for your consideration.

Susan Steinbrenner
Executive Director of Facilities
(360) 604-4077
Evergreen Public Schools

From: Cathryn Chudy
To: City of Vancouver - Office of the City Manager
Subject: Public Comment for Agenda Item # 5
Date: Monday, January 4, 2021 11:34:30 AM

Dear Mayor Anne and City Council Members,

I would like to support the testimony that will be offered this evening (January 4) by Peter Fels on Agenda Item # 5 (Development Agreement for Vancouver Clinic at Columbia Palisades).

We are closely following the process currently underway to fulfill the commitment within the Strategic Planning Process to establish a meaningful Climate Action Strategy for Vancouver that will reduce Greenhouse Gas Emissions.

This Development Agreement would vest development to **current** development regulations, and the staff report lists **no disadvantages.**

It seems clear that development regulations will be affected by the Climate Strategy adopted for Vancouver, and it will **disadvantage** that Strategy's effectiveness if decisions made now are "business as usual," versus proactively building into the Development Agreement the provision that future phases must comply with the Climate Action Strategy once it is fully in place.

I urge you to amend the agreement to include a provision that the development's future phases comply with whatever adjustments are made to development regulations in order to accomplish the targets and goals within the Climate Strategy.

Thank you for all you do,

Cathryn Chudy

Vancouver, WA 98663

[redacted]

From:	lifeisgood720
To:	City of Vancouver - Office of the City Manager
Subject:	The Planning Commission Has a Point, But....
Date:	Monday, January 4, 2021 10:53:46 AM

re: 1000 W. Columbia Way
and 1605 Columbia St.

When Andy Silver was Exec Director of Council for the Homeless, we discussed the state law that allows the tax abatements requested for the above two properties, and many others. He stated that it's a law that had "outlived its usefulness." The purpose was to get developers to invest in the dying downtowns of many cities. As he pointed out, downtowns have made their comeback. If people want to build there, they should pay their taxes like the rest of us. He accurately opined that the City was getting no affordable housing out of the abatements.

It was with great distress I heard four council members agree to continue giving eight year tax abatements to upscale apartments while getting nothing in return. Even Counselor Paulson, who was quoted in the Nov 28,2020 Columbian as saying it would be a positive step to align affordability with our own community's income, voted against making a change in the affordability index. Thus, in his own words, he voted to negatively affect the Council's credibility.

What is the justification for giving tax breaks on prime real estate like waterfront property? If it's an attempt to provide affordable housing, that will happen only when the median income number attached to the abatement is that of Vancouver, not that of metro Portland.

The Planning Commission is probably correct in saying more work is needed to separate the promotion of development from increasing affordable housing. The entire issue doesn't have to be resolved in order to change the median income basis. As one letter to the editor in the Columbian said, you might as well use New York City's median income as use Portland Metro. Makes as much sense.
Take one piece at a time starting with:
1) Abatements based only Vancouver income, and
2) No abatements when getting nothing in return.
Look closely: adopting (1) will make (2) happen.
I see in the 1-1-2021 Columbian that the City of Battle Ground is lowering their property tax rate six cents per thousand. Maybe you could do that for us, if you required new developments to carry their weight. That would help me keep my rental rates affordable.

I urge you only to approve the abatements on the above two properties today if you first change the affordable income requirements to those of the people who live here, not those south of the river.

Thank you,
CarolLee Braithwait,
Provider of affordable housing
Tenant educator

cfm 30 years

www.cfmadvocates.com

cfm advocates

Principled advocacy. Real results.

CITY OF
Vancouver
WASHINGTON

Introduction

- CFM State Affairs Team
- 2021 Legislative Outlook
- Bridge Replacement
- Metro-area Tolling

cfm advocates

Principled advocacy. Real results.

CFM's State Affairs Team




- Dale Penn
- Tess Milio
- Zack Reeves
- Waylon Buchan

cfm advocates
Principled advocacy. Real results.

2021 Legislative Outlook

- 2021 Legislative Session – long session, 160 days, began on Jan. 11
- Major budget challenges - $3-5 billion gap
- Cap and Trade – returning?
- New revenue sources?
- Election season

cfm advocates
Principled advocacy. Real results.

2021 Legislative Outlook, cont.

- Democrats control House, Senate and Governor's office
- House Speaker Tina Kotek (D – Portland) re-elected to fifth term
  - Had been challenged by Rep. Janelle Bynum (D – Happy Valley)
- Mostly virtual session

cfm advocates

Principled advocacy. Real results.

Bridge Replacement

- Possibility of Federal infrastructure package looming over conversations
- HB 2017 (2017) to generate ~$4 billion for infrastructure, including Rose Quarter
  - Hesitancy to ‘climb the hill’ again
- Murky picture re: state bonding capacity

cfm advocates
Principled advocacy. Real results.

Metro-area Tolling

- Focus has shifted from Rose Quarter to Abernathy Bridge
- Desire for region-wide tolling system
- Likely to be moved to the back burner as Legislative session ramps up

Questions?

cfm30 years
www.cfmadvocates.com

cfm advocates
Principled advocacy. Real results.

CITY OF
Vancouver
WASHINGTON


CITY OF
Vancouver
WASHINGTON

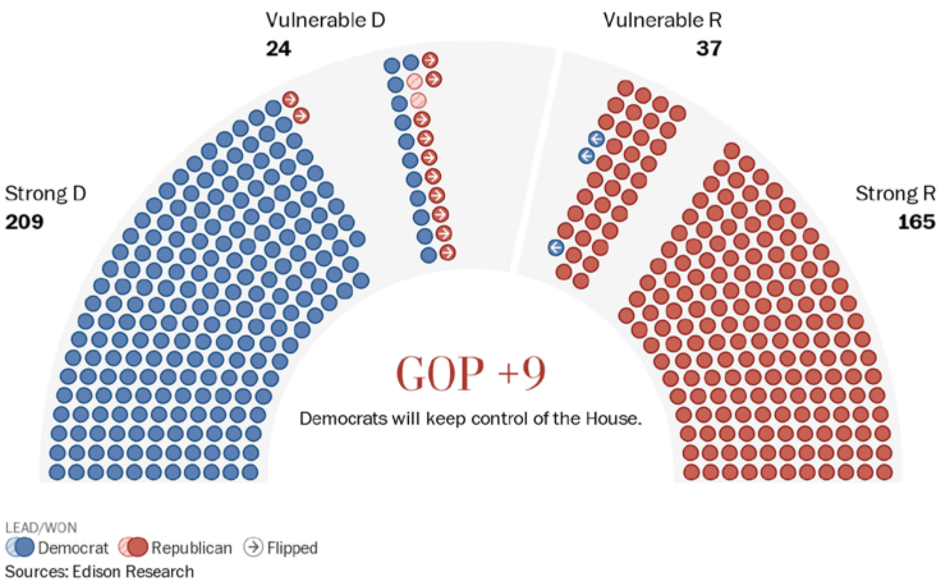


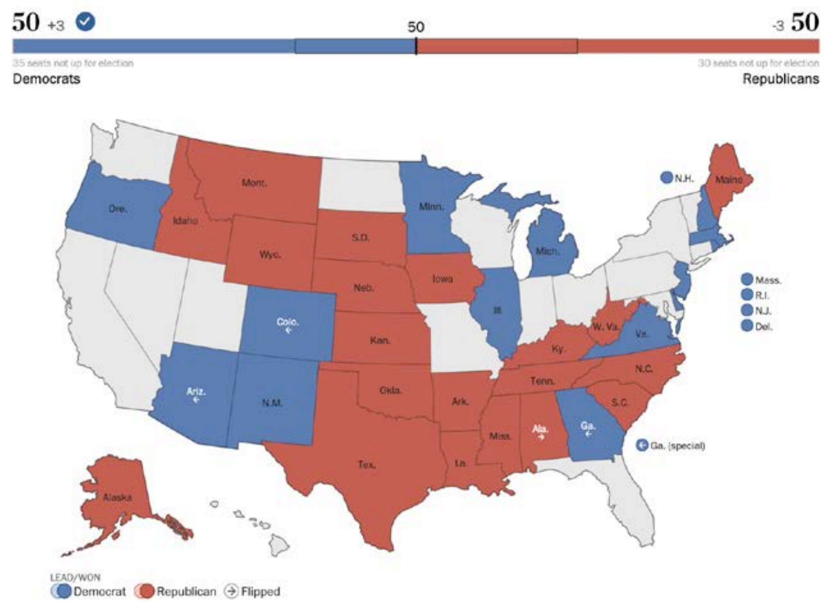
Introduction

- Election recap
- 2021 Federal Agenda
  - Grant Projects
  - Policy Priorities
- 100 Days Legislative Preview

cfm advocates
Principled advocacy. Real results.

Final 2020 Election Results





The 117th Congress

House: 222 Democrats/211 Republicans
218 needed for majority

Senate: 50 Democrats/50 Republicans
Vice President Harris breaks tie

2021 Federal Agenda

• I-5 Bridge Replacement	Policy Item
• Support Robust Transportation Reauthorization	Policy Item
• Creation of New Bridge Program; New Starts, INFRA, BUILD	
• More Local Control and Direct Access for Municipalities	
• Project FIRST (SE 1st Street Improvement Project)	$10 million
• CARES 2.0 - Coronavirus Relief Fund	Policy Item
• 32nd Avenue Extension	Proposed Project
• Municipal Bonds; Restore SALT/Advanced Refunding	Policy Item

2021 Federal Agenda

• Protect Housing, Transportation and Economic Development Programs	Policy Item
• Water Station 5 – Seismic Resiliency	$20 million
• **Support Body Worn Camera Funding**	**Policy Item**
• Fund Energy Efficiency and Conservation Block Grant Program	Policy Item
• **Support Affordable Housing and Homelessness Assistance Programs**	**Policy Item**
• Increase Low Income Housing Tax Credit	Policy Item

2021 Federal Agenda

- Firefighter Equipment – Chest Compression Devices — $327,562
- Fire Officer Training — $218,000
- Crude-By-Rail — Policy Item
- Preserve States Rights — Policy Item
- Evergreen Highway Pedestrian Pathway — $1 million
- Regulatory Concerns and Oppose Unfunded Mandates — Policy Item

100 Day Push

- COVID Relief Package – Biden Proposal
    - Direct Benefits — $1,400 checks
    - CRF Funding — $350 Billion
    - Health/Testing/Vaccine Rollout — $400 Billion
    - Small Business — $440 billion
    - Minimum Wage — $15/hour
    - Unemployment Benefit Extension
    - Eviction Moratorium Extension and Rental Assistance

- Infrastructure Package
    - Transportation Reauthorization
    - Water, Broadband, Housing, Economic Development

- Budget Reconciliation
    - Fall Back Plan for COVID and Infrastructure
    - Cumbersome Process


Questions?

CITY OF VANCOUVER 2021 FEDERAL LEGISLATIVE AGENDA

CITY OF Vancouver WASHINGTON

GROW A MORE PROSPEROUS CITY

I-5 Bridge Replacement | Policy Item

Interstate Bridge Northbound Span Opens Feb. 14, 1917

Replacement of the I-5 Bridge is a top priority for the City of Vancouver. The northbound span opened in 1917 and the nearly identical southbound structure opened in 1958. The Interstate Bridge sees 135,000 crossings each weekday, is the 29th worst bottleneck in the country and is at capacity—meaning the current design cannot physically handle any additional throughput.

The City strongly supports inter-state and federal investments to fund an I-5 bridge replacement project consisting of high-capacity transit with a dedicated guideway.

Support Transportation Reauthorization | Policy Item

Transportation resources are necessary to facilitate economic growth, job creation, reduce traffic congestion and improve transportation choices within our community. Congress should develop and pass a comprehensive long-term transportation reauthorization bill providing robust funding for bridges, highways, mass transit and other local infrastructure needs. Within the transportation reauthorization bill, Vancouver supports:

- Creation of the **Bridge Investment Program** included in the Senate ATIA bill and/or creation of the **Projects of National Significance Program** included in the INVEST Act. The new programs would address some of our nation's most problematic bridge and infrastructure needs and be a viable funding source for the replacement of the I-5 Bridge.
- Maintaining and increasing funding for **FTA Capital Investment Program, INFRA and BUILD**. These programs could provide federal investment toward the I-5 Bridge replacement project and other critical freight and economic development projects in SW Washington.
- Creation of programs that allow municipalities' direct access to federal resources and competitive grants.

Today, more than 90% of federal highway assistance is distributed to the states by formula.

- Providing more funding and increased set asides within key transportation programs, including the **Surface Transportation Block Grant, Transportation Alternative Program and Federal Lands Access Program (FLAP)**.
- Maintaining the Categorical Exclusion for projects with minimal federal participation and streamline the federal permitting process.
- A long-term, sustainable and reliable funding solution for the Highway Trust Fund.

PROJECT FIRST | $10 million

The City of Vancouver is seeking a $10 million urban BUILD grant to complete Project Fast-Tracking Improvements to Reach Strategic Targets (Project FIRST). Project FIRST is a $24.425 million infrastructure investment in East Vancouver that will facilitate the City's long-term economic goals. The project will upgrade an approximately 1.36-mile segment of SE 1st Street from a two-lane rural road to multimodal urban standards that will accelerate economic development and improve safety and connectivity in the region. Project FIRST will accelerate economic growth with a new urban arterial that will provide accessibility to support redevelopment and investment in Section 30 and Columbia Tech Center. At full buildout, the City estimates Section 30 will host 9,400 new jobs.

Coronavirus Relief Fund | Policy Item

The pandemic is straining our public health system, severally damaging our economy and touching the lives of every single American. Cities across the country are on the front lines of this crisis and will play a key role in recovery. The City has enacted furloughs and delayed hiring decision and high priority infrastructure projects. As Congress continues to debate COVID relief legislation, we strongly support direct assistance to local governments with the flexibility to offset the significant revenue loss and cover expenses to battle the virus.

32nd Ave. Extension | Proposed Project

This road extension project will provide the Port of Vancouver with better freight access to I-5, catalyze new development on industrial lands, protect communities by diverting freight traffic and enhance safety of the pedestrian and bike network.

Taxes: Restore SALT Deduction and Advanced Refunding | Policy Item

SALT Deduction: The City is concerned about the impact on lower and middle income families of the $10,000 cap on deductions for property, state and local taxes. The City supports full restoration of the SALT deduction. *Advanced Refunding:* The City supports refinancing of municipal bonds which was eliminated in the 2017 tax bill. Refinancing bonds lowers the debt service for local governments and is a financing tool that reduces the burden on local residents.

Protect CDBG, HOME, Section 108, BUILD and EDA Funding | Policy Item

The City supports maintaining funding levels for these critical infrastructure programs. The City is a CDBG and HOME entitlement community and utilizes these formula funds on low-income programs that both grow the economy and serve as a community safety net.

INVEST IN A SAFE AND WELCOMING COMMUNITY

Water Station 5 – Seismic Resiliency | $20 million

The City of Vancouver is seeking $20 million for seismic upgrades to its Water Station 5 facility. The City of Vancouver is the third largest supplier of drinking water in the state of Washington, serving 262,000 people. A 2014 seismic evaluation determined the station's reservoirs' roofs and concrete structures are structurally deficient and at serious risk of failure in a seismic event. These reservoirs account for 33% of the City's total storage volume and 100% of the water storage for one of the City's pressure zones.

Body Worn Cameras | Policy Item

The City supports increasing the federal investment in body-worn cameras (BWCs). Law enforcement agencies across the United States and throughout the world are using BWCs as a promising tool to improve evidentiary outcomes, and enhance the safety of, and improve interactions between, officers and the public. BWCs also are proving to be an important tool to assist broader law enforcement, problem-solving, and community engagement strategies within jurisdictions.

Fund the Energy Efficiency and Conservation Block Grant Program | Policy Item

The City supports investing in the EECBG program which funded nearly $3.2 billion in energy efficiency and renewable energy creation projects across the country through the ARRA program. As our City looks to reduce its carbon footprint and reduce greenhouse emissions, federal investment in clean technology would help amplify the City's efforts.

Affordable Housing and Homeless Assistance| Policy Item

The City supports the Ending Homelessness Act which would appropriate $13 billion in mandatory emergency relief funding over five years to several critical federal housing programs and initiatives, providing the resources that these programs need to effectively address the housing and homelessness crisis in America.

ASSISTANCE TO FIREFIGHTERS GRANTS | Grants and Policy Item

Chest Compression Devices | $327,562

Vancouver Fire Department (VFD) is seeking funds to purchase 19 automatic chest compression devices that lead to better patient outcomes, improved ergonomics during CPR and less risk of firefighter injury.

Hazardous Materials Training | $218,009

VFD is seeking grant funding to support sending department staff to specialized training programs that include continuing education for officer development.

Crude-By-Rail | Policy Item

The City supports reprioritizing crude-by-rail training and equipment grants as "high priority" items within the Assistance to Firefighter Grant program. Today, crude-by-rail communities and their first responders lack the equipment, training, and operational support they need to meet the public safety challenges posed by derailments. Under current AFG criteria guidelines, these types of requests will not get funded.

Preserve States Rights | Policy Item

In 2012, the citizens of Washington State approved the legalization of recreational marijuana. Since then, the City of Vancouver has experienced minimal nuisance issues but no material negative impact to the community from marijuana sales and approximately $800,000 per year in tax revenue has gone to support increased police staffing. The City supports efforts in Congress to preserve and protect the rights of Washington State voters.

BECOME A MORE VIBRANT CITY

Evergreen Highway Pedestrian Pathway | $1 million

The Evergreen Highway project will complete an additional segment of pedestrian pathway along SE Evergreen Highway from SE Image Road to SE 100th Court. First planned in the 1850's the roadway served as the County's first major east-west highway connecting Vancouver to eastern Washington. Long since converted to local access function, the roadway is a historic corridor within predominantly urbanized neighborhoods.

Increase Low Income Housing Tax Credit | Policy Item

The Housing Credit is our nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing production. Despite the growing need for affordable housing, viable and sorely needed Housing Credit developments are turned down each year because the cap on Housing Credit authority is far too low to support the demand.

Regulatory Concerns and Unfunded Mandates | Policy Item

The City opposes legislative or regulatory initiatives that undermine local government decision making and contributes to reduction in our workforce. The partnership with federal policy makers should recognize local government roles and not preempt city authority on issues such as land use, rights of way and other local functions.

CONTACT INFORMATION

Joel Rubin	202-347-9171	joelr@cfmdc.com
Aaron Lande	360-487-8612	aaron.lande@cityofvancouver.us

Vancouver City Council
C-TRAN Mill Plain BRT – Intergovernmental Agreements

CITY OF
Vancouver
WASHINGTON

January 25, 2021

Ryan Lopossa – Streets and Transportation Manager

Agenda

- Review Mill Plain Bus Rapid Transit (BRT) Project
- Fiber Optic Agreement
- Transit System Priority Agreement
- Station Pairs ROW Agreement
- Questions/Discussion

CITY OF Vancouver WASHINGTON

Mill Plain BRT Project

- New 10-mile BRT line that runs between Turtle Place Station in downtown Vancouver to Columbia Tech Center near SE 184th Avenue/Mill Plain Blvd.
- 37 New BRT Stations
- New "Mill Plain Transit Center" to be located along SE 184th Avenue at Columbia Tech Center
- Construction to commence in 2021 with completion anticipated in 2023

CITY OF Vancouver WASHINGTON

Mill Plain BRT Project

Fiber Optic Agreement

- City owns the existing fiber optic system along the Mill Plain Blvd. BRT corridor
- C-TRAN will upgrade City's system to new 144-strand fiber optic capacity
- City to own completed fiber optic system
- C-TRAN to be provided with 48 strands of fiber optic capacity
- City and its partnering agencies will utilize remaining 96 strands

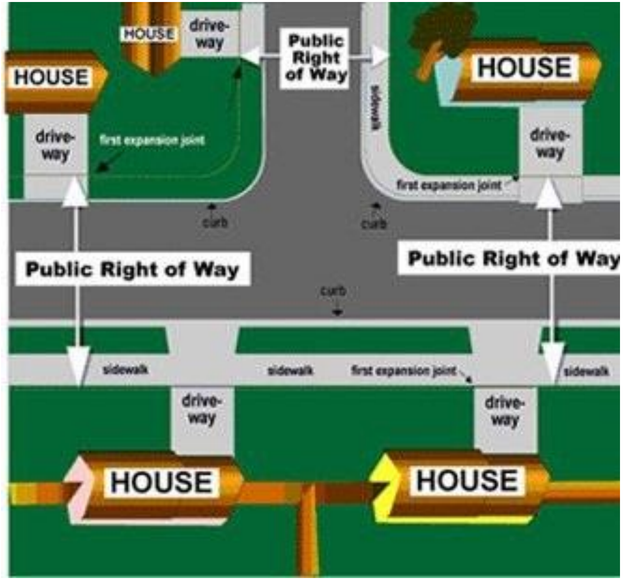
Transit System Priority (TSP) Agreement

- City owns the existing traffic signal systems the Mill Plain Blvd. BRT corridor
- TSP gives signal priority to the BRT vehicles during peak hour traffic periods
- Many of the existing signals along the corridor currently have TSP integration
- C-TRAN will modify 13 additional signals along the corridor to allow for TSP integration
- City will retain ownership of the TSP modified traffic signals

CITY OF Vancouver WASHINGTON

Station Pairs ROW Agreement

- City owns existing street right-of-way (ROW) along the Mill Plain Blvd BRT corridor
- Many of the BRT Stations will require additional ROW to be acquired from abutting property owners
- C-TRAN will facilitate acquisition of the necessary ROW
- C-TRAN will convey all ROW to the City
- C-TRAN will maintain all ROW associated with the BRT Station improvements



Questions and Discussion

Ryan Lopossa, Streets and Transportation Manager
Ryan.Lopossa@cityofvancouver.us

CITY OF Vancouver WASHINGTON

INTERLOCAL AGREEMENT
BETWEEN C-TRAN AND THE CITY OF VANCOUVER
FOR COORDINATION, CONSTRUCTION, IMPLEMENTATION, AND ONGOING OPERATIONS OF THE TRANSIT SIGNAL PRIORITY
FOR THE MILL PLAIN BUS RAPID TRANSIT CORRIDOR ("AGREEMENT")

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into on this _____ day of ____________________, 2021, by and between the Clark County Public Transportation Benefit Area ("C-TRAN") a municipal corporation, formed under authority of Chapter 36.57A RCW and the City of Vancouver ("City"), being a municipal corporation of the State of Washington and public agencies pursuant to Section 39.34.020 of the Revised Code of Washington ("RCW") (collectively, "the Parties"), hereinafter sets forth a common agreement concerning the Mill Plain Bus Rapid Transit Project ("the Project") Transit Signal Priority ("TSP").

RECITALS

WHEREAS, in 2021, C-TRAN expects to execute a Federal Transit Administration (FTA) Small Starts Grant for full funding and implementation of the Project; and

WHEREAS, C-TRAN plans to install TSP as part of the Project, as required by FTA under the federal definition of a Small Starts Bus Rapid Transit project; and

WHEREAS, C-TRAN and the City have collaborated on the TSP design and expectations for its operations as part of the Project; and

WHEREAS, the Parties mutually agree to carry out the TSP for the Project, subject to specific tasks, responsibilities, and long term objectives contained in this Agreement;

NOW, THEREFORE, pursuant to RCW 39.34 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, as well as the attached Exhibits which are incorporated and made a part hereof, the parties agree as follows:

ARTICLE I - RECITALS ADOPTED

The recitals set forth above are hereby adopted as the factual basis for this Agreement.

ARTICLE II - DEFINITIONS

Agreement means this document and all Exhibits attached and subsequent amendments hereto.

Continuing Control means the conditions of the FTA Small Starts Grant that require the legal assurance that project property will remain available to be used for its originally authorized purpose throughout it's useful life or until disposition as such terms are defined in FTA Circular 5010.1E, as amended or updated, and in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and that the TSP equipment be used specifically for TSP purposes on the Mill Plain BRT Corridor and maintained in a state of good repair.

Installation Completion Date means the date identified in the construction schedule for the final acceptance of the TSP elements of the Project.

Mill Plain BRT Corridor ("the Corridor") means the surface street route along Broadway between E 7th Ave and Evergreen Boulevard; Evergreen Boulevard between Broadway and Fort Vancouver Way; Fort Vancouver Way between Evergreen Boulevard and Mill Plain; along Mill Plain Boulevard between Fort Vancouver Way and SE 184th Avenue; and along SE 184th Avenue between Mill Plain and the terminus of the BRT line at Mill Plain Transit Center.

Project means the Mill Plain Bus Rapid Transit Project, a street construction, traffic signal modification, and accessory structure construction project expected to begin in 2021 with completion expected in 2023.

Signal Priority Equipment means the technology required to generate requests for transit priority on routes and at certain intersections and monitor and manage local TSP requests at individual intersections.

Transit Signal Priority ("TSP") means giving special treatment to transit vehicles at signalized intersections, through the use of sensors, to detect approaching transit vehicles and alter signal timings to improve transit performance.

ARTICLE III – PURPOSE

The Parties mutually agree to interpret and implement this Agreement for the purpose of and consistent with the following long term objectives of the TSP to:

- Help reduce transit travel time and increase on-time trip performance along the Corridor between downtown Vancouver and Mill Plain Transit Center.
- Attract, together with other transit enhancements, more riders to transit, thus reducing the number of vehicles using the Corridor, in turn reducing traffic congestion and pavement wear-and-tear due to vehicular traffic.
- Produce a system of TSP traffic controls at selected signalized intersections along Washington Street between Evergreen Boulevard and 7th Street, Evergreen Boulevard between Washington Street and Fort Vancouver Way, Fort Vancouver Way between Evergreen Boulevard and Mill Plain; along Mill Plain Boulevard between Fort Vancouver Way and SE 184th Avenue; and along SE 184th Avenue between Mill Plain and the terminus of the BRT line at Mill Plain Transit Center.
- Purchase and install signal controller upgrades, communications equipment, and other Signal Priority Equipment consistent with the City's traffic standards and requirements.
- Ensure that installation of TSP does not interfere with the City's ability to provide signal preemption for emergency vehicles.
- Establish a long-term commitment for use, maintenance, and future equipment

replacement and upgrades of TSP and signal preemption technology with the City.

- Provide for future upgrades, replacements, improvements, modifications, maintenance, and enhancements to Signal Priority Equipment along the Corridor.
- Develop technical guidance for TSP operations and protocols detailing the roles and responsibilities for C-TRAN and the City to operate and maintain the TSP.

ARTICLE IV - TERMS

A. RESPONSIBILITY OF BOTH C-TRAN AND THE CITY

1. Signal Priority Equipment List. C-TRAN and the City, through the Project Managers for each agency identified in Section E of this Agreement, shall develop a list of Signal Priority Equipment and spare parts as required to implement the TSP.

2. Performance Review. C-TRAN and the City agree to review the performance of the TSP, along with traffic pattern changes over time, at least once annually to determine if adjustments to TSP operations are warranted. C-TRAN and the City agree that the Washington State Department of Transportation (WSDOT) will be notified by the City of these reviews when WSDOT-owned traffic signals are involved.

3. Future Intersection Work: C-TRAN or the City may identify future intersections for application of Signal Priority Equipment or may propose major modifications to existing intersections in the Corridor. In either case, the City agrees to coordinate with C-TRAN, consistent with the objectives of this Agreement, to plan for TSP improvements for new intersection work. C-TRAN acknowledges that the City may require a financial commitment by C-TRAN for TSP related improvements for new intersections. Any future work shall be mutually agreed upon by both parties. If the parties are unable to reach a mutual agreement, disputes may be resolved pursuant to the dispute resolution provisions of this Agreement.

B. RESPONSIBILITY OF C-TRAN TO THE CITY

1. Equipment Provided. C-TRAN shall purchase the mutually agreed upon Signal Priority Equipment and spare parts. C-TRAN shall retain ownership of the Signal Priority Equipment. The City shall use these spare parts only for TSP operations and maintenance along the Corridor. Signal Priority Equipment provided as part of the Project will have a minimum one year manufacturer and or vendor warranty.

2. Initial Installation. C-TRAN agrees to install the TSP equipment as specified by the Project plans and special provisions. C-TRAN shall be responsible for the capital costs of purchasing, installing, and testing this equipment.

3. TSP Maintenance and Operation Payment Obligation of C-TRAN. C-TRAN will incur 100% of TSP operations and maintenance costs, including 100% of the cost of replacement equipment. The City will continue to bill such costs through ongoing purchase or work orders

as specified in Article IV, Section D.

4. TSP Data. C-TRAN will provide the City with TSP-related data collected from transit equipment, and TSP-related field data, within 30 days of City request for such data.

5. Recordkeeping. C-TRAN shall be responsible for the fiscal record keeping for the Project's TSP components. The fiscal record keeping shall consist of procuring the necessary equipment, identified in the Mill Plain BRT Project plans and special provisions.

C. RESPONSIBILITY OF THE CITY TO C-TRAN

1. TSP State of Good Repair, Assessment and Maintenance. The conditions of the FTA Small Starts Grant require that the Signal Priority Equipment be used specifically for TSP purposes on the Corridor and maintained in a state of good repair. Upon completion of the Project, the City will be responsible for assessing maintenance and operation of the TSP in compliance with FTA requirements and any applicable laws, statutes and rules and the terms of this Agreement. The City may, as part of ongoing TSP maintenance and operations, contract out for this work as part of the ongoing purchase and or work order, upon approval by C-TRAN.

2. TSP Operation Priorities. The City has final authority over all operation and maintenance of intersection signal control and detection equipment provided under the Project. The City agrees to exercise this authority to cooperate in good faith with C-TRAN to support the objectives of TSP identified in this Agreement. Notwithstanding this Agreement, the City reserves the right to change TSP settings, at any time, at any or all intersections. The City will prioritize the requirements and needs of high priority signal operations (*e.g.*, signal preemption for emergency vehicle operations) above the needs and requirements of TSP. Final signal priority settings are the responsibility of the City.

3. TSP Data. The City will provide C-TRAN with available TSP signalized control data within 30 days of C-TRAN request for such data.

4. Reporting. The City will annually report the condition of the TSP equipment to C-TRAN.

D. BILLING PROVISIONS

1. C-TRAN Reimbursement. As set forth in Article IV, Subsection B.4 above, C-TRAN agrees to initiate an ongoing purchase or work order with the City intended to reimburse the City for 100% of the City's labor and equipment costs incurred in operating and maintaining TSP along the Corridor for the first ten years of this Agreement commencing with the Installation Completion Date. If C-TRAN continues to contribute to such costs after this initial term, the same billing provisions set forth herein shall be used. The City agrees to charge C-TRAN only for costs incurred through TSP maintenance and operations,

and not for costs for signal maintenance and operations not associated with TSP.

2. Rates. The rates for labor are set forth in Exhibit 1. If the City's labor rates increase as set forth in Exhibit 1, whether because of City work force increases or use of a subcontractor labor force, C-TRAN's obligation to pay for such labor rates will not exceed the Consumer Price Index for the West Region applied to the original rate in Exhibit 1 unless as mutually negotiated and agreed to by the City Manager and the C-TRAN Chief Executive Officer. If there is no mutual agreement, this provision governs the labor rate and is not subject to the dispute resolution provisions of this Agreement.

3. Non-Routine Work. The City will notify C-TRAN within ten days following the performance of any non-routine maintenance.

4. Invoicing. C-TRAN, in consideration of the work to be done by the City, agrees to pay the City for the actual direct and related indirect cost of all work for which the C-TRAN is responsible, including design, survey, engineering work, mobilization, construction engineering, administration and overhead costs. The City shall invoice C-TRAN, providing with the invoice sufficient documentation and information to justify the costs. C-TRAN agrees to pay the City within 30 calendar days of receipt of an invoice; provided, that if C-TRAN disagrees with all or part of an invoice, C-TRAN shall notify the City of the disagreement within 20 calendar days of receipt of an invoice. The notice shall include an explanation of the disagreement and supporting documentation and information, if any. C-TRAN shall pay all parts of an invoice that are not contested within the thirty-day period. C-TRAN shall pay a contested portion of an invoice within 30 calendar days after the parties resolve the disagreement. The dispute resolution process set forth in Article IV, Subsection N. shall be used to resolve any disagreement.

E. PROJECT ADMINISTRATION

C-TRAN has designated Project Manager Randy Parker for the Mill Plain BRT Project. The City has appointed City Traffic Engineer and Engineering Manager Chris Christofferson of the Traffic Division of the Department of Public Works as the Project Manager for the City. These individuals shall communicate regularly to discuss the status of tasks and services related to the successful performance of this Agreement. Changes to Project Manager designation(s) shall be communicated between both parties no later than two weeks prior to the change occurring.

F. INDEMNIFICATION

1. C-TRAN agrees to indemnify, defend, save and hold harmless the City, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident

to, the performance of services by C-TRAN pursuant to this Agreement.

a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against C-TRAN, the City retains the right to participate in said suit if any principle of public law is involved.

b. This indemnity and hold harmless shall include any claim made against the City by an employee of C-TRAN or subcontractor or agent of C-TRAN, even if C-TRAN is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of the City. C-TRAN specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that C-TRAN provide the broadest scope of indemnity permitted by RCW 4.24.115.

2. The City agrees to indemnify, defend, save, and hold harmless C-TRAN, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by City pursuant to this Agreement.

   a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the City, C-TRAN retains the right to participate in said suit if any principle of public law is involved.

   b. This indemnity and hold harmless shall include any claim made against C-TRAN by an employee of the City or subcontractor or agent of the City, even if the City is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of C-TRAN. The City specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that the City provide the broadest scope of indemnity permitted by RCW 4.24.115.

G. NON-DISCRIMINATION

The Parties hereto agree that they shall not participate in any discriminatory action against any employee who is paid by funds indicated in this Agreement or against any applicant for such employment because of race, religion, color, sex, marital status, creed, national origin, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap or as otherwise provided by applicable law. This provision shall include, but not be limited to the following; employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

H. AGREEMENT MODIFICATIONS

It is mutually agreed and understood that no alteration or variation to the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, shall not be binding.

I. NOTICES

Until such time either party notifies the other in writing otherwise, all notices required to be given under the terms of this Agreement, unless otherwise specified herein, or as maybe amended, shall be given in writing, addressed as follows:

Chief Executive Officer
C-TRAN
10600 NE 51st Circle
Vancouver, WA 98682

City Manager
City of Vancouver
PO Box 1995
Vancouver, WA 98668-1995

J. DURATION

Continuation of the maintenance and operations component of this Agreement will be for a period of ten years beginning with the Installation Completion Date. The actual date of project completion does not change the obligations under this Agreement, as long as this Agreement is in place.

K. TERMINATION OF AGREEMENT

1. In the event that the City wishes to terminate this Agreement prior to the end of the equipment life cycle, defined as ten years from completion of construction, the City will reimburse C-TRAN, prorated for the period of time elapsed, for the cost of intersection equipment provided to the City. Should a dispute arise concerning the amount of reimbursement, it shall be resolved through the process identified below for dispute resolution.

2. At such time as the ten year life cycle of the equipment has been reached, notwithstanding any other provision of this Agreement, any party may terminate their interest, for the party's sole convenience, in this Agreement by providing written notice of such termination, specifying the effective date thereof, at least 60 days prior to such date. At the time of notification by either party, the time period for termination shall commence as long as the termination request is mutually agreed. If the request for termination is not mutually agreed, both parties hereby agree to follow the dispute resolution process stated below, excluding any requirement to seek judicial remedies,

prior to exercise of their right of unilateral termination. This process is provided to assure the opportunity to continue with the original Project objectives provided for in this Agreement to the extent practical.

3. Funding for this Project is provided, in part, from federal and state sources. The terms and conditions of this Agreement are subject to the adherence to Federal and Washington State funding requirements and continued availability of funding identified for this Project. In the event there is a change in funding status, C-TRAN will promptly provide notice to the City and may in its sole discretion terminate this Agreement for convenience if funding is not available.

4. Both parties agree that all costs incurred up to the time of notification of termination of this Agreement, if any, less prior interim payments, shall be paid in full.

L. DISPUTE RESOLUTION PROCESS

In the event of any dispute concerning this Agreement, the Project Managers shall confer to resolve the dispute. These individuals shall use their best efforts and exercise good faith to resolve disputes and issues arising out of, or related to this Agreement. In the event the Project Managers are unable to resolve the dispute, the City's Public Works Director and C-TRAN's Director of Planning and Development shall confer and exercise good faith to resolve the dispute.

In the event the Public Works Director, and C-TRAN's Director of Planning and Development are unable to resolve the dispute, C-TRAN's Chief Executive Officer and the City Manager shall engage in good faith negotiations to resolve the dispute.

Any controversy or claim arising out of or relating to this Agreement or the alleged breach of such Agreement that cannot be resolved by C-TRAN's Chief Executive Officer and the City Manager may be submitted to mediation. If still not resolved, the parties may seek any judicial remedies available in law and equity.

The parties agree that they shall have no right to seek relief in a court of law until each of these procedural steps is exhausted and if a statute of limitations or statute of repose may lapse during these procedural steps such statute(s) are deemed tolled until the completion of the above referenced administrative dispute resolution process. In the event relief is sought in a court of law, the parties agree to Clark County Superior Court as the venue for any legal action, subject to federal jurisdictional and venue requirements.

M. INDEPENDENT CONTRACTOR

C-TRAN is and shall at all times be deemed to be an independent contractor in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between C-TRAN and City or between any of C-TRAN's or City's employees. C-TRAN shall retain all authority for provision of services, standards of performance, discipline and control of personnel, and other matters incident to its performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of C-TRAN an employee of the City or any employee of the City an employee of C-TRAN for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

N. NO THIRD PARTY BENEFICIARY

C-TRAN does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Agreement to assume any contractual obligations to anyone other than C-TRAN. C-TRAN and City do not intend there be any third-party beneficiary to this Agreement.

O. WAIVER

No waiver by either party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

P. INTERLOCAL COOPERATION ACT COMPLIANCE

This is an Agreement entered into pursuant to Chapter 39.34 RCW. Its purpose is as set forth in Article II. Its duration is as specified in Article IV, Section J (Duration). Its method of termination is set forth in Article IV, Section K (Termination of Agreement). Its manner of financing and of establishing and maintaining a budget therefore is described in Article IV, Section D (Billing Provisions). Disposal of property acquired pursuant to this Agreement which will need to be disposed of upon partial or complete termination of this Agreement is set forth in Article IV, Section K.1 (Termination of Agreement).

Q. ENTIRE AGREEMENT

This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreements shall be effective to the contrary.

R. DOCUMENT EXECUTION AND FILING

This document may be executed in multiple counterparts, all of which together shall constitute one and the same instrument. Upon execution, each party shall cause a copy of this Agreement to be posted on their respective website pursuant to RCW 39.34.040.

S. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

T. SEVERABILTY

If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below their signatures.

DATED this _______ day of ____________________, 2021.

C-TRAN	City of Vancouver
___________________________	___________________________
Shawn M. Donaghy Chief Executive Officer	Eric Holmes City Manager
	___________________________
	Natasha Ramras City Clerk

Approved as to form:

___________________________	___________________________
[name] C-TRAN Legal Counsel	Jonathan Young City Attorney

EXHIBIT 1. CITY OF VANCOUVER LABOR RATES

Transit Signal Priority Annual Maintenance Estimated Labor and Equipment Costs				
Labor Description	**Units**	**Unit Price**	**Labor Overhead**	**Totals**
Engineer	Hour			
Engineering Tech	Hour			
Traffic Signal Specialist	Hour			
Equipment Description	**Units**	**Unit Price**	**Equipment Overhead**	**Totals**
Boom Truck	Hour			

<u>OH Rates</u>

Transportation	66.28%
Construction	54.61%
Street and Traffic Maintenance	40.94%

Other expenses will be billed at-cost (no markup).

Federal Subrecipient Agreement Summary Information

Subrecipient	
Unique Identifier:	
Federal Award Identification Number	
Federal Award Date to C-TRAN:	
Federal Award Amount To Subrecipient Under This Agreement:	
Federal Amount Obligated to Subrecipient for Project:	
Total Federal Award from C-TRAN to Subrecipient:	
Awarding Agency	Federal Transit Administration
Pass Through Agency	C-TRAN
C-TRAN Contact	
CFDA Name and Number:	
Research and Development Grant	Not Applicable
Indirect Cost Rate	Not Applicable

INTERLOCALAGREEMENT
BETWEEN C-TRAN AND THE CITY OF VANCOUVER
FOR PROPERTY ACQUISITION, OWNERSHIP, PERMITTING AND OPERATION OF BUS RAPID TRANSIT STATIONS AND RELATED FACILITIES
FOR THE MILL PLAIN BUS RAPID TRANSIT CORRIDOR

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into on this _____ day of ___________________, 2021, by and between the Clark County Public Transportation Benefit Area ("C-TRAN") a municipal corporation, formed under authority of Chapter 36.57A RCW and the City of Vancouver ("City"), being a municipal corporation of the State of Washington and public agencies pursuant to Section 39.34.020 of the Revised Code of Washington ("RCW") (collectively, "the Parties"), to set forth a common agreement concerning the Mill Plain Bus Rapid Transit Project ("the Project") stations.

RECITALS

WHEREAS, in 2021, C-TRAN will execute a Federal Transit administration (FTA) Small Starts Grant for full funding and implementation of the Project; and

WHEREAS, pursuant to the federal definition of a Small Starts Bus Rapid Transit (BRT) project, C-TRAN must install BRT Stations ("Stations") as part of the Project, and

WHEREAS, C-TRAN and the City have collaborated on Station requirements, permitting, and expectations for Station operations as part the Project; and

WHEREAS, the Parties mutually agree to carry out the development and operation of the Stations, subject to specific tasks, responsibilities, designs, and long-term objectives for the Project contained in this Agreement; and

NOW, THEREFORE, pursuant to Ch. 39.34 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, as well as the attached Exhibits which are incorporated and made a part hereof, the parties agree as follows:

ARTICLE I – RECITALS ADOPTED

The recitals set forth above are hereby adopted as the factual basis for this Agreement.

ARTICLE II – DEFINITIONS

Agreement means this document and all Exhibits attached and subsequent amendments hereto.

Continuing Control means the conditions of the FTA Small Starts Grant that require the legal assurance that project property will remain available to be used for its originally authorized purpose throughout it's useful life or until disposition as such terms are defined in FTA Circular 5010.1E, as amended or updated, and in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and that the Stations be used specifically for Station purposes on the Mill Plain BRT Corridor and maintained in a state of good repair.

Mill Plain BRT Corridor ("the Corridor") means the surface street route along Evergreen Boulevard between Washington Street and Fort Vancouver Way; along Fort Vancouver Way between Evergreen Boulevard and Mill Plain Boulevard; and along Mill Plain Boulevard to the terminus of the BRT line at 184th and SE 6th Way.

Project means the Mill Plain Bus Rapid Transit Project, a street construction, traffic signal modification, Station construction, and accessory structure construction project estimated to begin in 2021 with completion expected by late Fall 2022.

Stations means the BRT stations constructed for the Project as provided in Exhibit 1. For the purposes of this Agreement, Stations excludes the Turtle Place station and the Mill Plain Transit Center station.

ARTICLE III – PURPOSE

The Parties mutually agree to interpret and implement this Agreement for the purpose of and consistent with the following long term objectives of the Stations to:

- Help reduce transit travel time and increase on-time trip performance along the Corridor;
- Attract, together with other transit enhancements, more riders to transit, thus reducing the number of vehicles using the corridor, in turn reducing traffic congestion and pavement wear-and-tear due to vehicular traffic;
- Produce a system of Stations at selected and defined locations along Evergreen Blvd, Fort Vancouver Way, and Mill Plain Blvd;
- Purchase property rights of way ("ROW") for such Stations; and
- Obtain City permits for such Stations in order to operate such Stations in perpetuity.

ARTICLE IV - TERMS

A. RESPONSIBILITIES OF C-TRAN

1. Acquisition: Pursuant to State of Washington and federal acquisition regulations, C-TRAN will acquire permanent ROW along the Corridor for the purpose of constructing, operating, and maintaining Stations. C-TRAN shall acquire properties for the Project compliant with: 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, as amended; 42 USC Chapter 61: Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs; and FTA Circular C 5010.1E, Award Management Requirements. C-TRAN will acquire all ROW in the City's name.

2. Documentation: C-TRAN shall be responsible for maintaining the acquisition diaries and closing documents, including deed recordings, for all ROW purchases. C-TRAN will use the City's recording documents for all such transactions.

3. Temporary Easements: C-TRAN shall also acquire and retain ownership of temporary construction easements for the duration of the construction. Upon completion of the construction, C-TRAN will file

a release of the temporary easement.

4. Station Maintenance: C-TRAN shall be responsible for maintenance at each Station location, including the sidewalk if it is part of the Station platform.

B. RESPONSIBILITIES OF THE CITY

1. Right of Way Use and Occupation Permit: The acquisition of ROW in the City's name is expressly conditioned upon the City granting C-TRAN a Type D Long Term Right of Way Use and Occupation Permit pursuant to Vancouver Municipal Code 11.60.060.B.4. Pursuant to the terms of this Agreement and by issuance of the permit, it is understood the Type D Right of Way permit will remain in perpetuity unless mutually terminated by both parties. Such grant of permit is expressly understood to be required to satisfy FTA Continuing Control requirements and the permit shall contain such provisions as the FTA shall mandate to satisfy this requirement.

2. Compliance with Federal Requirements: The City acknowledges that ROW is being purchased with federal grant funds. Transfer of ownership of any ROW shall be in accordance with any FTA requirements. The City acknowledges that it is a subrecipient of federal financial assistance and subject to all applicable terms and conditions of the funding agreement between C-TRAN and FTA.

3. Maintenance: The City shall be responsible for the maintenance of the City ROW outside of the physical boundaries of the Stations, the maintenance of public sidewalks adjacent to the Stations, and for keeping the City ROW free and clear of encroachments.

C. FINANCIAL PROVISIONS

As set forth above, C-TRAN agrees to acquire the ROW necessary for the Stations at C-TRAN expense using Project funds. The City has no financial obligation for the ROW acquisition.

Funding for this Project is provided, in part, from federal and state sources. The terms and conditions of this Agreement are subject to Federal and Washington State funding and right-of-way acquisition requirements and continued availability of funding identified for this Project. As a subrecipient of federally acquired property, the City agrees to comply with all requirements of the Federal Transit Administration and the terms and conditions included as Appendix A to this Agreement.

D. PROJECT ADMINISTRATION

C-TRAN has designated Project Manager Randy Parker for the Project. The City has appointed Streets and Transportation Manager Ryan Lopossa of the Department of Public Works as the liaison for the City for these ROW transactions. These individuals shall communicate regularly to discuss the status of tasks and services related to the successful performance of this Agreement. Changes to Project Manager/liaison designation(s) shall be communicated between both parties no later than two weeks prior to the change occurring.

E. INDEMNIFICATION

1. C-TRAN Obligations. C-TRAN agrees to indemnify, defend, save and hold harmless the City, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of

services by C-TRAN pursuant to this Agreement.

a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against C-TRAN, the City retains the right to participate in said suit if any principle of public law is involved.

b. This indemnity and hold harmless shall include any claim made against the City by an employee of C-TRAN or subcontractor or agent of C-TRAN, even if C-TRAN is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of the City. C-TRAN specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that C-TRAN provide the broadest scope of indemnity permitted by RCW 4.24.115.

2. City Obligations. The City agrees to indemnify, defend, save, and hold harmless C-TRAN, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by City pursuant to this Agreement.

a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the City, C-TRAN retains the right to participate in said suit if any principle of public law is involved.

b. This indemnity and hold harmless shall include any claim mad e against C-TRAN by an employee of the City or subcontractor or agent of the City, even if the City is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of C- TRAN. The City specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that the City provide the broadest scope of indemnity permitted by RCW 4.24 .115.

F. NON -DISCRIMINATION

The Parties hereto agree that they shall not participate in any discriminatory action against any employee who is paid by funds indicated in this Agreement or against any applicant for such employment because of race, religion, color, sex, marital status, creed, national origin, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap or as otherwise provided by applicable law. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

G. AGREEMENT MODIFICATIONS

It is mutually agreed and understood that no alteration or variation to the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, shall not be binding.

H. NOTICES

Until such time as the respective party notifies the other in writing otherwise, all notices required to be given under the terms of this Agreement, unless otherwise specified shall be given in writing, addressed as follows:

To C-TRAN:	To the City:
Chief Executive Officer C-TRAN 10600 NE 51st Circle Vancouver, WA 98682	City Manager City of Vancouver PO Box 1995 Vancouver, WA 98668-1995

K. DURATION AND TERMINATION

This Agreement shall continue in perpetuity unless terminated in accordance with the following provisions:

1. Termination for Convenience. C-TRAN may suspend or terminate this Agreement, in whole or in part, at any time by written notice to the City. The City shall be paid for all costs incurred prior to notice of termination. The parties may negotiate payment for costs incurred during suspension.

2. Termination for Default. In the event the City is, or has been, in violation of the terms of this Agreement, C-TRAN reserves the right, upon written notice to the City, to cancel, terminate, or suspend this Agreement in whole or in part. Termination shall be effected by serving a notice of termination on the City setting forth the manner in which the City is in default. The City will only be paid for services performed in accordance with the manner of performance set forth in the Agreement.

   Any failure to make progress which significantly endangers performance of the Project within a reasonable time shall be deemed to be a violation of the terms of this Agreement. If it is later determined by C-TRAN that the City had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the City, C-TRAN, after setting up a new delivery of performance schedule, may allow the City to continue work or treat the termination as a termination for convenience.

L. DISPUTE RESOLUTION PROCESS

1. Agency Resolution. In the event of any dispute concerning this Agreement, the Project Managers/liaisons shall confer to resolve the dispute. These individuals shall use their best efforts and exercise good faith to resolve disputes and issues arising out of or related to this Agreement. In the event the Project Managers/liaisons are unable to resolve the dispute, the City's Public Works Director and C-TRAN's Director of Planning and Development shall confer and exercise good faith to resolve the dispute. In the event the Public Works Director, and C-TRAN's Director of Planning and Development are unable to resolve the dispute, C-TRAN's Chief Executive Officer and the City Manager shall engage in good faith negotiations to resolve the dispute.

2. Mediation. Any controversy or claim arising out of or relating to this Agreement or the alleged breach of such Agreement that cannot be resolved by the C-TRAN Chief Executive Officer and the City Manager may be submitted to mediation.

3. Other Remedies. If still not resolved, the parties may seek any judicial remedies available in law and equity. The parties agree that they shall have no right to seek relief in a court of law until each of these procedural steps is exhausted and if a statute of limitations or statute of repose may lapse during these procedural steps such statute(s) are deemed tolled until the completion of the above referenced administrative dispute resolution process. In the event relief is sought in a court of law, the parties agree to Clark County Superior Court as the venue for any legal action, subject to federal jurisdictional and venue requirements.

M. INDEPENDENT CONTRACTOR

C-TRAN and the City are and shall at all times be deemed to be independent contractors in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between either party or between any of their employees. Each party shall retain all authority for provision of services, standards of performance, discipline and control of its personnel, and other matters incident to its performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of C-TRAN an employee of the City or any employee of the City an employee of C-TRAN for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

N. NO THIRD-PARTY BENEFICIARY

C-TRAN does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Agreement to assume any contractual obligations to anyone other than C-TRAN. C-TRAN and City do not intend there be any third-party beneficiary to this Agreement.

0. WAIVER

No waiver by either party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

P. INTERLOCAL COOPERATION ACT COMPLIANCE

This is an Agreement entered into pursuant to Chapter 39.34 RCW. Its purpose is as set forth in Article III. Its duration and termination are as specified in Article IV, Section K (Duration and Termination). Financial provisions are as described in Article IV, Section C. Transfer of property acquired pursuant to this Agreement is as described in Article IV A and B.

Q. ENTIRE AGREEMENT

This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreements shall be effective to the contrary.

R. DOCUMENT EXECUTION AND FILING

Each party shall cause a copy of this Agreement to be posted on their website pursuant to RCW 39.34.040. Upon execution of the originals and posting of a copy on the website, each such duplicate original shall constitute an agreement binding upon all parties.

S. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

T. SEVERABILITY

If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below their signatures.

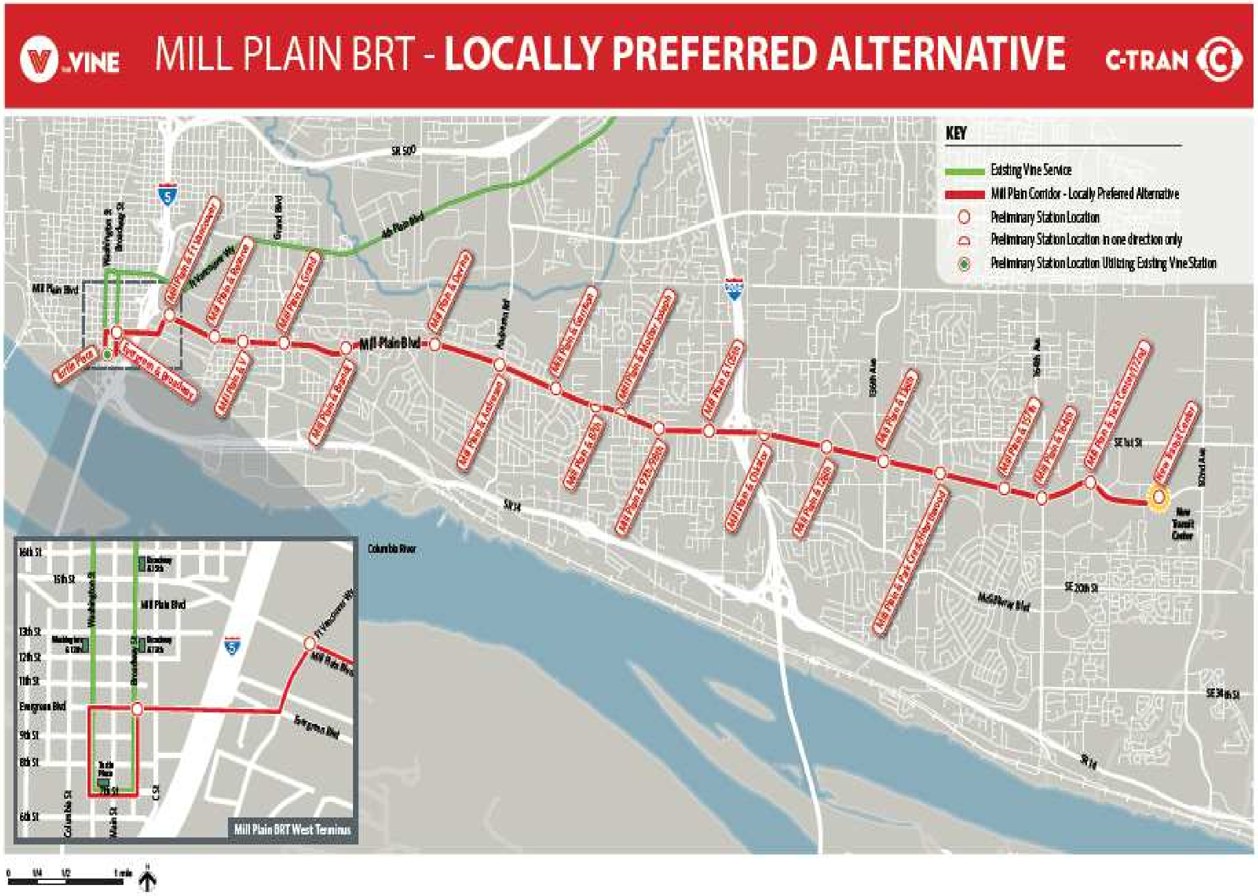
DATED this _______ day of ____________________, 2021.

C-TRAN	City of Vancouver
______________________________ Shawn M. Donaghy Executive Director/CEO	______________________________ Eric Holmes City Manager
	______________________________ Natasha Ramras City Clerk

Approved as to form:

______________________________ [name] C-TRAN Legal Counsel	______________________________ Jonathan Young City Attorney

Exhibit 1



December 2019

INTERGOVERNMENTAL AGREEMENT BETWEEN C-TRAN AND THE CITY OF VANCOUVER FOR FIBER OPTIC CABLE INSTALLATION AND MAINTENANCE

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into on this _____ day of ____________________, 2021, by and between the Clark County Public Transportation Benefit Area ("C-TRAN") a municipal corporation, formed under authority of Chapter 36.57A RCW and the City of Vancouver ("City"), being a municipal corporation of the State of Washington and public agencies pursuant to Chapter 39.34.020 RCW for the installation and maintenance of fiber optic cable necessary for the Mill Plain Bus Rapid Transit Project ("Project").

RECITALS:

WHEREAS, C-TRAN is in the process of developing the Project, which includes the construction of a new bus rapid transit route that begins at Evergreen Boulevard between Washington Street and Fort Vancouver Way; along Fort Vancouver Way between Evergreen Boulevard and Mill Plain Boulevard; and along Mill Plain Boulevard to the terminus of the BRT line at 184th and SE 6th Way ("MPBRT Corridor"); and

WHEREAS, C-TRAN requires a reliable fiber optic cable connection throughout the MPBRT Corridor in order to transmit security and route information; and

WHEREAS, the City currently owns and maintains a fiber optic cable network in the MPBRT Corridor, from approximately the west end of downtown Vancouver starting at the Clark Regional Technology Center, 708 W 13th Street, to the east end of Vancouver terminating at the intersection of Mill Plain Boulevard and 192nd Avenue, which includes fiber infrastructure, conduit, and fiber optic cable ("Fiber Infrastructure"); and

WHEREAS, in order to effectuate a more reliable system, C-TRAN intends to remove the City-owned fiber optic cable within the Fiber Infrastructure, install 144 new fiber optic lines, and replace or repair damaged conduit and all existing infrastructure as necessary ("Fiber Replacement"); and

WHEREAS, the City and C-TRAN both desire that upon completion of the Fiber Replacement, the City will retain ownership of the improved Fiber Infrastructure and be responsible for its continued operation, maintenance, and repair; and

WHEREAS, the development of the Project is being supported by Federal funds, which requires compliance with certain Federal standards and regulations, more particularly described below; and

WHEREAS, the City and C-TRAN both have the authority to enter into this Agreement as two public agencies, pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, as amended;

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the

City and C-TRAN hereby agree as follows:

AGREEMENT

A. Project Funding and Obligations

The Fiber Replacement is being funded in part by the following funds from the Federal Transit Administration (FTA):

Federal Award Identification Numbers and Dates: TBD
Awarding Federal Agency: Federal Transit Administration
CFDA Number and Name: TBD
Subrecipient Identifier: TBD

The City and C-TRAN hereby agree that this agreement is subject to the requirements of FTA Circular 5010.E Award Management Requirements and the FTA Master Agreement executed between C-TRAN and FTA. All design, construction, maintenance and operation shall be in conformance with FTA requirements. C-TRAN shall maintain Satisfactory Continuing Control (the legal assurance that project property will remain available to be used for its originally authorized purpose throughout it's useful life or until disposition) over the transit portion of the property and that the transfer of ownership to the City will carry the obligations of a Federal Interest, as such terms are defined in FTA Circular 5010.1E, as amended or updated, and in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

B. Fiber Replacement Design

The details of Fiber Replacement can be found in the project design plans. The City shall be provided the opportunity to review and provide input on the design plans for the Project and the Fiber Replacement. C-TRAN shall have sole decision-making authority for the final design plans and specifications; provided, however, that C-TRAN shall not substantially modify the final design plans and specifications without providing the City an opportunity for review and approval.

C. Fiber Replacement Construction

C-TRAN intends to complete the construction of the Project through procurement of a third-party contractor ("Contractor"). The Contractor will be responsible for the Fiber Replacement, which C-TRAN shall ensure is removed, replaced, and constructed in accordance with project design plans and specifications and all contracting requirements. As part of the Fiber Replacement, C-TRAN will make commercially reasonable efforts to repair damaged conduit and all conduit infrastructure discovered during construction (conduit infrastructure defined as conduit, conduit couplings, handholes, junction boxes, pull boxes, and vaults).

The Contractor shall report directly to C-TRAN or its agents. Except where the Contractor is required to obtain permits or approvals from the City, during construction the City shall communicate any concerns directly to the C-TRAN Project Manager or the Manager's designee.

1) Construction Phasing and Cutover

The City and C-TRAN will collaborate on the creation of a plan which shall establish the schedule and procedures for completing the Fiber Replacement. At a minimum, the plan will include the processes for physical termination of existing lines, requirements for testing/launching of the new lines, and expected communication and notices during the Fiber Replacement. The plan shall also establish the phases by which the Fiber Replacement will be accepted by C-TRAN and revert back to the control of the City.

To the extent possible, the agreements between C-TRAN and the City shall be documented in the construction design plans and specifications and thereby integrated into the Contractor's proposed construction phasing. In accordance with the construction contracting documents, the City will be provided an opportunity to review and provide feedback on the Contractor's construction phasing as it relates to the Fiber Replacement.

2) Temporary Right of Entry.

In accordance with the phasing of the cutover plan, it shall be assumed that the City has granted to C-TRAN a temporary license and right of entry onto all City right of way and property necessary to construct the Fiber Replacement. C-TRAN shall ensure that all property is returned to its original state or to an acceptable reconstructed state upon completion of the construction contract. This provision shall not obviate the Contractor's need to obtain all necessary permits in accordance with the City's requirements.

3) Interruption of Service.

The City shall be responsible for communicating the schedule and implications with all stakeholders and other users of the Fiber Infrastructure. So long as C-TRAN and the Contractor comply with agreements of the cutover plan, C-TRAN shall bear no obligation for the impacts of the Fiber Replacement to the City's stakeholders. The City shall continue to be responsible for the ongoing maintenance of the Fiber Infrastructure which is not under construction by C-TRAN or its Contractor.

4) Restoration of Property

In the event that the Contractor commences work on the Fiber Infrastructure, but is unable to complete the Project, C-TRAN shall be responsible for ensuring continued operation of the Fiber Infrastructure. This may include undertaking temporary measures to maintain the continued operation of the Fiber Infrastructure, continuing the Project with a new Contractor, and/or restoring the Fiber Infrastructure at a level equivalent to or better than its previous condition.

The City may initiate restoration work only if it is determined that C-TRAN is unable to do or that an emergency necessitates such action. The City shall be required to provide advance notice to C-TRAN with a reasonable opportunity to respond. C-TRAN shall be responsible for compensating the City for any necessary expenses to maintain fiber operations.

5) As-Built Drawings

Upon completion of the project, C-TRAN must submit as-built drawings to the City. These as-built drawings shall be in the form of an electronic CAD file that is an updated drawing of the design plans.

D. **Ownership and Control.**

Upon acceptance of the Fiber Replacement, whether in whole or in part, control shall revert to the City and the City shall continue to own, operate and maintain the Fiber Infrastructure, including all improvements resulting from the Fiber Replacement; provided, however, that C-TRAN shall be granted exclusive use of 48 fiber optic cable lines for the useful life of the property, to serve C-TRAN for any lawful purpose ("C-TRAN's Fiber"). C-TRAN's Fiber shall be specifically identified within the as-built plans and tagged at all fiber access points. The City shall not encumber or allow the encumbrance of the Fiber Infrastructure in any way that interrupts C-TRAN's continuing use of its 48 fiber lines. The City may not sell, transfer, or otherwise dispose of the Fiber Infrastructure or the property rights of the land within which it is located, to the extent such property is currently owned by the City, without prior authorization by C-TRAN. Any such transfer will only be permitted if the transfer includes covenants that protect the interest of C-TRAN. The ownership and obligations of the City shall not include the connections from the Fiber Infrastructure to C-TRAN stations, buildings or other property ("Fiber Connections"), which shall be considered the exclusive property of C-TRAN.

1) City Use.

Of the newly installed fiber optic cable lines, 96 shall be dedicated to the uses of the City and its permittees. Permittees are parties to which the City has permitted use of the fiber lines whether through the Vancouver Area Smart Trek Agreement or otherwise. The City retains discretion to determine the allocation and use of such lines; provided however, that such uses may not be in contravention to the obligations of this Agreement and may not infringe upon C-TRAN's use and continuing control of its 48 fiber lines.

2) Modifications to Fiber Infrastructure.

During the federal useful life of the property, the City shall not undertake any new construction, alteration, or changes to the Fiber Infrastructure, excluding ordinary maintenance and repair, without the prior written consent of C-TRAN, which consent shall not be unreasonably withheld. In accordance with federal grant requirements, during the useful life of the property, the City shall be responsible for compensating C-TRAN for any reimbursements to FTA resulting from modifications to the federal interest made by the City; provided, however, that for any project that mutually benefits C-TRAN and the City such reimbursement shall be split accordingly. The useful life of the Fiber Replacement is 20 years from completion.

3) Abandonment.

If the City intends to permanently abandon all or part of that portion of the Fiber Infrastructure modified by the Fiber Replacement pursuant to this Agreement, it must notify C-TRAN in writing at least 180 days of its intended abandonment. All ownership, rights and control of the abandoned fiber shall revert to C-TRAN as of the effective date of abandonment. Prior to abandonment, the City shall ensure that C-TRAN is provided ongoing continued use of the Fiber Infrastructure and access to all necessary connections so as not to affect C-TRAN operations and to allow C-TRAN staff to maintain C-TRAN's Fiber connection in the corridor.

The City's failure to initiate repairs to maintain C-TRAN's Fiber in working order for more than thirty days after the City receives notice that a portion of the fiber is not in working order may, at C-TRAN's discretion, be deemed an abandonment of C-TRAN's Fiber. All ownership, rights and control of the abandoned fiber shall revert to C-TRAN as of the effective date of abandonment. Such abandonment shall result in any property rights necessary for C-TRAN to repair and maintain C-TRAN's Fiber and related Fiber Infrastructure.

E. **Maintenance and Repairs.**

The City agrees to repair, maintain and otherwise preserve the Fiber Infrastructure in accordance with applicable industry standards. The City shall maintain the fiber optic network in good and operable condition and shall maintain and repair the fiber in a manner consistent with industry standards and using commercially reasonable efforts. The City shall employ qualified City personnel or third party contractors to ensure the continued operation of the Fiber Infrastructure. In the event of a failure or malfunction of the Fiber Infrastructure that interferes with C-TRAN's telecommunications system, the City shall commence repair or maintenance activities in accordance with this section. The City shall diligently continue to undertake all repair or maintenance activities until completed.

1) Non-Emergency Maintenance and Repairs.

The City shall provide C-TRAN no less than three business days' notice for any standard repairs that may affect the telecommunications of C-TRAN. Notices shall be sent to the C-TRAN Director of Technology or the Director's designee. In the event the City's planned activity is canceled or delayed for any reason as previously notified, the City shall notify C-TRAN as soon as reasonably possible and will comply with the provisions of the previous sentence to reschedule any delayed activity. The City shall make reasonable efforts to conduct repairs during off peak hours so as to not materially affect the ridership of C-TRAN.

2) Emergency Repairs.

In the event C-TRAN identifies a circumstance which requires restoration of service, C-TRAN shall provide City personnel with the address or location of the facility with the problem, the identification number of the fibers or fiber circuits in question, and the name and telephone numbers of C-TRAN's personnel to contact for site access and status updates.

Upon notification of interruption of fiber optic network service, the City shall pursue commercially reasonable efforts to repair the service. If the City's technician cannot repair the service interruption by telephone, the City shall mobilize technicians to achieve necessary repair or restoration, including, but without limitation, having maintenance personnel at the affected site with within 24 hours after receipt of such notice. The City shall then work continuously until service has been restored. For purposes of this Section, “commercially reasonable efforts” means activities and performances consistent with prudent utility practice, practices required for preserving the integrity of the fiber optic network, and response times that do not jeopardize the health and safety of the employees, contractors and agents of the City. In the event of emergency maintenance or repairs for which C-TRAN did not notify the City, the City shall use its best efforts to provide prior written notice to C-TRAN.

If the City is unable to conduct necessary repairs within three calendar days, C-TRAN may at its discretion, upon notice to the City, conduct such repairs.

3) Allocation of Costs.

Excluding minor maintenance costs, C-TRAN shall compensate the City for any necessary maintenance or repairs based on its pro rata share of the use of the Fiber Infrastructure (calculated at 33.3%) provided, however, that C-TRAN shall not be responsible for any expenses resulting from intentional or negligent damage act by the City or its agents or for the repair or maintenance of any connections owned and used solely by the City or another entity. Minor maintenance costs include periodic inspection, cleaning and servicing of the Fiber Infrastructure by City staff at such times and in such manner as to ensure proper operation of panels, connectors, hardware, and other miscellaneous items. In the event of emergency repairs undertaken by C-TRAN, the City shall be responsible for reimbursing C-TRAN for all but C-TRAN’s pro rata share.

In the event C-TRAN’s maintenance or repair of its adjacent Fiber Connections causes the City to incur maintenance or repair costs, C-TRAN shall reimburse the City for all reasonable and actual costs incurred. Excluding the service calls described in subsection (d), C-TRAN shall also be responsible for reimbursing the City all expenses incurred for any calls to the City for maintenance issues related to the fiber that the City later confirms as resulting from a C-TRAN controlled device or connection.

Each party agrees to pay the other within 30 days of invoice. Invoices to C-TRAN shall be directed to the Director of Technology or the Director’s designee. Invoices not paid within 30 days shall accrue interest to the extent required by law.

4) C-TRAN Maintenance.

Except as otherwise specified above, upon transfer of ownership to the City, C-TRAN staff will not be permitted to independently access nor conduct any maintenance or repairs to City-owned property. In the event that C-TRAN needs to investigate connectivity or other issues, it shall contact the City to arrange escorted service to view the fiber lines or other City property. C-TRAN shall maintain all C-TRAN Connections and shall be responsible for any utility costs related thereto.

5) Hazards.

It will be the responsibility of the City and C-TRAN to report to one another respectively any known environmental hazards which would restrict or jeopardize any maintenance work activities in shelters or right of way areas of operation.

F. **General Terms and Conditions.**

1) Term.

This Agreement shall be effective on the date first written above and shall terminate as of C-TRAN's written notification to the City that C-TRAN no longer requires use of the fiber, or as otherwise provided in this Agreement. Upon termination of this Agreement, the parties shall make their best efforts to resolve any issues arising from termination.

2) Modification.

No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by a party of that or any other provision.

3) Nondiscrimination

Subrecipient agrees to, and assures that each subrecipient or contractor will, prohibit discrimination based on race, color, or national origin, and comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 2. There shall be a covenant running with the land assuring nondiscrimination until C-TRAN terminates use of the C-TRAN Fiber.

4) Independent Contractor

C-TRAN and the City are and shall at all times be deemed to be independent contractors in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between either party or between any of their employees. Each party shall retain all authority for provision of services, standards of performance, discipline and control of its personnel, and other matters incident to its performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of C-TRAN an employee of the City or any employee of the City an employee of C-TRAN for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

5) No Third-Party Beneficiary.

Except as set forth herein, this Agreement is between the parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third parties.

6) Assignment.

Neither party shall assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the other party.

7) Termination of Agreement.

The City and C-TRAN, by mutual written agreement, may terminate this Agreement at any time. C-TRAN may also terminate this agreement upon written notification to the City that it no longer requires use of the fiber.
Either the City or C-TRAN may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within thirty days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

In the event that termination occurs during the FTA useful life of the Fiber Replacement, and such termination affects the federal interest, the parties may be required to compensate FTA. Each parties share shall be determined in accordance with their current percentage of the Fiber Infrastructure; provided, however that C-TRAN shall be solely responsible for any costs associated with the Fiber Connections.

8) Indemnification.

C-TRAN agrees to indemnify, defend, save and hold harmless the City, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of serv ices by C-TRAN pursuant to this Agreement. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against C-TRAN, the City retains the right to participate in said suit if any principle of public law is involved. This indemnity and hold harmless shall include any claim made against the City by an employee of C-TRAN or subcontractor or agent of C-TRAN, even if C-TRAN is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of the City. C-TRAN specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that C-TRAN provide the broadest scope of indemnity permitted by RCW 4.24.115.

The City agrees to indemnify, defend, save, and hold harmless C-TRAN, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by City pursuant to this Agreement. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the City, C-TRAN retains the right to participate in said suit if any principle of public law is involved. This indemnity and hold harmless shall include any claim mad e against C-TRAN by an employee of the City or subcontractor or agent of the City, even if the City is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of C- TRAN. The City specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that the City provide the broadest scope of indemnity permitted by RCW 4.24 .11 5.

9) Force Majeure.

In the event either party is rendered unable to perform its obligations under this Agreement due to causes beyond its control, such as: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, or action of any other government entity claiming jurisdiction over such party (including delay or inaction in issuing necessary construction permits, use permits, or similar authorizations), or of any instrumentality thereof of any civil or military authority; national emergencies; unavailability of materials or right-of-way; insurrections; riots; wars; or strikes, lock-outs, work stoppages or other labor difficulties (each a, "Force Majeure Event"), then during the pendency of such Force Majeure Event, but for no longer period, the obligations of such party will be suspended (or reduced, as applicable), to the extent the Force Majeure Event makes such performance impossible. Provided that in the event of a Force Majeure Event, the party whose performance is prevented, delayed or impaired shall provide notice to the other party within ten days of the occurrence of such event and shall thereafter use commercially reasonable efforts to complete or correct the affected performance without undue delay.

10) Dispute Resolution Process

In the event of any dispute concerning this Agreement, the project managers shall confer to resolve the dispute. These individuals shall use their best efforts and exercise good faith to resolve disputes and issues arising out of, or related to this Agreement. In the event the Project Managers are unable to resolve the dispute, it shall be escalated to executive leadership and, if necessary, ultimately to the C-TRAN Chief Executive Officer and the City Manager who shall engage in good faith negotiations to resolve the dispute. Any controversy or claim arising out of or relating to this Agreement or the alleged breach of such Agreement that cannot be resolved by the CEO and the City Manager may be submitted to mediation. If still not resolved, the parties may seek any judicial remedies available in law and equity.

The parties agree that they shall have no right to seek relief in a court of law until each of these procedural steps is exhausted and if a statute of limitations or statute of repose may lapse during these procedural steps such statute(s) are deemed tolled until the completion of the above referenced administrative dispute resolution process. In the event relief is sought in a court of law, the parties agree to Clark County Superior Court as the venue for any legal action, subject to federal jurisdictional and venue requirements.

11) Notice.

Unless otherwise provided above, any notices to be given under this Agreement shall, if in writing, be delivered, postage prepaid and addressed to:

To the City:	To C-TRAN:
City of Vancouver City Manager PO Box 1995 Vancouver, WA 98668	C-TRAN Deputy Chief of Staff 10600 NE 51st Circle Vancouver, WA 98682

12) Remedies.

The remedies provided under this Agreement shall not be exclusive. The parties also shall be entitled to any other equitable and legal remedies that are available.

13) Entire Agreement.

This Agreement constitutes the entire agreement between the City and C-TRAN with respect to the subject matter herein and supersedes all prior or contemporaneous written or oral discussions or agreements between the parties. No additional terms or modifications proposed by either party shall be binding on the other party unless expressly agreed to in writing and signed by both parties.

14) Interpretation of Agreement.

This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.

o. Severability/Survivability.

If any provision of this Agreement is found to be illegal or unenforceable, the remainder of this Agreement nevertheless shall remain in full force and effect. All provisions concerning Indemnification, Applicable Law, and Dispute Resolution, and any other provisions that by their nature should survive, shall survive the termination of this Agreement for any reason.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below their signatures.

DATED this ________ day of ____________________, 2021.

C-TRAN	City of Vancouver
______________________________	______________________________
Shawn M. Donaghy Chief Executive Officer	Eric Holmes City Manager
	______________________________
	Natasha Ramras City Clerk

Approved as to form:

______________________________	______________________________
[name] C-TRAN Legal Counsel	Jonathan Young City Attorney

Staff Report 013-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT 2020 Joint Agency Road Preservation Project, construction acceptance and release of retainage

Key Points

- The project completed approximately 40 lane miles of street preservation.
- Intermountain Slurry Seal of Reno, Nevada was awarded the contract for the Joint Agency Road Preservation Project in May 2020, began work in July 2020, and was physically complete in October 2020.
- Final construction costs for the project are $1,766,427.39.
- This project was funded by the Pavement Management Program in the Street Fund.
- There was an apprenticeship goal of 4% of the labor hours for this project, which corresponded to 271 hours of training. The contractor exceeded the goal, with a total of 386 hours of training.

Strategic Plan Alignment

Goal 1, Objective 1.2: Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Present Situation

Intermountain Slurry Seal of Reno, Nevada, has satisfactorily completed the subject improvements in accordance with the plans and specifications. The original construction contract bid amount was $1,683,983.45. Quantity adjustments during construction increased the contract amount by 4.9% to $1,766,427.39. The quantity adjustments were primarily attributed to increasing the number of flagging hours used to ensure public safety.

Advantage(s)

1. Completes the City’s contractual and statutory process for accepting the project.

2. Formal project acceptance allows for closure on third-party bond claims and facilitates release of retainage.

Disadvantage(s)

None

Budget Impact

This project was funded by the Pavement Management Program in the Street Fund.

Prior Council Review

Award of construction contract for the 2020 Joint Agency Road Preservation Project in May 2020.

Action Requested

On January 25, 2021, accept the 2020 Joint Agency Road Preservation Project as constructed by Intermountain Slurry Seal of Reno, Nevada, and authorize release of retainage in the amount of $88,321.37 subject to receipt of all documentation required by law.

Nicolette Roth, Civil Engineer, 360-487-7763

Staff Report 014-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT Continued use of Washington State contract #05815-003 for purchase of computer equipment, peripherals and services

Key Points

- The City uses cooperative purchasing via Washington State Contract #05815-003 to procure computer equipment, peripherals and services from Dell Marketing, L.P.
- This contract expires on July 31, 2021 and may be extended.
- The City has reached the contract limit approved by Council in 2016.
- The State contract is competitively bid and saves City time and resources from performing our own solicitation.

Strategic Plan Alignment

N/A

Present Situation

The City uses Washington State contract #05815-003 to purchase computer equipment, peripherals and services such as desktop computers, laptops, servers, and maintenance.

Staff is requesting authorization to continue to use the contract to purchase up to the Council-approved annual budgeted amount for these commodities through the end of the contract, which is July 31, 2021, and into any extended period negotiated by the State of Washington. The City has purchased up to the approved amount authorized in 2016 and requests authority to continue to purchase using this contract up to the amounts approved by Council in the City's budget process.

Advantage(s)

1. Economies of scale achieved by purchasing through the State of Washington provide better pricing than the City could obtain on its own.
2. Cooperative purchasing creates efficiency and saves time and other City resources.

Disadvantage(s)
None

Budget Impact

1. Expenditures under this contract are anticipated to be approximately $500,000 in 2021 and $700,000 in 2022 based on Council's adopted 2021-2022 budget.
2. Actual expenditures under this contract are subject to current and future budget appropriations approved by Council.

Prior Council Review
Staff Report No. 026-16: Authorize City to purchase computer equipment from Dell Marketing, L.P. from the WA Contract #05815-003.

Action Requested
Authorize the City Manager or their designee to approve purchases under Washington State contract #05815-003 for the life of the contract with Dell Marketing, LP.

Patrick Gilbride, Information Technology Director, 360-487-7650

ATTACHMENTS:

- Washington Participating Addendum
- Dell Contract
- Contract Amendment 1
- Contract Amendment 2

PARTICIPATING ADDENDUM
NASPO VALUEPOINT COOPERATIVE PURCHASING PROGRAM
MN 2014-2019 Computer Equipment
(Desktops, Laptops, Tablets, Servers, Storage including Related Peripherals & Services)
Administered by the State of Minnesota (hereinafter "Lead State")

MASTER AGREEMENT
Master Agreement No: MNWNC-108
Dell Marketing, L.P.
Dell Master Agreement No. WN91AGY
(hereinafter "Contractor")
And
State of Washington, Department of Enterprise Services
Dell Contract Code WN34AGW
(hereinafter "Participating State")
Participating State Contract #05815-003

This Addendum adds the State of Washington as a Participating State authorized to purchase from the NASPO ValuePoint Master Agreement number MNWNC-108 with Dell Marketing, L.P.

1. <u>**Scope**</u>**:** This addendum covers the NASPO Computer Equipment Contract categories identified below, led by the State of Minnesota for use by state agencies and other entities authorized by Washington State's statutes and located in the Participating State to utilize state contracts with the prior approval of the state's chief procurement official. Language contained here supersedes and is in addition to the language of the Master Pricing Agreement

a. Dell Marketing, L.P. Computer Equipment: Category Awards:

Scope of Service

1. **Band 1: Desktop.** A desktop is a personal computer intended for regular use at a single location. A desktop computer typically comes in several unites connected together during installation: 1) the processor 2) display monitor and 3) input devices usually a keyboard and a mouse. All operating systems for tablets are allowed. Zero clients, Thin clients and all in ones and workstations will also be included under desktops.

2. **Band 2: Laptop.** A laptop computer is a personal computer for mobile use. A laptop includes a display, keyboard, point devices such as a touchpad and speakers into a single unit. A laptop can be used away from the outlet using a rechargeable battery. All operating systems for tablets are allowed. Laptops will include notebooks, ultrabook, mobile thin clients, chromebook and netbooks. Computers with mobile operating systems will also be included under laptops. Tablets that have the option to be utilized with a keyboard can be sold in this band.

3. **Band 3: Tablet**. A tablet is a mobile computer that provides a touchscreen which acts as the primary means of control. All operating systems for tablets are allowed.

4. Band 4: Server. A server is a physical computer dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on the network. This band also includes server appliances. Server appliances have their hardware and software preconfigured by the manufacturer. It also includes embedded networking components such as those found in blade chassis systems.

5. Band 5: Storage to include related Peripherals & Services. Storage is hardware with the ability to store large amounts of data. This band includes SAN switching necessary for the proper functioning of the storage environment. Ruggedized equipment is **not** included in the Product and Service Schedule for this band.

6. Examples of peripherals/accessories/options: Include but are not limited to: monitors, audiovisual equipment, instructional equipment, cabling, modems, network to support servers, storage and client applications such as routers, switches. Software is an option which must be related to the purchase of equipment and subject to configuration limits. **Third party products are allowed to be offered as peripherals/accessories/options and may be offered in any related band**

b. Products and Services **NOT** allowed or provided by this Participating Addendum:

- **Ruggedized Devices, Printers, Multifunction Printers, Cell Phones**
- **Lease Agreements, Managed Print, Cloud Service**

c. Use of Purchase Card is allowable at time of order placement and not permitted for payment of invoices issued by Contractor.

2. <u>**Participation:**</u> Use of specific WSCA-NASPO cooperative contracts by all state agencies, political subdivisions and other entities (including cooperatives) located within the state of Washington authorized by state statutes to use **state** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

- Individual Customer: Each state agency and political subdivision, as a Participating Entity, that purchases products/services will be treated as if they were individual customers. Except to the extend modified by this Participating Addendum, each agency and political subdivision shall be responsible to follow the terms and conditions of the Master Agreement; and they shall have the same rights and responsibilities as the Lead State has in the Master Agreement. Each agency and political subdivision shall have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor shall apply the charges to each Participating Entity individually.

  Political and non-profit entities within the State of Washington may use this contract without further process provided they have completed, filed and accepted in the Washington State's Master Contract Agreement (MCUA) process.

Use by others then those stated above is not a valid use. Use of the contract in conflict with its language is not binding on any party and does not satisfy requirements.
A list of all members is available at:

http://des.wa.gov/services/ContractingPurchasing/Purchasing/Pages/MasterContractsUsageAgreement.aspx

THIS AGREEMENT IS NOT FOR PERSONAL USE.

3. **Effective Date:** This PA's initial term will begin upon final executed signatures and shall be coterminous with the Lead State's (Minnesota) Master Agreement and any extensions of the Master Agreement.

4. **Participating State Modifications or Additions to Master Agreement:** Contractor and Department of Enterprise Services (DES) agree to the following modifications and additions to the Master Agreement for Computer Equipment and apply only to actions and relationships within the Participating Entity.

Department of Enterprise Services (DES) State Master Contract Standard Terms and Conditions.
The following standard terms and conditions are added to the Participating Addendum for the State of Washington. This section consists of general provisions and terms for contracts issued by the Washington State Department of Enterprise Services (DES), acting under the authority of RCW 39.26 which regulates the manner in which state agencies may acquire services.

4.1 Contract Modifications or Additional Terms and Conditions to the Master Agreement:

DES reserves the right to modify the resulting contract (including but not limited to adding or deleting products, services, or delivery locations) by mutual agreement between DES and the contractor, as long as such modification is substantially within the scope of the original contract. Such modification(s) shall be memorialized in a signed, written document, (Amendment) describing the agreed upon change, including any terms and conditions required to support such change. Changes to point of contact information may be updated without the issuance of a mutually agreed contract amendment.

4.2 Restrictions: In accordance with the Master Pricing Agreement the Participating Addendum identifies the following restrictions of product;

a. Software

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.
2. Software is an option which must be related to the procurement of equipment.
3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment.
4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (band 4&5) purchased, is allowed and may be procured after the initial purchase of equipment.

b. Services

1. Services must be related to the procurement of equipment.
2. Service shall be unlimited.
3. Wireless phone and internet service is **not** allowed.
4. Cloud Services including acquisitions structured as managed on-site services are **not** allowed.
5. Managed Print Services are **not** allowed.

c. Third Party Products.

1. Contract Vendors shall only offer Third Party Products in the bands they have been awarded.
2. Contract vendors cannot offer products manufactured by another Contract Vendor holding a Minnesota NASPO Value Point Master Agreement unless approved by the Lead state.

d. Additional Product/Services

1. Hardware and software required **to solely support** wide area network (WAN) operation and management are **not** allowed.
2. Lease/Rentals of equipment shall **not** be allowed.
3. Cellular Phone Equipment shall **not** be allowed.
4. EPEAT Bronze requirement may be waived, on a State case by case basis, if approved by the State's Chief Procurement Officer.

4.3 Contract Administration

- **State Contract Administrator**

  DES will appoint a single point of contact that shall be the Contract Administrator for this contract and shall provide contract oversight. The Contract Administrator shall be the principal contact for the contractor for business activities under this contract. DES shall notify the contractor in writing, when there is a new Contract Administrator assigned to this contract.

- **Administration of Term Contract**

  DES may maintain contract information and pricing and make it available on DES's website. The contract prices are the maximum price contractor can charge. The contractor may offer volume discounts to purchasers.

4.4 Contractor Supervision and Coordination

Contractor shall:

a. Competently and efficiently supervise and coordinate the implementation and completion of all contract requirements specified herein.

b. Identify the contractor's Authorized Representative, who will be the principal point of contact for DES concerning contractor's performance under this contract.

c. Immediately notify the Contract Administrator in writing of any change of designated Authorized Representative assigned to this contract.

d. Be responsive to all written communications given to or received from the contractor's Authorized Representative that results in an amendment to the contract.

Violation of any provision of this section may be considered a material breach of contract and may be grounds for contract termination.

4.5 Term Contract Management

Upon award of a term contract, the contractor shall:

a. Promote and market the use of this contract to all authorized contract purchasers.

b. Use reasonable efforts to ensure that those who endeavor to utilize this contract are authorized purchasers under this contract.

c. At no additional charge, assist purchasers in making the most cost effective, value based purchases which may include, but is not limited to:

- Having representatives available to provide information regarding products and services, including visiting the purchaser site if needed, and providing purchaser with materials/supplies/equipment recommendations.
- Providing purchasers with a detail list of contract items including current contract pricing and part numbers.

The contractor will be responsible for addressing purchaser issues including but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians and processing warranty claim documentation.
- Providing purchasers with regular and timely status updates in the event of a delay in repair or order fulfillment.
- Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for contract items purchased.

4.6 Changes

Alterations to any of the terms, conditions, or requirements of this contract shall only be effective upon written issuance of a mutually agreed contract amendment by DES. Changes to point of contact information may be updated without the issuance of mutually agreed contract amendment.

4.7 Statewide Payee Desk

Contractors must register with the Statewide Payee Desk, maintained by DES, to be paid for contract sales. Washington state agencies cannot make payments to a contractor until it is registered. Registration materials are available here: Receiving Payment from the State.

4.8 Management Fee

Contractor will pay a management fee of 2 percent to DES on all state contract sales/purchase prices for work/purchase orders. The purchase price is defined as total invoice price less sales tax.

The management fee must be rolled into the contractor's current pricing; the fee must not be shown as a separate line item on an invoice unless specifically requested and approved by DES.

The Contractor shall submit a check after receiving an invoice, in addition to a report of purchases made under this Participating Addendum to the State, for the calculated management fee for an amount equal to 2% (two percent) of the total net sales (gross sales minus returns, credits, and deductions) for the quarterly period. Contractor's WSCA pricing will be adjusted by this fee and not invoiced or charged to the Purchasing Entity.

How to determine the fee: Total sales (not including sales tax) x .0200 = management fee.

Upon amendment to the contract, DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate contract pricing with the contractor when adjustment of the management fee might justify an increase in pricing.

For purposes of the management fee, the parties agree that the initial management fee is included in the pricing. Therefore, any increase or reduction of the management fee must be reflected in contract pricing commensurate with the adjustment.

Taxability (if applicable): In 2013, the Washington Department of Revenue ruled that if the underlying transaction requires sales tax, the DES management fee portion of the transaction is also subject to a sales tax.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely sales report, or remit timely payment of the management fee may be cause for contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fees owed to other entities such as the NASPO ValuePoint or government entities other than the state of Washington.

DES will invoice the contractor every quarter based on sales reported by contractor. Contractors are **not to remit payment until they receive an invoice from DES.**

Management fee payment must reference the contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and the contractor's name as it is known to DES, if not already included on the face of the check.

Remit management fee to:

Washington State Department of Enterprise Services
Finance Office
PO Box 41460
Olympia, WA 98504-1460

NOTE: DO NOT send payment to the DES Contract Administrator and do not pay prior to receiving the invoice.

4.9 Contract Sales/Usage Report

The management fee will be based on total contract sales, which must be reported quarterly by the contractor in the Contract Sales Reporting System

https://fortress.wa.gov/ga/apps/CSR/login.aspx

DES will provide a login password and a vendor number.

Each sales report must identify every authorized purchaser by name as it is known to DES and its total combined sales amount **invoiced** during the reporting period (i.e., sales of an **entire agency** or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by DES, and use of this option without prior approval by DES may be cause for contract termination.

USAGE REPORT DUE DATE: Reports must be submitted electronically within 30 days after the end of the reporting period:

For sales invoiced during ...	Due date
Q1 (Jan / Feb / March)	April 30
Q2 (April / May / June)	July 31
Q3 (July / Aug / Sept.)	Oct. 31
Q4 (Oct / Nov / Dec.)	Jan. 31

Failure to provide reports in accordance with the schedule above may be cause for contract termination.

The report may be corrected or modified by DES with subsequent written notice to the contractor.

Upon request, contractor shall provide contact information for all purchasers during the term of this contract. Refer sales reporting questions to the Contract Administrator.

4.10 Other Required Term Contract Reports

DES may require the contractor to provide a detailed annual contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

4.11 Common Vendor Registration and Bid Notification System

Contractor shall be registered in the state's common vendor registration and bid notification system, RCW 39.29.006, known as Washington's Electronic Business Solutions (WEBS) at

http://des.wa.gov/services/ContractingPurchasing/Business/Pages/WEBSRegistration.aspx

Contractors already registered need not re- register. It is the sole responsibility of contractors to properly register and maintain an accurate vendor profile.

4.12 Payment

a. Advance payment prohibited:

No advance payment shall be made for the products and services furnished by contractor under this contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

b. Payment:

Payment is the sole responsibility of, and will be made by, the purchaser.

Under Chapter 39.76 RCW , if purchaser fails to make timely payment(s), contractor may invoice for 1 percent per month on the amount overdue or a minimum of $1. Payment will not be considered late if a check or warrant is mailed within the time specified. Payment for completion of an order is net 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later.

Payment(s) made in accordance with contract terms shall fully compensate the contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with the use of purchasing/credit cards shall be fully assumed by the contractor.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If the contractor fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to the contractor.

c. Invoicing and discounts

Contractor must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated contract number; the contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Invoices must be prominently annotated by the contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of contractor has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

4.13 Taxes, fees and licenses

a. Taxes

Where required by statute or regulation, the contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the contractor shall be made for federal excise taxes when the purchaser agrees to furnish contractor with an exemption certificate where appropriate.

b. Collection of retail sales and use taxes

In general, contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with contractor's ability to establish or maintain a market for its products in Washington. Examples of such activity include where the contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in WAC 458-20.

c. Department of Revenue registration for out-of-state contractors

Out-of-state contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to WAC 458-20-193, and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state contractors are not required to collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

d. Taxes on invoice

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with WAC 458-20-247.

e. Overpayments to contractor

Contractor shall refund to purchaser the full amount of any erroneous payment or overpayment under this contract within 30 days' written notice. If contractor fails to make timely refund, purchaser may charge contractor 1 percent per month on the amount due, until paid in full.

f. Proprietary or confidential information

To the extent consistent with Chapter 42.56 RCW, the Public Disclosure Act, DES shall maintain the confidentiality of contractor's information marked confidential or proprietary. If a request is made to view contractor's proprietary information, DES will notify contractor of the request and of the date that the records will be released to the requester unless contractor obtains a court order enjoining that disclosure. If contractor fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify contractor of any request(s) for disclosure for so long as DES retains contractor's information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by contractor of any claim that such materials are exempt from disclosure.

4.14 Insurance

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a solicitation or its appendices.

a. General requirements

Contractor shall, at its own expense, obtain and keep in force insurance as follows until completion of the contract. Upon request, contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in contract cancellation.

Contractor's Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit contractor's liability or responsibility.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state to the extent such claims are otherwise covered by required policies and Contractor has assumed liability under this Agreement.

b. Specific requirements

Employer's Liability (Stop Gap): The contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than $1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the contractor or their employees for services performed under the terms of this contract.

Commercial General Liability Insurance: The contractor shall at all times during the term of this contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this contract. This insurance shall cover such claims as may be caused by acts, omissions, or negligence of the contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the contractor's premises/operations, independent contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General aggregate limits (other than products-completed operations)	$2 million
Products-completed operations aggregate	$2 million
Personal and advertising injury aggregate	$1 million
Each occurrence (applies to all of the above)	$1 million
Fire damage limit (per occurrence)	$50,000
Medical expense limit (any one person)	$5,000

c. Business Auto Policy (BAP)

In the event that services delivered pursuant to this contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the contractor.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than $1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

d. Additional insurance provisions

All above insurance policies shall include, but not be limited to, the following provisions:

- **Additional insured**:

State of Washington and all authorized purchasers shall be named as an additional insured on all general liability, umbrella, excess policies. All policies shall be primary over any other valid and collectable insurance.

- **Notice of policy cancellation/Non-renewal**:

  Insurers are subject to Chapter 48.18 RCW (admitted and regulated by the Washington State Insurance Commissioner). In the event of policy cancellation or non-renewal, Dell will provide written notice to the director of purchasing or designee 45 calendar days prior to cancellation or any material change to the policy as it relates to this contract. Written notice shall include the affected contract reference number.

- **Cancellation for non-payment of premium**:

  If cancellation on any policy is due to non-payment of premium, Dell will provide written notice to the director of purchasing or designee 10 calendar days prior to cancellation. Written notice shall include the affected contract reference number.

- **Identification**:

  Certificates of insurance shall include the affected contract reference number.

e. Insurance carrier rating

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the contract and evidence of insurance before contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.

f. Excess coverage

The limits of all insurance required to be provided by the contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the contractor from liability in excess of such limits.

g. Limit adjustments

The state reserves the right to increase or decrease limits as appropriate.

4.15 Antitrust: Addressed in Master Agreement B. WSCA-NASPO TERMS AND CONDITIONS #4

4.16 Disputes and remedies

a. Problem resolution and disputes

Participating **State** and Contractor will attempt to resolve any Dispute through face-to-face negotiation with persons fully authorized to resolve the Dispute or through mediation utilizing a mediator agreed to by the parties, rather than through litigation. The existence or results of any negotiation or mediation will be treated as Confidential Information. Notwithstanding the foregoing, either party will have the right to seek from a state or federal court a temporary restraining order, preliminary injunction, or other equitable relief to preserve the status quo, prevent irreparable harm, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors, although the merits of the underlying Dispute will be resolved in accordance with this paragraph. In the event the parties are unable to resolve the Dispute within thirty (30) days of notice of the Dispute to the other party, the parties shall be free to pursue all remedies available at law or in equity.

b. Dispute Resolution Procedures: Addressed in Master Agreement B. WSCA-NASPO TERMS AND CONDITIONS #9

c. Administrative suspension

When it in the best interest of the state, DES may at any time, and without cause, suspend the contract or any portion thereof for a period of not more than 30 calendar days per event by written notice from DES to the contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the contractor can be demanded and required to resume performance within the 30-day suspension period by DES providing the contractor's Representative with written notice of such demand.

d. Force majeure: Addressed in Master Agreement B. WSCA-NASPO TERMS AND CONDITIONS #11

e. Non-exclusive remedies

The remedies provided for in this contract shall not be exclusive but are in addition to all other remedies available under law.

4.17 Liquidated damages

a. Liquidated damages - General

Dell agrees that any liquidated damages specified in Section 9 of the Master Agreement shall apply to this Addendum.

b. Limitation of liability: Addressed in Master Agreement B. WSCA-NASPO TERMS AND CONDITIONS #33

4.18 Debarment and suspension

Respondent certifies, by submitting this bid or proposal, that neither it nor its affiliates presently are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this procurement/contract by any government agency. Respondent also agrees to notify DES if its debarment status changes during the bid process or after receiving notice of contract award, if any. If respondent cannot certify this statement, attach a written explanation to the bid response for review.

4.19 Contract termination

a. Material breach

A contractor may be terminated for cause by DES upon written notice, at the sole discretion of DES, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the contract may include but is not limited to:

- Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed to;
- Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;
- Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the contractor's proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for contractor or any of the contractor's property and such appointment endangers the contractor's proper performance hereunder;
- A determination that the contractor is in violation of federal, state, or local laws or regulations and that such determination renders the contractor unable to perform any aspect of the contract.

b. Opportunity to cure

In the event that contractor fails to perform a contractual requirement or materially breaches any term or condition, DES shall issue a written cure notice. The contractor may have up to 30 days' time in which to cure. DES is not required to allow the contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of DES. Time required allowed for cure shall not diminish or eliminate contractor's liability for liquidated or other damages, or otherwise affects any other remedies available against contractor under the contract or by law.

If the breach remains after contractor has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this contract and any related contracts or portions thereof;
- Procure replacements and impose damages as set forth elsewhere in this contract;
- Impose actual or liquidated damages;
- Suspend or bar contractor from receiving future solicitations or other opportunities;
- Require contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the contract.

c. Termination for cause

- In the event DES, in its sole discretion, determines that the contractor has failed to comply with the conditions of this contract in a timely manner or is in material breach, DES has the right to suspend or terminate this contract, in part or in whole. DES shall notify the contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the contract may be terminated. DES reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the contractor or a decision by DES to terminate the contract.
- In the event of termination, DES shall have the right to procure for all purchasers any replacement materials, supplies, services and/or equipment that are the subject of this contract on the open market. In addition, the contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.
- If it is determined that: (1) the contractor was not in material breach; or (2) failure to perform was outside of contractor's or its subcontractor's control, fault or negligence, the termination shall be deemed to be a "termination for convenience." The rights and remedies of DES and/or

the purchaser provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

c. **Termination for convenience**

Except as otherwise provided in this contract, either party may terminate this contract, in whole or in part by giving 30 calendar days or other appropriate time period written notice beginning on the second day after mailing to the contractor. If this contract is so terminated, purchasers shall be liable only for payment required under this contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and accepted by the purchaser prior to the effective date of contract termination. Neither DES nor the purchaser shall have any other obligation whatsoever to the contractor for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

d. **Termination for withdrawal of authority**

In the event that DES and/or purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this contract and prior to normal completion, DES may terminate this contract, in whole or in part, by seven calendar day's written notice, or other appropriate time period, to contractor.

e. **Termination for non-allocation of funds**

If funds are not allocated to purchaser(s) to continue this contract in any future period, DES may terminate this contract with seven calendar days written notice, or other appropriate time period, to contractor, or work with contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed-to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or purchaser agree to notify contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

f. **Termination for conflict of interest**

DES may terminate this contract by written notice to contractor if it is determined, after due notice and examination, that any party to this contract has violated Chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this contract is so terminated, DES and/or purchaser shall be entitled to pursue the same remedies against contractor as it could pursue in the event that the contractor breaches this contract.

g. Termination by mutual agreement

DES and the contractor may terminate this contract in whole or in part, at any time, by mutual agreement.

h. Termination procedure

In addition to the procedures set forth below, if DES terminates this contract, contractor shall follow any procedures DES specifies in the termination notice.

Upon termination of this contract and in addition to any other rights provided in this contract, DES may require the contractor to deliver to the purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated if the property has been paid in full by the purchaser. The purchaser shall pay to the contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the purchaser, and the amount agreed upon by the contractor and the purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case DES and the purchaser shall determine the extent of the liability of the purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The purchaser may withhold from any amounts due the contractor such sum as DES and purchaser determine to be necessary to protect the purchaser against potential loss or liability.

The rights and remedies of DES and/or the purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, the contractor shall:

- Stop all work, order fulfillment, shipments, and deliveries under the contract on the date, and to the extent specified, in the notice;
- Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the contract except as is necessary to complete or fulfill such portion of the contract that is not terminated;
- Complete or fulfill such portion of the contract that is not terminated in compliance with all contractual requirements;

- Assign to the purchaser, in the manner, at the times, and to the extent directed by DES on behalf of the purchaser, all of the rights, title, and interest of the contractor under the orders and subcontracts so terminated, in which case the purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of DES and/or the purchaser to the extent DES and/or the purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to the purchaser and deliver in the manner, at the times, and to the extent directed by DES on behalf of the purchaser any hardware which, if the contract had been completed, would have been required to be furnished to the purchaser, if the hardware is paid in full.
- Take such action as may be necessary, or as DES and/or the purchaser may direct, for the protection and preservation of the property related to this contract which is in the possession of the contractor and in which DES and/or the purchaser has or may acquire an interest.

5. Primary Contacts: The primary contact individual (or their named successor) for this Participating Addendum is as follows:

Lead State

Name	Susan Kahle, Acquisition Management Specialist
Address	Department of Administration, Material Management Division 50 Sherburne Avenue, 112 Administration Building, St. Paul MN 55155
Telephone	651.201.2434
E-mail	Susan.kahle@state.mn.us

Contractor
Participating Addendum Contact

Name	Amanda Hudson
Address	One Dell Way, Mail Stop RR 1-33, Round Rock, Texas 78682
Telephone	301-345-1081
E-mail	Amanda_Hudson@Dell.com

Contractor
Master Agreement Contact

Name	Diane Wigington
Address	One Dell Way Mailstop RR1-33 Legal, Round Rock, TX 78682
Telephone	512-728-4805
Email	Diane.wigington@dell.com

Participating Entity

Name	Momi Friedlander Contract Specialist Department of Enterprise Services
Address	1500 Jefferson Street SE, Olympia, WA 98501
Telephone	360-407-8505
Email	Momi.friedlander@des.wa.gov

6. Minority and Women's Business Enterprises (MWBE)

In accordance with the legislative findings and policies set forth in RCW 39.19, the State of Washington encourages participation in all of its contracts by minority and woman-owned businesses firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). While the state does not give preferential treatment, it does seek equitable representation from the minority and women's business community. In addition, the state welcomes participation by self-identified minority and woman owned firms and strongly encourages such firms to become certified by OMWBE.

Dell Marketing, L.P. shall consider and encourage minority and women owned firms in their pool of subcontractors. However, unless required by federal statutes, regulations, grants, or contract terms no preference will be included in the evaluation of bids

Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the original solicitation shall apply. Contact OMWBE for information on other certified firms for potential sub-contracting arrangements. DES encourages participation by non-MWBE firms as well as MWBE firms. Prior to performance, an awarded bidder that is a MWBE or intends to use MWBE subcontractors is encouraged to identify the participating firm(s) to DES.

6.1. Public records and exempt information

All documents submitted by said Contractor to DES during the performance of this agreement shall become public records. They are subject to disclosure unless specifically exempt under Revised Code of Washington (RCW) 42.56 (The Public Records Act).

Confidential documents: DES strongly discourages submittal of any confidential material. DES considers confidential material to be any portion of your submittal clearly marked all or in part "Confidential," "Proprietary" or "Trade Secret" (or the equivalent).

- DES reserves the right to return, reject or disqualify any submittal that includes confidential material.

Public records requests: If a public records request seeks to view or obtain a copy of your RFP submittal, and if your submittal includes content clearly marked "Confidential," "Proprietary" or "Trade Secret" (or the equivalent), DES will:

- Notify you of the date DES will disclose the requested records;
- Give you an opportunity to seek a court order that stops DES from disclosing the records.

DES shall not:

- Evaluate or defend your claim of confidentiality. It is your responsibility to support your claim and take appropriate legal action to do so;
- Withhold or redact your documents without a court order.

Questions about the confidentiality of your submittal can be directed to the Procurement Coordinator or the DES Public Records Officer at (360) 407-8768 or publicrecords@des.wa.gov.

6.2 Legal notices

Any notice or demand or other communication required or permitted to be given under the contract or applicable law (except notice of malfunctioning Equipment) will be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, certified mail, return receipt requested, via facsimile or by electronic mail, to the parties at the addresses and fax numbers, e-mail addresses provided in the *Authorized Offer and Contract Signature Page* below. For purposes of complying with any provision in the contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form. Notices will be effective upon receipt or four business days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to the contract is served upon contractor or DES, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. The contractor and DES further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

6.3. Liens, claims and encumbrances

Title to Hardware passes from Dell to Purchaser upon delivery.

7. **Partner Utilization**: All Contractors authorized Resellers and Agents in the State of Washington, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the

WSCA-NASPO Master Price Agreement. Contractor shall make all determinations about which entities in the State of Washington that the Contractor authorized Reseller and Agents may support. The Contractor authorized Resellers and Agents participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

a. Contractor authorized Resellers

1. Contractor authorized Resellers shall provide quotes, accept purchase orders, and accept payment from entities ordering under this Participating Addendum.

b. Contractor authorized Agents

1. Contractor authorized Agents are authorized to provide quotes, sales assistance, configuration guidance and ordering support for hardware, software and services available this Participating Addendum.

2. Contractor authorized Agents ARE NOT authorized to accept orders, purchase orders or payment from entities ordering under this Participating Addendum.

Contractor may not subcontract or delegate the performance of its obligations under this Agreement in whole or in part, or any rights, duties, obligations or liabilities under this Agreement, by operation of law or otherwise, without the prior written consent of Participating State ***(other than subcontractors retained by Contractor from time to time in the ordinary course of business to perform CFI, warranty, break/fix, administrative and back office services who will not have access to Buyer's confidential data other than billing and contact information)*** and provided that Contractor shall remain responsible for the performance of its obligations under this Agreement.

8. Orders: Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Participating Addendum shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

All purchase orders issued by ordering entities with the jurisdiction of this Participating Addendum must include the Participating Addendum number 5815-003 DELL Contract Code WN34AGW and the Master Agreement number MNWNC-108 on the order.

Purchase orders must be submitted with a valid quote and written acceptance from agency prior to contract performance.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: WASHINGTON	Contractor: Dell Marketing, L.P.
By: Scott Smith	By: Lorri Bailey
Name: SCOTT SMITH	Name: Lorri Bailey
Title: IT PROCUREMENT MGR	Title: Public Contracts Manager
Date: 9/30/15	Date: 09/30/2015

Participating State: Washington	Participating State:
By(Signature) Moni Friedlander	By(Signature)
Name: Moni Friedlander	Name:
Title: Contract Specialist	Title:
Date: 30 Sept. 2015	Date:

Admin Minnesota
DEPARTMENT OF ADMINISTRATION

STATE OF MINNESOTA
Materials Management Division
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Voice: 651.296.2600
Fax: 651.297.3996

WSCA-NASPO
COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

WITH

DELL MARKETING, L.P.

FOR

COMPUTER EQUIPMENT: (Desktops, Laptops, Tablets, Servers and Storage including Related Peripherals & Services)

To:	Dell Marketing L. P. One Dell Way Mailstop ~~8707~~ RR1-33 Legal SGM 2/26/15 Round Rock, TX 78682 3/3/15	CONTRACT NO:	MNWNC-108
		CONTRACT PERIOD:	April 1, 2015, or upon final executed signatures, whichever is later
	Contract Vendor Administrator: Diane Wigington Email: Diane_Wigington@dell.com Phone: (512) 728-4805	THROUGH	March 31, 2017
		EXTENSION OPTION:	UP TO 36 MONTHS

You are hereby notified that your response to our solicitation, which opened January 31, 2014, is accepted. The following documents, in order of precedence, are incorporated herein by reference and constitute the entire Contract between you and the State: 1. A Participating Entity's Participating Addendum ("PA") A Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contract Vendor under the Terms of Minnesota WSCA-NASPO Master Agreement.; 2. Minnesota WSCA-NASPO Master Agreement (includes negotiated Terms and Conditions); 3. The Solicitation; and 4. the Contract Vendor's response to the Solicitation. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

1. DELL MARKETING L. P.
The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Stephanie G Miller
Signature

Stephanie G. Miller
Printed Name

Title: ~~Contract Manager~~ /Senior Manager SGM

Date: 16 February 2015

By: ______
Signature

______
Printed Name

Title: ______

Date: ______

2. MINNESOTA MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, subd. 3.

By: Sue Kahle

Title: Master Agreement Administrator

Date: 2/18/15

3. MINNESOTA COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By: ______

Date: Original signed

MAR 03 2015

By Lucas J. Jannett

Admin Minnesota
DEPARTMENT OF ADMINISTRATION

COMPUTER EQUIPMENT
2014-2019

WSCA-NASPO
COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

TABLE OF CONTENTS

Admin Minnesota
DEPARTMENT OF ADMINISTRATION

COMPUTER EQUIPMENT
2014-2019

WSCA-NASPO
COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

SUMMARY

1. **BACKGROUND**. The State of Minnesota, Department of Administration, Materials Management Division publicly posted a Request for Proposal on behalf of the State of Minnesota and WSCA-NASPO Cooperative Procurement Program ("WSCA-NASPO") resulting in a Master Agreement Award. After evaluation by a multi–state sourcing team the solicitation resulted in this Minnesota WSCA-NASPO Master Agreements with qualified manufacturers for:

   Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage including related Peripherals & Services.

   The original solicitation contains the requirements and definitions establishing the following Product Bands allowed on the Master Agreement. The configuration limits and restrictions for this Master Agreement are provided below. Participating Entities may revise these in their Participating Addendum. **Bands awarded are identified below:**

Band 1: Desktop	Band 3: Tablet	Band 5: Storage
Band 2: Laptop	Band 4: Server	

   The original solicitation included Band 6: Ruggedized. This band has been removed and ruggedized equipment will be allowed in Bands 1-5. The original solicitation and responses may be found on the WSCA-NASPO Website.

2. **EFFECTIVE DATE:** The Master Agreement contract term will begin on April 1, 2015, or upon final executed signatures, whichever is later, through March 31, 2017 with the option to extend up to 36 months, upon agreement by both parties. Contract Sales may not begin until the Website, Product and Service Schedule and third party products have been approved by the Master Agreement Administrator.

3. **PARTICIPATION.** All authorized governmental entities in any State are welcome to use the resulting Master Agreements through WSCA-NASPO with the approval of the State Chief Procurement Official. Contract Vendors are able to sign Participating Addendums (PA) at the option of Participating States. Participating States reserve the right to add State specific terms and conditions and modify the scope of the contract in their Participating Addendum as allowed by the Master Agreement.

4. **CONFIGURATION DOLLAR LIMITS.** The following configuration limits apply to the Master Agreement. Participating States may define their configuration limits in their participating addendum. The Participating State's Chief Procurement Official may increase or decrease the configuration limits, as defined in their Participating Addendum. The Participating State will determine with the Contract Vendor how to approve these modifications to the State's Product and Service Schedule.

   The dollar limits identified below are based on a **SINGLE** computer configuration. This is **NOT** a restriction on the purchase of multiple configurations (e.g. an entity could purchase 10 laptops @ $10,000 for a total purchase price of $100,000).

ITEM	CONFIGURATION*
Server	$500,000
Storage	$500,000
Desktops	$ 10,000
Laptops	$ 10,000
Tablets	$ 5,000
Peripherals	$ 5,000
Services	Addressed by each State in participating addendum

   * Configuration is defined as the combination of hardware and software components that make up the total functioning system. Software purchases are considered a part of the configuration limit of the equipment.

5. **RESTRICTIONS.** The following restrictions apply to the Master Agreement. A Participating State may set further restrictions of products in their Participating Addendum. The Participating State will determine with the Contract Vendor how to approve these modifications to the State's Product and Service Schedule.

a. Software

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.
2. Software is an option which must be related to the procurement of equipment.
3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment.
4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 4&5) purchased, is allowed and may be procured after the initial purchase of equipment.

b. Services

1. Services must be related to the procurement of equipment.
2. Service limits will be addressed by each State.
3. Wireless phone and internet service is not allowed.
4. Cloud Services including acquisitions structured as managed on-site services are not allowed.
5. Managed Print Services are not allowed.

c. Third Party Products.

1. Contract Vendors can only offer Third Party Products in the bands they have been awarded.
2. Contract Vendor cannot offer products manufactured by another Contract Vendor holding a Minnesota WSCA-NASPO Master Agreement unless approved by the Lead State.

d. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.
2. Lease/Rentals of equipment may be allowed and will be addressed by each State.
3. Cellular Phone Equipment is not allowed.
4. EPEAT Bronze requirement may be waived, on a State case by case basis, if approved by the State's Chief Procurement Officer.

6. **PARTNER UTILIZATION:** Each state represented by WSCA-NASPO that chooses to participate in this Master Agreement independently has the option of utilizing partners. Only partners approved by the Participating State may be deployed. The participating State will define the process to add and remove partners in their participating addendum.

COMPUTER EQUIPMENT
2014-2019

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT A - TERMS & CONDITIONS

MASTER AGREEMENT TERMS AND CONDITIONS

A. GENERAL TERMS, CONDITIONS & INSTRUCTIONS

1. **ACCEPTANCE OF TERMS AND CONDITIONS.** The contents of the RFP and the response of the successful responder will become Master Agreement contractual obligations, along with the final Master Agreement, if acquisition action ensues. A statement of acceptance of the proposed Contract Terms and Conditions, unless taken exception to, as specified in the RFP must be included in the response. Any suggestions for alternate language shall be presented. The Lead State is under no obligation to accept wording changes submitted by the responder. The Lead State is solely responsible for rendering decisions in matters of interpretation on all terms and conditions. Any response which fails to comply with this requirement may be disqualified as nonresponsive.

   All general proposal terms, specifications and WSCA-NASPO Terms & Conditions form a part of this RFP and will apply to any Master Agreements entered into as a result thereof.

2. **CONFLICT OF TERMS/ORDER OF PRECEDENCE:**
   a. A Participating Entity's Participating Addendum ("PA");
   b. Minnesota WSCA-NASPO Master Agreement (includes negotiated Terms & Conditions)
   c. The Solicitation including all Addendums; and
   d. Contract Vendor's response to the Solicitation

   These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contract Vendor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contract Vendor's response to the Solicitation, or terms listed or referenced on the Contract Vendor's website, in the Contract Vendor quotation/sales order or in similar documents subsequently provided by the Contract Vendor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

3. **ADDENDA TO THE RFP.** Any addendum issued will become a part of the RFP. The Lead State may modify or clarify the RFP by issuing one or more addenda to all parties who have received the RFP. Each responder must follow the directions on the addendum. Addenda will be numbered consecutively in the order they are issued.

4. **AWARD.** The award of this solicitation will be based upon the total accumulated points as established in the RFP, for separate items, by grouping items, or by total lot, and where at its sole discretion the Lead State believes it will receive the best value. The Lead State reserves the right to award this solicitation to a single responder, or to multiple responders, whichever is in the best interest of the Lead State. It is the State's intent to award to multiple responders. The Lead State reserves the right to accept all or part of an offer, to reject all offers, to cancel the solicitation, or to re-issue the solicitation, whichever is in the best interest of the Lead State.

   The Sourcing Team will make a recommendation on the award of this RFP. The commissioner of Administration or designee may accept or reject the recommendation of the Sourcing Team. The final award decision will be made by the Commissioner of Administration and the WSCA-NASPO Management Board.

5. **CLARIFICATION.** If a responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the RFP, the responder shall immediately notify the Acquisition Management Specialist in writing, as

specified in the introduction, of such error and request modification or clarification of the document. This notification is due no later than seven calendar days prior to the proposal due date and time.

Responders are cautioned that any activity or communication with a State employee or officer, or a member of the Evaluation Team, regarding this Solicitation's contents or process, is strictly prohibited and may, as a result, have its response rejected. Any communication regarding this Solicitation, its content or process, must be directed to the Acquisition Management Specialist listed in the Solicitation documents.

6. **COMPLETION OF RESPONSES.** A response may be rejected if it is conditional or incomplete. Responses that contain conflicting, false, or misleading statements or that provide references that contradict or do not support an attribute or condition stated by the responder, may be rejected.

7. **MASTER AGREEMENT ADMINISTRATOR.** The Master Agreement Administrator designated by WSCA-NASPO and the State of Minnesota, Department of Administration is: Susan Kahle. Direct all correspondence and inquiries, legal questions, general issues, or technical issues regarding this RFP to:

Susan Kahle
Acquisition Management Specialist
Department of Administration
Materials Management Division
50 Sherburne Avenue
112 Administration Building
St. Paul, MN 55155

Fax: 651.297.3996
E-mail: susan.kahle@state.mn.us

8. **DISPOSITION OF DATA SUBMITTED BY CONTRACT VENDOR.** All materials submitted in response to this RFP will become property of the Lead State and will become public record after the evaluation process is completed. The evaluation process is complete when negotiations with the selected vendors are final.

By executing this Contract, the Contract Vendor certifies and agrees that all information provided in the Contract and in response to the solicitation will be made public in accordance with the solicitation and that no information has been designated Trade Secret pursuant to the Minnesota Government Data Practices Act.

If the Contract Vendor submits information after execution of this Contract that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minn. Stat. § 13.37, the Contract Vendor must:

a. clearly mark all trade secret materials at the time the information is submitted;
b. include a statement with regard to the information justifying the trade secret designation for each item; and,
c. defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the Lead State, its agents and employees, from any judgments awarded against the Lead State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the Lead State's award of a Master Agreement. In submitting a response to the RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of the Lead State. The Lead State will not consider the prices submitted by the responder to be trade secret materials.

9. **DISPUTE RESOLUTION PROCEDURES.** Any issue a responder has with the RFP document, which includes, but is not limited to, the terms, conditions, and specifications, must be submitted in writing to and received by the Master Agreement Administrator prior to the opening due date and time. Any issue a responder has with the Master Agreement award must be submitted in writing to the Master Agreement Administrator within five working days from the time the notice of the intent to award is issued. This notice may be made by any of the following methods: notification by letter, fax or email, or posted on the Materials Management website, www.mmd.admin.state.mn.us. The Lead State will respond to any protest received that follows the above procedure. For those protests that meet the above submission requirements, the appeal process is, in sequence: The responsible Master Agreement Administrator, the Materials Management Division (MMD) Assistant Director, and the MMD Director.

10. **ELECTRONIC FILES TO DOWNLOAD, COMPLETE, AND RETURN.** Responders must download a Word/Excel document.

11. **ENTIRE AGREEMENT.** A written Master Agreement (including the contents of this RFP and selected portions of Contract Vendor's response incorporated therein by reference) and any written addenda thereto constitute the entire agreement of the parties to the Master Agreement.

12. **IRREVOCABLE OFFER.** In accordance with this Request for Proposal, and subject to all conditions thereof, the undersigned agrees that its response to this RFP, or any part thereof, is an irrevocable offer for 180 days following the submission deadline date unless stated otherwise in the RFP. It is understood and agreed that the response, or any part thereof, when accepted by the appropriate department and State officials in writing, may become part of a legal and binding Master Agreement between the undersigned vendor and the State of Minnesota.

13. **MATERIAL DEVIATION.** A responder shall be presumed to be in agreement with these terms and conditions unless it takes specific exception to one or more of the conditions. Submission by the responder of its proposed language shall not be viewed as an exception unless the responder specifically states in the response that its proposed changes are intended to supersede the terms and conditions.

    RESPONDERS ARE CAUTIONED THAT BY TAKING ANY EXCEPTION THEY MAY BE MATERIALLY DEVIATING FROM THE REQUEST FOR PROPOSAL. IF A RESPONDER MATERIALLY DEVIATES FROM THE GENERAL TERMS, CONDITIONS AND INSTRUCTIONS OR THE WSCA-NASPO TERMS AND CONDITIONS AND/OR SPECIFICATIONS, ITS RESPONSE MAY BE REJECTED.

    A material deviation is an exception to the Request for Proposal general or WSCA-NASPO terms and conditions and/or specifications that:

    a. gives the responder taking the exception a competitive advantage over other vendors; or,
    b. gives the Lead State something significantly different from that which the Lead State requested.

14. **NONRESPONSIVE RESPONSES.** Responses that do not comply with the provisions in the RFP may be considered nonresponsive and may be rejected.

15. **NOTICES.** If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed as follows:

STATE OF MINNESOTA:
MN WSCA-NASPO COMPUTER EQUIPMENT CONTRACT ADMINISTRATOR
112 Administration Bldg.
50 Sherburne Avenue
St. Paul, MN 55155
651-296-2600

MASTER AGREEMENT TERMS AND CONDITIONS

B. WSCA-NASPO TERMS AND CONDITIONS

1. **ADMINISTRATIVE FEES.** The Contract Vendor shall pay a WSCA-NASPO Administrative Fee of one-tenth of one percent (0.1% or 0.001) in accordance with the Terms and Conditions of the Master Agreement no later than 60 days following the end of each calendar quarter. The WSCA-NASPO Administrative Fee shall be submitted quarterly and is based on sales of products and services (less any charges for taxes or shipping). The WSCA-NASPO Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

   Additionally, some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contract Vendor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements may not affect the WSCA-NASPO Administrative Fee or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

2. **AGREEMENT ORDER OF PRECEDENCE.** The Master Agreement shall consist of the following documents:
   a. A Participating Entity's Participating Addendum ("PA");
   b. Minnesota WSCA-NASPO Master Agreement (includes negotiated Terms and Conditions)
   c. The Solicitation including all addendums; and
   d. Contract Vendor's response to the Solicitation

   These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contract Vendor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contract Vendor's response to the Solicitation, or terms listed or referenced on the Contract Vendor's website, in the Contract Vendor quotation/sales order or in similar documents subsequently provided by the Contract Vendor. The solicitation language prevails unless a mutually agreed exception has been negotiated.

3. **AMENDMENTS.** The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA-NASPO Master Agreement Administrator.

4. **ASSIGNMENT OF ANTITRUST RIGHTS.** Contract Vendor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contract Vendor now has or which may accrue to the Contract Vendor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contract Vendor for the purpose of carrying out the Contract Vendor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

5. **ASSIGNMENT/SUBCONTRACT.** Contract Vendor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the WSCA-NASPO Master Agreement Administrator.

6. **CANCELLATION.** Unless otherwise stated in the terms and conditions, any Master Agreement may be canceled by either party upon 60 days' notice, in writing, prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation or in the applicable Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Participating Entity to indemnification by the Contract Vendor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the Master Agreement due to Contract Vendor default may be immediate if defaults cannot be reasonably cured as allowed per Default and Remedies term.

7. **CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF. NEGOTIATED.**
   7.1 Confidentiality. The parties acknowledges that they and their employees or agents may, in the course of providing the Product and Services under this Master Agreement, be exposed to or acquire information that is confidential . Any and all information of any form that is marked as confidential or would by its nature be deemed

confidential obtained in the performance of this Master Agreement, including, but not necessarily limited to (a) any Participating Entity records, (b) personnel records, (c) information concerning individuals, (d) software, (e) product plans, (f) marketing and sales information, (g) customer lists, and (h) "know-how," or trade secrets, is confidential information ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (a) is or becomes (other than by disclosure by disclosing party) publicly known; (b) is rightfully furnished by the disclosing party to others without restrictions similar to those imposed by this Master Agreement; (c) is rightfully in recipient party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (d) is obtained from a source other than disclosing party without the obligation of confidentiality, (e) is disclosed with the written consent of disclosing party or; (f) is independently developed by employees, agents or subcontractor of the parties who can be shown to have had no access to the Confidential Information

7.2 Non-Disclosure. The parties shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the performance of this Master Agreement, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. The parties shall use commercially reasonable efforts in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, parties shall advise each other immediately if they learn or have reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement and shall at their expense cooperate in seeking injunctive or other equitable relief against any such person. Except as directed in writing , the parties will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement the parties shall turn over all documents, papers, and other matter in the recipient party's possession that embody Confidential Information. Notwithstanding the foregoing, the recipient party may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

7.3 Injunctive Relief. The parties acknowledge that breach of this Section, including disclosure of any Confidential Information, may cause irreparable injury that is inadequately compensable in damages. Accordingly, the injured party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. The parties acknowledge and agree that the covenants contained herein are necessary for the protection of the legitimate business interests and are reasonable in scope and content.

7.4 Participating Entity is agreeing to the above language to the extent is not in conflict with Participating Entities public disclosure laws.

8. **DEBARMENT**. The Contract Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction (Master Agreement) by any governmental department or agency. If the Contract Vendor cannot certify this statement, attach a written explanation for review by WSCA-NASPO.

   In any order against this Master Agreement for a requirement established by a Purchasing Entity that discloses the use of federal funding, to the extent another form of certification is not required by a Participating Addendum or the order of the Purchasing Entity, the Contractor's quote represents a recertification consistent with the terms of paragraph 8, Section 2D, Minnesota Terms and Conditions

9. **DEFAULTS & REMEDIES.**
   a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
      i. Nonperformance of contractual requirements; or
      ii. A material breach of any term or condition of this Master Agreement; or
      iii. Any representation or warranty by Contract Vendor in response to the solicitation or in this Master Agreement proves to be untrue or materially misleading; or
      iv. Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contract Vendor, or the appointment of a receiver or similar officer for Contract Vendor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
      v. Any default specified in another section of this Master Agreement.
   b. Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 30 calendar days in which Contract Vendor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole

discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contract Vendor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contract Vendor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contract Vendor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:
   i. Exercise any remedy provided by law; and
   ii Terminate this Master Agreement and any related Master Agreements or portions thereof; and
   iii Impose liquidated damages as provided in this Master Agreement; and
   iv. Suspend Contract Vendor from receiving future bid solicitations; and
   v. Suspend Contract Vendor's performance; and
   vi. Withhold payment until the default is remedied.

d. In the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

10. **DELIVERY.** Unless otherwise indicated in the Master Agreement, the prices are the delivered price to any Purchasing Entity. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contract Vendor. Additional delivery charges will not be allowed for back orders.

11. **FORCE MAJEURE**. Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The WSCA-NASPO Master Agreement Administrator may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

12. **GOVERNING LAW.** This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the Master Agreements shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the Master Agreements or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

13. **INDEMNIFICATION. DELETED SEE SECTION 2C17.**

14. **INDEMNIFICATION – INTELLECTUAL PROPERTY. DELETED SEE SECTION 2C17.**

15. **INDEPENDENT CONTRACT VENDOR.** The Contract Vendor shall be an independent Contract Vendor, and as such shall have no authorization, express or implied to bind WSCA-NASPO or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA-NASPO or the states, except as expressly set forth herein.

16. **INDIVIDUAL CUSTOMER.** Except to the extent modified by a Participating Addendum, each Participating Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or to recover any costs allowed in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contract Vendor will apply the charges and invoice each Purchasing Entity individually.

17. **INSURANCE.** Except to the extent modified by a Participating Addendum, Contract Vendor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contract Vendor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or at a Participating Entity's option, result in termination of its Participating Addendum.

Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

a. Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $1 million per occurrence/$2 million general aggregate;
b. Contract Vendor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

Contract Vendor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Participating Entity by the Contract Vendor.

Prior to commencement of the work, Contract Vendor shall provide to the Participating Entity a written endorsement to the Contract Vendor's general liability insurance policy that (i) names the Participating Entity as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating Entity has been given at least thirty (30) days prior written notice, and (iii) provides that the Contract Vendor's liability insurance policy shall be primary, with any liability insurance of the Participating Entity as secondary and noncontributory.

Contract Vendor shall furnish to Participating Entity copies of certificates of all required insurance within thirty (30) calendar days of the Participating Addendum's effective date and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at the Lead State Master Agreement Administrator's sole option, result in this Master Agreement's termination.

Coverage and limits shall not limit Contract Vendor's liability and obligations under this Master Agreement.

18. **LAWS AND REGULATIONS.** Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

19. **LICENSE OF PRE-EXISTING INTELLECTUAL PROPERTY. DELETED – SEE SECTION 2B30 FOR REVISED TERM ADDRESSING TITLE OF PRODUCT.**

20. **NO WAIVER OF SOVEREIGN IMMUNITY.** The Lead State, Participating Entity or Purchasing Entity to the extent it applies does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

    If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court of the Participating Entity's State.

21. **ORDER NUMBERS.** Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels (if possible), packing slips, invoices, and on all correspondence.

22. **PARTICIPANTS.** WSCA-NASPO Cooperative Purchasing Organization LLC is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the WSCA/NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.,) for all 50 states and the District of Columbia. Obligations under this Master Agreement are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award will be permissive.

23. **PARTICIPATION OF ENTITIES.** Use of specific WSCA-NASPO cooperative Master Agreements by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

24. **PAYMENT.** Payment for completion of an order under this Master Agreement is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contract Vendor may assess overdue account charges up to a maximum rate of one percent per month

on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

25. **PUBLIC INFORMATION.** The Master Agreement and all related documents are subject to disclosure pursuant to the Participating Entity's public information laws.

26. **RECORDS ADMINISTRATION AND AUDIT.** The disclosure of records in Participating States relating to Participating addenda and orders placed against the Master Agreement shall be governed by the laws of the Participating State and entity who placed the order.

    The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder.

    Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for an overpayments inconsistent with the terms of the Master Agreement or orders or underpayment of fees found as a result of the examination of the Contractor's records.

    The rights and obligations herein right exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State Master Agreement Administrator to review compliance with those obligations.

    Records will be retained longer if required by Participating Entity's law.

27. **REPORTS - SUMMARY AND DETAILED USAGE**. In addition to other reports that may be required by this solicitation, the Contract Vendor shall provide the following WSCA-NASPO reports.

    a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to WSCA-NASPO using the WSCA-NASPO Quarterly Sales/Administrative Fee Reporting Tool found at http://www.naspo.org/WNCPO/Calculator.aspx. Any/all sales made under the contract shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than the last day of the month following the end of the calendar quarter (as specified in the reporting tool).

    b. Detailed Sales Data. Contract Vendor shall also report detailed sales data by: state; entity/customer type, e.g., local government, higher education, K12, non-profit; Purchasing Entity name; Purchasing Entity bill-to and ship-to locations; Purchasing Entity and Contract Vendor Purchase Order identifier/number(s); Purchase Order Type (e.g., sales order, credit, return, upgrade, determined by industry practices); Purchase Order date; Ship Date; and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State no later than the last day of the month following the end of the reporting period. Reports shall be delivered to the Lead State and to the WSCA-NASPO Cooperative Development Team electronically through email; CD-Rom, jump drive or other electronic matter as determined by the Lead State.

       Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in Section 6, Attachment H.

    c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the Participating Addendum. Specific data in relation to sales to employees for personal use to be defined in the final contract award to ensure only public information is reported.

    d. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and WSCA-NASPO shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

28. ACCEPTANCE AND ACCEPTANCE TESTING.

A. Acceptance. Purchasing Entity (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) shall determine whether all Products and Services delivered meet the Contractor's published specifications (a.k.a. "Specifications"). No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. This clause shall not be applicable, if acceptance testing and corresponding terms have been mutually agreed to by both parties in writing.

B. Acceptance Testing. The Purchasing Entity (the entity authorized under the terms of any Participating Addendum to place orders under this Master Agreement) and the Contract Vendor shall determine if Acceptance Testing is applicable and/or required for the purchase. The terms in regards to acceptance testing will be negotiated, in writing, as mutually agreed. If Acceptance Testing is NOT applicable, the terms regarding Acceptance in the Contract shall prevail.

29. SYSTEM FAILURE OR DAMAGE. In the event of system failure or damage caused by the Contract Vendor or its Product, the Contract Vendor agrees to use its commercially reasonable efforts to restore or assist in restoring the system to operational capacity. The Contract Vendor shall be responsible under this provision to the extent a 'system' is defined at the time of the Order; otherwise the rights of the Purchasing Entity shall be governed by the Warranty.

30. TITLE OF PRODUCT. NEGOTIATED.

OWNERSHIP

a. Ownership of Documents/Copyright. Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contract Vendor in the performance of its obligations under the Master Agreement and paid for by the Purchasing Entity shall be the exclusive property of the Purchasing Entity and all such material shall be remitted to the Purchasing Entity by the Contract Vendor upon completion, termination or cancellation of the Master Agreement. The Contract Vendor shall not use, willingly allow or cause to allow such material to be used for any purpose other than performance of the Contract Vendor's obligations under this Master Agreement without the prior written consent of the Purchasing Entity.

b. Rights, Title and Interest. All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trade marks, and service marks in the said documents that the Contract Vendor conceives or originates, either individually or jointly with others, which arises out of the performance of the Master Agreement, will be the property of the Purchasing Entity and are, by the Master Agreement, assigned to the Purchasing Entity along with ownership of any and all copyrights in the copyrightable material. The Contract Vendor also agrees, upon the request of the Purchasing Entity, to execute all papers and perform all other acts necessary to assist the Purchasing Entity to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contract Vendor for the Purchasing Entity in performance of the Master Agreement shall be considered "works for hire" as defined in the U.S. Copyright Act.

c. Notwithstanding the above, the Purchasing Entity will not own any of the Contract Vendor's pre-existing intellectual property that was created prior to the Master Agreement and which the Purchasing Entity did not pay the Contract Vendor to create. Subject to payment in full for the products, equipment or services, the Contract Vendor grants the Purchasing Entity a perpetual, irrevocable, non-exclusive, royalty free license for Contract Vendor's pre-existing intellectual property that is contained in the products, materials, equipment or services that are purchased through this Master Agreement. Contract Vendor will retain all right, title and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the services, and (b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates or output which are developed, created or otherwise used by or on behalf of Contract Vendor in the course of performing the services or creating the deliverables, other than portions that specifically incorporate proprietary or Confidential Information or data of Ordering Entity (collectively, the "Residual IP"), even if embedded in the deliverable.

31. **WAIVER OF BREACH.** Failure of Lead State Master Agreement Administrator, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State or Participating Entity must be in writing. Waiver by the Lead State Master Agreement Administrator, Participating Entity, or Purchasing Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or breach of any terms or requirements shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, a Participating Addendum, or order.

32. **WARRANTY.** The warranty provided must be the manufacturers written warranty tied to the product at the time of purchase and must include the following:: (a) the Product performs according to the specifications (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is designed and manufactured in a commercially reasonable manner, and (d) the Product is free of defects.

    For third party products sold by the Contract Vendor, the Contract Vendor will assign the manufacturer or publisher's warranty and maintenance. The Contract Vendor will provide warranty and maintenance call numbers and assist the customer in engaging the manufacturer on warranty and maintenance issues.

    Upon breach of the warranty, the Contract Vendor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contract Vendor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contract Vendor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or so ordered by the court.

33. **LIMITATION OF LIABILITY. NEGOTIATED.**

    A. CONTRACT VENDOR WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS, SOFTWARE OR SERVICES PROVIDED HEREUNDER. EXCEPT FOR YOUR BREACH OF PAYMENT OBLIGATIONS OR CONFIDENTIALITY REQUIREMENTS, NEITHER PARTY SHALL HAVE LIABILITY FOR THE FOLLOWING: (1) LOSS OF REVENUE, INCOME, PROFIT OR SAVINGS; (2) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF A SYSTEM OR NETWORK OR THE RECOVERY OF SUCH; (3) LOSS OF BUSINESS OPPORTUNITY; (4) BUSINESS INTERRUPTION OR DOWNTIME; OR (5) DELIVERABLES, DELL PRODUCTS OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE.

    B. CONTRACT VENDOR'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND ALL PARTICIPATING ADDENDA SOURCED FROM THIS MASTER AGREEMENT (INCLUDING ANY PRODUCTS, SOFTWARE, OR SERVICES PROVIDED HEREUNDER) SHALL NOT EXCEED THE AGGREGATE AMOUNT OF TEN MILLION DOLLARS ($10,000,000).

    C. THESE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT OR OTHERWISE. THE PARTIES AGREE THAT THESE LIMITATION OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR CONTRACT VENDOR'S SALE OF PRODUCTS, SOFTWARE OR SERVICES TO ORDERING ENTITY, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.

34. **SERVICE AGREEMENTS. NEGOTIATED.** Contract Vendor may provide Services, Software or Deliverables to you in accordance with one or more "Service Agreements." **"Service Agreements"** are service contracts, including "Service Descriptions" available at www.dell.com/servicecontracts/us, "Statements of Work," and any other such mutually agreed upon documents. Each Service Agreement will be interpreted as a single agreement, independent of any other Service Agreement, so that all of the provisions are given as full effect as possible.

    Any and all licensing, maintenance, or order specific agreements referenced within the terms and conditions of this Master agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the Master Agreement, and to the extent the terms are not in conflict with the Participating Entities' applicable laws. In the event of conflict the terms and conditions, the Participating Addendum, and then the Master Agreement shall take precedence, as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance agreements, or order specific agreements may be further negotiated by the Contract Vendor and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

35. **SOFTWARE LICENSE. NEGOTIATED.** Software (defined as any software, library, utility, tool, or other computer or program code, in object (binary) or source-code form as well as the related documentation provided by Contract Vendor to Purchasing Entity) is subject to the separate license agreements accompanying the Software, along with any product guides, operating manuals, or other documentation included with the software media packaging or presented to Purchasing Entity during the installation or use of the Software. Purchasing Entity agrees that it will be bound by such license agreement.

Any and all licensing, maintenance, or order specific agreements referenced within the terms and conditions of this Master agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the Master Agreement, and to the extent the terms are not in conflict with the Participating Entities' applicable laws. In the event of conflict the terms and conditions, the Participating Addendum, and then the Master Agreement shall take precedence, as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance agreements, or order specific agreements may be further negotiated by the Contract Vendor and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

36. **EXPORT COMPLIANCE. NEGOTIATED.** Contract Vendor, Lead State and Purchasing Entities acknowledge that products (including software) sold or licensed under this Master Agreement are subject to the export control laws and regulations of the United States and other countries from which they were supplied and in which they are used and Purchasing Entity agrees to abide by those laws and regulations. Purchasing Entity warrants that any software provided by it and used as a part of the services supplied by Contract Vendor under this Master Agreement contains no encryption or to the extent that it contains encryption such software is approved for export under the relevant laws or regulations.

37. **RETURNS AND EXCHANGES. NEGOTIATED.** Contract Vendor's return policy can be found at www.dell.com/returnspolicy and applies to any returns and exchanges. Before returning or exchanging a Product, Purchasing Entity must contact Contract Vendor directly to obtain an authorization number to include with the return. Purchasing Entity must return Products to Contract Vendor in their original or equivalent packaging, and Purchasing Entity is responsible for risk of loss, as well as shipping and handling fees. Additional fees, including up to a 15% restocking fee, may apply. Restocking fees must be approved by the customer. If Purchasing Entity fails to follow the return or exchange instructions provided by Contract Vendor, Contract Vendor will not be responsible for any loss, damage, or modification of a Product, or processing of a Product for disposal or resale. Credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing associated with the original purchase. This restocking fee shall not apply in the case of Contract Vendor error.

MASTER AGREEMENT TERMS AND CONDITIONS

C. MINNESOTA TERMS AND CONDITIONS

1. **ACCEPTANCE OF PROPOSAL CONTENT.** The contents of this RFP and selected portions of response of the successful Proposer will become contractual obligations, along with the final Master Agreement, if acquisition action ensues. The Lead State is solely responsible for rendering the decision in matters of interpretation of all terms and conditions.

2. **ACCESSIBILITY STANDARDS.** The State of Minnesota has developed IT Accessibility Standards effective September 1, 2010, which entails, in part, the Web Content Accessibility Guidelines (WCAG) 2.0 (Level AA) and Section 508 Subparts A-D which can be viewed at http://www.mmd.admin.state.mn.us/pdf/accessibility_standard.pdf

   Responders must complete the WCAG VPAT form included in the FORMS section of the RFP. The completed VPAT form will be scored based on its compliance with the Accessibility Standards. The requested WCAG VPAT applies to the responder's website to be offered under the Contract. For products offered, VPATS are only to be provided upon request by the participating entity.

   Upon request by the participating entity, the responder must make best efforts to provide Voluntary Product Accessibility Templates (VPATS) for all products offered in its response. Click here for link to VPATS for both Section 508 VPAT and WCAG 2.0 VPAT http://mn.gov/oet/policies-and-standards/accessibility/#.

3. **ADMINISTRATIVE PERSONNEL CHANGES.** The Contract Vendor must notify the Contract Administrator of changes in the Contract Vendor's key administrative personnel, in advance and in writing. Any employee of the Contract Vendor who, in the opinion of the State of Minnesota, is unacceptable, shall be removed from the project upon written notice to the Contract Vendor. In the event that an employee is removed pursuant to a written request from the Acquisition Management Specialist, the Contract Vendor shall have 10 working days in which to fill the vacancy with an acceptable employee.

4. **AMENDMENT(S).** Master Agreement amendments shall be negotiated by the Lead State with the Contract Vendor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. An approved Master Agreement amendment means one approved by the authorized signatories of the Contract Vendor and the Lead State as required by law.

5. **AMERICANS WITH DISABILITIES ACT (ADA).** DELETED.

6. **AWARD OF RELATED CONTRACTS.** In the event the Lead State undertakes or awards supplemental Contracts for work related to the Master Agreement or any portion thereof, the Contract Vendor shall cooperate fully with all other Contract Vendors and the State in all such cases. All Master Agreements between subcontractors and the Contract Vendor shall include a provision requiring compliance with this section.

7. **AWARD OF SUCCESSOR CONTRACTS.** In the event the State undertakes or awards a successor for work related to the Contract or any portion thereof, the current Contract Vendor shall cooperate fully during the transition with all other Contract Vendors and the State in all such cases. All Master Agreements between subcontractors and the Contract Vendor shall include a provision requiring compliance with this section.

8. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**
   a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.
   Instructions for certification:
      1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.
      2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
      3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification

was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding $25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from federal procurement and nonprocurement programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

9. **CHANGE REQUESTS.** The Lead State reserves the right to request, during the term of the Master Agreement, changes to the products offered. Products introduced during the term of the Master Agreement shall go through a formal review process. A formal process of changing the Master Agreement shall be developed during the negotiation of the Master Agreement. The Contract Vendor shall evaluate and recommend products for which agencies have an expressed need. The Lead State shall require the Contract Vendor to provide a summary of its research of those products being recommended for inclusion in the Master Agreement as well as defining how adding the product will enhance the Master Agreement. The Lead State may request that products, other than those recommended, are added to the Master Agreement.

In the event that the Lead State desires to add new products and services that are not included in the original Master Agreement, the Lead State requires that independent manufacturers and resellers cooperate with the already established Contract Vendor in order to meet the Lead State's requirements. Evidence of the need to add products or services should be demonstrated to the Lead State. The Master Agreement shall be modified via supplement or amendment. The Lead State will negotiate the inclusion of the products and services with the Contract Vendor. No products or services will be added to the Master Agreement without the Lead State's prior approval.

10. **CONFLICT MINERALS.** Contract Vendor must provide information to the public on its website regarding the use of conflict minerals, as required by Section 13(p) of the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder. See: http://www.sec.gov/rules/final/2012/34-67716.pdf.

11. **COPYRIGHTED MATERIAL WAIVER.** The Lead State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and local units of government to access the responses and/or to respond to request for information pursuant to Minnesota Government Data Practices Act, , including but not limited to emailing, photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the Lead State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and/or distribution of the contents of its response and agrees to indemnify, protect, save and hold the Lead State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the Lead State in the defense of any such action.

12. **EFFECTIVE DATE.** Pursuant to Minnesota law, the Master Agreement arising from this RFP shall be effective upon the date of final execution by the Lead State, unless a later date is specified in the Master Agreement.

13. **FOREIGN OUTSOURCING OF WORK.** Upon request, the Contract Vendor is required to provide information regarding the location of where services, data storage and/or location of data processing under the Master Agreement will be performed.

14. **GOVERNMENT DATA PRACTICES.** The Contract Vendor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contract Vendor and all data provided to the Lead State by the Contract Vendor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contract Vendor in accordance with the Master Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

    In the event the Contract Vendor receives a request to release the data referred to in this article, the Contract Vendor must immediately notify the Lead State. The Lead State will give the Contract Vendor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contract Vendor or the Lead State.

    The Contract Vendor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Master Agreement. In the event that the Contract Vendor subcontracts any or all of the work to be performed under the Master Agreement, the Contract Vendor shall retain responsibility under the terms of this article for such work.

15. **HAZARDOUS SUBSTANCES.** To the extent that the goods to be supplied by the Contract Vendor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Contract Vendor must provide Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

16. **HUMAN RIGHTS/AFFIRMATIVE ACTION.** The Lead State requires affirmative action compliance by its Contract Vendors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

    a. Covered contracts and Contract Vendors. One-time acquisitions, or a contract for a predetermined amount of goods and/or services, where the amount of your response is in excess of $100,000 requires completion of the Affirmative Action Certification page. If the solicitation is for a contract for an indeterminate amount of goods and/or services, and the State estimated total value of the contract exceeds $100,000 whether it will be a multiple award contract or not, you must complete the Affirmative Action Certification page. If the contract dollar amount or the State estimated total contract amount exceeds $100,000 and the Contract Vendor employed more than

40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, the Contract Vendor must comply with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600. A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400 to 5000.3600 that had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months must have a certificate of compliance issued by the commissioner of the Department of Human Rights (certificate of compliance). A Contract Vendor covered by Minn. Stat. § 363A.36, subd. 1 that did not have more than 40 full-time employees on a single working day during the previous 12 months within Minnesota but that did have more than 40 full-time employees in the state where it has its principal place of business and that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.

b. Minn. Stat. § 363A.36, subd. 1 requires the Contract Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the commissioner of the Department of Human Rights (commissioner) as indicated by a certificate of compliance. Minn. Stat. § 363A.36 addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

c. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Contract Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552-5000.3559.

d. Disabled Workers. Minn. R. 5000.3550 provides the Contract Vendor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

(a) The Contract Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contract Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contract Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(c) In the event of the Contract Vendor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(d) The Contract Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contract Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(e) The Contract Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contract Vendor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

e. Consequences. The consequences of a Contract Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

f. Certification. The Contract Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

17. **INDEMNIFICATION. NEGOTIATED.** The Contract Vendor shall indemnify, protect, save and hold harmless the Lead State and the Participating Entity, its representatives and employees, from any and all third party claims or causes of action for personal bodily injury, including death, and damage to tangible personal property, including all legal fees incurred by the Lead State and the Participating Entity arising from the negligence in the performance of the Master Agreement by the Contract Vendor or its agents, employees, or subcontractors. This clause shall not be construed to bar any legal remedies the Contract Vendor may have with the Lead State's and Participating Entity's failure to fulfill its obligations pursuant to the Master Agreement.

If the Participating Entity's laws require approval of a third party to defend Participating Entity, Participating Entity will seek such approval and if approval is not received, Contract Vendor is not required to defend that Participating Entity.

18. **INTELLECTUAL PROPERTY INDEMNIFICATION. NEGOTIATED** In the event of any such claim by any third party against the Participating Entity that Products, Software, Services or Deliverables (excluding Third-Party Products and open source software) prepared or produced by Dell and delivered pursuant to this Agreement infringe or misappropriate that third party's U.S. patent, copyright, trade secret, or other intellectual property rights (**"Indemnified Claims"**), the Participating Entity shall promptly notify the Contract Vendor. The Contract Vendor, at its own expense, shall indemnify; defend to the extent permitted by the Participating Entity's laws, and hold harmless the Participating Entity against any loss, cost, expense, or liability (including legal fees) arising out of such a claim, whether or not such claim is successful against the Participating Entity.

If Contract Vendor receives prompt notice such a claim that in the Contract Vendor's opinion is likely to result in an adverse ruling, the Contract Vendor shall at its option (1) obtain a right for the Participating Entity to continue using such Products, Deliverables or Software or allow Contract Vendor to continue performing the Services; (2) modify such Products, Software, Services or Deliverables to make them non-infringing; (3) replace such Products, Software, Services or Deliverables with a non-infringing equivalent; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product, Deliverables or Software.

Notwithstanding the foregoing, Contract Vendor shall have no obligation under this Section for any claim resulting or arising from (1) modifications of the Products, Software, Services Deliverables that were not performed by or on behalf of Contract Vendor; (2) the combination, operation, or use of the Products, Software, Services or Deliverables in connection with a third-party product, software or service (the combination of which causes the claimed infringement); or (3) Contract Vendor's compliance with Participating Entity's written specifications or directions, including the incorporation of any software or other materials or processes provided by or requested by Participating Entity. Contract Vendor's duty to indemnify and defend under this Section is contingent upon: (x) Contract Vendor receiving prompt written notice of the third-party claim or action for which Contract Vendor must indemnify Participating Entity, (y) Contract Vendor having the right to solely control the defense and resolution of such claim or action, and (z) Participating Entity's cooperation with Contract Vendor in defending and resolving such claim or action. This Section states Participating Entity's exclusive remedies for any third-party intellectual property claim or action, and nothing in this Agreement or elsewhere will obligate Contract Vendor to provide any greater indemnity to Participating Entity.

19. **JURISDICTION AND VENUE.** This RFP and any ensuing Master Agreement, its amendments and supplements thereto, shall be governed by the laws of the State of Minnesota, USA. Venue for all legal proceedings arising out of the Master Agreement, or breach thereof, shall be in the State or federal court with competent jurisdiction in Ramsey County, Minnesota. By submitting a response to this Request for Proposal, a Responder voluntarily agrees to be subject to the jurisdiction of Minnesota for all proceedings arising out of this RFP, any ensuing Master Agreement, or any breach thereof.

20. **LAWS AND REGULATIONS.** Any and all services, articles or equipment offered and furnished must comply fully with all local, State and federal laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Office of the Minnesota Secretary of State.

21. **NONVISUAL ACCESS STANDARDS.** Pursuant to Minn. Stat. § 16C.145, the Contract Vendor shall comply with the following nonvisual technology access standards :

a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

22. **NOTICE TO RESPONDERS.** Pursuant to Minn. Stat. § 270C.65, subd. 3, Contract Vendors are required to provide their Federal Employer Identification Number or Social Security Number. This information may be used in the enforcement of federal and State tax laws. Supplying these numbers could result in action to require a Contract Vendor to file tax returns and pay delinquent tax liabilities. These numbers will be available to federal and State tax authorities and State personnel involved in the payment of State obligations.

23. **ORGANIZATIONAL CONFLICTS OF INTEREST.** The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:
    - a Contract Vendor is unable or potentially unable to render impartial assistance or advice to the State;
    - the Contract Vendor's objectivity in performing the work is or might be otherwise impaired; or
    - the Contract Vendor has an unfair competitive advantage.

    The Contract Vendor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contract Vendor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Master Agreement. In the event the Contract Vendor was aware of an organizational conflict of interest prior to the award of the Master Agreement and did not disclose the conflict to the Master Agreement Administrator, the State may terminate the Master Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract,""Contract Vendor," "Master Agreement", "Master Agreement Administrator" and "Contract Administrator" modified appropriately to preserve the State's rights.

24. **PAYMENT CARD INDUSTRY DATA SECURITY STANDARD AND CARDHOLDER INFORMATION SECURITY.** Contract Vendor assures all of its Network Components, Applications, Servers, and Subcontractors (if any) comply with the Payment Card Industry Data Security Standard ("PCIDSS"). "Network Components" shall include, but are not limited to, Contract Vendor's firewalls, switches, routers, wireless access points, network appliances, and other security appliances; "Applications" shall include, but are not limited to, all purchased and custom external (web) applications. "Servers" shall include, but are not limited to, all of Contract Vendor's web, database, authentication, DNS, mail, proxy, and NTP servers. "Cardholder Data" shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder's account number, expiration date, name, address, social security number, or telephone number.

    Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. Contract Vendor must have a business continuity program which conforms to PCIDSS to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and ensure that a representative or agent of the payment card industry and a representative or agent of the State shall be provided with full cooperation and access to conduct a thorough security review of Contract Vendor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

25. PERFORMANCE WHILE DISPUTE IS PENDING. Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Master Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under the Master Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

26. PREFERENCE.
Targeted/Economically Disadvantaged. In accordance with Minn. Stat. § 16C.16, subds. 6 and 7, eligible certified targeted group (TG) businesses and certified economically disadvantaged (ED) businesses will receive a 6 percent preference on the basis of award for this RFP. The preference is applied only to the first $500,000 of the response to the RFP. Eligible TG businesses must be currently certified by the Materials Management Division prior to the bid opening date and time.
To verify TG/ED certification, refer to the Materials Management Division's web site at www.mmd.admin.state.mn.usunder "Vendor Information, Directory of Certified TG/ED Vendors."

To verify TG eligibility for preference, refer to the Materials Management Division's web site under "Vendor Information, Targeted Groups Eligible for Preference in State Purchasing" or call the Division's HelpLine at 651.296.2600.
Reciprocal Preference. In accordance with Minn. Stat. §16C.06, subd 7, the acquisition of goods or services shall be allowed a preference over a non-resident vendor from a state that gives or requires a preference to vendors from that state, the preference shall be equal to the preference given or required by the state of the non-resident vendor. If you wish to be considered a Minnesota Resident vendor you must claim that by filling out the Resident Vendor Form included in this solicitation and include it in your response.

Veteran. In accordance with Minn. Stat. § 16C.16, subd. 6a, (a) Except when mandated by the federal government as a condition of receiving federal funds, the commissioner shall award up to a six percent preference in the amount bid on state procurement to **certified small businesses** that are **majority-owned and operated by**:
(1) recently separated veterans who have served in active military service, at any time on or after September 11, 2001, and who have been discharged under honorable conditions from active service, as indicated by the person's United States Department of Defense form DD-214 or by the commissioner of veterans affairs;
(2) veterans with service-connected disabilities, as determined at any time by the United States Department of Veterans Affairs; or
(3) any other veteran-owned small businesses certified under section 16C.19, paragraph (d).

In accordance with Minn. Stat. § 16C.19 (d), a veteran-owned small business, the principal place of business of which is in Minnesota, is certified if it has been verified by the United States Department of Veterans Affairs as being either a veteran-owned small business or a service disabled veteran-owned small business, in accordance with Public Law 109-461 and Code of Federal Regulations, title 38, part 74.

To receive a preference the veteran-owned small business must meet the statutory requirements above by the solicitation opening date and time. The preference is applied only to the first $500,000 of the response.
If responder is claiming the veteran-owned preference, attach documentation, sign and return form with response to the solicitation. Only eligible veteran-owned small businesses that meet the statutory requirements and provide adequate documentation will be given the preference.

27. PUBLIC INFORMATION. Once the information contained in the responses is deemed public information, interested parties may request to obtain the public information. You may call 651.201.2413 between the hours of 8:00 a.m. to 4:30 p.m. to arrange this.

28. PUBLICITY. Any publicity given to the program, publications or services provided resulting from a State contract for goods or services, including but not limited to notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Contract Vendor, or its employees individually or jointly with others, or any subcontractors, shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Master Agreement prior to its approval by the State's Authorized Representative and the State's Assistant Director or designee of Materials Management Division. The Contract Vendor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of the Master Agreement without the prior written consent of the

State's Assistant Director or designee of Materials Management Division. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

29. **PURCHASE ORDERS. NEGOTIATED.** The State requires that there will be no minimum order requirements or charges to process an individual purchase order. The Master Agreement number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.). The Ordering Entity's purchase order constitutes a binding contract. Unless otherwise expressly agreed between a Purchasing Entity and the Contract Vendor, any preprinted terms on the Purchasing Entity's purchase order shall be given no force or effect and no terms of a purchase order that conflict with this Master Agreement or the Participating Addendum shall be binding on Contract Vendor.

30. **RIGHTS RESERVED.** Notwithstanding anything to the contrary, the State reserves the right to:
    a. reject any and all responses received;
    b. select, for Master Agreements or for negotiations, a response other than that with the lowest cost;
    c. waive or modify any informalities, irregularities, or inconsistencies in the responses received;
    d. negotiate any aspect of the proposal with any responder and negotiate with more than one responder;
    e. request a BEST and FINAL OFFER, if the State deems it necessary and desirable; and
    f. terminate negotiations and select the next response providing the best value for the State, prepare and release a new RFP, or take such other action as the State deems appropriate if negotiations fail to result in a successful Master Agreement.

31. **RISK OF LOSS OR DAMAGE.** The State is relieved of all risks of loss or damage to the goods and/or equipment during periods of transportation, and installation by the Contract Vendor and in the possession of the Contract Vendor or their authorized agent.

32. **SEVERABILITY.** If any provision of the Master Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the State and the Contract Vendor shall be relieved of all obligations arising under such provisions. If the remainder of the Master Agreement is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.

33. **STATE AUDITS** (Minn. Stat. § 16C.05, subd. 5). The books, records, documents, and accounting procedures and practices of the Contract Vendor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Legislative Auditor or the State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

34. **SURVIVABILITY.** The following rights and duties of the State and responder will survive the expiration or cancellation of the resulting Master Agreements. These rights and duties include, but are not limited to paragraphs: Indemnification, Hold Harmless and Limitation of Liability, State Audits, Government Data Practices, Governing Law, Jurisdiction and Venue, Publicity, Intellectual Property Indemnification, and Admin Fees.

35. **TRADE SECRET/CONFIDENTIAL INFORMATION.** Any information submitted as Trade Secret must be identified and submitted per the Trade Secret Form and must meet Minnesota Trade Secret as defined in Minn. Stat. § 13.37

Admin Minnesota
DEPARTMENT OF ADMINISTRATION

COMPUTER EQUIPMENT
2014-2019

WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT B - PRICING

1. **BAND(S) AWARDED:** Band 1: Desktop Band 2: Laptop Band 3: Tablet Band 4: Server Band 5: Storage.

2. **PRICE STRUCTURE.** The contract employs a MINIMUM discount-off baseline price list structure with category exceptions for each band. The category discounts may be higher or lower than the than the band discount. The minimum discount and categorized exceptions will be applied to all "quantity one" procurements. An end user will be able to verify pricing using the named base line price list and the minimum discounts with the categorized exceptions provided in the Master Agreement.

3. **PRICE GUARANTEE.** These discounts must remain firm, or the discount may be increased, during the term of the Master Agreement.

4. **BASELINE PRICE LIST.** The Base Line Price is designated in the Pricing Discount Schedule. The Base Line Price List must be accessible and verifiable by potential end users preferably on the Contract Vendor Website. All historic versions of the Baseline Price List must be made available upon request pursuant to the audit provisions.

5. **PRODUCT AND SERVICE SCHEDULE (PSS).** The Product and Service Schedule (PSS) identifies a complete listing of all products and services included in the awarded Master Agreement. The PSS serves as the Contract Catalog. **The PSS will be submitted to the Lead State following contract award and must be approved by the Lead State prior to the start of any sales.** The PSS must be available on the Contract Vendor website for end users to verify pricing based on the minimum discounts with category exceptions provided off a designated base line price list. The Contract Vendor will work with each State to develop a satisfactory PSS reflecting the individual States restrictions.

6. **CHANGES TO THE PSS.** Contract Vendor will request changes to the PSS utilizing an Action Request Form (ARF) Submittals will be reviewed by the Lead State quarterly. Obsolete and discontinued products will be removed.

7. **BULK/VOLUME PRICING.** Further bulk/quantity savings may be obtained when additional quantities are requested. Additional savings are expected when competing awarded vendors for volume pricing.

8. **PROMOTIONAL OFFERS.** Contract Vendors may provide promotions for deeply discounted products based on their inventory and sales. The Contract Vendors will be responsible to market these offers.

9. **PREMIUM SAVINGS PACKAGE PROGRAM.** Contract Vendors participating in the Premium Savings Package (PSP) Program will commit to the standard configurations. The standards currently are refreshed every six months (May and November). Refresh schedule is subject to change. See current configurations: http://www.wnpsp.com/index.html. States and other Participating Entities can choose to purchase these packages without any signing additional documents.

10. **TRADE-IN.** Trade-In Programs are the option of the Participating Entity. The Participating Addendum by each State may address the allowance of Trade-Ins.

11. **SERVICES.** Services are at the option of the Participating Entity. The Participating Addendum by each State may address service agreement terms and related travel.

12. LEASING. The Discount schedule will indicate if the Contract Vendor provides leasing. Participating Entities may enter in to lease agreements if they have the legal authority to enter into these types of agreements. The Participating Addendum by each State will identify if and how leasing agreement terms will be conducted.

13. FREIGHT. All prices shall be FOB Destination, prepaid and allowed (with freight included in the price), to the address, receiving dock or warehouse as specified on the ordering agency's purchase order, In those situations in which the "deliver-to" address has no receiving dock or agents, the Contract Vendor must be able to deliver to the person specified on the PO without additional cost. If there is a special case where inside delivery fee must be charged, the Contract Vendor will notify the customer in advance in order for the customer to determine if the additional cost will affect the decision to utilize the Contract Vendor.

14. DELIVERY. Delivery of ordered product should be completed within thirty (30) calendar days after receipt of an order, unless otherwise agreed to by the ordering agency.

Admin Minnesota
DEPARTMENT OF ADMINISTRATION

COMPUTER EQUIPMENT
2014-2019

WSCA-NASPO
COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT B - PRICING SCHEDULE

		DELL CATEGORY	MINIMUM DISCOUNT
1.	BASELINE PRICING DELL RETAIL PRICE LIST		
	LINK: http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf		
2.	BAND DISCOUNTS – (CATEGORY EXCEPTIONS APPLICABLE IN ALL BANDS)	DELL CATEGORY	MINIMUM DISCOUNT
	BAND 1 DESKTOP	A	13.5%
	BAND 2 LAPTOP	A	13.5%
	BAND 3 TABLET	H	4%
	BAND 4 SERVER	A	13.5%
	BAND 5 STORAGE	A	13.5%
	IMPORTANT: The minimum discount is provided, refer to Contract Vendor's Website for any additional discounts and request a quote for bulk/volume discounts. All prices shall be FOB Destination, prepaid and allowed (with freight included in the price). If there is a special case where inside delivery fee must be charged, the Contract Vendor will notify the customer in advance.		
	CATEGORY EXCEPTIONS:		
	Toner	F	1.5%
	Value Latitude, OptiPlex, Workstation, Selected Products	H	4%
	Selected Promo Offers; Inspiron; Selected Latitude; SC PowerEdge; Selected Dell | EMC; Dell Branded Peripherals/Imaging: PowerConnect, Axim, Projector, Printer	S	2.5%
	Spare Parts, selected Dimension Brand	U, W, Z	.5%
3.	THIRD PARTY PRODUCTS - (APPLICABLE IN ALL BANDS)	M	5.5%
	CATEGORY EXCEPTIONS:		
	Selected Third Party Products (software and peripherals)	X	.5%
	Selected Third Party Printers	F	1.5%
4.	**SERVICES**		
	Services are at the option of Participating States. Participating Addendums by each State may address service agreement terms and related travel. States may negotiate additional services. The majority of Dell-branded hardware includes a one-year warranty. Customer may purchase warranty upgrades for 2, 3, 4 or 5 years for certain Dell-branded hardware as offered by Dell. For Dell standard warranty information see http://www.dell.com/learn/us/en/uscorp1/solutions/limited-hardware-warranties		
	Selected Service on Poweredge Departmental Servers; Directline Service; 4-Hr On-Site Critical Care Plus; Business Care Plus On-Site Service (all years)	O	13.3%
	On-site – Next Business Day On-site (extended yrs), Critical Care On-site Service (all yrs), other svcs	R,Z,Z1&ZS	.5%
5.	LEASING		
	Participating Addendum may identify if and how leasing agreement terms will be conducted.		
6.	ADDITIONAL DISCOUNTS – Request a quote for discounts on bulk/volume purchases.		

a. Per Transaction Multiple Unit: Contact your Sales Representative for additional discounts for volume purchases.

Minimum Dollar Volume Associated with Single Transaction	Maximum Dollar Volume Associated with Single Transaction	Cat A only, Single Transaction, Maximum of 10 ship to Locations
$50,000.00	$99,999.99	Greater than or Equal to 1%
$100,000.00	$199,999.99	Greater than or Equal to 2%
$200,000.00	$499,999.99	Greater than or Equal to 4%
$500,000.00	$999,999.99	Greater than or Equal to 6%
$1,000,000.00	No Maximum	Greater than or Equal to 8%

b. Cumulative: Cumulative Discounts are managed at the Master Agreement Level based on total volume.

Cumulative Dell Spend "Gates"	Category A Discount (Adjustment to the Matrix)
Up to $2B	13.5%
$2B to $4B	14%
$4B to $6B	14.5%
$6B to $8B	15%
$8B to $10B	15.5%
Over $10B	16%

c. Other Discounts provided: For purchases made online via Dell.com, Dell offers an additional 0.5% per category, except for Category O. For online purchases of Category O Services, Dell will offer a 13.5% discount.

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT C - PRODUCT AND SERVICE SCHEDULE (PSS)

1. **MAINTAINING THE PSS.** The Product and Service Schedule (PSS) identifies a complete listing of all products and services included in the awarded Master Agreement. The PSS serves as the WSCA-NASPO Contract Catalog. **The PSS will be submitted to the Lead State following contract award and must be approved by the Lead State prior to the start of any sales.** The PSS must be available on the Contract Vendor website for end users to verify pricing based on the minimum discounts with category exceptions provided off a designated base line price list. The Contract Vendor will work with each State to develop a satisfactory PSS reflecting the individual States restrictions. The Contract Vendor will work to develop a PSS satisfactory to the Lead State prior to the start of sales and containing the following information:
   a. Band number
   b. Part # - SKU #
   c. Manufacturer
   d. Description
   e. Minimum Discount
   f. Category Code (This code will be refined during the approval process)
   g. Other fields approved by the Lead State

2. **CHANGES TO THE PSS:** Contract Vendor will request changes to the PSS utilizing an Action Request Form (ARF) Submittals will be reviewed by the Lead State quarterly. Obsolete and discontinued products will be removed.

3. **FORMAT:** The format for the final product and service schedule will be approved within 30 days of contract award. Suggested format is provided below:

MANUFACTURER NAME ______________________________ **DATE:** ______________________________
BASELINE PRICE LIST: ______________________________
LINK: ______________________________

BAND	Part # - SKU#	MANUFACTURER	DESCRIPTION	MINIMUM DISCOUNT	CATEGORY CODE
1	XYZ	ABC	DESKTOP	60%	1M
2	550	ZZZZZZZ	LAPTOP CART	10%	2TM
3	123A	ABC	SUPER TABLET	25%	3A

4. **THIRD PARTY PRODUCTS:** A list of third party products is to be submitted to the Lead State. Approval must be received from the Lead State prior to adding third party products to the Product and Service Schedule. Master Agreement restrictions of third party products include:
   a. Contract Vendors can only offer Third Party Products in the bands they have been awarded.
   b. Contract Vendor cannot offer products manufactured by another Contract Vendor holding a Minnesota WSCA-NASPO Master Agreement unless approved by the Lead State.
   c. The Contract Vendor will assign the manufacturer or publisher's warranty and maintenance. The Contract Vendor will provide warranty and maintenance call numbers and assist the customer in engaging the manufacturer on warranty and maintenance issues.
   d. Any additions to the Third Party Product list must be submitted utilizing the Action Request Form.
   e. The approved Third Party Product list will be clearly posted on the Vendor provided website and updated as products are approved.

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT D - WEBSITE

1. **IMPLEMENTATION.** Within 30 calendar days of Master Agreement award, the Contract Vendor must provide a sample URL of the Master Agreement webpage to the Lead State for review and approval. The Lead State will review and determine acceptability of the website format and data. If the information is determined to be unacceptable or incorrect, the Contract Vendor will have 15 calendar days to provide revisions to the Lead State. Once the website is approved, the Contract Vendor may not make material changes to the website without notifying the Lead State and receiving written approval of the changes utilizing the Action Request Form. The Contract Vendor must continue to monitor and update the website throughout the life of the contract. Periodic audits may be conducted to ensure websites are updated and Contract Vendors will be expected to correct deficiencies.

2. **WEBSITE CONTENT.** The website must be separate from the Contract Vendor's commercially available (i.e., public) on-line catalog and ordering systems. Contract Vendor agrees to pursue design of a website to include the items listed below. The Lead State will review and determine acceptability of the website format and data as stated in Item 1 above.

   a. Baseline Price List and historic versions
   b. Approved Product and Service Schedule (PSS)
   c. Product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote
   d. Third Party Product list will be clearly posted on the Vendor provided website and updated as products are approved
   e. Link to the WSCA-NASPO EmarketCenter
   f. Online ordering capability with the ability to remember multiple ship to locations if applicable to product
   g. Contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns
   h. Sales representatives for participating entities
   i. Purchase order tracking
   j. Available Twenty-four (24) hours per day, seven (7) days per week availability, except for regularly scheduled maintenance
   k. Additional Terms may not be posted on the Website without written approval of the Lead State
   l. Link to the WSCA-NASPO EmarketCenter if a State is participating
   m. Information on accessibility and accessible products
   n. If participating in Premium Savings Package Program, lead with these products and display prominently on the website
   o. Links to environmental certification, including but not limited to take-back/recycling programs,
   p. Information regarding the use of Conflict minerals, as required by Section 13(p) of the Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder. See: http://www.sec.gov/rules/final/2012/34-67716.pdf
   q. Service options, service agreements for negotiations when allowed by a participating addendum
   r. EPEAT, Energy Star, etc.
   s. Link to Signed Participating Addendums
   t. Link to Signed Master Agreement
   u. Link to solicitation and Response

3. **TERMINATION** Upon termination or expiration of the Master Agreement awarded from this RFP all websites, on-line offering systems and Electronic Catalog functions supported and/or available as part of the Master Agreement will cease and be removed from public viewing access without redirecting to another website.

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT E - ACTION REQUEST UPDATE FORM (ARF)

The Action Request Form (ARF) provided in this document must be utilized by the Contract Vendor to provide quarterly updates of PSS and to make requests. The Action Request Forms may be reviewed quarterly by the Lead State.

DATE: ______________________________

ATTN: WSCA-NASPO Master Agreement Administrator

RE: Master Agreement #_________with ____(Contract Vendor)

Dear WSCA-NASPO Master Agreement Administrator:

____ (Contract Vendor) is providing the following update and/or requesting the action noted below.

Action Requested: ____
Action Log: _____________ Verify Log is attached

SELECT ACTION BELOW AND PROVIDE REQUIRED INFORMATION:

___Update of Product & Service Schedule — Provide summary of additions, deletions and pricing changes.
NOTE: THIS WILL BE A NOTIFICATION OF CHANGES TO THE PSS, APPROVAL WILL NOT BE NEEDED
___Quarterly Self Audit — Check this box to verify the Quarterly Self Audit has been completed

___Third Party Product Addition — Provide warranty Guarantee

___Marketing Approval — Attach Materials for review

___Material Website Change — Describe and provide link for review

___Miscellaneous Inquiry — Provide detail (e.g. key contact change, etc.)

The Contract Vendor certifies Products and Services provided meet the terms and conditions of the Master Agreement and understands they may be audited for compliance. Additional information may be requested upon submission. The Lead State may remove previously approved items throughout the life of the Master Agreement if in the best interest at its sole discretion.

Contract Vendor: ___________________________ Name of Requester: ________________________________

Title of Requester: _________________________________

COMPUTER EQUIPMENT
2014-2019

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT E - ACTION REQUEST FORM (ARF)

ACTION REQUEST FORM
LOG

Submit updated Action Log with each update. Log must provide history of previous update.

CONTRACT VENDOR:_________________________

Contact Name and Email (for questions):________________________________

DATE:_________________

DATE SUBMITTED	ACTION REQUESTED:	DATE APPROVED

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT F - REPORTING

1. **OWNERSHIP:** Recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and WSCA-NASPO shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided.

2. **DUE DATE:** Reports shall be due no later than the last day of the month following the end of the calendar quarter.

	FROM	TO	DUE
Q1	January 1	March 31	April 30
Q2	April 1	June 30	July 31
Q3	July 1	September 30	October 31
Q4	October 1	December 31	January 31

3. **REQUIRED REPORTS:**

	Report Name	Submitted to	Purpose & Submittal
1	WSCA-NASPO Administrative Fee	WSCA-NASPO	Identify total sales and administrative fee due to WSCA-NASPO 1) Go to: http://www.naspo.org/WNCPO/Calculator.aspx 2) Complete all contract report information fields 3) Enter total sales per State or Select "no sales for quarter" checkbox 4) Click on Submit button
2	WSCA-NASPO Detailed Sales	WSCA-NASPO	Detailed sales data by line item. Currently via an Excel Report template. Future MAY involve a portal. No modifications may be made by the Contract Vendor to the template. This report may also fulfill the reporting requirements of self audits, premium savings sales, and Bring Your Own Device Employee Sales.
3	Participating States	Participating State	Contract Vendor may utilize the detailed sales report to report to individual States unless otherwise directed by the State. States may require additional reporting.
4	Participating Addendum Status	WSCA-NASPO	Provides status of Participating Addendums. Excel Template to be provided by WSCA-NASPO.
5	Premium Saving Package (PSP)	PSP Lead	Additional reporting may be requested.
6	Quarterly Updates of PSS and Self Audit	Lead State	Utilize the Action Request Form (ARF)

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

EXHIBIT G - DEFINITIONS

Acceptance. See Master Agreement Terms regarding Acceptance and Acceptance Testing.
Accessory. Accessories do not extend the functionality of the computer, but enhances the user experience i.e., mouse pad, monitor stand. For the purposes of this proposal, accessories are considered peripherals.
Bands: For the purpose of this solicitation, there are six product bands which may be awarded. Each product band includes related peripherals and services. Responders must only respond to Bands in which they manufacture the defined product. Responder may receive an award in one or more bands for which they manufacture a product based on the evaluation.
BAND 1: DESKTOP. A desktop computer is a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: 1) the processor, 2) display monitor and 3) input devices usually a keyboard and a mouse. All operating systems for tablets are allowed. Zero Clients, Thin clients, all in ones and workstations will also be included under desktops. Ruggedized equipment may also be included in the Product and Service schedule for this band.
BAND 2: LAPTOP. A laptop computer is a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad and speakers into a single unit. A laptop can be used away from an outlet using a rechargeable battery. All operating systems for tablets are allowed. Laptops will include notebooks, ultrabook, mobile thin clients, chromebooks and netbooks. Computers with mobile operating systems will also be included under laptops. Tablets that have the option to be utilized with a keyboard can be sold in this band. Ruggedized equipment may also be included in the Product and Service Schedule for this band.
BAND 3: TABLET. A tablet is a mobile computer that provides a touchscreen which acts as the primary means of control. All operating systems for tablets are allowed. Ruggedized equipment may also be included as a category in the Product and Service Schedule for this band.
BAND 4: SERVER. A server is a physical computer dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. This band also includes server appliances. Server appliances have their hardware and software preconfigured by the manufacturer. It also includes embedded networking components such as those found in blade chassis systems. Ruggedized equipment may also be included in the Product and Service Schedule for this band.
BAND 5: STORAGE. Storage is hardware with the ability to store large amounts of data. This band includes SAN switching necessary for the proper functioning of the storage environment. Ruggedized equipment may also be included in the Product and Service Schedule for this band.
~~**BAND 6: RUGGEDIZED DEVICES** Ruggedized refers to devices specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures and wet or dusty conditions. Ruggedized Devices may also be offered under bands 1-5 of the Master Agreement.~~ BAND 6 REMOVED. RUGGEDIZED EQUIPMENT MAY BE SOLD IN BANDS 1-5, PROVIDED IT MEETS BAND REQUIREMENTS.
Cloud Services. Delivery of computing as a service rather than a product, whereby shared resources, software and information are provided to computers and other devices as a utility over a network, such as the Internet. (Cloud Services including acquisitions structured as managed on-site services are not allowed.)
Contract Vendor or Contractor. The manufacturer responsible for delivering products or performing services under the terms and conditions set forth in the Master Agreement. The Contract Vendor must ensure partners utilized in the performance of this contract adhere to all the terms and conditions. For the purposes of this RFP, the term Partner will be utilized in naming the relationship a manufacturer has with another company to market and sell the contract. Participating States will have final determination/approval if a Partner may be approved for that state in the role identified by the Contract Vendor.
Components. Parts that make up a computer configuration.
Configuration. The combination of hardware and software components that make up the total functioning system.
Desktop. This is Band 1 of this solicitation. A desktop computer is a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: 1) the processor,

2) display monitor and 3) input devices usually a keyboard and a mouse. Desktop virtualization endpoints such as zero and thin clients will also be included under the Desktop Band.

Energy Star®. A voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes identification of energy efficient computers easy by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. Energy Star qualified computers and monitors automatically power down to 15 watts or less when not in use and may actually last longer than conventional products because they spend a large portion of time in a low-power sleep mode. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at http://www.energystar.gov.

EPEAT. A system for identifying more environmentally preferable computer desktops, laptops, and monitors. It includes an ANSI standard - the IEEE 1680 EPEAT standard – and website www.epeat.net to identify products manufacturers have declared as meeting the standard. EPEAT provides a clear and consistent set of performance criteria for the design of products. It is not a third-party certification program. Instead, Manufacturers self-certify that their products are in conformance with the environmental performance standard for electronic products.

FOB Destination. Shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.

FOB Inside Delivery. Special Shipping arrangements, such as inside delivery, may include additional fees payable by the Purchasing Entity. Any FOB inside delivery must be annotated on the Purchasing Entity ordering document.

General Consulting. Services related to advising agencies on how best to use information technology to meet business objectives. Examples of such services would include management and administration of IT systems. Each State will have varying laws, rules, policies and procedures surrounding general consulting which need adherence. Minnesota Statute section 16C.08 defines general consulting for the State of Minnesota. https://www.revisor.mn.gov/statutes/?id=16C.08

Laptop. This is Band 2 of this solicitation. A laptop computer is a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad and speakers into a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptop Band may include notebooks, ultrabooks, and netbooks. Computers with mobile operating systems will also be included under the Laptop Band.

Lead State. The State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States. Minnesota is the Lead State for this procurement and the laws of Minnesota Statute Chapter 16C apply to this procurement.

Manufacturer. A company that, as one of its primary business function, designs, assembles owns the trademark/patent and markets branded computer equipment.

Master Agreement. The underlying agreement executed by and between the Lead State and the Contract Vendor.

Middleware. Middleware is the software "glue" that helps programs and databases (which may be on different computers) work together. Its most basic function is to enable communication between different pieces of software.

Options. An item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.

Order. A purchase order, sales order, or other document used by a Purchasing Entity to order the Equipment.

Participating Addendum. A written statement of agreement signed by the Contract Vendor and a Participating State or other Participating Entity that clarifies the operation of this Master Agreement for the Participating Entity (e.g., ordering procedures specific to a Participating State) and may add other state-specific language or other requirements. A Participating Addendum evidences the Participant's willingness to purchase and the Contract Vendor's willingness to provide equipment under the terms and conditions of this Master Agreement with any and all exceptions noted and agreed upon.

Participating States. States that utilize the Master Agreement established by the RFP and enter into a Participating Addendum which further defines their participation.

Participating Entity. A Participating State, or other legal entity, properly authorized by a Participating State to enter into the Master Agreement through a Participating Addendum and that authorizes orders from the Master Agreement by Purchasing Entities. Under the WSCA-NASPO program, in some cases, local governments, political subdivisions or other entities in a State may be authorized by the chief procurement official to execute its own Participating Addendum where a Participating Addendum is not executed by the chief procurement official for that state that covers local governments, political subdivisions, or other government entities in the state.

Partner. A company, authorized by the Contract Vendor and approved by the Participating State, to provide marketing, support, or other authorized contract services on behalf of the Contract Vendor in accordance with the terms and conditions of the Contract Vendor's Master Agreement. In the RFP, Partner is the term that is used to call out the many different relationships a manufacturer may have with another company to market their product including, but not limited to agents, subcontractors, partners, fulfillment partners, channel partners, business partners, servicing subcontractor, etc.

Peripherals. A peripheral means any hardware product that can be attached to, added within or networked with personal computers, servers and storage. Peripherals extend the functionality of a computer without modifying the core components of the system. For the purposes of this proposal, peripherals are defined as including accessories. Peripherals may be manufactured by a third party, however, Contract Vendor shall not offer any peripherals manufactured by another Contract Vendor holding a Master Agreement. The Contract Vendors shall provide the warranty service and maintenance for all peripherals on the Master Agreement. **Examples of peripherals/accessories/options:** Include but are not limited to: printers, monitors, multifunction printers, audiovisual equipment, instructional equipment, cabling, modems, networking to support server, storage and client applications such as routers, switches. Software is an option which must be related to the purchase of equipment and subject to configuration limits. **Third party products are allowed to be offered as peripherals/accessories/options and may be offered in any related band.**

Per Transaction Multiple Unit Discount. A contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase.

Premium Savings Packages. Deeply discounted standard configurations available to Purchasing Entities using the Master Agreement. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals. WSCA-NASPO reserves the right to expand and modify the PSP throughout the life of the contract. See http://www.wnpsp.com/index.html.

Purchasing Entity – means a state, city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues an order against the Master Agreement and becomes financially committed to the purchase.

Ruggedized. This was band 6 of this solicitation. Ruggedized refers to equipment specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures and wet or dusty conditions.

Services. Broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Agreement. These types of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/helpdesk, and any other directly related technical support service required for the effective operation of a product offered or supplied. Contract Vendors may offer, but participating States and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the resulting contracts. EACH PARTICIPATING STATE DETERMINES RESTRICTIONS AND NEGOTIATES TERMS FOR SERVICES.

Server. This is Band 4 of this solicitation. A server is a physical computer dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. This band also includes server appliances. Server appliances have their hardware and software preconfigured by the manufacturer. It also includes embedded networking components such as those found in blade chassis systems. Ruggedized equipment may also be included in the Product and Service Schedule for this band.

Storage. This is Band 5 of this solicitation. Storage is hardware with the ability to store large amounts of data. This band includes SAN switching necessary for the proper functioning of the storage environment. Ruggedized equipment may also be included in the Product and Service Schedule for this band.

Storage Area Network. A storage area network (SAN) is a high-speed special-purpose network (or subnetwork) that interconnects different kinds of data storage devices with associated data servers on behalf of a larger network of users.

Storage as a Service (STaaS). An architecture model by which a provider allows a customer to rent or lease storage space on the provider's hardware infrastructure on a subscription basis. E.g., manage onsite or cloud services.

Software. For the purposes of this proposal, software is commercial operating off the shelf machine-readable object code instructions including microcode, firmware and operating system software that are preloaded on equipment. The term "Software" applies to all parts of software and documentation, including new releases, updates, and modifications of software.

Tablet. This is Band 3 of this solicitation. A tablet is a mobile computer that provides a touchscreen which acts as the primary means of control. Tablet band may include notebooks, ultrabooks, and netbooks that are touchscreen capable.

Takeback Program. The Contract Vendor's process for accepting the return of the equipment or other products at the end of life.

Third Party Products. Products sold by the Contract Vendor which are manufactured by another company.

Upgrade. Refers to replacement of existing software, hardware or hardware component with a newer version.

Warranty. The Manufacturers general warranty tied to the product at the time of purchase.

Wide Area Network or **WAN.** A data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers.

WSCA-NASPO. The WSCA-NASPO cooperative purchasing program, facilitated by the WSCA-NASPO Cooperative Purchasing Organization LLC, a 501(c)(3) limited liability company that is a subsidiary organization of the National Association of State Procurement Officials (NASPO). The WSCA-NASPO Cooperative Purchasing Organization facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states and the District of Columbia. The WSCA-NASPO Cooperative Development Team is identified in the Master Agreement as the recipient of reports and may be performing contract administration functions as assigned by the Lead State Contract Administrator.

AMENDMENT NO. 1 TO CONTRACT NO. MNWNC-108

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State"), and Dell Marketing L.P., One Dell Way, Mailstop RR1-33 Legal, Round Rock, TX 78682 ("Contract Vendor").

WHEREAS, the State has a Contract with the Contract Vendor identified as Contract No. MNWNC-108, April 1, 2015, through March 31, 2017 ("Contract"), to provide Computer Equipment: (Desktops, Servers, and Storage including Related Peripherals and Services); and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract allow the State to amend the Contract as specified herein, upon the mutual agreement of the Materials Management Division and the Contract Vendor in a fully executed amendment to the Contract.

NOW, THEREFORE, it is agreed by the parties to amend the Contract as follows:

1. That Contract No. MNWNC-108 is extended through March 31, 2020, at the same terms and conditions.
2. The Contract Vendor shall provide Computer Equipment: (Desktops, Servers, and Storage including Related Peripherals and Services) at the prices set forth on the attached Exhibit B, Pricing Schedule.

This Amendment is effective beginning April 1, 2017, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect through contract expiration, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. DELL MARKETING, L.P.	2. OFFICE OF STATE PROCUREMENT
The Contractor certifies that the appropriate person(s) have executed this Amendment on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.	In accordance with Minn. Stat. § 16C.03, subd. 3.
By: D. Wigington Signature	By: Andy Doran
Diane Wigington Printed Name	Title: Acquisition Management Specialist
Title: Contracts Program Manager	Date: 2/15/17
Date: 02/14/2017	**3. COMMISSIONER OF ADMINISTRATION** Or delegated representative.
By: ____ Signature	By: [signature]
____ Printed Name	Date: 2/16/2017
Title: ____	
Date: ____	

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT

COMPUTER EQUIPMENT
2014-2020
Updated 04/01/2017

WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION

MINNESOTA WSCA-NASPO MASTER AGREEMENT AWARD

1. BASELINE PRICING DELL RETAIL PRICE LIST		
LINK: http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf		
2. BAND DISCOUNTS – (CATEGORY EXCEPTIONS APPLICABLE IN ALL BANDS)	DELL CATEGORY	MINIMUM DISCOUNT
BAND 1 DESKTOP	A	15%
BAND 2 LAPTOP	A	15%
BAND 3 TABLET	H	4%
BAND 4 SERVER	A	13.5%
BAND 5 STORAGE	A	13.5%
IMPORTANT: The minimum discount is provided, refer to Contract Vendor's Website for any additional discounts and request a quote for bulk/volume discounts. All prices shall be FOB Destination, prepaid and allowed (with freight included in the price). If there is a special case where inside delivery fee must be charged, the Contract Vendor will notify the customer in advance.		
CATEGORY EXCEPTIONS:		
Toner	F	1.5%
Value Latitude, OptiPlex, Workstation, Selected Products	H	4%
Selected Promo Offers; Inspiron; Selected Latitude; SC PowerEdge; Selected Dell | EMC; Dell Branded Peripherals/Imaging: PowerConnect, Axim, Projector, Printer	S	2.5%
Spare Parts, selected Dimension Brand	U, W, Z	.5%
3. THIRD PARTY PRODUCTS - (APPLICABLE IN ALL BANDS)	M	5.5%
CATEGORY EXCEPTIONS:		
Selected Third Party Products (software and peripherals)	X	.5%
Selected Third Party Printers	F	1.5%
4. SERVICES		
Services are at the option of Participating States. Participating Addendums by each State may address service agreement terms and related travel. States may negotiate additional services. The majority of Dell-branded hardware includes a one-year warranty. Customer may purchase warranty upgrades for 2, 3, 4 or 5 years for certain Dell-branded hardware as offered by Dell. For Dell standard warranty information see http://www.dell.com/learn/us/en/uscorp1/solutions/limited-hardware-warranties		
Selected Service on Poweredge Departmental Servers; Directline Service; 4-Hr On-Site Critical Care Plus; Business Care Plus On-Site Service (all years)	O	13.3%
On-site – Next Business Day On-site (extended yrs), Critical Care On-site Service (all yrs), other svcs	R,Z,Z1&ZS	.5%
5. LEASING		
Participating Addendum may identify if and how leasing agreement terms will be conducted.		
6. ADDITIONAL DISCOUNTS – Request a quote for discounts on bulk/volume purchases.		

a. Per Transaction Multiple Unit: Contact your Sales Representative for additional discounts for volume purchases.

Minimum Dollar Volume Associated with Single Transaction	Maximum Dollar Volume Associated with Single Transaction	Cat A only, Single Transaction, Maximum of 10 ship to Locations
$50,000.00	$99,999.99	Greater than or Equal to 1%
$100,000.00	$199,999.99	Greater than or Equal to 2%
$200,000.00	$499,999.99	Greater than or Equal to 4%
$500,000.00	$999,999.99	Greater than or Equal to 6%
$1,000,000.00	No Maximum	Greater than or Equal to 8%

b. Cumulative: Cumulative Discounts are managed at the Master Agreement Level based on total volume.

Cumulative Dell Spend "Gates"	Category A Discount (Adjustment to the Matrix)
Up to $2B	13.5%
$2B to $4B	14%
$4B to $6B	14.5%
$6B to $8B	15%
$8B to $10B	15.5%
Over $10B	16%

c. **Other Discounts provided:** For purchases made online via Dell.com, Dell offers an additional 0.5% per category, except for Category O. For online purchases of Category O Services, Dell will offer a 13.5% discount.

CERTIFICATE OF SIGNATURE AUTHORITY

This is to certify that the below named individuals of Dell Federal Systems, L.P. are authorized to execute agreements, proposal documents, certificates and representations on behalf of and in the name of Dell Federal Systems, L.P. or any other Dell entity in accordance with Dell's Contracts, Proposals and Statements of Work (SOW) US Signature Policy. This certification shall become effective upon execution and continue until rescinded in whole or in part. If the employment status, title or roles and responsibilities of any of the below named individuals changes then their authority will be revised according to their then current employment status, title or roles and responsibilities. This certification may be rescinded in whole or in part, at any time without prior notice. Interested parties may request an updated certificate by written request to the following address:

Dell Federal Systems, L.P.
Customer Engagement Management
Contracts, Proposals & SOW
Certificate of Authority Request
One Dell Way, Mailstop 8708
Round Rock, Texas 78682

John Lavorato, Executive Director – CEM
Bobbi Dangerfield, VP Global Relationship Business Operations
Joe Ayers, AVP - Federal
Max Peterson, AVP - Federal
Barbara Tormaschy, VP - Finance
Scott Sanders, Executive Director - Finance
Josh Bashara, Operations Director
Kathleen Hines, Contracts Director
Glen McGuire, Proposals Director
Jane McKenzie, Contracts Director
Rich Walsh, Contracts Director
Kim James, Audit & Compliance
Cindy Waldelich, Proposals Sr. Manager
Dana Anderson, Contract Manager
Pamala Aschenbrenner, Contract Manager, SOW
Lorri Bailey, Contract Manager
John Billings, Proposal Manager
Dennis Brand, Proposal Manager
Kevin Bromley, Contracts Manager
Eric Bufkin, Proposal Manager
Solange Calo, Proposal Manager
Lisa Campos, Proposal Manager
Aimee Cantrell, Proposal Manager
Renee Carrasco, Proposal Manager
Daniela Chambless, Proposal Manager
Michelle Chaney, Proposal Manager
Len Collett, Contract Manager
Mary Collins, Proposal Manager
Chris Collinson, Proposal Manager
Dennis Daley, Contract Manager
Mitchell Duncan, Proposal Manager
Montana Duncan, Contract Manager
Greg Fletcher, Proposal Manager
Meghan Flisakowski, Proposal Manager
Ani Fox, Proposal Manager
Jody Hahn, Proposal Manager
Jill Henderson, Contract Manager
Brian Johnson, Proposal Manager
Beth Jordan, Proposal Manager
Kate Kauffman, Contract Manager, SOW
Brice Kelly, Contract Manager
Liz Killmer, Contract Manager
Ashleigh Lane, Contract Manager
Stephanie Lendecky, Contract Manager
Scott Loras, Contract Manager
Melanie Mack, Proposal Manager
Christina McColly, Contract Manager
Lauren McCosham, Contract Manager
Staci McDonald, Proposal Manager
Felicia Middleton, Proposal Manager
Stephanie Miller, Contract Manager
Clare Mooney, Proposal Manager
Susan Morgan, Contract Manager
Jeannine Nagel, Proposal Manager
Kelly O'Shieles, Contract Manager
Stan Parish, Proposal Manager
Jennifer Parris, Contract Manager
Phyllis Pate, Contract Manager
Keon Robertson, Contract Manager, SOW
Tiffany Roper, Proposal Manager
Robert Saufferer, Contract Manager
Mary Shuman, Proposal Manager
Brian Sokoff, Proposal Manager
Susan Spalding, Contracts Advisor
Nicholas Stokes, Proposal Manager
Ted Thomas, Proposal Manager
Melissa Vaclavik, Proposal Manager
Christian von Wupperfeld, Contract Manager
Teresa Walden, Contract Manager
David White, Contract Manager
Diane Wigington, Contract Manager

Witness my hand on the following day:

Frank Muehleman
VP and General Manager – North America Public Business Group

6/6/2011
Date

AMENDMENT NO. 2 TO CONTRACT MNWNC-108

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State"), and Dell Marketing L.P., One Dell Way, Mailstop RR1-33 Legal, Round Rock, TX 78682 ("Contract Vendor").

WHEREAS, the State has a Contract with the Contract Vendor identified as Contract No. MNWNC-108, April 1, 2015, through March 31, 2020 ("Contract"), to provide Computer Equipment: Desktops, Laptops, Tablets, Servers, and Storage, including Related Peripherals and Services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract allow the State to amend the Contract as specified herein, upon the mutual agreement of the Office of State Procurement and the Contract Vendor in a fully executed amendment to the Contract.

NOW, THEREFORE, it is agreed by the parties to amend the Contract as follows:

1. That Contract No. MNWNC-108 is extended through July 31, 2021, at the same terms, conditions, and prices.

This Amendment is effective beginning April 1, 2020, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect through contract expiration, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. DELL MARKETING L.P. The Contractor certifies that the appropriate person(s) have executed this Amendment on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances. By: [signature] Signature Sadie Robbins Printed Name Title: Sr. Contract Manager Date: 12/19/19 By: ____ Signature ____ Printed Name Title: ____ Date: ____	**2. OFFICE OF STATE PROCUREMENT** In accordance with Minn. Stat. § 16C.03, subd. 3. By: [signature] Title: Acquisition Management Specialist Date: 1.27.2020 **3. COMMISSIONER OF ADMINISTRATION** Or delegated representative. By: Andy Doran Date: 1/27/2020

Staff Report 015-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT Data Sharing Memorandum of Understanding with Flock Safety

Key Points

- A home owners' association in West Vancouver is contracting with Flock Safety to install automated license plate readers (ALPRs), which are high-speed, computer-controlled camera systems that capture license plate information, within their property for neighborhood safety purposes.
- Flock Safety has offered to provide the Vancouver Police Department (VPD) with access to the data it collects for law enforcement purposes.
- Flock Safety's data system is capable of providing VPD with real time alerts regarding stolen and wanted vehicles.
- VPD has an interest in accessing Flock Safety's data for law enforcement purposes.

Strategic Plan Alignment

Goal 2, Objective 2.1: Provide reliable and responsive police, fire and EMS service.

Present Situation

Flock Safety and Village at Columbia Shores Home Owners' Association (HOA) have offered to provide VPD with ALPR data related to stolen or wanted vehicles entering their property. This data would assist VPD by providing near real-time information on the location of vehicles being sought by law enforcement (the vendor claims an average of a 27-second delay between a license plate being read and a text message alert being sent). Often vehicles are stolen for the express purpose of committing other crimes. Additionally, there are instances where a vehicle may not be stolen, but is still of interest to law enforcement as it may be connected to crimes that are under investigation. The ALPRs would capture license plate data only from incoming vehicles on the private streets within the HOA.

Advantage(s)

1. Assist in the recovery of stolen vehicles.
2. Assist in the reduction of other property crimes associated with auto-theft.
3. Improved safety in the Village at Columbia Shores community.
4. Increased location and recovery of vehicles being sought by law enforcement in ongoing investigations.
5. Assist law enforcement in locating auto theft, burglary, mail theft, and auto prowl suspects and holding them accountable for their criminal activity.
6. Assist law enforcement in identifying vehicles associated with criminal activity in the Village at Columbia Shores Community.
7. Images captured by the Flock Safety cameras can be utilized as evidence for the purpose of prosecution.
8. No Cost to the City.

Disadvantage(s)

None identified.

Budget Impact

None. This information would be provided at no cost to the City.

Prior Council Review

None

Action Requested

Authorize the City Manager or his designee to execute the Memorandum of Agreement with Flock Safety, Inc. and take any and all action necessary to enforce the terms thereof.

Troy Price, Assistant Chief of Police, 360-487-7463

ATTACHMENTS:

- Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

This Data Sharing Memorandum of Understanding (this "**MOU**") is entered into by and between Flock Group, Inc. with a place of business at 2588 Winslow Drive, Atlanta, GA 30305 ("**Flock**") and the police department or agency identified in the signature block below ("**Agency**") (each a "**Party**, and together, the "**Parties**").

Whereas, Agency desires to access Flock's technology platform (the "**Flock Service**") for investigative purposes, in order to view and search videos recorded by Flock ("**Recordings**") which are stored for no longer than 30 days, utilizing its software for automatic license plate detection;

Whereas, Flock desires to share such videos with Agency pursuant to the following terms and conditions.

1. **Purpose**. To allow the Agency to utilize the Flock Services for law enforcement purposes (the "**Purpose**").

2. **Access Rights to Flock Services.** Subject to the terms and conditions contained in this MOU, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Service during the Term (as defined below), solely for use by Authorized Users in accordance with the terms and conditions herein. For purposes of this MOU, "Authorized Users" will mean employees, agents, or officers of Agency accessing or using the Flock Services for the Purpose. Agency acknowledges and agrees that, as between Agency and Flock, Agency shall be responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User which, if undertaken by Agency, would constitute a breach of this MOU, shall be deemed a breach of this MOU by Agency. Agency shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this MOU as applicable to such Authorized User's use of the Flock Service, and shall cause Authorized Users to comply with such provisions.

3. **Restrictions on Use**. Agency will not, and will not permit any Authorized Users or any third party to, (i) copy or duplicate any of the Flock Service; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock Service is compiled or interpreted; (iii) modify, alter, or tamper with any of the Flock Service, or create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock Service; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Service; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2. Data that the agency does not own may only be accessed for investigative purposes.

4. **Ownership**. As between the Parties, subject to the rights granted in this MOU, Flock and its licensors retain all right, title and interest in and to the Flock Service, and its components and any Recordings or data provided by Flock through the Flock Service, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this MOU. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. There are no implied rights.

5. **Financial Implications to Agency**. No financial commitment by Agency is required to access the Flock Services or Recordings.

6. **Term; Termination**.
   - A. **Term**. This MOU will commence once executed by both parties and shall continue for a period of [5] years.
   - B. **Termination**. Either party may terminate this MOU for its convenience, and in its sole discretion, by providing the other Party thirty (30) days prior written notice of termination. Either party may terminate this MOU upon written notice if the other party has breached a material term of this MOU and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach. Upon termination of this MOU, Agency will immediately cease all use of Flock Services.

7. **Indemnification**. Each Party to this MOU shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties.

8. **Limitation of Liability.**
   - **A. Limitation on Direct Damages. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS MOU EXCEED $100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE.**
   - **B. Waiver of Consequential Damages. IN NO EVENT SHALL AGENCY OR FLOCK, OR THEIR RESPECTIVE EMPLOYEES, AGENTS, LICENSORS OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

9. **Confidentiality**.
   - A. Obligations. During the performance of services and Agency's use of the Software under this Agreement it may be necessary for a party to provide the other with certain information considered to be proprietary or confidential by the disclosing party. The disclosure of such confidential information shall be subject to the following terms and conditions.
     - i. The term "Agency Confidential Information" shall mean any material, data, Systems, procedures and other information of or with respect to Agency that is not accessible or known to the general public, including information concerning its hardware, software, business plans or opportunities, business strategies, finances, employees, and third-party proprietary or other information that Agency treats as confidential. Flock shall not use, publish or divulge any Agency Confidential Information except (i) in connection with Flock's provision of Software and services pursuant to this Agreement, (ii) to Flock's officers, directors, employees, agents and contractors who need to know such information to enable Flock to provide Software and services pursuant to this Agreement, or

(iii) with the prior written consent of Agency, which consent Agency may withhold in its sole discretion.

ii. The term "Flock Confidential Information" means any material, data, Systems, procedures and other information of or with respect to Flock that is not accessible to or known to the general public, including, without limitation, the Software, object code, source code, formulae, algorithms, financial data, clients, employees, software development plans and software support. Except when disclosure is required by law, Agency shall not use, publish or divulge any Flock Confidential Information except (i) to its employees, agents and contractors who need to know such information to enable Agency to use the Software, or (ii) with the prior written consent of Flock, which consent Flock may withhold in its sole discretion. Flock understands and acknowledges that Agency is a government agency that must comply with the Public Records Act, Chapter 42.56 RCW.

iii. Each party shall protect the other's confidential information with the same degree of care normally used to protect its own similar confidential information, but in no event less than that degree of care that a reasonably prudent business person would use to protect such information. The obligations of each party to protect confidential information received from the other party shall not apply to information that is publicly known or becomes publicly known through no act or failure to act on the part of the recipient.

B. **Exclusions**. Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third party not having a confidential relationship with the other party hereto that rightfully acquired such information; or (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process, the Washington state Public Records Act, Chapter 42.56 RCW, or the Freedom of Information Act shall not be considered a breach of this MOU; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

10. **Miscellaneous**. All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and must be addressed to the parties at their respective addresses set forth below and shall be deemed to have been duly given when (a) delivered in person; (b) sent by facsimile transmission To the facsimile number below and indicating receipt at the facsimile number where sent; (c) one (1) business day after being deposited with a reputable overnight air courier service; or (d) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre-paid and return receipt requested. This MOU shall be governed by the laws of the state of Washington, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this MOU.

IN WITNESS WHEREOF, Flock and the Agency have caused this MOU to be signed on the date set forth below and be effective on the last date specified below.

Flock Group, Inc.:

____

Name:

Title:

Date: _______________________

Agency: Vancouver Police Department

____

Name: Eric Holmes

Title: City Manager

Date: _______________________

Attest:

____

Name: Natasha Ramras

Title: City Clerk

Date: _______________________

Approved as to form:

____

Name: Jonathan Young

Title: City Attorney

Item #4.

Staff Report 016-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT Interlocal Agreement with Clark County for Mental Health Therapeutic Court Services

Key Points

- The City is currently providing public defense services for Mental Health Therapeutic Court through an interlocal agreement with Clark County. This combined contract allows the County to hire an attorney who specializes in this service.
- The initial term of the interlocal was two years, 2014-2016 with optional extensions. On October 10, 2016, the City Council approved the first two-year extension for 2017-2018. On November 26, 2018, the City Council approved the second, and last, two-year extension for 2019-2020.
- Staff is recommending the adoption of a new interlocal agreement with Clark County to continue the provision of public defense services for Mental Health Therapeutic Court. The new interlocal will be for two years, 2021-2022, with optional extensions.

Strategic Plan Alignment

Goal 3, Objective 3.2: Improve services available to underserved or vulnerable residents.

Present Situation

Clark County, as part of its criminal justice system, has a District Court Mental Health Therapeutic Court designed to assist indigent misdemeanor clients who have mental health issues. The City is providing public defense services to Mental Health Court through an interlocal agreement with Clark County. The combined contract provides sufficient funding to hire an attorney who specializes in mental health cases which provides better client services. The County, which handles both felony and misdemeanor cases and consequently has a much more extensive indigent defense program, bids out and manages the combined contract for Mental Health Court services. The initial contract period was for two years, 2015-2016 and with two (2) additional two (2) year terms. On October 10, 2016, the City Council approved the first two-year extension for

2017-2018. On November 26, 2018, the City Council approved the second, and last, two-year extension for 2019-2020.

All details from the last interlocal agreement are carried forward into the new interlocal agreement without change, including the same payment schedule that was used in the 2019-2020 extension. The new interlocal contract period will be for two years, 2021-2022, with the option for two additional two-year terms by mutual agreement. The new contract will result in a total annual cost increase of $12,000, of which the City's responsibility will be $9,000.

Advantage(s)

1. The combined contract allows the City and County to hire an attorney who specializes in this type cases so the clients should receive better service.
2. Reduces City staff time spent administering the contract.

Disadvantage(s)

City has less oversight of the attorney/firm providing services to the City's clients who are assigned to the District Court Mental Health Therapeutic Court although the City does have the ability to review and comment on the proposals for this service.

Budget Impact

The total increase in the annual cost of services covered by this contract will be $12,000. The City will be responsible for $9,000 annually. Sufficient budget has been included in the 2021-2022 Biennial Budget. The balance of the cost will be supported by Clark County and small cities.

Prior Council Review

None

Action Requested

Authorize the City Manager or designee to execute the Interlocal Agreement with Clark County for public defense services for clients who are assigned to District Court Mental Health Therapeutic Court.

Aaron Lande, Senior Policy Analyst, 360-487-8612

ATTACHMENTS:

- Interlocal Agreement

To be filed with the Clark County Auditor

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into by and between Clark County ("County"), a county of the State of Washington, and the City of Vancouver ("City"), a municipal corporation of the State of Washington, for the purpose of authorizing a combined public defense contract for indigent clients assigned to District Court Mental Health Therapeutic Court. This Agreement is made pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, and has been authorized by the governing bodies of the County and the City.

WHEREAS, the County and City have a constitutionally mandated responsibility to provide public defense services to eligible persons entitled to representation in Clark County and the city of Vancouver as authorized by law; and

WHEREAS, Clark County, as part of its criminal justice system, has established a District Court Mental Health Therapeutic Court designed to assist indigent misdemeanor clients who have mental health issues; and

WHEREAS, the City is currently providing funding for Mental Health Therapeutic Court public defense services through a supplemental contract with Jeffrey D. Barrar, P.S., the City's primary public defense firm; and

WHEREAS, with the implementation of public defense caseload standards, mandated by the Washington State Supreme Court, the Mental Health Court caseload can be more effectively tracked and managed through a separate contract for services; and

WHEREAS, in the interest of efficiency and providing the best customer service, it is the desire of the City and County to combine their indigent defense contracts related to the District Court Mental Health Therapeutic Court.

NOW, THEREFORE, the signatories to this Agreement agree as follows:

1. Purpose.

It is hereby understood and agreed by the County and the City that a combined contract for District Court Mental Health Therapeutic Court public defense services is authorized.

2. Organization.

No separate legal or administrative entity is created by this Agreement and this Agreement does not affect the organization or functions of the parties, except as provided herein.

3. Contract

The County, through its Indigent Defense Coordinator, shall be responsible for soliciting proposals for the District Court Mental Health Therapeutic Court indigent defense contract and contracting with the selected firm or individual.

4. Term of Agreement

The term of this Agreement shall be for two (2) years beginning January 1, 2021 and terminating on December 31, 2022. This Agreement may be extended for two (2) additional two (2) year terms by mutual agreement.

5. Termination

This Agreement may be terminated, effective at the end of the term of this Agreement, by either party with written notice provided by September 1st in the final year of the term of this Agreement.

6. Funding

The combined City/County funding under this contract will be $36,000.00 USD annually. The City is currently providing $24,000.00 USD in funding for Mental Health Therapeutic Court services as part of the contract with Jeffry D. Barrar, P.S. to serve as the city's primary provider of indigent defense services. The remaining $12,000.00 USD will be split between the City and County based on the current annual caseload in Mental Health Therapeutic Court; 60-65% of the annual caseload is City cases with the remainder being split between the County and the other small cities. Using that formula, the City will provide $9,000.00 USD towards this contract. Payments of $2,250.00 USD will be made to the County on a quarterly basis beginning in January 2021.

7. Reporting

The County shall provide the City with quarterly reports which shall include the following information:

a) Defendant names and case number(s) for each defendant participant;

b) The number of total attorney hours expended by contractor for each defendant during the quarter;

c) Disposition information (i.e., warrant issued, graduated and/or terminated from the program) for those defendants whose cases are closed during the quarter; and

d) Any other information which the City and County may deem reasonable and appropriate.

8. Amendments.

This Agreement may be amended by written mutual agreement of all the parties hereto.

9. Liability.

Each party shall defend, indemnify, and save all other parties harmless from any and all claims arising out of that party's performance of this Agreement.

10. No third-party beneficiary.

By execution of this Agreement, the parties do not intend that there be any third-party beneficiary of the rights or obligations created herein.

11. Notices.

Any notices to be given under this Agreement shall be delivered postage prepaid and addressed to:

To the City:
CITY OF VANCOUVER
Attn: City Manager
P.O. Box 1995
Vancouver, Washington 98668-1995

To Clark County:
CLARK COUNTY
Attn: County Administrator
P.O. Box 5000
Vancouver, Washington 98666-5000

The name and address to which notices shall be directed may be changed by any party by giving the other parties notice of such change as provided in this section.

12. Venue.

The venue for any action related to this Agreement shall be in the Superior Court in and for Clark County, Washington.

13. Interlocal Cooperation Act Compliance.

This is an Agreement entered into under Chapter 39.34 RCW. Its duration is as specified in Section 4. Its purpose is as described in Section 1. Its manner of funding is as described in Section 6. Its termination is as described in Section 5. Each party is responsible for any property it acquires in order to implement this Agreement; the parties shall not acquire joint property in order to implement this Agreement.

14. Severability.

In the event any provision of this Agreement shall be declared to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not, in any way, be affected or impaired thereby.

15. Execution.

This Agreement shall become effective immediately after it is duly adopted by the Clark County Council and the Vancouver City Council. The parties agree that this Agreement shall be executed in triplicate. Upon execution, the executed originals of this Agreement shall be returned to the Clerk of the Clark County Council, who shall file one executed original of this Agreement with the Clark County Auditor, and provide one executed original of this Agreement to the City Clerk.

16. Ratification

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

IN WITNESS THEREOF, the following agencies have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement to be dated and effective as the date of last signature below.

CITY OF VANCOUVER, WASHINGTON	**CLARK COUNTY, WASHINGTON**
______________________________	______________________________
Eric Holmes, City Manager	Kathleen Otto, Interim County Manager
Date: ___________________________	Date: ______________________
Attest:	Attest:
______________________________	______________________________
Natasha Ramras, City Clerk	Rebecca Messinger, Clerk of the Board
Approved as to form:	Approved as to form:
______________________________	______________________________
Jonathan Young, City Attorney	Christine Cook, Senior Civil Deputy Prosecuting Attorney

Item #5.

Staff Report 017-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT Authorization for grant applications to supplement funding for the acquisition and development of the Fenton Community Park and other park opportunities in Park Impact Fee District C

Key Points

- Recreation grant applications must be supported by City Council through an authorization resolution.
- Grant applications are being considered through the Clark County Conservation Futures program and Washington Recreation Conservation Office (RCO) to provide reimbursement funding for Fenton Community Park acquisition and development.
- Grant applications for the project are consistent with the City of Vancouver Grants Management Administrative Policy.
- Successful grant funds will leverage local resources to supplement the park needs on the east side of the City of Vancouver.
- Grant match requirements for the Fenton project have been met through PIF and the land donation value from the property seller.

Strategic Plan Alignment

Goal 4: Ensure that Vancouver's parks and trails system is the highest quality and most complete in the region.

Present Situation

The City of Vancouver Grants Management Administrative Policy seeks to ‘assure that grants applied for, and eventually accepted, align with a specific citywide strategic commitment and/or a documented departmental core service and priority. City Council authorization is required for staff to pursue state and federal grant applications, and grant agreements, and a resolution is specifically required for RCO programs.

The Conservation Futures program is open annually when funding is available, and the RCO programs are generally open for application every two years pending funding approval by the state legislature.

The 2019 purchase of the Fenton Community Park property was critical to secure one of the remaining quality sites on the east side to serve city residents. The City purchased the 44-acre property for $5.2 million and spent an additional $112,000 to clean up the site. A large portion of the funding came from the Parks Impact Fee fund balance, augmented by a $250,000 grant through the Clark County Conservation Futures program. Sufficient funding was not available in the applicable PIF accounts to purchase the site independently. In order to facilitate the purchase, an interfund loan from General Fund was approved by Council (Resolution M-3992). The loan was to be repaid by new PIF revenues as soon as possible, but no longer than over a ten-year period. According to the terms of the loan, PIF revenues were to be utilized to pay off the bond before they could be utilized for other parks needs in the district. As of January 1, 2021, the remaining balance is approximately $1.2 million.

The Conservation Future program originally awarded the City of Vancouver $250,000 toward the Fenton project in 2019, which was the maximum available at that time. The 2021 grant request from Conservation Futures is for the remaining interfund loan balance of $1.2 million. Repaying the outstanding General Fund balance in full would allow for PIF District C funds to be directed to other high priority projects to meet the park deficit identified on the east side of the city.

In 2022, the City will also be eligible to pursue an acquisition reimbursement grant from RCO for the Fenton property acquisition completed in 2019 under a Waiver of Retroactivity. Acquisition reimbursements allow jurisdictions to pursue time sensitive acquisitions prior to grant agreements being in place and apply for reimbursement through various grant programs up to four years following the completion of the purchase. The current limit on these grants varies by grant program, but generally range from $500,000 to $1 million in potential reimbursement funding. The City's intent is to apply for the largest amount available from the RCO.

The Conservation Future program does not have a specific match requirement, although the larger the match and the more partners participating in any grant increases the likely support of the application. The grant match for the RCO grants vary depending on the grant program that the City decides to pursue, ranging from no match to a maximum of 50% of the project costs. The significant PIF funding already invested in the Fenton acquisition combined with the land donation provided by the seller valued at $334,000 will likely satisfy any potential grant matching requirements for this project by any program available under the RCO. Any grant funds received from the RCO would provide the City with capital funding to be utilized for the highest priority parks projects in the City.

Advantage(s)

These grants will be utilized to fund additional park investments identified as high priority. Grant funding will free up future Parks Impact Fee revenues and add an additional funding for capital parks projects in the City of Vancouver.

Disadvantage(s)

The City of Vancouver has a solid track record for securing grant funding to supplement local resources for park and recreation services. However, all grants are competitive in nature with no guarantee that these applications will be selected and successfully funded.

Budget Impact

None at this time. If the City is successful in securing grant funding, specific budget requests for additional parks capital projects will be brought before Council in future budget actions.

Prior Council Review

None

Action Requested

Adopt a resolution authorizing Parks and Recreation to apply for the grant projects listed above and authorize the City Manager, or his designee, to execute all required documentation associated with the grant applications.

Julie Hannon, Parks and Recreation Director, 360-487-8309; Monica Tubberville, Senior Park Planner, 360-487-8353

ATTACHMENTS:

- Resolution
- Fenton Business Case Summary

01/06/2021

RESOLUTION NO.____________________

Organization Name: City of Vancouver

Project Names: **2021-2022 Grant Application Authorization**

A RESOLUTION authorizing applications for funding assistance for multiple projects from state or local grant programs, including Conservation Futures (CF) as provided under Chapter 83.34 RCW, and Washington Wildlife and Recreation Program (WWRP) administered by the Recreation and Conservation Office (RCO) as provided in Chapter 79A.l5 79A.25 RCW and WAC 286.

WHEREAS, the City of Vancouver has approved the Comprehensive Parks, Recreation and Natural Areas Plan that include the project areas; and

WHEREAS, under provisions of the WWRP and CF state or Clark County funding assistance is requested to aid in park development at Fenton Community Park for park acquisition or development; and

WHEREAS, the City of Vancouver considers it in the best public interest to complete the acquisition and development projects described in these applications.

NOW, THEREFORE,

BE IT RESOLVED, THAT:

Section 1. The Director of the Vancouver Parks and Recreation Department is authorized to make formal application to RCO and Clark County for funding assistance on behalf of the City of Vancouver.

As required by RCO, our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at:

http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf and authorizes the City of Vancouver Manager, or his designee to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification (applicable to any sponsor) and waiver of sovereign immunity (applicable to Tribes) and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 2. Any funding assistance received will be used for implementation of the projects referenced above.

Section 3. The City of Vancouver hereby certifies that its share of project funding is committed and will be derived from Park Impact Fees and that pursuant to WAC 286-13-040 we must certify the availability of match for RCO grant projects at least one month before funding approval.

Section 4. The City acknowledges that we are responsible for supporting all non-cash commitments to these projects should they not materialize.

Section 5. The City is aware that the grants, if approved, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs that have already been paid and remitted to our vendors, and that RCO will hold a retainage until the project is deemed complete, and FLH will retain an administrative fee.

Section 6. The City acknowledges that any property acquired or developed, renovated or restored with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to by our organization and the Recreation and Conservation Funding Board. We agree to dedicate property acquired with grant assistance in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon RCO's standard versions of those documents), to be recorded on the title of the property with the county auditor.

Section 7. The City acknowledges that any property acquired in fee title must be immediately made available to the public unless the Recreation and Conservation Office director or the Recreation and Conservation Funding Board agree to other restrictions.

Section 8. This resolution becomes part of a formal application to the RCO, Clark County and FLH; and

Section 9. The City provided appropriate opportunity for public comment on these applications.

This application authorization was adopted at a Regular Meeting of the Vancouver City Council this ______, of _________________________,2021.

____
Anne McEnerny-Ogle, Mayor

Attest:

____
Natasha Ramras, City Clerk

Approved as to form:

____
Jonathan Young, City Attorney

Attachment 1

Business Case Summary for Grant Opportunity

Description of the grant funding opportunity:	**Fenton (45 ac) –** Assistance through Conservation Futures Program (2021) for payment of the remaining balance on the interfund loan for the park acquisition, and acquisition reimbursement for the land acquisition through the WA Recreation and Conservation Office (RCO) grant program in 2022.
List CFDA(federal grant only)	NA
Identify Citywide Strategic Commitment or priority:	Goal 4: Ensure that Vancouver's parks and trails system is the highest quality and most complete in the region. 4.1: Increase maintenance levels and accessibility to parks 4.2: Increase recreational opportunities in our parks Goal 6: Facilitate the creation of neighborhoods where residents can walk or bike to essential amenities and services – "20-minute neighborhoods".
Briefly describe alignment with above:	Park land acquisition in this area will increase accessibility to recreation opportunities for parks and open space.
Provide explicit statement of Need.	Based upon adopted park standards, PIF District C has over 200 acres of park land deficit. This district is the most underserved area of the City of Vancouver.
Provide description of measurable outcomes that will result from undertaking this project.	The Fenton acquisition is approximately 45 acres in size, one of the few available vacant parcels within the unserved area that can be developed for active park use. Additional funding toward the existing loan will free up future funding for other acquisitions in the district and/or aid in site improvements.
Outline Total Project Costs	CF Grant (2021): Potential award of $250,000 - $1,160,000 to fund the existing interfund loan balance. No match requirement. RCO Grant (2022): $500,000 - $2,000,000 (varies by program) Direct Local Match already met with PIF funding for site acquisition.
What is the source of the local match?	Park Impact Fees and seller property donation value. No fund match is required for either grant.
Confirm local funds availability with Budget Office.	NA Signature______________________________ Date _________________________________
If funds are not available provide justification for any subsidy needed:	NA
Confirm availability of source of subsidy.	NA
Confirm availability of funds/appropriation for on-going costs.	NA
Known Reporting Requirements:	Property must be available to the public for passive use until developed as a community park, and the site must be committed to outdoor recreational use in perpetuity through a Deed-of-Right for both RCO and CF programs.

Any known or on-going commitments after grant performance period:	See above
Identify grant liaison or project manager:	Monica Tubberville, Parks & Recreation
Estimation of support needs from other city departments:	Legal review of grant agreements if successful and adoption by Council through consent process. The site is under an existing agricultural lease, so no site maintenance is required.
Timeframe of opportunity (i.e. including deadline for grant application submittal, approximate date of award notification, and length of period of performance.)	Conservation Futures grant application is due January 6, 2021, and the award notification is typically mid-year 2021. The city received a 2018 grant award for this site, so no additional performance requirements are anticipated. RCO grant applications must be submitted by May 2022 Award notification July 2023 or later. Performance period is approximately 3 years.

Instructions: (1) Complete form. (2) Department Director signs and dates form. (3) Send the form to the City Manager and the Internal Auditor

_____________________________ _____________________

Signature: Department Director Date

Decision by City Manager:

_________ Proceed with opportunity

_________ Proceed with opportunity subject to input from City Council

_________ DO NOT Proceed with opportunity

_____________________________ _____________________

Signature: City Manager Date

VOUCHER APPROVAL

We, the undersigned council members of the City of Vancouver, Clark County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the vouchers listed below are approved for payment in the amount of:

$ 15,255,979.67 this 25th day of January 2021.

MAYOR

COUNCILMEMBER

AUDITING OFFICER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
January 5, 2021 - January 18, 2021	Accounts Payable Checks (see attached)	**$ 11,871,092.83**
January 5, 2021 - January 18, 2021	Hansen City Payments (see attached)	**$ 279,845.62**
January 5, 2021 - January 18, 2021	Visa Refunds (see attached)	**$ 26.00**
January 5, 2021 - January 18, 2021	Payroll Checks (see attached)	**$ 3,105,015.22**
TOTAL		**$ 15,255,979.67**

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	Manual Wire	No Reference	1/4/2021	102,136.46	Bank Of America N.A. - Remit-To: Account Analysis	
Supplier Payment	Manual Wire	No Reference	1/5/2021	19,888.49	Bank Of America N.A.	
Supplier Payment	Manual Wire	No Reference	1/5/2021	106,937.62	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	1/5/2021	30,459.53	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	1/5/2021	17,814.20	Washington Dental Service	
Supplier Payment	Manual Wire	No Reference	1/7/2021	420,665.95	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	1/7/2021	14,549.26	VSP Vision Care Inc	
Supplier Payment	Manual Wire	No Reference	1/7/2021	180,200.00	Western States Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	1/8/2021	25,525.47	Gallagher Bassett Services Inc	
Supplier Payment	Manual Wire	No Reference	1/8/2021	75.00	HRA VEBA Plan	
Supplier Payment	Manual Wire	No Reference	1/8/2021	7,293.56	ICMA 401A	
Supplier Payment	Manual Wire	No Reference	1/8/2021	182,560.35	ICMA Corp	
Supplier Payment	Manual Wire	No Reference	1/8/2021	36,971.78	ING	
Supplier Payment	Manual Wire	No Reference	1/8/2021	560.50	Oregon SDU	
Supplier Payment	Manual Wire	No Reference	1/8/2021	900.00	State of Washington Department of Licensing - Remit-To: DOL - Seattle Remit	
Supplier Payment	Manual Wire	No Reference	1/8/2021	58,482.00	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	1/8/2021	1,555.81	Vancouver Fire Command Officers	
Supplier Payment	Manual Wire	No Reference	1/8/2021	24,372.86	Vancouver Firefighters Union Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	1/8/2021	4,555.26	Washington SDU	
Supplier Payment	Manual Wire	No Reference	1/8/2021	76,897.30	Washington State Firefighters	
Supplier Payment	Manual Wire	No Reference	1/8/2021	18,549.83	Western States Health & Welfare Trust	
Supplier Payment	Manual Wire	No Reference	1/11/2021	168,065.90	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	1/11/2021	1,046,636.79	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	Manual Wire	No Reference	1/11/2021	920,792.96	Internal Revenue Service	
Supplier Payment	Manual Wire	No Reference	1/11/2021	99.10	State of Arizona	
Supplier Payment	Manual Wire	No Reference	1/11/2021	22.51	State of California	
Supplier Payment	Manual Wire	No Reference	1/11/2021	17,469.90	Washington Dental Service	
Supplier Payment	Manual Wire	No Reference	1/12/2021	366,738.22	Bank Of America N.A. - Remit-To: Charlotte NC	
Supplier Payment	Manual Wire	No Reference	1/12/2021	25,161.89	State of Oregon Department of Revenue	
Supplier Payment	Manual Wire	No Reference	1/13/2021	247.05	Keybank National Association	
Supplier Payment	Manual Wire	No Reference	1/13/2021	755,335.26	State of Washington Department of Retirement System (PERS)	
Supplier Payment	Manual Wire	No Reference	1/14/2021	89,952.12	Blue Cross Blue Shield of Oregon	
Supplier Payment	Manual Wire	No Reference	1/14/2021	52,934.47	Symetra Life Insurance Company	
Supplier Payment	Manual Wire	No Reference	1/14/2021	950.00	VSP Vision Care Inc	
Expense Payment	Direct Deposit	EFT-00084432	1/7/2021	250.00	Eric Gundlach	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00084433	1/7/2021	350.00	Steve Wilson	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00084434	1/7/2021	148.50	Phil Akerill	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00084435	1/7/2021	102.00	Adam Allison	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00084436	1/7/2021	350.00	John Kendall	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00084437	1/7/2021	24.94	Matthew Bishop	Employee Reimbursement
Supplier Payment	EFT	EFT-00084438	1/7/2021	20,831.44	Clark and Sons Excavating Inc	
Supplier Payment	EFT	EFT-00084439	1/7/2021	85,573.45	Halme Excavating Inc	
Supplier Payment	EFT	EFT-00084440	1/7/2021	306.64	Praxair Distribution Inc	
Supplier Payment	EFT	EFT-00084441	1/7/2021	62,150.30	Vancouver Housing Authority	
Supplier Payment	EFT	EFT-00084442	1/7/2021	105,761.45	Share Inc	
Supplier Payment	EFT	EFT-00084443	1/7/2021	7,142.25	Rapid Response Bio Clean	

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	EFT	EFT-00084444	1/7/2021	1,650.00	JCI Jones Chemicals Inc	
Supplier Payment	EFT	EFT-00084445	1/7/2021	431.43	Harrys Key Service Inc	
Supplier Payment	EFT	EFT-00084446	1/7/2021	3,047.07	Jeanette M. Bader	
Supplier Payment	EFT	EFT-00084447	1/7/2021	64,108.26	Second Step Housing	
Supplier Payment	EFT	EFT-00084448	1/7/2021	67,793.25	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	EFT	EFT-00084449	1/7/2021	1,524.00	Rotschy Inc	
Supplier Payment	EFT	EFT-00084450	1/7/2021	807.58	Metro Overhead Door Inc	
Supplier Payment	EFT	EFT-00084451	1/7/2021	23,302.81	Consolidated Supply Co	
Supplier Payment	EFT	EFT-00084452	1/7/2021	54,915.44	Madden Industrial Craftsmen Inc	
Supplier Payment	EFT	EFT-00084453	1/7/2021	966.00	Allegiance Benefit Plan Management Inc	
Supplier Payment	EFT	EFT-00086133	1/8/2021	68.12	Legal Shield	
Supplier Payment	EFT	EFT-00086134	1/8/2021	917.40	Vancouver Command Guild	
Supplier Payment	EFT	EFT-00086135	1/8/2021	11,541.12	Allegiance Benefit Plan Management Inc	
Expense Payment	Direct Deposit	EFT-00086174	1/14/2021	16.35	Suzanne Hebert	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086175	1/14/2021	225.00	Mike McDonald	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086176	1/14/2021	180.00	Chad Thurman	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086177	1/14/2021	80.25	Isaac Ennis	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086178	1/14/2021	46.98	Anthony Graeber	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086179	1/14/2021	88.74	Stephen Kesler-Marosi	Employee Reimbursement
Expense Payment	Direct Deposit	EFT-00086180	1/14/2021	142.00	Susan McNutt-Koning	Employee Reimbursement
Supplier Payment	EFT	EFT-00086181	1/14/2021	4,999.80	Picard Corp	
Supplier Payment	EFT	EFT-00086182	1/14/2021	4,661.20	George Elevator Service LLC	
Supplier Payment	EFT	EFT-00086183	1/14/2021	1,614,001.61	Tapani Inc	
Supplier Payment	EFT	EFT-00086184	1/14/2021	2,462.50	Toole Design Group, LLC	
Supplier Payment	EFT	EFT-00086185	1/14/2021	2,981.84	McKesson Medical Surgical Inc	
Supplier Payment	EFT	EFT-00086186	1/14/2021	23,248.80	Avolve Software Corp	
Supplier Payment	EFT	EFT-00086187	1/14/2021	5,008.83	Go Connect	
Supplier Payment	EFT	EFT-00086188	1/14/2021	669,736.36	Operations Management International Inc	
Supplier Payment	EFT	EFT-00086189	1/14/2021	1,483.24	State of Washington Consolidated Technology Services	
Supplier Payment	EFT	EFT-00086190	1/14/2021	6,947.36	North Side Electric Inc	
Supplier Payment	EFT	EFT-00086191	1/14/2021	717,790.80	Clark County - Remit-To: Clark County - Treasurer Vancouver	
Supplier Payment	EFT	EFT-00086192	1/14/2021	833,088.65	Rotschy Inc	
Supplier Payment	EFT	EFT-00086193	1/14/2021	15,844.23	MacKay Sposito Inc	
Supplier Payment	EFT	EFT-00086194	1/14/2021	2,272.74	Emerald Services Inc	
Supplier Payment	EFT	EFT-00086195	1/14/2021	803.77	Harrys Key Service Inc	
Customer Refund	Check	19426	1/6/2021	6.92	LUCAS FISHER	STAYS Overpayment
Ad Hoc Payment	Check	19427	1/6/2021	102.00	Aaron and Katelyn Knoetzel	Utility Refunds: 0054064606-06
Ad Hoc Payment	Check	19428	1/6/2021	90.00	Arthur Liss	Utility Refunds: 0128436900-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19429	1/6/2021	180.21	Beverly & Laurence Faulkner	Utility Refunds: 0088080030-10
Ad Hoc Payment	Check	19430	1/6/2021	89.41	Chanh and Skye Phuong	Utility Refunds: 0000001312-03
Ad Hoc Payment	Check	19431	1/6/2021	232.33	Darrin Deming	Workers Comp Reimbursement
Ad Hoc Payment	Check	19432	1/6/2021	307.05	Diana Long	Utility Refunds: 0000006716-03 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19433	1/6/2021	20.00	Evergreen Dental	refund overpmt alarm
Ad Hoc Payment	Check	19434	1/6/2021	160.58	Gary Thomson	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	19435	1/6/2021	50.91	Gerald F Fadden Jr Family Trust	Utility Refunds: 0101000648-03
Ad Hoc Payment	Check	19436	1/6/2021	50.12	Great Northwest Installations LLC	MPE-293174 refund
Ad Hoc Payment	Check	19437	1/6/2021	20.00	IEH Laboratories & Consulting Group	refund overpmt alarm inv #99394435

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Ad Hoc Payment	Check	19438	1/6/2021	334.52	Invest West Mgmt. LLC	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	19439	1/6/2021	20.10	Jacob Lingo,Personal Rep for Wolter	Utility Refunds: 0088024100-02
Ad Hoc Payment	Check	19440	1/6/2021	213.22	Joseph Yela	Workers Comp Reimbursement
Ad Hoc Payment	Check	19441	1/6/2021	34.41	Kae Miller	Utility Refunds: 0030056600-01
Ad Hoc Payment	Check	19442	1/6/2021	46.10	Macchia Family Revocable Trust	Utility Refunds: 0064068800-04
Ad Hoc Payment	Check	19443	1/6/2021	128.90	Macdonald and Associates LLC,for Carol Wolter	Utility Refunds: 0088024100-02
Ad Hoc Payment	Check	19444	1/6/2021	58.80	MARLA LUCAS	VOUCHER 2008019.030
Ad Hoc Payment	Check	19445	1/6/2021	588.04	Martin & Janet Cooper	RES-291202
Ad Hoc Payment	Check	19446	1/6/2021	20.00	Master Tech Automotive	refund overpmt alarm inv #99424157
Ad Hoc Payment	Check	19447	1/6/2021	134.40	MELISSA ALVAREZ	VOUCHER 2008018.030
Ad Hoc Payment	Check	19448	1/6/2021	227.10	Nicole J Lewis	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	19449	1/6/2021	934.00	NW Custom Built Homes Inc	PIR-80289 refund
Ad Hoc Payment	Check	19450	1/6/2021	29.69	NW Elite Homes Corp	Utility Refunds: 0500003729-01
Ad Hoc Payment	Check	19451	1/6/2021	2,500.00	Patricia Dial	20201004
Ad Hoc Payment	Check	19452	1/6/2021	70.00	PCS	Distran Overhead Solutions (cust #T-4482; Inv #99352339/99357715)
Ad Hoc Payment	Check	19453	1/6/2021	110.00	PCS	Columbia Sports LLC (cust #21829; Inv #99395864/99402335/99405962)
Ad Hoc Payment	Check	19454	1/6/2021	4.14	PCS	IdealImage (Cust #50119; Inv #99379819)
Ad Hoc Payment	Check	19455	1/6/2021	20.00	PCS	Timothy Muir/Risa Matsumoto (cust #20634; Inv #99412151)
Ad Hoc Payment	Check	19456	1/6/2021	83.00	Peak Reliability	refund duplicate pmt Inv #77027421
Ad Hoc Payment	Check	19457	1/6/2021	73.11	Richard and Sherry Walker	Utility Refunds: 0079013100-09
Ad Hoc Payment	Check	19458	1/6/2021	95.00	SPH Property One LLC	Utility Refunds: 0066033900-04 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19459	1/6/2021	254.52	Stoner Electric Inc	MPE-292229 refund
Ad Hoc Payment	Check	19460	1/6/2021	18.30	The Estate of Carol J Bardot	Utility Refunds: 0128000648-02
Ad Hoc Payment	Check	19461	1/6/2021	20.00	Toni Dorenda	refund overpmt alarm inv #99422346
Ad Hoc Payment	Check	19462	1/6/2021	40.27	Trustee of the Trust for Family,created by the will of Eva M Voldal	Utility Refunds: 0101002042-05
Ad Hoc Payment	Check	19463	1/6/2021	25.00	William Leblanc	refund overpmt pkg cit #7202701233
Supplier Payment	Check	19464	1/6/2021	5,203.20	A-1 Security Metal Fab Inc	
Supplier Payment	Check	19465	1/6/2021	4,841.54	Action Technology Systems	
Supplier Payment	Check	19466	1/6/2021	20.90	Airgas, Inc	
Supplier Payment	Check	19467	1/6/2021	32.14	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	19468	1/6/2021	704.60	Anderson Glass Co	
Supplier Payment	Check	19469	1/6/2021	289.23	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	19470	1/6/2021	7,382.04	Arborscape Ltd Inc	
Supplier Payment	Check	19471	1/6/2021	6,000.00	Arbutus Consulting LLC	
Supplier Payment	Check	19472	1/6/2021	1,699.91	Blairco Inc	
Supplier Payment	Check	19473	1/6/2021	35,982.00	BSK Associates - Remit-To: Supplier BSK Associates	
Supplier Payment	Check	19474	1/6/2021	34,560.00	Cascade View Apartments LLC	
Supplier Payment	Check	19475	1/6/2021	9,586.13	CECO Inc	
Supplier Payment	Check	19476	1/6/2021	600.15	Cellco Partnership - Remit-To: Cellco - Dallas	
Supplier Payment	Check	19477	1/6/2021	17,728.88	Century West Engineering Corp	
Supplier Payment	Check	19478	1/6/2021	25,715.50	CH2M Hill Inc - Remit-To: CH2M - Dallas	
Supplier Payment	Check	19479	1/6/2021	308.25	City of Vancouver - Remit-To: COV - Vehicle Reg	
Supplier Payment	Check	19480	1/6/2021	5,991.43	Clark County Fire District 5	
Supplier Payment	Check	19481	1/6/2021	70.00	Clark County - Remit-To: Reeta Fees	
Supplier Payment	Check	19482	1/6/2021	29.39	Clark Public Utility District No. 1	
Supplier Payment	Check	19483	1/6/2021	15,027.51	Columbia Resource Company	
Supplier Payment	Check	19484	1/6/2021	108.27	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	19485	1/6/2021	193.27	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19486	1/6/2021	6,186.70	CyberSource Corporation - Remit-To: CyberSource - Los Angeles	
Supplier Payment	Check	19487	1/6/2021	3,277.11	Eagle Newspaper Inc	
Supplier Payment	Check	19488	1/6/2021	86.72	Eric Atwell	
Supplier Payment	Check	19489	1/6/2021	162,600.00	ESRI Inc	
Supplier Payment	Check	19490	1/6/2021	56.36	Experian Marketing Solutions - Remit-To: Experian - Los Angeles	
Supplier Payment	Check	19491	1/6/2021	8,472.99	Ferguson Enterprises - Remit-To: Ferguson - Dallas	
Supplier Payment	Check	19492	1/6/2021	906.53	Genuine Parts Company - Remit-To: NAPA - Los Angeles	
Supplier Payment	Check	19493	1/6/2021	6,639.50	Halbert Construction Services LLC	
Supplier Payment	Check	19494	1/6/2021	560.00	Harper Houf Peterson Righellis Inc	
Supplier Payment	Check	19495	1/6/2021	747.45	H D Fowler Company Inc	
Supplier Payment	Check	19496	1/6/2021	4,583.34	Hispanic Metropolitan Chamber	
Supplier Payment	Check	19497	1/6/2021	67.21	J-2 Blueprint Supply Co.	
Supplier Payment	Check	19498	1/6/2021	97,345.58	Jeffrey Barrar PS	
Supplier Payment	Check	19499	1/6/2021	122.00	Keating Bucklin & McCormack Inc PS	
Supplier Payment	Check	19500	1/6/2021	3,274.68	King County Directors Association Purchasing Department	
Supplier Payment	Check	19501	1/6/2021	8,842.50	Lee Weinstein	
Supplier Payment	Check	19502	1/6/2021	37.50	Marquam Group LTD	
Supplier Payment	Check	19503	1/6/2021	1,000.00	Message Gears LLC	
Supplier Payment	Check	19504	1/6/2021	47,873.11	NetMotion Software Inc	
Supplier Payment	Check	19505	1/6/2021	26,359.00	Newco Inc.	
Supplier Payment	Check	19506	1/6/2021	62,107.21	Northeast Electric LLC	
Supplier Payment	Check	19507	1/6/2021	8,072.55	OSW Equipment & Repair, LLC - Remit-To: OSW Equipment & Repair, LLC	
Supplier Payment	Check	19508	1/6/2021	1,239.01	PMI Truck Bodies Inc	
Supplier Payment	Check	19509	1/6/2021	2,618.00	Quick Caption Inc	
Supplier Payment	Check	19510	1/6/2021	5,217.50	Scott Edwards Architecture LLP	
Supplier Payment	Check	19511	1/6/2021	181,091.96	SDB Contracting Services	
Supplier Payment	Check	19512	1/6/2021	4.83	Shred It USA LLC	
Supplier Payment	Check	19513	1/6/2021	7,856.66	Shrums Pest Control	
Supplier Payment	Check	19514	1/6/2021	14.45	United Parcel Service	
Supplier Payment	Check	19515	1/6/2021	476.43	United States Dosimetry Technology Inc	
Supplier Payment	Check	19516	1/6/2021	14,782.76	Wire Works LLC	
Supplier Payment	Check	19517	1/6/2021	2,127.67	WW Grainger Inc	
Supplier Payment	Check	19518	1/6/2021	118.66	XPO Logistics Enterprise Services, Inc - Remit-To: XPO - Portland	
Supplier Payment	Check	19519	1/6/2021	22.00	Northwest Natural Gas Company - Remit-To: NW Natural - Portland	
Supplier Payment	Check	19520	1/6/2021	6,921.33	Northwest Staffing Resources Inc - Remit-To: NW Staffing - Portland	
Supplier Payment	Check	19521	1/6/2021	7,617.00	Pacifica Law Group LLP	
Supplier Payment	Check	19522	1/6/2021	62.18	Qwest Corp - Remit-To: Qwest Corp- Seattle	
Supplier Payment	Check	19523	1/6/2021	29,041.50	Summit Law Group	
Supplier Payment	Check	19524	1/6/2021	14.45	United Parcel Service	
Supplier Payment	Check	19525	1/6/2021	13,167.90	Williams Kastner & Gibbs PLLC	
Supplier Payment	Check	19526	1/6/2021	40.69	Ziply Fiber	
Supplier Payment	Check	19527	1/8/2021	8,438.24	Aflac	

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	19528	1/8/2021	5,144.89	AFSCME Local #307	
Supplier Payment	Check	19529	1/8/2021	22,519.45	IAFF Local #452	
Supplier Payment	Check	19530	1/8/2021	682.50	IAM Local #1374	
Supplier Payment	Check	19531	1/8/2021	8,890.72	Life Insurance Company of North America	
Supplier Payment	Check	19532	1/8/2021	575.00	MFS Service Center Inc	
Supplier Payment	Check	19533	1/8/2021	25.00	OPEIU Local #11	
Supplier Payment	Check	19534	1/8/2021	4,150.29	OPEIU Local #11	
Supplier Payment	Check	19535	1/8/2021	517.23	Teamsters Local #58	
Supplier Payment	Check	19536	1/8/2021	293.33	UA Local #290	
Supplier Payment	Check	19537	1/8/2021	10,399.13	Vancouver Police Officer Guild	
Supplier Payment	Check	19538	1/8/2021	2,604.81	Western Conference of Teamsters	
Supplier Payment	Check	19539	1/8/2021	1,352.00	Western Metal Industry Pension Plan	
Customer Refund	Check	19540	1/13/2021	51.64	TROY VICKERY	STAYS Overpayment
Ad Hoc Payment	Check	19541	1/13/2021	50.74	Amy Armstrong	Utility Refunds: 0061034745-02
Ad Hoc Payment	Check	19542	1/13/2021	100.00	Andrea Huckabay	210109 Treefund
Ad Hoc Payment	Check	19543	1/13/2021	100.00	Anna Haagenson	210109 Treefund
Ad Hoc Payment	Check	19544	1/13/2021	150.00	Charles Kupchick	210109 Treefund
Ad Hoc Payment	Check	19545	1/13/2021	75.10	Christopher and Kendra Oliveira	Utility Refunds: 0000008302-03
Ad Hoc Payment	Check	19546	1/13/2021	93.00	Daniel and Irene Hyson	Utility Refunds: 0000008724-02
Ad Hoc Payment	Check	19547	1/13/2021	103.79	Daniel Hyson	Utility Refunds: 0000008724-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19548	1/13/2021	485.52	DELIA SEAMAN	VOUCHER 2008020.030
Ad Hoc Payment	Check	19549	1/13/2021	128.87	DONALD STANTON	Utility Refunds: 0086013857-01
Ad Hoc Payment	Check	19550	1/13/2021	58.40	Eric Olson Electric Inc	MPE-290878 refund
Ad Hoc Payment	Check	19551	1/13/2021	2,906.00	Gordon Kiyokawa	LUP-80238 refund
Ad Hoc Payment	Check	19552	1/13/2021	238.54	Igor and Olga Olefirenko	Utility Refunds: 0000007303-02
Ad Hoc Payment	Check	19553	1/13/2021	150.55	Invest West Mgmt.	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	19554	1/13/2021	58.40	J & M Services	MPE-285151 refund
Ad Hoc Payment	Check	19555	1/13/2021	277.00	Jason & Elana Beck	Utility Refunds: 0091011929-16
Ad Hoc Payment	Check	19556	1/13/2021	48.00	Jason Beck	Utility Refunds: 0091011929-16
Ad Hoc Payment	Check	19557	1/13/2021	19.29	Karen Percy	Utility Refunds: 0149001010-01
Ad Hoc Payment	Check	19558	1/13/2021	108.94	Katie M Law	Utility Refunds: 0061034760-07
Ad Hoc Payment	Check	19559	1/13/2021	77.30	Kevin K Lee	Utility Refunds: 0126006440-04
Ad Hoc Payment	Check	19560	1/13/2021	25.96	Kimberly Clay	Utility Refunds: 0088080810-06
Ad Hoc Payment	Check	19561	1/13/2021	196.00	Lori and David Howard	Utility Refunds: 0044091800-08 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19562	1/13/2021	108.27	Lyubov Mikhmo	Utility Refunds: 0147042000-02 Consolidated refund created from multiple refunds
Ad Hoc Payment	Check	19563	1/13/2021	89.59	Mark A and Carol A Babilon	Utility Refunds: 0130003570-05
Ad Hoc Payment	Check	19564	1/13/2021	74.93	Matthew Suronen	Utility Refunds: 0002000111-02
Ad Hoc Payment	Check	19565	1/13/2021	89.03	Megan McGlohn	refund pkg permit COV08764
Ad Hoc Payment	Check	19566	1/13/2021	40.41	Miguel Olmos	Utility Refunds: 0096450122-03
Ad Hoc Payment	Check	19567	1/13/2021	219.00	NW Security & Const Srvcs LLC	FRI-292677 refund
Ad Hoc Payment	Check	19568	1/13/2021	4.06	PCS	Indoor Garden Supply (cust #T-3376; inv #99333265)
Ad Hoc Payment	Check	19569	1/13/2021	20.00	PCS	Rochelle Hoek (cust #19849; inv #99409889)
Ad Hoc Payment	Check	19570	1/13/2021	281.61	Rasim and Sabiha Pamic	Utility Refunds: 0500001084-02
Ad Hoc Payment	Check	19571	1/13/2021	108.02	Reinhard Bohme and Kathryn Hobbie	Utility Refunds: 0027059301-04
Ad Hoc Payment	Check	19572	1/13/2021	170.26	Shanna and Francis Castro	Utility Refunds: 0113016014-03
Ad Hoc Payment	Check	19573	1/13/2021	43.79	Sung Mack and Su Hyun Kim	Utility Refunds: 0137006070-09
Ad Hoc Payment	Check	19574	1/13/2021	125.03	The Estate of Allen W Crisifulli	Utility Refunds: 0077000486-05
Ad Hoc Payment	Check	19575	1/13/2021	16.62	The Estate of Jacqueline Deckman	Utility Refunds: 0129003614-02
Ad Hoc Payment	Check	19576	1/13/2021	168.51	Trevis and Rebecca Smith	Utility Refunds: 0016048400-02

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Ad Hoc Payment	Check	19577	1/13/2021	168.51	Trevis Smith	Utility Refunds: 0016048400-02
Ad Hoc Payment	Check	19578	1/13/2021	76.89	VECA Electric Co Inc	MPE-287645 refund
Ad Hoc Payment	Check	19579	1/13/2021	20.00	Walnut Grove Church	refund overpmt alarm inv #99422792
Supplier Payment	Check	19580	1/13/2021	5,940.00	Action Onsite Inc	
Supplier Payment	Check	19581	1/13/2021	84.00	ADK Electric Inc	
Supplier Payment	Check	19582	1/13/2021	619.18	Albina Holdings Inc	
Supplier Payment	Check	19583	1/13/2021	524.32	A-Line Asphalt Maintenance Inc	
Supplier Payment	Check	19584	1/13/2021	798.00	Allegheny Answering Services	
Supplier Payment	Check	19585	1/13/2021	2,739.50	Allegiance Benefit Plan Management Inc	
Supplier Payment	Check	19586	1/13/2021	121.80	American Sani-Can	
Supplier Payment	Check	19587	1/13/2021	2,685.37	Anderson Glass Co	
Supplier Payment	Check	19588	1/13/2021	213.31	Aramark Uniform & Career Apparel LLC - Remit-To: Aramark - Pasadena	
Supplier Payment	Check	19589	1/13/2021	15,826.40	Arborscape Ltd Inc	
Supplier Payment	Check	19590	1/13/2021	90,668.00	Association of Washington Cities	
Supplier Payment	Check	19591	1/13/2021	6,775.00	Bentley Systems Incorporated	
Supplier Payment	Check	19592	1/13/2021	138.97	Bound Tree Medical LLC	
Supplier Payment	Check	19593	1/13/2021	5,416.75	Brown and Caldwell - Remit-To: Brown & Caldwell - San Francisco	
Supplier Payment	Check	19594	1/13/2021	7,982.50	Cascadia Consulting Group Inc	
Supplier Payment	Check	19595	1/13/2021	10,092.61	CECO Inc	
Supplier Payment	Check	19596	1/13/2021	495.32	Cellco Partnership - Remit-To: Cellco - Dallas	
Supplier Payment	Check	19597	1/13/2021	10,041.93	CFM Strategic Communications Inc	
Supplier Payment	Check	19598	1/13/2021	3,986.26	CH2M Hill Inc - Remit-To: CH2M - Dallas	
Supplier Payment	Check	19599	1/13/2021	1,661.74	Cintas	
Supplier Payment	Check	19600	1/13/2021	50.00	City of Vancouver - Remit-To: COV Main	
Supplier Payment	Check	19601	1/13/2021	2,200.00	Clark County	
Supplier Payment	Check	19602	1/13/2021	567.83	Clark Public Utility District No. 1	
Supplier Payment	Check	19603	1/13/2021	1,043.16	Clark Public Utility District No. 1	
Supplier Payment	Check	19604	1/13/2021	1,735.39	Clark Public Utility District No. 1	
Supplier Payment	Check	19605	1/13/2021	379.10	Clark Public Utility District No. 1	
Supplier Payment	Check	19606	1/13/2021	1,248.86	Clark Public Utility District No. 1	
Supplier Payment	Check	19607	1/13/2021	27,382.21	Columbia Resource Company	
Supplier Payment	Check	19608	1/13/2021	114.90	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19609	1/13/2021	116.04	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19610	1/13/2021	241.10	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19611	1/13/2021	110.99	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19612	1/13/2021	24.91	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19613	1/13/2021	109.90	Comcast Holdings Corporation - Remit-To: Comcast Business - City of Industry	
Supplier Payment	Check	19614	1/13/2021	17,585.39	Copiers Northwest	
Supplier Payment	Check	19615	1/13/2021	4.26	Corporate Translation Services Inc	
Supplier Payment	Check	19616	1/13/2021	37,401.21	Del Sol Inc	
Supplier Payment	Check	19617	1/13/2021	3,615.15	Distinctive Landscape LLC	
Supplier Payment	Check	19618	1/13/2021	17,122.99	DLT Solutions LLC	
Supplier Payment	Check	19619	1/13/2021	275.00	ERF Company Inc	
Supplier Payment	Check	19620	1/13/2021	700.00	Evergreen Rural Water Of Washington	
Supplier Payment	Check	19621	1/13/2021	850.00	Examworks Inc	

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	19622	1/13/2021	255.21	Ferguson Enterprises - Remit-To: Ferguson - Dallas	
Supplier Payment	Check	19623	1/13/2021	6,700.00	Financial Consulting Solutions Group Inc	
Supplier Payment	Check	19624	1/13/2021	3,116.00	Gray & Osborne Inc	
Supplier Payment	Check	19625	1/13/2021	19,326.00	H&H Wood Recyclers	
Supplier Payment	Check	19626	1/13/2021	1,130.35	Industrial Scientific Corporation - Remit-To: Industrial Scientific Corp - Pittsburgh	
Supplier Payment	Check	19627	1/13/2021	1,081.99	Iron Mountain Inc - Remit-To: Iron Mountain - New York	
Supplier Payment	Check	19628	1/13/2021	1,400.00	Jack M Litman Phd	
Supplier Payment	Check	19629	1/13/2021	7,867.50	Jensen Hughes Inc	
Supplier Payment	Check	19630	1/13/2021	216.00	Julia Thornton Investigative & Consulting Services	
Supplier Payment	Check	19631	1/13/2021	14,194.98	King County Directors Association Purchasing Department	
Supplier Payment	Check	19632	1/13/2021	1,084.00	Kurita America Inc - Remit-To: US Water - Minneapolis	
Supplier Payment	Check	19633	1/13/2021	908.77	L.N. Curtis & Sons - Remit-To: Supplier L.N. Curtis & Sons	
Supplier Payment	Check	19634	1/13/2021	5,266.84	Lakeside Industries Inc - Remit-To: Lakeside - LB Seattle	
Supplier Payment	Check	19635	1/13/2021	9,657.50	Lee Weinstein	
Supplier Payment	Check	19636	1/13/2021	1,650.00	LSW Architects PC	
Supplier Payment	Check	19637	1/13/2021	56,550.70	Magnum Power LLC	
Supplier Payment	Check	19638	1/13/2021	146.34	Mark IV Enterprises Inc	
Supplier Payment	Check	19639	1/13/2021	8,642.91	Municipal Emergency Services Inc - Remit-To: Municipal Emergency Services - Chicago	
Supplier Payment	Check	19640	1/13/2021	53,998.46	Nelson Nygaard Consulting Associates Inc - Remit-To: Nelson Nygaard Consulting Associates Inc	
Supplier Payment	Check	19641	1/13/2021	381.80	Net Transcripts Inc	
Supplier Payment	Check	19642	1/13/2021	455.64	Northwest Cascade Inc	
Supplier Payment	Check	19643	1/13/2021	9,907.18	Northwest Natural Gas Company - Remit-To: NW Natural - Portland	
Supplier Payment	Check	19644	1/13/2021	1,355.00	Northwest Playground Inc	
Supplier Payment	Check	19645	1/13/2021	1,335.36	One Call Concepts Inc	
Supplier Payment	Check	19646	1/13/2021	125.00	Paul Lewis	
Supplier Payment	Check	19647	1/13/2021	22,009.05	PBS Engineering and Environmental Inc	
Supplier Payment	Check	19648	1/13/2021	67,797.17	PC Specialists Inc - Remit-To: TIG - San Diego	
Supplier Payment	Check	19649	1/13/2021	1,040.64	Pitney Bowes Inc	
Supplier Payment	Check	19650	1/13/2021	1,280.50	Porter W Yett Company	
Supplier Payment	Check	19651	1/13/2021	2,407.84	Portland Adventist Medical Center	
Supplier Payment	Check	19652	1/13/2021	1,341.45	Portland Mechanical Construction LLC	
Supplier Payment	Check	19653	1/13/2021	33,549.14	PPC Solutions Inc	
Supplier Payment	Check	19654	1/13/2021	208.67	Rentokil North America Inc	
Supplier Payment	Check	19655	1/13/2021	1,200.00	Rodney Lewis Hill	
Supplier Payment	Check	19656	1/13/2021	11,687.50	Sherwood Lumber Co	
Supplier Payment	Check	19657	1/13/2021	904,649.28	Software House International SHI - Remit-To: SHI - Dallas	
Supplier Payment	Check	19658	1/13/2021	1,029.80	Soha Sign	
Supplier Payment	Check	19659	1/13/2021	2,829.75	Southwest Clean Air Agency	
Supplier Payment	Check	19660	1/13/2021	20,135.00	Southwest Washington Humane Society	
Supplier Payment	Check	19661	1/13/2021	51.80	Stericycle Inc	
Supplier Payment	Check	19662	1/13/2021	21,991.30	The 4 Kids Inc	
Supplier Payment	Check	19663	1/13/2021	355.55	TLC Towing	

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Payment Category	Payment Type	Check Number	Payment Date	Payment Amount	Payment Payee	Payment Memo if applicable
Supplier Payment	Check	19664	1/13/2021	678.47	Transunion Risk & Alternative Data Solutions Inc	
Supplier Payment	Check	19665	1/13/2021	11,220.00	Triangle Resources Inc	
Supplier Payment	Check	19666	1/13/2021	460.70	Triple J Enterprises	
Supplier Payment	Check	19667	1/13/2021	15.45	United Parcel Service	
Supplier Payment	Check	19668	1/13/2021	26.00	Vancouver Aire LLC	
Supplier Payment	Check	19669	1/13/2021	13,462.00	Vancouver Downtown Association	
Supplier Payment	Check	19670	1/13/2021	81.30	Vancouver Granite Works Inc	
Supplier Payment	Check	19671	1/13/2021	946.33	Walter E Nelson Company	
Supplier Payment	Check	19672	1/13/2021	100.00	Washington Association of Telecommunications Officers and Advisors (WATOA)	
Supplier Payment	Check	19673	1/13/2021	36,141.50	Waste Connections of Washington - Remit-To: Waste Connections - Vancouver	
Supplier Payment	Check	19674	1/13/2021	838.54	Western Equipment Distributors - Remit-To: Western Equipment - Los Angeles	
Supplier Payment	Check	19675	1/13/2021	30,129.68	Wilson Oil Inc	
Supplier Payment	Check	19676	1/13/2021	23.57	XPO Logistics Enterprise Services, Inc - Remit-To: XPO - Portland	
Supplier Payment	Check	19677	1/13/2021	12,510.04	YOLO Washington LLC	
Supplier Payment	Check	19678	1/13/2021	6,445.40	Qwest Corp - Remit-To: Qwest Corp- Seattle	
Supplier Payment	Check	19679	1/13/2021	8,434.96	Waste Connections of Washington - Remit-To: Waste Connections - Vancouver	
			SUBTOTAL	**11,871,092.83**		
Hansen			1/11/2021	276,399.55	City Payments	Posted 01-04-21 to 01-10-21
Hansen			1/19/2021	3,446.07	City Payments	Posted 01-11-21 to 01-17-21
			SUBTOTAL	**279,845.62**		
Visa			1/11/2021	18.00	Miscellaneous	Parks Class Refunds - FCC 01-04-21 to 01-10-21
Visa			1/11/2021	0.00	Miscellaneous	Parks Class Refunds - MCC 01-04-21 to 01-10-21
Visa			1/11/2021	0.00	Miscellaneous	Parks Class Refunds - Special Events 01-04-21 to 01-10-21
Visa			1/11/2021	0.00	Miscellaneous	Parks Class Refunds - WREC 01-04-21 to 01-10-21
Visa			1/19/2021	8.00	Miscellaneous	Parks Class Refunds - FCC 01-11-21 to 01-17-21
Visa			1/19/2021	0.00	Miscellaneous	Parks Class Refunds - MCC 01-11-21 to 01-17-21
Visa			1/19/2021	0.00	Miscellaneous	Parks Class Refunds - Special Events 01-11-21 to 01-17-21
Visa			1/19/2021	0.00	Miscellaneous	Parks Class Refunds - WREC 01-11-21 to 01-17-21
			SUBTOTAL	**26.00**		
			TOTAL	**12,150,964.45**		

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

City of Vancouver
Payroll Council Report
January 5, 2021 - January 18, 2021

Check No.	Date	Explanation	Amount	
2824 - 2831	01/08/21	1 2021 Payroll	$	7,012.42
84454 - 86132	01/08/21	2 2021 Direct Deposits	$	3,095,580.16
86173	01/12/21	Additional Payment	$	2,422.64

$ 3,105,015.22

City Council Public Hearing - Title 14 Code Amendments

January 25, 2021

Chris Malone

Public Works Finance and Asset Manager

CITY OF Vancouver WASHINGTON

Proposed code revisions

- Vancouver Municipal Code (VMC) 14.04.190 (K) 2:
  - Increase utility customer emergency assistance credit from $200 to $400 per household.
  - Add sentence allowing Public Works Director to adjust maximum credit administratively on an annual basis.
- VMC 14.04.230 (A) 1:
  - Decreases single-family fixed sewer rate when no prior usage history is available *(8 ccf per month from 10 ccf per month | 1 ccf = 100 cubic feet or 748 gallons.)*
  - Includes minor adjustment to multi-family fixed sewer rate.
- VMC 14.04.230 (A) 2:
  - Update language to reflect year-round sewer usage to be based on average usage in the January to March billing window.

Proposed code revisions continued

- VMC 14.04.230 (A) (2) (E) (1):
  - Update text to be gender neutral.
- VMC 14.04.230 (A) 4:
  - Adjust septage rate to from $140 per 1,000 gallons to $155 per 1,000 gallons to reflect operational and capital costs.
  - Remove reference to tipping fees, Clark County Public Health District, and Septic Preventative Maintenance Program.
  - Add sentence back into ordinance allowing Public Works Director to adjust septage fee administratively on an annual basis.

Proposed code revisions continued

- VMC 14.09.060 (C) 2:
  - Add sentence back into ordinance clarifying how surface water rates shall be calculated for manufactured/mobile home parks.
- VMC 14.09.060 (G):
  - Add language clarifying who qualifies for surface water rate reductions.
  - Add language requiring quality surface water treatment prior to infiltration to qualify for rate reduction.

Questions and Discussion

- Chris Malone -- PW Finance & Asset Management Manager

CITY OF Vancouver WASHINGTON

Item #7.

Staff Report 012-21

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 1/25/2021

SUBJECT Amendments to VMC Title 14

Key Points

- The attached ordinance clarifies several items within the Water, Sewer, Surface Water ordinances pertaining to definitions, regulations, and charges.
- Aligns code with current business practices and policies.

Strategic Plan Alignment

Goal 1: Ensure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.

> **Goal 1, Objective 1.2:** Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Present Situation

Staff continually proposes code updates, clarifications, and changes as needed. The reasons for the changes included with this ordinance are as follows:

- Section 14.04.190 (K) 2 - Increases maximum customer emergency assistance from $200 to $400 per household to keep pace with recent rate increases. The amount has not been adjusted since 2011. Adds a provision to allow for future increases to be done administratively.
- Section 14.04.230 (A) 1 - Decreases the single-family fixed sewer rates to be based on an average monthly usage of 8 CCF from 10 CCF when no usage history is available. This reduction better reflects usage trends over the past several years.
- Section 14.04.230 (A) 2 - Updates language for calculating residential year-round sewer usage based on winter average to reflect current utility billing business practices and policies. Updated text to be gender neutral.
- Section 14.04.230 (A) 4 - Adjusts septage rate from $140.00 to $155.00 per1,000 gallons

to reflect operating and capital increases since 2019. Removes references to tipping fees, Clark County Health District, and Septic System Preventative Maintenance Program since they are no longer applicable. Adds sentence back into ordinance allowing annual administrative adjustments to the septage rate. The sentence was inadvertently left off the November 2020 ordinance update.

- Section 14.09.060 (C) 2 - Adds sentence back into ordinance clarifying how the surface water rate is calculated for mobile homes. The sentence was inadvertently left off the November, 2020 ordinance update.
- Clarifies that Phase 1, Phase 2, or Secondary Permittees qualify for surface water rate reductions provided certain criteria are met as listed in the ordinance.

Advantage(s)

1. Aligns code with current business practices and policies.
2. Corrects minor errors in the code.
3. Provides more clarity to rate payers.
4. Ensures utilities are collecting appropriate revenues for certain services provided.

Disadvantage(s)

Septage fees will be increased.

Budget Impact

The proposed changes will have negligible impacts on the budget of the Water, Sewer, and Surface Water utilities. The proposed increase in septage fees is estimated to generate approximately $116,000 in additional annual revenue.

Prior Council Review

Briefing memo delivered Dec. 29, 2020.

Action Requested

On Monday, January 25, 2021, subject to second reading and public hearing, approve the ordinance.

Chris Malone, Public Works Finance and Asset Manager, 360-487-7711

ATTACHMENTS:

- Ordinance
- Summary of proposed changes to VMC 14
- Presentation
- Background memo

01/11/21
01/25/21

ORDINANCE NO. M-_____

AN ORDINANCE related to the sewer and surface water utility user charges, amending Vancouver Municipal Code Sections 14.04.190, 14.04.230 and 14.09.060; providing for a savings clause, and providing for an effective date.

WHEREAS, it is in the public interest to amend certain sections of Title 14 of the Vancouver Municipal Code ("VMC") to reflect current billing policies and practices; update the customer emergency assistance maximum credit; correct outdated information about discharging septage; and clarify who qualifies for surface water rate reductions; and

WHEREAS, with proper notice to the public, the City Council conducted a first reading of the proposed ordinance on January 11, 2021, and a public hearing concerning the ordinance and proposed code changes on January 25, 2021.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

SECTION 1. Vancouver Municipal Code Section 14.04.190, as last amended by Ordinance M-4022, Section 12, is hereby amended to read as follows:

Section 14.04.190 Billing procedure and conditions.

A. *Billing Period.* Bills for metered water service shall be rendered according to the registration of the meter at regular intervals and shall be due and payable upon mailing. Bills shall clearly state when they will be considered delinquent; provided that no bill shall be considered delinquent until at least fifteen days after mailing.

B. *Reading Meters.* Residential meters shall be read as nearly as possible at regular intervals, unless otherwise arranged by the department. There shall be no special vacation rate or reduction made on any water bill because of part-time or restricted use. If a meter is pulled and the account is closed at the customer's request or if the account has been inactive for more than five (5) years, upon installation of a new meter, all new meter installation fees shall apply.

C. *Billing When Meter Unread.* On metered service where the meter has not been read, the bill rendered shall be an average bill for the preceding year or applicable portion of year.

D. *Billing for Special Periods.* Opening and closing bills and bills for water service for periods less than the regular intervals shall be calculated on a pro rata basis.

E. *Bills for Special Services.* All bills for service charges, material and labor furnished, contributions to extensions and other authorized charges, shall be due and payable immediately upon presentation. If such bills are not paid, the department may refuse to furnish water service, and may shut off and discontinue service already being supplied until all bills are paid, and this without prejudice to its right to collect all amounts theretofore due.

F. *Separate Billing for Separate Meters.* When one customer is served by more than one meter on separate service lines, the meter minimum for each meter and the surcharge for water supplied may be calculated and billed separately.

G. *Responsibility for Joint Use.* When more than one consumer, whether a family, business, or other person, receives water through one meter on a single service line, in one building, and it is found impractical by the department to separate the water piping for each consumer, the customer shall be solely responsible and shall pay the total bill for such joint water service.

H. *Joint Consumer Responsibility.* All service to joint consumers shall be on the basis that if it becomes necessary to enforce these rules and regulations against any or all joint consumers that the department shall have the right to shut off the entire supply to all the joint consumers. Separate meters shall be installed and separate bills rendered to each consumer if the customer separates the piping and installs individual supply pipes from the property line.

I. *Separate Billings Required.* When two or more houses, buildings or other premises occupied by separate consumers are supplied from a single service connection, the customer shall immediately, upon notice from the department, separate each customer's lines and connect up individually to meters at the property line, and if separate services are not established within a reasonable time thereafter, the department may shut off the water and refuse further service to all such consumers.

J. *Billing Before Lines are Separated*. Until the joint consumer lines are separated, computation of the total bill shall be made by multiplying the quantity in each bracket of the rate schedule by the number of consumers on one meter. The minimum charge shall be the regular minimum charge multiplied by the number of consumers served.

K. *Customer Emergency Assistance.*

1. *Eligibility.* Upon satisfactory proof, emergency assistance may be issued to each household for which:

a. A member of the household is billed by the city for water services;

b. The household has been verified by the city or the city's agent:

1. To have an annual income that, when combined with the annual income of all household members, meets the eligibility standards for the Low Income Energy Assistance Program (LIHEAP) authorized by the Low Income Home Energy Assistance Act of 1981, the Omnibus Budget Reconciliation Act of 1981, the Energy Policy Act of 2005, Public Law 109-58; and

2. To not receive subsidized housing assistance.

c. The household has received notice from the city that payment or payment arrangements must be made to prevent disconnection;

d. The household is served with city water service at a residential, single-family account.

2. *Emergency credit – Maximum.* Upon verification of eligibility, the household may receive an emergency credit of a maximum of ~~two~~ four hundred ~~($200)~~ dollars ($400) of the delinquent bill for the service address; provided that the household may only receive such credit once in a twenty-four (24) calendar month period. The household emergency credit maximum may be adjusted not more than once per calendar year by the Director to address the impacts of future rate increases.

3. *Administrative rules and procedures.* Pursuant to VMC 14.04.020 and this section, the Director of Public Works jointly with the Director of Financial and Management Services shall promulgate administrative rules and procedures not inconsistent with this section to implement the customer emergency assistance program.

SECTION 2. Vancouver Municipal Code Section 14.04.230 as last amended by Ordinance M-4315, Section 2 is hereby amended to read as follows:

Section 14.04.230 Sanitary sewer service--User charges.

A. *Monthly User Charges*.

1. *Residential Customers*. Each residential customer shall pay a monthly user charge as follows:

Effective January 1, 2020

Customer Class	Inside City Limits	Outside City Limits
a. Single-Family Residential	$58.04 per mo. or $5.80 CCF	$87.06 per mo. or $8.71 per CCF
b. Multi-Family Residential	$46.43 per mo. or $5.80 per CCF	$69.65 per mo. or $8.71 per CCF
c. Non-Profit Shelter	$1.57 per CCF	$2.35 per CCF

Effective January 1, 2021

Customer Class	Inside City Limits	Outside City Limits
a. Single-Family Residential	$~~59.78~~ $47.84 per mo. or $5.98 per CCF	~~$89.67~~ $71.76 per mo. or $8.97 per CCF
b. Multi-Family Residential	~~$47.83~~ $47.84 per mo. or $5.98 per CCF	~~$71.74~~ $71.76 per mo. or $8.97 per CCF
c. Non-Profit Shelter	$1.62 per CCF	$2.42 per CCF

Effective January 1, 2022

Customer Class	Inside City Limits	Outside City Limits
a. Single-Family Residential	~~$61.58~~ $49.28 per mo. or $6.16 per CCF	~~$92.36~~ $73.92 per mo. or $9.24 per CCF
b. Multi-Family Residential	~~$49.26~~ $49.28 per mo. or $6.16 per CCF	~~$73.89~~ $73.92 per mo. or $9.24 per CCF
c. Non-Profit Shelter	$1.66 per CCF	$2.50 per CCF

2. Sewer charges for each single-family or multifamily residential customer shall be based upon that customer's average water usage, recorded when meters are normally read for billing purposes, within the previous January-March window.~~either in the previous November/January billing period or in the previous December/February billing period~~

~~provided~~ ~~e~~Each customer, other than qualifying low-income seniors as defined in subsection (A)(2)(E) ~~2(e)~~ of this section, is subject to a minimum volume charge of 3 CCF per month.

A. Single-family or multi-family residential customers ~~who have "a complete two-month water consumption history" in either of the two billing periods specified above,~~ shall be charged an average 60 day consumption of the billing periods specified above at the applicable inside city or outside city rate per CCF for sewer as set forth in ~~section 1 above~~ subsection (A)(1) of this section. For new accounts in which the two month water consumption history has not been established, the Director may establish an interim rate ~~may be established by the Director of Public Works~~ in accordance with department policies. The Director ~~of Public Works~~ shall approve a written policy for the setting of this interim rate that will include, but not be limited to, how the interim rate is calculated.

B. The applicable inside city or outside city flat rate set forth in ~~section 1 above~~ subsection (A)(1) of this section shall be used as the monthly sewer billing rate for any customer for whom for any reason the provisions of this subsection cannot be used.

C. The Utilities Division shall develop written rules consistent with this subsection and this ordinance for the fair and efficient administration of such sewer rate.

D. For the purpose of applying the rates as set forth in subsection (A)(1)(c) above, the term “non-profit shelter” shall be defined to mean a facility operated by a non-profit organization that provides clients with on-site food, beds or shelter for free or at significantly below market rates.

E. For the purpose of applying the low income senior minimum sewer flow waiver as set forth in subsection (A)(2) above, applicants shall meet the following:

1. Applications shall be obtained from and filed with the ~~Public Works director, or his or her~~ Director or their designee. The application shall be on a form prescribed by the ~~Public Works director~~ Director, and shall contain the information necessary to evaluate the applicant's qualification for the low income senior minimum sewer flow waiver.

a. Submission of an application for a utility discount shall constitute a verification by the applicant that all information provided in such application is true and correct to the best of the applicant's knowledge.

b. Once approved by the department, the application shall become effective the next billing cycle after approval of the application.

c. Each application is effective for 12 months commencing the first month the reduced rate becomes effective for the applicant. It shall be the sole responsibility of the applicant to reapply for successive 12-month periods of eligibility.

d. The rate reduction shall only apply to utility charges for service to a residence. The residence for which the rate reduction is requested must be the applicant's principal place of residence.

e. The applicant must be the head of the household for the residence for which the rate reduction is requested.

f. The utility account must be in the applicant's name or the name of the applicant's spouse.

2. For purposes of this section, the term "low-income senior" shall be defined as follows:

a. Be 62 years of age or older at all times during any period for which a minimum sewer flow waiver is requested; and

b. Have been a sewer customer of the city at all times during any period for which a minimum sewer flow waiver is requested; and

c. Have an income during the calendar year or portion thereof for which a minimum sewer flow waiver is requested, from all sources whatsoever, either (1) not exceeding 200 percent of the Federal Poverty Guidelines for a household of any size as published by the Secretary of Housing and Urban Development or (2) not exceeding the income qualification for low-income seniors set forth in RCW 84.36.381(5)(a), whichever is greater.

3. *Commercial, Industrial, Electronics and Government Customers*. Each such customer shall pay a monthly user charge per hundred cubic feet (CCF) as follows; provided, each such customer is subject to a minimum user charge equal to the applicable inside or outside city flat monthly rate for one single-family service set forth in subsection (A)(1) of this section:

Effective January 1, 2020:

Customer Class	Inside City Limits	Outside City Limits
a. Commercial	$6.80 per CCF	$10.20 per CCF
b. Government	$4.16 per CCF	$6.24 per CCF
c. Industrial	$7.04 per CCF	$10.56 per CCF
d. Electronics	$5.18 per CCF[15]	$7.77 per CCF[16]

Notes for Electronic Customer Class - Effective January 1, 2020 - December 31, 2020:

[15] For monthly average flows above 2.88 million gallons per day, the rate shall be $4.14 per CCF.

[16] For monthly average flows above 2.88 million gallons per day, the rate shall be $6.21 per CCF.

Effective January 1, 2021:

Customer Class	Inside City Limits	Outside City Limits
a. Commercial	$7.01 per CCF	$10.51 per CCF
b. Government	$4.28 per CCF	$6.42 per CCF
c. Industrial	$7.25 per CCF	$10.87 per CCF
d. Electronics	$5.33 per CCF[17]	$8.00 per CCF[18]

Notes for Electronic Customer Class - Effective January 1, 2021 - December 31, 2021:

[17] For monthly average flows above 2.88 million gallons per day, the rate shall be $4.27 per CCF.

[18] For monthly average flows above 2.88 million gallons per day, the rate shall be $6.40 per CCF.

Effective January 1, 2022:

Customer Class	Inside City Limits	Outside City Limits
a. Commercial	$7.22 per CCF	$10.82 per CCF
b. Government	$4.41 per CCF	$6.62 per CCF
c. Industrial	$7.47 per CCF	$11.20 per CCF
d. Electronics	$5.49 per CCF[19]	$8.24 per CCF[20]

Notes for Electronic Customer Class - Effective January 1, 2022 - December 31, 2022:

[19] For monthly average flows above 2.88 million gallons per day, the rate shall be $4.39 per CCF.

[20] For monthly average flows above 2.88 million gallons per day, the rate shall be $6.59 per CCF.

4. The rate for discharging septage at the City's Publicly Owned Treatment Works (POTW) as provided for in ~~VMC~~Chapter 5.72 VMC effective January 1, ~~2013~~2021, shall be $155.00 for each one thousand (1,000) gallons, or fraction thereof discharged in to the POTW. ~~If required, there shall also be added to such charge a tipping fee as determined by the Clark County Public Health District to support the Department's Septic System Preventive Maintenance Program.~~ The rate for discharging septage at the city's POTW may be adjusted not more than once per calendar year by the Director to address the unique operational and capital needs associated with providing this service.

5. ~~INDUSTRIAL CUSTOMER~~"Industrial customer" is defined as an industrial user of the

public sewer system who:

a. Has a discharge flow of ten thousand gallons or processed wastewater or more per average work
day; or

b. Has a concentration of biochemical oxygen demand (BOD) and suspended solids (SS) in excess of two hundred milligrams per liter per average work day; or

c. Is found by the city, State Department or Ecology or U.S. Environmental Protection Agency to have potential for a significant impact on the wastewater treatment system.

6. ~~ELECTRONICS USER~~ <u>"Electronics user"</u> is defined as an industrial user of the public sewer system who:

a. Has a discharge flow of five hundred thousand gallons or more per average work day; and

b. Has a concentration of biochemical oxygen demand (BOD) and suspended solids (SS) less than two hundred milligrams per liter per average work day.

B. *Liquids Not Originating From City Water System*. Any person discharging into the city sanitary sewerage system sewage which has in it liquids which did not originate from the city water system shall meter or measure by some method approved by the Director ~~of Public Works~~ all water used in the premises, whether the water is obtained from the municipal water supply system or from wells, private water systems or other sources.

C. *Used Water Not Flowing Into Sewer System*. Where the user of water is such that a portion of all of the water used does not flow into a city sewer but is lost by evaporation or is used in manufacture or processes such as ice, beverages, foods or the like and the person in control provides proof of this fact and installs a meter or other measuring device approved by the Director ~~of Public Works~~ to measure the amount of water so used or lost, no charge shall be made for sewerage because of water so used or lost.

D. *Computation of Utility Rates*. For the purpose of computing water and sewer bills, all residences, regardless of number of units, shall be deemed residential, and each unit therein shall be deemed a residence. All other uses shall be deemed commercial, industrial or government.

SECTION 3. Vancouver Municipal Code Section 14.09.060, as last amended by Ordinance M-4315, Section 3, is hereby amended to read as follows:

Section 14.09.060 Rates for storm and surface water management.

A. Because all real property in the city contributes stormwater runoff to and/or benefits from the city's stormwater system, the owners thereof shall pay monthly charges as set forth in this section. Monthly charges will have two components as follows:

1. *Operation and Maintenance*. To provide for administrative and field operations,

billing, accounting, and for the maintenance, repair and upgrade of existing stormwater facilities.

2. *Capital Expenditures*. To provide for basin-wide and system master planning and subsequent capital improvement projects as identified in the stormwater capital plan.

B. The water and sewer utility is authorized to establish charges for the use and discharge to the city's stormwater system. Such charges shall be based on the cost of providing stormwater service to all properties within the city and may be different for properties receiving different classes of service. Monthly charges shall be established as follows:

Effective January 1, 2020

Single Family	**Multi-Family**	**Commercial**	**Industrial**
$11.80 per month	$11.80 per 2,500 sq. ft. hard surface per month ($11.80 minimum)	$11.80 per 2,500 sq. ft. hard surface per month ($11.80 minimum)	$11.80 per 2,500 sq. ft. hard surface per month ($11.80 minimum)

Effective January 1, 2021

Single Family	**Multi-Family**	**Commercial**	**Industrial**
$12.39 per month	$12.39 per 2,500 sq. ft. hard surface per month ($12.39 minimum)	$12.39 per 2,500 sq. ft. hard surface per month ($12.39 minimum)	$12.39 per 2,500 sq. ft. hard surface per month ($12.39 minimum)

Effective January 1, 2022

Single Family	Multi-Family	Commercial	Industrial
$13.01 month	$13.01 per 2,500 sq. ft. hard surface per month ($13.01 minimum)	$13.01 per 2,500 sq. ft. hard surface per month ($13.01 minimum)	$13.01 per 2,500 sq. ft. hard surface per month ($13.01 minimum)

C. "Multi-family customer" class shall apply to customers with living units that share a common wall.

1. Multi-family customers with two or more living units per meter will be charged the effective rate per 2,500 square feet of impervious surface.

2. Multi-family customers with one water meter per living unit will be charged the prevailing "Single-family customer rate" per unit. <u>"Single-family customer rate" shall apply to mobile homes either on individual lots or in a mobile home park.</u>

D. *State Highway Charge*. Pursuant to RCW 90.03.525, the monthly charge for all state highway properties within the city shall be 30 percent of the charge provided in paragraph B above, unless the city and state agree to a different rate or unless the court of competent jurisdiction holds otherwise.

E. *Application to Publicly Owned Properties*. Other publicly owned properties shall be charged at the industrial rate as set forth herein.

F. *Application to Active Gravel Mining Operations and Publicly Owned Streets, Alleys* *and Rights-of-Way*. Active gravel mining operations, publicly owned streets, alleys and rights of way shall be charged at the State Highway Charge rate provided in paragraph D as set forth herein.

G. *Application to Certain Qualifying Properties*. For qualifying properties meeting all of the following criteria, the monthly charge shall be 30 percent of the charge provided in paragraph B above~~.~~:

1. The qualifying property is subject to a stormwater management program regulated by and in compliance with the requirements for a Phase 1, Phase 2, or Secondary Permittee as defined by Special Condition S6 of the NPDES Western Washington Phase II Municipal Stormwater Permit, and as hereafter amended; and

2. The qualifying property does not discharge stormwater into the City of Vancouver surface water drainage system; and

3. If infiltrating on-site, water quality treatment shall meet current City of Vancouver and Department of Ecology standards and requirements for the land use.

Section 4. Savings. Those sections of any ordinances amended or repealed by this ordinance shall remain in full force and effect until the effective date of this ordinance.

Section 5. Effective date. This ordinance shall become effective January 1, 2021.

Read First Time: January 11, 2021

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read Second Time: January 25, 2021

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this ________day of___________________, 2021

____
Anne McEnerny-Ogle, Mayor

Attest:

____
Natasha Ramras, City Clerk

Approved as to form:

____
Jonathon Young, City Attorney

SUMMARY

ORDINANCE NO. M_______

AN ORDINANCE relating to sewer and surface water use and Title 14 of the Vancouver Municipal Code; amending Vancouver Municipal Code sections 14.04.190, 14.04.230 and 14.09.060; providing for savings; and establishing an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

Summary of Proposed Changes for VMC Chapter 14 – Water, Sanitary Sewer and Surface Water
14.04 – Water and Sewer Use – Regulations and Charges; 14.09 – Stormwater Management – Regulations and Charges

This list contains the proposed substantive changes. The complete proposal, including complete wording for all changes, is available separately.

Changed Section	Topic	Basis/Reason for Change
Section 14.04.190 (K) 2	Increase customer emergency assistance credit from \$200 to \$400 per household.	Increase credit to keep pace with rate increases in the past several years.
Section 14.04.190 (K) 2	Add sentence allowing public works director to annually adjust household maximum.	Allows for administrative increase to keep pace with future rate increases.
Section 14.04.230 (A) 1	Minor adjustment of fixed rates for 2021 and 2022.	Matches current billing policies and practices.
Section 14.04.230 (A) 2	Update language for sewer summertime usage to average within the January-March billing window.	Matches current billing policies and practices.
Section 14.04.230 (A)(2)(E)(1)	Update text to be gender neutral.	Update text to be gender neutral.
Section 14.04.230 (A) 4	Adjust septage rate from \$140.00 to \$155.00/1000 gallons to reflect administrative increases since 2019.	Administrative fee adjustment to reflect cost of service.
Section 14.04.230 (A) 4	Remove reference to tipping fees, Clark County Public Health District, and Septic System Preventative Maintenance Program.	Clark County Health Department utilizes property taxes to pay for this program therefore tipping fee not required.
Section 14.04.230 (A) 4	Add sentence back into ordinance for public works director annual septage fee adjustment.	Mistakenly removed when ordinance was updated in November, 2020.
Section 14.09.060 (C) 2	Add sentence back into ordinance for mobile home parks rate calculation.	Mistakenly removed when ordinance was updated in November, 2020.
Section 14.09.060 (G)	Clarify who qualifies for surface water rate reductions.	Phase 1, Phase 2, and Secondary Permittees qualify provided they meet the criteria in the ordinance.

CITY OF Vancouver WASHINGTON

MEMORANDUM

DATE: December 24, 2020

TO: Eric Holmes, City Manager

FROM: Chris Malone, Public Works Finance and Asset Manager

RE: **Title 14 code revisions**

CC: **Dan Swensen; Brian Carlson**

This memo helps explain the proposed changes to Title 14 of the Vancouver Municipal Code (VMC). First reading is currently scheduled for January 11, 2021 and second reading/public hearing is scheduled for January 25, 2021.

1. VMC 14.04.190 (K) 2

This amendment increases the maximum credit a household may received through the Customer Emergency Assistance program (aka Help to Others). The original maximum was $200 per household implemented in 2011. Since then utility rates have increased so staff is proposing to increase the maximum to $400 per household. This change will help the Customer Emergency Assistance program keep pace with rate increases. Staff is also proposing to add a sentence granting the Public Works Director the authority to annually administratively adjust the household maximum.

2. VMC 14.04.230 (A) 1

This amendment proposes to adjust the single-family residential fixed sewer rates to better reflect our billing policies and procedures. As allowed per VMC 14.04.230 (A)(2)(a), the Public Works Director has determined that 8 CCF per month would be more appropriate to use as an interim usage value to calculate a default sewer rate when a two-month history has not been established and better information is not available. Previously, the default rate calculation used 10 CCF per month for single-family customers. The 8 CCF per month more accurately reflects usage for the average single-family and multi-family customers (who are individually metered) based on usage trends over the past several years.

3. VMC 14.04.230 (A) 2

This amendment revises VMC code language to match our current business practices and policies and more clearly states how we calculate residential sewer utility bills for the year. Sewer utility bills are based on water usage. We calculate residential sewer bills based on winter water usage because account holders do not typically irrigate in the winter. As irrigation water does not end up in the sewer system, there are no variable sewer costs for irrigation water. Using winter water usage rates to calculate sewer rates provides more equitable year-round sewer billings for residential customers. (Note – non-residential customers who irrigate typically have their irrigation system sub-metered on a “deduct meter” or as a separate irrigation account so that their sewer bill also does not include irrigation usage)

The existing version of this code section is a bit hard to follow and understand. In addition, the existing version of this section does not exactly match what the programming of our current billing systems is able to accomplish. The changes proposed accomplish the same goal of not billing for irrigation water in the sewer charges, aligns with the capabilities of our billing software, and follows our current and recent past business practices.

4. <u>VMC 14.04.230 (A) (2) (E) (1)</u>

Updates text to be gender neutral.

5. <u>VMC 14.04.230 (A) 4</u>

- Adjusts septage rate to $155.00 per1000 gallons to reflect operational cost increases since 2019.
- Removes references to tipping fees, Clark County Health District, and Septic System Preventative Maintenance Program. The Clark County Health Department informed us that this sentence is no longer relevant or needed. Their septic tank program is now funded through a septic tank assessment charged to owners of septic tanks property collected on the property tax bill.
- Adds sentence back into the ordinance allowing the Public Works Director to administratively adjust the septage rate once per year. This sentence was in the ordinance previously but was inadvertently left out of the November 2020 update.

6. <u>VMC 14.09.060 (C) 2</u>

This amendment adds a sentence back into the ordinance clarifying how mobile home surface water rates are calculated. This sentence was in the ordinance previously but was inadvertently left out of the November 2020 update.

7. <u>VMC 14.09.060 (G)</u>

- This amendment clarifies who qualifies for a reduction in surface water rates. Currently Secondary NPDES Permittees (i.e. Port of Vancouver) are the only entities that qualify for the reduction under this code provision. However, Phase I and Phase 2 NPDES permittees have the same requirements as Secondary Permittees per the NPDES Western Washington Phase I and Phase II Stormwater Manual. Therefore, Phase 1, Phase 2 and Secondary Permittees should all qualify for the discount provided they meet the criteria in the ordinance. The logic behind this reduction is that these entities have their own stormwater permit with the State of Washington requiring monitoring, testing, and reporting. Therefore, the City provides a lesser level of service for these entities. Additionally, in order for these entities to qualify they must not discharge to City of Vancouver stormwater systems thereby reducing impacts to the City’s stormwater infrastructure. The remaining fee collected from these entities helps to protect City of Vancouver groundwater, stream restoration, wetland restoration, and other aspects of the City’s overall stormwater management program.
- Also added is a clarification that water quality treatment is required prior to infiltration in order to qualify for the reduction.
- This amendment stems from a request from Clark County, a Phase 1 entity, to be treated equally to Secondary Permittees.

I hope this information helps. Please let me know if there should be any questions.