

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: December 7, 2010

SUBJECT: **SUPPLEMENTAL AGREEMENT NO. 1 TO CONTRACT No. 6079  
- IVARY AND ASSOCIATES ARCHITECTURAL SERVICES IN  
THE AMOUNT OF \$10,325.00 FOR GRASS LAWN PARK  
RESTROOM AND UTILITY BUILDING REMODEL**

**I. RECOMMENDED ACTION:**

Authorize the Mayor to execute Supplemental Agreement No. 1 to Contract No. 6079 for additional architectural services for Ivary Associates, related to the alternations of the Grass Lawn Park Restroom and Utility Building.

**II. DEPARTMENT CONTACTS:**

Craig Larsen, Parks and Recreation Director	425-556-2310
Dave Tuchek, Park Operations Assistant Manager	425-556-2318
Eric O'Neal, Park Contract Administrator	425-556-2325

**III. DESCRIPTION/BACKGROUND:**

The Grass Lawn Park restroom and utility building located in the park were constructed in 1979 and need significant repair to the interiors and exteriors of the structures to address current deficiencies related to energy efficiency, heating, ventilation, and lighting.

The proposed renovation includes updating both the interior and exterior of the buildings, as well as adding 43 square foot additions to the entrances of both the men's and women's restroom. Each addition will provide space to add a needed lavatory and provide privacy screening from the entrance doors so the restrooms can also function as changing rooms for baseball and soccer players that use Grass Lawn Park.

The City of Redmond's Planning Department requires the project to be presented, reviewed, and approved by the City of Redmond Design Review Board (DRB) in order for the building permit to be issued. Since this was not included in the original contract, the supplemental agreement will cover the costs for preparation of materials, additional construction meeting attendance, architect support and increased contingency.

**IV. IMPACT:**

- A. Service Delivery:** Approval of this agreement will result in comprehensive architectural consulting support required for the Grass Lawn Park restroom and utility buildings remodels.
- B. Fiscal:** The maximum amount payable for Supplemental Agreement No. 1 is \$10,325.00. This amount would be added to the previous contract amount of \$24,835, for a total maximum contract amount of \$35,160.00. Previous and current funds come from the Park Operations Levy Fund.

**IV. ALTERNATIVES:**

- A.** If the agreement is not approved, the Grass Lawn Restroom Remodel project will not have adequate support from the architect to allow necessary city review to occur.

**V. TIME CONSTRAINTS:**

It is necessary for this supplemental contract to be approved as soon as possible to allow for the bidding process to begin. Staff would like to go to City Council in early January to get approval on the Award of Bid. The construction process will need to take place in early January in order to start actual construction of the buildings by the first part of February. If construction begins in early February, substantial completion of the buildings would occur in May 2011, allowing for use in Spring 2011.

**VI. LIST OF ATTACHMENTS:**

**Attachment A:** Supplemental Agreement No. 1 for additional architectural services for the remodel of the Grass Lawn Park Restroom.

**Attachment B:** Contract No. 6079 between Ivary and Associates and the City of Redmond, including the Scope of Work

/s/  
Crag Larsen, Parks and Recreation Director

11/23/2010  
Date

Approved for Council Agenda /s/  
John Marchione, Mayor

11/23/2010  
Date

**Supplemental Consultant Agreement**

**Public Works**

<p><b>PROJECT TITLE &amp; IDENTIFICATION NUMBER (if # is known)</b></p> <p>Supplement No. 1 to Contract 6079. Architectural Services for Grass Lawn Park Restroom Remodel</p>	<p><b>WORK DESCRIPTION (reference &amp; list all attached exhibits)</b></p> <p>Exhibit A-1 = Scope of Work Exhibit B-1 = Consultant Fee Determination</p>
<p><b>CONTRACTOR</b></p> <p>Ivary and Associates, Architects</p>	<p><b>CITY PROJECT ADMINISTRATOR (Name, address, phone #)</b></p> <p>Eric O'Neal City of Redmond MOCPK P.O. Box 97010 Redmond, WA 98073-9710 425-556-2325 eoneal@redmond.gov</p>
<p><b>CONTRACTOR CONTACT (Name, address, phone #)</b></p> <p>Wayne Ivary Ivary and Associates, Architects 551 NE 65th Seattle, WA 98115 206-525-8020</p>	<p><b>BUDGET OR FUNDING SOURCE</b></p> <p>Levy Fund (Parks Maintenance)</p>
<p><b>FEDERAL ID #</b></p> <p>91-1554943</p>	<p><b>MAXIMUM AMOUNT PAYABLE, IF ANY</b></p> <p>\$ 35,160.00</p>
<p><b>SUPPLIER/CONTRACTOR'S REDMOND BUSINESS LICENSE ID #</b></p>	<p><b>COMPLETION DATE</b></p> <p>May 30, 2011</p>
<p><b>APPLICANT NAME</b></p>	<p><b>APPLICANT CONTACT (Name, address &amp; phone #)</b></p>

**Architectural work for remodel of Grass Lawn Park Restroom  
(Original Agreement 6079)**

**SUPPLEMENTAL AGREEMENT NO. 1**

This SUPPLEMENTAL AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between the City of Redmond, Washington, hereinafter called the CITY, and Ivary and Associates, hereinafter called the CONSULTANT, amends an earlier **Agreement 6079** dated 30 October, 2009.

WHEREAS the CITY desires to supplement the original AGREEMENT;

NOW THEREFORE, it is mutually agreed that the terms, stipulations, and conditions of the original AGREEMENT shall be binding upon the parties hereto except insofar as amended by this SUPPLEMENTAL AGREEMENT as follows:

**I**

Section II, *SCOPE OF WORK*, is amended by the additional tasks summarized in Exhibit A-1 attached hereto.

**II**

Section IV, *TIME FOR BEGINNING AND COMPLETION*, is amended to change the completion date for all work to read: December 15th, 2010.

**III**

Section V, *PAYMENT*, shall be amended to compensate the CONSULTANT for the work described in Exhibit A-1.

A breakdown of the CONSULTANT'S cost proposal is attached hereto as Exhibit B-1. By this reference the exhibit is made a part of this SUPPLEMENTAL AGREEMENT.

A breakdown of the SUBCONSULTANT'S cost proposals is attached hereto as Exhibit C-1. By this reference the exhibit is made a part of this SUPPLEMENTAL AGREEMENT.

Summarized below are the costs as listed in the original AGREEMENT and as modified by this SUPPLEMENTAL AGREEMENT.

Project Name. Grass Lawn Park Restroom Alterations

Project No. Supplement to contract 6079

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<b>Summary</b>				
<b>Description</b>	<b>Original Agreement</b>	<b>Supplement No. 1</b>	<b>Supplement No.</b>	<b>Total</b>
Site Inventory, Scope Development, Preliminary Design, Review, Construction Documents, Permitting, Bidding, Construction Administration, Close out	\$20,435			\$20,435
Reimbursables	\$1,500			\$1,500
Electrical Engineering sub consulting	\$1,900			\$1,900
Design Review Board Presentation Preparation and Meeting		\$1,925		\$1,925
Added Construction Administration		\$2,400		\$2,400
Contingency	\$1,000	\$6,000		\$7,000
Total	\$24,835	\$10,325		\$35,160
<b>Grand Total</b>				\$35,160

**EXECUTION**

IN WITNESS WHEREOF, the parties have executed this SUPPLEMENTAL AGREEMENT by having their representatives affix their signatures below.

Ivory and Associates

CITY OF REDMOND

•  
By \_\_\_\_\_

By \_\_\_\_\_  
John Marchione, Mayor

\_\_\_\_\_  
*(Title)*

Attested:

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

Approved as to Form:

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

## EXHIBIT A-1

### SCOPE OF WORK

The following shall amend Section II, *Scope of Work* of the AGREEMENT:

This scope of work includes additional work performed, or to be performed, in the effort to remodel the Grass Lawn Restroom and Shed structures.

#### I. ADDITIONAL SERVICES

- 1) **City of Redmond Design Review Board.** In order to obtain a building permit for the alterations to the Grass Lawn Restroom the City of Redmond Planning Department has required the project to go before the City's Design Review Board (DRB). The consultant shall prepare and submit the DRB required documentation and material samples to include site plans, vicinity map, zoning map, structural plans and photos. In addition the consultant shall present the samples of building materials to the DRB at a regularly scheduled DRB meeting.
- 2) **Construction management.** The consultant shall attend weekly construction meetings. The original agreement allowed for 6 weekly meetings to be attended by the consultant. The project is now anticipated to be under construction for 12 weeks, thus the added cost for architectural consulting during the 6 additional construction meetings.

**EXHIBIT B-1**

**CONSULTANT FEE DETERMINATION**

**A. Design Review Board Preparations and Presentation**

Principal	16.5 hrs @ \$95	\$1,567.50
Draftsperson I	6.5hrs @ \$55	<u>\$ 357.50</u>
	Total	<b>\$1,925</b>

**B. Added Construction Administration**

Principal	21 hrs@ \$95	\$1,995
Draftsperson II	9hrs @ \$45	<u>\$ 405</u>
		<b>\$2,400</b>

**C. Contingency** **\$6,000**

**GRAND TOTAL for added Scope of Work  
and Contingency** **\$10,325**



Recommendation for Award  
Ivory and Associates  
Grasslawn Park Bathroom Remodel Architect  
RFP 10174-09/MWS

This is a non-Federally funded project for the remodeling of the Grasslawn Bathroom.

For the first phase an architect must be selected for the design work and later to assist in the construction management of the remodeling work itself.

In addition to the four architects selected from the Architect Roster (Cat. III), the project was also advertised on the city website. 12 proposals were received. The proposals and evaluation scores are shown below:

Ivory and Associates (roster)	94.33 pts
O.R.B. Architects	93.66 pts
Arai, Jackson (roster)	83.00 pts
Magellan Architects (roster)	83.00 pts
Patano and Hafferman	82.66 pts
Hutchinson and Maul	82.00 pts
ARC Architects	80.00 pts
Lawhead Architects (roster)	75.00 pts
Chadbourne and Doss	71.00 pts
Capital Architects	68.00 pts
JB Design	51.00 pts
Arculus (roster)	Did not propose

Evaluation team was: Teresa Kluver, Parks Operations Supervisor; Eric O'Neal (Project Manager), Parks; Dave Tucheck, Parks Business Operations.

All firms were evaluated against the solicitation's evaluation criteria:

Understanding of the project scope	30 pts
Experience of the proposing team	20 pts
Past project experience	20 pts
Expertise in project management	20 pts
References	10 pts

Ivory and Associates was determined to have the highest rating.

Eric O'Neal, Project Manager conducted a reference check of the two highest ranked firms, Ivory and Associates and O.R.B. Architects because their rankings were very close.

After the reference checks, Ivory and Associates remained the highest ranked firm.

Eric O'Neal, Project Manager reviewed the proposed price of \$24,835.00 with Park Operation Management and determined that the price was within the budget and the labor tasks were reasonable. The hourly billing rates are acceptable and are competitive with other firms.

A handwritten signature in black ink, appearing to read "Eric O'Neal", with a long horizontal line extending to the right.

Eric O'Neal  
Program Administrator

**Consultant Agreement for Architectural,  
Engineering and Surveying Services**

**Public Works**

<p><b>PROJECT TITLE &amp; IDENTIFICATION NUMBER (if # is known)</b></p> <p>Architectural work for remodel of Grasslawn Park Bathroom</p>	<p><b>WORK DESCRIPTION (reference &amp; list all attached exhibits)</b></p> <p>Exhibit A = Scope of Work                  Exhibit B = Payment                  Exhibit C = Consultant Fee Determination                  Attachment D=Subcontracted Work                  Attachment D-1=Subconsultant Fee Determination                  Attachment E=Title VI Assurances</p>
<p><b>CONTRACTOR</b></p> <p>Ivary and Associates, Architects</p>	<p><b>CITY PROJECT ADMINISTRATOR (Name, address, phone #)</b></p> <p>Eric O'Neal                  City of Redmond                  MOC PK                  P.O. Box 97010                  Redmond, WA 98073-9710                  425-556-2325                  EONEAL@Redmond.gov</p>
<p><b>CONTRACTOR CONTACT (Name, address, phone #)</b></p> <p>Wayne Ivary                  Ivary and Associates, Architects                  551 NE 65th ST.                  Seattle, WA 98115                  206-525-8020</p>	<p><b>BUDGET OR FUNDING SOURCE</b></p> <p>Levy Fund (Parks Maintenance).</p>
<p><b>FEDERAL ID #</b></p> <p>91-1554943</p>	<p><b>MAXIMUM AMOUNT PAYABLE, IF ANY</b></p> <p>\$ 24,835.00</p>
<p><b>SUPPLIER/CONTRACTOR'S REDMOND BUSINESS LICENSE ID #</b></p>	<p><b>COMPLETION DATE</b></p> <p>December 31, 2009</p>
<p><b>APPLICANT NAME</b></p>	<p><b>APPLICANT CONTACT (Name, address &amp; phone #)</b></p>

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City of Redmond, standard form**

THIS AGREEMENT, made and entered into this 30 day of October 2009, between the City of Redmond, Washington, hereinafter called the "CITY", and the above organization hereinafter called the "CONSULTANT".

**WITNESSETH THAT:**

WHEREAS, the CITY desires to accomplish the above referenced project; and

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

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

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

**I  
GENERAL DESCRIPTION OF WORK**

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

**II  
SCOPE OF WORK**

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

**III  
GENERAL REQUIREMENTS**

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the CITY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the CITY. The CONSULTANT shall attend

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coordination, progress and presentation meetings with the CITY or such Federal, Community, State, City or County officials, groups or individuals as may be requested by the CITY. The CITY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation.

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

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

**IV**

**TIME FOR BEGINNING AND COMPLETION**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the CITY. All work under this AGREEMENT shall be completed by the date shown in the AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays beyond the control of the CONSULTANT.

**V**

**PAYMENT PROVISIONS**

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided in Exhibit "B" attached hereto, and by this reference made part of this AGREEMENT. Payment terms shall be Net 30 days. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work". The CONSULTANT shall conform with all applicable portions of 48 CFR 31.

**VI**

**SUBCONTRACTING**

The CITY permits subcontracts for those items of work as shown in Exhibit "D" attached hereto and by this reference made a part of this AGREEMENT.

Compensation for this subconsultant work shall be based on the cost factors shown in Exhibit "D".

The work of the subconsultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the CITY.

All reimbursable hourly rates and direct non-salary costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts shall contain all applicable provisions of this AGREEMENT.

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

The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the CITY. No permission for subcontracting shall create, between the CITY and subcontractor, any contract or any other relationship.

## VII EMPLOYMENT

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

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the CITY, and any and all claims that may or might arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT

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

## VIII NONDISCRIMINATION

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

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

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

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

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

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

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

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

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

## IX TERMINATION OF AGREEMENT

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

In the event this AGREEMENT is terminated by the CITY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the

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City of Redmond, standard form

time of termination of the AGREEMENT plus any direct nonsalary costs incurred at the time of termination of the AGREEMENT.

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

If the services of the CONSULTANT are terminated by the CITY for default on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the CITY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the CITY at the time of termination; the cost to the CITY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the CITY of the work performed at the time of termination.

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

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

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

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

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



**X  
CHANGES OF WORK**

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

**XI  
DISPUTES**

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the CITY shall be referred for determination to the Director of Public Works or City Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or City Engineer's decision, that decision shall be subject to de novo judicial review.

**XII  
VENUE, APPLICABLE LAW AND  
PERSONAL JURISDICTION**

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

**XIII  
LEGAL RELATIONS**

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

The CONSULTANT shall indemnify and hold the CITY and their officers and employees harmless from and shall process and defend at its own expense all claims, demands or suits at law or equity arising in whole or in part from the CONSULTANT's negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the CITY against and hold harmless the CITY from claims, demands or suits based solely upon the conduct of the

CITY, their agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT's agents or employees and (b) the CITY, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the CITY of defending such claims and suits, etc. shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents or employees.

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

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

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

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

#### **Insurance Coverage**

- A. Worker's compensation and employer's liability insurance as required by the State of Washington.
- B. Commercial general liability and property damage insurance in an amount not less than one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate for bodily injury, including death and property damage.
- C. Professional liability insurance in the amount of \$1,000,000 or more against claims arising from the performance of professional services under this contract.
- D. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

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

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City of Redmond, standard form**

The additional insured endorsement shall provide that to the extent of the CONSULTANT's negligence, the CONSULTANT's insurance shall be primary and non-contributing as to the CITY, and any other insurance maintained by the City shall be excess and not contributing insurance with respect to the CONSULTANT's insurance.

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

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

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

**XIV  
EXTRA WORK**

The CITY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.

If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.

The CONSULTANT must submit its "request for equitable adjustment" (hereafter referred to as claim) under this clause within thirty (30) days from the date of receipt of the written order. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a claim submitted before final payment of the AGREEMENT.

Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

Notwithstanding the terms and conditions of the first two paragraphs above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV  
ENDORSEMENT OF PLANS

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

XVI  
COMPLETE AGREEMENT

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

XVII  
EXECUTION AND ACCEPTANCE

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

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

CONSULTANT

By: 

Title: PRINCIPAL

CITY OF REDMOND

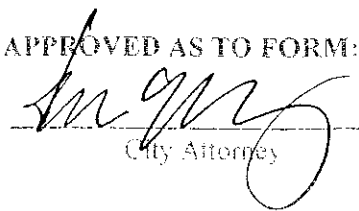
By: 

John Marchione, Mayor

ATTEST: 

City Clerk

APPROVED AS TO FORM:

  
City Attorney

## EXHIBIT A

### SCOPE OF WORK

Prepare re-design of an existing restroom at Grasslawn Park for a complete re-model and provide construction assistance during the re-modeling. The re-design is to include the following:

- Provide a conceptual design with all applicable features
- Participate in staff meetings to review design concepts (anticipate 2-3 staff meetings)
- Provide work schedule (including project milestones and timeline)
- Provide SEPA checklist and appropriate support materials (if needed)
- Provide site inventory
- Create current as-built drawings of existing structure as a base-line document
- Define scope of re-model and building components to be addressed
- Participate in a Design Review
- Create construction documents
- Participate in Permit Acquisition
- Participate as needed in Construction administration
- Participate in project close out
- Prepare preliminary design with options for:
  - Interior walls
  - Floor
  - Ceiling
  - Toilet fixture location and compartments
  - Skylight
  - Ventilation
  - Lighting and electrical controls
  - Possible improvements to insulation properties

**EXHIBIT E**  
**PAYMENT**  
**(NEGOTIATED HOURLY RATE)**

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

**1. Hourly Rates**

The CONSULTANT shall be paid by the CITY for work done, based upon the negotiated hourly rates shown in Exhibit "C" attached hereto and by this reference made part of the AGREEMENT. The rates listed shall be applicable for the first 12-month period and shall be subject to negotiation for the following 12-month period upon request of the CONSULTANT or the CITY. If negotiations are not conducted for the second or subsequent 12-month periods within 90 days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the CITY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.

**2. Direct Non-Salary Costs**

Direct Non-Salary costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of subconsultants. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the CITY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the CITY's Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with the 48 CFR Part 31.205-46 "Travel Costs". The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with the PROJECT. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the CITY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

**3. Contingencies**

If the CITY desires the CONSULTANT to perform additional work beyond that already defined in the AGREEMENT, the Agreement Administrator may authorize additional funds for this purpose. Such authorization(s) shall be in writing and shall not exceed the amount shown in Exhibit "C". Any changes requiring additional costs in excess of the contingencies shall be made in accordance with Section XIV "Extra Work".

**4. Maximum Amount Payable**

The maximum amount payable by the CITY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The maximum amount payable is comprised of the total amount authorized and the contingencies. The maximum amount payable does not include payment for extra work as stipulated in Section XIV, "Extra Work". No minimum amount payable is guaranteed under this AGREEMENT.

#### Monthly Progress Payments

Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly invoices shall be supported by detailed statements for hours expended at the rates established in Exhibit "C" including names and classifications of all employees, and invoices for all direct nonsalary expenses. To provide a means of verifying the invoiced salary costs for the consultant's employees, the agency may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the project at the time of the interview.

#### 6. Final Payment

Final payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the CITY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such final payment by the CONSULTANT shall constitute a release of all claims for payment which the CONSULTANT may have against the CITY unless such claims are specifically reserved in writing and transmitted to the CITY by the CONSULTANT prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the CITY may have against the CONSULTANT or to any remedies the CITY may pursue with respect to such claims.

The payment of any billing will not constitute agreements as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the CITY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT or any claims relating to the validity of a finding by the CITY of overpayment.

#### 7. Inspection of Cost Records

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

**EXHIBIT "C"**  
**CONSULTANT FEE DETERMINATION**

<b>A.</b>	<b>INVENTORY</b>		
	Principal	6 hrs @ \$95 =	\$570
	Draftsperson I	6 hrs @ \$55 =	<u>\$330</u>
		sub total	\$900
<b>B.</b>	<b>SCOPE</b>		
	Principal	17 hrs @ \$95 =	\$1615
	Draftsperson I	16 hrs @ \$55 =	<u>\$880</u>
		Sub total	\$2,495
<b>C.</b>	<b>PRELIMINARY DESIGN</b>		
	Principal	34 hrs @ \$95 =	\$3,230
	Draftsperson I	23 hrs @ \$55 =	<u>\$1,265</u>
		Subtotal	\$4,495
<input checked="" type="checkbox"/>	<b>REVIEW</b>		
	Principal	8 hrs @ \$95 =	\$760
	Draftsperson II	1 hr @ \$45 =	<u>\$45</u>
		Subtotal	\$805
<input checked="" type="checkbox"/>	<b>CONSTRUCTION DOCUMENTS</b>		
	Principal	28 hrs @ \$95 =	\$2,660
	Draftsperson I	48 hrs @ \$55 =	\$2,640
	Draftsperson II	8 hrs @ 45 =	<u>\$360</u>
		sub total	\$5,660
<b>F.</b>	<b>PERMITTING</b>		
	Principal	3 hrs @ \$95/hr =	\$285
	Draftsperson	4 hrs @ \$55 =	<u>\$220</u>
		sub total	\$505
<b>G.</b>	<b>BIDDING</b>		
	Principal	6 hrs @ \$95 =	\$570
	Draftsperson II	3 hrs @ \$45 =	<u>\$135</u>
		Subtotal	\$705
<b>H.</b>	<b>CONSTRUCTION ADMINISTRATION</b>		
	Principal	32 hrs @ \$95 =	\$3,040
	Draftsperson I	6 hrs @ \$55 =	<u>\$330</u>
		Subtotal =	\$3,370
<b>I.</b>	<b>CLOSEOUT</b>		
	Principal	12 hrs @ \$95 =	\$1,140
	Draftsperson II	8 hrs @ \$45 =	<u>\$360</u>
		Subtotal	\$1,500
		<b>TOTAL</b>	<b>\$20,435</b>



**REIMBURSABLES**

The cost of printing will be billed out at direct cost  
w/ maximum amount \$1,500

**SUBCONSULTANT COSTS (See Exhibit D)**

The cost of engineering will be billed out at direct cost

Electrical Engineering			
Principal	8 hrs @ \$100/hr =		\$800
Project Engineer	12 hrs @ \$75/hr =		\$900
	Subtotal		\$1,900

**TOTAL** \$23,835

**CONTINGENCIES** \$1,000

**GRAND TOTAL** \$24,835

Ivory & Associates

PART II  
SUBCONTRACTED WORK

The CITY permits subcontracts for the following portions of the work of the AGREEMENT

<u>SUBCONSULTANT</u>	<u>WORK DESCRIPTION</u>	<u>AMOUNT</u>
<i>EISI Engineering</i>	<i>Electrical Design</i>	<i>\$1900</i>

TOTAL = \$ *1900*

**EXHIBIT "D-1"**  
**SUBCONSULTANT FEE DETERMINATION**

**PROJECT:** Renovation of Existing Restrooms at Grass Lawn Park

**COMPANY NAME:** EISI Engineering

**NEGOTIATED HOURLY RATES:**

<u>Classification</u>	<u>Hours x</u>	<u>Rate =</u>	<u>Cost</u>
Principal	8 hrs @	\$100	\$800
Project Engineer	12 hrs @	\$75	\$900
		<b>TOTAL</b>	<b>\$1700</b>
<b>REIMBURSABLES</b>			
Printing			\$200
<b>GRAND TOTAL</b>			<b>\$1900</b>

Ivory & Associates

CONSULTANT'S OBLIGATIONS

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

1. COMPLIANCE WITH REGULATIONS: The CONSULTANT shall comply with the Regulations relative to non-discrimination in the same manner as in federally assisted programs of the CITY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the AGREEMENT.
2. NON-DISCRIMINATION: The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the Regulations.
3. SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT: In all solicitations, either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. INFORMATION AND REPORTS: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.
5. SANCTIONS FOR NON-COMPLIANCE: In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the CITY shall impose such sanctions as it may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination or suspension of the AGREEMENT, in whole or in part.
6. INCORPORATION OF PROVISIONS: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subconsultant or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY.

Recommendation for Award  
Ivory and Associates  
Grasslawn Park Bathroom Remodel Architect  
RFP 10174-09/MWS

This is a non-Federally funded project for the remodeling of the Grasslawn Bathroom.

For the first phase an architect must be selected for the design work and later to assist in the construction management of the remodeling work itself.

In addition to the four architects selected from the Architect Roster (Cat. III), the project was also advertised on the city website. 12 proposals were received. The proposals and evaluation scores are shown below:

Ivory and Associates (roster)	94.33 pts
O.R.B. Architects	93.66 pts
Arai, Jackson (roster)	83.00 pts
Magellan Architects (roster)	83.00 pts
Patano and Hafferman	82.66 pts
Hutchinson and Maul	82.00 pts
ARC Architects	80.00 pts
Lawhead Architects (roster)	75.00 pts
Chadbourne and Doss	71.00 pts
Capital Architects	68.00 pts
JB Design	51.00 pts
Arculus (roster)	Did not propose

Evaluation team was: Teresa Kluver, Parks Operations Supervisor; Eric O'Neal (Project Manager), Parks; Dave Tucheck, Parks Business Operations.

All firms were evaluated against the solicitation's evaluation criteria:

Understanding of the project scope	30 pts
Experience of the proposing team	20 pts
Past project experience	20 pts
Expertise in project management	20 pts
References	10 pts

Ivory and Associates was determined to have the highest rating.

Eric O'Neal, Project Manager conducted a reference check of the two highest ranked firms, Ivary and Associates and O.R.B. Architects because their rankings were very close.

After the reference checks, Ivary and Associates remained the highest ranked firm.

Eric O'Neal, Project Manager reviewed the proposed price of \$24,835.00 with Park Operation Management and determined that the price was within the budget and the labor tasks were reasonable. The hourly billing rates are acceptable and are competitive with other firms.

A handwritten signature in black ink, appearing to read "Eric O'Neal", with a long horizontal line extending to the right.

Eric O'Neal  
Program Administrator