

**CONSULTANT CONTRACT AND AMENDMENT
 TRANSMITTAL FORM**

Transmittal Date: June 10, 2011

Original to: Seattle City Clerk MS: CH-03-10 3 rd Floor, City Hall
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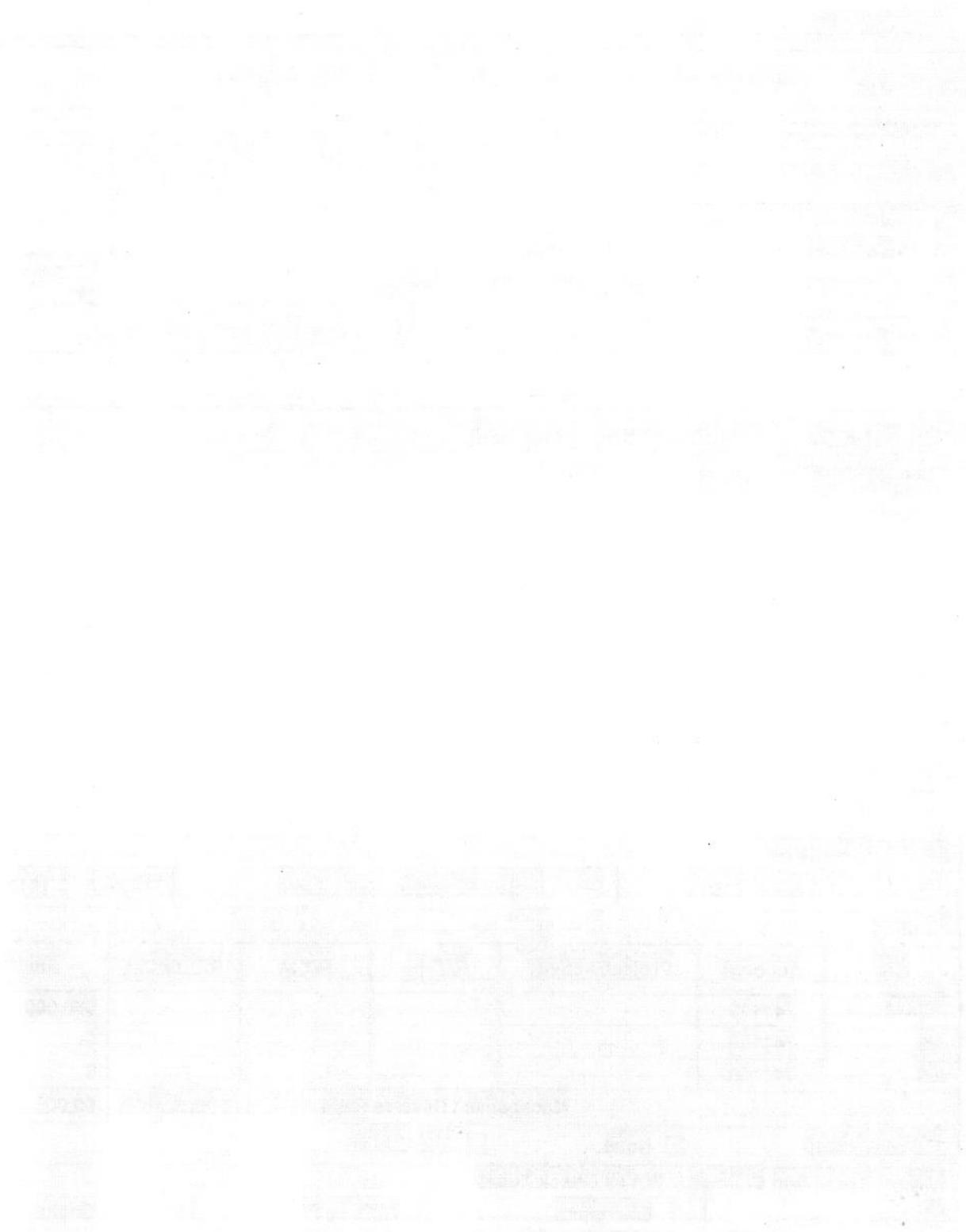
Complete the following information prior to transmitting document(s):

Document Type (Check one)	Department Agreement No.	Not to Exceed Amount	
<input checked="" type="checkbox"/> New Consultant Roster Agreement	R00-59-03-01	\$60,000	
<input type="checkbox"/> Amendment/Supplement to Existing Agmt.		\$	
Total Contract Award To Date (Including This Action)	\$60,000		<input type="checkbox"/> Time Extension Only
(For Roster Agreements/Amendments Only) Insert Roster Category Number and Name:	59	Real Estate Property Services	

General Agreement Information (Required)		
Consultant Business Name	Heartland, LLC	
Contract Title:	Historic SPU Landfills Redevelopment	
Execution Date (last signature)	June 8, 2011	
Date Contract Ends	May 16, 2013	
Department/Division	Seattle Public Utilities (SPU)	Branch: Utility Systems Management
Department Contact	Ernest Martin, Grants and Contracts Section (GCS)	
Phone Number	684-5021	

Purchase Order Encumbrance No.

SPU Information						
Consultant's Vendor # 81019		SPU's Project Manager: Keith Kurko			Phone #: 3-1516	
Funding						
Org	Account	Project/Activity	R/Type	R/Cat	R/Sub/Cat	Amount
WS470	741190					\$60,000
WS	741190					\$
WS	741190					\$
Management Reserve Fund Amount (if applicable)						\$6,000
Sub-consultants:		<input checked="" type="checkbox"/> None		<input type="checkbox"/> See Exhibit		
Was an Exemption Claimed? (If Yes Check Type)						
<input checked="" type="checkbox"/> N/A		<input type="checkbox"/> Emergency		<input type="checkbox"/> Adverse Effect		<input type="checkbox"/> Sole Source



**CONSULTANT ROSTER CONTRACT NO. R00-59-03-01
 BETWEEN
 SEATTLE PUBLIC UTILITIES
 AND
 HEARTLAND LLC
 FOR
 HISTORIC SPU LANDFILLS REDEVELOPMENT**

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1. FINAL CONSULTANT CONTRACT PAYMENTS REPORTING FORM
2. ALLOWED AND NOT ALLOWED OVERHEAD COSTS
3. PERFORMANCE EVALUATION – CONSULTANT SERVICES

EXHIBITS

- A. SCOPE OF WORK
- B. ESTIMATED PROJECT COSTS AND LABOR HOURS
- C. CONSULTANT'S BILLING RATES

This Contract is made and entered into by and between The City of Seattle ("the City"), a Washington municipal corporation, through its Seattle Public Utilities (SPU), as represented by the Director of SPU; and **Heartland LLC, 524 Second Avenue, Suite 200, Seattle, WA 98104** ("Consultant"), a Limited Liability Company of the State of Washington and authorized to do business in the State of Washington.

Section 1: TERM OF CONTRACT

The term of this Contract shall begin when fully executed by all parties, and shall end on May 16, 2013, unless terminated earlier pursuant to the provisions hereof.

Section 2: TIME OF BEGINNING AND COMPLETION

The Consultant shall begin the work outlined in the "Scope of Work" section upon receipt of written notice to proceed from the City. The City will acknowledge in writing when the Work is complete.

Time limits established pursuant to this Contract shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for its convenience or for conditions beyond the Consultant's control.

Section 3: SCOPE OF WORK

- A. General Category Scope of Work. The General Scope of Work for City of Seattle Roster Program Category No. 59 – Real Estate Property Services of the Consultant Roster Program is as follows: Real estate consulting, acquisition, relocation, valuation, estimates, property management, due diligence transaction screening, and expert witness.

Notwithstanding any other provisions of this Contract, amendments to the Work shall be authorized only within the General Scope of Work for the Roster Category, and for additional work not foreseen at the beginning of the term of this Roster Contract.

- B. Specific Scope of Work.

The Specific Scope of Work of this Contract and the time schedule for completion of such work are as described in Exhibit A, which is attached to and made a part of this Contract.

- C. General Review and Examination. The Work shall, at all times, be subject to the City's general review and approval. The Consultant shall confer with the City periodically during the progress of the Work, and shall prepare and present such information and materials (e.g., a detailed outline of completed Work) as may be pertinent, necessary, or requested by the City to determine the adequacy of the Work or the Consultant's progress.
- D. Digital Materials. The Consultant shall provide digital materials, including reports, data, maps, graphs and photos that are compatible with current Seattle Public Utilities file and data formats. All digital materials become the property of the City of Seattle.
- E. Standards. The Consultant shall be responsible for obtaining the most current City Standards for work included in this Contract. Standards may be obtained at the following City website:
http://www.seattle.gov/util/Engineering/Standard_Plans_&_Specs/index.asp

Section 4: PAYMENT

The Consultant agrees to perform all the work set forth in the "Scope of Work" Section of this Contract for an amount not to exceed **Sixty Thousand Dollars (\$60,000)** hereinafter referred to as the "Contract Amount," without further authorization by amendment. Such payment shall be full compensation for work performed and/or services rendered, including supervision, labor, supplies, materials, equipment or use thereof, and for all other expenses and

incidentals necessary to complete all the work. It is understood that this is a fixed amount and will not increase because of any difference between the estimated and actual costs of performing the work required by this Contract. The Contract Amount includes a Management Reserve Fund (MRF) of Six Thousand Dollars (\$6,000) which is strictly governed by the terms of Section 5F below entitled "Payment from the Management Reserve Fund (if any)."

Notwithstanding any other provisions of this Contract, the negotiated amount to be paid to the Consultant for specific work performed on a roster contract shall not exceed \$260,000 except where additional related work, not foreseen when the Contract was originally executed, is identified. The dollar amount referenced in this paragraph may be adjusted by the City's Department of Executive Administration based on changes in the Consumer Price Index without the need to amend this Contract.

The Consultant shall keep complete and accurate records in accordance with generally accepted accounting practices of all reimbursable costs and expenses for purposes of audit and proper allocation of overhead expenses to this Contract.

Details of the Consultant's cost estimates are set forth in Exhibit B, "Estimated Project Costs and Labor Hours," which is hereby attached to and made a part of this Contract. The Consultant understands that there is no promise or guarantee of a minimum amount of work or compensation under this Contract and that payment under this Contract is subject to continuing appropriations by the Seattle City Council.

The Consultant will be paid monthly by the City for completed work and/or services rendered under this Contract up to the Contract Amount. Payment of any amounts due under the Contract shall not relieve the Consultant of the obligation to perform all the work set forth in the Scope of Work in a satisfactory manner. The amount of the monthly payment to the Consultant shall be calculated as hereinafter set forth.

- A. Salary. The City will reimburse the Consultant on the basis of an all-inclusive, hourly billing rate, as set forth in Exhibit C, "Consultant's Billing Rates," which is attached to and made a part of this Contract.

Computation of Rates: Current, justifiable salary, overhead and fringe benefits rates, and a fee for profit not to exceed twelve percent (12%) of the Consultant's total labor related costs for the work required in the contract, shall be used in the computations of the costs. Exceptions to the profit limitation may be allowed at the sole discretion of the City, but any such exception shall not be construed as a precedent or used by the Consultant as justification for requesting an exception on other contracts.

The all-inclusive hourly billing rates shall include only those costs allowed under Part 31 of the Federal Acquisition Regulations (FAR), the provisions of which are incorporated herein by reference. Rates may be audited and adjusted to the actual rate of allowable (as defined in the current FAR) overhead and employee fringe benefit costs incurred by the Consultant. This rate may be reviewed and adjusted if the Contract is amended, or if a review is called for by either party at not less than yearly intervals.

Salary Adjustments: Reasonable annual adjustments to salary rates may be allowed, provided such adjustments do not increase costs above the Contract Amount. Salary adjustments shall be subject to approval by the City, and an amended billing rates exhibit shall be submitted by the Consultant for attachment and incorporation into the Contract.

- B. Direct Expenses. In addition to the salary-related payments set forth above, the City will reimburse the Consultant at cost, without any additional mark-up, for expenses that are necessary and directly applicable to the work required by this Contract. Such direct project costs may not be included in the overhead expenses or direct labor multiplier of the Consultant. The direct expenses allowed under this Contract are set forth in Exhibit C, "Estimated Project Costs and Labor Hours." There is no mark-up allowed on any direct expenses. Sub-consultants are considered direct expenses.

Section 5: PAYMENT PROCEDURES

- A. Invoices. The Consultant shall submit invoices to the City no more than once per month during the progress of the work for partial payment for work completed to date. The costs billed on these invoices shall be computed

pursuant to the rates and limitations set forth in the exhibits to this Contract that pertain to allowed rates and expenses.

Invoices shall be submitted to:

Emmy Puratner, Accounts Payable
Seattle Public Utilities
PO Box 34018
Seattle, WA 98124-4018

Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):

Contract No. R00-59-03-01

Contract Title: Historic SPU Landfills Redevelopment

- **INVOICE DATE and NUMBER**
- The SPU Project Manager: Keith Kurko or DeWayne Ticeson
(Please do not put PM's name in the address portion of the invoice)
- Period covered by the invoice
- Task # and title (from the Scope of Work)
- Employee's name and classification
- Employee's all-inclusive hourly rate and # of hours worked
- Total labor costs per task
- Itemization of direct, non-salary costs (per task, if so allocated)
- Sub-consultants' payments - (Total amount paid to each that period - attach their invoices for detail)
- Cumulative costs per task and for the total project

The Consultant shall submit backup documentation (only one set is required) with each invoice for any direct cost items that total \$250.00 or more billed to the City under this Contract (with the exception of sub-consultants' invoices which must always be attached regardless of the amount). However, the Consultant must maintain records and backup documentation in its files for all direct costs, and make them available for City review on request. Such documentation would include copies of receipts, telephone bills, employee expense records, sub-consultants' invoices, etc.

Invoices will be checked by the City and payment to the Consultant will be made within 30 days after accurate billing and back-up documentation are received. No payment shall be made for work performed prior to authorization to begin work as described in the Time of Beginning and Completion Section of this Contract.

NOTE: Time Limit on Old or Lost Invoices: It is understood that the City shall not be obligated to pay the Consultant for work performed if the billing for such work is not received within one (1) year of the performance of such work, or ninety (90) days after the date of the Letter of Completion, whichever is sooner. Additionally, the City shall not be obligated to pay for lost or otherwise unpaid invoices if the Consultant has not notified the City in writing of such nonpayment within one (1) year from the date of such lost or unpaid invoices, or ninety (90) days after the date of the Letter of Completion, whichever is sooner.

B. **Progress Payments and Withheld Amounts.** Payment of invoices shall be in full for work satisfactorily performed by the Consultant until 90% of the Contract Amount has been paid, or until 90% of any later adjusted estimate of the final Contract Amount is paid, whichever is less. Invoices for the final 10% will be held until the terms for Final Payment, see below, are fulfilled. However, at the sole discretion of SPU, portions of the final 10% withheld may be released prior to the final payment of the Contract.

Throughout the project, the percentage of the Contract Amount paid to the Consultant shall never exceed the percentage of the scope of work actually accomplished by the Consultant.

C. **Final Payment and Payment of Withheld Amounts.** Final payment will be contingent on verification by the City of satisfactory completion by the Consultant of the work under this Contract and receipt and acceptance by the

City of reports and/or any other deliverables that are required to fulfill the terms of this Contract. Such acceptance and acknowledgement shall be included in the "Letter of Completion" (see Subsections above), and the Consultant will be instructed to submit its request for final payment, including any amounts withheld, if any.

Final payment to the Consultant shall not waive or preempt the City's right to audit the Consultant's and any sub-consultants' records at a later date in accordance with the terms of Section 14, "Audit," hereunder.

- D. Consultant's Records. The Consultant and sub-consultants shall keep complete and accurate records in accordance with generally accepted accounting practices of all other reimbursable costs and expenses for purposes of audit and proper allocation of overhead expenses to this project. The cost records of the Consultant and sub-consultants must relate all project expenses to specific tasks of the Scope of Work.
- E. Overtime Work. No premium will be paid by the City for overtime work without prior authorization by the City.
- F. Payment from the Management Reserve Fund (if any). For a Management Reserve Fund to be utilized on this Contract or any subsequent amendments it must already be identified on the associated exhibit for the estimated cost. The Management Reserve Fund is to provide the Department with flexibility to authorize additional funds for allowable unforeseen costs beyond those estimated for in the tasks of the Scope of Work, or for reimbursing the Consultant for additional work requested by the City toward completing the Scope of Work. If this Contract has any Federal monies in it, the maximum amount allowable for the Management Reserve Fund shall not exceed the lesser of \$50,000 or 10% of the total Contract Amount.

Payment from the Management Reserve Fund is at the sole discretion of the Department and must be authorized in writing **before** the Consultant performs the additional work. Such written authorization will include a description of the work that is to be performed and shall specify the amount of the payment, including, if applicable, any profit factor. Any fixed fee for work reimbursed from the Management Reserve Fund shall be negotiated at the time such work is assigned to the Consultant and shall be authorized in writing by the City.

The Consultant shall show separately and identify on its invoices all charges against the Management Reserve Fund.

Section 6: ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS

All official notices under this Contract shall be delivered to the following addresses (or such other address(es) as either party may designate in writing):

If to the City:	If to the Consultant:
Keith Kurko or DeWayne Ticeson, SPU Project Managers Seattle Public Utilities PO Box 34018 Seattle WA 98124-4018	Matt Hoffman Heartland LLC Suite 200 524 Second Avenue Seattle, WA 98104

Section 7: FINAL CONSULTANT CONTRACT PAYMENTS REPORTING REQUIREMENTS

Within 30 calendar days after final payment has been made to the Consultant for the Work, the Consultant shall submit to the City a completed "Final Consultant Contract Payments Reporting Form," in the form attached to this Contract or as revised hereafter by the City.

Section 8: EQUAL EMPLOYMENT OPPORTUNITY AND OUTREACH

- A. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall take affirmative efforts to ensure that applicants are employed, and that

employees are treated during employment, without regard to their race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap. Such efforts shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices as provided by the City setting forth the provisions of this nondiscrimination clause.

- B. If the Consultant will hire employees for this project, the Consultant shall make affirmative efforts to recruit minority and women candidates. Affirmative efforts may include the use of advertisements in publications directed to minority communities and other targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.
- C. Record-Keeping: The Consultant shall maintain, for at least 24 months after the expiration or earlier termination of this Contract and permit access to the Consultant's records of employment, employment advertisements, application forms and other pertinent data and records requested by Seattle Public Utilities for the purposes of investigation to determine compliance with the requirements of this section.
- D. The Consultant, by executing this Contract, is affirming that the Consultant complies with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.42 as incorporated in this Contract. Any violation of the requirements of the provisions of this section noted in paragraph A, B and C above shall be a material breach of Contract for which the Consultant may be subject to damages and sanctions provided for by the Contract and by applicable law, including but not limited to debarment from City contracting activities in accordance with SMC Ch. 20.70.
- E. The foregoing provisions of this section shall be inserted in all subcontracts for the Work covered by this Contract.

Section 9: NONDISCRIMINATION IN EMPLOYEE BENEFITS

- A. Compliance with SMC Ch. 20.45: The Consultant shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Consultant is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Consultant provides to its employees with spouses. At the City's request, the Consultant shall provide complete information and verification of the Consultant's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. *(For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at <http://cityofseattle.net/contract/equalbenefits/>.)*
- B. Remedies for Violations of SMC Ch. 20.45: Any violation of this Section 9 shall be a material breach of Contract for which the City may:
 - (1) Require the Consultant to pay actual damages for each day that the Consultant is in violation of SMC Ch. 20.45 during the term of the Contract; or
 - (2) Terminate the Contract; or
 - (3) Disqualify the Consultant from bidding on or being awarded a City contract for a period of up to five (5) years; or
 - (4) Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated there under, or as provided in this Contract.

Section 10: AFFIRMATIVE EFFORTS TO USE WOMEN AND MINORITY BUSINESS ENTERPRISES

- A. If a Consultant intends to subcontract out any part of a contract instead of performing the work itself, then the following requirement applies: Consultant shall use affirmative efforts to promote and encourage participation by women and minority businesses on subcontracting opportunities within the contract scope of work. Consultant agrees to make such efforts as a condition of the Contract.

- B. Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule or requirements modifications that are likely to assist small or WMBE businesses to compete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.
- C. Record-Keeping: The Consultant shall maintain, for at least 24 months after the expiration or earlier termination of this Contract, relevant records and information necessary to document all Consultant solicitations to subconsultants and suppliers, all subconsultant and supplier proposals received, and all subconsultants and suppliers actually utilized under this Contract. The City shall have the right to inspect and copy such records.
- D. Consultant shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including but not limited to harassment and intimidation of minorities, women, or WMBE businesses.
- E. Non-Discrimination: Consultant shall not create barriers to open and fair opportunities for WMBEs to participate in any City contract and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.
- F. Sanctions for Violation: Any violation of paragraph A, B, C, D or E of this section, or a violation of SMC Ch. 14.04(Fair Employment), SMC Ch. 14.10 (Fair Contracting), SMC Ch. 20.42 (Equality in Contracting), SMC Ch. 20.45 (Nondiscrimination in Benefits), or other local, state or federal non-discrimination laws shall be a material breach of contract for which the Consultant may be subject to damages and sanctions provided for by the Contract and by applicable law. Consultants found to be in violation of the requirements may be subject to debarment from City contracting activities in accordance with SMC Ch. 20.70.

Note: Women and minority owned firms are asked to self-certify by registering in the City Vendor Registration System at <http://seattle.gov/purchasing/VendorRegistration.htm>. If you do not have computer access, please call 206-684-0444 for assistance.

Section 11: OTHER LEGAL REQUIREMENTS

- A. General Requirement: The Consultant, at no expense to the City, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Consultant shall specifically comply with the following requirements of this section.
- B. Licenses and Similar Authorizations: The Consultant, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
- C. Use of Recycled Content Paper: Whenever practicable, Consultant shall use reusable products including recycled content paper on all documents submitted to the City. Consultant is to duplex all documents that are prepared for the City under this Contract, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced. Consultant is to use 100% post consumer recycled content, chlorine-free paper in any documents that are produced for the City, whenever practicable, and to use other paper-saving and recycling measures in performance of the contract with and for the City.
- D. Americans with Disabilities Act: The Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 as amended (ADA) in performing its obligations under this Contract. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

- E. Fair Contracting Practices Ordinance: The Consultant shall comply with the Fair Contracting Practices Ordinance of The City of Seattle (Ordinance 119601), as amended.

Section 12: INDEMNIFICATION

The Consultant does hereby release and shall defend, indemnify, and hold the City and its employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of the Consultant's performance of the services contemplated by this Contract to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Contract by the Consultant, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the City, its employees and agents, the Consultant waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. The Consultant acknowledges that the foregoing waiver of immunity was mutually negotiated and agrees that the indemnification provided for in this section shall survive any termination or expiration of this Contract.

Section 13: INSURANCE

Insurance certification required. See Addendum "INSURANCE REQUIREMENTS AND TRANSMITTAL FORM."

Section 14: AUDIT

Upon request, the Consultant shall permit the City, and any other governmental agency involved in the funding of the Work ("Agency"), to inspect and audit all pertinent books and records of the Consultant, any subconsultant, or any other person or entity that performed work in connection with or related to the Work, at any and all times deemed necessary by the City or Agency, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in King County, Washington or other such reasonable location as the City or Agency selects. The Consultant shall supply the City with, or shall permit the City or Agency to make, a copy of any books and records and any portion thereof. The Consultant shall ensure that such inspection, audit and copying right of the City and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

Section 15: CONTRACTUAL RELATIONSHIP

The relationship of the Consultant to the City by reason of this Contract shall be that of an independent contractor as defined by the City's Contracting Out Policy. This Contract is not intended for the Consultant to act in anyway, in the capacity of a City employee. The parties agree that the City has neither direct nor immediate control over the Consultant or the right to control the manner or means by which the Consultant performs the work. The Consultant agrees that neither the Consultant nor any employee of the Consultant shall be deemed to be an employee of the City for any purpose. This Contract does not authorize the Consultant to act as the agent or legal representative of the City for any purpose whatsoever. The Consultant is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the City or to bind the City in any manner or thing whatsoever.

Section 16: ASSIGNMENT AND SUBCONTRACTING

The Consultant shall not assign or subcontract any of its obligations under this Contract without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference all the terms of this Contract, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract shall not release the Consultant from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

Section 17: INVOLVEMENT OF FORMER CITY EMPLOYEES

- A. The Consultant shall promptly notify the City in writing of any person who is expected to perform any of the Work and who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee.
- B. The Consultant shall ensure that no Work or matter related to the Work is performed by any person (employee, subcontractor, or otherwise) who:
- (1) was a City officer or employee within the past twelve (12) months; and
 - (2) as such was officially involved in, participated in, or acted upon any matter related to the Work, or is otherwise prohibited from such performance by SMC 4.16.075.

Section 18: NO CONFLICT OF INTEREST

The Consultant confirms that the Consultant does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the consultant selection, negotiation, drafting, signing, administration, or evaluating the Consultant's performance. As used in this section, the term "Consultant" shall include any employee of the Consultant who was, is, or will be involved in the negotiation, drafting, signing, administration, or performance of the Contract. As used in this section, the term "close family relationship" refers to the following: spouse or domestic partner; any dependent parent, parent-in-law, child, son-in-law, or daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

Section 19: ERRORS & OMISSIONS; CORRECTION

The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Contract. The Consultant, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, specifications, and/or other Consultant services immediately upon notification by the City. The obligation provided for in this section with respect to any acts or omissions during the term of this Contract shall survive any termination or expiration of this Contract.

Section 20: INTELLECTUAL PROPERTY RIGHTS

The Consultant hereby assigns to the City all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of the Contract or any subcontract hereunder. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by Consultant that was created or produced separate from this Contract or was preexisting material (not already owned by the City), provided that the Consultant has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant in connection with the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Consultant for the City under this Contract. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, the City in connection with the performance of the Work, shall be promptly delivered to the City.

The City may make and retain copies of such documents for its information and reference in connection with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City, or others, or on any other project.

Section 21: CONFIDENTIALITY

The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use or disclosure is specifically authorized in writing by the other party or is required by law. "Confidential and Proprietary" information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Contract. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

Section 22: EXTRA WORK

The City may desire to have the Consultant perform work or render services in connection with this project other than that expressly provided for in the "Scope of Work" section of this Contract. This will be considered extra work, supplemental to this Contract, and shall not proceed unless authorized by an amendment. Any costs incurred due to the performance of extra work prior to execution of an amendment will not be reimbursed under this Contract or an amendment.

Section 23: KEY PERSONS

The Consultant shall not transfer or reassign any individual designated in this Contract as essential to the Work, without the express written consent of the City, which consent shall not be unreasonably withheld. If, during the term of this Contract, any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individual(s) with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval shall not be construed to release the Consultant from its obligations under this Contract.

Section 24: DISPUTES

Any dispute or misunderstanding that may arise under this Contract concerning the Consultant's performance shall first be resolved through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager, or if necessary shall be referred to the Director of Seattle Public Utilities and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to alternate dispute resolution processes.

Section 25: TERMINATION

- A. For Cause: The City may terminate this Contract if the Consultant is in material breach of any of the terms of this Contract, and such breach has not been corrected to the City's reasonable satisfaction in a timely manner.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operation; civil commotion; riot; labor dispute including strike, walkout, or lockout, except labor disputes involving the Consultant's own employees; sabotage; or superior governmental regulation or control.
- C. For City's Convenience: The City may terminate this Contract at any time, without cause and for any reason including the City's convenience, upon written notice to the Consultant.

- D. Notice: Notice of termination pursuant to this section shall be given by the party terminating this Contract to the other not less than five (5) business days prior to the effective date of termination.
- E. Actions Upon Termination: In the event of termination not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to termination, together with any reimbursable expenses then due, but in no event shall such compensation exceed the maximum compensation to be paid under the Contract. The Consultant agrees that this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract.

Upon termination for any reason, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products it has produced to the date of termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided, however, that the City shall indemnify and hold the Consultant harmless from any claims, losses or damages to the extent caused by modifications made by the City to the Consultant's work product.

Section 26: CONSULTANT PERFORMANCE EVALUATION PROGRAM

The Consultant's performance will be evaluated by Seattle Public Utilities at the conclusion of the contract. The City's Consultant Performance Evaluation forms are available at the following Web Site: www.seattle.gov/contract/papecg.htm and as Attachment 3 to this Contract.

Section 27: DEBARMENT

In accordance with SMC Ch. 20.70, the Director of the Department of Executive Administration or his/her designee may issue an Order of Debarment and prevent a Consultant from entering into contracts with the City or from acting as a subconsultant on any contract with the City for up to five years after determining that any of the following reasons exist:

- 1) The Consultant has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.
- 2) The Consultant has failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, or equal benefits.
- 3) The Consultant has abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
- 4) The Consultant has failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
- 5) The Consultant has submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
- 6) The Consultant has colluded with another firm to restrain competition.
- 7) The Consultant has committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.
- 8) The Consultant has failed to cooperate in a City debarment investigation.
- 9) The Consultant has failed to comply with SMC 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, State, or federal non-discrimination laws.

The Director or his/her designee may issue an Order of Debarment in accordance with the procedures specified in SMC 20.70.050. The rights and remedies of the City under these debarment provisions are in addition to any other rights and remedies provided by law or under the Contract.

Section 28: MISCELLANEOUS PROVISIONS

- A. Amendments: No modification of this Contract shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Contract: This Contract shall not be binding until signed by both parties. The provisions, covenants and conditions in this Contract shall bind the parties, their legal heirs, representatives, successors, and assigns.
- C. Applicable Law/Venue: This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County.
- D. Remedies Cumulative: Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.
- E. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- F. Severability: If any term or provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
- G. Waiver: No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City, in writing.
- H. Entire Contract: This document, along with any exhibits and attachments, constitutes the entire agreement between the parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of the City and any officer, agency, employee or associate of the Consultant prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.
- I. Negotiated Contract: The parties acknowledge that this is a negotiated contract, that they have had the opportunity to have this Contract reviewed by their respective legal counsel, and that the terms and conditions of this Contract are not to be construed against any party on the basis of such party's draftsmanship thereof.
- J. Working On City Premises: [Refer to section 7.5.1 in the Standard Operating Procedures to calculate the monthly rent, if applicable]

If the City determines it is in its best interests for the Consultant to perform work on City premises and/or with City equipment, the City may provide the premises and equipment it deems necessary. Such premises and equipment are provided by the City exclusively for the project and shall not be used for any other consultant purpose.

In the event the consultant works on the City premises using City equipment, the Consultant remains an independent contractor and does not act in the capacity of a City employee. The Consultant will not work on-site at City offices for more than 36 consecutive months without written authorization from the City Project Manager. The Consultant shall notify the City Project Manager if s/he or any other workers are known to be within 90 days of a consecutive 36-month placement on City property.

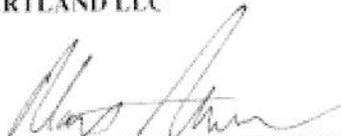
If the City determines the use of City premises or equipment is not necessary to complete the work under this Agreement, the Consultant will be required to work from its own office space or in the field, as necessary.

The City reserves the right to negotiate a reduction in Consultant fees or charge a rental fee, based on the actual costs to the City, for the use of City premises or equipment.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein or attached and incorporated and made a part hereof, the parties have executed this Contract by having their representatives affix their signatures below.

**CONSULTANT
HEARTLAND LLC**

THE CITY OF SEATTLE

By  6/1/11
Signature Date

By  6/3/11
Signature Date

MATT ANDERSON
Type or Print Name

NANCY AHERN DEPUTY DIRECTOR
UTILITY SYSTEMS MANAGEMENT
BRANCH
SEATTLE PUBLIC UTILITIES

If \$44,000 or greater, SPU Director Signature
Required

PRINCIPAL
Title

By  6/8/11
Signature Date
for

RAY HOFFMAN, DIRECTOR
SEATTLE PUBLIC UTILITIES

City of Seattle Business License Number: 515350

Washington State Unified Business Identifier Number (UBI): 601842347

Federal Tax ID Number: 911876752

Consultants are encouraged to self-identify any of the below that apply. Please check the appropriate box(es):

- | | |
|--|---|
| <input type="checkbox"/> DBE = Disadvantaged | <input type="checkbox"/> MBE = Minority-Owned |
| <input type="checkbox"/> WBE = Women-Owned | <input type="checkbox"/> Not Applicable |

2011 CONSULTANT CONTRACT INSURANCE REQUIREMENTS TRANSMITTAL FORM

FOR CITY USE ONLY. COMPLETE ALL YELLOW FIELDS

Contract: HISTORIC SPU LANDFILLS REDEVELOPMENT Contract Number: R00-59-03-01
Contract Manager: Keith Kurko/SPU Director's Office Branch & Dewayne Ticeson/SPU Finance &

INSURANCE REPRESENTATIVE - ATTACH THIS FORM TO INSURANCE CERTIFICATION SUBMITTED TO THE CITY

Form box containing instructions: COMPLETE THESE FIELDS SO THAT WE MAY CONTACT YOU IF NECESSARY. SEND ORIGINAL CERTIFICATION WITH COPY OF CGL ADDITIONAL INSURED ENDORSEMENT OR BLANKET ADDITIONAL INSURED POLICY WORDING TO: THE CITY OF SEATTLE. SEND COPY OF CERTIFICATION INCLUDING COPY OF ADDITIONAL INSURED PROVISION BY FAX TO (206) 470-1279 OR AS AN EMAIL ATTACHMENT IN ADOBE PDF FORMAT TO RISKMANAGEMENT@SEATTLE.GOV.

The Consultant shall maintain continuously throughout the term of this Agreement, at no expense to the City, the following insurance coverage and limits of liability as checked below:

- A. STANDARD INSURANCE REQUIRED:
[X] Commercial General Liability (CGL) or equivalent insurance including coverage for: Premises/Operations, Products/Completed Operations, Personal/Advertising Injury, Contractual and Stop Gap/Employers Liability (coverage may be provided under a separate policy). Minimum limit of liability shall be \$ 1,000,000 each occurrence Combined Single Limit bodily injury and property damage ("CSL") except:
- \$ 1,000,000 each offense Personal/Advertising Injury
- \$ 1,000,000 each accident/disease Stop Gap/Employers Liability.
[X] Automobile Liability insurance for owned, non-owned, leased or hired vehicles, as applicable. The minimum limit shall be \$1,000,000 CSL. [] MSC-90 and CA 99 48 endorsements.
[X] Worker's Compensation insurance for Washington State as required by Title 51 RCW Industrial Insurance.
B. ADDITIONAL COVERAGES AND/OR INCREASED LIMITS:
[] Federal Maritime insurance [] U.S.L.&H. minimum limit \$1,000,000 [] Jones Act minimum limit \$1,000,000.
[X] Professional Liability (E&O/Technical E&O) insurance appropriate to the consultant's profession. The minimum limit shall be [] \$1,000,000 or [] \$ each claim.
[] Umbrella or Excess Liability "follow form" insurance over primary CGL and Automobile Liability insurance limits, if necessary, to provide total minimum limits of liability of [] \$2,000,000 [] \$ each occurrence combined single limit bodily injury and property damage. These required total minimum limits of liability may be satisfied with primary limits or any combination of primary and umbrella/excess limits.

- Contractor's Pollution Liability** insurance with minimum limits of liability of \$1,000,000 5 each claim.
- insurance with minimum limits of \$1,000,000 5

ONLY PARAGRAPH I OF THE FOLLOWING CONDITIONS APPLIES TO WASHINGTON STATE TITLE 51 INDUSTRIAL INSURANCE (WORKERS COMPENSATION):

- C. CITY AS ADDITIONAL INSURED; PRODUCTS-COMPLETED OPERATIONS:** As respects CGL and Automobile Liability insurance, and Contractor's Pollution Liability insurance if required, the City of Seattle shall be included as an additional insured subject to a standard "Separation of Insureds" clause. As respects CGL and (if required) Contractor's Pollution Liability insurance, additional insured status for the City:
1. Must be established either by an appropriate additional insured endorsement issued and attached to the policy or by appropriate blanket additional insured policy wording, and
 2. Shall be primary and non-contributory with any insurance or self-insurance coverage maintained by the City.
- D. NO LIMITATION OF LIABILITY:** The limits of liability specified herein are minimum limits of liability only and, except for the policy limits, shall not be construed to limit the liability of the Consultant or any of the Consultant's insurers. The City shall be an additional insured as required in paragraph C. above as respects the total limits of liability maintained, whether such limits are primary, excess, contingent or otherwise.
- E. SUBSTITUTION OF SUBCONSULTANT'S INSURANCE:** If portions of the scope of work are subcontracted, the subconsultant or subcontractor may provide the evidence of insurance for the subcontracted body of work provided all the requirements specified herein are satisfied.
- F. NOTICE OF CANCELLATION:** Coverages shall not be canceled without at least thirty (30) days written notice to the City, except ten (10) days notice for non-payment of premium.
- G. CLAIMS MADE FORM:** If any insurance policy is issued on a "claims made" basis, the retroactive date shall be prior to or coincident with the effective date of this Agreement. The Consultant shall either maintain "claims made" forms coverage for a minimum of three years following the expiration or earlier termination of this Agreement, providing the City with a Renewal Certificate of Insurance annually; purchase an extended reporting period ("tail") for the same period; or execute another form of guarantee acceptable to the City to assure the Consultant's financial responsibility for liability for services performed.
- H. INSURER'S A.M. BEST'S RATING:** Each insurance policy shall be issued by an insurer rated A-; VII or higher in the A.M. Best's Key Rating Guide, unless a surplus lines placement by an licensed Washington State surplus lines broker, or as may otherwise be approved by the City.
- I. SELF-INSURANCE:** The City acknowledges that the Consultant may employ self-insured and/or alternative risk financing and/or capital market risk financing programs for some or all of its coverages. The term "insurance" wherever used herein shall include any such self-insured and/or alternative risk financing and/or capital market risk financing programs. The Consultant shall be liable for any self-insured retention or deductible portion of any claim for which insurance is required.
- J. EVIDENCE OF INSURANCE (NOT APPLICABLE TO WASHINGTON STATE WORKERS COMPENSATION):** The Consultant or its authorized representative shall deliver in the manner described an **Acord Certificate and Additional Insured Endorsement or Blanket Policy Wording** that complies with coverages, limits and conditions as required herein. (NOTE: A Copy of the actual additional insured endorsement or blanket additional insured policy wording to the CGL policy **MUST BE ATTACHED TO THE CERTIFICATE** to verify additional insured status.)

**CGL INSURANCE WILL NOT BE APPROVED WITHOUT
ADDITIONAL INSURED ENDORSEMENT
OR
BLANKET ADDITIONAL INSURED WORDING
ATTACHED TO THE CERTIFICATE!**

ATTACHMENT 1

FINAL CONSULTANT CONTRACT PAYMENTS REPORTING FORM

(to be completed within 30 days after final payment has been made to the Consultant)

City of Seattle Department of Executive Administration – Contracting Services Division

(Please SAVE this form to submit at the FINAL close-out of this contract including amendments)

Contract Title Historic SPU Landfills Redevelopment	Contract Number R00-59-03-01
Consultant's Business Name Heartland LLC	Phone Number (206) 682-2500
List the Business Name of all Sub-Consultants Providing Work of \$5,000 or more under this Contract.	Total Dollar Amount Paid
	\$
	\$
	\$
	\$
	\$
	\$
Net Amount Paid to the Consultant (Total amount paid to the consultant minus the amount paid to sub-consultants)	\$

Signature	Name	Title	Date
------------------	-------------	--------------	-------------

Instructions: Within 30 days after final payment to the Consultant, the consultant should fill in the information requested above, indicating the dollar amount of work that was paid to each sub-consultant on this contract, and the net amount paid to the Consultant (total amount paid to the Consultant minus the amount paid to sub-consultants). If additional space is needed, please photocopy this form.

Return of Completed Form: Please return the completed form within 30 days of final payment to the Consultant by one of the following methods:

- **FAX** (206) 386-4033, attn: GCS Manager
- **MAIL** the form to: Seattle Public Utilities
Grants and Contracts Section
PO Box 34018
Seattle WA 98124-4018

ATTACHMENT 2

ALLOWED AND NOT ALLOWED OVERHEAD COSTS

The Consultant is hereby informed:

- That the City will only pay indirect rates consistent with the following list of Allowed and Not Allowed costs (which is not exhaustive but for general guidance)
- That the Consultant is responsible for only billing the City for allowable indirect rates.
- That charges to the City may be audited by the City Auditor or designee and are subject to adjustment based on an audit.

Categories Of Costs Allowed Indirectly In Overhead Rates

1. Employee Compensation: Wages and Salaries, Incentive bonuses, Funded deferred compensation, Funded retirement, pension and savings plans, Health and most life insurance benefits, Compensated personal absence benefits, Normal severance pay allowances.
2. Lodging, meals and incidental expenses: Not directly reimbursed and incurred by the firm's employees on official business. Costs generally should not exceed the rates provided in the Runzheimer "Meal and Lodging Cost Index." Related transportation costs should be at the lowest customary standard.
3. Local transportation for company business: Personal vehicles at rates not to exceed Federal Internal Revenue Service mileage rates and documented by mileage logs, Costs of company owned or leased vehicles.
4. Utilities.
5. Depreciation acceptable for Federal income tax purposes.
6. Trade, business, technical and professional costs.
7. Direct selling.
8. Most professional and consultant services.
9. Most business insurance.
10. Most legal expenses: If the result is in favor of the firm.
11. Amortization, cost of money, and depreciation amounts: For asset valuations resulting from business combinations up to the total which would have been allowed if the combination had not taken place; assumes purchase method of accounting.
12. Certain realized post-retirement benefits.
13. Training and education costs for the business.
14. Most employee relocation costs.
15. Rental and lease costs up to the normal cost of ownership.
16. Maintenance and repair except depreciable expenses.
17. Material and supplies adjusted for discounts and credits.
18. Market planning.
19. Bid and proposal costs.
20. Bonding costs.
21. Most business taxes except federal income and excess profits.
22. Facilities capital cost of money.
1. Charity and contributions.
2. Office parties.
3. Entertainment and club memberships.
4. Most advertising except normal recruiting.
5. Research, development and engineering for new products.
6. Federal income or excess profits taxes and accruals.
7. Officer's life insurance.
8. Employee dependent education plans.
9. Use of vehicles and equipment for personal purposes.
10. Bad debts.
11. Costs related to mischarging on contracts.
12. Interest and other financial expenses.
13. Political contributions.
14. Costs related to improper business practices; Conflicts of interest and many contract-related or other legal defense costs where the result was against the company or settlement was in lieu of a result against the company.
15. Portions of allowances for unfunded pension costs.
16. Certain advance payments for pension plans.
17. Goodwill costs: Amortizing, expensing, write-off, write down.
18. Some costs related to changes in plans such as pension plans.
19. Expenses directly associated with unallowable costs.
20. Expenses related to costs already recovered.
21. Gifts, memorabilia, models, mementos to customers or public.
22. Alcohol or alcoholic beverages, tobacco, illegal substances.
23. Memberships in civic and community organizations.
24. Public relations costs: For enhancing the image of the firm or generally promoting the sale of services, e.g. trade shows, special events, and promotional material.
25. Most contingencies.
26. Officer/owner/partner salary and bonuses which represent a distribution of profits.
27. Costs related to pirating the employees of others.
28. Employee rebates and purchase discounts.
29. Losses on contracts and net business losses.
30. Most costs of idle facilities and idle capacity.
31. Legislative and executive lobbying costs.
32. Fines and penalties for violations of laws and regulations.
33. Normal costs of pension plans not funded in the year incurred except for certain ERISA waivers.
34. Certain post-retirement benefits other than pensions.
35. Late premium charges on insurance, pension or other plans.
36. Organization, reorganization and financial structure changes.
37. Retroactive or backdated accounting adjustments.

Costs Not Allowed Directly Or Indirectly

ATTACHMENT 3

Performance Evaluation - Consultant Services

(Use the first page to evaluate less complicated consultant contracts -generally engagements of less than \$42,000- and the additional pages for more complex and larger consultant contract evaluations. Completed evaluations are retained in the department's contract files.)

Consultant Name:		Evaluation Type <input type="checkbox"/> Interim <input type="checkbox"/> Final	
Consultant Project Manager Name		Project Title	
		Agreement Number	
Date Agreement Approved	Type of Work <input type="checkbox"/> Study <input type="checkbox"/> Design <input type="checkbox"/> Engineering <input type="checkbox"/> Training <input type="checkbox"/> Other		
Amount of Original Agreement \$	Amount for Amendments \$	Total Amount Agreement \$	
End Date Including Extensions	Actual Completion Date	Actual Total Paid \$	
Brief description of work			

Performance Scoring Criteria:

Select from the score ranges and descriptions listed to below for all areas evaluated for each consultant.

Performance Description	Score Range
• Superior	9 to 10
• Above Requirements	7 to 8
• Meets Requirements	5 to 6
• Below Requirements	3 to 4
• Deficient, Inadequate, or Substandard	1 to 2

Criteria	Comment	Score
Negotiations: Cooperative and Responsive		
Cost/Budget: Complete within agreement budget including supplements		
Schedule: Complete within agreement schedule including supplements		
Technical Quality Met Standards		
Communications: Clear, Concise Communication (Oral, written, drawings),		
Management: Team player, Management of staff/ subs, Accurate, timely invoices, Appropriate, periodic, accurate progress reports.		
Average Score (Total Score / Number of criteria rated)		

Rated by (Project Manager Name and Title)	Project Manager Signature	Date
Department Review (Name and Title)	Department Signature	Date

Performance Scoring Criteria:

Select from the score ranges and descriptions listed to below for all areas evaluated for each consultant.

Performance Description	Score Range
• Superior	9 to 10
• Above Requirements	7 to 8
• Meets Requirements	5 to 6
• Below Requirements	3 to 4
• Deficient, Inadequate, or Substandard	1 to 2

Negotiations and Cost / Budget Criteria

1. Negotiations	
A. Adhered to Department guidelines on fee.	
B. Met Negotiation schedule.	
C. Open and honest communications.	
D. Willingness to compromise.	
E. Other	
Average Score (Total Score / Number of sub-criteria rated)	
Comments	

2. Cost / Budget	
A. Finished within budget, including all supplements.	
B. Appropriate level of effort.	
C. Reasonable direct, non-salary expenses.	
D. Other	
Average Score (Total Score / Number of sub-criteria rated)	
Comments	

3. Schedule	
A. Achieved Schedule (including all supplements).	
B. Prompt response to review comments.	
C. Adapted to changes initiated by Department.	
D. Notified Department early regarding schedule "impactors".	
E. Other	

3. Schedule	
Average Score (Total Score / Number of sub-criteria rated)	

Performance Scoring Criteria:

Select from the score ranges and descriptions listed to below for all areas evaluated for each consultant.

Performance Description	Score Range
• Superior	9 to 10
• Above Requirements	7 to 8
• Meets Requirements	5 to 6
• Below Requirements	3 to 4
• Deficient, Inadequate, or Substandard	1 to 2

3. Schedule
Comments

4. Technical Quality	
A. Work products meet standards.	
B. Performed appropriate quality control.	
C. Responds to review comments in subsequent submissions.	
D. Sought opportunities to incorporate innovative designs/approaches.	
E. Delivered "compatible" electronic files.	
F. Other	
Average Score (Total Score / Number of sub-criteria rated)	
Comments	

5. Communications	
A. Produced clear, concise oral and written communication.	
B. Demonstrates an understanding of oral and written instructions.	
C. Communicated at intervals appropriate for the work.	
D. Respected and used lines of communications.	
E. Interaction with the public.	
F. Other	
Average Score (Total Score / Number of sub-criteria rated)	

Performance Scoring Criteria:

Select from the score ranges and descriptions listed to below for all areas evaluated for each consultant.

Performance Description	Score Range
• Superior	9 to 10
• Above Requirements	7 to 8
• Meets Requirements	5 to 6
• Below Requirements	3 to 4
• Deficient, Inadequate, or Substandard	1 to 2

5. Communications

Comments

6. Management

- A. Provided creative cost control measures / ideas
- B. Submitted appropriate, periodic, accurate progress reports
- C. Accurate and timely invoicing.
- D. Conducted meetings efficiently.
- E. Limited the number of consultant-initiated contract modifications/supplements.
- F. Coordinated with Department effectively; was a team player
- G. Responsive
- H. Managed subconsultants effectively
- I. Other

Average Score (Total Score / Number of sub-criteria rated)

Comments

**EXHIBIT A
SCOPE OF WORK**

PRIME Consultant:	Heartland LLC
Contract No.:	R00-59-03-01
Contract Title:	Historic SPU Landfills Redevelopment

Background: Kent Highlands (110 acres) and Midway (70 acres) are old SPU landfills that are Superfund sites. Annual Operations & Maintenance (O&M) cost for Kent Highlands is about \$750,000 and for Midway is about \$350,000. SPU has been unsuccessfully trying to sell or lease portions of these two sites for years.

Recently a nation-wide commercial land developer (Developer) approached Kent and Seattle about buying or long-term leasing (for 99 years) the least-contaminated 20-25 acres at the Kent Highlands site for a large commercial development. The development would be similar in size and layout to the Tulalip Tribes' *Quil Ceda Village Premium Outlet Mall* north of Everett.

SPU was also recently contacted by another company which expressed interest in potentially purchasing our Midway landfill. This company specializes in acquisition, remediation, and redevelopment of "Brownfield" properties.

SPU has sought the professional services of Heartland LLC (Consultant) to provide it with real estate advisory assistance in its effort to facilitate the redevelopment of the Kent Highlands landfill (KHL) and possible the redevelopment of the Midway landfill, via a potential sale or lease transaction.

PHASE 1

Task 1 – Near Term Opportunity Assessment, Former Kent Highlands Landfill

The goal of this task is to assess the near term opportunity that has been presented to SPU by the Developer. The Consultant will assist SPU with understanding the KHL's position in the market relative to the planned use presented the Developer and underwriting the interest and viability of the Developer. Sub-Task 1e may be conducted prior to fully completing each of the previous tasks depending on the timing needs of SPU and the developer.

Task 1 Completion Date: August 2011

Sub-Task 1a – Site Review

The Consultant will analyze the KHL to understand its strengths and weaknesses as well as how it is physically positioned within the market. To accomplish this sub-task the Consultant will:

1. Review existing documentation that provides background information on the current condition of the KHL in order to understand the extent of the environmental liability to SPU and a potential developer and to evaluate any constraints on future development that may occur on the KHL; and
2. Conduct a site visit with SPU staff.

Sub-Task 1a – Completion Date: June 2011

Sub-Task 1b – Preliminary Market Assessment

The Consultant will conduct a preliminary market assessment related to the potential future use of the KHL based on our knowledge of the interested developer and its business model. The objective of this analysis is to understand the market context for destination retail with a focus on outlet malls. Key trends and data points will include, but are not limited to, market fundamentals (e.g. rents, vacancy, and absorption) and recent transactions. A secondary objective will be to assess the commercial real estate market in general for other potential uses and values relative to the KHL's position and its strengths and weaknesses.

Sub-Task 1b – Completion Date: July 2011

Sub-Task 1c – Developer Underwriting

The Consultant will research the potential developer to better understand its position in the market and organizational health. Task 1c will involve:

3. Researching existing holdings and their performance;
4. Identifying recent transactions;
5. Reviewing recent news stories involving the developer; and
6. Profiling principal players within this organization.

Sub-Task 1c – Completion Date: June 2011

Sub-Task 1d – Surplus Property Disposition Process

The Consultant will work in collaboration with the City Attorney's office and SPU to understand legal issues involved with the disposition of the KHL given the current opportunity.

Sub-Task 1d – Completion Date: June 2011

Sub-Task 1e – Preliminary Developer Meeting

Utilizing the information collected in Tasks 1a through 1d, the Consultant will meet with the potential developer and SPU to listen to its plans for the KHL site, understand its motivations and development capacity, and get a sense for its timing expectations.

Sub-Task 1e – Completion Date: June 2011

Sub-Task 1f – Task 1 Review, Summarizing & Strategizing for Phase 2

Upon the completion of Tasks 1a through 1e, the Consultant will work in collaboration with SPU and its legal counsel to summarize the intelligence gained in the preceding subtasks and to develop a strategy, timeline, and budget for Task 2.

Sub-Task 1f – Completion Date: August 2011

PHASE 2 (Proposed Task No. (s) 2 & 3 stated below and possible other not yet determined tasks for this project are directly dependent on the completion & outcomes in the PHASE 1 Scope of Work of this Task No. 1 in SPU Roster Contract No. R00-59-03-01. The detailed scope of work, schedule and itemized budgets for these prospective tasks will be determined near the completion of Task 1 in the form of a proposed Amendment to this SPU Roster Contract No. R00-59-03-01.

**EXHIBIT B
ESTIMATED PROJECT COSTS AND LABOR HOURS**

PRIME Consultant:	Heartland LLC
Contract No.:	R00-59-03-01
Contract Title:	Historic SPU Landfills Redevelopment
The Hourly Rates used on this Contract are based on all-inclusive, fair and competitive "standard industry rates."	

SALARY COSTS

PHASE I

Task 1 - Near Term Opportunity Assessment, Former Kent Highlands Landfill				
Staff Name	Job Title	Hours	Hourly Rate	Total
James Reinhardson	Managing Director	24.80	\$340	\$8,430
Chris Fiori	Senior Project Manager	66.70	\$185	\$12,340
Matt Hoffman	Project Manager	76.17	\$175	\$13,330
Katlin Jackson	Associate Project Manager	49.93	\$150	\$7,490
Jenny Score	Graphics Designer	17.52	\$125	\$2,190
Nathan Stueve	Research Associate	49.16	\$120	\$5,900
TASK TOTAL				\$49,680

SALARY COSTS SUBTOTAL	\$49,680
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***DIRECT EXPENSES:**

Reproduction: Copies - black & white	\$0.10 each	8,600 copies	\$860
Copies - color 11 x 17	\$2.00 each	215 copies	\$430
Copies - color 8-1/2 x 11	\$1.50 each	8650-433 copies	\$650
Copies of large format originals - all types		\$350 (budgeted, count N/A)	\$350
Document/Data purchases		\$520 (budgeted, count N/A)	\$520
Mounting on presentation board	\$3.75/sf	\$220 (budgeted, count N/A)	\$220
Postage and delivery		\$110	\$110
Printing - out-of-house		\$220	\$220
Prints - large format	\$8.50/sf	\$220 (budgeted, count N/A)	\$220
Scans - color	\$1.00	\$740 (estimated 740 copies)	\$740

DIRECT EXPENSES SUBTOTAL	\$4,320
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CONTRACT'S SUB-TOTAL	\$54,000
***MANAGEMENT RESERVE FUND (MRF)	\$6,000
CONTRACT'S TOTAL NOT-TO-EXCEED AMOUNT	\$60,000

- * There is no mark-up allowed on any direct expenses. Sub-consultants are considered direct expenses.
- ** Attach a separate "Estimated Project Costs and Labor Hours" sheet for each sub-consultant (if any).
- *** If there is a MRF the use of it is governed by the PAYMENT subsection relating "Payment from the Management Reserve Fund (if any)."

**EXHIBIT C
CONSULTANT'S BILLING RATES**

<i>PRIME Consultant:</i>	<i>Heartland L.L.C.</i>
<i>Contract No.:</i>	<i>R00-59-03-01</i>
<i>Contract Title:</i>	<i>Historic SPU Landfills Redevelopment</i>
<i>The following are the Salary Rates the Consultant will charge for work performed under this Contract. Any adjustments to these rates must be requested in writing and, if agreed to, be documented in a "Revised" Consultants' Salary Rates Exhibit, which will be incorporated in and attached to this Contract by the fact of the Exhibit's acceptance by the SPU Project Manager.</i>	
The Hourly Rates used on this Contract are based on all-inclusive, fair and competitive "standard industry rates."	

Staff Name	Title	Hourly Base Salary Rates	Hourly All-Inclusive Billing Rates
James Reinhardtsen	Managing Director	N/A	\$340
Chris Fiori	Senior Project Manager	N/A	\$185
Matt Hoffman	Project Manager	N/A	\$175
Katlin Jackson	Associate Project Manager	N/A	\$150
Jenny Score	Graphics Designer	N/A	\$125
Nathan Stueve	Research Associate	N/A	\$120

AMENDMENT NO. 2
TO
CONSULTANT ROSTER CONTRACT NO. R00-59-03-01
BETWEEN
SEATTLE PUBLIC UTILITIES
AND
HEARTLAND, LLC
FOR
HISTORIC SPU LANDFILL REDEVELOPMENT

TABLE OF CONTENTS

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Section 3: SCOPE OF WORK	2
Section 4: PAYMENT	2
Section 6: ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS	2

ATTACHMENTS

1. FINAL CONSULTANT CONTRACT PAYMENTS REPORTING FORM
2. ALLOWED AND NOT ALLOWED OVERHEAD COSTS

EXHIBITS

- A2. SCOPE OF WORK
- B2. PRIME ESTIMATED PROJECT COSTS AND LABOR HOURS
- C2. PRIME CONSULTANT'S SALARY AND BILLING RATES
- D2. SUBCONSULTANT INFORMATION
- E2-1 SUBCONSULTANT'S ESTIMATED PROJECT COSTS & LABOR HOURS
- F2-1 SUBCONSULTANT'S SALARY RATES

This Amendment No. 2 to SPU Roster Contract No. R00-59-03-01, is made and entered into by and between The City of Seattle ("the City"), a Washington municipal corporation, through its Seattle Public Utilities (SPU), as represented by the Director of SPU; and **Heartland LLC, 1301 First Avenue, Suite 200, Seattle, WA 98104** ("Consultant").

The original Contract for consultant services for "Historic SPU Landfills Redevelopment" is amended as follows. All other terms and conditions of the original Contract, as amended, remain in effect.

Section 1: TERM OF CONTRACT

The "Term of Contract" Section of this Contract is amended as follows:

By this Amendment, the completion date for work under this Contract is extended to June 30, 2014.

Section 3: SCOPE OF WORK

The "Scope of Work" Section of this Contract is amended as follows:

The Consultant shall perform the tasks of the Scope of Work for this Amendment No. 2 as described in Exhibit A2.

Section 4: PAYMENT

The "Payment" Section of this Contract is amended as follows:

The Consultant agrees to perform all the work set forth in the Scope of Work of this Amendment No. 2 for an amount not to exceed **One Hundred and Fourteen Thousand and Nine Hundred and Eighty One Dollars, (\$114,981)** hereinafter referred to as the "Amendment Amount". This Amendment Amount includes **Twenty-Nine Thousand Dollars (\$29,000)** for the Management reserve Fund (MRF).

SUMMARY OF CONTRACT DOLLAR AMOUNT TO DATE

CONTRACT DOCUMENT	DOCUMENT AMOUNT	CONTRACT AMOUNT
Contract No. R00-59-03-01	\$60,000	\$60,000
Amendment No. 1	\$30,000	\$90,000
Amendment No. 2	\$114,981	\$204,981
TOTALS	\$204,981	

Section 6: ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS

The "Addresses for Notices and Deliverable Materials" Section of this Contract is amended as follows:

If to the City:	If to the Consultant:
Martha Neuman, SPU Contract Manager Seattle Public Utilities PO Box 34018 Seattle WA 98124-4018	Matt Hoffman Heartland LLC Suite 200 1301 First Avenue Seattle, WA 98104

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

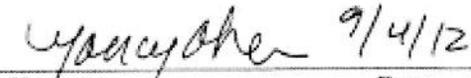
**CONSULTANT
HEARTLAND LLC**

THE CITY OF SEATTLE

By  5/29/12
Signature Date

James Reinhardson
Type or Print Name

Managing Director
Title

By  9/4/12
Signature Date

NANCY AHERN, DEPUTY DIRECTOR
UTILITY SYSTEMS MANAGEMENT
BRANCH
SEATTLE PUBLIC UTILITIES

By  9/5/12
Signature Date

MARTIN BAKER, DEPUTY DIRECTOR
DIRECTOR'S OFFICE BRANCH
SEATTLE PUBLIC UTILITIES

*If \$260,000 or greater, SPU Director Signature
Required*

ATTACHMENT 1

FINAL CONSULTANT CONTRACT PAYMENTS REPORTING FORM
(to be completed within 30 days after final payment has been made to the Consultant)

City of Seattle Department of Executive Administration – Contracting Services Division

(Please SAVE this form to submit at the FINAL close-out of this contract including amendments)

Contract Title	Contract #:
Consultant's Business Name	Phone Number
List the Business Name of <u>all</u> Sub-Consultants Providing Work of \$5,000 or more under this Contract.	Total Dollar Amount Paid
	\$
	\$
	\$
	\$
	\$
	\$
Net Amount Paid to the Consultant (Total amount paid to the consultant minus the amount paid to sub-consultants)	\$

_____	_____	_____	_____
Signature	Name	Title	Date

Instructions: Within 30 days after final payment to the Consultant, the consultant should fill in the information requested above, indicating the dollar amount of work that was paid to each sub-consultant on this contract, and the net amount paid to the Consultant (total amount paid to the Consultant minus the amount paid to sub-consultants). If additional space is needed, please photocopy this form.

Return of Completed Form: Please return the completed form within 30 days of final payment to the Consultant by one of the following methods:

- **FAX** - (206) 386-4033, attn: GCS Manager
- **MAIL** the form to: Seattle Public Utilities
Grants and Contracts Section
PO Box 34018
Seattle WA 98124-4018

EXHIBIT A2 SCOPE OF WORK

Background

In 2011, Seattle Public Utilities (SPU) engaged Heartland LLC (Consultant) to provide real estate advisory assistance supporting the redevelopment of the former Kent Highlands landfill (KHL) and the former Midway landfill via a potential sale or lease transaction.

In the original contract (June 2011-May 2013), Consultant provided SPU with advisory services related to KHL and its potential reuse. These services included evaluating transaction alternatives based on an assessment of the regulatory conditions, political context, and market fundamentals that influence the reuse of the KHL. Consultant was engaged in response to an unsolicited inquiry into the KHL property by a potential major retail user.

Based on the initial work, SPU began the process to evaluate the potential sale of two Seattle owned parcels located north of the former landfill and South 231st Way. These two parcels are free of refuse and restrictive covenants associated with the former landfill and together total approximately 7.4 acres.

The purpose of Amendment No. 1 to SPU Roster Contract No. R00-59-03-01 (March 2012-December 31, 2013) was to provide a framework for supporting SPU in its efforts to maximize monetary return to its ratepayers from the potential disposition of the surplus land. The tasks and associated deliverables in Amendment 1 included: 1) real estate strategic planning and facilitation, including evaluation of development alternatives and potential transaction structures, summarized in a memorandum with graphics and meeting materials; 2) documentation and graphics to inform alternative transaction analyses and to be a source of information for potential purchasers and the City of Kent (Kent), summarized in a reference document; and 3) SPU management recommendations in a memorandum. In addition, the timeline was extended.

During the Amendment 1 timeframe, SPU identified and delineated a wetland located in the center of the SPU property north of South 231st Way. It was determined that the wetland and buffer area in which no development could occur may encompass nearly one-third to one-half the SPU owned area north of SE 231st Way, depending on the size and configuration of the wetland buffer area used.

In addition, SPU had further conversations with Kent, the owner of adjoining parcels to the east of approximately 4.3 acres. Kent desires to sell these adjacent parcels in order to advance its economic development goals in establishing this area as a new gateway into Kent. With the constraints on the SPU property and current market conditions, and the potential benefit of offering more acreage to the market, SPU has chosen to pursue a marketing approach in cooperation with Kent to market all four parcels north of South 231st Way (the "North Assemblage") with the goal of maximizing value for SPU ratepayers, as well as furthering Kent's economic development goals.

Furthermore, SPU and Kent also own various parcels south of South 231st Way ("South Assemblage"). Based on initial work by Consultant, it is possible that, even though portions of the SPU-owned parcels have constraints due to previous landfill activity, some portion of these parcels may be marketable, especially in light of North Assemblage. The initial joint effort will be to place the North Assemblage on the market. This scope of work will also include information about the South Assemblage, as appropriate, to create the marketing story for the entire area.

Amendment No. 2 to SPU Roster Contract No. R00-59-03-01

Scope

The purpose of Amendment 2 to SPU Roster Contract No. R00-59-03-01, is to prepare to bring the North Assemblage properties to market. This includes: King County Tax Parcel #1522049065 and the northerly parcel of King County Tax Parcel #7260200115 owned by Seattle, and portions of King County Tax Parcel #1522049170 and King County Tax Parcel #1522049167 laying north of South 231st Way and west of Riverview Blvd South owned by City of Kent. During the course of the marketing effort for the North Assemblage, both Kent and SPU would also consider any interest the market may have in the parcels comprising the South Assemblage, or portion thereof, for King County Tax Parcels 1522049066, 7260200115, and 1522049008, and King County Tax Parcel 1522049170 south of SE 231st Way and west of the extension of Riverview Blvd. S.

Tasks 1 and 2 are to define the transaction structure and prepare pre-marketing materials. Tasks 3-5 are to solicit potential buyers, identify a preferred buyer, and close the transaction. The proposed timeline is to complete Tasks 1 and 2 within 90 days of the effective date of Amendment 2 and to close a transaction by December 31, 2013. This amendment extends the timeline of the contract to June 30, 2014 to allow for more time to complete the transaction if needed. This scope will amend the existing contract number R00-59-03-01.

This transaction will be a joint marketing effort conducted in cooperation with Kent and coordinated by Consultant. The North Assemblage totals approximately 11.7 acres and the South Assemblage totals approximately 31 acres. An ownership map depicting the approximate area that comprises the North and South Assemblages is found in Appendix A1 to this scope of work. SPU and Kent will develop a Memorandum of Agreement (MOA) or other agreement to document the working partnership.

The budget for Amendment 2 is in Exhibit B2 and is based on Consultant's Rates as more particularly described in Exhibit C2 ("Consultant Rates").

- **Task 1 and Task 2.** Consultant will be compensated on a time and materials basis not to exceed \$20,280 for Task 1 and \$32,760 for Task 2. Kent will contribute \$4,750 to Task 1 and \$4,750 to Task 2 through a separate contract between the City of Kent and Consultant. SPU's budget for Task 1 is \$15,530. SPU's budget for Task 2 is \$28,010 (\$21,710 for salary and \$6,300 for Direct Expenses).
- **Tasks 3 through 5.** These tasks will consist of typical brokerage services. The total budget for Tasks 3-5 is not to exceed \$84,850. Consultant will be compensated for Tasks 3-5 in the following manner:
 - 1) Consultant will invoice SPU monthly on a time and materials basis at 50% of Consultant Rates.
 - 2) If the North Assemblage does not sell, Consultant will receive no further compensation.
 - 3) If the North Assemblage transaction closes, Consultant will be compensated for the other 50% of Consultant Rates for the time and materials already billed, up to the overall not to exceed amount for Tasks 3-5 of 5% of the total sales price for the North Assemblage. This compensation will be paid from the proceeds of the sale. Consultant may invoice SPU for the other 50% of Consultant Rates for the time and materials already billed, up to the not to exceed amount, unless the MOA between SPU and Kent identifies a reimbursement formula or cost sharing approach between SPU and Kent that requires Consultant to bill Kent directly for its share of the compensation to the Consultant for Tasks 3-5.

A \$29,000 Management Reserve Fund is included in the budget. Tasks associated with the Management Reserve Fund (MRF) will be identified by SPU and require a written SPU/MRF letter to proceed that is signed by both parties. Up to \$4,000 of the MRF is set aside for the fabrication and installation of up to two large real estate signs as identified in Task 2. Consultant will obtain bids for the fabrication and installation. The

Amendment No. 2 to SPU Roster Contract No. R00-59-03-01

compensation timing and ratio of the remaining \$25,000 will be determined if and when SPU determines that the Management Reserve Fund is needed. In addition, depending on how the remaining \$25,000 of the Management Reserve is used, a portion of that cost could also be part of the reimbursement formula between SPU and Kent.

The Consultant Rates shall remain fixed through June 30, 2014. Thereafter, rates shall only be increased with the prior approval of SPU.

Task 1. Define Transaction Structures

Consultant will work with SPU, in collaboration with Kent, to clearly define and document each party's key motivations, sensitivities and timing objectives. SPU and Kent will receive copies of Task 1 deliverables.

Deliverables:

- Consulting services to assist SPU and Kent as they develop, draft and execute the MOA that outlines the timing, expectations, roles and responsibilities, as well as reimbursement arrangements;
- Joint SPU-Kent listing agreement with Consultant that is consistent with this scope of work and any MOA;
- Baseline criteria and requirements for evaluating and ranking proposals, including criteria or evaluation tools to integrate SPU's and Kent's unique marketing goals; and
- Bi-weekly meetings with SPU and Kent.

Timing:

- Preparation of materials to begin on the effective date of Amendment 2, and coupled with Task 2, is estimated to take 90 days.

Budget:

- The cost for Task 1 will not exceed \$20,280, unless agreed to in writing by SPU and Kent, and will be invoiced monthly on a time and materials basis. Consultant will separately invoice Kent for \$4,750 in accordance to their contract for Task 1 and invoice SPU an amount not to exceed \$15,530.

Task 2. Prepare Pre-Marketing Materials

Consultant will work with SPU, in collaboration with Kent, to prepare a cohesive marketing story and related marketing materials for this micro-market/gateway of the City of Kent. All final materials must be in a form acceptable to SPU and Kent. The story will communicate the context of the property within the region and key drivers of demand. It will be oriented towards potential user classes appropriate for the zoning including, but not limited to office, multi-family, retail, medical, senior housing and hospital. SPU and Kent will receive copies of Task 2 deliverables.

Deliverables:

- A draft and final Offering Memorandum (OM) that is supported by the broader story and market information. The OM will include a well-organized and documented graphically-based written offering package for prospective purchasers that frame the offering and summarizes the general terms and conditions under which an offer will be evaluated. The OM will form the basis for the public notice of offering that will be delivered to the market as either a Request for Qualifications or Request for Proposals.

- The marketing material will also include the development of a website or a File Transfer Protocol (FTP) site where due diligence materials can be clearly and conveniently provided to potential buyers and marketing flyers.
- Up to two large real estate signs that are approximately 4-feet by 8-feet and related installation at the site.
- A written marketing strategy document that includes:
 - Market value analysis for pricing of parcels to be marketed
 - A target list of potential buyers by asset class active in the region and those seeking to enter the Puget Sound market.
- A geospatial communication tool developed by Consultant that allows potential buyers to interactively explore the adjacent properties and market area drivers in a controlled Google Earth environment;
- Bi-weekly meetings and calls, or more frequently as needed upon request.

Timing:

- Preparation of materials to begin on the effective date of Amendment 2, and, coupled with Task 1, is estimated to take 90 days.

Budget:

- The cost for Task 2 will not exceed \$32,760 (\$26,460 in salaries and \$6,300 in direct costs for the geospatial tool and its delivery) unless agreed to in writing by SPU and Kent, and will be invoiced monthly on a time and materials basis. Consultant will separately invoice Kent for \$4,750 in accordance to their contract for Task 2 and invoice SPU an amount not to exceed \$28,010.
- In addition, up to \$4,000 of the MRF is set aside for sign fabrication and installation under this task. Consultant will seek competitive bids for the signs.

Task 3. Solicit Proposals

Consultant will broadly distribute the notice of offering through traditional brokerage channels and directly to potential buyers identified in the target list. The initial solicitation will be designed to describe an extraordinary market opportunity. The SPU Project Manager will give written notice to proceed with Task 3 once the MOA with Kent is in place and the marketing materials are completed. The MOA will dictate the window in which offers will be accepted.

Deliverables:

- A summary email bi-weekly for the first month and monthly thereafter identifying targeted outreach, calls, and related efforts to identify potential buyers; and
- Periodic calls with SPU and Kent to discuss outreach efforts, inquiries or proposals. Call frequency to be determined based on interest, but at least one per month.

Timing:

- Task 3 will commence upon completion of Task 1 and Task 2 and a written notice to proceed and is estimated to be approximately 3-8 weeks. This timing could be adjusted based on feedback from the market.

Budget:

- The total budget for Task 3 will not exceed \$15,172, unless agreed to in writing by SPU. Task 3 will be invoiced monthly on a time and materials basis at 50% of Consultant's Rates. If the transaction

closes, Consultant will invoice for the other 50% of Consultant Rates for the time and materials already billed, up to the overall not to exceed amount for Tasks 3-5 of 5% of the total sales price for the North Assemblage. The remainder will be paid from the proceeds of the sale.

Task 4. Review and Evaluate Responses

Consultant will prepare a response evaluation matrix, and work with SPU, in collaboration with Kent, to evaluate and rank proposals. The SPU Project Manager will give written notice to the Consultant to proceed with Task 4.

Deliverables:

- Draft and finalize response evaluation matrix; and
- Calls and meetings to select and notify prospective buyers, demonstrated by a call log maintained by Consultant.
- Participate in calls and meetings with SPU and Kent to notify selected buyer.

Timing:

- Commencement and completion of Task 4 is dependent upon receiving acceptable offers to evaluate under Task 3. Assuming acceptable offers are received, this task is estimated to take 4-6 weeks as the marketing window will stay open during the evaluation process.

Budget:

The total budget for Task 4 will not exceed \$15,000, unless agreed to in writing by SPU. This budget allows for more than one round of negotiation. Task 4 will be invoiced monthly on a time and materials basis at 50% of Consultant Rates. If the transaction closes, Consultant will invoice for the other 50% of Consultant rates for the time and materials already billed, up to the overall not to exceed amount for Tasks 3-5 of 5% of the total sales price for the North Assemblage. The remainder will be paid from the proceeds of the sale.

Task 5. Conduct Negotiations and Close Transaction

Consultant will assist SPU, in collaboration with Kent, as requested, to negotiate terms and conditions with selected buyer, and assist in coordination of activities to close a sales transaction. Examples include assisting with contract execution and obtaining council approval, resolution of due diligence and business issues, as well as other assistance needed to satisfy the closing requirements. The SPU Project Manager will give written notice to proceed with Task 5.

Deliverables:

- Assist SPU and Kent, as needed, to negotiate and draft contract documents with selected buyer and other closing requirements; and
- Calls and meetings with SPU and Kent and buyer related to negotiation and closing.

Timing:

- Commencement and completion of Task 5 is dependent upon selection of a preferred buyer in Task 4.
- Negotiation and execution of contracts and closing is estimated to take 8-12 weeks.

Budget:

- The total budget for Task 5 is not to exceed \$54,678, unless agreed to in writing by SPU. Task 5 will be invoiced monthly on a time and materials basis at 50% of the Consultant's Rates. If the

transaction closes, Consultant will invoice for the other 50% of Consultant Rates for the time and materials already billed, up to the overall not to exceed amount for Tasks 3-5 of 5% of the total sales price for the North Assemblage. The remainder will be paid from the proceeds of the sale.

Management Reserve for Task Amendments

SPU shall have the reserved authority to request additional work from Consultant (time and/or budget) under Tasks 1 through 5 or a new task in order to complete the sale. Tasks associated with the Management Reserve Fund (MRF) will be identified by SPU and require a written SPU/MRF letter to proceed that is signed by both parties.

Budget:

- A \$29,000 Management Reserve Fund is included in the budget. Up to \$4,000 of the MRF is set aside for the fabrication and installation of up to two large real estate signs as identified in Task 2. Consultant will obtain bids for the fabrication and installation. The compensation timing and ratio of the remaining \$25,000 will be determined if and when SPU determines that the Management Reserve Fund is needed. In addition, depending on the how the remaining \$25,000 of the Management Reserve is used, a portion of that cost could also be part of the reimbursement formula between SPU and Kent.

EXHIBIT A1: North Assemblage and South Assemblage Property Map

Appendix 1 Assemblage Areas



KEY		Total Acres*	Kent Ownership	SPU Ownership	
	North Assemblage	11.7 Acres	4.3 Acres	7.4 Acres	① PIN = 1522049065, Acres = 1.1
	South Assemblage	31 Acres	4.6 Acres	26.4 Acres	② PIN = 7260200115, Acres = 6.3

*Acres are approximate.

HEARTLAND

**EXHIBIT B2
PRIME CONSULTANT'S ESTIMATED PROJECT COSTS AND LABOR HOURS**

CONTRACT NO. R00-59-03-01. AMENDMENT NO. 2

PROJECT TITLE: HISTORIC SPU LANDFILL REDEVELOPMENT

The Hourly Rates used on this Contract are based on all-inclusive, fair and competitive "standard industry rates."

Please round off all decimals to the nearest dollar for all TOTAL figures

SALARY COSTS

<i>Task 1 – Define Transaction Structures</i>					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 total
Jim Reinhardsen	Managing Director	28.0	\$ 350	\$9,800	\$ 9,800
Matt Anderson	Principal	16.0	\$ 250	\$4,000	\$4,000
Matt Hoffman	Project Manager	36.0	\$ 180	\$6,480	\$6,480
TASK 1 SALARY TOTAL				\$20,280	
<i>SPU Amendment No. 2 Total (Kent will contribute \$4,750 to this task under a separate Contract between them and the Consultant)</i>					\$15,530

<i>Task 2 – Prepare Pre-Marketing Materials</i>					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 total
Jim Reinhardsen	Managing Director	11.7	\$ 350	\$4,095	\$4,095
Matt Anderson	Principal	9.9	\$ 250	\$2,475	\$2,475
Matt Hoffman	Project Manager	54.0	\$ 180	\$9,720	\$9,720
Stephen Russell	Production	18.0	\$ 100	\$1,800	\$1,800
Jenny Score	Graphics	32.4	\$ 125	\$4,050	\$4,050
Ian Loveless	Research Analyst	36.0	\$ 120	\$4,320	\$4,320
TASK 2 SALARY TOTAL				\$26,460	
<i>SPU Amendment No. 2 Salary Total (Kent will contribute \$4,750 to this task under a separate Contract between them and the Consultant)</i>					\$21,710

<i>Task 3 – Solicit Proposals</i>					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 total
Jim Reinhardsen	Managing Director	20.0	\$ 350	\$7,000	\$3,500
Matt Anderson	Principal	8.0	\$ 250	\$2,000	\$1,000
Matt Hoffman	Project Manager	30.4	\$ 180	\$5,472	\$2,736
Jenny Score	Graphics	5.6	\$125	\$ 700	\$ 350
TASK 3 SALARY TOTAL				\$15,172	
<i>SPU Amendment No. 2 Salary Total</i>					\$7,586

Task 4 - Review and Evaluate Responses					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 total
Jim Reinhardtsen	Managing Director	21.0	\$ 350	\$7,350	\$3,675
Matt Anderson	Principal	9.0	\$ 250	\$2,250	\$1,125
Matt Hoffman	Project Manager	30.0	\$ 180	\$5,400	\$2,700
TASK 4 SALARY TOTAL				\$15,000	
SPU Amendment No. 2 Salary Total					\$7,500

Task 5 - Conduct Negotiations and Close Transaction					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 total
Jim Reinhardtsen	Managing Director	68.9	\$ 350	\$24,115	\$12,058
Matt Anderson	Principal	32.3	\$ 250	\$ 8,075	\$ 4,038
Matt Hoffman	Project Manager	115.5	\$ 180	\$20,790	\$10,395
Ian Loveless	Research Associate	14.4	\$ 120	\$ 1,728	\$ 864
TASK 5 SALARY TOTAL				\$54,708	
SPU Amendment No. 2 Salary Total					\$27,355

SALARY COSTS SUBTOTAL	\$ 131,620	\$79,681
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DIRECT EXPENSES NOT TO EXCEED:

Task and sub-task	Subcontractor	Subcontractor Total	R00-59-03-01 Amend.#2 total
Task 2: Geo-spatial tool per scope of work	DRVE LLC	\$6,300	\$6,300
DIRECT EXPENSES NOT TO EXCEED SUBTOTAL		\$6,300	
SPU Amendment No. 2 Direct Expenses Sub-Total			\$6,300

PRIME CONSULTANT SALARY AND SUB CONTRACT SUB-TOTALS	\$137,920	
SPU Amendment No. 2 Salary and sub-contract sub-totals		\$85,981

* SPU MANAGEMENT RESERVE FUND	\$ 29,000	\$29,000
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PROJECT TOTAL NOT-TO-EXCEED AMOUNT	\$166,920	
SPU Amendment No. 2 Not-to-Exceed Amount		\$114,981

* There is no mark-up allowed on any direct expenses. Sub-consultants are considered direct expenses.

** If there a MRF, the use of it is governed by the PAYMENT subsection relating "Payment from the Management Reserve Fund", of the original SPU Roster Contract No. R00-59-03-01.

***As described in the scope of work (Exhibit A2):

- For Task 1 and Task 2. Consultant will be compensated on a time and materials basis not to exceed \$20,280 for Task 1 and \$532,760 for Task 2. Kent will contribute \$4,750 to Task 1 and \$4,750 to Task 2 through a

separate contract between the City of Kent and Consultant. SPU's budget for Task 1 is \$15,530. SPU's budget for Task 2 is \$28,010 (\$21,710 for salary and \$6,300 for Direct Expenses).

- **For Tasks 3 through 5.** These tasks will consist of typical brokerage services. The total budget for Tasks 3-5 is not to exceed \$84,850. Consultant will be compensated for Tasks 3-5 in the following manner:
 1. Consultant will invoice SPU monthly on a time and materials basis at 50% of Consultant Rates.
 2. If the North Assemblage does not sell, Consultant will receive no further compensation.
 3. If the North Assemblage transaction closes, Consultant will be compensated for the other 50% of Consultant Rates for the time and materials already billed, up to the overall not to exceed amount for Tasks 3-5 of 5% of the total sales price for the North Assemblage. This compensation will be paid from the proceeds of the sale. Consultant may invoice SPU for the other 50% of Consultant Rates for the time and materials already billed, up to the not to exceed amount, unless the MOA between SPU and Kent identifies a reimbursement formula or cost sharing approach between SPU and Kent that requires Consultant to bill Kent directly for its share of the compensation to the Consultant for Tasks 3-5.

**EXHIBIT D2
SUB-CONSULTANT INFORMATION**

PRIME Consultant:	Heartland, LLC
SUB Consultant	DRVE LLC
Contract No.:	Amendment No. 2 to SPU Roster Contract No. R00-59-03-01
Contract Title:	HISTORIC SPU LANDFILL REDEVELOPMENT

Sub-consultant Billing Rate Options: DEFINITION / CALCULATION	
AI - All-Inclusive Hourly Rate	Base Salary plus Overhead & Fringe Benefits plus Profit
DL - Direct Labor Multiplier Rate	Use the lesser of: The Base Salary (1.0) plus Combined Overhead and Fringe Rates (x.xx) times Profit Multiplier (1.12) equals Calculated Direct Labor Multiplier (x.xx); OR The Direct Labor Multiplier of 3.12 times the Base Salary.
SI - Standard Industry Rate	Rates that are comparable and competitive with the rates of others that are in the same business. (May be used by small firms that do not have an established, audited overhead.)

- ◆ Sub-consultants authorized for this Contract are listed below along with their Billing Rate Option and other business information.

Legal Bus. Name	Total Amount		Rate Type
DRVE LLC	\$ 6,300		SI
Address	5710 SW Stevens, Seattle WA 98116		
Contact	Luis Borrero	E-mail	luisustain@gmail.com
Phone	(206) 853-4559	Fax No.	

EXHIBIT E2-1
SUBCONSULTANT'S ESTIMATED PROJECT COSTS AND LABOR HOURS

CONTRACT NO. R00-59-03-01. AMENDMENT NO. 2
SUBCONSULTANT: DRVE LLC
PROJECT TITLE: HISTORIC SPU LANDFILL REDEVELOPMENT

The Hourly Rates used on this Contract are based on all-inclusive, fair and competitive "standard industry rates."

Please round off all decimals to the nearest dollar for all TOTAL figures

SUB-CONTRACTOR COSTS

Task 2 – Prepare Pre-Marketing Materials Sub-task: Geo-spatial communication tool					
Staff Name	Job Title	Hours	Hourly Rate	Project Total	R00-59-03-01 Amend.#2 Subcontractor Total
Luis Borrero	Principal	36	\$175.00	\$6,300	\$6,300
<i>Sub-contractor TOTAL Not to Exceed</i>				<i>\$6,300</i>	<i>\$6,300</i>

**EXHIBIT F2-1
SUBCONSULTANT'S SALARY RATES**

SubConsultant:	DRVE LLC		
Contract No.:	Amendment No.2 to SPU Roster Contract No. R00-59-03-01		
Contract Title:	HISTORIC SPU LANDFILL REDEVELOPMENT		
The following are the Salary Rates the Consultant will charge for work performed under this Contract. Any adjustments to these rates must be requested in writing and, if agreed to, be documented in a "Revised" Consultants' Salary Rates Exhibit, which will be incorporated in and attached to this Contract by the fact of the Exhibit's acceptance by the SPU Project Manager.			
The Hourly Rates used on this Contract are based on all-inclusive, fair and competitive "standard industry rates."			
Staff Name	Title	Hourly Base Salary Rates	Hourly All-Inclusive Billing Rates
Luis Borrero	Principal	N/A	\$175

