

City of Redmond



Agenda

Regular Business Meeting

Tuesday, May 4, 2021

7:00 PM

**Remote Viewing: [Redmond.gov/rctlive](https://www.redmond.gov/rctlive), Facebook (@CityofRedmond),
Comcast Channel 21, Ziply Channel 34, or listen at 510-335-7371**

City Council

Mayor

Angela Birney

Councilmembers

Tanika Kumar Padhye, President

Jeralee Anderson, Vice-President

David Carson

Steve Fields

Jessica Forsythe

Varisha Khan

Vanessa Kritzer

REDMOND CITY COUNCIL

AGENDA SECTION TITLE REFERENCE GUIDE

Items From The Audience provides an opportunity for citizens to address the Council regarding any issue. Speakers must sign their intention to speak on a sheet located at the entrance of the Council Chamber, and limit comments to **four minutes**.

The **Consent Agenda** consists of routine items for which a staff recommendation has been prepared, and which do not require further Council discussion. A council member may ask questions about an item before the vote is taken, or request that an item be removed from the Consent Agenda and placed on the regular agenda for more detailed discussion. A single vote is taken to approve all items remaining on the Consent Agenda.

Public Hearings are held to receive public comment on important issues and/or issues requiring a public hearing by State statute. Citizens wishing to comment will follow the same procedure as for 'Items from the Audience', and may speak after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment. The Council then proceeds with its deliberation and decision making.

Staff Reports are made to the Council by the department directors on issues of interest to the Council which do not require Council action.

The **Ombudsperson Report** is made by the Councilmember who is serving as ombudsperson. The ombudsperson designation rotates among Council members on a monthly basis. She/he is charged with assisting citizens to resolve problems with City services. Citizens may reach the ombudsperson by calling the Mayor's office at (425) 556-2101.

The **Council Committees** are created to advise the Council as a whole. They consider, review, and make recommendations to the Council on policy matters in their work programs, as well as issues referred to them by the Council.

Unfinished Business consists of business or subjects returning to the Council for additional discussion or resolution.

New Business consists of subjects which have not previously been considered by Council and which may require discussion and action.

Ordinances are legislative acts or local laws. They are the most permanent and binding form of Council action and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after they are published in the City's official newspaper.

Resolutions are adopted to express Council policy or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

Quasi-Judicial proceedings are either closed record hearings (each side receiving ten minutes maximum to speak) or public hearings (each speaker allotted four minutes each to speak). Proceedings are those in which the City Council determines the rights or privileges of specific parties (Council Rules of Procedure, Section IV., J).

Executive Sessions - all regular and special meetings of the City Council are open to the public except for executive sessions at which subjects such as national security, property acquisition, contract bid negotiations, personnel issues and litigation are discussed.

Redmond City Council Agendas, Meeting Notices, and Minutes are available on the City's Web Site:

<http://www.redmond.gov/CouncilMeetings>

FOR ASSISTANCE AT COUNCIL MEETINGS FOR THE HEARING OR VISUALLY IMPAIRED:

Please contact the City Clerk's office at (425) 556-2194 one week in advance of the meeting.

I. SPECIAL ORDERS OF THE DAY

- A. PRESENTATION: Property Tax Update from King County Assessor John Wilson
- B. PROCLAMATION: Older Americans Month: May 2021

[Proclamation](#)

- C. COVID-19 Update

II. ITEMS FROM THE AUDIENCE

Please contact the Clerk's Office at cityclerk@redmond.gov to provide comment. Please label written public comment as "Items from the Audience" (500 word limit) or verbal comment at the time of the meeting is available by contacting the Clerk's Office for coordination by 3 p.m. on May 4th

III. CONSENT AGENDA**A. Consent Agenda**

- 1. Approval of the Minutes: April 20, 2021, Special Meeting and Regular Business Meeting, (Digital recordings of Regular City Council meetings are available for purchase by contacting the City Clerk's Office, and on-demand videos are available online.)

[Special Meeting Minutes for April 20, 2021](#)

[Regular Meeting Minutes for April 20, 2021](#)

- 2. Approval of Payroll/Direct Deposit and Claims Checks

[Payroll Approval Register, April 23, 2021](#)

[Check Approval Register, May 4, 2021](#)

- 3. [AM No. 21-065](#) Approval of the Police Department Wellness & Resiliency Coordinator Contract with inLife Clinic LLC, in an Amount Not-to-Exceed \$75,000
(Police)

[Attachment A: Wellness Consultant Contract](#)

- 4. [AM No. 21-066](#) Adoption of an Ordinance for Approval of the Final Plat of Penny Lane II

a. Ordinance No. 3036: An Ordinance of the City of Redmond, Washington, Approving the Final Plat of

Penny Lane II Pursuant to RCW 58.17.170 and RZC21.74.030, and Establishing an Effective Date
(Planning and Community Development)

[Attachment A: Ordinance](#)

[Attachment B: Vicinity Map](#)

[Attachment C: Hearing Examiner Decision](#)

5. [AM No. 21-067](#) Approval of a Contract for Installation of Security Fencing at Fire Station 11 in the Amount of \$74,000
(Fire)

[Attachment A: Summary of Documented Safety-Security Breaches](#)

[Attachment B: Fire Station Aerial View](#)

6. [AM No. 21-068](#) Approval of the Flexible Spending Account (FSA) Plan Change Recommendation in Response to the American Rescue Plan Act Signed into Law on March 10, 2021
(Human Resources)

7. [AM No. 21-069](#) Approval of a Contract for the Prosecuting Attorney's Electronic Case Management System with Karpel Solutions in the Amount of \$83,420
(Technology and Information Services)

[Attachment A: Business Case](#)

[Attachment B: Contract](#)

B. Items Removed from the Consent Agenda

IV. HEARINGS AND REPORTS

A. Public Hearings

B. Reports

1. Staff Reports
2. Ombudsperson Report
Kritzer
3. Committee Reports

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

VII. EXECUTIVE SESSION

VIII. ADJOURNMENT



City of Redmond

15670 NE 85th Street
Redmond, WA

Memorandum

Date: 5/4/2021
Meeting of: City Council
Day

File No. SPC 21-036
Type: Special Orders of the

PRESENTATION: Property Tax Update from King County Assessor John Wilson



City of Redmond

15670 NE 85th Street
Redmond, WA

Memorandum

Date: 5/4/2021
Meeting of: City Council
Day

File No. SPC 21-039
Type: Special Orders of the

PROCLAMATION: Older Americans Month: May 2021

PROCLAMATION

WHEREAS, the City of Redmond includes a growing number of older residents who have built resilience and strength during their lives through successes and difficulties; and

WHEREAS, the Redmond community benefits when people of all ages, abilities, and backgrounds are included and encouraged to share their successes and stories of resilience; and

WHEREAS, we recognize the need to nurture ourselves, reinforce our strength, and continue to thrive in times of both joy and difficulty; and

WHEREAS, Redmond fosters communities of strength by creating opportunities to share stories and learn from each other; engaging older adults through education, recreation, and service; and encouraging people of all ages to celebrate connections and resilience; and

WHEREAS, we appreciate the contributions, service, and support of the older members of the Redmond community;

NOW, THEREFORE, I, ANGELA BIRNEY, Mayor of the City of Redmond, Washington, do hereby proclaim May 2021 as

OLDER AMERICANS MONTH

and I urge every resident to recognize older adults and the people who support them as essential contributors to the strength of our community.



Angela Birney, Mayor

May 4, 2021

Date

City Hall

15670 NE 85th Street
PO Box 97010
Redmond, WA
98073-9710



City of Redmond

15670 NE 85th Street
Redmond, WA

Memorandum

Date: 5/4/2021
Meeting of: City Council
Day

File No. SPC 21-044
Type: Special Orders of the

COVID-19 Update



City of Redmond

15670 NE 85th Street
Redmond, WA

Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. SPC 21-045
Type: Minutes

Approval of the Minutes: April 20, 2021, Special Meeting and Regular Business Meeting, (Digital recordings of Regular City Council meetings are available for purchase by contacting the City Clerk's Office, and on-demand videos are available online.)

CALL TO ORDER AND ESTABLISHMENT OF QUORUM

A Special Meeting of the Redmond City Council was called to order by Mayor Birney at 6:30 p.m. The meeting was held remotely. Council members present and establishing a quorum were: Anderson, Carson, Fields, Forsythe, Kritzer and Padhye.

Councilmember Khan was absent from the meeting.

The purpose of the special meeting was to interview the candidate for the Arts and Culture Commission.

Chris Weber, staff liaison for the Arts and Culture Commission, introduced Helen Teixeira as the candidate for the Arts and Culture Commission.

The candidate spoke regarding background, interest in the work of the commission, and responded to Councilmember inquiries.

Discussion ensued regarding engaging children and families; art focus; affordability; after school programs; and special skillset.

ADJOURNMENT

There being no further business to come before the Council the special meeting adjourned at 6:45 p.m.

ANGELA BIRNEY, MAYOR

CITY CLERK

Minutes Approved: May 4, 2021

CALL TO ORDER AND ESTABLISHMENT OF QUORUM

A Regular Meeting of the Redmond City Council was called to order by Mayor Angela Birney at 7:00 p.m. The meeting was held remotely. Council members present and establishing a quorum were: Anderson, Carson, Fields, Forsythe, Khan, Kritzer and Padhye.

SPECIAL ORDERS OF THE DAY

A. PROCLAMATION: Hopelink Day: April 21, 2021

Mayor Birney read the proclamation into the record and Lauren Thomas, Chief Executive Officer of Hopelink, virtually accepted the proclamation.

ITEMS FROM THE AUDIENCE

Mayor Birney opened Items from the Audience at this time.

The following person commented regarding the United Nations 17 goals for sustainable development: David Morton.

There being no one else requesting to provide comment, Mayor Birney closed Items from the Audience at this time.

MOTION: Councilmember Anderson moved to amend the agenda to have item VI. A AM No. 21-064 Award of Bid to Ohno-Touchdown JV to immediately before IV. Hearings and Reports, and after Item III. B Items Removed from the Consent Agenda. The motion was seconded by Councilmember Forsythe.

VOTE: The motion passed (7 - 0).

CONSENT AGENDA

MOTION: Councilmember Padhye moved to approve the Consent Agenda. The motion was seconded by Councilmember Carson.

1. Approval of the Minutes: April 6, 2021, Regular Business Meeting, and April 13, 2021, Special Meeting.
2. Approval of Payroll/Direct Deposit and Claims Checks

PAYROLL/DIRECT DEPOSITS AND WIRE TRANSFERS:

#186644 through #186657
#111490 through #112186
#1299 through #1303

\$3,538,390.43

CLAIMS CHECKS:

#432462 through #432702

\$3,419,354.98

3. AM No. 21-054: Approval of the Inter Agency Agreement for 2021-2022 Waste Reduction and Recycling Grant with King County (CPA #6203496) in the Amount of \$149,974
4. AM No. 21-055: Approval of the Inter Agency Agreement for 2021-2022 Local Hazardous Waste Management Program Grant with Seattle & King County Department of Public Health (Contract No. 6169 EHS) in the Amount of \$53,132
5. AM No. 21-056: Approval of Contract with Absher Construction Company (Absher), in the Amount of \$396,966 for General Contractor/Construction Manager (GC/CM) Preconstruction Services for the Redmond Senior and Community Center
6. AM No. 21-057: Authorize the Mayor to Execute a Professional Services Agreement with Fehr & Peers, in the Amount of \$150,000 for Travel Demand Modeling in Support of Redmond 2050, the Transportation Master Plan (TMP) Update, and the Overlake Neighborhood Plan (ONP) Update
7. AM No. 21-058: Approval of an Addendum to the Big Four Project: D365 Financial System Upgrade Contract in the Amount of \$310,000
8. AM No. 21-059¹: Approval of the Design Consultant Contract, Scope and Fee for 90th

¹ This item was removed from the Consent Agenda and addressed separately.

Street Preservation Project and Authorize Staff to Negotiate and Acquire Property Rights as Needed for the Project

9. AM No. 21-060: Approval of Supplemental Agreement with BERK Consulting, in the Amount of \$125,000 for the Development of a Climate Change Vulnerability Assessment in Support of Redmond 2050 and the Environmental Sustainability Action Plan

10. AM No. 21-061: Confirmation of Appointment of Arts and Culture Commission Member

VOTE: The motion passed (7 - 0).

ITEM REMOVED FROM THE CONSENT AGENDA

8. AM No. 21-059: Approval of the Design Consultant Contract, Scope and Fee for 90th Street Preservation Project and Authorize Staff to Negotiate and Acquire Property Rights as Needed for the Project

MOTION: Councilmember Carson moved to approve AM No. 21-059. The motion was seconded by Councilmember Padhye.

RECUSAL: Councilmember Anderson requested to be recused from voting on this item due to a conflict of interest.

VOTE: The motion passed (6 - 0).

NEW BUSINESS

- A. AM No. 21-064: Award of Bid to Ohno Touchdown JV in the Amount of \$1,458,253 for the Base Bid Amount, and \$146,433 for the Additives 1 and 2 Bid Amount for a Total Bid of \$1,604,686 for the Westside Park Renovation, City Project No. 50021924; and Approval of Consultant Supplemental Agreement 2 with Board & Vellum Architects for Construction Engineering Support Services for the Westside Park Renovation to Increase the Maximum Amount Payable to \$518,211

Carrie Hite, Director of Parks and Recreation, Jeff Aken, Senior Planner, and Rob Crittenden, Senior Engineer, provided a report and responded to Councilmember inquires.

MOTION: Councilmember Carson moved to approve AM No. 21-064. The motion was seconded by Councilmember Kritzer.

RECUSAL: Councilmember Anderson requested to be recused from voting on this item due to a conflict of interest.

VOTE: The motion passed (6 - 0).

HEARINGS AND REPORTS

STAFF REPORT

a. AM No. 21-062: East Link Transit Restructure

Carol Helland, Director of Planning and Community Development, and Tam Kutzmark, Senior Planner, provided a report and responded to Councilmember inquires.

b. AM No. 21-063: Redmond 2050: Student Presentation on Mental Health Resources for Teens

Carol Helland, Director of Planning and Community Development, introduced Redmond High School Students and Faculty who provided a report and responded to Councilmember inquires.

OMBUDSPERSON REPORT

Councilmember Fields reported receiving resident contacts regarding: tree canopy goals and the Lime bike program.

Councilmember Forsythe reported receiving resident contacts regarding: graffiti on a sign; Comcast agreement; and the mountain bike park.

COMMITTEE REPORTS

Councilmember Forsythe provided the following committee report:

- Eastrail.

Councilmember Kritzer provided the following committee report:

- Eastside Transportation Partnership; and
- King County Conservation District Advisory Committee.

April 20, 2021

ADJOURNMENT

The regular meeting adjourned at 8:47 p.m.

ANGELA BIRNEY, MAYOR

CITY CLERK

Minutes Approved: May 4, 2021



City of Redmond

15670 NE 85th Street
Redmond, WA

Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. SPC 21-046
Type: Check Register

Approval of Payroll/Direct Deposit and Claims Checks

City of Redmond
Payroll Check Approval Register
Pay period: 4/1 - 4/15/2021
Check Date: 04/23/2021

| | |
|-------------------------------------|------------------------|
| Check Total: | \$ 31,815.46 |
| Direct Deposit Total: | \$ 2,145,052.81 |
| Wires & Electronic Funds Transfers: | \$ 1,446,132.86 |
| Grand Total: | <u>\$ 3,623,001.13</u> |

We, the undersigned Council members, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Redmond, and that we are authorized to authenticate and certify to said claim.

All Checks numbered **186658** through **186678** ,
Direct deposits numbe **112187** through **112880** , and
Electronic Fund transfe **1304** through **1308**
are approved for payment in the amount of **\$3,623,001.13**
on this **4 day of May 2021**.

Note:

City of Redmond
Payroll Final Check List
Pay period: 4/1 - 4/15/2021
Check Date: 04/23/2021

| | |
|------------------------------------|------------------------|
| Total Checks and Direct deposit: | \$ 3,205,248.75 |
| Wire Wilmington Trust RICS (MEBT): | \$ 417,752.38 |
| Grand Total: | <u>\$ 3,623,001.13</u> |

I, the Human Resources Director, do hereby certify to the City Council, that the checks and direct deposits for the month of March are true and correct to the best of my knowledge.

DocuSigned by:
Cathryn Laird
49AEA1067BB4495...

Human Resources Director, City of Redmond
Redmond, Washington

I, the Finance Director, do hereby certify to the City Council, that the checks for the month of April 2021 are true and correct to the best of my knowledge.



Kelley Cochran, Interim Finance Director
City of Redmond
Redmond, Washington

We, the undersigned Councilmembers, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Redmond, and that we are authorized to authenticate and certify to said claim. All checks numbered 432703 through 432924 and Wire Transfers are approved for payment in the amount of \$2,551,160.51

This 4th day of May 2021.



Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. AM No. 21-065
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

| | | |
|--------|--------------------|--------------|
| Police | Chief Darrell Lowe | 425-556-2521 |
|--------|--------------------|--------------|

DEPARTMENT STAFF:

| | | |
|--------|------------|---------|
| Police | Tim Gately | Captain |
|--------|------------|---------|

TITLE:

Approval of the Police Department Wellness & Resiliency Coordinator Contract with inLife Clinic LLC, in an Amount Not-to-Exceed \$75,000

OVERVIEW STATEMENT:

Provides oversight of the Police Department's Peer Support Program, Public Safety Chaplaincy Program, and provides on-going educational activities in support of healthy personal and professional and family relationships.

☐ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information** ☐ **Provide Direction** ☒ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
N/A
- **Required:**
N/A
- **Council Request:**
N/A
- **Other Key Facts:**
This program began in 2018 under Finance Agreement #8005-2 and has been extended each year. The new contract is a one-year contract with an option to renew for two additional one-year terms.

OUTCOMES:

The profession of Police Officer is stressful, and studies have shown that public safety employees may be susceptible to relationship challenges, unacceptable rates of divorce, low morale, suicide, and substance abuse. To assist officers in

times of traumatic events the Redmond Police Department provides education, support, and opportunities to ensure the well-being of our employees. We contract with a mental health professional to oversee our current programs, enhance our efforts to help employees in their times of need and to ensure the long-term well-being of employees. We have a stake in promoting police officers' wellness, because it has a direct impact on officers' abilities to effectively serve their communities.

(Acquadro Maran D, Zedda M, Varetto A. Physical Practice and Wellness Courses Reduce Distress and Improve Wellbeing in Police Officers. *International Journal of Environmental Research and Public Health*. 2018; 15(4):578.
<<https://doi.org/10.3390/ijerph15040578>>)

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:
\$75,000.00

Approved in current biennial budget: ☒ Yes ☐ No ☐ N/A

Budget Offer Number:
#226: Police Dispatch and Support

Budget Priority:
Safe and Resilient

Other budget impacts or additional costs: ☐ Yes ☒ No ☐ N/A

If yes, explain:
N/A

Funding source(s):
General Fund

Budget/Funding Constraints:
N/A

☐ Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

| Date | Meeting | Requested Action |
|---------|--|-------------------|
| 4/13/21 | Committee of the Whole - Public Safety | Provide Direction |

Proposed Upcoming Contact(s)

| Date | Meeting | Requested Action |
|------|----------------------------|------------------|
| N/A | None proposed at this time | N/A |

Time Constraints:

Contract has expired and we are seeking to renew immediately.

ANTICIPATED RESULT IF NOT APPROVED:

The Police Department will have to consider other options as to providing Employee Wellness Services, Training, and Oversight of the Volunteer Chaplain Program.

ATTACHMENTS:

Attachment A: Wellness Consultant Contract

| |
|--|
| |
|--|

| | |
|---|---|
| PROJECT TITLE | EXHIBITS (List all attached exhibits - Scope of Work, Work Schedule, Payment Schedule, Renewal Options, etc.) |
| CONTRACTOR | CITY OF REDMOND PROJECT ADMINISTRATOR (Name, address, phone #) City of Redmond |
| CONTRACTOR'S CONTACT INFORMATION (Name, address, phone #) | BUDGET OR FUNDING SOURCE |
| CONTRACT COMPLETION DATE | MAXIMUM AMOUNT PAYABLE |

THIS AGREEMENT is entered into on _____, 20__ between the City of Redmond, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

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

WHEREAS, the CITY does not have sufficient staff or expertise 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 has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. **Retention of Consultant - Scope of Work.** The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. **Completion of Work.** The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. 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 caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. **Payment.** The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. 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 the Scope of Work attached. The CONSULTANT shall be entitled to invoice

the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 30 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. 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 provided in Section 5.

5. Extra Work.

A. 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 or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or 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.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this agreement, as provided in Section 13. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. **Ownership of Work Product.** Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT.

7. **Independent Contractor.** The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. **Indemnity.** The CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CONSULTANT, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that:

A. The CONSULTANT's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the CITY, its officers, agents or employees; and

B. The CONSULTANT's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the CONSULTANT and the CITY, or of the CONSULTANT and a third party other than an officer, agent, subconsultant or employee of the CONSULTANT, shall apply only to the extent of the negligence or willful misconduct of the CONSULTANT.

9. **Insurance.** The CONSULTANT shall provide the following minimum insurance coverages:

A. Worker's compensation and employer's liability insurance as required by the State of Washington;

B. General public liability and property damage insurance in an amount not less than a combined single limit of two million dollars (\$2,000,000) for bodily injury, including death, and property damage per occurrence.

C. Professional liability insurance, if commercially available in CONSULTANT's field of expertise, in the amount of two million dollars (\$2,000,000) or more against claims arising out of work provided for in this agreement.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement. 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. The certificates of insurance shall cover the work specified in or performed under this agreement. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

10. Records. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose.

11. Notices. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this Agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. **Project Administrator.** The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it meets the requirements of this Agreement, and for reviewing, monitoring and approving the quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator.

13. **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 resolution to a mutually acceptable mediator. The parties shall each be responsible for one-half of the mediator's fees and costs.

14. **Termination.** The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified above. In the event that this agreement is terminated by the City other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of the CONSULTANT are terminated by the CITY for fault on part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. **Non-Discrimination.** The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, creed, color, national origin, sex, religion, honorable discharged veteran or military status, familial status, sexual orientation, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog or service animal by a person with a disability, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this Agreement may be terminated by the CITY and that the CONSULTANT may be barred from performing any services for the CITY now or in the future.

16. **Compliance and Governing Law.** The CONSULTANT shall at all times comply with all applicable federal, state, and local laws, rules, ordinances, and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

17. **Subcontracting or Assignment.** The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any sub-consultants approved by the CITY at the outset of this agreement are named on separate Exhibit attached hereto and incorporated herein by this reference as if set forth in full.

18. **Non-Waiver.** Payment for any part of the work or services 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 under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

19. **Litigation.** 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 agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for King County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions 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, in and for King County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

20. **Taxes.** The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

21. **City Business License.** The CONSULTANT has obtained, or agrees to obtain, a business license from the CITY prior to commencing to perform any services under this agreement. The CONSULTANT will maintain the business license in good standing throughout the term of this Agreement.

22. **Entire Agreement.** This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto. These standard terms and conditions set forth above supersede any conflicting terms and conditions on any attached and incorporate exhibit. Where conflicting language exists, the CITY'S terms and conditions shall govern.

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

CONSULTANT:

CITY OF REDMOND:

By: _____
Title: _____

Angela Birney, Mayor
DATED: _____

ATTEST/AUTHENTICATED:

City Clerk, City of Redmond

APPROVED AS TO FORM:

Office of the City Attorney

Exhibit A – Scope of Work

The CONTRACTOR/CONSULTANT shall perform all services and provide all goods as identified below:

This consultant will provide oversight of the Police Department's Peer Support Program, Public Safety Chaplaincy Program, provide on-going educational activities in support of healthy personal and professional relationships, family support, and educate officers on how to avoid engaging in dysfunctional coping behaviors that may damage their careers.

The contract mental health professional would provide an average of 8 hours per week of on-site services which would include:

- a. Train, manage and advise personnel assigned by the department as Peer Support Team Members;
- b. Provide training, education, and supervisory oversight of the Redmond Public Safety Chaplaincy Program;
- c. Provide training, activities, education, and support to Redmond Police Department employees and their families with the goal of maintaining positive healthy professional and personal relationships;
- d. Conduct Critical Incident Stress Management debriefings with personnel involved in responding to traumatic events as public safety personnel.

Confidentiality: When an employee discusses issues or concerns with the contractor these conversations will be treated as confidential. Only in the extreme instance where there is a question as to the safety of the individual where in the opinion of the mental health professional that the individual is a threat to themselves or others will the Wellness & Resiliency Coordinator be required to report to the Chief of Police any information about the conversations. Under these circumstances Wellness & Resiliency Coordinator will provide the most limited information as feasible to address the immediate concern for the safety and well-being of the individual.

Reporting Relationship: This position will report directly to the Chief of Police, or designee, for the purposes of coordinating department activities and job functions related to this contract.

Qualifications: The contractor must be a Mental Health Counselor licensed with the State of Washington and hold a Master of Administration or Science Degree in Applied Behavior Science. Due to the nature of the work described above, it is important that the person be experienced in providing mental health counseling to public safety personnel, is familiar with the stress of responding to traumatic public safety calls for service and traumatic grief therapy. It is also desirable that the mental health counselor be experienced in providing related marriage and family therapy.

Exhibit B – Work Schedule

Work Schedule. The CONSULTANT/CONTRACTOR shall complete all project milestones as identified and scheduled below:

| Milestone/Description of Task | Scheduled Completion Date |
|--|---------------------------|
| This work will begin upon the signing of the Consultant Agreement between the CITY and the CONSULTANT and will continue until December 31, 2022. | |
| Coordinate or conduct quarterly Peer Support Team education/training | Quarterly |
| Provide quarterly report to command staff regarding summary of wellness training, education, and department activities. | Quarterly |
| Conduct annual dept-wide wellness training. | Annually |

Exhibit C – Payment Schedule

For the goods/services identified in the Scope of Work, the City shall pay CONTRACTOR:

COST: \$150.00 per hour. Estimated at an average of 8-10 hours per week.

Total cost per year not to exceed \$75,000. Consultant will provide the CITY with a monthly invoice for services provided. Invoice will detail date, time, length (hours), location and type of services provided.

EXHIBIT D
Substitute Paragraph #6
For Non-Public Works Consulting Services Agreements

6. Ownership of Work Product. In performance of the CONSULTANT's obligations under this Agreement, the CITY or the CONSULTANT may receive access to intellectual property (including, but not limited to, knowhow and software) ("Intellectual Property") owned, controlled, or licensed by the other party or a third party ("Owner"). With respect to said Intellectual Property, the CITY and the CONSULTANT agree as follows:

A. Intellectual Property (including derivative works thereof, regardless of authorship) owned, controlled, or licensed by an Owner before commencement of the Scope of Work shall remain the property of the Owner;

B. Subject to subparagraphs A and D hereof, any Intellectual Property (other than derivative works of the CITY's Intellectual Property) developed in connection with this Agreement shall be owned by the CONSULTANT;

C. Upon payment of all amounts due under this Agreement, the CONSULTANT shall be deemed to have granted the CITY a non-exclusive, worldwide, perpetual (without regard to any termination or expiration of this Agreement), irrevocable, fully paid, royalty-free license as to the deliverables identified in the Scope of Work in source and object code form, including all intellectual property and other proprietary rights incorporated therein or embodied thereby. The CITY shall have the right to make, use, reproduce, disclose, modify, adapt, create derivative works based thereon, translate, distribute directly and indirectly, transmit, display, and perform publicly such work for its own internal, non-commercial uses;

D. Except as provided herein, neither party hereto may use, copy, publish, or disclose an Owner's Intellectual Property to others or authorize others to copy, publish, or disclose such Intellectual Property without the Owner's prior written approval; and

E. Nothing contained in this Paragraph shall affect or modify the CITY's obligation to disclose public records under Chapter 42.56 RCW or other applicable law. Provided, however, that the CONSULTANT may mark any documents furnished to the CITY under the following:

NOTICE: The information herein has been prepared for the use of the City of Redmond, Washington and no others, and is disclosed solely as required under Chapter 42.56 RCW or other applicable law. The information contains data that is copyright by © _____, all rights reserved, and as such shall not be used by or disclosed outside the original recipient of this disclosure. Recipient may not use the information to provide services to any other person or entity for a fee or other consideration.

INFORMATION PRIVACY AND SECURITY AGREEMENT

This Information Privacy and Security Agreement ("IPSA") is entered into by and between the City of Redmond ("City") and [] ("Contractor") as of the date last signed below (the "Effective Date") and hereby amends the attached agreement between City and Contractor (the "Underlying Agreement"). This IPSA shall apply to the extent that the provision of services by Contractor pursuant to the Underlying Agreement, for example including but not limited to, professional services, SAAS, on-premises software, and remote desktop access, involves the processing of City Data, access to City systems, or access to City Data that is subject to privacy laws.

In consideration of the mutual promises in the Underlying Agreement, this IPSA and other good and valuable consideration, the parties agree as follows:

1. Definitions.

a. "Authorized Users" means Contractor's employees, agents, subcontractors and service providers who have a need to know or otherwise access City Data to enable Contractor to perform its obligations under the Underlying Agreement or the IPSA, and who are bound in writing by confidentiality and other obligations sufficient to protect City Data in accordance with the terms and conditions of this IPSA.

b. "City Data" means any and all information that the City has disclosed to Contractor or that Contractor has created on behalf of the City pursuant to its obligations under the Underlying Agreement. For the purposes of this IPSA, City Data does not cease to be City Data solely because it is transferred or transmitted beyond the City's immediate possession, custody, or control.

c. "Data Breach" means the unauthorized acquisition, access, use, or disclosure of City Data which compromises the security or privacy of the City Data or associated City software systems.

d. "Services" means all services, work, activities, deliverables, software or other obligations provided by Contractor pursuant to the Underlying Agreement.

2. Standard of Care.

a. Contractor acknowledges and agrees that, in the course of its engagement by City, Contractor may create, receive, or have access to City Data. Contractor shall comply with the terms and conditions set forth in this IPSA in its creation, collection, receipt, access to, transmission, storage, disposal, use, and disclosure of such City Data and be responsible for any unauthorized creation, collection, receipt, access to, transmission, storage, disposal, use, or disclosure of City Data under its control or in the possession of Authorized Users.

b. Contractor further acknowledges that use, storage, and access to City Data shall be performed with that degree of skill, care, and judgment customarily accepted as sound, quality, and professional practices. Contractor shall implement and maintain safeguards necessary to ensure the confidentiality, availability, and integrity of City Data. Contractor shall also implement and maintain any safeguards required to be implemented by applicable state and federal laws and regulations.

3. User Access to City Data.

a. Contractor shall not access, use or disclose City Data in any manner that would constitute a violation of state or federal law, the terms of the Underlying Agreement, or the terms of this IPSA. Contractor may only provide access to Authorized Users who have a legitimate business need to access, use or disclose City Data in the performance of Contractor's duties to City.

b. If Contractor requires access to a City software system, then each Authorized User must have a unique sign-on identification and password for access to City Data on City systems. Authorized Users are prohibited from sharing their login credentials, and may only receive such credentials upon execution of the Authorized User Access Agreement, attached hereto as Exhibit A. Contractor shall notify City within one (1) day of the departure of any Authorized User, so that City may terminate such Authorized User's access to City software systems.

4. Use of Subcontractors or Agents.

a. Contractor may disclose City Data to a subcontractor and may allow the subcontractor to create, receive, maintain, access, or transmit City Data on its behalf, provided that Contractor obtains satisfactory assurances that the subcontractor will appropriately safeguard the information. Without limiting the generality of the foregoing, Contractor shall require each of its subcontractors that create, receive, maintain, access, or transmit City Data on behalf of Contractor to execute a written agreement obligating the subcontractor to comply with all terms of this IPSA and to agree to the same restrictions and conditions that apply to Contractor with respect to the City Data.

b. Contractor shall be responsible for all work performed on its behalf by its subcontractors and agents involving City Data as if the work was performed by Contractor. Contractor shall ensure that such work is performed in compliance with this IPSA, the Underlying Agreement and applicable law.

5. Use, Storage, or Access to, City Data.

a. Contractor shall only use, store, or access City Data in accordance with, and only to the extent permissible under this IPSA and the Underlying Agreement. Further, Contractor shall comply with all laws and regulations applicable to City Data (for example, in compliance with the Health Insurance Portability and Accountability Act ["HIPAA"] or the FBI Criminal Justice

Information Services requirements). If Contractor has access to City protected health information, then Contractor must also execute the City's Business Associate Agreement.

b. Contractor may store City Data on servers housed in datacenters owned and operated by third parties, provided the third parties have executed confidentiality agreements with Contractor. Any transmission, transportation, or storage of City Data outside the United States is prohibited except with the prior written authorization of the City.

6. Privacy.

a. Contractor represents and warrants that in connection with the Services provided by Contractor:

i. All use of City Data by Contractor shall be strictly limited to the direct purpose of performing the Services, except to the extent that City expressly grants permission in writing for such additional uses.

ii. Collection of data which identifies individuals shall be limited to the minimum required by the Services.

iii. If the Services, in whole or part, involves access or delivery of information pertaining to the City via a public-facing web site, then Contractor represents and warrants that its current privacy policy is published online, and is accessible from the same web site as any web-hosted application that is a part of the Services. Contractor's privacy policy will provide end-users with a written explanation of the personal information collected about end-users, as well as available opt-in, opt-out, and other end-user privacy control capabilities.

iv. If Contractor creates technical system log information, aggregated technical usage or traffic data, and/or statistically measured technical usage or traffic data that contains or originated (in whole or part) from City Data, then Contractor's use of such data shall be strictly limited to the direct purpose of the Services and Contractor's technical security operations and systems maintenance. Contractor is prohibited from using such data that personally identifies an individual for secondary commercial purpose (including but not limited to marketing to such individuals, or disclosing data to third parties for reasons unrelated to the primary purpose for originally collecting the data), nor may Contractor solicit consent from the identified individual to do so unless the Underlying Agreement defines a means to do so that does not unduly burden individual privacy rights.

b. Contractor shall maintain the confidentiality of City Data. Confidential information shall not be deemed to include information which (a) is or becomes publicly known through no fault of Contractor; (b) is a publicly available document; or (c) disclosure of which is required by court order or legal requirement. If disclosure of City Data is required by court order or legal requirement the Contractor shall notify City, unless such notification is prohibited by court order or legal requirement. City may take such legally available measures as it chooses to limit or prevent disclosure of the City Data.

7. Information Security. This Section 7 applies to the extent that Contractor owns, supports, or is otherwise responsible for host(s), network(s), environment(s), or technology products (including hardware or software) which may contain City Data.

a. Contractor represents and warrants that the design and architecture of Contractor's systems (including but not limited to applications and infrastructure) shall be informed by the principle of defense-depth; controls at multiple layers designed to protect the confidentiality, integrity and availability of data.

b. Contractor shall make appropriate personnel vetting/background checks, have appropriate separation of duties, and undertake other such workflow controls over personnel activities as necessary to safeguard City Data.

c. Contractor shall implement appropriate procedures to monitor and deploy security patches and prevent unintended or unauthorized system configuration changes that could expose system vulnerability or lead to a Data Breach.

d. To the extent that the Services include software that was developed, in whole or part, by Contractor, then Contractor shall ensure that all such Services were developed within a software development life cycle (SDLC) process that includes security and quality assurance roles and control process intended to eliminate existing and potential security vulnerabilities.

e. Contractor shall have appropriate technical perimeter hardening. Contractor shall monitor its system and perimeter configurations and network traffic for vulnerabilities, indicators of activities by threat actors, and/or the presence of malicious code.

f. Contractor shall have access, authorization, and authentication technology appropriate for protecting City Data from unauthorized access or modification, and capable of accounting for access to City Data. The overall access control model of Contractor systems shall follow the principal of least privileges.

g. Contractor shall collaborate with City to safeguard electronic City Data with encryption controls over such City Data both stored and in transit. Contractor shall discontinue use of encryption methods and communication protocols which become obsolete or have become compromised. All transmissions of City Data by Contractor shall be performed using a secure transfer method.

h. Contractor shall maintain a process for backup and restoration of data with a business continuity and disaster recovery plan.

i. Contractor facilities will have adequate physical protections, commensurate with leading industry practice to secure business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability.

j. Contractor shall, at its own expense, conduct an information security and privacy risk assessment, no less than annually, in order to demonstrate, substantiate, and assure that the security and privacy standards and practices of Contractor meet or exceed the requirements set out in this IPSA. Upon written request, Contractor shall furnish City with an executive summary of the findings of the most recent risk assessment. In lieu of providing an executive summary, Contractor may provide evidence of privacy and security certification from an independent third party.

i. City reserves the right to conduct or commission additional tests, relevant to the Services, in order to supplement Contractor's assessment. Contractor shall cooperate with such effort.

ii. If the findings of the risk assessment identify either: a potentially significant risk exposure to City Data, or other issue indicating that security and privacy standards and practices of Contractor do not meet the requirements set out in this IPSA, then Contractor shall notify City to communicate the issues, nature of the risks, and the corrective active plan.

8. Data Breach Procedures and Liability.

a. Contractor shall maintain a data breach plan in accordance with the criteria set forth in Contractor's privacy and security policy and shall implement the procedures required under such data breach plan on the occurrence of a Data Breach, in compliance with the requirements of Washington's data breach notification law codified at RCW 42.56.590. Contractor shall report, either orally or in writing, to City any Data Breach involving City Data including any reasonable belief that an unauthorized individual has accessed City Data. The report shall identify the nature of the event, a list of the affected individuals and the types of data, and the mitigation and investigation efforts of Contractor. Contractor shall make the report to the City immediately upon discovery of the Data Breach, but in no event more than forty-eight (48) hours after discovery of the Data Breach. Contractor shall provide investigation updates to the City. If such Data Breach contains protected health information, as defined by HIPAA, Contractor shall comply with the breach requirements contained in the Business Associate Agreement.

b. Notwithstanding any other provision of the Underlying Agreement, and in addition to any other remedies available to the City under law or equity, Contractor shall promptly reimburse the City in full for all costs incurred by the City in any investigation, remediation or litigation resulting from any Data Breach. Contractor's duty to reimburse the City includes but is not limited to, reimbursing to the City its cost incurred in doing the following:

i. Notification to third parties whose information may have been or were compromised and to regulatory bodies, law- enforcement agencies or other entities as may be required by law or contract;

ii. Establishing and monitoring call center(s) and credit monitoring and/or identity restoration services to assist each person impacted by a Data Breach of a nature that, in City's sole discretion, could lead to identity theft; and

iii. Payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed upon the City by a regulatory agency, court of law, or contracting partner as a result of the Data Breach.

c. Upon a Data Breach, Contractor is not permitted to notify affected individuals without the express written consent of City. Unless Contractor is required by law to provide notification to third parties or the affected individuals in a particular manner, City shall control the time, place, and manner of such notification.

9. No Surreptitious Code. Contractor warrants that, to the best of its knowledge, its system is free of and does not contain any code or mechanism that collects personal information or asserts control of the City's system without City's consent, or which may restrict City's access to or use of City Data. Contractor further warrants that it will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorized access to City Data, or which may restrict City's access to or use of City Data.

10. Public Records Act. Contractor recognizes that City is a municipal entity subject to the Public Records Act, Chapter 42.56 RCW, and that City is obligated to disclose records upon request unless a specific exemption from disclosure exists. Nothing in this IPSA is intended to prevent City's compliance with the Public Records Act, and City shall not be liable to Contractor due to City's compliance with any law or court order requiring the release of public records.

11. City Control and Responsibility. City retains all ownership, title, and rights to the City Data. City has and will retain sole responsibility for: (a) all City Data; and (b) City's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by City or through the use of third-party services.

12. Term and Termination.

a. Term. The term of this IPSA is the same as the term in the Underlying Agreement.

b. Termination. In addition to the termination rights in the Underlying Agreement, City may terminate this IPSA and the Underlying Agreement as follows:

i. In the event of a material breach of this IPSA by the Contractor, provided that City first sends the Contractor written notice describing the breach with reasonable specificity, including any steps that must be taken to cure the breach. If Contractor fails to cure the breach to the reasonable satisfaction of City within thirty (30) days after receipt of the written notice, this IPSA and the Underlying Agreement may be terminated at the end of the 30-day period; provided, that if a cure cannot be completed within the thirty (30) day period, the cure period shall be extended so long as Contractor shall initiate the cure within the thirty (30) day period and thereafter diligently pursue it to completion, and provided further, that the cure

period shall not be extended more than ninety (90) days after receipt of the notice of the breach;
or

ii. Immediately upon a Data Breach by Contractor or Contractor's Authorized Users.

c. Effect of Expiration or Termination.

i. If City terminates the Underlying Agreement or this IPSA due to a material breach or Data Breach described in Section 12.b above, City shall not be obligated to pay any early termination fees or penalties.

ii. Within thirty (30) days following the expiration or termination of the Underlying Agreement, Contractor shall return to City all City Data in a format and structure acceptable to City and shall retain no copies of such City Data, unless City requires destruction of the City Data. As applicable, Contractor shall comply with any transition service requirements described in the Underlying Agreement.

iii. Contractor is permitted to retain City Data in its backups, archives and disaster recovery systems until such City Data is deleted in the ordinary course of Contractor's data deletion practices; and all City Data will remain subject to all confidentiality, security and other applicable requirements of this IPSA and as otherwise required by law.

13. Insurance. In addition to the insurance requirements of the Underlying Agreement, Contractor will maintain at its sole cost and expense at least the following insurance covering its obligations under this IPSA.

a. Cyber Liability Insurance: With coverage of not less than Two Million Dollars (\$2,000,000) in the aggregate which shall include at a minimum coverage for (i) unauthorized access, which may take the form of a "hacker attack" or a "virus" introduced by a third party or cyber extortion; (ii) crisis management, response costs and associated expenses (e.g. legal and public relations expenses); (iii) breach of the City Data; and (iv) loss of data or denial of service incidents.

b. If Contractor's Services include professional services, then Contractor shall maintain Professional Liability or Errors and Omissions Coverage of not less than Two Million Dollars (\$2,000,000) per claim and in the aggregate.

c. Contractor's insurance shall be primary to any other insurance or self-insurance programs maintained by City. Contractor shall provide to City upon execution a certificate of insurance and blanket additional insured endorsement (if applicable for the Cyber Liability Insurance). Receipt by City of any certificate showing less coverage than required is not a waiver of Contractor's obligations to fulfill the requirements.

d. Upon receipt of notice from its insurer(s), Contractor shall provide City with thirty (30) days prior written notice of any cancellation of any insurance policy, required pursuant

to this Section 13. Contractor shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 13. Failure to provide the insurance cancellation notice and to furnish to City replacement insurance policies meeting the requirements of this Section 13 shall be considered a material breach of this IPSA.

e. Contractor's maintenance of insurance as required by this Section 13 shall not be construed to limit the liability of Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or equity. Further, Contractor's maintenance of insurance policies required by this IPSA shall not be construed to excuse unfaithful performance by Contractor.

14. Cumulative Rights and Remedies. All City rights and remedies set out in this IPSA are in addition to, and not instead of, other remedies set out in the Underlying Agreement, irrespective of whether the Underlying Agreement specifies a waiver, limitation on damages or liability, or exclusion of remedies. The terms of this IPSA and the resulting obligations and liabilities imposed on Contractor shall supersede any provision in the Underlying Agreement purporting to limit Contractor's liability or disclaim any liability for damages arising out of Contractor's breach of this IPSA.

15. Indemnification. Contractor shall indemnify, defend and hold harmless City and City's officers, directors, employees, volunteers and agents (each, a "City Indemnitee") from and against any and all third party loss, cost, expense, claims, suit, cause of action, proceeding, damages or liability incurred by such City Indemnitee arising out of or relating to (i) a breach of this IPSA by Contractor; (ii) a violation by Contractor of any information security and privacy statute or regulations; or (iii) any Data Breach by Contractor.

16. Miscellaneous.

a. Order of Precedence. This IPSA shall survive the expiration or earlier termination of the Underlying Agreement. In the event the provisions of this IPSA conflict with any provision of the Underlying Agreement, or Contractor's warranties, support contract, or service level agreement, the provisions of this IPSA shall prevail.

b. Entire Agreement. This IPSA, including its exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this IPSA and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

c. No Third-Party Beneficiaries. This IPSA is for the sole benefit of the parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this IPSA.

d. Notices. All notices required to be given by either party to the other under this IPSA shall be given to the Technology and Information Systems Service Desk at the following

email address: ISAdministration@redmond.gov, or phone number: 425-556-2929. All other notices shall be governed by the requirements of the Underlying Agreement.

e. Amendment and Modification; Waiver. No amendment to or modification of this IPSA is effective unless it is in writing, identified as an amendment to or modification of this IPSA and signed by an authorized representative of each party. The waiver of any breach of any provision of this IPSA will be effective only if in writing. No such waiver will operate or be construed as a waiver of any subsequent breach.

f. Severability. If a provision of this IPSA is held invalid under any applicable law, such invalidity will not affect any other provision of this IPSA that can be given effect without the invalid provision. Further, all terms and conditions of this IPSA will be deemed enforceable to the fullest extent permissible under applicable law and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect.

g. Governing Law; Submission to Jurisdiction. This IPSA is governed exclusively by the laws of the State of Washington, excluding its conflicts of law rules. Exclusive venue for any action hereunder will lie in the state and federal courts located in Seattle, King County, Washington and both parties hereby submit to the jurisdiction of such courts.

h. Counterparts. This IPSA may be executed in counterparts and by facsimile or electronic pdf, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this IPSA delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this IPSA.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

Contractor

City of Redmond

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
AUTHORIZED USER ACCESS AGREEMENT

Name of Individual: _____ Name of Contractor: _____

I understand and agree that I am being provided electronic access to a system containing confidential and or proprietary data (the "City Data") owned and operated by the City of Redmond ("City") due to my employment by or contractual relationship with _____ ("Contractor").

I agree that I may use the City Data for the sole purpose of Contractor's obligations to City and in a manner that complies with City's Information Technology Usage Policy. I understand that under no circumstances shall I attempt to impermissibly access, download, read, alter, use or disclose any City Data.

In the event I inadvertently access City Data not related to Contractor's obligations to City, I agree that I will not use, copy, alter or disclose such data and will immediately delete all such data from my records and notify City.

I understand that my user identification, password and profile (collectively, "Authorized User ID") will allow me to access the City Data. I acknowledge that I will keep my Authorized User ID confidential and will not divulge such information to any other individual or entity. I agree to take appropriate measures to protect the privacy of any City Data and to comply with Contractor's privacy and security policies and procedures. I agree that if I suspect that my Authorized User ID has been obtained by another individual, I will immediately inform City so that appropriate action may be taken.

I understand that my access to City Data may be monitored. I understand that all actions used in connection with the City Data may be saved, searched and audited for compliance. I understand that I do not have any personal privacy rights related to my access of the City Data. I further understand that the City has the right to revoke my access at any time.

I agree that I will not use City Data for any other purpose, including personal use, solicitation for outside business ventures, or clinical or research studies. I understand that unauthorized use or disclosure of certain types of City Data may subject me to civil liability under state and/or federal law, and that improper use or disclosure may constitute a crime.

I understand that should I violate any provision of this Authorized User Access Agreement, City will discontinue my access to the City Data and may terminate access of Contractor.

I acknowledge that I have read, understand and agree with the conditions above. Further, I agree to immediately notify City at _____ of any conflict with or violation of the above conditions.

Authorized User Signature

Date

EXHIBIT _____ INSURANCE ADDENDUM

THIS ADDENDUM modifies the provisions of the (check one): _____ General Services Agreement, _____ Non-Public Work Consultant Agreement, _____ Instructional Services Agreement, _____ Social/Community Services Agreement, _____ Short Term Facility Agreement, _____ Fixed Asset Loan Agreement, _____ Three Party Consultant Agreement (hereinafter "the Agreement") or _____ Public Work Consultant Agreement entered into between the parties on _____, _____.

THE UNDERSIGNED PARTIES agree to modify paragraph 8 (if a General Services Agreement), 9 (if Non-Public Work Consultant Agreement), 7 (if Instructional Services Agreement), 6 (if Social/Community Services Agreement), 9 (if Short Term Facility Agreement), 5 (if Fixed Asset Loan Agreement), 10 (if a Three Party Consultant Agreement) or 8 (if Public Work Consultant Agreement) as follows (check all applicable items):

- _____ The general public liability and property damage insurance limit is increased/reduced to \$ _____ (insert amount).
- _____ The professional liability insurance amount is increased/reduced to \$ _____ (insert amount). This item relates to Consultant and Three Party Consultant Agreements only.
- _____ The professional liability insurance requirement is eliminated. This item relates to Consultant and Three Party Consultant Agreements only.
- _____ The insurance provisions are otherwise modified as follows:

Except as expressly modified above, all insurance-related terms and conditions of the Agreement will remain unchanged and in full force and effect. The City has made no recommendation to the contractor/consultant as to the insurance necessary to protect the contractor/consultant's interests and any decision by the contractor/consultant to carry or not carry insurance amounts or coverage in excess of the above is solely that of the contractor/ consultant.

DATED _____, _____.

CITY OF REDMOND

CONTRACTOR/CONSULTANT

MAYOR ANGELA BIRNEY

By: _____
Title: _____

ATTEST/AUTHENTICATED:

APPLICANT (IF THREE PARTY
CONSULTANT AGREEMENT

CITY CLERK, CITY OF REDMOND

By: _____
Title: _____

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

APPROVED:

RISK MANAGER, CITY OF REDMOND

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between the City of Redmond (“Covered Entity”) and _____, (“Business Associate”), effective as of the ____ day of _____, 20__ (“Effective Date”).

RECITALS

WHEREAS, the parties contemplate one (1) or more arrangements (collectively, the “Arrangement”) whereby Business Associate provides services to Covered Entity, and Business Associate creates, receives, maintains, transmits, or has access to Protected Health Information in order to provide those services;

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and regulations promulgated thereunder, including the Standards for Privacy and for Security of Individually Identifiable Health Information codified at 45 Code of Federal Regulations (“CFR”) Parts 160, 162, and 164 (“Privacy Regulations” and “Security Regulations”);

WHEREAS, the Privacy Regulations and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those regulations prohibit the Disclosure or Use of Protected Health Information by or to Business Associate if such a contract is not in place;

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

I. DEFINITIONS

1.1 Capitalized terms used but not otherwise defined in this Agreement shall have the same meaning assigned to such terms in HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) and as set forth in 45 CFR Parts 160, 162 and 164.

II. OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of PHI. Except as otherwise limited in this Agreement, Business Associate may Use and Disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the written documents describing the Arrangement entered into by the parties, provided that such Use or Disclosure of PHI would not violate the Privacy Regulations or Security Regulations if done by Covered Entity. Business Associate further agrees not to Use or Disclose PHI other than as permitted or required by this Agreement, or as Required by Law.

2.2 Adequate Safeguards for PHI. Business Associate shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of PHI in any manner other than as permitted by this Agreement or as Required by Law.

2.3 Adequate Safeguards for EPHI. Business Associate shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall comply with the Security Regulations, where applicable, with respect to EPHI to prevent the Use or Disclosure of EPHI other than as permitted by this Agreement. Such compliance shall include but not be limited to, creation and maintenance of security policies and procedures pursuant to 45 CFR 164.316 and an ongoing risk assessment conducted in accordance with 45 CFR 164.308.

2.4 Reporting Non-Permitted Use, Disclosure, or Breach.

(a) Business Associate shall immediately in writing notify Covered Entity of any Use or Disclosure of PHI not permitted by this Agreement of which Business Associate becomes aware.

(b) Business Associate shall report to Covered Entity any Security Incident of which it becomes aware as follows: (a) reports of successful unauthorized access shall be made immediately; and (b) reports of attempted unauthorized access shall be made in a reasonable time and manner considering the nature of the information to be reported.

(c) Business Associate shall report to Covered Entity a Breach or potential Breach of Unsecured PHI without unreasonable delay, but not later than five (5) days, following Business Associate's discovery of such Breach or potential Breach, where such report will include the identification of each individual whose Unsecured PHI has been or is reasonably believed to have been breached, additional information that Covered Entity is required to include in a Breach notification pursuant to 45 CFR 164.404(c), and other information as requested by Covered Entity. Business Associate agrees to not notify patients, the media, or HHS of a Breach unless requested to do so by Covered Entity or unless otherwise required by law. For purposes of the foregoing obligation, "Breach" shall mean the acquisition, access, Use, or Disclosure of PHI in a manner not permitted under the HIPAA Privacy Regulations which compromises the security or privacy of such information, as further defined in 45 CFR 164.402. Business Associate shall supplement its report(s) if the above information is not available at the time of the initial report, and Business Associate shall otherwise cooperate with Covered Entity's requests for information as may be necessary for Covered Entity to evaluate the scope of the incident and related compliance issues. Business Associate must notify Covered Entity of the Breach or potential Breach regardless of whether Business Associate has conducted a risk assessment, or the results of the risk assessment, described in 45 CFR 164.404.

2.5 Notice. All reporting pursuant to this Agreement shall be to the City of Redmond Privacy Officer at the following e-mail address: privacy@redmond.gov.

2.6 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books, and records relating to the Use

and Disclosure of PHI by Business Associate on behalf of Covered Entity available to the Secretary of the federal Department of Health and Human Services (“HHS”) for purposes of determining Covered Entity’s compliance with the Privacy Regulations and Security Regulations. Business Associate shall immediately in writing notify Covered Entity of any requests made by HHS and provide Covered Entity with copies of any documents produced in response to such request.

2.7 Access to and Amendment of PHI. In the event that Covered Entity’s PHI in the Business Associate’s possession constitutes a Designated Record Set, Business Associate shall within five (5) days of receiving a request from Covered Entity for access to PHI about an Individual contained in a Designated Record Set, Business Associate shall: (a) make the PHI specified by Covered Entity available to Covered Entity to access and copy that PHI, and (b) make PHI available to Covered Entity for the purpose of amendment and incorporating such amendments into the PHI. Covered Entity is responsible for responding to Individuals’ request for access to PHI and, in the event Business Associate receives such requests directly from Individuals, Business Associate shall notify Covered Entity of the request promptly, but in no event longer than five (5) business days, for Covered Entity to respond to the Individuals. Business Associate shall have a process in place for requests and amendments from Covered Entity.

2.8 Accounting of Disclosures.

(a) In accordance with 45 CFR 164.528, and Section 13405(c) of Title XII, Subtitle D of the HITECH Act, codified at 42 U.S.C. § 17932, Business Associate agrees to: (a) document Disclosures of PHI and information related to such Disclosures; (b) provide such documentation to Covered Entity in a time and manner designated by Covered Entity; and (c) permit Covered Entity to respond to a request by an individual for an accounting of Disclosures of PHI. Within ten (10) days of Business Associate receiving a request from Covered Entity, Business Associate shall provide to Covered Entity an accounting, as described in 45 CFR 164.528, of each Disclosure of PHI made by Business Associate or its employees, agents, representatives, or subcontractors. Covered Entity is responsible for responding to Individuals’ request for an accounting and, in the event Business Associate receives such requests directly from Individuals, Business Associate shall notify Covered Entity of the request promptly, but in no event longer than five (5) business days, for Covered Entity to respond to the Individuals.

(b) Any accounting provided by Business Associate under this Section 2.8 shall include: (i) the date of Disclosure; (ii) the name, and address, if known, of the entity or person who received the PHI; (iii) a brief description of Disclosed PHI; and (iv) a brief statement of the purpose of Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (i) through (iv), above, and shall securely retain this documentation for six (6) years from the date of Disclosure.

2.9 Use of Subcontractors and Agents.

(a) Business Associate may Disclose PHI to a subcontractor, and may allow the subcontractor to create, receive, maintain, access or transmit PHI on its behalf, provided that

Business Associate obtains satisfactory assurances that the subcontractor will appropriately safeguard the information. Without limiting the generality of the foregoing, Business Associate shall require each of its subcontractors that create, receive, maintain, access or transmit PHI on behalf of Business Associate to execute a written agreement obligating the subcontractor to comply with all terms of this Agreement and to agree to the same restrictions and conditions that apply to Business Associate with respect to the PHI. Upon request from Covered Entity, Business Associate shall provide a list of subcontractors that it has Disclosed PHI to and the nature of the Disclosed PHI.

(b) Business Associate shall terminate its agreement with any subcontractor if Business Associate knows of or discover a pattern of activity or practice of a subcontractor that constitutes a material breach or violation of the subcontractor's HIPAA obligation under the written agreement with Covered Entity. Business Associate shall immediately notify Covered Entity of the termination of the subcontractor agreement if such termination resulted from a material breach or violation of the subcontractor's HIPAA obligations.

(c) Business Associate shall require the subcontractor assent in writing to the jurisdiction and laws of the United States, regardless of whether the subcontractor is a foreign entity, is performing services outside the United States, or is not otherwise subject to the jurisdiction of the United States. Business Associate hereby agrees not to transmit or store any PHI outside of the United States.

2.10 Agreement to Mitigate. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement, and to promptly communicate to Covered Entity any actions taken pursuant to this Section 2.10.

2.11 Business Associate Practices, Policies and Procedures. Business Associate represents and warrants that Business Associate's privacy and security policies and practices shall meet current standards set by applicable state and federal law for the protection of PHI including, without limitation, user authentication, data encryption, monitoring and recording of database access, internal privacy standards and a compliance plan, all designed to provide assurances that the requirements of this Agreement are met. Upon reasonable notice, Business Associate shall make its facilities, systems, books and records available to Covered Entity to monitor Business Associate's compliance with this Agreement.

2.12 Compliance with Covered Entity Obligations. To the extent Business Associate carries out Covered Entity's obligations under the Privacy Regulations and Security Regulations, Business Associate shall comply with the requirements of such regulations that apply to Covered Entity in the performance of such obligations.

2.13 HITECH Act Compliance. Business Associate will comply with the requirements of the HITECH Act, codified at 42 U.S.C. §§ 17921–17954, which are applicable to business associates, and will comply with all regulations issued by HHS to implement these referenced statutes, as of the date by which business associates are required to comply with such referenced statutes and HHS regulations.

2.14 Minimum Necessary. Business Associate shall Use or Disclose only the minimum necessary amount of PHI to accomplish the intended purpose of such Use or Disclosure.

III. OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity shall, upon request, provide Business Associate with its current notice of privacy practices adopted in accordance with the Privacy Regulations.

3.2 Covered Entity shall inform Business Associate of any revocations, amendments or restrictions in the Use or Disclosure of PHI if such changes affect Business Associate's permitted or required Uses and Disclosures of PHI hereunder.

IV. ADDITIONAL PERMITTED USES

4.1 Except as otherwise limited in this Agreement or the Arrangement, Business Associate may Use and Disclose PHI as set forth below:

(a) Use of Information for Management, Administration and Legal Responsibilities. Business Associate may Use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(b) Disclosure of Information for Management, Administration and Legal Responsibilities. Business Associate may Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate if the Disclosure is Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purpose of which it was Disclosed, and the person notifies Business Associate of any instances of which it is aware where confidentiality of the information has been breached.

V. TERM AND TERMINATION

5.1 Term and Termination. This Agreement shall commence as of the Effective Date and shall continue in effect unless and until terminated by Covered Entity under this Section 5.1. Covered Entity may terminate this Agreement, without cause or penalty, on five (5) days' prior written notice to Business Associate. In addition, this Agreement may be terminated by Covered Entity immediately and without penalty upon written notice by Covered Entity to Business Associate if Covered Entity determines, in its sole discretion, that Business Associate has violated any material term of this Agreement. Business Associate's obligations under Sections 2.4, 2.5, 2.7, 2.8, 2.9, 2.9(b), 2.10, 5.2, 6.3, 6.5, 6.6 and 6.10 of this Agreement shall survive the termination of this Agreement.¹

5.2 Disposition of PHI upon Termination. Upon termination of this Agreement, Business Associate shall either return or destroy, in Covered Entity's sole discretion and in accordance with any instructions by Covered Entity, all PHI maintained in any form by Business Associate or its agents and subcontractors, and shall retain no copies of such PHI unless directed

to do so by Covered Entity. However, if Covered Entity determines that neither return nor destruction of PHI is feasible, Business Associate may retain PHI provided that Business Associate: (a) continues to comply with the provisions of this Agreement for as long as it retains PHI, and (b) limits further Uses and Disclosures of PHI to those purposes that make the return or destruction of PHI infeasible.

VI. GENERAL TERMS

6.1 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

6.2 Relationship to Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of any other agreement between the parties, the provisions of this Agreement shall control.

6.3 Indemnification. Business Associate will indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses (including attorneys' fees) incurred as a result or arising directly or indirectly out of, or in connection with (a) any misrepresentation, breach, or non-fulfillment of any undertaking on the part of Business Associate under this Agreement; (b) any claims, demands, awards, judgments, actions, and proceedings made by any person or organization, arising out of or in any way connected with Business Associate's obligations under this Agreement; and (c) a breach of unsecured PHI caused by Business Associate or its subcontractors or agents. Without limiting the generality of the foregoing, Business Associate agrees to reimburse Covered Entity for any and all costs and expenses incurred as a result or arising directly or indirectly out of Covered Entity's compliance with the HIPAA breach notification requirements set forth at 42 U.S.C. § 17932 and 45 CFR 164.40 *et seq.* as a result of a Breach by Business Associate, including but not limited to all costs associated with Covered Entity's obligation to notify affected Individuals, the government, and the media of a Breach and any costs for credit monitoring, as applicable or establishing a toll-free number. Any limitation of liability set forth in written agreements pertaining to the Arrangement shall not apply to this Agreement.

6.4 Insurance. Business Associate shall obtain and maintain during the term of this Agreement, and at any time in which it retains PHI, liability insurance covering common law claims, breach notification expenses, data theft, and coverage related to the violation of state or federal information privacy and security laws or regulations. The policy limits for such coverage shall not be less than \$1,000,000 per claim, and \$3,000,000 in the annual aggregate. Such insurance shall name Covered Entity as an additional named insured. A copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity upon written request. Business Associate shall provide Covered Entity with written notice of any policy cancellation within two (2) business days of the receipt of such notice. Failure of Business Associate to maintain the insurance as required shall constitute a material breach of this Agreement, upon which Covered Entity may, after giving five (5) business days notice to Business Associate to correct such breach, immediately terminate this Agreement. Business Associate's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Business Associate to the coverage provided by such insurance, or otherwise limit Covered Entity's recourse to any remedy available at law or in equity.

6.5 Data Ownership. Business Associate acknowledges and agrees that Covered Entity owns all rights, interests, and title in and to its data, including all PHI and any de-identified data, and title shall remain vested in Covered Entity at all times. Accordingly, Business Associate hereby acknowledges and agrees that it does not have the right to engage in the sale of PHI. Business Associate shall not de-identify PHI or Use or Disclose any such de-identified information unless otherwise permitted in writing by Covered Entity.

6.6 Governing Law; Venue and Jurisdiction; Attorneys' Fees. This Agreement shall in all respects be interpreted, enforced and governed by the laws of Washington State. Venue for any action or proceeding shall be in King County, Washington. In the event of any litigation or arbitration relating to or arising out of this Agreement, the substantially prevailing party or parties shall be entitled to its cost of litigation or arbitration, and reasonable attorneys' fees, including any attorneys' fees and costs incurred in bankruptcy or insolvency proceedings or on any appeal.

6.7 Legal Compliance. The parties hereto shall comply with applicable laws and regulations governing their relationship, including, without limitation, the Privacy Regulations, the Security Regulations, and any other federal or state laws or regulations governing the privacy, confidentiality, or security of patient health information, including without limitation, the Washington Uniform Healthcare Information Act, RCW Ch. 70.02. Business Associate shall comply with applicable state and federal statutes and regulations as of the date by which business associates are required to comply with applicable statutes and regulations. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Regulations, the Security Regulations, the HITECH Act, RCW ch. 70.02 and other federal or state laws or regulations governing the privacy, confidentiality, or security of patient health information or PHI.

6.8 Amendment. Upon request by Covered Entity, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of the Privacy Regulations, Security Regulations, or other applicable laws. Covered Entity may terminate this Agreement upon thirty (30) days written notice to Business Associate in the event: (a) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section, or (b) Business Associate does not enter into an amendment of this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of the Privacy Regulations, Security Regulations, or other applicable laws.

6.9 Severability. If a provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect.

6.10 Public Records Act. The parties acknowledge that the confidentiality provisions of the HIPAA Privacy Regulations constitute an “other statute which exempts or prohibits disclosure” under the Washington State Public Records Act (see RCW 42.56.070(1); *see also Hangartner v. Seattle*, 151 Wn.2d 439, 453 (2004)), and that the confidentiality provisions under the Privacy Regulations and this Agreement shall control. Furthermore, Business Associate shall not release any de-identified health information without first notifying and conferring with Covered Entity.

6.11 No Assignment. Neither party shall assign this Agreement without the prior written consent of the other party.

6.12 Entire Agreement. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations and agreements relating to the same subject matter, including, but not limited to other business associate agreements or agreements related to patient data and the access, use, privacy, security and confidentiality of patient data. In the event of conflict between any written or oral provision of the Arrangement and any provision of this Agreement, the applicable provisions of this Agreement shall control with respect to patient data and the access, use, privacy, security and confidentiality of patient data.

6.13 Independent Contractor. Business Associate and Covered Entity are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. No acts performed, or words spoken by either party with respect to any third party, shall be binding upon the other. Any and all obligations incurred by either party in connection with the performance of any of its obligations hereunder shall be solely at that party's own risk. Each party agrees that it shall not represent itself as the agent or legal representative of the other for any purpose whatsoever.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

Business Associate:

City of Redmond:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

EXHIBIT H

POLICE RIDE-ALONG WAIVER, RELEASE, AND INDEMNIFICATION

The contractor may voluntarily choose to participate in police "ride-alongs."

WAIVER, RELEASE, AND INDEMNIFICATION

I hereby request the privilege, for my personal benefit, of accompanying members of the Redmond Police Department while on general duty, which will include my being in and about City-owned police vehicles, and riding in a police vehicle while the same is being used by Redmond Police Department personnel during the course of police duties. I fully understand that during the time I am accompanying any Redmond Police Officer, I may be exposed to a wide variety of dangerous circumstances and situations which include, but are not limited to, high speed motor vehicle chases, motor vehicle accidents, coming into contact with armed subjects, circumstances which require the police officer to use his/her firearm, and exposure to the risk of accidental discharge of a firearm. I waive any and all actions, claims, and demands against the City of Redmond; its officers, agents, and employees, for all personal injuries, damages or losses, of any nature, which may result from any such activity, including all those which may arise out of the negligence of any police officer or any other employee or agent of the City of Redmond, and do further release the City of Redmond, its officers, agents, employees, assigns, and subrogates in the event of any loss, damages, or claims arising from the subject activity. This agreement is made in consideration of my being allowed to accompany Redmond Police personnel in the performance of their duties. I understand and agree that I will obey and follow any and all directions of any police officer and, in particular, the officers to whom I am assigned during the time that I am accompanying the Redmond Police Department.

- I agree to ride with and accompany whichever police officers are designated by Redmond Police supervisory personnel.
- Ride-alongs are subject to any conditions imposed by the shift supervisor.
- Total length of ride-along is subject to supervisor approval. In general, ride-along should not exceed 1 hour.
- PERMISSION TO RIDE WITH AN OFFICER IS SUBJECT TO THE RESULTS OF A CRIMINAL BACKGROUND RECORDS CHECK.

Contractor is hereby granted permission to ride in a Redmond Police vehicle as may be assigned during the contract period.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

| | |
|--|--|
| Contractor: Phyllis O. Rodgers, MA, LMHC inLifeClinic, LLC 16715 NE 79 ST Redmond, WA 98052 Signature: _____ Print Name: _____ Date: _____ | City of Redmond _____ By: _____ Print Name: _____ Title: _____ Date: _____ |
|--|--|

Exhibit I - Option for Renewal

The City reserves the right to renew this contract for two (2) additional one-year renewal terms, for a potential maximum total term of three and a half (3.5) years, upon serving notice to Consultant within thirty (30) calendar days prior to expiration. If a renewal provision is exercised, all terms and conditions of original contract shall remain in full force and effect. A renewal will be accomplished through a separate contract with reference to the original contract. Acceptance of a renewal offer will be by mutual agreement of both parties. The Mayor or designee is authorized to exercise this renewal option.

Should the City exercise a renewal option, the City and Consultant may discuss a price adjustment, in accordance with the Bureau of Labor Statistics Consumer Price Index (CPI-W) for the Seattle-Tacoma-Bellevue area occurring during the immediately preceding 12-month period for which CPI-W data is available, or a fixed 3% increase, whichever is greater. The Bureau of Labor Statistics website can be found at: <https://www.bls.gov/cpi/data.htm>. Consultant shall notify the City in writing at least thirty (30) days prior to a proposed price adjustment. Acceptance of such a request will be at the sole discretion of the City.





Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. AM No. 21-066
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

| | | |
|------------------------------------|---------------|--------------|
| Planning and Community Development | Carol Helland | 425-556-2107 |
|------------------------------------|---------------|--------------|

DEPARTMENT STAFF:

| | | |
|------------------------------------|-----------|----------------------------------|
| Planning and Community Development | Andy Chow | Manager, Development Engineering |
| Planning and Community Development | Pat Lyga | Senior Engineering Technician |

TITLE:

Adoption of an Ordinance for Approval of the Final Plat of Penny Lane II

- a. Ordinance No. 3036: An Ordinance of the City of Redmond, Washington, Approving the Final Plat of Penny Lane II Pursuant to RCW 58.17.170 and RZC21.74.030, and Establishing an Effective Date

OVERVIEW STATEMENT:

Penny Lane II preliminary plat approval was granted by the Hearing Examiner subject to conditions on June 18, 2020. Penny Lane II engineering plans were approved by staff on December 2, 2020. Penny Lane II final plat was submitted by the applicant for staff review on March 12, 2021. Staff has reviewed the list of conditions outlined in the Hearing Examiner's decision and determined that the final plat of Penny Lane II conforms to those conditions and all other requirements set forth under RCW 58.17.170 and RZC 21.74.030.C.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information** ☐ **Provide Direction** ☒ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
N/A
- **Required:**
RCW 58.17.170 and RZC 21.74.030.C.
- **Council Request:**
N/A

- **Other Key Facts:**

Penny Lane II is located at 7960, 7970, and 7980 170th Avenue NE, in Redmond, Washington, in the Downtown Neighborhood, and is zoned East Hill.

Penny Lane II is a unit-lot subdivision subdividing a 0.56-acre site into 14 lots including the dedication of Right-Of-Way for a portion of 170th Court NE. Access to the Penny Lane II subdivision will be by public road.

OUTCOMES:

Approval of the final plat of Penny Lane II authorizes the Mayor to sign the final plat and will allow the applicant to record the final plat with the King County Recorder and create the approved new lots. This approval does not imply final acceptance of the site improvements.

The City will provide maintenance of the public utilities and roads that serve the final plat.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**

Penny Lane II went through applicable development review and complied with required notices and requests for public feedback. The Hearing Examiner issued an approval of the Preliminary Plat on June 18, 2020.

- **Outreach Methods and Results:**

N/A

- **Feedback Summary:**

N/A

BUDGET IMPACT:

Total Cost:

N/A

Approved in current biennial budget:

☒ Yes

☐ No

☐ N/A

Budget Offer Number:

000244-Development Services

Budget Priority:

Vibrant and Connected

Other budget impacts or additional costs:

☐ Yes

☐ No

☒ N/A

If yes, explain:

N/A

Funding source(s):

Maintenance funding for the utilities (water and sewer) will be provided from the Utility Fund. Maintenance funding for public stormwater utilities will be provided from the Stormwater Utility Fund. Maintenance of public roads will be provided from the General Fund.

Budget/Funding Constraints:

N/A

☐ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

| Date | Meeting | Requested Action |
|-----------|--|-------------------|
| 4/13/2021 | Committee of the Whole - Planning and Public Works | Provide Direction |

Proposed Upcoming Contact(s)

| Date | Meeting | Requested Action |
|------|----------------------------|------------------|
| N/A | None proposed at this time | N/A |

Time Constraints:

The subdivision developer would like to record the final plat as soon as possible. This final plat approval and subsequent recording of the final plat are necessary prerequisites to obtaining building permits within this subdivision.

ANTICIPATED RESULT IF NOT APPROVED:

The applicant will not be able to record the final plat which is a necessary prerequisite to obtaining building permits within this subdivision.

ATTACHMENTS:

Attachment A-Ordinance

Attachment B-Vicinity Map

Attachment C-Hearing Examiner Decision

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND,
WASHINGTON, APPROVING THE FINAL PLAT OF PENNY
LANE II PURSUANT TO RCW 58.17.170 AND RZC
21.74.030, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Redmond has received an application for approval of the final plat of PENNY LANE II, and

WHEREAS, final plat approval is addressed under RZC 21.74.030, which requires that the Redmond City Council adopt findings in support of its decision and approve the final plat.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings adopted. The Redmond City Council adopts the following findings in support of its approval of the Penny Lane II final plat:

1. The Redmond Hearing Examiner conditionally approved the related Penny Lane II Preliminary Plat on June 18, 2020. The Hearing Examiner's Decision contains conditions incorporated as shown in Attachment C.
2. The applicant submitted the Penny Lane II final plat for staff review on March 12, 2021.
3. Under RCW 58.17.170 and RZC 21.74.030(G), final plat approvals require City Council approval.
4. Under RCW 58.17.170 and RZC 21.74.030(C), the criteria to be used by the City Council in determining whether to grant final plat approval are:
 - A. whether the final plat substantially conforms to all terms, conditions, and provisions of the preliminary approval; and

- B. whether the final plat contains a dedication to the public of all common improvements, including but not limited to streets, roads, sewage disposal systems, storm drainage systems, and water supply systems which were a condition of approval. The intention to dedicate shall be evidence by the owner's presentment of a final plat showing the dedication, and the acceptance by the City shall be evidenced by the approval of the final plat; and
 - C. whether the final plat meets the requirements of RZC 21.74, applicable state laws, and all other local ordinances adopted by the City which were in effect at the time a complete application for preliminary plat approval was filed.
- 5. The City staff has reviewed the final plat of Penny Lane II and has advised the Council that the final plat conforms to all terms and conditions of preliminary plat and contains a dedication to the public of all common improvements. Based on the staff review, the Council finds that the final plat meets the first and second criteria for approval.
 - 6. At the time of preliminary plat approval, the Redmond Hearing Examiner determined that, as conditioned, the preliminary plat met the requirements of the state subdivision laws, the State Environmental Policy Act, and the subdivision approval requirements of the Redmond Zoning Code. No evidence has been presented to change this determination. The City Council therefore finds that the final plat meets the third criteria for approval.

Section 2. Approval of final plat. The final plat of Penny Lane NE II is hereby approved, subject to fulfilling any late-comer agreements and posting of any performance guarantees as determined by the Director of Public Works.

Section 3. Effective date. This ordinance shall take effect and be in full force five days after its passage and publication of a summary as provided by law.

ADOPTED by the Redmond City Council this ____ day of
_____, 2021.

CITY OF REDMOND

ANGELA BIRNEY, MAYOR

ATTEST:

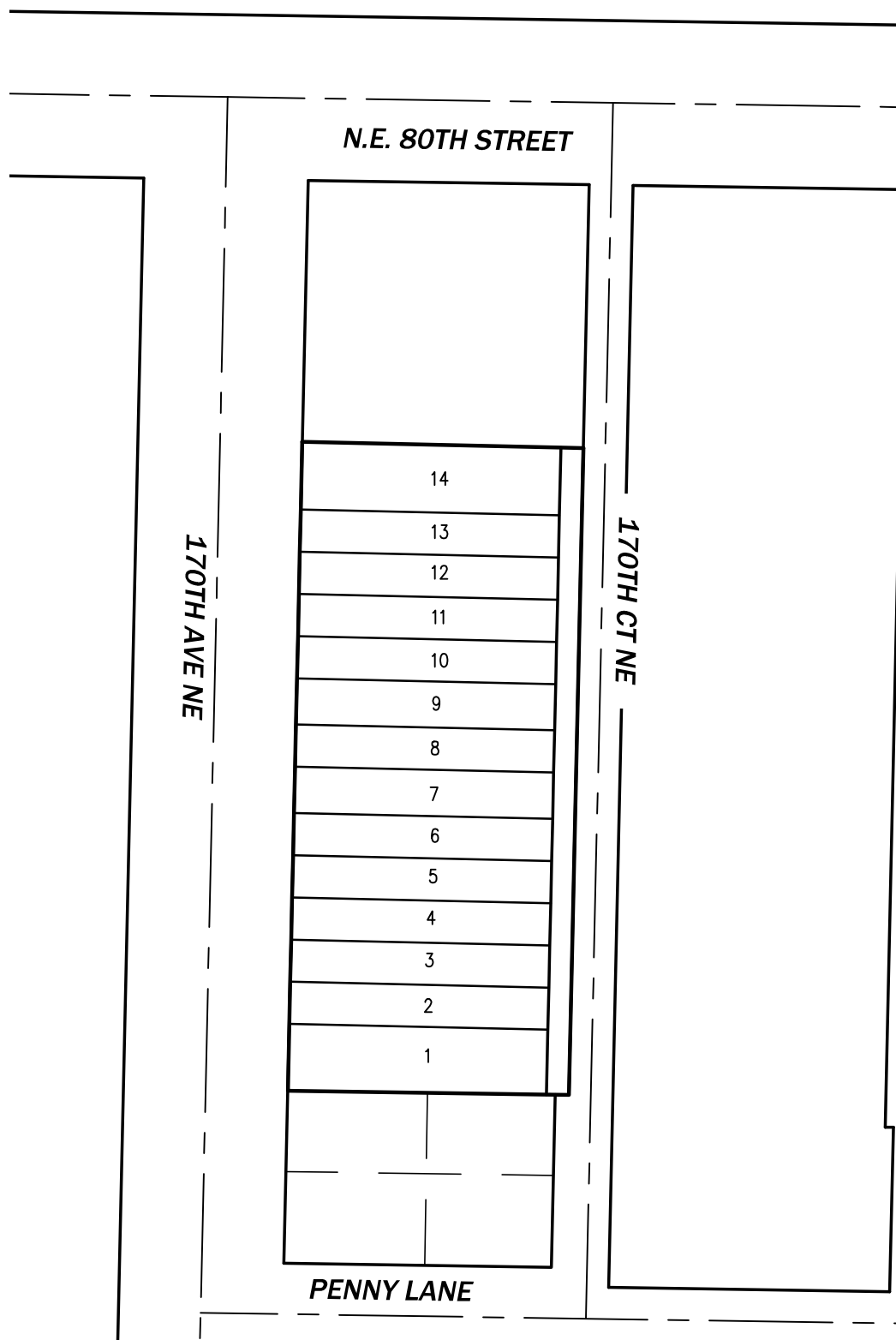
CHERYL XANTHOS, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

JAMES E. HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



PENNY LANE 2
VICINITY MAP

PAGE
1 OF 1



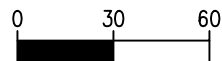
12100 NE 195th St., Suite 300
Bothell, Washington 98011
425.885.7877 Fax 425.885.7963

ENGINEERING - PLANNING - SURVEYING - L.A.

JOB NO. 17051



SCALE: 1" = 60'



**BEFORE THE CITY OF REDMOND
HEARING EXAMINER**

| | | |
|-------------------------------------|---|------------------------|
| In the Matter of the Application of |) | |
| |) | NOS. LAND-2019-00399 |
| |) | LAND-2019-00400 |
| Randy Barnett, |) | |
| Ichijo USA Co., LTD |) | Penny Lane II |
| |) | |
| |) | |
| |) | |
| For Approval of a Subdivision and |) | FINDINGS, CONCLUSIONS, |
| <u>Site Plan Entitlement</u> |) | AND DECISION |

SUMMARY OF DECISION

The request for approval of a unit-lot subdivision and site plan entitlement to construct 14 townhome units within a single building at 7960, 7970, and 7980 170th Avenue NE in Redmond is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Randy Barnett of Ichijo USA Co., LTD (Applicant) requested approval of a unit-lot subdivision and site plan entitlement to construct 14 townhome units within a single building. The subject property is located at 7960, 7970, and 7980 170th Avenue NE in Redmond, Washington.

Hearing Date:

The Redmond Hearing Examiner conducted an open record hearing on the request on May 20, 2020. On the City's request, the record was held open 10 business days through June 4, 2020 to allow for additional written public comment from members of the public who may have attempted to join the virtual hearing but been unable to do so due to technological difficulties. Provision was made to allow for responses from the parties to any post-hearing public comment; however, none was submitted, and the record closed on June 4, 2020.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

Elise Keim, Planner, City of Redmond

Gina Brooks, Core Design, Civil Engineer, Applicant representative

Randy Barnett of Ichijo USA Co., LTD, Applicant representative

/

/

Exhibits:

The following exhibits were admitted in the record:

1. Technical Committee Report to the Hearing Examiner, with the following attachments:
 - 1.A: Application
 - 1.B: Plan Set
 - 1.C: Design Review Board (DRB) Materials
 - 1.D: Notice of Application
 - 1.E: Written Public Comments
 - 1.F: Notice of Neighborhood Meeting
 - 1.G: Neighborhood Meeting Sign in Sheet
 - 1.H: Notice of Public Hearing
 - 1.I: SEPA DNS
 - 1.J: Tree Health Assessment
 - 1.K: Tree Exception
 - 1.L: Critical Aquifer Recharge Area Report
 - 1.M: Critical Area Report
 - 1.N: Geotechnical Report
 - 1.O: Stormwater Report
 - 1.P: Traffic Study
 - 1.Q: Cultural Resources Assessment
2. Public comment, including:
 - 2.a: Linda Seltzer dated May 16, 2020
 - 2.b: Linda Seltzer dated May 16, 2020
 - 2.c: Linda Seltzer dated May 16, 2020
 - 2.d: Christina Bolobanic
3. Staff responses to public comment, including:
 - 3.a: Elise Keim to Linda Seltzer dated May 19, 2020
 - 3.b: Elise Keim to Linda Seltzer dated May 19, 2020
 - 3.c: Elise Keim to Linda Seltzer dated May 19, 2020
 - 3.d: Elise Keim to Christina Bolobanic dated May 20, 2020
 - 3.e: Elise Keim to Linda Seltzer dated May 20, 2020
4. Planning Staff's PowerPoint presentation

Upon consideration of the testimony and exhibits admitted into the record, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicant requested approval of a unit-lot subdivision and site plan entitlement to construct 14 townhome units within a single building. The subject property is located at 7960, 7970, and 7980 170th Avenue NE in Redmond, Washington.¹ *Exhibit 1.A.*

2. The application was submitted and determined to be complete on January 15, 2020. *Exhibits 1 and 1.D.*

3. The subject property is located in the Downtown Neighborhood and is zoned East Hill (EH). *Exhibit 1.* The purpose of the EH zone is as follows:

Downtown includes three residential zones at the periphery of the neighborhood (River Trail, Carter, and East Hill) that are intended to retain a quieter “residential” character than the other nearby mixed-use areas. These zones will provide a variety of housing types that are not primarily mixed-use in developments that include more typical residential features, such as front yards, landscaping, and ground-related patios and porches. These areas are all located within walking distance to the various retail and service areas in the Downtown. The regulations in this division are intended to retain the East Hill zone’s special character and to ensure that single-family residential structures in this zone are well maintained until they are redeveloped with higher-density residential uses or are converted to nonresidential uses that are compatible with the residential neighborhood.

Redmond Zoning Code (RZC) 21.10.100.A.

4. The City of Redmond Comprehensive Plan contains policies to encourage infill development and redevelopment of underutilized parcels (LU-6), encourage development of a variety of housing types, sizes and densities throughout the city to accommodate the diverse needs of residents (HO-11), ensure that new development is consistent with citywide and applicable neighborhood goals and policies (HO-15), and support urban centers as Redmond’s primary locations for added residential development (UC-4). Planning Staff submitted that the project would be consistent with applicable Comprehensive Plan goals and policies. *Exhibit 1.*
5. The lots comprising the subject property total 0.56 acres in area and contain single-family residences and associated outbuildings, which would be removed in conjunction with development of the site. Surrounding properties to the south, east, and west are also zoned EH and are developed with townhome or multifamily residences. The property to the north is zoned R-30 and is developed with multifamily residences. *Exhibits 1, 1.B and 1.C.*
6. The subject property does not contain any structures with a historic landmark designation, and the proposed development is not subject to review by the Landmarks

¹ Parcel Nos. 779290-0125, 779290-0130, and 779290-0140. *Exhibit 1.A.*

and Heritage Commission. No archaeological resources were found during a cultural resources assessment of the site. *Exhibits 1 and 1.Q.*

7. The subject property is within Critical Aquifer Recharge Area I, as it is within the City's Wellhead Protection Zone 1 for two City production wells. *Exhibits 1 and 1.L; RZC Table 21.64.050A.* The Applicant proposes to avoid impacts to the critical area consistent with City requirements by conveying runoff from pollution-generating surfaces to the City's stormwater system, infiltrating roof runoff onsite to maintain groundwater recharge, and implementing erosion control measures and a spill prevention and response plan during construction. *Exhibit 1.L.*
8. The subject property is within a Seismic Hazard Area. Based on geotechnical engineering review, the risk to the proposed development due to surficial ground rupture, landslide, and liquefaction is low. The seismic site class per the 2015 International Building Code is "D." City Staff submitted that the geotechnical reports demonstrates that the development meets the geologic hazard area performance standards contained in RZC 21.64.060.E. *Exhibits 1 and 1.N*
9. There are no wetlands, streams, or regulated wildlife habitat on or near the subject property. *Exhibit 1.M.*
10. According to development standards applicable to the EH zone, density on lots over 18,000 square feet in area with a frontage of over 180 feet (such as the subject property)² is not regulated based on a maximum number of dwelling units per acre, but on the application of bulk, height, parking, and other development standards. The applicable development standards include a minimum side setback of eight feet, a minimum rear setback of 10 feet, a maximum building height of four stories, and a minimum patio area of 80 square feet. Common usable open space is not required with respect to units having at least 200 square feet of private usable open space. The parking requirement for attached dwelling units/multifamily structures in the EH zone is 1.0 to 2.25 spaces per unit plus one guest space per four units. Twenty-five percent of the parking requirement may be accomplished through curbside parking. *RZC Table 21.10.100C; RZC 21.10.130.*
11. The site plan demonstrates compliance with the requirements of the EH zone. The minimum setbacks would be satisfied. The building would be three stories high. Each unit would have at least 200 square feet of private open space, consisting of minimum 80 square foot patios in addition to yards. Each unit would have a tandem two-car garage, accessed from 170th Court NE on the east side of the building. The 170th Avenue NE street frontage (west side of building) would be improved with an eight-foot parking lane, which would provide for guest parking. *Exhibits 1, 1.B and 1.C.*

² The site area/frontage density parameters specified on page 4 of Technical Committee Report appear to apply to developments in different Downtown zones. *RZC Table 21.10.130.A.*

12. Redmond Zoning Code 21.72 requires that all healthy landmark trees and 35% of all healthy significant trees be retained.³ The subject property contains one healthy landmark tree and two healthy significant trees.⁴ Due to the location of the trees relative to the proposed building and infrastructure improvements, the Applicant proposes to remove all three trees. The Applicant applied for and obtained Department of Planning and Community Development approval of a tree exception request to remove the trees. The January 6, 2020 approval notes that the trees could not be retained consistent with City policies on urban density, and that the Applicant proposes to plant replacement trees in excess of the 3:1 ratio required by RZC 21.72. Although nine replacement trees are required, the Applicant proposes to plant 15 replacement trees, which would be in addition to the eight street trees required to be planted along the 170th Avenue NE street frontage. The replacement trees would be installed within the setback on the south side of the building. *Exhibits 1, 1.B, 1.C, 1.J, and 1.K.*
13. The Downtown Design Standards (RZC 21.62.020) contain a provision requiring additional landscaping for residential development in the Downtown zones, consisting of one additional tree for each 125 square feet of required yard area. *RZC 21.62.020.F.8.b.* In this case, 52 additional trees would be required. *Exhibits 1 and 1.B.* The RZC allows for administrative design flexibility with respect to application of the design standards (RZC 21.58.020.E), and on February 20, 2020, the Redmond Design Review Board (DRB) recommended approval of a deviation from the additional tree requirement on condition that the Applicant pay a fee in lieu of required trees not planted. The basis for exception was that the quantity of trees would exceed the original number of trees on site, reduce the developability of the site, and conflict with utility easements within which tree planting is prohibited. The Applicant proposes to landscape the yards with assorted shrubs and grasses. Consistent with the ecological standards of the RZC, the overall site landscaping would consist of approximately 44% native plants and 55 % northwest adaptive plants. *Exhibits 1, 1.B, and 1.C; Gina Brooks Testimony.*
14. The DRB reviewed and recommended approval of the proposed building design, including a proposed deviation from the design standard requiring modulation of facades facing interior property lines that are visible from the street (RZC 21.62.020.F.6). While the building design contains modulation, the requirement of modulation approximately every 40 feet with a minimum depth of four feet and minimum width of five feet would not be met with respect to all interior facades. The Applicant requested administrative design flexibility with respect to the requirement due to the narrowness of the units. Most of the units (including the end units) would be approximately 15.5 feet wide. *Exhibits 1 and 1.C; Randy Barnett Testimony.*
15. Per RZC 21.20.030.C, at least 10% of the units in new housing developments over 10 dwelling units must be designated affordable housing units (i.e., affordable to households earning 80 % of the area median income adjusted for household size, spending no more

³ Pursuant to RZC 21.78, landmark trees are those that are greater than 30 inches in diameter at breast height and significant trees are those that are between six and 30 inches in diameter at breast height.

⁴ The arborist report (Exhibit 1.J) identified a total of eight healthy trees, but that number included trees on the adjacent Penny Lane III site. *Exhibit 1.J.*

than 30% of income on housing expenses). In this case, one affordable housing unit is required, and one is proposed. *Exhibits 1 and 3.*

16. Although the building would face 170th Avenue NE, the garages would be accessed from the public alley. The alley, to be called 170th Court NE, would be widened to 20 feet consistent with fire access standards, and six-foot wide sidewalks and streetlights would be provided. An 8.2-foot wide strip of land would be dedicated to the City to allow for these improvements. Frontage improvements on 170th Avenue NE would include an eight-foot wide parking lane, vertical curb and gutter, five-foot wide planter strip, six-foot wide sidewalk, and streetlights. These improvements, along with the landscaped yard areas, would fulfil the pedestrian system requirements of RZC 21.10.150 for 170th Avenue NE. *Exhibits 1 and 1.B.*
17. Based on the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th edition, the proposed development is expected to generate 142 net new average weekday vehicle trips, including 11 PM peak hours trips. Based on this volume, the City did not require further traffic analysis. *Exhibit 1.P.*
18. Each proposed lot would be connected to municipal water and sewer service from mains in 170th Avenue NE. The sewer main would be replaced along the property frontage due to its current poor condition. *Exhibits 1 and 1.B.*
19. Stormwater would be managed in accordance with the City's stormwater regulations, including the 2019 Technical Notebook. The proposed conveyance of stormwater to the City system in lieu of onsite detention and water quality would be subject to payment of capital facility charges. *Exhibits 1 and 1.O.*
20. Impacts to schools and parks would be mitigated through payment of a school mitigation fee at the time of building permit issuance, pursuant to Redmond Municipal Code (RMC) 3.10. Common open space is not required for the development because all units would have at least 200 square feet of private open space. *Exhibit 1; RMC 3.10.*
21. Assuming the role of lead agency for review of the project under the requirements of the State Environmental Policy Act, the City of Redmond Technical Committee considered the application materials and completed environmental checklist and issued a determination of non-significance (DNS) on February 28, 2020. *Exhibits 1 and 1.I.*
22. Notice of the open record public hearing on the application was posted onsite and online; published in the *Seattle Times*; and mailed to parties of record and owners of property within 500 feet of the site on or before April 29, 2020. *Exhibits 1 and 1.H.*
23. Several comments on the application were submitted at a neighborhood meeting conducted February 24, 2020 and in response to the notices of application and public hearing. The issues raised in these comments included traffic and the adequacy of on-site parking, construction impacts (e.g., days/hours of construction, debris, noise, crime), tree removal, and housing affordability (request was that development serve low-income

residents at 30% or less of median income). *Exhibits 1, 1.E, 1.G, and 2.* The issues relating to traffic, parking, and tree removal are addressed in the findings above. The City does not have requirements for provision of low-income housing at the level suggested in public comment; the Code-established requirement is for affordable housing at 80% of median income, which this project satisfies. Construction noise is regulated by ordinance, with hours limited to 7:00 am to 7:00 pm Monday through Friday, and 9:00 am to 6:00 pm Saturdays, with no construction noise allowed on Sundays or holidays. Debris would be required to be contained on site. *Exhibits 1.E and 3; Elise Keim Testimony.*

24. The Technical Committee, comprised of staff from City of Redmond Planning, Public Works, and Fire Departments, reviewed the complete application and supporting materials for compliance with City regulations and the Comprehensive Plan. The Technical Committee recommended project approval subject to conditions. *Exhibit 1.* Applicant representatives waived objection to the recommended conditions of approval. *Testimony of Gina Brooks and Randy Barnett.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is authorized to conduct open record hearings and issue decisions on Type III permits, including lot unit subdivisions, pursuant to RZC 21.76.050.C, RZC 21.76.060.J, and RZC 21.74.030.H.

Pursuant to RZC 21.76.050.E.2, where two or more land use applications for a given development are submitted for consolidated review, the review shall be conducted using the highest numbered process type applicable to any of the land use applications, provided that each land use application shall only be subject to the relevant decision criteria applicable to that particular development application. This provision confers jurisdiction on the Hearing Examiner to decide the associated application for site plan entitlement.

Criteria for Review:

Unit Lot Subdivision

Pursuant to RZC 21.74.030.B.1, the Examiner shall approve an application for a unit lot subdivision if findings can be entered showing the following criteria are satisfied:

- a. The proposal complies with the general criteria applicable to all land use permits set forth in RZC 21.76.070.B, Criteria Applicable to All Land Use Permits;
- b. The proposal conforms to the site requirements for the zoning district in which the property is located;
- c. The proposal conforms to the requirements of this chapter;
- d. The proposed short subdivision, binding site plan, unit lot subdivision, or preliminary subdivision:
 - i. Makes adequate provision for streets, roads, alleys, other public ways, and transit stops as required by this chapter; and the proposed street system conforms to the

Findings, Conclusions, and Decision

Redmond Hearing Examiner

Penny Lane II, Nos. LAND-2019-00399 and -00400

page 7 of 24

- City of Redmond Transportation Master Plan and Neighborhood Street Plan, and is laid out in such a manner as to provide for the safe, orderly, and efficient circulation of traffic;
- ii. Will be adequately served with water, sewer, storm drainage, and other utilities appropriate to the nature of the subdivision or short subdivision;
 - iii. Makes adequate provision for parks, recreation, and playgrounds, as required by this chapter;
 - iv. Makes adequate provision for schools and school grounds;
 - v. Makes adequate provisions for sidewalks and other planning features that meet the requirements of this chapter and that provide safe walking conditions for students who walk to and from school;
 - vi. Serves the public interest and makes appropriate provisions for the public health, safety, and welfare.
- e. Geotechnical considerations have been identified, and all hazards and limitations to development have been considered in the design of streets and lot layout to assure streets and building sites are on geologically stable soil, considering the stress and loads to which the soil may be subjected.

RZC 21.74.030.B.2 states that lack of compliance with the criteria set forth in subsection (1) of this section shall be grounds for denial of a proposed subdivision or short subdivision, or for the issuance of conditions necessary to more fully satisfy the criteria.

Site Plan Entitlement:

Pursuant to RZC 21.76.070.Y.3, Site Plan Entitlement Decision Criteria:

- a. The Technical Committee, composed of the Departments of Planning and Public Works, shall review all Development Review permits with the State Environmental Policy Act and the RZC.
- b. The Landmarks and Heritage Commission will review all Certificates of Appropriateness for compliance with the RZC.

Conclusions Based on Findings:

- 1. With conditions of approval, the proposal complies with the criteria for a unit lot subdivision.
 - A. As conditioned, the proposal complies with the general criteria applicable to all land use permits, which include in relevant part consistency with the City's development regulations, the Comprehensive Plan, and SEPA. The proposal is consistent with the purpose of EH zone and applicable bulk standards. It would satisfy the City's tree replacement, affordable housing and design standards. The two requested deviations from the design standards (relating to additional landscaping and interior modulation) are approved as recommended by the DRB; strict compliance with the requirements would result in hardship inconsistent with

the intent of the zone. Public water and sewer are available to the site and frontage improvements would be provided. The project was reviewed pursuant to SEPA and a DNS was issued. The proposal is consistent with Comprehensive Plan policies that encourage redevelopment of underutilized parcels, the provision of a variety of housing types, and placement of housing in the urban center. *Findings 3, 4, 10, 11, 12, 13, 14, 15, 16, 18 and 21.*

- B. The proposal conforms to the requirements of the EH zone. *Findings 10 and 11.*
 - C. As conditioned, the proposal is consistent with the requirements of RZC 21.74. The project makes adequate provision for water, sewer, and storm drainage. The conditions of approval address easement requirements. Right-of-way would be dedicated for the widening of 170th Court NE, and frontage improvements would be provided on 170th Court NE and 170th Avenue NE. *Findings 16, 18, and 19.*
 - D. As conditioned, the proposal makes adequate provision for streets. *Findings 16 and 17.*
 - E. As conditioned, the proposed subdivision would be adequately served by utilities, including stormwater management. *Findings 7, 18, and 19.*
 - F. As conditioned, the proposal makes adequate provision for parks, recreation, and playgrounds. Private open space would be provided in lieu of common open space, as allowed by the RZC. Impacts to parks would be mitigated through payment of a mitigation fee. *Findings 10, 11, and 20.*
 - G. With payment of mitigation fees, the proposal makes adequate provision for schools and school grounds. *Finding 20.*
 - H. As conditioned, the proposal makes adequate provisions for sidewalks and safe walking conditions for students. Sidewalks would be provided along both fronting streets. *Finding 16.*
 - I. As conditioned, the proposal serves the public interest and makes appropriate provisions for the public health, safety, and welfare. The project was reviewed for seismic hazard and the risk was determined to be low. The critical aquifer recharge area would be protected. The Applicant would pay impact fees consistent with RMC 3.10. Conditions of approval address Fire Department requirements and identify the code section relevant to construction noise. *Findings 7, 8, 9, 16, 17, 18, 19, and 23.*
 - J. Geotechnical considerations were professionally reviewed, and limitations to development were considered in the design of the project. No hazards were identified that would prevent development as proposed. *Finding 8.*
2. With conditions of approval, the proposal satisfies the criteria for site plan entitlement.

- A. The project was reviewed under SEPA and a DNS was issued. *Finding 21.*
- B. As conditioned, the proposal meets all applicable requirements of the RZC, including EH bulk standards, parking, tree replacement, affordable housing, and critical areas requirements. The two requested deviations from the design standards (relating to additional landscaping and interior modulation) are approved as recommended by the DRB; strict compliance with the requirements would result in hardship inconsistent with the intent of the zone, and the changes would not be materially detrimental to the public welfare or contrary to design objectives. The conditions of approval require the Applicant to pay a fee in lieu of planting the trees required by RZC 21.62.020.F.8. *Findings 10, 11, 12, 13, 14, 15 and 16.*
- C. Landmarks and Heritage Commission review is not applicable to the proposal. *Finding 6.*

DECISION

Based on the preceding findings and conclusions, the request for approval of a unit lot subdivision and site plan entitlement to construct 14 attached townhome units within a single structure is **GRANTED** subject to the conditions below.

A. Site Specific Conditions of Approval

1. Approved Plans

The following table identifies those materials that are approved with conditions as part of this decision.

| Item | Date Received | Notes |
|---------------------------------------|---------------|---|
| Plan Set | 1/15/20 | <i>and as conditioned herein.</i> |
| SEPA Checklist | 1/15/20 | <i>and as conditioned herein and as conditioned by the SEPA threshold determination on 2/28/20.</i> |
| Design Review Board Approved/Plans | 1/15/20 | <i>and as conditioned herein.</i> |
| Conceptual Landscaping Plan | 1/15/20 | <i>and as conditioned herein.</i> |
| Conceptual Lighting Plan | 1/15/20 | <i>and as conditioned herein.</i> |
| Proposed Tree Retention Plan | 1/15/20 | <i>and as conditioned herein.</i> |
| Stormwater Design | 1/15/20 | <i>and as conditioned herein.</i> |

2. Separate Coordinated Civil Review

This project is directly south of another unit-lot subdivision application currently under review (Penny Lane III LAND-2019-00438 & 00439). Each project is required to provide

its own adequate infrastructure, open space and frontage improvements. Separate Coordinated Civil Review (CCR) permits will be submitted for each project and shall demonstrate that each can be constructed independent of the other. Bonding and permitting shall not be combined for the projects.

Code Authority: RZC 21.74.030.B

Condition Applies: Coordinated Civil Review

The following conditions shall be reflected on the Civil Construction Drawings, unless otherwise noted:

Development Engineering - Transportation and Engineering

Reviewer: Andy Chow, Senior Engineer

Phone: 425-556-2740

Email: kachow@redmond.gov

- a. **Easements and Dedications.** Easements and dedications shall be provided for City of Redmond review at the time of construction drawing approval and finalized for recording prior to issuance of a building permit. The existing and proposed easements and right-of-way shall be shown on the civil plans. Prior to acceptance of the right(s) of way and/or easement(s) by the City, the developer will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated.
 - i. Easements are required as follows:
 - (a) 10 feet wide Sidewalk and Utilities easement type, granted to the City of Redmond, along the existing right-of-way of 170th Ave NE.
 - (b) 10 feet wide Sidewalk and Utilities easement type, granted to the City of Redmond, along the new right-of-way of 170th CT NE.
 - (c) Minimum 8.8 feet wide private access and utility easement adjacent to the most northerly parcel shall be required as part of the overall shared access prepared for Penny Lane III project to 170th CT NE only. This shared access easement shall not be extended to the 170th Ave NE Right-of-Way and no direct access to 170th Ave NE will be permitted.
 - (d) At the time of construction, additional easements may be required to accommodate the improvements as constructed.
 - ii. Dedications for right-of-way are required as follows:
 - (a) A strip of land with minimum 8.2 feet wide or to the edge of the new sidewalk abutting the existing 170th CT NE right-of- way.

Code Authority: RZC 21.52.030.G; RMC 12.12

- b. **Construction Restoration and Street Overlay.** In order to mitigate damage due to trenching and other work on 170th Ave NE and 170th CT NE, the asphalt street shall be planed, overlaid, and/or patched, per COR SD 202 or 203. If the Pavement Condition Index (PCI) of the existing pavement is below 70 (as determined by the

City's bi-annual pavement survey), the development shall be required to plane and overlay the entire half street along the project frontage at a minimum as determined by the Traffic Operations and Safety Engineering Division in Public Works. Contact Paul Cho at 425-556-2751.

Code Authority: RMC 12.08; Redmond Standard Specifications & Details

c. Street Frontage Improvements

- i. The frontage along 170th Ave NE must meet current City Standards which include asphalt paving 19 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 5 feet wide planter strips, 6 feet wide concrete sidewalk, 14 feet of landscaped yard area within the 25 feet Type III landscaped walkway, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:
 - 7 inches HMA Class ½" PG 64-22
 - 4" of 1-1/4" minus crushed rock base course per WSDOT standard spec 9-03.9(3).
 - Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
 - Street crown 2% sloped to drain system

Code Authority: RZC 21.52.030; 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details

- a. The frontage along 170th CT NE must meet current City Standards which include asphalt paving minimum 10.2 feet from centerline to edge of concrete sidewalk at-grade with appropriate tapers, 6 feet wide concrete sidewalks, storm drainage, streetlights, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:
 - 7 inches HMA Class ½" PG 64-22
 - 4" of 1-1/4" minus crushed rock base course per WSDOT standard spec 9-03.9(3).
 - Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
 - 2% sloped cross slope to invert crown

Code Authority: RZC 21.52.030; 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details

- iii. A separate 20 or 40-scale channelization plan may be required for any public street being modified or constructed. The plan shall include the existing and proposed signs, striping and street lighting and signal equipment for all streets

adjacent to the site and within at least 150 feet of the site property line (both sides of the street). The plan shall conform to the requirements in the City of Redmond Standard Specifications and Details Manual. (Code Authority: RZC 21.52.030.F; RZC 21 Appendix 2; Redmond Standard Specifications & Details; RCW 47.24.020)

iv. Sidewalks constructed to City standards are required at the following locations:

- 6 feet sidewalk along 170th Ave NE
- 6 feet sidewalk along 170th CT NE

Code Authority: RZC 21.10.150; RZC 21.17.010; RZC 21.52.050; RMC 12.12

d. Access Improvements

i. The type and location of the proposed site accesses are approved as shown on the Penny Lane II preliminary transportation and grading plan prepared by CORE Design dated 12/23/2019. To prevent vehicles parking overhanging onto the new sidewalk on 170th CT NE, no less than 18 feet long driveway from the individual unit in between the face of the garage door and the new Right-of-way line of 170th CT NE will be permitted. This restriction shall be indicated on the face of the civil plans and other final documents.

Code Authority: RZC 21.52.030.E; RZC 21 Appendix 2

ii. Direct vehicular access to 170th Ave NE will not be permitted. This restriction shall be indicated on the face of the civil plans and other final documents.

Code Authority: RZC 21.52.030.E; RZC 21 Appendix 2

e. Underground Utilities. All existing aerial utilities shall be converted to underground along the street frontages and within the development. All new utilities serving the development shall be placed underground.

Code Authority: RZC 21.17.020; RZC 21 Appendix 2 – A.11

f. Street Lighting. Illumination of the street(s) along the property frontage must be analyzed to determine if it conforms to current City standards. Streetlights may be required to illuminate the property frontage. Luminaire spacing should be designed to meet the specified criteria for the applicable lamp size, luminaire height and roadway width. Contact Hidemi Tsuru, Transportation Operations at (425) 556-2749 with questions. The street lighting shall be designed using the criteria found in the City's Illumination Design Manual which can be accessed at:

<http://www.redmond.gov/development/CodesAndRules/StandardizedDetails>

Code Authority: RZC 21.52.030.F; RZC 21 Appendix 2

- g. Temporary Pedestrian Access Plan.** The applicant is required to provide a temporary pedestrian access plan for approval by the City prior to any construction on the project site. This plan needs to show how pedestrian traffic passing by the proposed development will be accommodated during the entire length of the construction phase.

Existing sidewalks or pathways shall be closed only when absolutely necessary during construction. If unavoidable, the pedestrian access plan should provide temporary routes with barricades and cones that parallel existing facilities. These routes must be accessible for persons with disabilities per the current ADA regulations and standards, including the provision of ramps, minimum widths, and smooth surfaces for wheelchair access. When a parallel route is not available, pedestrians must be detoured with advance signing in accordance with the Manual on Uniform Traffic Control Devices. The developer may be required to install temporary crosswalks and street lighting as part of this detour.

In order to keep existing routes open during the construction of new structures adjacent to existing sidewalks, a covered walkway will be required to protect pedestrians from falling debris. Covered walkways should be designed to provide sturdiness, adequate light for nighttime use and safety, and proper sight distance at intersections and crosswalks. Plans and details for the construction of these covered walkways shall be included as part of the civil construction plan set.

Code Authority: MUTCD 2009 (or latest revision) sections 6D.01, 6D.02, & 6D.05

Condition Applies: Civil Construction

2. Development Engineering – Water and Sewer

Reviewer: Zheng Lu, Senior Utility Engineer

Phone: 425-556-2844

Email: zlu@redmond.gov

- a. Water Service.** Water service will require a developer extension of the City of Redmond water system as follows:
- There is an existing 12” ductile iron water main in front of the development frontage along 170th Ave. NE. Fourteen water service lines shall be extended from this water main to serve all 14 new townhomes.
 - One irrigation water service shall be installed. The meter shall be owned by homeowner association.

Code Authority: RZC 21.74.020.D, RZC 21.17.010

Condition Applies: Civil Construction

- b. Sewer Service.** Sewer service will require a developer extension of the City of Redmond sewer system as follows:

- The developer shall replace the existing aged 8” concrete sewer main with an 8” PVC sewer main in frontage of the development from manhole 4F4SMH098 to King County manhole MHR19-52. One additional standard 48” manhole shall be installed before new sewer main connecting to King County manhole at turning point. The minimum slope for new sewer main shall not be less than 0.5%. 14 new side sewers shall be constructed connecting 14 new townhomes to new sewer main.
- The developer shall be responsible to reconnect four existing side sewers to the new sewer main for Redmond Square Property in west side of 170th Avenue.
- The applicant shall get King County Wastewater Treatment Division’s approval of the sewer design at the King County manhole connection before City’s coordinate Civil Review will be approved.

Code Authority: RZC 21.74.020.D, RZC 21.17.010

Condition Applies: Civil Construction

- c. **Easements.** Easements shall be provided for all water and sewer improvements as required in the Design Requirements for Water and Sewer System Extensions. Easements for the water and sewer mains shall be provided for City of Redmond review at the time of construction drawing approval. Offsite easements must be recorded prior to construction drawing approval.

Code Authority: RZC 21.74.020.C, Appendix 3

Condition Applies: Civil Construction, Short Subdivision Document

- d. **Permit Applications.** Water meter and side sewer applications shall be submitted for approval to the Development Engineering Utility Division. Permits and meters will not be issued until all improvements are constructed and administrative requirements are approved. Various additional guarantees or requirements may be imposed as determined by the Utilities Division for issuance of meters and permits prior to improvements or administrative requirements being completed. All stub fees shall be paid prior to sale of water and side sewer permits.

Code Authority: RMC 13.08.010

Condition Applies: Prior to Permit Purchase

- e. **Potholing.** All existing utilities at the location of the proposed water/sewer mains, storm, soil nail, traffic signal and service line crossings shall be potholed prior to submittal of first Civil Plan Review. Potholing in the City Right-of-Way requires a permit, approved traffic control plans, and a performance bond before commencing work. The developer shall include in the Right-of-Way permit, a list of potholing numbers along with the potholing information for each number, such as utility name, type of facility and the reason for potholing.

The developer shall do the following during and after potholing:

1. Follow City of Redmond Detail 203 for pothole restoration.
2. Protect existing traffic loops.
3. Survey all potholing locations.

Based on the final survey, a modified design of sewer, water and storm facilities may be necessary to avoid conflict with existing utilities.

All potholing information shall be included in the plans and profiles of water, sewer and storm design in first submittal of CCR review. The developer shall add clearance information on the water/sewer/storm profiles at all crossings of existing and proposed utilities. Minimum clearance in compliance with City standards is required between the sewer/water mains and other utilities including storm sewer. Code Authority: Water and Wastewater System Extensions Design Requirements Section IV. 3. M and Section V. 3. K

3. Development Engineering – Stormwater/Clearing and Grading

Reviewer: Cindy Wellborn, Senior Engineer

Phone: 425-556-2495

Email: cwellborn@redmond.gov

a. Water Quantity Control:

- i. Project lies within the Downtown Regional Stormwater Facility Basin. Stormwater quantity control will be provided by the City of Redmond upon payment of the Downtown Capital Facility Charge.
- ii. Provide for overflow routes through the site for the 100-year storm.
Code Authority: RZC 21.74.020.D; RMC 15.24.080(9)
Condition Applies: Civil Construction

b. Water Quality Control

- i. Project lies within the Downtown Regional Stormwater Facility Basin. Stormwater quality control will be provided by the City of Redmond upon payment of the Downtown Capital Facility Charge.
Code Authority: RZC 21.74.020.D; RMC 15.24.080(8)
Condition Applies: Civil Construction

- c. Public Stormwater Easements.** Easements will be required for any public stormwater conveyance systems on private property. Easements shall be provided for City of Redmond review at the time of construction drawing approval and finalized for recording prior to issuance of a building permit or issuance of water meter or side sewer permits. The existing and proposed easements shall be shown on the civil plans. Prior to acceptance of the easement(s) by the City, the developer will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated.

- i. No public easements identified on the project.

Code Authority: RZC 21.74.020.C

- d. Private Stormwater Easements.** Private stormwater easements will be required where drainage systems are located across adjacent properties and will remain under private ownership. Maintenance of private drainage systems will be the responsibility of the property owners benefiting from the easement. Prior to construction drawing approval and final subdivision recording, fully executed and recorded easements shall be provided to the Development Engineering Division.

- i. A private easement over each parcel for the benefit of the homeowner's association for maintenance of stormwater facilities.

Code Authority: RZC 21.74.020.C

Condition Applies: Civil Construction, Short Subdivision Document

- e. Clearing and Grading.**

- i. On-site infiltration trench shall infiltrate approximately 14,712 square feet of roof area.
- ii. On-site stormwater shall connect to the existing stormwater system located in 170th Avenue NE.
- iii. Applicant shall provide confirmation from geotechnical and structural engineer of knowledge of proximity of infiltration to buildings and retaining walls.
- iv. Existing stormwater system that is no longer needed shall be removed.

Code Authority: RMC 15.24.080

- f. Temporary Erosion and Sediment Control (TESC).**

- i. Rainy season work permitted October 1st through April 30th with an approved Wet Weather Plan.

Code Authority: RMC 15.24.080

- g. Floodplain Management.** Not applicable to this project.

Code Authority: RZC 21.64.010 and 21.64.040

- h. Landscaping.**

- i. All new landscaped areas within the project site are required to have compost amended soils. See City or Redmond Standard Detail 632 and City of Redmond Specification 9-14 for requirements.

Code Authority: RZC 21.32

- i. Department of Ecology Notice of Intent Construction Stormwater General Permit.** Notice of Intent (NOI) must be submitted to the Department of Ecology (DOE) at least 60 days prior to construction on a site that disturbs an area of one acre or larger. Additional information is available at:
www.ecy.wa.gov/pubs/0710044.pdf.

Code Authority: Department of Ecology Rule

Condition Applies: Prior to Commencement of Construction

- j. **Regional Capital Facilities Charge:** A Regional Capital Facilities Charge applies to this project, located in the Downtown Sub-basin. Please see the Development Engineering Fee schedule for current fee information.

City-wide Capital Facilities Charge: A City-wide Capital Facilities Charge applies to this project. Please see the Development Engineering Fee Schedule for current fee information

Code Authority: RMC 13.20.045 (Downtown); RMC 13.20.040 (Citywide)

- k. **Critical Landslide Hazard Areas.** Not applicable to this project.

Code Authority: RZC 21.64.060.B

Condition Applies: Civil Construction, Short Subdivision Document

4. Natural Resources

Reviewer: Angie Venturato, Environmental Scientist

Phone: 425-556-2466

Email: aventurato@redmond.gov

- a. **Wellhead and Groundwater Protection.** Wellhead and groundwater performance standards shall be met as per RMC 15.24.095, including providing the City with any well monitoring and decommissioning reports
- b. **Discovery of Soil Contaminants during Construction.** Report any contaminants to the City during project construction and remediate in accordance Washington State reporting and cleanup processes of the Model Toxics Control Act.
Code Authority: WAC 173-340

5. Fire Department

Reviewer: Scott Turner, Assistant Fire Marshal

Phone: 425-556-2273

Email: sturner@redmond.gov

The current submittal is generally adequate for LAND-2019-00399 Approval, but does not fully represent compliance with all requirements. The following conditions are integral to the approval and shall be complied with in Civil Drawings, Building Permit Submittals, Fire Code Permit submittal, and/or other applicable processes:

- a. Site Plan Condition – Required Fire access shall be provided as indicated on the site plan. Signage and striping will be formalized in the civil review process.
- b. Fire Protection Plan – Fire access per RFD 2.0, Hydrants per RMC and IFC, Fire sprinkles per RMC 15.06
- c. Change or Modification - NA
- d. Fire Code Permit – These units are to be built as single-family residential units. Units will be equipped with NFPA 13d sprinkler systems per RMC 15.06
- e. Comment

Code Authority: RMC 15.06; RZC Appendix 3, RFD Standards, RFDD&CG

6. Planning Department**Reviewer: Elise Keim, Planner****Phone: 425-556-2480****Email: ekeim@redmond.gov**

- a. Street Trees.** The following street trees are required to be installed in accordance with RZC 21.32.090. The minimum size at installation is 2 ½ inch caliper.

| Street | Species | Spacing |
|--------------------------|---|--|
| 170 th Ave NE | Zelkova Serrata 'Musashino' (Sawleaf Zelkova) | As shown on preliminary landscape plan |

Code Authority: RZC 21.32.090

Condition Applies: Civil Construction

- b. Final Critical Areas Report.** A final Critical Areas Report must be submitted with the civil construction drawings or building permits if civil construction drawings are not required. If report is greater than two years old at time of CCRs, an updated report shall be submitted. All required enhancement and mitigation must be shown on the civil construction drawings. This includes any required planting, signage, fencing, wetland or stream enhancement, etc. that is required in the report.

Code Authority: RZC Appendix 1, Section G.2

Condition Applies: Civil Review

- c. Setbacks.** Setback classifications (e.g. front, side, side street, rear) shall be noted on each lot corresponding to the appropriate location for each setback. The setback dimensions shall not be included.

Code Authority: RZC 21.08.170.H

Condition Applies: Building Permits and Final Plat documents

- d. Planting Standards.** Landscaping shall be coordinated with water/sewer lines and fire hydrants/connections. Trees shall be planted a minimum of 8 feet from the centerline of any water/sewer lines, unless otherwise approved and provisions provided. Shrubs shall be planted to maintain at least 4 feet of clearance from the center of all fire hydrants/connections.

Code Authority: RZC 21.32.080

Condition Applies: Civil Construction

- e. **Impact Fees.** For the Purpose of Impacts, the use(s) assigned for this project have been determined as the following: 14 units classified as single-family residences. The following total units of single-family residence use may be credited for three (3) demolished structures at time of impact fee calculation of associated project permits. If the proposed development is eligible for any additional credits including right-of-way dedication and system improvements, these additional credits will be assessed and provided after construction, dedication or implementation is completed and accepted by the City.

Code Authority: RMC 3.10

Condition Applies: Building Permit

- f. **Bonds.** Bonds for Landscaping, Tree Preservation, Tree Replacement and Mitigation shall be provided no less than five days prior to request for Mylar signatures. Drafts of the Bond Agreements, Bond quantity Worksheets and Bond Calculation Worksheets shall be submitted at time of Civil Construction Application. If not provided at the time of CCR submittal, the entire submittal will be rejected for intake.

Code Authority: RZC 21.76.090.F

Condition Applies: Civil Construction

- g. **Affordable Housing.** Penny Lane II shall demonstrate conformance with the Affordable Housing Regulations in RZC 21.20.050 by providing one (1) affordable unit. An agreement in a form approved by the City must be recorded with the King County Recorder's Office to stipulate conditions under which the required affordable housing unit will remain as affordable housing for the life of the development. This agreement shall be a covenant running with the land, binding on the assigns, heirs, and successors of the applicant. Prior to the issuance of any building permit, the owner shall sign any necessary agreements with the City to implement these requirements. Applicant shall initiate contract by contacting Sarah Stiteler on Human Services and Long Range Planning staff at 425-556-2469 or at sstiteler@redmond.gov.

Code Authority: RZC 21.20.050

Condition Applies: Building Permit

- h. **Archeological and Historical Preservation:** If archaeological resources or archaeological indicators are unearthed or exposed in the course of a project the applicant and its contractors shall stop work immediately. The applicant and its contractors shall implement the procedures of the Inadvertent Discovery Plan.

Code Authority: RZC 21.30.070.D

Condition Applies: Civil Construction & Building Permit

- i. **Design Review:** The Design Review materials shown in Attachment C were recommended for approval at the 2/20/2020 Design Review Board meeting. Where inconsistencies between the floor plans and elevations are found after the Design Review Board has recommended approval of this project, the elevations recommended for approval by the Design Review Board at their meetings will prevail.

Code Authority: RZC 21.76.060.G

Condition Applies: Building Permit

- j. **Administrative Design Flexibility:** The Administrative Design Flexibility regarding building modulation dimensions is granted. The building shall be modulated as shown on the Design Review Materials (Attachment C, DRB Materials) The Administrative Design Flexibility for the additional required landscaping in Downtown is granted waiving the planting of 52 additional trees. A fee-in-lieu for the trees that are not planted will be required to be paid to the City's tree fund for the planting of new trees in City-owned parks, open spaces, or rights-of-way prior to mylars being submitted.

Code Authority: RZC 21.76.060.G; RZC 21.76.070.C.3; and RZC 21.58.020.E

Condition Applies: Civil Construction & Building Permit

- k. **Easements:** Access easement, joint use and maintenance agreements, and covenants, conditions and restrictions identifying the rights and responsibilities of property owners and/or the homeowners association shall be executed for use and maintenance of vehicle access areas, underground utilities, exterior building facades and roofs and other similar features, shall be recorded with the King County Department of Records and Elections.
Code Authority RZC 21.74.030.H.7

- l. **Unit Lot Subdivision Notes:** Notes shall be placed on the face of the plat as recorded with the King County Department of Records and Elections to acknowledge the following:
 - a. Approval of the design of the units on each of the lots was granted by the review of the development as a whole, on the parent lot by RZC 21.76.070.Y Site Plan Entitlement LAND-2019-00399
 - b. Development, redevelopment, or rehabilitation of structures on each unit lot is subject to review and approval of plans that are consistent with the design of the surrounding structures on the parent lot as approved by the City through LAND-2019-00399

Code Authority: RZC 21.74.030.H.10
Condition Applies: Final Plat

- m. Construction Parking Requirements and Contact Information.** A sign shall be posted on-site visible to the public throughout the duration of all construction activity per the Construction Contact Sign Handout. Construction activities consist of all site work including, but not limited to grading, landscaping, infrastructure and building permit related construction. Applicant and contractor shall work with city planner prior to mylar signing to determine location(s) of sign(s). Contact information shall remain up-to-date and visible at all times. The assigned city planner shall be notified within two business days when contact person has been changed and a picture of the updated sign shall be e-mailed. Construction Parking requirements for the project shall be denoted on the bottom portion of the sign per handout instructions.

B. Compliance with City of Redmond Codes and Standards

This approval is subject to all applicable City of Redmond codes and standards, including the following:

Transportation and Engineering

| | |
|----------------------|--|
| RMC 6.36: | Noise Standards |
| RZC 21.52: | Transportation Standards |
| RZC 21.40.010.E: | Design Requirements for Parking Facilities |
| RZC 21.54: | Utility Standards |
| RMC 12.08: | Street Repairs, Improvements & Alterations |
| RMC 12.12: | Required Improvements for Buildings and Development |
| RMC 12.16: | Highway Access Management |
| RZC 21.76.100.F.9.c: | Nonconforming Landscaping and Pedestrian System Area |
| RZC 21.76.020.G: | Site Construction Drawing Review |
| RZC 21.76.020.H.6: | Preconstruction Conference |
| RZC 21.76.020.H.7: | Performance Assurance |
| RZC Appendix 3: | Construction Specification and Design Standards for Streets and Access |
| City of Redmond: | Record Drawing Requirements, July 2015 |
| City of Redmond: | Standard Specifications and Details (current edition) |

Water and Sewer

| | |
|----------------|--|
| RMC 13.04: | Sewage and Drainage |
| RMC 13.08: | Installing and Connecting Water Service |
| RMC 13.10: | Cross-Connection and Backflow Prevention |
| RZC 21.17.010: | Adequate Public Facilities and Services Required |

| | |
|------------------|---|
| RZC Appendix 4: | Design Requirements for Water and Wastewater System Extensions |
| City of Redmond: | Standard Specifications and Details (current edition) |
| City of Redmond: | Design Requirements: Water and Wastewater System Extensions - January 2012. |

Stormwater/Clearing and Grading

| | |
|------------------------|---|
| RMC 15.24: | Clearing, Grading, and Storm Water Management |
| RZC 21.64.060.C: | Planting Standards |
| RZC 21.64.010: | Critical Areas |
| RZC 21.64.040: | Frequently Flooded Areas |
| RZC 21.64.050: | Critical Aquifer Recharge Areas |
| RZC 21.64.060: | Geologically Hazardous Areas |
| City of Redmond: | Standard Specifications and Details (current edition) |
| City of Redmond: | Stormwater Technical Notebook, Issue No. 8, April 1 st , 2019 |
| Department of Ecology: | Stormwater Management Manual for Western Washington (amended December 2014) |

Fire

| | |
|------------------|--|
| RMC 15.06: | Fire Code |
| RZC Appendix 3: | Construction Specification and Design Standards for Streets and Access |
| City of Redmond: | Fire Department Design and Construction Guide 5/6/97 |
| City of Redmond: | Fire Department Standards |

Planning

| | |
|-------------------|---------------------------------------|
| RZC 21.10: | Downtown |
| RZC 21.58-21.62 | Design Standards |
| RMC 3.10 | Impact Fees |
| RZC 21.32, 21.72: | Landscaping and Tree Protection |
| RZC 21.34: | Exterior Lighting Standards |
| RMC 6.36: | Noise Standards |
| RZC 21.40: | Parking Standards |
| RCZ 21.64: | Critical Areas |
| RZC Appendix 1: | Critical Areas Reporting Requirements |

Building

Applicable codes will be determined by individual building permit vesting date.

DECIDED June 18, 2020.

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Note: Type III decisions of the Hearing Examiner may be appealed to the King County Superior Court as provided in RZC 21.76.060.J.

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF REDMOND**

| | | |
|-------------------------------------|---|--------------------------|
| In the Matter of the Application of |) | NO. LAND-2019-00399 |
| |) | LAND-2019-00400 |
| |) | |
| |) | |
| Penny Lane II |) | UNIT-LOT SUBDIVISION AND |
| |) | SITE PLAN ENTITLEMENT |
| |) | |

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of June, 2020, a true and correct copy of the Findings, Conclusions and Decision in the Matter of the Application of **PENNY LANE II LAND-2019-00399 LAND-2019-00400** for approval of a Unit-Lot Subdivision and Site Plan Entitlement was sent via email to the Staff Planner and via United States Postal Service first class mail to the Parties of Record with adequate postage prepaid.

June 19, 2020

Date



Cheryl Xanthos
City Clerk
City of Redmond, Washington



Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. AM No. 21-067
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

| | | |
|------|-----------------|--------------|
| Fire | Adrian Sheppard | 425-556-2201 |
|------|-----------------|--------------|

DEPARTMENT STAFF:

| | | |
|------|----------------|---------------------|
| Fire | Tom Langton | Acting Deputy Chief |
| Fire | Shannon Norman | Fire Captain |

TITLE:

Approval of a Contract for Installation of Security Fencing at Fire Station 11 in the Amount of \$74,000

OVERVIEW STATEMENT:

A security analysis was conducted of Fire Station 11 by Redmond Police Department staff, utilizing crime prevention standards. One key issue identified was securing the perimeter of the property due to ease of access by pedestrians utilizing the mid-block access pathway between NE 85th Street and the Edge Skate Park/Transit Center. This pathway is currently open to the back parking lot of Fire Station 11, where Redmond Fire is required to conduct fire training drills due to lack of a dedicated training facility. Pedestrians accessing this area during drills pose a risk to themselves and firefighters. Apparatus responding out of the back of the fire station have encountered exit routes being blocked by pedestrians and/or civilian vehicles.

The mid-block pathway provides access to the Fire Station 11 property, resulting in incidents such as: car prowls, damage to City and personal vehicles, discarding of garbage/drug paraphernalia/alcohol, animal and human defecation, graffiti on buildings and waste receptacles, unexpected encounters with challenging individuals, and a deceased body discovered on property.

In light of these identified safety and security issues, the installation of a perimeter fence with an automatic gate for vehicle access has been determined as the ideal and prudent solution.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ Receive Information ☐ Provide Direction ☒ Approve

REQUEST RATIONALE:

- **Relevant Plans/Policies:**

Redmond Fire Department Rules and Regulations

- **Required:**
N/A
- **Council Request:**
N/A
- **Other Key Facts:**
N/A

OUTCOMES:

The perimeter fencing and vehicle access gate will secure the back parking lot of Fire Station 11, reducing the City's liability for personal injury and/or property damage resulting from unauthorized access.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:
\$74,000

Approved in current biennial budget: ☒ Yes ☐ No ☐ N/A

Budget Offer Number:
N/A

Budget Priority:
N/A

Other budget impacts or additional costs: ☐ Yes ☒ No ☐ N/A

If yes, explain:
N/A

Funding source(s):
General Fund

Budget/Funding Constraints:
None

☐ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

| Date | Meeting | Requested Action |
|-----------|--|-------------------|
| 4/20/2021 | Committee of the Whole - Public Safety | Provide Direction |

Proposed Upcoming Contact(s)

| Date | Meeting | Requested Action |
|------|----------------------------|------------------|
| N/A | None proposed at this time | N/A |

Time Constraints:

Bid proposals have an initial expiration date of April 30, 2021 and vendor has indicated proposed cost will be honored through May 31, 2021 pending Council approval.

ANTICIPATED RESULT IF NOT APPROVED:

If this contract is not approved, security issues can be expected to continue at Fire Station 11.

ATTACHMENTS:

Attachment A - Summary of Documented Safety/Security Breaches

Attachment B - Fire Station 11 Aerial View

Attachment A - Summary of Documented Safety/Security Breaches

January 28, 2021: Witnessed by multiple parties

- Station 11 crews were training on the door prop next to the station in back parking area.
- A male subject being chased by RPD came running towards the fire crews performing training.
- RPD officers came running into the back parking lot from the same direction as the subject and tackled him at the door prop placing him in custody (*see attached photo*).

October 18, 2020 Witnessed by Firefighter

- At 0115 hrs, a Firefighter entered the kitchen for water and found a woman (late 20's-early 40's) standing inside the enclosed patio by the sliding door.
- According to FF, when approached and asked if she needed help, she stated no.
- The FF escorted her through the gate, and the gate was re-latched.

October 6, 2020 Found by Administrative Staff

- At 1010 hrs a staff member found garbage (liquor bottle, alcohol in cup, cigarette butts, plastic) behind the Annex building.

October 1, 2020 Witnessed by Administrative Staff

- At 0745 hrs, two males (mid 20's) were seen loitering near generator enclosure in between parked RFD personal vehicles, one looking in and in between cars while the other was seen crouched down by the lamp post.
- The crouched male was seen taking what looked to be a syringe and box from his backpack, baring his abdomen and injecting something.
- After, both males walked towards the Skate Park.

September 27, 2020 Witnessed by Firefighter

- At 1100 hrs, a male (20's) was observed walking through the station's back parking lot with his skateboard blocking vehicle access, then ducking into the back alcove by Administrative offices, dropped skateboard and crouched down by door.
- When FF circled back to check further, the male was no longer in the alcove, no damage seen.

September 10, 2020 Witnessed by multiple parties

- A male entered the unsecured front vestibule asking to use a computer. When his request was denied, asked to speak to higher authority and again his request was denied.
- The male's behavior began to escalate, front staff became fearful as lobby was not secured.
- When the male would not leave, RPD was called for assistance. Male left prior to RPD's arrival.

July 19, 2020

Witnessed by Firefighter

- At 0330 hrs, a Firefighter was awakened in his dorm room by loud noises outside his window.
- Looking outside, the FF (a former LE) observed a male sitting up against the building behind the overgrown landscaping, take several needles out of his backpack along with what strongly resembled a package of heroin.
- A sound scared the male, who shoved the paraphernalia into his backpack and fled.
- Next morning, crew carefully cleaned up litter in the area.

July 18, 2020

Witnessed by multiple parties

- Firefighters were returning from an emergency call witnessed a vehicle pulling into the front parking lot's south entrance blocking it.
- Two females (mid 20's-early 30's) waiting and were outside the vehicle acting erratically, interacting with the occupant of the vehicle, then left when the Firefighters stopped.

July 1, 2020

Witnessed by Firefighters

- Mid-morning, a red carry-on suitcase was observed in grassy area in front of the Annex unattended. A short time later a male appeared from behind the Annex, laid down on the grass by the suitcase.
- RPD was called for assistance.

July 1, 2020

Witnessed by Firefighters

- Late-morning, Firefighters were returning and observed two vehicles in the south back parking lot entrance blocking the engine's return.
- The vehicles pulled farther into the back parking lot to make way for the engine, then returned to their original positioning blocking the entrance.

Many other security breaches have occurred such as numerous car prowls, damage to vehicles, malicious intent to personal vehicles (cutting brake lines), garbage in the back lot and generator enclosure (beer cans, letter, feces, urine), a dead body was found behind the Annex building, and graffiti on the MIH building and waste/recycling receptacles.

Members of the general public have cut through our back lot during active drills coming within several feet of the engine and equipment putting not only themselves by Firefighters in harm's way. Additionally, the engine and/or aid cars occasionally respond out of the back bay doors when the front bay doors are out of service. Civilian vehicles potentially blocking emergency vehicles responding to 9-1-1 is not acceptable.

Finally, Station 11 previously experienced a large adult male enter through the back apparatus bay area into the kitchen and walk up behind a female employee who was alone in the kitchen. It ended up being a harmless incident aside from the initial fright and the male urinating on the kitchen floor, but it had the potential for a very different outcome.





Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. AM No. 21-068
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

| | | |
|-----------------|---------------|--------------|
| Human Resources | Cathryn Laird | 425-556-2125 |
|-----------------|---------------|--------------|

DEPARTMENT STAFF:

| | | |
|-----------------|--------------|---|
| Human Resources | Nicole Bruce | Sr. Human Resources Analyst/Benefits Plan Administrator |
|-----------------|--------------|---|

TITLE:

Approval of the Flexible Spending Account (FSA) Plan Change Recommendation in Response to the American Rescue Plan Act Signed into Law on March 10, 2021

OVERVIEW STATEMENT:

Human Resources is recommending an increase to the maximum amount employees can contribute to their Dependent Care FSA from \$5,000 to \$10,500 for the 2021 plan year.

Human Resources is also recommending that moving forward our FSA Plan Design mirrors the maximum benefits allowable under current law(s)/regulation(s) and any subsequent changes and that Council authorize and direct the Mayor to implement any changes, including the execution of any contracts and agreements to do so.

☐ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information** ☐ **Provide Direction** ☒ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
The FSA Plan Document will need to be amended.
- **Required:**
The City of Redmond Personnel Manual, Section 1.40, requires Council approval of changes that increase benefits to employees.
- **Council Request:**
N/A
- **Other Key Facts:**

N/A

OUTCOMES:

The Flexible Spending Account (FSA) is an IRS-regulated reimbursement account, also called Section 125 Flexible Spending Accounts (FSAs), that allow employees to save by setting pre-tax money aside for use in paying approved expenses. The City makes two kinds of plans available to employees; 1) a Health Care FSA that reimburses out-of-pocket health care expenses for employees and their dependents and 2) a Day Care FSA that reimburses day care expenses incurred for their dependent child or elder care expenses.

The President signed the American Rescue Plan Act (ARPA) on March 10, 2021, which contains several benefits-related relief provisions for participants. The provision that affects the FSA Plan will increase the amount employees can contribute to their Dependent Care FSA from \$5000 to \$10,500 annually. While this relief provision is optional for employers, we are recommending the adoption of this provision to provide the maximum relief to FSA plan participants. This would be consistent with the changes that were implemented in response to the Consolidated Appropriations Act (CAA) in January 2021.

We also recommend that Council authorize the Mayor to ensure the FSA Plan mirrors the maximum benefits allowable under the federal, state, or local law(s)/regulation(s). This would include: the IRS allowable maximums for contributions, the maximum rollover amounts, qualifying events to change coverage, dates to submit claims to the Plan, etc. Doing this would allow for more efficient and timelier implementation and communication of these benefit changes to our employees. Because FSA funds are contributed by employees, there is no fiscal and policy impact to the City to offer the maximum benefits under the law. When any changes occur that will be added to the FSA Plan, Human Resources will provide an informational update to the Council through the Finance, Administration, and Communication Committee of the Whole.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
The Employee Benefits Advisory Committee (EBAC) was informed of this change on March 24, 2021 and feedback was requested.
- **Outreach Methods and Results:**
EBAC meetings are typically held monthly and used as our communication method for benefit changes.
- **Feedback Summary:**
EBAC would like to see this change implemented for employees.

BUDGET IMPACT:

Total Cost:
N/A

Approved in current biennial budget: ☐ Yes ☐ No ☒ N/A

Budget Offer Number:
N/A

Budget Priority:

Responsible Government

Other budget impacts or additional costs: ☐ Yes ☐ No ☒ N/A

If yes, explain:

The plan changes are anticipated to be cost-neutral as they are employee-only contributions.

Funding source(s):

N/A

Budget/Funding Constraints:

N/A

☐ Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

| Date | Meeting | Requested Action |
|-----------|--|-------------------|
| 4/27/2021 | Committee of the Whole - Finance, Administration, and Communications | Provide Direction |

Proposed Upcoming Contact(s)

| Date | Meeting | Requested Action |
|------|----------------------------|------------------|
| N/A | None proposed at this time | N/A |

Time Constraints:

This increase is only allowable under the law for the 2021 plan year so we would like to implement as soon as possible so that employees can increase their amounts for the remainder of the plan year which ends December 31, 2021.

ANTICIPATED RESULT IF NOT APPROVED:

We would not be able to provide FSA-related relief for employees as allowable under the American Rescue Plan Act (ARPA).

ATTACHMENTS:

N/A



Memorandum

Date: 5/4/2021
Meeting of: City Council

File No. AM No. 21-069
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

| | | |
|-----------|--------------|--------------|
| Executive | Malisa Files | 425-556-2166 |
|-----------|--------------|--------------|

DEPARTMENT STAFF:

| | | |
|-------------------------------------|--------------|-----------------|
| Technology and Information Services | Dawn Johnson | TIS PMO Manager |
|-------------------------------------|--------------|-----------------|

TITLE:

Approval of a Contract for the Prosecuting Attorney's Electronic Case Management System with Karpel Solutions in the Amount of \$83,420

OVERVIEW STATEMENT:

The City of Redmond Prosecutor's Office handles all city criminal misdemeanors, contested traffic infractions, appeals and all cases through the Redmond Community Court. Apart from standard Microsoft Office products, the Prosecutor's office has not kept pace with its peers in leveraging modern technology to automate workflow or digitize case files. Today, case files are maintained 100% in hard copy format. This limits the time a Prosecutor has to prepare for trial, it inhibits optimal communication with witnesses and victims of crime, and it causes delay in the prosecution of cases. An electronic case management system would improve case management business processes with a specific focus on electronic workflows and quick and easy access to case details which will eliminate inefficiencies caused by the manual handling of hard copy case files both in and out of the courtroom.

☒ **Additional Background Information/Description of Proposal Attached**

REQUESTED ACTION:

☐ **Receive Information** ☐ **Provide Direction** ☒ **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
Community Strategic Plan - Focus on the Big Four
- **Required:**
N/A
- **Council Request:**
Committee of the Whole - Finance, Administration, and Communications
- **Other Key Facts:**
N/A

OUTCOMES:

An electronic case management system will reduce inefficiencies and increase the capacity of the Prosecuting Attorney's office by 30%. This allows them to absorb future growth, better prepare for hearings, and improve overall communications and management of case information. A complete Benefits Analysis for the proposed project is contained in the attached business case. (Attachment A)

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:

We are proposing a contract with Karpel Solutions for a total of \$83,420. This includes year one implementation costs and three years of support and maintenance costs. The overall cost of ownership for the solution is as follows:

- **One Time** - Implementation Costs - \$49,827.50
- **On Going** - Annual Support and Maintenance Costs - \$11,197.50

Approved in current biennial budget: ☒ **Yes** ☐ **No** ☐ **N/A**

Budget Offer Number:

2015/2016 and 2017/2018 Strategic Systems Investments Budget Offers

Budget Priority:

Responsible Government

Other budget impacts or additional costs: ☐ **Yes** ☒ **No** ☐ **N/A**

If yes, explain:

N/A

Funding source(s):

Information Technology Fund

Budget/Funding Constraints:

N/A

☐ **Additional budget details attached**

COUNCIL REVIEW:

Previous Contact(s)

| Date | Meeting | Requested Action |
|------------|--|---------------------|
| 10/27/2020 | Committee of the Whole - Finance, Administration, and Communications | Receive Information |
| 4/27/2021 | Committee of the Whole - Finance, Administration, and Communications | Receive Information |

Proposed Upcoming Contact(s)

| Date | Meeting | Requested Action |
|------|----------------------------|------------------|
| N/A | None proposed at this time | N/A |

Time Constraints:

N/A

ANTICIPATED RESULT IF NOT APPROVED:

King County District Court (KCDC) has implemented an electronic case management system which requires Redmond's Prosecuting Attorney's office to file all cases electronically beginning in November 2020. Without an electronic case management system, all hard copy case files will need to be organized and subsequently scanned into a suitable electronic file format in order to file a case. This will increase the time it takes to file and prosecute cases. These files, digitized by scanning, don't improve usability or increase process efficiencies as the content remains unindexed and is not easily searchable.

Without the electronic case management system, the increased workload due to growth as well as the new King County requirement for electronic submittal, will further delay our ability to prosecute in a timely manner and reduce the level of customer service we are able to provide.

ATTACHMENTS:

Attachment A: Business Case

Attachment B: PA Electronic Case Management Contract document file

Business Case

Cover Page

| | |
|---------------------------|---|
| Project Title: | Prosecution Electronic Case Management System |
| Subtitle: | |
| Project Number | |
| Date of Submittal: | 9/18/19 |
| Department: | Executive |
| Primary Business Sponsor: | Maxine Whattam |
| Prepared By: | Rebecca Mueller and Teresa Keogh |

Project Primary Benefit

| | Responsible Government | Customer Service | Efficiency | Risk Management |
|------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Select one | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Business Objectives at a Glance

| Benefit | | Objective |
|------------------------|-------------------------------------|--|
| Responsible Government | <input checked="" type="checkbox"/> | Standardizes and improves business processes |
| | <input checked="" type="checkbox"/> | Increases accessibility to data |
| | <input checked="" type="checkbox"/> | Increases accuracy and reduces record redundancy |
| | <input checked="" type="checkbox"/> | Supports integrated systems and organizational wide business analytics |
| | <input checked="" type="checkbox"/> | Makes use of up to date technology tools and platforms |
| | <input checked="" type="checkbox"/> | Fulfills regulatory requirements |
| Customer Service | <input checked="" type="checkbox"/> | Improves accessibility to services |
| | <input checked="" type="checkbox"/> | Improves the quality of services |
| | <input checked="" type="checkbox"/> | Expands the scope of customer services |
| | <input checked="" type="checkbox"/> | Improves accessibility to public records |
| Efficiency | <input checked="" type="checkbox"/> | Demonstrates a positive return on investment |
| | <input checked="" type="checkbox"/> | Improves productivity and/or reduces future costs |
| | <input checked="" type="checkbox"/> | Results are measurable |
| Risk Management | <input checked="" type="checkbox"/> | Increases system and data security |
| | <input checked="" type="checkbox"/> | Replaces outdated and at-risk technology |

Business Case

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Executive Summary

- **Vision** – The goal of this project is to bring the Redmond City Prosecutor's Office into the 21st century by streamlining business processes and increasing productivity with the purchase and implementation of an electronic case management system.
- **Problem** – Apart from standard Microsoft Office products, the Prosecutor's office has not kept pace with its peers in leveraging modern technology to automate workflow or digitize case files. Today, case files are maintained 100% in hard copy format. This limits the time a Prosecutor has to prepare for trial, it inhibits optimal communication with witnesses and victims of crime, and it causes delay in the prosecution of cases. Despite these manually intensive case management processes, and an increasing number of criminal and infraction filings over the last five years, staff and attorneys manage to meet demand, but not in the most effective manner. In October 2019, the King County District Court (KCDC) is implementing an electronic case management system which requires Redmond's Prosecuting Attorney's office to file all cases electronically. Without an electronic case management system, all case file materials will need to be gathered and organized in hard copy and subsequently scanned into a suitable electronic file format in order to file a case. This type of file, digitized by scanning, does not provide the improved usability that an electronic case management system provides as the content remains unindexed and not easily searchable.
- **Objective** – Improve case management business processes with a specific focus on electronic workflows and quick and easy access to case details which will eliminate inefficiencies caused by the manual handling of hard copy case files both in and out of the courtroom.
- **Solution** – Implement an electronic case management system which integrates with both the City's Police department as well as King County District Court systems used to manage shared case data.
- **Cost** – The one-time implementation cost for an Electronic Case Management system is between \$80K and \$100k with an additional ongoing annual support and maintenance cost of approximately \$15k. This project would use existing ECM project budget.
- **Benefit** – An electronic case management system will reduce inefficiencies and increase the capacity of the Prosecuting Attorney's office by 30%. This allows them to absorb future growth, better prepare for hearings, and improve overall communications and management of case information.

The Purpose of this document is to establish a clear and succinct Business Case for **Prosecution Electronic Case Management System**. This business case establishes an evidenced based recommendation for moving forward with the project as defined below and clearly explains the benefit of implementing the recommended solution over the alternatives.

Background

The City of Redmond Prosecutor's Office handles criminal misdemeanors, civil traffic infractions, and cases through the Redmond Community Court. For 2019, the office is projected to file 1046 criminal misdemeanors and 5492 traffic infractions. The office provides prosecutorial services for the City of Redmond. The Prosecutor's Office seeks an electronic case management system to increase efficiencies within the department and provide better customer service to the courts, judges, attorneys, victims, witnesses, the public, and other city departments.

Business Objective

Redmond provides high-quality public safety services and the community continues to enjoy excellent public safety services. This includes the prosecutor's office that serves the diverse community by supporting victims and families, justly and fairly holding criminals accountable, and protecting the safety of the community. To keep up with the current and anticipated long-term growth of the city, prosecution needs the tools to run efficiently and effectively, so it can successfully assist the city in maintaining its high-quality public safety services.

The objective is to identify and procure a system that will modernize the internal efficiencies of the Prosecutor's office to prevent inefficiencies such as delays in processing manual files, lost files, quicker customer service, quicker processing of case files to improve strength of cases, increasing time to focus resources on deserving defendants.

Problem Statement

The number of criminal filings and traffic infractions handled by the Prosecutor's Office has consistently increased throughout the last five years, resulting in additional workload and time in court for administrative staff and prosecutors. So far, resources are managing to meet demand, but not in the most efficient manner. (See Table 1.0)

Table 1.0 Court of Washington's Report on Annual Case Filings- Redmond, WA

| Courts of Washington Annual Filings Report-Redmond, WA* | | | | | |
|---|-------------|-------------|-------------|-------------|---------------|
| | 2015 | 2016 | 2017 | 2018 | 2019** |
| Criminal | 812 | 830 | 937 | 801 | 1046 |
| Infractions | 5555 | 5113 | 5071 | 5199 | 5492 |
| *statistics obtained from http://www.courts.wa.gov/caseload/ | | | | | |
| **annual projection based on filings through June 2019 | | | | | |

The risk of doing nothing is to maintain status quo and continue manual processing. In line with the current growth in Redmond, the Prosecutor's Office is experiencing a growth in department demands. For example, in 2018, the City and King County District Court created Community Court through a collaborative effort. This requires additional targeted staff and prosecutor review on 30-40 additional cases per week and an additional 2 hours of staff time in court. Also, court calendars are increasing. For example, in 2018 Monday morning Pre-trial calendars increased from 10 cases to an average of 20+. KCDC is again looking to increase Monday and Tuesday pre-trial calendars to 30 to accommodate the rising caseload. This increases court time for staff and prosecutors alike and reduces time for the manually intensive case file handling processes such as pulling manual files for upcoming hearings, prepping discovery, handwriting plea offers, and drafting and sending subpoenas. As a result, there is a domino-effect delay in other duties such as contacting victims, reaching out to officers for follow-up, reviewing and charging cases, and drafting response on legal issues on cases. While the office meets all court deadlines and those required under the rules of law, there is room to improve on areas, such as customer response time, review of search warrants for police, charging of cases and decisions on legal issues. The sooner cases are filed, the stronger they are because witnesses are likely more available, their memory is stronger, and the quicker individuals are held accountable, whether it be through jail, restitution to the victim, and/or treatment to help prevent recidivism.

Without an Electronic Case Management system, the Prosecutor's Office cannot streamline criminal case processes. The following areas of current inefficiencies were identified as part of a Police and Prosecutor's LEAN workshop in 2017.

Inability for multiple persons to view a case file simultaneously results in processing delays. to view a file at the same time. This results in delays of processing work

- **Example:** If a case is set for trial at court, after court the staff member and attorney must decide which process takes priority and who should take the file first. The staff member would likely draft and send out subpoenas, request additional discovery, set up witness/victim interviews. The prosecutor must begin to draft motions that are due within the next week to 20 days before trial. Once started, all these duties can take multiple days to complete, and it is inefficient to not have the ability for multi-party viewing of a file.

Delay in responding to the customer

- Manual files must be pulled from office cabinets in order to respond to any outside caller or inquiry, whether it be defense attorney, witness, citizen, city employee, etc. Files are organized alphabetically by last name and status. This creates delay in response while we search for the file and review the case, often times resulting in the need for call backs.
- **Example:** If an individual calls our office to inquire about the status of case but doesn't know the case number or defendant name, we cannot easily, or even definitively, determine the case they're inquiring about, without looking

through every file for the name of the person, even assuming the call is a party to the case. This inhibits our responsiveness to the customer..

Key annotations on a case are difficult to access and at risk of being missed.

- Attorneys and staff notes are kept on post it notes. Emails are not easily accessible, and buried with police reports, court documents, etc. There is no easy way to keep linear documentation in the file. This results in delays every time an attorney prepares a case for an upcoming hearing, which requires familiarity with the case history.
- **Example:** If a defense attorney asks for a modification of the plea agreement in court and the attorney in court did not make the original offer, the in-court attorney must quickly review all post it notes and emails, and determine the position of the other city attorney. If it cannot be determined, hearings are often reset for case review, which results in delay of processing and disposing of cases.

Duplication of notes in files creates errors

- Each defendant has an individual case file for each case he or she is associated with. Notes must be duplicated across files in order to track their association in court. This increases the risk of documentation errors as well as insuring a complete review.

Manual processes increase the cost of and time to complete Discovery

- Police reports, witness statements, and written discovery are photocopied by staff and mailed to defense or provided in court under the Court Rules. While deadlines are being met, we spend time and expense on paper to complete this task that can be reduced through eDiscovery. We also rely on handwritten notes that discovery was sent under the Court Rules when an electronic system can track and memorialize timing of discovery.

Duplication of document creation is time consuming and creates a risk of error.

- Each time a case is set for a motion hearing, trial or is continued to a new date, new subpoenas are issued requiring staff to recreate the entire word document. This requires staff to type the name and address of each witness each time. Some cases are continued multiple times resulting in the need to issue subpoenas repeatedly.

Opportunity Analysis

In response to the inefficiencies identified through a 2017 Police and Prosecutor's LEAN workshop, the City Prosecutor's Office began its research into available electronic case management systems as a means to improve their business processes. During LEAN, the office completed process mapping to better understand its workflow. In addition to the process mapping, Teresa Keogh attended a two-day course on ProMap in April 2019 and went on to complete updated process mapping of the Prosecutor's Office case workflow. **See Attachment 2.**

Between 2017 and the first quarter of 2019, the Prosecutor's office conducted research around the electronic case management systems deployed in other local jurisdictions. This included interviews with solution providers, a site visit to City of Renton Prosecutor's Office who uses LawBase and a visit to City of Bellevue who uses ProLaw, along with an interview with the King County Prosecutor's office who uses Karpel. In all cases, there was evidence that implementation of an electronic case management system reduced error, increased efficiencies, and reduced costs. For example, City of Renton measured that, within two months after going live, their office identified the following benefits based on the reduction of manual entry:

- Time to enter a case is reduced from 8-10 minutes to under 2 minutes
- 99% reduction in input error
- Freed up 2-3 hours daily of staff time

In the first quarter of 2019, the Redmond Prosecutor's Office developed a work plan for 2019-2020, which includes a case management system project. The Prosecutor's Office began working with TIS, Jonny Chambers, to understand the functional and technical requirements of onboarding an electronic case management system, especially considering Laserfiche and the City's new Big Four project. Parties determined the prosecution system would not be a records management tool, rather a standalone prosecution-based system to meet unique functional capabilities, as well as the

ethical requirements under the Rules of Professional Conduct that a prosecutor's office must abide by in keeping case work confidential to its department.

Subsequently, an RFI was completed on July 12, 2019 (RFI No. 10650-19 for a Criminal Case Management System). The interdisciplinary team included: Dawn Johnson, Teresa Keogh, Rebecca Mueller, and Lucas Cometto. Responses were considered. Many of the systems were prosecution based, however, some were records management systems that did not meet daily prosecution functions, while a few did not apply to criminal work. The City received (12) responses. The RFI response from Karpel Solutions is an example of the types of electronic case management systems that would meet the City's requirements.

| | <u>Karpel</u> |
|---|---------------|
| Fully integrated legal case management system | ✓ |
| Integrates with Spillman & Laserfische | ✓ |
| Integrates with KCDC electronic system | ✓ |
| Implementation fee less than \$5k (other vendors >\$100k) | ✓ |
| Esubpoena system to Police | ✓ |
| Cloud based | ✓ |
| Local references with positive feedback | ✓ |

This solution is widely used nationally and currently implemented in over 19 Washington counties and cities, including the King County Prosecutor's office. They selected Karpel over other case management vendors due to its ability to automate processes, provide custom reports, improve case tracking, reduce paper, and enhances data sharing needs including eSubpoena and eDiscovery, which are all comparable needs to the City of Redmond.

Benefit Analysis

Baseline Measures:

Time on case generation and breakdown

- Average staff time to prepare current Pre-Trial Calendar: **60 minutes**
- Expected increase to prepare 30+ case Pre-Trial Calendar: **90 minutes**
- Average current breakdown of casefiles after court: **30 minutes**
- Average time staff spends in court Monday morning: **75 minutes**
- Average time staff spends in court Tuesday morning: **120 minutes**
- Average time staff spends in court Tuesday afternoon: **120 minutes**
- Average time staff spends in court Wednesday afternoon: **120 minutes**

Cost and Processing time reductions:

- **Paper Costs:** reduce by 50-75% through electronic files and eDiscovery.
 - FY 2018 paper = \$ 1020.80
 - FY 2020 = \$510.40 = **cost savings of \$510.40**
- **Processing Time:**
 - 11 mins average to create manual case file x1046 cases (projected 2019) = cost of 192 hours
 - 11 mins to create file → 3 mins with Karpel = **savings of 139.7 hours** = staff time to be re-allocated to other needs

- Projected time to prepare 30+ case with Electronic Case Management System: **reduction by 50-75%**
- Breakdown of court case files after court: **eliminated**

Reducing Errors and Gaining Efficiencies:

- **Reduce Delay in processing next tasks after court with manual file**

An electronic case management system provides real-time case information updates, electronic discovery to defense, subpoena alerts and generation. It grants the ability for multiple users to work on the same file at the same time, allowing both staff and prosecutors to begin trial preparation simultaneously without delay. A system's **Electronic Docket** feature allows attorneys to quickly update each case with the outcome of the docketed case in real time. Furthermore, offices still using files can use this tool to quickly update back from court cases with the next court event. **A comparable jurisdiction. using an electronic case management solution. stated that it usually took several hours to update cases from a 100+ case docket. Using this tool, it now takes her less than an hour.**

- **Improve Customer Service**

An electronic system's search screen allows users to search for a person or case in a variety of ways. A user can search by a person's name, partial name including a Soundex and Phonetic options. Cases referred by law enforcement can be searched by report number, agency, or officer. A user can automatically go to a case by searching the court cause number, internal file number, and legacy file number, ticket number or by lab report number. Therefore, citizens, witnesses, city employees, or anyone inquiring about a case with limited information are provided immediate response. When attorneys are preparing cases for court or responding to inquiries, there is no time lost locating files.

- **Increased Response Time after Court**

Attorney will take laptops to the courtroom instead of files. This allows attorneys to view each case on the docket including a case summary on a "Court Face Sheet" containing hyperlinks to case documents, victim notes, case file, defendant profile and any case the defendant is currently serving probation. During and outside of court, staff and attorney can simultaneously access and work on cases reducing delay and missed deadlines.

- **Strengthening Customer Service and Cases**

With less time in court, staff and attorneys can establish protocol to talk and meet with victims. More time can be allocated to research on legal issues on cases to improve them for trial, police training, legal updates, quicker turn-around on case filings and response to Redmond Police. The sooner cases are filed, the stronger they are because witnesses are likely more available, their memory is stronger, and the quicker individuals are held accountable, whether it be through jail, restitution to the victim, and/or treatment to help prevent recidivism. Automated processes to include subpoenas and discovery increases performance in the above areas and the ability to focus on deserving defendants.

- **Reduces error and duplication of work**

Allows linear notes on files, streamlines disclosure and prevents duplication of content already disclosed, automates all charges and disclosure processes.

- **Accurate and Improved Performance Measures**

The Prosecutor's Office is working to enhance and modernize its Performance Measures that are limited by staff time and manual tracking.

| |
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| |
|--|

| | |
|--|--|
| PROJECT TITLE | EXHIBITS <i>(List all attached exhibits - Scope of Work, Work Schedule, Payment Schedule, Renewal Options, etc.)</i> |
| CONTRACTOR | CITY OF REDMOND PROJECT ADMINISTRATOR <i>(Name, address, phone #)</i> City of Redmond |
| CONTRACTOR'S CONTACT INFORMATION <i>(Name, address, phone #)</i> | BUDGET OR FUNDING SOURCE |
| CONTRACT COMPLETION DATE | MAXIMUM AMOUNT PAYABLE |

THIS AGREEMENT is entered into on _____, 20__ between the City of Redmond, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

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

WHEREAS, the CITY does not have sufficient staff or expertise 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 has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. **Retention of Consultant - Scope of Work.** The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. **Completion of Work.** The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. 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 caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. **Payment.** The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. 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 the Scope of Work attached. The CONSULTANT shall be entitled to invoice

the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 30 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. 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 provided in Section 5.

5. Extra Work.

A. 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 or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or 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.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this agreement, as provided in Section 13. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. **Ownership of Work Product.** Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT.

7. **Independent Contractor.** The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. **Indemnity.** The CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CONSULTANT, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that:

A. The CONSULTANT's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the CITY, its officers, agents or employees; and

B. The CONSULTANT's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the CONSULTANT and the CITY, or of the CONSULTANT and a third party other than an officer, agent, subconsultant or employee of the CONSULTANT, shall apply only to the extent of the negligence or willful misconduct of the CONSULTANT.

9. **Insurance.** The CONSULTANT shall provide the following minimum insurance coverages:

A. Worker's compensation and employer's liability insurance as required by the State of Washington;

B. General public liability and property damage insurance in an amount not less than a combined single limit of two million dollars (\$2,000,000) for bodily injury, including death, and property damage per occurrence.

C. Professional liability insurance, if commercially available in CONSULTANT's field of expertise, in the amount of two million dollars (\$2,000,000) or more against claims arising out of work provided for in this agreement.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement. 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. The certificates of insurance shall cover the work specified in or performed under this agreement. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

10. Records. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose.

11. Notices. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this Agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. **Project Administrator.** The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it meets the requirements of this Agreement, and for reviewing, monitoring and approving the quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator.

13. **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 resolution to a mutually acceptable mediator. The parties shall each be responsible for one-half of the mediator's fees and costs.

14. **Termination.** The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified above. In the event that this agreement is terminated by the City other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of the CONSULTANT are terminated by the CITY for fault on part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. **Non-Discrimination.** The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, creed, color, national origin, sex, religion, honorable discharged veteran or military status, familial status, sexual orientation, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog or service animal by a person with a disability, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this Agreement may be terminated by the CITY and that the CONSULTANT may be barred from performing any services for the CITY now or in the future.

16. **Compliance and Governing Law.** The CONSULTANT shall at all times comply with all applicable federal, state, and local laws, rules, ordinances, and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

17. **Subcontracting or Assignment.** The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any sub-consultants approved by the CITY at the outset of this agreement are named on separate Exhibit attached hereto and incorporated herein by this reference as if set forth in full.

18. **Non-Waiver.** Payment for any part of the work or services 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 under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

19. **Litigation.** 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 agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for King County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions 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, in and for King County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

20. **Taxes.** The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

21. **City Business License.** The CONSULTANT has obtained, or agrees to obtain, a business license from the CITY prior to commencing to perform any services under this agreement. The CONSULTANT will maintain the business license in good standing throughout the term of this Agreement.

22. **Entire Agreement.** This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto. These standard terms and conditions set forth above supersede any conflicting terms and conditions on any attached and incorporate exhibit. Where conflicting language exists, the CITY'S terms and conditions shall govern.

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

CONSULTANT:

CITY OF REDMOND:

By: _____
Title: _____

Angela Birney, Mayor
DATED: _____

ATTEST/AUTHENTICATED:

City Clerk, City of Redmond

APPROVED AS TO FORM:

Office of the City Attorney

Exhibit A

SCOPE OF WORK

The following Scope of Work represents the services required to reach the proposed solution and a successful project. Karpel Solutions will perform all work in accordance with the descriptions, scopes and specifications hereafter described. In the event of ambiguity or inconsistencies between the Master Consulting Services Agreement and any of the exhibits to the agreement, the order of precedence determining controlling terms is as follows; Information Privacy and Security Agreement, Consulting Services Agreement, Business Associate Agreement, Statement of Work, Investment Summary, Licensing and Support Agreement, Hosting Agreement.

Phase 1 Project Plan

Karpel Solutions will begin with a project kickoff meeting with designated staff from the Redmond City Prosecutor's Office and Technology Department. This meeting is where system configuration will begin with an analysis of current business practices, gap/fit analysis, interface development analysis, reporting analysis, document template gathering for conversion and formalizing schedules such as data conversion milestones, installation and training. Karpel Solutions utilizes a Project Plan in Excel that contains tasks and milestone dates to meet the agreed upon go live implementation date.

Pre-Implementation Project Kickoff Meeting

1. Karpel Solutions will begin training the agency system administrators regarding the best practices developed by implementations of other customers in Washington and throughout America.
2. Karpel Solutions will carefully listen to the system administrators and project managers as they begin documenting the application workflow which will form the basis for the configuration of PROSECUTORbyKarpel.
3. Determine and gather the documents needed for template creation.
4. Provide detailed instructions on completing a pre-implementation spreadsheet (pre-load workbook) that will be loaded into the system prior to training. This spreadsheet will contain law enforcement agencies; officers; prosecuting attorneys; defense attorneys; judges; court/docket divisions, workflow events, disposition codes and all users of the system. This spreadsheet typically contains data received from the first data conversion but can be completed by the customer.
5. Milestones will be placed into the schedule to ensure all timelines are met prior to training.
6. During the business analysis, a Fit/Gap assessment will be made and incorporated into the project timeline.
7. A communication plan will be established between Karpel Solutions and the project manager.
8. A proposed training schedule will be given to the project manager/system administrators

that will include training group assignments and training class descriptions. Training will continue for System Administrators throughout the entire timeline.

9. Karpel Solutions will review and receive contacts and any data exchange documentation for interface requirements as deemed necessary.

Karpel Solutions will provide a Project Implementation Timeline that will include scheduled meetings; required agency resources; project scope; initial implementation and training plans, and all other deliverables as determined during the project kickoff meeting.

Business Analysis and Fit/Gap Assessment

Karpel Solutions understands that most customizations to each agency will be data driven through code tables that will be prefilled as defined by each agency. System Options to enable/disable certain features and show/hide system fields will also be part of this custom implementation. It has been our experience that each agency may have different procedures that require some software customization. There may be a data element that we don't currently capture but is needed for case processing or reporting requirements.

1. Karpel Solutions, the project manager and system administrators will review current software functionality and identify areas in which software customization is required. This will be performed on a first data conversion to show how your data looks in the application.
2. The project manager and system administrators will review how case processing occurs in the application and will provide detailed explanations of all noted inadequacies.
3. Karpel Solutions will make the required software customizations, depending on the scope of the customization, at no cost to the City as we have for all other implementations. Depending on the scope of the modification, any changes to the timeframe will be mutually agreed upon by Karpel Solutions and City of Redmon.

Application and Database Installation

1. The City of Redmond will establish a secure VPN connection allowing Karpel Solutions access to the legacy server if not going hosted.
2. Karpel Solutions will install the application database and upload the second data conversion files on the agency site.
3. Karpel Solutions will upload the client remote support tool to the server. City IT has the option to install the client remote support tool, perform application testing, operating system and browser compatibility test and MS Office compatibility /document generation tests on all agency workstations

Data Exchange Interfaces

Karpel Solutions will work closely with the City IT Department and other personnel referred by the City of Redmond to build and/or modify and test data exchanges that are currently in place or are required at a future date. We expect these interfaces to be completed within the interface project timeline. However, this is based on the availability and cooperation of the other data exchange

partners. Data exchanges not currently in place, but desired by the City of Redmond will be reviewed and placed into a Phase II project schedule.

Mock “go-live” System Administrator Training

1. Karpel Solutions project manager and trainer will train agency system administrators on exactly how staff will be trained upon go live within 30 days of the agency’s designated go live date.
2. System administrators will be trained on preliminary data conversion (if applicable) and will include document templates and workflow configurations.

Karpel Solutions project manager and trainer will train agency system administrators on **PROSECUTORbyKarpel** to further define workflow and system configurations 30 days prior to go live. The commitment of the system administrators and project manager will determine the success of the implementation. Karpel Solutions will work closely with the system administrators and the project manager to support them during this time for a successful implementation.

Training and Go Live

Karpel Solutions will provide training to the City taking into account the operational needs of the Prosecuting Attorney’s Office. Training will be provided for technical staff, system administrators, document template authors and end users

Project Timeline

The Implementation Timeline is built around the “go live” date. Specific milestones and deadline dates are worked into the plan in order to meet this date.

| <u>Deadline</u> | <u>Task Description</u> | <u>Days out</u> |
|-------------------------------|---|-----------------|
| After Contract Signing | Final Contracts, Implementation Agreement signed, and Project Kickoff Meeting is scheduled. Review this schedule. Minimum Server and Workstation requirements are explained. Assigned resources: Vendor Project Manager, customer project manager | 90 |
| | Server & PC assessment completed, and any necessary hardware or software ordered to meet PBK Installation Prerequisites. Assigned resources: Customer project manager and IT personnel | 80 |
| | <u>First 4 hr. webinar Project Kickoff meeting with System Administrators. PBK Overview</u> Project Team is selected including Karpel Staff and Customer System Administrators. (One Customer System Administrator must be a Policy Setting Attorney). PBK Pre-load configuration is explained, and initial Document Templates are received. 4-hour workflow pre-configuration is conducted. Assigned resources: Vendor Project Manager, customer project manager, designate system administrators | 75 |

| | | |
|---------------------|--|-----------------------|
| | Installation of PBK on the hosted server by Karpel. Karpel Support installation and application testing on each workstation should begin at this time. Assigned Resources: Vendor project manager, vendor technicians. | 60 |
| | Teleconference status meeting with Karpel and agency project manager to review and finalize pre-implementation meeting timeline agreement and review progress and answer any questions regarding pre-load workbook. Assigned resources: Vendor project manager, Customer project manager. | 60 |
| | Teleconference status meeting with Karpel and agency project manager to review progress and answer any questions regarding pre-load workbook. Pre-load due prior to Mock go live training. Assigned resources: Vendor project manager, customer project manager | 45 |
| | Training Schedule is completed with assignment of all office staff to specific training sessions. The Policy Setting Attorney must attend the initial Configuration, Case Initiation and Event Entry sessions at a minimum. Training room and equipment are verified Assigned resources: Vendor project manager, customer project manager, system administrators. | 30 |
| | <u>Online 4hr Mock go live Webinar</u> - Mock go live system administrator training and document template review. Customer will receive document templates and Event Entry Configuration. Customer must validate templates for accuracy over the next two weeks. Assigned resources: Vendor project manager/trainer, customer project manager, system administrators. | 30 |
| | Complete installation and testing of all workstations. Assigned resources: Vendor project manager, customer project manager, customer IT. | 5 |
| Go Live Date | <u>Customer Go Live.</u> Karpel trainers arrive at the Training Room. Final Configuration of PBK is performed with all System Administrators present. User Training begins. Customer begins using PBK in a live state. | <u>Go Live</u> |

This schedule will be modified as mutually agreed upon by Client and Karpel Solutions.

Document conversion consists of Karpel Solutions converting existing Microsoft Word®, Microsoft Works® and Corel WordPerfect® documents provided by Client up to the time of training as outlined in the Project Timeline listed above into a format that can be utilized by PbK on a best effort basis. Karpel Solutions does not support nor will convert customized macros, auto-text files or other custom programming items not a part of the ordinary functionality of Microsoft Word®, Microsoft Works® and Corel WordPerfect®

OTHER INFORMATION

Any additional work requirements outside the scope of this proposal will be presented in the form of a change order and must be approved by client prior to start of such work. No additional charges will be incurred without prior written approval from client.

GENERAL CLIENT RESPONSIBILITIES

In order for the project to be completed on time and on budget, Client shall provide at a minimum:

1. Access to client facilities, computers, servers, network infrastructure and software as deemed necessary by the Karpel Solutions project manager.
2. Access to systems and equipment as required by Karpel Solutions including:
 - a. PbK application access using Karpel Solutions laptops and client's network for training.
 - b. Installation of the Karpel Solutions remote support tool on all desktops executing the PbK application.
3. An authorized contact person to assist in the definition of any project unknowns and authorized to approve the completion of each task.

Phase 2- Project Plan

Karpel Solutions will work closely with the City IT Department and other personnel referred by the City of Redmond to build and test data exchanges identified below. We expect these interfaces to be completed within the interface project timeline for each interface. The City of Redmond will complete an Interface Request Form provided to Karpel Solutions for each data exchange to formulate a project timeline.

1. Law Enforcement Interface (Spillman)

PROSECUTORbyKarpel's built in Law Enforcement transfer will be configured to receive data exchanges from your police department. Karpel Solutions sees this interface as primarily inbound charging requests that would use our Law Enforcement Transfer wizard to carefully manage the import of charging information

2. iLinx

PROSECUTORbyKarpel integrated document management can link to documents stored in 3rd Party document management systems using a common key number, such as a file number/report number/court cause number between PROSECUTORbyKarpel and the other party document management system.

3. King County District Court (eCourt)

PROSECUTORbyKarpel already has a built-in electronic Court Transfer for electronically filing with the Courts and has the ability to receive a response which includes the court filing date and case number and first appearance date using web services

Exhibit B

SCHEDULE

Project Timeline

The Implementation Timeline is built around the “go live” date. Specific milestones and deadline dates are worked into the plan in order to meet this date.

| <u>Deadline</u> | <u>Task Description</u> | <u>Days out</u> |
|-------------------------------|--|-----------------|
| After Contract Signing | Final Contracts, Implementation Agreement signed, and Project Kickoff Meeting is scheduled. Review this schedule. Minimum Server and Workstation requirements are explained. Assigned resources: Vendor Project Manager, customer project manager | 90 |
| | Server & PC assessment completed, and any necessary hardware or software ordered to meet PBK Installation Prerequisites. Assigned resources: Customer project manager and IT personnel | 80 |
| | <u>First 4 hr. webinar Project Kickoff meeting with System Administrators. PBK Overview</u> Project Team is selected including Karpel Staff and Customer System Administrators. (One Customer System Administrator must be a Policy Setting Attorney). PBK Pre-load configuration is explained and initial Document Templates are received. 4-hour workflow pre-configuration is conducted. Assigned resources: Vendor Project Manager, customer project manager, designate system administrators | 75 |
| | Installation of PBK on the hosted server by Karpel. Karpel Support installation and application testing on each workstation should begin at this time. Assigned Resources: Vendor project manager, vendor technicians. | 60 |
| | Teleconference status meeting with Karpel and agency project manager to review and finalize pre-implementation meeting timeline agreement and review progress and answer any questions regarding pre-load workbook. Assigned resources: Vendor project manager, Customer project manager. | 60 |
| | Teleconference status meeting with Karpel and agency project manager to review progress and answer any questions regarding pre-load workbook. Pre-load due prior to Mock go live training. Assigned resources: Vendor project manager, customer project manager | 45 |
| | | |
| | | |

| | | |
|---------------------|---|-----------------------|
| | Training Schedule is completed with assignment of all office staff to specific training sessions. The Policy Setting Attorney must attend the initial Configuration, Case Initiation and Event Entry sessions at a minimum. Training room and equipment are verified Assigned resources: Vendor project manager, customer project manager, system administrators. | 30 |
| | Online 4hr Mock go live Webinar - Mock go live system administrator training and document template review. Customer will receive document templates and Event Entry Configuration. Customer must validate templates for accuracy over the next two weeks. Assigned resources: Vendor project manager/trainer, customer project manager, system administrators. | 30 |
| | Complete installation and testing of all workstations. Assigned resources: Vendor project manager, customer project manager, customer IT. | 5 |
| Go Live Date | Customer Go Live. Karpel trainers arrive at the Training Room. Final Configuration of PBK is performed with all System Administrators present. User Training begins. Customer begins using PBK in a live state. | <u>Go Live</u> |

This schedule will be modified as mutually agreed upon by Client and Karpel Solutions.

Exhibit C

INVESTMENT SUMMARY

Karpel Solutions will perform according to all descriptions, scopes, and specifications herein described, in consideration for payment as set forth below.

In the event of ambiguity or inconsistencies between the Consulting Services Agreement and any of the exhibits to the agreement, the order of precedence determining controlling terms is as follows; Information Privacy and Security Agreement, Consulting Services Agreement, Business Associate Agreement, Statement of Work, Investment Summary, Licensing and Support Agreement, Hosting Agreement.

| Software Products/Licensing | Qty. | Price | Total |
|-----------------------------|------|---------|-----------------|
| PROSECUTORbyKarpel | 7 | \$2,250 | \$15,750 |
| Total Software | | | \$15,750 |

| Installation Services | Qty. | Price | Total |
|---|------|---------|----------------|
| SQL Database configuration | 1 | \$1,000 | \$1,000 |
| ±Client Support Tool/Scanning tool install and system compatibility check | 7 | \$50 | \$350 |
| Total Installation Services | | | \$1,350 |

| Professional Services | Qty. | Price | Total |
|--|------|---------|----------------|
| Project Management | | no cost | \$0 |
| Online Pre-implementation Meetings (hrs.) | 8 | \$150 | \$1,200 |
| Online Mock go-live and system administrator training (hrs.) | 4 | \$150 | \$600 |
| Document Template Conversion (up to 50 documents) | 1 | \$1,250 | \$1,250 |
| Total Professional Services | | | \$3,050 |

| Onsite Training Services | Qty. | Price | Total |
|---|------|-------------------|----------------|
| Go-Live Training days and onsite support (includes system admin training and onsite support) | 5 | \$1,200 1 trainer | \$6,000 |
| Total Onsite Training Services | | | \$6,000 |

| Annual Support and Services | Qty. | Price | Total |
|-----------------------------|------|-------|---------|
| PROSECUTORbyKARPEL | 7 | \$450 | \$3,150 |
| Hosted Services | 7 | \$100 | \$700 |
| Hosted eDiscovery Service | 1 | \$875 | \$875 |

| | |
|--------------------------------------|----------------|
| Total Annual Support Services | \$4,725 |
|--------------------------------------|----------------|

| |
|---|
| Estimated Expenses - not to exceed |
|---|

| | |
|---|----------------|
| Travel expenses include airfare, lodging ground transportation and M&E | \$3,300 |
|---|----------------|

| | |
|--|-----------------|
| Total Project Cost (excluding any applicable taxes) | \$34,175 |
|--|-----------------|

| | | |
|------------------------------|--------|---------|
| *Annual Support and Services | Year 2 | \$4,725 |
| *Annual Support and Services | Year 3 | \$4,725 |

| | |
|------------------------------|-----------------|
| Total Three-Year Cost | \$43,625 |
|------------------------------|-----------------|

* Annual Support and Services cost do not include annual support cost for data exchange interfaces

| Phase 2 Cost | Qty. | Price | Total |
|--------------------------------------|------|----------|----------|
| Data Exchange Interfaces | | | |
| Law Enforcement Interface - Spillman | 1 | \$10,000 | \$10,000 |
| Interface annual support | 1 | \$2,000 | \$2,000 |
| Court Interface-eCourt | 1 | \$10,000 | \$10,000 |
| Interface annual support | 1 | \$2,000 | \$2,000 |
| iLinx integration | 1 | \$10,000 | \$10,000 |
| Interface annual support | 1 | \$2,000 | \$2,000 |

Payment Terms

Payment schedule to be 50% of Software User Licenses due upon signed contract agreement and the remaining project cost due upon completion of implementation and training.

Client will be invoiced upon the completion of user acceptance testing for data exchanges identified in Phase 2 Cost.

Travel and Expense Reimbursement

City agrees to reimburse travel expenses incurred by Karpel within the then current GSA guidelines for lodging and per diem rates for King County, Washington. Karpel shall use reasonable effort to obtain the lowest available travel fares. The reimbursement of travel expense is limited to directly associated expenses for airfare, lodging, meals, airport parking, car rental and airport transportation. All expenses, with the exception of meals and incidentals, will be reimbursed at actual cost and require the submittal of an original receipt attached to the invoice. Receipts will be annotated with the person's name incurring the expense. Meals and incidentals will be invoiced at per diem rates for workdays and travel days as defined in the GSA guidelines. The City will not reimburse for travel hours. Travel expenses will be itemized on the invoice per individual incurring the expense.

Exhibit D

Karpel Solutions Licensing and Support Terms



PROSECUTORbyKarpel®

LICENSE TERMS AND USE

This software, PbK is a proprietary product of Karpel Solutions. It is licensed (not sold) and is licensed to Client for its use only by the terms set forth below.

1. In consideration of payment of a sublicense fee, Karpel Solutions hereby grants Client a non-exclusive and non-transferable sublicense to use any associated manuals and/or documentation furnished.
2. Client cannot distribute, rent, sublicense or lease the software. A separate license of PbK is required for each user or employee. Each license of PbK may not be shared by more than one full time employee or user (40 hours per week), nor more than two (2) part-time employees or users, working no more than 40 hours per week together. The Client agrees that Karpel Solutions will suffer damages from the Client's breach of this term and further agrees that as such Karpel Solutions shall be entitled to the cost of the license, installation and training costs associated for each violation, including Karpel Solutions' reasonable attorneys' fees and costs.
3. License does not transfer any rights to software source codes, unless Karpel Solutions ceases to do business without transferring its duties under this agreement to another qualified software business. Karpel Solutions will, at client's expense, enter into escrow agreement for the storage of the source codes.
4. PbK and its documentation are protected by copyright and trade secret laws. Client may not use, copy, modify, or transfer the software or its documentation, in whole or in part, except as expressly provided for herein. Karpel Solutions retains all rights in any copy, derivative or modification to the software or its documentation no matter by whom made. Client shall not provide or disclose or otherwise make available PbK or any portion thereof in any form to any third party. Client agrees that unauthorized copying and distribution will cause great damage to Karpel Solutions and this damage is far greater than the value of the copies involved.
5. PbK was developed exclusively at private expense and is Karpel Solutions' trade secret. For all purposes of the Freedom of Information Act or any other similar statutory right of "open" or public records the Software shall be considered exempt from disclosure. PbK is "commercial computer software" subject to limited utilization "Restricted Rights." PbK, including all copies, is and shall remain proprietary to Karpel Solutions or its licensors.

ANNUAL SUPPORT

1. Client understands that technical support fees will be required annually, in order to receive software updates and technical support. The support period shall begin from the date of go-live as part of the initial first year costs. The Client may elect to purchase subsequent annual support, on a yearly basis at a fixed cost, and billed annually as referenced in Exhibit C – Investment Summary. The option to purchase annual support is solely at the Client's discretion. The Client's license to use PbK is not dependent upon the Client purchasing annual support; however, if the Client discontinues annual support it will not be provided with updated versions of the software, unless it is purchased. Provided Client's computers, network and systems meet recommended specifications set for by Karpel Solutions and the Client is current with annual support payments then Karpel Solutions shall provide updated versions of their system and/or software as they become available during the terms of the contract. If the option for renewal is exercised, Karpel has the right to increase current pricing.
2. Karpel Solutions will provide support (e.g. software updates, general program enhancements and technical support) for all software provided, including ongoing unlimited telephone technical support problem determination, and resolution.
3. Karpel Solutions will provide technical support Monday through Friday, at a minimum of eight (8) hours a day. Technical support services shall be available between the hours of 7:00 a.m. through 9:00 p.m. Central time, via a toll-free telephone number provided. After-hours support is available as well via the same toll-free number which will reach the on-call support group.
4. Support services include the detection and correction of software errors and the implementation of all PbK program changes, updates and upgrades. Karpel Solutions shall respond to the inquiries regarding the use and functionality of the solution as issues are encountered by Authorized Users. Support to users will be provided through the remote support tool installed on the end user's computer. This tool was installed at the time of go-live allowing Karpel to provide the needed support to meet the service level agreement. If this access is not allowed support will be delayed and the service level agreement (severity levels) are no longer in place.
5. Karpel Solutions shall be responsive and timely to technical support calls/inquires made by the Client. The Client will first make support inquires through their qualified system administrators to assure the policies and business practices of the Client are enforced prior to contacting Karpel Solutions. The timeliness of the response is dependent upon the severity of the issue/support problem, as defined below:

The severity* of the issue/support problem shall determine the average problem resolution response time in any calendar month of the contract as follows:

**If the remote support tool is not installed or available all issues will fall into the general assistance and the severity levels are no longer applicable.*

Severity Level 1 shall be defined as urgent situations, when the Client's production system is down and the Client is unable to use PbK, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the customer's call within one (1) business hour. Karpel Solutions shall resolve Severity Level 1 problems as quickly as possible, which on average should not exceed two (2) business days, unless otherwise authorized in writing by the Client.

Severity Level 2 shall be defined as critical software system component(s) that has significant outages and/or failure precluding its successful operation, and possibly endangering the customer's environment. PbK may operate but is severely restricted. Karpel Solutions' technical support staff shall accept the customer's call for assistance at the time the customer places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call within four (4) business hours. Karpel Solutions shall resolve Severity Level 2 problems as quickly as possible, which on average should not exceed three (3) business days, unless otherwise authorized in writing by the customer.

Severity Level 3 shall be defined as a minor problem that exists with PbK but the majority of the functions are still usable and some circumvention may be required to provide service. Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the customer places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day. Karpel Solutions shall resolve Severity Level 3 problems as quickly as possible, which should not exceed the next available release of software, unless otherwise authorized in writing by the Client.

General Assistance: For general software support/helpdesk calls not covered by the above severity level descriptions, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day.

KARPEL COMPUTER SYSTEMS, INC. (dba "Karpel Solutions"),
MASTER TERMS AND CONDITIONS

GENERAL TERMS

1. **SOFTWARE ANOMALIES.** New commercial software releases or upgrades, or any hardware and/or software owned by or licensed to Client, used in connection with Karpel Solutions services may have anomalies, performance or integration issues unknown to Karpel Solutions which can impact the timely, successful implementation of information systems. Karpel Solutions will inform the client promptly if this occurs and will attempt to analyze, correct and/or work around the anomalies or performance issues on a "best effort" basis. Karpel Solutions is not responsible for any delay or inability to complete its services if such anomalies or performance issues occur. Client is responsible for payment for all of Karpel Solutions' services at the rate stated in the proposal whether or not a successful solution is achieved.
2. **SOFTWARE AUDIT.** Client agrees to allow Karpel Solutions the right to audit Client's use of PbK and licenses of PbK at any time. Client will cooperate with the audit, including providing access to any books, computers, records or other information that relate to the use of PbK. Such audit will not unreasonably interfere with Client's activities. In the event that an audit reveals unauthorized use, reproduction, distribution, or other exploitation of PbK, Client will reimburse Karpel Solutions for the reasonable cost of the audit, in addition to such other rights and remedies that Karpel Solutions may have. Karpel Solutions will not conduct an audit more than once per year.
3. **CLIENT ENVIRONMENT.** Client is responsible for the application, operation and management of its information technology environment, including but not limited to: (a) purchasing, licensing and maintaining hardware and software; (b) following appropriate operating procedures; (c) following appropriate protective measures to safeguard the software and data from unauthorized duplication, modification, destruction or disclosure. Karpel is not responsible for the loss of data in PbK or security breaches that result in the unauthorized dissemination of data contained in PbK that is the result of Client not following appropriate operating procedures, security and protective measures.

LIMITED WARRANTIES, LIMITATION OF LIABILITY

1. **INTERNET AND NETWORK.** Karpel Solutions makes PbK available to Client through the Internet and/or Client's own network and systems, to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in the Internet and network communications on the Client's own network and systems. Client recognizes that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of Client's own computer systems and network, may prevent, interrupt or delay Client's access to PbK. Karpel Solutions is not liable for any delays, interruptions, suspensions or unavailability of PbK attributable to problems with the Internet or the configuration of Client's computer systems or network.
2. **PASSWORD PROTECTION.** Access to PbK is password-protected. Karpel Solutions provides multiple authentication alternatives for access to PbK. KARPEL SOLUTIONS STRONGLY ENCOURAGES THE USE

OF STRONG PASSWORD AUTHENTICATION. Karpel Solutions is not responsible for Client's use of the PbK. Only the number of users set forth above may access the Service and Website. Client must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. Client is fully responsible for the activities of Client's employees and authorized agents who access to PbK. Karpel Solutions is not liable for any unauthorized access to PbK and data or information contained therein, including without limitation access caused by failure to protect the login and password information of users.

3. **SYSTEM REQUIREMENTS.** Karpel Solutions provides PbK based upon the system requirements as specified by Karpel Solutions for Client. Karpel Solutions has no liability for any failure of PbK based upon Client's failure to comply with the system requirements of Karpel Solutions.
4. **THIRD PARTY SOFTWARE.** Karpel Solutions makes no express or implied warranties as to the quality of third party software or as to Karpel Solutions' ability to support such software on an on-going basis.
5. **DISCLAIMER.** THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS AND IMPLIED, WHICH ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING OUT OF A USE IN TRADE OR COURSE OF DEALING OR PERFORMANCE. KARPEL SOLUTIONS DOES NOT WARRANT (i) THAT ACCESS TO OR USE OF ALL OR ANY PART OF PBK WILL BE CONTINUOUS, ERROR-FREE OR UNINTERRUPTED, (ii) THAT THE RESULTS ARISING OUT OF CLIENT'S USE OF PBK WILL BE ACCURATE, COMPLETE OR ERROR-FREE, OR (iii) THAT THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL MEET CLIENT'S NEEDS.

KARPEL SOLUTIONS EMPLOYEES

Karpel Solutions has spent substantial sums of money and invested large amounts of time in recruiting, supervising and training Karpel Solutions employees. Client further agrees that it has a unique opportunity to evaluate Karpel Solutions employees' performance, and has the potential to hire Karpel Solutions employees, and further agrees that such hiring away would substantially disrupt the essence of Karpel Solutions' business and ability to provide its services for others, and as such Karpel Solutions cannot agree to such a hiring. The Client acknowledges that Karpel Solutions employees work for Karpel Solutions under a non-competition agreement; therefore, Client agrees it shall not solicit for employment or contract as an independent contractor, or otherwise hire or engage a Karpel Solutions employee during the term of this Agreement or for a period of 2 years after the completion/termination of the project, whichever is longer.

CONFIDENTIALITY

1. **CONFIDENTIALITY.** Neither party shall disclose or use any confidential or proprietary information of the other party. The foregoing obligations shall not apply to information which: (i) is or becomes known publicly through no fault of the receiving party; (ii) is learned by the receiving party from a third party entitled to disclose it; or (iii) is already known to the receiving party.
2. **PERSONALLY IDENTIFIABLE INFORMATION.** The parties recognize that certain data Client or Karpel Solutions may use in conjunction with the PbK may be confidential personally identifiable

information of third parties. Karpel Solutions shall use all best efforts to protect the confidentiality of personally identifiable information of third parties. Karpel Solutions shall have no liability for disclosure of personally identifiable information caused by Client's own negligence or misconduct.

3. DISCLOSURE REQUIRED BY LAW. In the event that any confidential or proprietary information is required to be disclosed pursuant to any law, code, regulation or court order from a court of competent jurisdiction, the receiving party shall give the disclosing party immediate written notice of such requirement and shall use its best efforts to seek or to cooperate with the disclosing party in seeking a protective order with respect to the confidential information requested.

Karpel Solutions recognizes the Client is a municipal entity subject to the Washington State Public Records Act, Chapter 42.56 RCW, and that the Client is obligated to disclose records upon request unless a specific exemption from disclosure exists. Nothing in the Karpel Solutions Licensing and Support Terms is intended to prevent the Client's compliance with the Public Records Act, and Client shall not be liable to Karpel Solutions due to Client's compliance with any law or court order requiring the release of public records.

4. SIMILAR PROGRAMS AND MATERIALS. Provided Karpel Solutions does not violate the provisions of this section regarding confidentiality, the Agreement shall not preclude Karpel Solutions from developing for itself, or for others, programs or materials which are similar to those produced as a result of services provided to Client.
5. INJUNCTIVE RELIEF. Any breach of the confidentiality provisions of this Section will cause irreparable harm to the other party. The parties agree that the non-breaching party may enforce the provisions of this Section by seeking an injunction, specific performance, criminal prosecution or other equitable relief without prejudice to any other rights and remedies the non-breaching party may have.

MISCELLANEOUS

1. ELECTRONIC DOCUMENTS. To the extent possible, and under the terms required by Client, Client and Karpel Solutions may communicate by electronic means, including but not limited to electronic email, and/or facsimile documents. Both parties agree that: a signature or an identification code ("USERID") contained in an electronic document is legally sufficient to verify the sender's identity and the document's authenticity; an electronic document that contains a signature or USERID is a signed writing; and that an electronic document, or any computer printout of it, is an original when maintained in the normal course of business.
2. In the event of ambiguity or inconsistencies between the Consulting Services Agreement and any of the exhibits to the agreement, the order of precedence determining controlling terms is as follows; Information Privacy and Security Agreement, Consulting Services Agreement, Business Associate Agreement, Statement of Work, Investment Summary, Licensing and Support Agreement, Hosting Agreement.

Exhibit E

HOSTEDbyKarpel AGREEMENT FOR



HOSTEDbyKarpel®

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In the event of ambiguity or inconsistencies between the Master Consulting Services Agreement and any of the exhibits to the agreement, the order of precedence determining controlling terms is as follows; Information Privacy and Security Agreement, Consulting Services Agreement, Business Associate Agreement, Statement of Work, Investment Summary, Licensing and Support Agreement, Hosting Agreement.

1. DEFINITIONS

- a. "Confidential Information" means information of either Karpel Solutions or Client which is disclosed under this Agreement in oral, written, graphic, machine recognizable, electronic, sample or any other visually perceptible form by one of us to the other, and which is considered to be proprietary or trade secret by the disclosing party. Confidential Information of Karpel Solutions expressly includes, without limitation, the Software and Documentation. The Confidential Information of Client includes, without limitation, Personally Identifiable Information and Client Content. Confidential Information shall not include information which the party receiving the information can document: (i) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information, (ii) is or becomes general public knowledge through no act or fault of the party receiving the information, (iii) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality, or (iv) is independently developed by the receiving party without the use of any Confidential Information.
- b. "Client Content" means all data, information, documents, and file Client uploads or inputs into PbK on the Service through the website, including, without limitation, Personally Identifiable Information.
- c. "Enhancements" means any specific configurations or customizations to the Software, which Client may request and Karpel Solutions agrees in writing to provide.
- d. "Documentation" means any operating instructions, specifications and other documentation related to the operation, description and function of PbK, the Service or Website provided by Karpel Solutions whether supplied in paper or electronic form.
- e. "Intellectual Property" means any patents, patent applications, copyrights, mask works, trademarks, service marks, trade names, domain names, inventions, improvements (whether patentable or not), trade secrets, Confidential Information, moral rights, and any other intellectual property rights.
- f. "Hosted" or "Hosting" means the act of providing service and access to Client Content by the Internet.
- g. "Personally Identifiable Information" means any information that may be used to identify specific persons or individuals, which is collected by either Karpel Solutions or Client for use in conjunction with the use of PbK or DbK on HOSTEDbyKarpel. Personally Identifiable Information shall be considered Confidential Information.

- h. "PbK" means the PROSECUTORbyKarpel criminal case management system and specifically the Client's licensed copy of PROSECUTORbyKarpel
- i. "DbK" means the DEFENDERbyKarpel public defender case management system and specifically the Client's licensed copy of DEFENDERbyKarpel.
- j. "Service" means the HOSTEDbyKarpel hosting platform provided by Karpel Solutions which allows internet-based hosting of the Client's licensed copy of PbK through the Website.
- k. "Service Level Requirements" means the technical service levels Karpel Solutions shall meet for Services as set forth below in the Service Level Commitments for the delivery of the Services.
- l. "Software" means the Client's licensed copy of the PbK application, and includes any and all updates, enhancements, underlying technology or content, law enforcement transfer interfaces, other Enhancements and any Documentation as may be provided the Client by Karpel Solutions.
- m. "Website" means the content and functionality currently located at the domain www.hostedbykarpel.com on the internet, or any successor or related domain that provides access to the Software and Service

2. FEES AND TERMS

- a. FEES. Client will pay Karpel Solutions \$100 per year for each user that has access to the Software through the Service and Website. A total of seven (7) users of Client are authorized access to the Service under this Agreement and the aggregate document / file storage space for all users included with the hosted fee is two terabytes (2TB) of storage. Additional users can be added at any time by Client at a rate of \$100 per year. If storage exceeds 2TB, any additional storage above 2TB will be billed at a flat rate of \$1,000 per 1TB, per year with no additional notice provided to the Client. Client will be billed on an annual basis.

In the event Client or Karpel terminates this agreement, Client understands and agrees to pay \$1,000 to Karpel Solutions for work in connection with the return of all Client Content and Confidential Information in a format agreed to by the Client.

- b. TERM. The term of this Agreement shall be for (1) year and will begin upon Karpel Solutions' receipt of Client's full payment of the applicable undisputed fees for a year. Such term shall be perpetual and automatically renew for subsequent terms of equal length, unless either Karpel Solutions or Client gives notice to the other party thirty (30) days prior to the expiration of the then-current term of intent not to renew. prior to the expiration of the term, Karpel Solutions will send Client a renewal invoice, which undisputed fees must be paid in full within thirty (30) days from the date of the invoice. As provided for in the Investment Summary, Exhibit C, the initial cost associated with Hosting fees is billed at a fixed rate for the implementation year and two subsequent years. Pricing of subsequent annual terms may be subject to change at the sole discretion of Karpel Solutions, not to exceed a 3% increase annually.

- c. **INTEREST AND LATE FEES.** Past due accounts will be charged interest on a monthly basis, calculated at one and one-half percent (1.5%) per month of the unpaid balance or the maximum rate allowable by law.

3. SERVICE LEVEL COMMITMENT

- a. **UPTIME.** Karpel Solutions is committed to providing the Software, Website and Service in a consistent and reliable manner. Karpel Solutions will provide the Software, Website and Service to Client with a stated minimum uptime of 99.5% to Client.
- b. **SCHEDULED MAINTENANCE.** Karpel Solutions periodically performs scheduled maintenance including but not limited to outline, preventative or emergency maintenance of the Software, Website, and/or Service. Client understands that scheduled maintenance may affect availability of the Service, Website, and/or Software. If scheduled maintenance is to be performed Karpel Solutions will provide notice to Client three (3) days prior to the scheduled maintenance. Karpel Solutions will make every effort to schedule maintenance outside of normal business hours of the client between the hours of ten (10) p.m. and five (5) a.m. Central Standard Time.
- c. **DATA RETENTION AND BACKUPS.** As a part of the Service and Website, Karpel Solutions will maintain under this Agreement consistent, regular and validated backup both onsite and offsite of the Client Content, Confidential Information and Software. Backups occur and will be maintained pursuant to Karpel Solutions internal backup policies. Upon written request, Karpel Solutions will make available to Client a copy of Karpel Solutions' current backup policies and procedures.
- d. **AUDITS AND SECURITY.** Karpel Solutions is committed to maintaining the security of Client Content, Confidential Information, and Software on Karpel Solutions' Service and Website. Karpel Solutions will maintain the Software, Website and Service in a secure manner subject to the Customer Obligations outlined below. Karpel Solutions will perform annual security audits of the Website and Service to ensure the integrity and security of the Website and Service. Results of the Audits and Security Policy for Karpel Solutions will be made available to Client upon written request.
- e. **DATA TRANSMISSION.** Karpel Solutions ensures that all data transmitted to and from the Service and Website is transmitted at a minimum level of 128-bit SSL encryption using digital certificates issued by an internationally recognized domain registrar and certificate authority.
- f. **DATA LOCATION.** Karpel Solutions will maintain the Service, Software, Client Content and Confidential Information of Client in a SAS 70/SSAE 16 certified data facility.

4. CUSTOMER OBLIGATIONS

- a. **PASSWORD PROTECTION.** Access to the Software through the Service and Website is password-protected. Karpel Solutions provides multiple authentication alternatives for access to the Website and Software. KARPEL SOLUTIONS STRONGLY ENCOURAGES THE USE OF STRONG PASSWORD AUTHENTICATION. Karpel Solutions is not responsible for Client's

use of the Service, Website or Software. Only the number of users set forth above may access the Service and Website. Client must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. Client is fully responsible for the activities of Client's employees and authorized agents who access the Service and Website. Karpel Solutions is not liable for any unauthorized access to the Service and Website, including without limitation access caused by failure to protect the login and password information of users.

- b. **RESTRICTIONS ON USE.** Client agrees to conduct all activities on the Service and Website in accordance with all applicable laws and regulations. Access to the Service, Website, Software and Documentation must be solely for Client's own internal use. Client may not (and may not allow any third party to) (i) decompile, mirror, translate, disassemble or otherwise reverse engineer any part of the Software, source code, algorithms, or underlying ideas of the Software; (ii) provide, lease, lend, subcontract, sublicense, re-publish or use for timesharing, service bureau or hosting purposes any or all of the Software or Documentation; or (iii) reproduce, modify, copy, distribute, publish, display or create derivative works of any or all of the Software or Documentation or (iv) alter, remove, or obscure any copyright, trademark or other proprietary notices or confidentiality legends on or in the Software or Documentation.
- c. **SUSPENSION.** Karpel Solutions reserves the right to immediately suspend access to Software without notice and at any time that Karpel Solutions suspects or has reason to suspect a security, data breach or if suspension is necessary to protect its rights, Client's rights or the rights of a third party. Karpel Solutions will immediately contact Client upon suspension of the Service and Website.

5. CONFIDENTIALITY

CONFIDENTIALITY. Confidential Information may not be, directly or indirectly, copied, reproduced, or distributed by either party to the Agreement receiving the Confidential Information except to the extent necessary for the receiving party to perform under the terms of this Agreement and only for the sole benefit of the party disclosing the Confidential Information. The party to the Agreement receiving Confidential Information may not, directly or indirectly, sell, license, lease, assign, transfer or disclose the Confidential Information of the disclosing party, except as allowed under the terms of this Agreement or upon written consent of the disclosing party.

- a. **PERSONALLY IDENTIFIABLE INFORMATION.** The parties recognize that certain data Client or Karpel Solutions may use in conjunction with the Software may be confidential Personally Identifiable Information. Karpel Solutions shall use all best efforts to protect the confidentiality of Personally Identifiable Information. Karpel Solutions shall have no liability for disclosure of Personally Identifiable Information caused by Client's own negligence or misconduct.
- b. **MUNICIPAL ENTITY.** Karpel Solutions recognizes the Client is a municipal entity subject to the Washington State Public Records Act, Chapter 42.56 RCW, and that Client is obligated to disclose records upon request unless a specific exemption from disclosure exists. Nothing in the Agreement is intended to prevent the Client's compliance with the Public Records Act,

and the Client shall not be liable to Karpel Solutions due to Client's compliance with any law or court order requiring the release of public records.

- c. INJUNCTIVE RELIEF. Any breach of the confidentiality provisions of this Section will cause irreparable harm to the other party. The parties agree that the non-breaching party may enforce the provisions of this Section by seeking an injunction, specific performance, criminal prosecution or other equitable relief without prejudice to any other rights and remedies the non-breaching party may have.

6. OWNERSHIP OF INTELLECTUAL PROPERTY

- a. KARPEL SOLUTIONS OWNERSHIP. Karpel Solutions retains all right, title and interest in and to the Software, Documentation, Website, Service and related Intellectual Property. Any suggestions, solutions, improvements, corrections or other contributions Client provides regarding the Software, Documentation, Website or Services will become the property of Karpel Solutions and Client hereby assigns all such rights to Karpel Solutions without charge.
- b. CLIENT OWNERSHIP. Client retains all rights, title and interest in and to the Client Content, and all related Intellectual Property. Client hereby grants to Karpel Solutions and Karpel Solutions hereby accepts a non-exclusive, non-transferable, worldwide, fully-paid license to use, copy, and modify the Client Content solely to the extent necessary and for the sole purposes of providing access to the Software, Documentation, Website, and Services or otherwise complying with its obligations under this Agreement.

7. WARRANTY

- a. LIMITED WARRANTY. Karpel Solutions represents and warrants it will provide the Services and Website in a professional manner by qualified personnel. Karpel Solutions represents and warrants it has the requisite power and authority to enter into and perform its obligations under this Agreement. Karpel Solutions represents and warrants that the performance by Karpel Solutions of any services described in the Agreement shall be in compliance with all applicable laws, rules and regulations. Karpel Solutions represents and warrants it will provide access to and use of the Software, Service and Website in material accordance with the Service Level Commitment outlined above. No representations or warranties as to the use, functionality or operation of the Website, Software, or Service are made by Karpel Solutions other than as expressly stated in this Agreement.
- b. INTERNET. Karpel Solutions makes the Website, Software and Services available to Client through the internet to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in Internet communications. Client recognizes that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of Client's computer systems, may prevent, interrupt or delay Client's access to the Service, Website or Software. Karpel Solutions is not liable for any delays, interruptions, suspensions or unavailability of the Website or Software attributable to problems with the Internet or the configuration of Client's computer systems or network.
- c. SYSTEM REQUIREMENTS. Karpel Solutions provides the Services and Website based upon the system requirements as specified by Karpel Solutions for Client. Karpel Solutions has no

liability for any failure of the Services or the Software based upon Client's failure to comply with the system requirements of Karpel Solutions.

- d. **WARRANTY LIMITATION.** The warranties set forth in this Agreement do not apply if non-compliance is caused by, or has resulted from (i) Client's failure to use any new or corrected versions of the Software or Documentation made available by Karpel Solutions, (ii) use of the Software or Documentation by Client for any purpose other than that authorized in this Agreement, (iii) use of the Software or Documentation in combination with other software, data or products that are defective, incompatible with, or not authorized in writing by Karpel Solutions for use with the Software or Documentation, (iv) misuse of the Software or Documentation, (v) any malfunction of Client's software, hardware, computers, computer-related equipment or network connection, (vi) any modification of the Software not performed by or otherwise authorized by Karpel Solutions in writing, or (vii) an event of Force Majeure.
- e. **DISCLAIMER.** THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS AND IMPLIED, WHICH ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING OUT OF A USE IN TRADE OR COURSE OF DEALING OR PERFORMANCE. KARPEL SOLUTIONS DOES NOT WARRANT (i) THAT ACCESS TO OR USE OF ALL OR ANY PART OF THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE CONTINUOUS, ERROR-FREE OR UNINTERRUPTED, (ii) THAT THE RESULTS ARISING OUT OF CLIENT'S USE OF THE SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE ACCURATE, COMPLETE OR ERROR-FREE, OR (iii) THAT THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL MEET CLIENT'S NEEDS.
- f. **EXCLUSIVE REMEDIES.** If the Website, or Services provided under this Agreement does not materially comply with the requirements stated in the Limited Warranty Section outlined above, Karpel Solutions sole obligation shall be to correct or modify the Website or Services, at no additional charge. If Karpel Solutions determines it is unable to correct what is non-conforming, Client's sole remedy will be to receive a refund of the fees paid for the non-conforming or Services, even if such remedy fails of its essential purpose. You may also terminate this Agreement as set forth in the termination provision of this Agreement.

8. LIMITATION OF LIABILITY

KARPEL SOLUTIONS IS NOT RESPONSIBLE FOR ANY LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT, EVEN IF KARPEL SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, WHETHER ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTE OR OTHERWISE. UNLESS OTHERWISE SPECIFICALLY STATED, ALL REMEDIES AVAILABLE UNDER THIS AGREEMENT AND ALL REMEDIES PROVIDED BY LAW, WILL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE. REGARDLESS OF THE FORM OF ANY CLAIM CLIENT MAY HAVE ARISING UNDER OR RELATING TO THIS AGREEMENT, KARPEL SOLUTIONS LIABILITY FOR ANY DAMAGES SHALL NOT EXCEED THE MAXIMUM AMOUNT ALLOWED BY INSURANCE.

9. TERMINATION

- a. **TERMINATION.** Either party may terminate this Agreement with a thirty (30) business day written notice. Either party may immediately terminate this Agreement in the event the other party (i) files for, or has filed against it, a bankruptcy petition, and such petition is not dismissed within sixty (60) days of the filing date; or (ii) ceases to conduct business in the normal course, (iii) makes an assignment for the benefit of its creditors, (iv) is liquidated or otherwise dissolved, (v) becomes insolvent or unable to pay its debts in the normal course, or (vi) has a receiver, trustee or custodian appointed for it.
- b. **RIGHTS AFTER EXPIRATION OR TERMINATION.** Upon expiration or termination of this Agreement, Karpel Solutions will immediately terminate Client's access to and use of the Website, Documentation, and Services. Upon expiration or termination of this Agreement, each party shall immediately cease to make use of any Confidential Information received from the other party. Within thirty (30) days of written request following termination or expiration of this Agreement, Karpel Solutions shall coordinate with Client a mutual agreeable manner for the return of Client Content and Confidential Information obtained or shared during the course of the Agreement. Client understands that upon any termination or expiration of this Agreement, Client must return to Karpel Solutions (or destroy and certify such destruction in writing) any Documentation or other materials provided by Karpel Solutions, whether in written or electronic form, regarding the Website, Software or Services provided under this Agreement. Termination is not an exclusive remedy.

10. GENERAL PROVISIONS

- a. **ASSIGNMENT.** This Agreement will inure to the benefit of and be binding upon Karpel Solutions and Client and Karpel Solutions' respective successors and assigns. Notwithstanding the foregoing, Client may not assign or otherwise transfer this Agreement or Client's rights and obligations under this Agreement without the prior written consent of Karpel Solutions, and any purported assignment or other transfer without such consent will be void and of no force or effect. Karpel Solutions may assign and /or transfer this Agreement or Karpel Solutions' rights and obligations under this Agreement at any time.
- b. **MODIFICATION AND WAIVER; SEVERABILITY.** Any modifications of this Agreement must be in writing and signed by both parties. A waiver by either party of a term or condition will not be deemed a waiver of any other or subsequent term or condition. Should any court of competent jurisdiction determine that any term or provision of this Agreement is unenforceable, or otherwise invalid, the offending term or provision will be modified to the minimum extent necessary to render it enforceable. If such modification is not possible, the term or provision will be severed from this Agreement with the remaining terms to be enforced to the fullest extent possible under the law.
- c. **FORCE MAJEURE.** Except for a party's payment obligations hereunder, neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach thereof are delay or prevented by reason of any act of God, government, fire, natural disaster, accident, terrorism, network or telecommunication system failure, sabotage or any other cause beyond the control of such party ("Force

Majeure”), provided that such party promptly gives the other party written notice of such Force Majeure.

- d. INDEPENDENT CONTRACTORS. The parties will be deemed to have the status of independent contractors, and nothing in this Agreement will be deemed to place the parties in the relationship of employer-employee, principal-agent, or partners or joint ventures. Neither party has the authority to bind, commit or make any representations, claims or warranties on behalf of the other party without obtaining the other party’s prior written approval.
- e. NOTICES. Any notices provided under this Agreement will be in writing in the English language and will be deemed to have been properly given if delivered personally or if sent by (i) a recognized overnight courier, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) facsimile, if confirmed by mail, or (iv) electronically by email. Karpel Solutions’ address for such notices is set forth below. Client’s address for such notices will be the address on file with Karpel Solutions as provided by Client. Such address or contact information may be revised from time to time by provision of notice as described in this Section. All notices sent by mail will be deemed received on the tenth (10th) business day after deposit in the mail. All notices sent by overnight courier will be deemed given on the next business day after deposit with the overnight courier. All notices sent by facsimile will be deemed given on the next business day after successful transmission.

Karpel Solutions
9717 Landmark Parkway, Suite 200
St. Louis, MO 63127
(314) 892-6300
mziemianski@karpel.com

- f. GOVERNING LAW AND DISPUTE RESOLUTION. This Agreement is to be construed and governed by the laws of the United States and the State of Washington, without regard to conflict of law’s provisions. Any dispute arising out of or in connection with this Agreement, which cannot be settled amicably between the parties must be brought exclusively in the appropriate court located in King County, Washington. If either Karpel Solutions or Client employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party will be entitled to recover reasonable attorneys’ fees and costs.

11. ENTIRE AGREEMENT

By signing below, Client hereby agrees to the above Agreement. This document constitutes the entire agreement between Client and Karpel Solutions with respect to the subject matter discussed above. Any waiver of any provision of this Agreement will be effective only if in writing and signed by Karpel Solutions. This Agreement supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding this subject matter. This Agreement will inure to the benefit of Karpel Solutions successors, assigns and licensees.

City of Redmond

Signature

Printed Name

Title

Date

Karpel Solutions

Signature

Printed Name

Title

Date

Initials _____

RFP 10672-19
City of Redmond
Prosecuting Attorney's Case Management System

Attachment D – Information Privacy and Security Agreement

This Information Privacy and Security Agreement (“IPSA”) is entered into by and between the City of Redmond (“City”) and [insert name and address of contractor] (“Contractor”) as of the date last signed below (the “Effective Date”) and hereby amends the attached agreement between City and Contractor (the “Underlying Agreement”). This IPSA shall apply to the extent that the provision of services by Contractor pursuant to the Underlying Agreement, for example including but not limited to, professional services, SAAS, on-premises software, and remote desktop access, involves the processing of City Data, access to City systems, or access to City Data that is subject to privacy laws.

In consideration of the mutual promises in the Underlying Agreement, this IPSA and other good and valuable consideration, the parties agree as follows:

1. Definitions.

a. “Authorized Users” means Contractor's employees, agents, subcontractors and service providers who have a need to know or otherwise access City Data to enable Contractor to perform its obligations under the Underlying Agreement or the IPSA, and who are bound in writing by confidentiality and other obligations sufficient to protect City Data in accordance with the terms and conditions of this IPSA.

b. “City Data” means any and all information that the City has disclosed to Contractor or that Contractor has created on behalf of the City pursuant to its obligations under the Underlying Agreement. For the purposes of this IPSA, City Data does not cease to be City Data solely because it is transferred or transmitted beyond the City’s immediate possession, custody, or control.

c. “Data Breach” means the unauthorized acquisition, access, use, or disclosure of City Data which compromises the security or privacy of the City Data or associated City software systems.

d. “Services” means all services, work, activities, deliverables, software or other obligations provided by Contractor pursuant to the Underlying Agreement.

2. Standard of Care.

a. Contractor acknowledges and agrees that, in the course of its engagement by City, Contractor may create, receive, or have access to City Data. Contractor shall comply with the terms and conditions set forth in this IPSA in its creation, collection, receipt, access to, transmission, storage, disposal, use, and disclosure of such City Data and be responsible for any unauthorized creation, collection, receipt, access to, transmission, storage, disposal, use, or disclosure of City Data under its control or in the possession of Authorized Users.

b. Contractor further acknowledges that use, storage, and access to City Data shall be performed with that degree of skill, care, and judgment customarily accepted as sound, quality, and professional practices. Contractor shall implement and maintain safeguards necessary to ensure the confidentiality, availability, and integrity of City Data. Contractor shall also implement and maintain any safeguards required to be implemented by applicable state and federal laws and regulations.

3. User Access to City Data.

a. Contractor shall not access, use or disclose City Data in any manner that would constitute a violation of state or federal law, the terms of the Underlying Agreement, or the terms of this IPSA. Contractor may only provide access to Authorized Users who have a legitimate business need to access, use or disclose City Data in the performance of Contractor's duties to City.

b. If Contractor requires access to a City software system, then each Authorized User must have a unique sign-on identification and password for access to City Data on City systems. Authorized Users are prohibited from sharing their login credentials, and may only receive such credentials upon execution of the Authorized User Access Agreement, attached hereto as Exhibit A. Contractor shall notify City within one (1) day of the departure of any Authorized User, so that City may terminate such Authorized User's access to City software systems.

4. Use of Subcontractors or Agents.

a. Contractor may disclose City Data to a subcontractor and may allow the subcontractor to create, receive, maintain, access, or transmit City Data on its behalf, provided that Contractor obtains satisfactory assurances that the subcontractor will appropriately safeguard the information. Without limiting the generality of the foregoing, Contractor shall require each of its subcontractors that create, receive, maintain, access, or transmit City Data on behalf of Contractor to execute a written agreement obligating the subcontractor to comply with all terms of this IPSA and to agree to the same restrictions and conditions that apply to Contractor with respect to the City Data.

b. Contractor shall be responsible for all work performed on its behalf by its subcontractors and agents involving City Data as if the work was performed by Contractor.

Contractor shall ensure that such work is performed in compliance with this IPSA, the Underlying Agreement and applicable law.

5. Use, Storage, or Access to, City Data.

a. Contractor shall only use, store, or access City Data in accordance with, and only to the extent permissible under this IPSA and the Underlying Agreement. Further, Contractor shall comply with all laws and regulations applicable to City Data (for example, in compliance with the Health Insurance Portability and Accountability Act [“HIPAA”] or the FBI Criminal Justice Information Services requirements). If Contractor has access to City protected health information, then Contractor must also execute the City’s Business Associate Agreement.

b. Contractor may store City Data on servers housed in datacenters owned and operated by third parties, provided the third parties have executed confidentiality agreements with Contractor. Any transmission, transportation, or storage of City Data outside the United States is prohibited except with the prior written authorization of the City.

6. Privacy.

a. Contractor represents and warrants that in connection with the Services provided by Contractor:

i. All use of City Data by Contractor shall be strictly limited to the direct purpose of performing the Services, except to the extent that City expressly grants permission in writing for such additional uses.

ii. Collection of data which identifies individuals shall be limited to the minimum required by the Services.

iii. If the Services, in whole or part, involves access or delivery of information pertaining to the City via a public-facing web site, then Contractor represents and warrants that its current privacy policy is published online, and is accessible from the same web site as any web-hosted application that is a part of the Services. Contractor’s privacy policy will provide end-users with a written explanation of the personal information collected about end-users, as well as available opt-in, opt-out, and other end-user privacy control capabilities.

iv. If Contractor creates technical system log information, aggregated technical usage or traffic data, and/or statistically measured technical usage or traffic data that contains or originated (in whole or part) from City Data, then Contractor’s use of such data shall be strictly limited to the direct purpose of the Services and Contractor’s technical security operations and systems maintenance. Contractor is prohibited from using such data that personally identifies an individual for secondary commercial purpose (including but not limited to marketing to such individuals, or disclosing data to third parties for reasons unrelated to the primary purpose for originally collecting the data), nor may Contractor solicit consent from the

identified individual to do so unless the Underlying Agreement defines a means to do so that does not unduly burden individual privacy rights.

b. Contractor shall maintain the confidentiality of City Data. Confidential information shall not be deemed to include information which (a) is or becomes publicly known through no fault of Contractor; (b) is a publicly available document; or (c) disclosure of which is required by court order or legal requirement. If disclosure of City Data is required by court order or legal requirement the Contractor shall notify City, unless such notification is prohibited by court order or legal requirement. City may take such legally available measures as it chooses to limit or prevent disclosure of the City Data.

7. Information Security. This Section 7 applies to the extent that Contractor owns, supports, or is otherwise responsible for host(s), network(s), environment(s), or technology products (including hardware or software) which may contain City Data.

a. Contractor represents and warrants that the design and architecture of Contractor's systems (including but not limited to applications and infrastructure) shall be informed by the principle of defense-depth; controls at multiple layers designed to protect the confidentiality, integrity and availability of data.

b. Contractor shall make appropriate personnel vetting/background checks, have appropriate separation of duties, and undertake other such workflow controls over personnel activities as necessary to safeguard City Data.

c. Contractor shall implement appropriate procedures to monitor and deploy security patches and prevent unintended or unauthorized system configuration changes that could expose system vulnerability or lead to a Data Breach.

d. To the extent that the Services include software that was developed, in whole or part, by Contractor, then Contractor shall ensure that all such Services were developed within a software development life cycle (SDLC) process that includes security and quality assurance roles and control process intended to eliminate existing and potential security vulnerabilities.

e. Contractor shall have appropriate technical perimeter hardening. Contractor shall monitor its system and perimeter configurations and network traffic for vulnerabilities, indicators of activities by threat actors, and/or the presence of malicious code.

f. Contractor shall have access, authorization, and authentication technology appropriate for protecting City Data from unauthorized access or modification, and capable of accounting for access to City Data. The overall access control model of Contractor systems shall follow the principal of least privileges.

g. Contractor shall collaborate with City to safeguard electronic City Data with encryption controls over such City Data both stored and in transit. Contractor shall discontinue

use of encryption methods and communication protocols which become obsolete or have become compromised. All transmissions of City Data by Contractor shall be performed using a secure transfer method.

h. Contractor shall maintain a process for backup and restoration of data with a business continuity and disaster recovery plan.

i. Contractor facilities will have adequate physical protections, commensurate with leading industry practice to secure business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability.

j. Contractor shall, at its own expense, conduct an information security and privacy risk assessment, no less than annually, in order to demonstrate, substantiate, and assure that the security and privacy standards and practices of Contractor meet or exceed the requirements set out in this IPSA. Upon written request, Contractor shall furnish City with an executive summary of the findings of the most recent risk assessment. In lieu of providing an executive summary, Contractor may provide evidence of privacy and security certification from an independent third party.

i. City reserves the right to conduct or commission additional tests, relevant to the Services, in order to supplement Contractor's assessment. Contractor shall cooperate with such effort.

ii. If the findings of the risk assessment identify either: a potentially significant risk exposure to City Data, or other issue indicating that security and privacy standards and practices of Contractor do not meet the requirements set out in this IPSA, then Contractor shall notify City to communicate the issues, nature of the risks, and the corrective active plan.

8. Data Breach Procedures and Liability.

a. Contractor shall maintain a data breach plan in accordance with the criteria set forth in Contractor's privacy and security policy and shall implement the procedures required under such data breach plan on the occurrence of a Data Breach, in compliance with the requirements of Washington's data breach notification law codified at RCW 19.255.010. Contractor shall report, either orally or in writing, to City any Data Breach involving City Data including any reasonable belief that an unauthorized individual has accessed City Data. The report shall identify the nature of the event, a list of the affected individuals and the types of data, and the mitigation and investigation efforts of Contractor. Contractor shall make the report to the City immediately upon discovery of the Data Breach, but in no event more than forty-eight (48) hours after discovery of the Data Breach. Contractor shall provide investigation updates to the City. If such Data Breach contains protected health information, as defined by HIPAA, Contractor shall comply with the breach requirements contained in the Business Associate Agreement.

b. Notwithstanding any other provision of the Underlying Agreement, and in addition to any other remedies available to the City under law or equity, Contractor shall promptly reimburse the City in full for all costs incurred by the City in any investigation, remediation or litigation resulting from any Data Breach. Contractor's duty to reimburse the City includes but is not limited to, reimbursing to the City its cost incurred in doing the following:

i. Notification to third parties whose information may have been or were compromised and to regulatory bodies, law- enforcement agencies or other entities as may be required by law or contract;

ii. Establishing and monitoring call center(s) and credit monitoring and/or identity restoration services to assist each person impacted by a Data Breach of a nature that, in City's sole discretion, could lead to identity theft; and

iii. Payment of legal fees and expenses, audit costs, fines and penalties, and other fees imposed upon the City by a regulatory agency, court of law, or contracting partner as a result of the Data Breach.

c. Upon a Data Breach, Contractor is not permitted to notify affected individuals without the express written consent of City. Unless Contractor is required by law to provide notification to third parties or the affected individuals in a particular manner, City shall control the time, place, and manner of such notification.

9. No Surreptitious Code. Contractor warrants that, to the best of its knowledge, its system is free of and does not contain any code or mechanism that collects personal information or asserts control of the City's system without City's consent, or which may restrict City's access to or use of City Data. Contractor further warrants that it will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorized access to City Data, or which may restrict City's access to or use of City Data.

10. Public Records Act. Contractor recognizes that City is a municipal entity subject to the Public Records Act, Chapter 42.56 RCW, and that City is obligated to disclose records upon request unless a specific exemption from disclosure exists. Nothing in this IPSA is intended to prevent City's compliance with the Public Records Act, and City shall not be liable to Contractor due to City's compliance with any law or court order requiring the release of public records.

11. City Control and Responsibility. City retains all ownership, title, and rights to the City Data. City has and will retain sole responsibility for: (a) all City Data; and (b) City's information technology infrastructure, including computers, software, databases, electronic systems

(including database management systems) and networks, whether operated directly by City or through the use of third-party services.

12. Term and Termination.

a. Term. The term of this IPSA is the same as the term in the Underlying Agreement.

b. Termination. In addition to the termination rights in the Underlying Agreement, City may terminate this IPSA and the Underlying Agreement as follows:

i. In the event of a material breach of this IPSA by the Contractor, provided that City first sends the Contractor written notice describing the breach with reasonable specificity, including any steps that must be taken to cure the breach. If Contractor fails to cure the breach to the reasonable satisfaction of City within thirty (30) days after receipt of the written notice, this IPSA and the Underlying Agreement may be terminated at the end of the 30-day period; provided, that if a cure cannot be completed within the thirty (30) day period, the cure period shall be extended so long as Contractor shall initiate the cure within the thirty (30) day period and thereafter diligently pursue it to completion, and provided further, that the cure period shall not be extended more than ninety (90) days after receipt of the notice of the breach; or

ii. Immediately upon a Data Breach by Contractor or Contractor's Authorized Users.

c. Effect of Expiration or Termination.

i. If City terminates the Underlying Agreement or this IPSA due to a material breach or Data Breach described in Section 12.b above, City shall not be obligated to pay any early termination fees or penalties.

ii. Within thirty (30) days following the expiration or termination of the Underlying Agreement, Contractor shall return to City all City Data in a format and structure acceptable to City and shall retain no copies of such City Data, unless City requires destruction of the City Data. As applicable, Contractor shall comply with any transition service requirements described in the Underlying Agreement.

iii. Contractor is permitted to retain City Data in its backups, archives and disaster recovery systems until such City Data is deleted in the ordinary course of Contractor's data deletion practices; and all City Data will remain subject to all confidentiality, security and other applicable requirements of this IPSA and as otherwise required by law.

13. Insurance. In addition to the insurance requirements of the Underlying Agreement, Contractor will maintain at its sole cost and expense at least the following insurance covering its obligations under this IPSA.

a. Cyber Liability Insurance: With coverage of not less than Two Million Dollars (\$2,000,000) in the aggregate which shall include at a minimum coverage for (i) unauthorized access, which may take the form of a “hacker attack” or a “virus” introduced by a third party or cyber extortion; (ii) crisis management, response costs and associated expenses (e.g. legal and public relations expenses); (iii) breach of the City Data; and (iv) loss of data or denial of service incidents.

b. If Contractor’s Services include professional services, then Contractor shall maintain Professional Liability or Errors and Omissions Coverage of not less than Two Million Dollars (\$2,000,000) per claim and in the aggregate.

c. Contractor’s insurance shall be primary to any other insurance or self-insurance programs maintained by City. Contractor shall provide to City upon execution a certificate of insurance and blanket additional insured endorsement (if applicable for the Cyber Liability Insurance). Receipt by City of any certificate showing less coverage than required is not a waiver of Contractor’s obligations to fulfill the requirements.

d. Upon receipt of notice from its insurer(s), Contractor shall provide City with thirty (30) days prior written notice of any cancellation of any insurance policy, required pursuant to this Section 13. Contractor shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 13. Failure to provide the insurance cancellation notice and to furnish to City replacement insurance policies meeting the requirements of this Section 13 shall be considered a material breach of this IPSA.

e. Contractor’s maintenance of insurance as required by this Section 13 shall not be construed to limit the liability of Contractor to the coverage provided by such insurance, or otherwise limit the City’s recourse to any remedy available at law or equity. Further, Contractor’s maintenance of insurance policies required by this IPSA shall not be construed to excuse unfaithful performance by Contractor.

14. Cumulative Rights and Remedies. All City rights and remedies set out in this IPSA are in addition to, and not instead of, other remedies set out in the Underlying Agreement, irrespective of whether the Underlying Agreement specifies a waiver, limitation on damages or liability, or exclusion of remedies. The terms of this IPSA and the resulting obligations and liabilities imposed on Contractor shall supersede any provision in the Underlying Agreement purporting to limit Contractor’s liability or disclaim any liability for damages arising out of Contractor’s breach of this IPSA.

15. Indemnification. Contractor shall indemnify, defend and hold harmless City and City’s officers, directors, employees, volunteers and agents (each, a “City Indemnitee”) from and

against any and all third party loss, cost, expense, claims, suit, cause of action, proceeding, damages or liability incurred by such City Indemnitee arising out of or relating to (i) a breach of this IPSA by Contractor; (ii) a violation by Contractor of any information security and privacy statute or regulations; or (iii) any Data Breach by Contractor.

16. Miscellaneous.

a. Order of Precedence. This IPSA shall survive the expiration or earlier termination of the Underlying Agreement. In the event the provisions of this IPSA conflict with any provision of the Underlying Agreement, or Contractor's warranties, support contract, or service level agreement, the provisions of this IPSA shall prevail.

b. Entire Agreement. This IPSA, including its exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this IPSA and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

c. No Third-Party Beneficiaries. This IPSA is for the sole benefit of the parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this IPSA.

d. Notices. All notices required to be given by either party to the other under this IPSA shall be given to the Technology and Information Systems Service Desk at the following email address: servicedesk@redmond.gov, or phone number: 425-556-2929. All other notices shall be governed by the requirements of the Underlying Agreement.

e. Amendment and Modification; Waiver. No amendment to or modification of this IPSA is effective unless it is in writing, identified as an amendment to or modification of this IPSA and signed by an authorized representative of each party. The waiver of any breach of any provision of this IPSA will be effective only if in writing. No such waiver will operate or be construed as a waiver of any subsequent breach.

f. Severability. If a provision of this IPSA is held invalid under any applicable law, such invalidity will not affect any other provision of this IPSA that can be given effect without the invalid provision. Further, all terms and conditions of this IPSA will be deemed enforceable to the fullest extent permissible under applicable law and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect.

g. Governing Law; Submission to Jurisdiction. This IPSA is governed exclusively by the laws of the State of Washington, excluding its conflicts of law rules. Exclusive venue for any action hereunder will lie in the state and federal courts located in Seattle, King County, Washington and both parties hereby submit to the jurisdiction of such courts.

h. Counterparts. This IPSA may be executed in counterparts and by facsimile or electronic pdf, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this IPSA delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this IPSA.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

Contractor

City of Redmond

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between the City of Redmond (“Covered Entity”) and _____, (“Business Associate”), effective as of the ____ day of _____, 20__ (“Effective Date”).

RECITALS

WHEREAS, the parties contemplate one (1) or more arrangements (collectively, the “Arrangement”) whereby Business Associate provides services to Covered Entity, and Business Associate creates, receives, maintains, transmits, or has access to Protected Health Information in order to provide those services;

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and regulations promulgated thereunder, including the Standards for Privacy and for Security of Individually Identifiable Health Information codified at 45 Code of Federal Regulations (“CFR”) Parts 160, 162, and 164 (“Privacy Regulations” and “Security Regulations”);

WHEREAS, the Privacy Regulations and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those regulations prohibit the Disclosure or Use of Protected Health Information by or to Business Associate if such a contract is not in place;

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

I. DEFINITIONS

1.1 Capitalized terms used but not otherwise defined in this Agreement shall have the same meaning assigned to such terms in HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) and as set forth in 45 CFR Parts 160, 162 and 164.

II. OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of PHI. Except as otherwise limited in this Agreement, Business Associate may Use and Disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the written documents describing the Arrangement entered into by the parties, provided that such Use or Disclosure of PHI would not violate the Privacy Regulations or Security Regulations if done by Covered Entity. Business Associate further agrees not to Use or Disclose PHI other than as permitted or required by this Agreement, or as Required by Law.

2.2 Adequate Safeguards for PHI. Business Associate shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of PHI in any manner other than as permitted by this Agreement or as Required by Law.

2.3 Adequate Safeguards for EPHI. Business Associate shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall comply with the Security Regulations, where applicable, with respect to EPHI to prevent the Use or Disclosure of EPHI other than as permitted by this Agreement. Such compliance shall include but not be limited to, creation and maintenance of security policies and procedures pursuant to 45 CFR 164.316 and an ongoing risk assessment conducted in accordance with 45 CFR 164.308.

2.4 Reporting Non-Permitted Use, Disclosure, or Breach.

(a) Business Associate shall immediately in writing notify Covered Entity of any Use or Disclosure of PHI not permitted by this Agreement of which Business Associate becomes aware.

(b) Business Associate shall report to Covered Entity any Security Incident of which it becomes aware as follows: (a) reports of successful unauthorized access shall be made immediately; and (b) reports of attempted unauthorized access shall be made in a reasonable time and manner considering the nature of the information to be reported.

(c) Business Associate shall report to Covered Entity a Breach or potential Breach of Unsecured PHI without unreasonable delay, but not later than five (5) days, following Business Associate's discovery of such Breach or potential Breach, where such report will include the identification of each individual whose Unsecured PHI has been or is reasonably believed to have been breached, additional information that Covered Entity is required to include in a Breach notification pursuant to 45 CFR 164.404(c), and other information as requested by Covered Entity. Business Associate agrees to not notify patients, the media, or HHS of a Breach unless requested to do so by Covered Entity or unless otherwise required by law. For purposes of the foregoing obligation, "Breach" shall mean the acquisition, access, Use, or Disclosure of PHI in a manner not permitted under the HIPAA Privacy Regulations which compromises the security or privacy of such information, as further defined in 45 CFR 164.402. Business Associate shall supplement its report(s) if the above information is not available at the time of the initial report, and Business Associate shall otherwise cooperate with Covered Entity's requests for information as may be necessary for Covered Entity to evaluate the scope of the incident and related compliance issues. Business Associate must notify Covered Entity of the Breach or potential Breach regardless of whether Business Associate has conducted a risk assessment, or the results of the risk assessment, described in 45 CFR 164.404.

2.5 Notice. All reporting pursuant to this Agreement shall be to the City of Redmond Privacy Officer at the following e-mail address: privacy@redmond.gov.

2.6 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books, and records relating to the Use

and Disclosure of PHI by Business Associate on behalf of Covered Entity available to the Secretary of the federal Department of Health and Human Services (“HHS”) for purposes of determining Covered Entity’s compliance with the Privacy Regulations and Security Regulations. Business Associate shall immediately in writing notify Covered Entity of any requests made by HHS and provide Covered Entity with copies of any documents produced in response to such request.

2.7 Access to and Amendment of PHI. In the event that Covered Entity’s PHI in the Business Associate’s possession constitutes a Designated Record Set, Business Associate shall within five (5) days of receiving a request from Covered Entity for access to PHI about an Individual contained in a Designated Record Set, Business Associate shall: (a) make the PHI specified by Covered Entity available to Covered Entity to access and copy that PHI, and (b) make PHI available to Covered Entity for the purpose of amendment and incorporating such amendments into the PHI. Covered Entity is responsible for responding to Individuals’ request for access to PHI and, in the event Business Associate receives such requests directly from Individuals, Business Associate shall notify Covered Entity of the request promptly, but in no event longer than five (5) business days, for Covered Entity to respond to the Individuals. Business Associate shall have a process in place for requests and amendments from Covered Entity.

2.8 Accounting of Disclosures.

(a) In accordance with 45 CFR 164.528, and Section 13405(c) of Title XII, Subtitle D of the HITECH Act, codified at 42 U.S.C. § 17932, Business Associate agrees to: (a) document Disclosures of PHI and information related to such Disclosures; (b) provide such documentation to Covered Entity in a time and manner designated by Covered Entity; and (c) permit Covered Entity to respond to a request by an individual for an accounting of Disclosures of PHI. Within ten (10) days of Business Associate receiving a request from Covered Entity, Business Associate shall provide to Covered Entity an accounting, as described in 45 CFR 164.528, of each Disclosure of PHI made by Business Associate or its employees, agents, representatives, or subcontractors. Covered Entity is responsible for responding to Individuals’ request for an accounting and, in the event Business Associate receives such requests directly from Individuals, Business Associate shall notify Covered Entity of the request promptly, but in no event longer than five (5) business days, for Covered Entity to respond to the Individuals.

(b) Any accounting provided by Business Associate under this Section 2.8 shall include: (i) the date of Disclosure; (ii) the name, and address, if known, of the entity or person who received the PHI; (iii) a brief description of Disclosed PHI; and (iv) a brief statement of the purpose of Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (i) through (iv), above, and shall securely retain this documentation for six (6) years from the date of Disclosure.

2.9 Use of Subcontractors and Agents.

(a) Business Associate may Disclose PHI to a subcontractor, and may allow the subcontractor to create, receive, maintain, access or transmit PHI on its behalf, provided that

Business Associate obtains satisfactory assurances that the subcontractor will appropriately safeguard the information. Without limiting the generality of the foregoing, Business Associate shall require each of its subcontractors that create, receive, maintain, access or transmit PHI on behalf of Business Associate to execute a written agreement obligating the subcontractor to comply with all terms of this Agreement and to agree to the same restrictions and conditions that apply to Business Associate with respect to the PHI. Upon request from Covered Entity, Business Associate shall provide a list of subcontractors that it has Disclosed PHI to and the nature of the Disclosed PHI.

(b) Business Associate shall terminate its agreement with any subcontractor if Business Associate knows of or discover a pattern of activity or practice of a subcontractor that constitutes a material breach or violation of the subcontractor's HIPAA obligation under the written agreement with Covered Entity. Business Associate shall immediately notify Covered Entity of the termination of the subcontractor agreement if such termination resulted from a material breach or violation of the subcontractor's HIPAA obligations.

(c) Business Associate shall require the subcontractor assent in writing to the jurisdiction and laws of the United States, regardless of whether the subcontractor is a foreign entity, is performing services outside the United States, or is not otherwise subject to the jurisdiction of the United States. Business Associate hereby agrees not to transmit or store any PHI outside of the United States.

2.10 Agreement to Mitigate. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement, and to promptly communicate to Covered Entity any actions taken pursuant to this Section 2.10.

2.11 Business Associate Practices, Policies and Procedures. Business Associate represents and warrants that Business Associate's privacy and security policies and practices shall meet current standards set by applicable state and federal law for the protection of PHI including, without limitation, user authentication, data encryption, monitoring and recording of database access, internal privacy standards and a compliance plan, all designed to provide assurances that the requirements of this Agreement are met. Upon reasonable notice, Business Associate shall make its facilities, systems, books and records available to Covered Entity to monitor Business Associate's compliance with this Agreement.

2.12 Compliance with Covered Entity Obligations. To the extent Business Associate carries out Covered Entity's obligations under the Privacy Regulations and Security Regulations, Business Associate shall comply with the requirements of such regulations that apply to Covered Entity in the performance of such obligations.

2.13 HITECH Act Compliance. Business Associate will comply with the requirements of the HITECH Act, codified at 42 U.S.C. §§ 17921–17954, which are applicable to business associates, and will comply with all regulations issued by HHS to implement these referenced statutes, as of the date by which business associates are required to comply with such referenced statutes and HHS regulations.

2.14 Minimum Necessary. Business Associate shall Use or Disclose only the minimum necessary amount of PHI to accomplish the intended purpose of such Use or Disclosure.

III. OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity shall, upon request, provide Business Associate with its current notice of privacy practices adopted in accordance with the Privacy Regulations.

3.2 Covered Entity shall inform Business Associate of any revocations, amendments or restrictions in the Use or Disclosure of PHI if such changes affect Business Associate's permitted or required Uses and Disclosures of PHI hereunder.

IV. ADDITIONAL PERMITTED USES

4.1 Except as otherwise limited in this Agreement or the Arrangement, Business Associate may Use and Disclose PHI as set forth below:

(a) Use of Information for Management, Administration and Legal Responsibilities. Business Associate may Use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(b) Disclosure of Information for Management, Administration and Legal Responsibilities. Business Associate may Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate if the Disclosure is Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purpose of which it was Disclosed, and the person notifies Business Associate of any instances of which it is aware where confidentiality of the information has been breached.

V. TERM AND TERMINATION

5.1 Term and Termination. This Agreement shall commence as of the Effective Date and shall continue in effect unless and until terminated by Covered Entity under this Section 5.1. Covered Entity may terminate this Agreement, without cause or penalty, on five (5) days' prior written notice to Business Associate. In addition, this Agreement may be terminated by Covered Entity immediately and without penalty upon written notice by Covered Entity to Business Associate if Covered Entity determines, in its sole discretion, that Business Associate has violated any material term of this Agreement. Business Associate's obligations under Sections 2.4, 2.5, 2.7, 2.8, 2.9, 2.9(b), 2.10, 5.2, 6.3, 6.5, 6.6 and 6.10 of this Agreement shall survive the termination of this Agreement.¹

5.2 Disposition of PHI upon Termination. Upon termination of this Agreement, Business Associate shall either return or destroy, in Covered Entity's sole discretion and in accordance with any instructions by Covered Entity, all PHI maintained in any form by Business Associate or its agents and subcontractors, and shall retain no copies of such PHI unless directed

to do so by Covered Entity. However, if Covered Entity determines that neither return nor destruction of PHI is feasible, Business Associate may retain PHI provided that Business Associate: (a) continues to comply with the provisions of this Agreement for as long as it retains PHI, and (b) limits further Uses and Disclosures of PHI to those purposes that make the return or destruction of PHI infeasible.

VI. GENERAL TERMS

6.1 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

6.2 Relationship to Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of any other agreement between the parties, the provisions of this Agreement shall control.

6.3 Indemnification. Business Associate will indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses (including attorneys' fees) incurred as a result or arising directly or indirectly out of, or in connection with (a) any misrepresentation, breach, or non-fulfillment of any undertaking on the part of Business Associate under this Agreement; (b) any claims, demands, awards, judgments, actions, and proceedings made by any person or organization, arising out of or in any way connected with Business Associate's obligations under this Agreement; and (c) a breach of unsecured PHI caused by Business Associate or its subcontractors or agents. Without limiting the generality of the foregoing, Business Associate agrees to reimburse Covered Entity for any and all costs and expenses incurred as a result or arising directly or indirectly out of Covered Entity's compliance with the HIPAA breach notification requirements set forth at 42 U.S.C. § 17932 and 45 CFR 164.40 *et seq.* as a result of a Breach by Business Associate, including but not limited to all costs associated with Covered Entity's obligation to notify affected Individuals, the government, and the media of a Breach and any costs for credit monitoring, as applicable or establishing a toll-free number. Any limitation of liability set forth in written agreements pertaining to the Arrangement shall not apply to this Agreement.

6.4 Insurance. Business Associate shall obtain and maintain during the term of this Agreement, and at any time in which it retains PHI, liability insurance covering common law claims, breach notification expenses, data theft, and coverage related to the violation of state or federal information privacy and security laws or regulations. The policy limits for such coverage shall not be less than \$1,000,000 per claim, and \$3,000,000 in the annual aggregate. Such insurance shall name Covered Entity as an additional named insured. A copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity upon written request. Business Associate shall provide Covered Entity with written notice of any policy cancellation within two (2) business days of the receipt of such notice. Failure of Business Associate to maintain the insurance as required shall constitute a material breach of this Agreement, upon which Covered Entity may, after giving five (5) business days notice to Business Associate to correct such breach, immediately terminate this Agreement. Business Associate's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Business Associate to the coverage provided by such insurance, or otherwise limit Covered Entity's recourse to any remedy available at law or in equity.

6.5 Data Ownership. Business Associate acknowledges and agrees that Covered Entity owns all rights, interests, and title in and to its data, including all PHI and any de-identified data, and title shall remain vested in Covered Entity at all times. Accordingly, Business Associate hereby acknowledges and agrees that it does not have the right to engage in the sale of PHI. Business Associate shall not de-identify PHI or Use or Disclose any such de-identified information unless otherwise permitted in writing by Covered Entity.

6.6 Governing Law; Venue and Jurisdiction; Attorneys' Fees. This Agreement shall in all respects be interpreted, enforced and governed by the laws of Washington State. Venue for any action or proceeding shall be in King County, Washington. In the event of any litigation or arbitration relating to or arising out of this Agreement, the substantially prevailing party or parties shall be entitled to its cost of litigation or arbitration, and reasonable attorneys' fees, including any attorneys' fees and costs incurred in bankruptcy or insolvency proceedings or on any appeal.

6.7 Legal Compliance. The parties hereto shall comply with applicable laws and regulations governing their relationship, including, without limitation, the Privacy Regulations, the Security Regulations, and any other federal or state laws or regulations governing the privacy, confidentiality, or security of patient health information, including without limitation, the Washington Uniform Healthcare Information Act, RCW Ch. 70.02. Business Associate shall comply with applicable state and federal statutes and regulations as of the date by which business associates are required to comply with applicable statutes and regulations. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Regulations, the Security Regulations, the HITECH Act, RCW ch. 70.02 and other federal or state laws or regulations governing the privacy, confidentiality, or security of patient health information or PHI.

6.8 Amendment. Upon request by Covered Entity, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of the Privacy Regulations, Security Regulations, or other applicable laws. Covered Entity may terminate this Agreement upon thirty (30) days written notice to Business Associate in the event: (a) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section, or (b) Business Associate does not enter into an amendment of this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of the Privacy Regulations, Security Regulations, or other applicable laws.

6.9 Severability. If a provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and, when necessary, the court is requested to reform any and all terms or conditions to give them such effect.

6.10 Public Records Act. The parties acknowledge that the confidentiality provisions of the HIPAA Privacy Regulations constitute an “other statute which exempts or prohibits disclosure” under the Washington State Public Records Act (see RCW 42.56.070(1); *see also Hangartner v. Seattle*, 151 Wn.2d 439, 453 (2004)), and that the confidentiality provisions under the Privacy Regulations and this Agreement shall control. Furthermore, Business Associate shall not release any de-identified health information without first notifying and conferring with Covered Entity.

6.11 No Assignment. Neither party shall assign this Agreement without the prior written consent of the other party.

6.12 Entire Agreement. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations and agreements relating to the same subject matter, including, but not limited to other business associate agreements or agreements related to patient data and the access, use, privacy, security and confidentiality of patient data. In the event of conflict between any written or oral provision of the Arrangement and any provision of this Agreement, the applicable provisions of this Agreement shall control with respect to patient data and the access, use, privacy, security and confidentiality of patient data.

6.13 Independent Contractor. Business Associate and Covered Entity are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. No acts performed, or words spoken by either party with respect to any third party, shall be binding upon the other. Any and all obligations incurred by either party in connection with the performance of any of its obligations hereunder shall be solely at that party's own risk. Each party agrees that it shall not represent itself as the agent or legal representative of the other for any purpose whatsoever.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

Business Associate:

City of Redmond:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____