CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Approval of Request for Proposals and Approval of Memorandum of Understanding with City of Clive – University Avenue Corridor Study

DATE: September 3, 2019

FINANCIAL IMPACT: The City of West Des Moines has budgeted $200,000 for this study. The Metropolitan Planning Organization (MPO) has awarded the City of West Des Moines a $100,000 grant toward the study. The Memorandum of Understanding with the City of Clive has Clive providing a not-to-exceed amount of $50,000. The total budget for the Request for Proposal is $350,000.

BACKGROUND: From the mid-1970s until the early 2000s, the University Corridor was one of the strongest retail and office corridors in the State. With the aging of development within the corridor, competition from other areas of the City and the Metro, and the changing nature of retail and office development, the area has lost some of its economic vitality. The City of West Des Moines and the City of Clive would like this area studied for future redevelopment opportunities.

OUTSTANDING ISSUES (if any): None

RECOMMENDATION: Staff recommends City Council approve the resolution approving the Request for Proposal and Memorandum of Understanding with the City of Clive for the University Avenue Corridor Study and authorize the Mayor to sign the MOU.

Lead Staff Member: CAG **Christine Gordon, AICP, Housing Planner**

STAFF REVIEWS

Department Director	Clyde Evans, AICP CEE
Appropriations/Finance	Tim Stiles
Legal	DS
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	NA
Dates(s) Published	NA

SUBCOMMITTEE REVIEW (if applicable)

Committee	NA		
Date Reviewed	NA		
Recommendation	Yes	No	Split

ATTACHMENTS:

Exhibit I - Request for Proposal
Exhibit II - Memorandum of Understanding with City of Clive
Exhibit III - Resolution

REQUEST FOR PROPOSALS (RFP) - PROFESSIONAL CONSULTING SERVICES

For the City of West Des Moines

PREPARATION OF A REDEVELOPMENT PLAN FOR THE UNIVERSITY AVENUE CORRIDOR

PART I: ADMINISTRATIVE INFORMATION

1.1 PURPOSE

The City of West Des Moines, Iowa are seeking a consultant to develop an intentional plan for the enhancement and redevelopment of the 600 acre University Avenue corridor to increase the economic vitality and desirability of this aging area of the City (See Exhibit I for map of area). The plan will enable a vibrant and sustainable live, work, and play environment, incorporating residential opportunities in proximity to a variety of day and night time uses and amenities connected by a transportation network that allows for vehicle and pedestrian modes of travel to co-exist while increasing and enhancing the presence of the natural environment throughout the area.

1.2 BACKGROUND

The City of West Des Moines originally was incorporated in 1893 around the junction of two (2) railroad lines and associated railroad roundhouse areas. Employment in the City tended to be centered on the railroads and the cement industry.

During the depression the railroads relocated their operations out of the community. Following World War II, West Des Moines experienced some residential growth, but it was not until the construction of Interstate 235 through the community the pace of development activity took a sharp rise, particularly in the University Avenue Corridor.

Today, West Des Moines is one of the fastest growing communities in the State of Iowa. In 2010, the City's population was 56,609. With the 2015 Special Census for the City, the

population had grown to 61,266. The 2018 Census Estimate placed the City's population at 65,608. A 15.9% increase in population over the 8 years.

In addition to the rapid rise in population, the City has become a major retail and employment center in the State with over $1.79 billion in taxable sales in 2017, the 4th highest in the State. West Des Moines currently has a work force of more than 62,000 employees and a day-time population of more than 128,000. The primary employment sectors for the City are insurance/finance, software development, and retail/hospitality.

From the mid-1970s until the early 2000s, the University Corridor was one of the strongest retail and office corridors in the State. With the aging of development within the corridor, competition from other areas of the City and the Metro, and the changing nature of retail and office development, the area has lost some of its economic vitality.

As the University Avenue corridor is shared between the City of West Des Moines and the City of Clive, the City of Clive will be a partner and key stakeholder in the creation of the Redevelopment Plan.

1.3 OBJECTIVES OF THE RFP

Develop a detailed action plan for the overall enhancement and redevelopment of the study area which will result in the following:

- Analysis the existing market conditions, identification of gaps that could be exploited and review economic opportunities for the commercial real estate in the area. Consider both short-term and long-term market based solutions to take advantage of identified opportunities.

- Creation of a realistic and implementable future land use plan based on the economic reality of the market and consideration of the infrastructure limitations of the existing built environment. A full range of commercial and office offerings, including the introduction of residential and mixed uses where appropriate shall be explored and identification of use categories and business industries that should be actively sought for establishment into the study area should be developed.

- Identification of key buildings and areas that are now, or will in the foreseeable future, merit repurposing or redevelopment. Maximizing the assessed value of the existing real estate through incremental improvement or adaptive reuse in addition to creation of economic development through overall redevelopment should be analyzed.

- Identification of new activity nodes and areas where a more urban development pattern with increased densities (residential and commercial) can be supported by existing or improved infrastructure (roads, sewer and water). Consideration of the necessary catalyst to support the development of the nodes shall be reviewed.

- Identification of opportunities to improve the predictability of the traffic flow and reduce the peak hour traffic congestion at key intersections. Exploring the benefits of incorporating various modes of transportation, including the promotion of transit service, resulting in increased walkability and co-existence of vehicles and pedestrians is desired.

- Identification of roadway enhancements to mitigate and soften the presence of pavement while achieving safety and comfort for pedestrians and bicyclists.

- Development of a Master Storm Water Management Plan for the corridor. The plan shall include the identification of improvements that bring the overall system into compliance with current drainage and storm water management standards and promotes the use of green infrastructure that can provide open spaces and amenities to the corridor.

- Identification of opportunities throughout the corridor to integrate, enhance, and connect green spaces, both public and private, for recreation, gathering, and health and wellness.

- Incorporation of placemaking and arts throughout the corridor.

1.4 SCOPE OF SERVICES

The City expects the services of the selected firm to include:

- Stakeholder Engagement
  - Interview major property owners and tenants in the review of the market/economic analysis and identification of opportunities.
  - General public engagement should include at least three public meetings to discuss project goals, receive plan comments, and communicate plan outcomes.

- Site Development Opportunities

- Identify property ownership and existing tenants.
- Identify and map vacant and under-utilized buildings and properties.
- A cursory evaluation of the age and condition of buildings with a general statement on typical upgrades or improvements needed for its age and condition. Consider if buildings have exceeded their functional life span.

- Market/Economic Analysis
  - Analyze the market/economic forces impacting the study area.
  - Prepare a redevelopment readiness analysis to identify and prioritize properties for redevelopment.

- Zoning and Land Use
  - Analysis and illustration of the current land use for the study area, including valuation history over the past 10 years of all properties.
  - Prepare modeling and/or conceptual drawings to evaluate land use scenarios and fiscal performance for identified key redevelopment areas and individual sites.
  - Development of a detailed future land use plan for all buildings and properties.
  - Preparation of architectural concepts to guide redevelopment and direct regulatory changes that capture the existing and/or intended context of the area.
  - Assess the projected economic impact (ROI) of the proposed corridor enhancement and Redevelopment Plan on key areas and properties.
  - Complete fiscal impact modeling for revenue cost ratio. Revenues include property, income and sales taxes. Costs include infrastructure, operation and maintenance, and services.
  - Audit zoning, building, and fire code to identify obstacles to redevelopment and reuse. Propose changes that will not compromise safety. Identify standards to incentivize redevelopment of the corridor and simplify the development approval process.
  - Analysis of the development incentive and gap-financing programs necessary to achieve redevelopment outcomes. Include specific end-result criteria to qualify for financial assistance.

- Transportation and Walkability
  - Analysis of existing traffic volumes, patterns, and level of service for the existing roadway network.
  - Identification of modifications to improve the predictability of the traffic flow, minimize traffic congestion, and expand use of alternative modes of transportation.

- Conduct a walkability audit of a representative sampling of the area. Provide conceptual level plans to improve walkability, safety, comfort, and enjoyment for pedestrians/bicyclist.
- Identify key areas and implementations where pedestrians can be prioritized over vehicles.

- Infrastructure
  - Assessment of current infrastructure's adequacy, including broadband, to support proposed land uses and redevelopment.
  - Analysis of current storm water situation has been completed. Review provided report and identify opportunities and solutions for creating efficient multi-beneficial regional solutions. Include possible financial trade-off initiatives with individual property owners. Identify properties for City acquisition to facilitate implementation of storm water management facilities.
  - Create detailed list of public infrastructure improvements necessary to fully realize the redevelopment plan, including estimated costs and timing priority.

- Analysis and demonstration of equity in the proposed Redevelopment Plan.

- Development of detailed action and phasing plans for the public policy changes and infrastructure investments necessary for implementation of the Redevelopment Plan.

1.5 DELIVERABLES

Deliverables should include a bound printed copy of the plan, as well as editable electronic files that can be used by the City for both print and electronic communication. All print and electronic deliverables should be provided in ADA compliant formatting to be either captioned for multimedia or screen-reader friendly for print elements.

1.6 BUDGET

The applicant should propose a project budget in an hourly fee format with a not to exceed maximum for the project as defined in the Scope of Services. The budget should also provide an hourly fee structure for any additional work if needed. Printing costs related to presentation materials will be considered reimbursable expenses as part of

the not to exceed number for professional service contract. For contract purposes include an additional 5% over and above professional fees in the not to exceed number.

1.7 TIMELINE FOR CITY

The City expects to have a completed redevelopment study for presentation to the City Council by December 2020. The selected firm will present the plan to the Planning and Zoning Commission and the City Council of West Des Moines and Clive.

PART II: PROCESS

2.1 DISTRIBUTION OF REQUEST FOR PROPOSAL (RFP)

The RFP and any supporting documents will be made available via electronic distribution as requested by any qualified firm or individual and will be posted on the City web site: www.wdm.iowa.gov. A Notice will also be published in the Des Moines Register.

2.2 PROPOSAL PERIOD

The proposal period will commence on the date the Request for Proposals is issued and will end with the submission of the proposal as outlined in section 2.6.

2.3 QUESTION AND ANSWERS

During the proposal period, interested parties will be allowed to submit to the City written questions and requests for additional information via Christine Gordon, AICP at Christine.gordon@wdm.iowa.gov. All questions and requests received by 5:00 p.m. on Friday, September 13, 2019 will be answered via posting on the City's web site by 5:00 p.m. on Wednesday, September 18, 2019, unless the nature of the question or request requires further time or research to issue a proper response.

2.4 RECEIVE PROPOSALS

Proposals shall be addressed to the City Clerk and will be received at the Clerk's office at 4200 Mills Civic Parkway, Suite 2E, West Des Moines, Iowa, 50265, until 2:00 p.m., on Wednesday, October 2, 2019. Submittals and materials received after the time specified above will not be considered and will be returned unopened to the sender.

No costs associated with the preparation of this proposal, or incurred in any manner by the submitter, may be charged to the City. All materials submitted in response to this Request for Proposal will be considered the property of the City. The City reserves the right to use any and all ideas submitted in the proposals received unless those ideas are protected by copyright, legal patent or proprietary rights as stated by the proposer.

2.5 PROPOSAL ACCEPTANCE, REJECTION

Proposals will be reviewed privately by City staff. The City reserves the right to:

1. Waive any informality or irregularity in any proposal received;
2. Reject a proposal if it is not in full and complete compliance with the requirements and formats specified herein;
3. Reject a proposal which is in any way incomplete or irregular;
4. Reject all proposals if the proposals do not meet the overall standards established by this Request for Proposals; are otherwise inappropriate; or if it is in the best interest of the City to reject all proposals.
5. If the City so rejects all proposals it may thereupon either cancel this solicitation or re-solicit for proposals.
6. The City will determine a short list of proposers that will be asked to make a formal presentation.

2.6 TENATIVE PROJECT SCHEDULE

Included below for reference is the tentative project schedule. Schedule is subject to change.

Publishing of RFP	Wednesday, September 4, 2019
Deadline for questions and requests	Friday, September 13, 2019
All questions answered and posted	Wednesday, September 18, 2019
Deadline for proposal submittals	Wednesday, October 2, 2019 @ 2 p.m.
Staff/Committee Review of Proposals	Week of October 7, 2019
Presentation from firm	Week of October 21, 2019
Selection of firm	Friday, October 25, 2019
Council award of contract	Monday, December 16, 2019

PART III: SUBMITTAL REQUIREMENTS

3.1 PROPOSAL SUBMITTAL SPECIFIC REQUIREMENTS

The City asks that the response to the RFP consist of ten (10) hard copies along with a copy of the submittal in PDF file format contained on a compact disk or thumb drive. Each Proposal shall be in 8½" x 11", vertical format, consisting only of the specified materials requested below. Folded 11" x 17" pages in landscape orientation are acceptable.

To be responsive, each Proposal must include the following material in the exact order specified. Submittals not organized according to this format may be rejected. (Page limit: 20)

i) COVER LETTER: An officer of the firm submitting the Proposal and the designated lead consultant shall sign the cover letter. In case of a joint venture, an officer of each firm shall sign the cover letter as well as the designated lead consultant.

ii) TABLE OF CONTENTS

iii) PROJECT TEAM: Provide a general introduction on the makeup of the project team, including a brief history of the firm and each team member's area of expertise. Note any past experience of team members working together on other projects. For each team member, include name, affiliation, address, and telephone number. List the person who will serve as the main contact throughout the project. List any functions that will be subbed out and information on the firm(s) handling the work.

iv) PROJECT EXPERIENCE: Description of the last three completed projects which demonstrate the firm's current experience and ability to complete projects of a similar size, scope, and purpose in a timely manner and any other completed projects (representative examples) of similar types of projects.

For each project, submit a one-page maximum narrative description of the project and any website links. Color photos or graphics depicting the projects are encouraged but not required. The narrative description shall include the consultant of record, team member's role in the design of the project, the type of project, location and client name, and a brief statement indicating the relevance of this project to the University Avenue Corridor Study. Include address(es), telephone number(s), and the names of reference contacts for each project.

v) PROJECT NARRATIVE: The submittal should address each of the following criteria:

(1) Proposer's understanding of the Project Objectives and Scope of Services presented in this RFP.
(2) Proposer's impressions of the project's opportunities and constraints.
(3) A description of the proposed work task, concept/approach, and specifications as to which individual(s) and/or subcontractor(s) will be assigned to each aspect of the project.
(4) The envisioned working relationship with City staff and all reviewing bodies during all phases of the project.
(5) How the team will engage the public to gain public input.
(6) The process the team will use to develop the project within the budget.
(7) How the team will engage the property owners and major tenants.

vi) PROFESSIONAL SERVICES: Submit a fee summary for professional services. Summary shall be organized in accordance with the following outline:
(1) Fee Structure. Fees should be stated as an hourly not to exceed with a breakdown of anticipated hours for each deliverable. Provide a breakdown, by discipline, of all staff involved in the services proposed on an hourly basis to be used should the project scope be expanded. Reimbursable schedule for travel should be included as part of the not to exceed number.
(2) Projected timeframe (in calendar days) and anticipated workload/staff availability
(3) Other information at the option of the Proposer

vii) REFERENCES: Provide at least three (3) owner/user references. For each reference, list the person's name, address and current telephone number, and nature of the reference or relationship.

3.2 PRESENTATION OF PROPOSALS TO SELECTION COMMITTEE

Short-listed teams may be asked to present their proposals to the City staff. Each team may present its proposal to City staff. The project lead is expected to be present at the presentation as well as key members of the Proposer's team should be present. A maximum of one-half (1/2) hour will be allowed for each presentation, followed by up to fifteen (15) minutes for questions and discussion. Presentations will take place at the City of West Des Moines City Hall, 4200 Mills Civic Parkway. The order of presentations will be determined randomly. Proposers will be notified of the presentation schedule after the short list is announced. Immediately prior to each presentation, each design team will be allowed a maximum of fifteen (15) minutes to set up its presentation. Material presented shall be limited to that submitted by the proposer as part of its proposal. The medium of presentation is at the discretion of the presenting team.

3.3 EVALUATION OF PROPOSALS

The City staff evaluations will determine which proposer is selected based on the best interest of the City.

Scoring Criteria	Max Points
Past experience on comparable projects	25
Experience with similarly sized redevelopment studies	25
Qualifications and experience of staff assigned to engagement	20
Quality of proposal	10
Public Engagement proposed and Property owner/major tenants engagement proposed	10
Overall proposal cost	10
	100

3.4 SUPPORTING DOCUMENTS

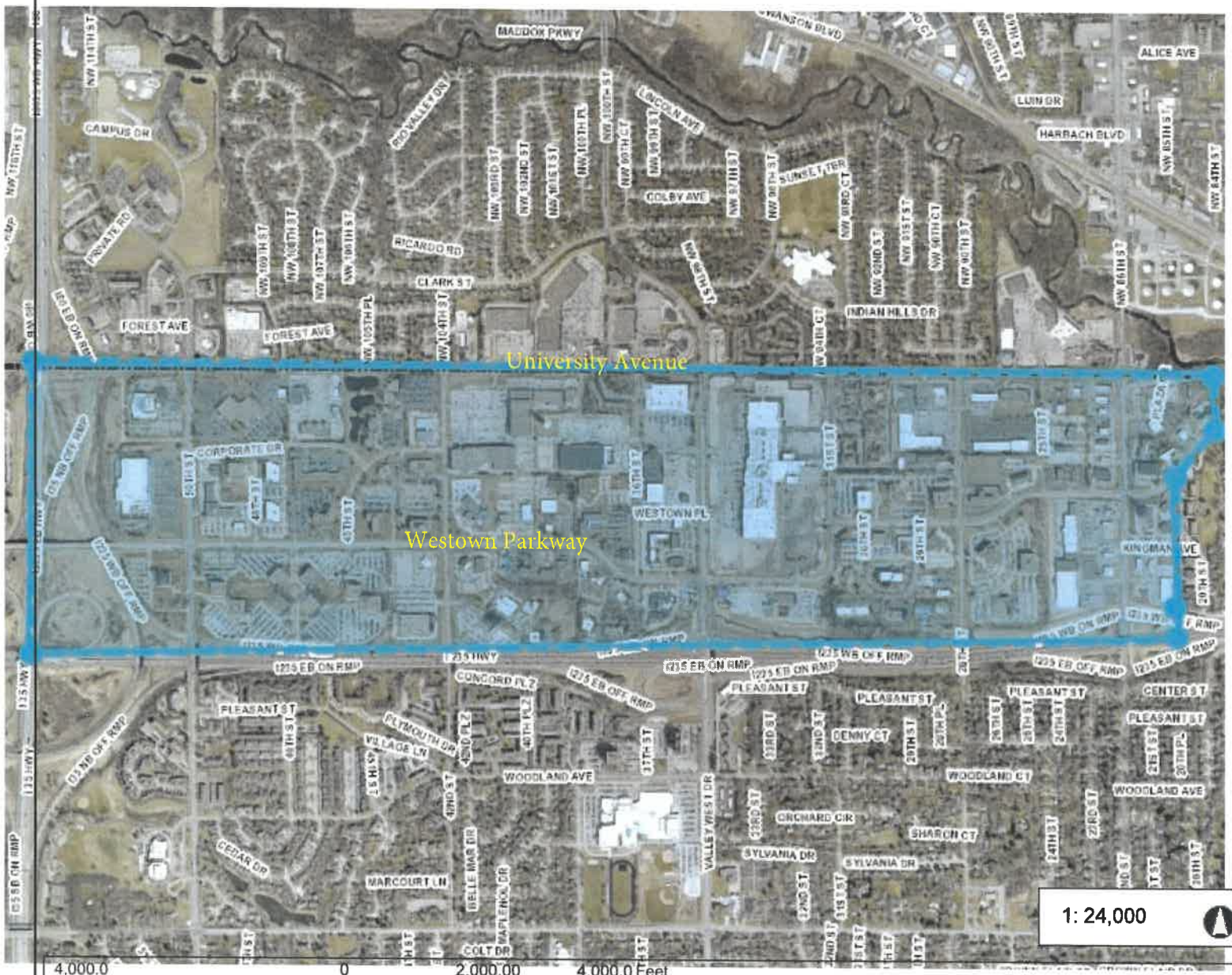
The following information will be provided with the RFP. Additional information or clarification may be posted on the City's web site during the RFP process.

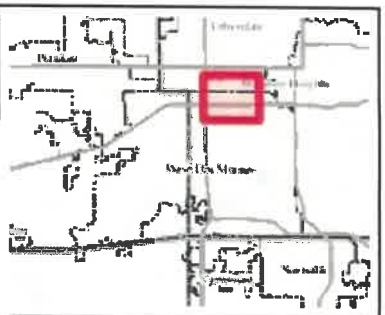
Attached Exhibits:

Exhibit I – Map of Study Area

Exhibit II - Example Professional Services Agreement for the City of West Des Moines

University Avenue Corridor Study Area





Legend

Corporate Limits

WGS_1984_Web_Mercator_Auxiliary_Sphere

© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

EXHIBIT I

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Agreement is made and entered into this _____ day of _____, 2019, by and between the CITY OF WEST DES MOINES, a municipal corporation, hereinafter referred to as "City", and _____, (Fed. I.D. #_____), a professional corporation incorporated and licensed under the laws of the State of Iowa, party of the second part, hereinafter referred to as "Consultant" as follows:

THE CITY HEREBY AGREES TO RETAIN THE CONSULTANT FOR THE PROJECT AS DESCRIBED IN THIS AGREEMENT AND CONSULTANT AGREES TO PERFORM THE PROFESSIONAL SERVICES AND FURNISH THE NECESSARY DOCUMENTATION FOR THE PROJECT AS GENERALLY DESCRIBED IN THIS AGREEMENT.

1. SCOPE OF SERVICES

   Services provided under this Agreement shall be as further described in Attachment 1, Scope of Services.

2. SCHEDULE

   The schedule of the professional services to be performed shall conform to the Schedule set forth in Attachment 2. Any deviations from the Schedule shall be approved by the authorized City representative. The City agrees that the Consultant is not responsible for delays arising from a change in the scope of services, a change in the scale of the Project or delays resulting from causes not directly or indirectly related to the actions of the Consultant.

3. COMPENSATION

   A. In consideration of the professional services provided herein, the City agrees to pay the Consultant the following sum NOT-TO-EXCEED, including any authorized reimbursable expenses, pursuant to the Schedule of Fees set forth in Attachment 3.

      i. Basic Services of the Consultant $_____

   B. The Consultant shall invoice the City monthly for services, any reimbursable expenses and any approved amendments to this Agreement, based upon services actually completed at the time of

the invoice. Final payment shall be due and payable within 30 days of the City's acceptance of Consultant's submission of final deliverables in accordance with the Scope of Services.

C. In consideration of the compensation paid to the Consultant, the Consultant agrees to perform all professional services to the satisfaction of the City by performing the professional services in a manner consistent with that degree of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar circumstances. If the performance of this Agreement involves the services of others or the furnishing of equipment, supplies, or materials, the Consultant agrees to pay for the same in full.

4. INSURANCE

A. Consultant understands and agrees that Consultant shall have no right of coverage under any and all existing or future City comprehensive, self or personal injury policies. Consultant shall provide insurance coverage for and on behalf of Consultant that will sufficiently protect Consultant or Consultant' representative(s) in connection with the professional services which are to be provided by Consultant pursuant to this Agreement, including protection from claims for bodily injury, death, property damage, and lost income. Consultant shall provide worker's compensation insurance coverage for Consultant and all Consultants' personnel. Consultant shall file applicable insurance certificates with the City, and shall also provide evidence of the following additional coverage.

B. The Consultant shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the State of Iowa in the limits of at least $1,000,000 each personal injury accident and/or death; $1,000,000 general aggregate personal injury and/or death; and $1,000,000 for each property damage accident. The evidence shall designate the City as an additional insured, and that it cannot be canceled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.

C. The Consultant shall also provide evidence of automobile liability coverage in the limits of at least $1,000,000 bodily injury and property damage combined. The evidence shall designate the City as an additional insured, and that it cannot be cancelled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.

D. The Consultant shall provide evidence of professional liability insurance, by an insurance company licensed to do business in the State of Iowa, in the limit of $1,000,000 for claims arising out of the professional liability of the Consultant. Consultant shall provide City written notice within five (5) days by registered mail, return receipt requested of the cancellation or material alteration of the professional liability policy.

E. Failure of Consultant to maintain any of the insurance coverage's set forth above shall constitute a material breach of this Agreement.

5. NOTICE

Any notice to the parties required under this agreement shall be in writing, delivered to the person designated below, by United States mail or in hand delivery, at the indicated address unless otherwise designated in writing.

FOR THE CITY:		FOR THE CONSULTANT:	
Name:	City of West Des Moines	Name:	Consultant
Attn:	Ryan T. Jacobson, City Clerk	Attn:	
Address:	4200 Mills Civic Parkway	Address:	
City, State:	West Des Moines, IA 50265-0320	City, State:	West Des Moines, IA

6. GENERAL COMPLIANCE

In the conduct of the professional services contemplated hereunder, the Consultant shall comply with applicable state, federal, and local law, rules, and regulations, technical standards, or specifications issued by the City. Consultant must qualify for and obtain any required licenses prior to commencement of work, including any professional licenses necessary to perform work within the State of Iowa.

7. STANDARD OF CARE

Services provided by the Consultant under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

8. INDEPENDENT CONTRACTOR

Consultant understands and agrees that the Consultant and Consultant's employees and representatives are not City employees. Consultant shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits, or any other form of compensation or benefit to Consultant or Consultant's employees, representatives or other personnel performing the professional services specified herein, whether it be of a direct or indirect nature. Further, it is expressly understood and agreed that for such purposes neither Consultant nor Consultant's employees, representatives or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement, or any other benefits whatsoever.

9. NON-DISCRIMINATION

Consultant will not discriminate against any employee of applicant for employment because of race, color, sex, national origin, religion, age, handicap, or veteran status. Consultant will, where appropriate or required, take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, sex, or national origin, religion, age, handicap, or veteran status. Consultant will cooperate with the City in using Consultant's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts of work under this Agreement.

10. HOLD HARMLESS

Consultant agrees to indemnify and hold harmless the City, its officers, agents, and employees from any and all claims, settlements and judgments, to include all reasonable investigative fees, attorney's fees, and court costs for any damage or loss which is due to or arises from a breach of this Agreement, or from negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its sub consultants or anyone for whom Consultant is legally liable.

11. ASSIGNMENT

Consultant shall not assign or otherwise transfer this Agreement or any right or obligations therein without first receiving prior written consent of the City.

12. APPROPRIATION OF FUNDS

The funds appropriated for this Agreement are equal to or exceed the compensation to be paid to Consultant. The City's continuing obligations under this Agreement may be subject to appropriation

of funding by the City Council. In the event that sufficient funding is not appropriated in whole or in part for continued performance of the City's obligations under this Agreement, or if appropriated funding is not expended due to City spending limitations, the City may terminate this Agreement without further compensation to the Consultant. To the greatest extent allowed by law, the City shall compensate Consultant as provided in Section 18(B) of this Agreement.

13. AUTHORIZED AMENDMENTS TO AGREEMENT

A. The Consultant and the City acknowledge and agree that no amendment to this Agreement or other form, order or directive may be issued by the City which requires additional compensable work to be performed if such work causes the aggregate amount payable under the amendment, order or directive to exceed the amount appropriated for this Agreement as listed in Section 3, above, unless the Consultant has been given a written assurance by the City that lawful appropriation to cover the costs of the additional work has been made.

B. The Consultant and the City further acknowledge and agree that no amendment to this Agreement or other form, order or directive which requires additional compensable work to be performed under this Agreement shall be issued by the City unless funds are available to pay such additional costs, and the Consultant shall not be entitled to any additional compensation for any additional compensable work performed under this Agreement. The Consultant expressly waives any right to additional compensation, whether in law or equity, unless prior to commencing the additional work the Consultant was given a written amendment, order or directive describing the additional compensable work to be performed and setting forth the amount of compensation to be paid, such amendment, order or directive to be signed by the authorized City representative. It is the Consultant's sole responsibility to know, determine, and ascertain the authority of the City representative signing any amendment, directive or order.

14. OWNERSHIP OF CONSULTING DOCUMENTS

All sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall become the property of the City; a reproducible set shall be delivered to the City at no additional cost to the City upon completion of the plans or termination of the services of the Consultant. All drawings and data shall be transmitted in a durable material, with electronic files provided when feasible to do so. The Consultant's liability for use of the sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall be limited to the Project.

15. INTERPRETATION

No amendment or modification of this Agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of the Agreement. This is a completely integrated Agreement and contains the entire agreement of the parties; any prior written or oral agreements shall be of no force or effect and shall not be binding upon either party. The laws of the State of Iowa shall govern and any judicial action under the terms of this Agreement shall be exclusively within the jurisdiction of the district court for Polk County, Iowa.

16. COMPLIANCE WITH FEDERAL LAW

To the extent any federal appropriation has or will be provided for the Project, or any federal requirement is imposed on the Project, Consultant agrees that Consultant will comply with all relevant laws, rules and regulations imposed on City and/or Consultant necessary for receipt of the federal appropriation. Consultant shall provide appropriate certification regarding Consultant's compliance.

17. SOLICITATION AND PERFORMANCE

A. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that the Consultant has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or contingent fee.
B. The Consultant shall not engage the services of any person or persons in the employ of the City at the time of commencing such services without the written consent of the City.

18. SUSPENSION AND TERMINATION OF AGREEMENT

A. The right is reserved by the City to suspend this Agreement at any time. Such suspension may be effected by the City giving written notice to the Consultant, and shall be effective as of the date established in the suspension notice. Payment for Consultant's services shall be made by the City for services performed to the date established in the suspension notice. Should the City reinstate the work after notice of suspension, such reinstatement may be accomplished by thirty (30) days written notice within a period of six (6) months after such suspension, unless this period is extended by written consent of the Consultant.

B. Upon ten (10) days written notice to the Consultant, the City may terminate the Agreement at any time if it is found that reasons beyond the control of either the City or Consultant make it impossible or against the City's interest to complete the Agreement. In such case, the Consultant

shall have no claims against the City except for the value of the work performed up to the date the Agreement is terminated.

C. The City may also terminate this Agreement at any time if it is found that the Consultant has violated any material term or condition of this Agreement or that Consultant has failed to maintain workers' compensation insurance or other insurance provided for in this Agreement. In the event of such default by the Consultant, the City may give ten (10) days written notice to the Consultant of the City's intent to terminate the Agreement. Consultant shall have ten (10) days from notification to remedy the conditions constituting the default.

D. In the event that this Agreement is terminated in accordance with paragraph C of this section, the City may take possession of any work and may complete any work by whatever means the City may select. The cost of completing said work shall be deducted from the balance which would have been due to the Consultant had the Agreement not been terminated and work completed in accordance with contract documents.

E. The Consultant may terminate this Agreement if it is found that the City has violated any material term or condition of this Agreement. In the event of such default by the City, the Consultant shall give ten (10) days written notice to the City of the Consultant's intent to terminate the Agreement. City shall have ten (10) days from notification to remedy the conditions constituting the default.

19. TAXES

The Consultant shall pay all sales and use taxes required to be paid to the State of Iowa on the work covered by this Agreement. The Consultant shall execute and deliver and shall cause any sub-consultant or subcontractor to execute and deliver to the City certificates as required to permit the City to make application for refunds of said sales and use taxes as applicable. The City is a municipal corporation and not subject to state and local tax, use tax, or federal excise taxes.

20. SEVERABILITY

If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall continue in full force and effect.

21. MISCELLANEOUS HEADINGS

Title to articles, paragraphs, and subparagraphs are for information purposes only and shall not be considered a substantive part of this Agreement.

22. FURTHER ASSURANCES

Each party hereby agrees to execute and deliver such additional instruments and documents and to take all such other action as the other party may reasonably request from time to time in order to effect the provisions and purposes of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute an original document, no other counterpart needing to be produced, and all of which when taken together shall constitute the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents on the day and year first above written.

CONSULTANT	CITY OF WEST DES MOINES
BY:_____	BY:_____
President	Tom Hadden City Manager

EXHIBIT II

MEMORANDUM OF UNDERSTANDING

PLANNING SERVICES PROVIDED BY THE CITY OF WEST DES MOINES TO THE CITY OF CLIVE

This Agreement is hereby entered into this ____ day of _____, 2019, by and between the City of Clive ("Clive") and the City of West Des Moines ("West Des Moines") (collectively referred to as the "Parties").

WHEREAS, West Des Moines has identified a need for extensive planning services to understand the current market conditions for the University Avenue Corridor between Interstate 80/35 and 22nd Street/86th Street and to identify opportunities to ensure that the real estate along the corridor remains viable over the long term; and

WHEREAS, the University Avenue Corridor comprises real estate located in both the City of West Des Moines and the City of Clive; and

WHEREAS, the City of Clive and City of West Des Moines desire to work together in the development of a comprehensive redevelopment action plan for the entire corridor; and

WHEREAS, the parties desire to enter into this Memorandum of Understanding on a short-term basis with the following stated terms and conditions.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. Purpose. West Des Moines and Clive desire to work together on the creation of a redevelopment action plan for a defined area along the University Avenue Corridor as shown on attached **Exhibit A**. West Des Moines will lead the planning effort through a Request for Proposals (RFP) process to solicit proposals from planning consultants for the effort. Both West Des Moines and Clive will mutually agree to the scope of services for said planning project and mutually agree on the planning consultant to be selected for the project. If mutually agreed upon by the Clive City Manager and the West Des Moines City Manager, and subject to the provisions of this Agreement, additional planning services may be provided by West Des Moines to Clive. There is no obligation by Clive to request, or for West Des Moines to provide, additional planning services during the term of this Agreement.

2. Cost. Clive will pay West Des Moines a not-to-exceed amount of $50,000, billed monthly based on the billings received by West Des Moines for the consultant contract for planning services to create the redevelopment action plan. Any modification to the not-to-exceed amount shall be in writing and approved by the Parties. Clive will pay West Des Moines within thirty (30) days after invoice.

3. Duration. Subject to the provisions discussed below in "Modification and Termination", this Agreement shall remain in effect through the completion of the planning project, estimated to be December 30, 2020. This Memorandum of Understanding may be extended by written agreement signed by authorized representatives for both Parties.

4. Modification and Termination. Either party to this Agreement may withdraw from this Memorandum of Understanding upon not less than five (5) business days advance written notice by one party to the other party hereto. After such withdrawal by Clive, Clive shall be obligated to compensate West Des Moines for any Clive share of outstanding expenses associated with any consultant services contract for the planning project. Any modifications or amendments to this Agreement shall be in writing and approved by both Parties.

5. Notice. All notices under this Agreement shall be in writing and deemed to be given when deposited in the mail with the United States Post Office. Notice to Clive shall be addressed to Clive City Manager, Clive City Hall, 1900 NW 114th Street., Clive, Iowa 50325. Notice to West

Des Moines shall be addressed to City Manager, West Des Moines City Hall, PO Box 65320, West Des Moines, Iowa 50265. If, during the term of this Agreement, either party decides to change the address of its notice, it shall promptly notify the other party of said new address in writing.

6. Hold Harmless and Indemnification. Unless resulting from negligent actions or omissions of, or reckless, intentional and willful conduct of West Des Moines, its employees, agents or contractors and to the extent permitted by law, Clive agrees to defend, indemnify, and hold harmless West Des Moines, including its officials, employees, agents, successors and assigns, from any claims, demands, actions and/or causes of actions, judgments, settlements, or other costs, including attorney's fees, arising out of or related to the services provided by West Des Moines to Clive pursuant to this Memorandum of Understanding.

7. Miscellaneous. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Iowa. The Parties agree and consent to jurisdiction in Polk County, Iowa. This Agreement contains the entire Agreement among the Parties and may not be changed except by an amendment in writing signed by each of the Parties to this Agreement. If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall continue in full force and effect. Clive and West Des Moines agree to execute and deliver such additional instruments and documents and to take all such other action as the Parties may reasonably request from time to time in order to affect the provisions and purposes of this Agreement.

By authorized signature of this Agreement, the Parties agree to this Memorandum of Understanding for the provision of planning services by West Des Moines to Clive.

City of Clive

_____ _____
(Signature) Date

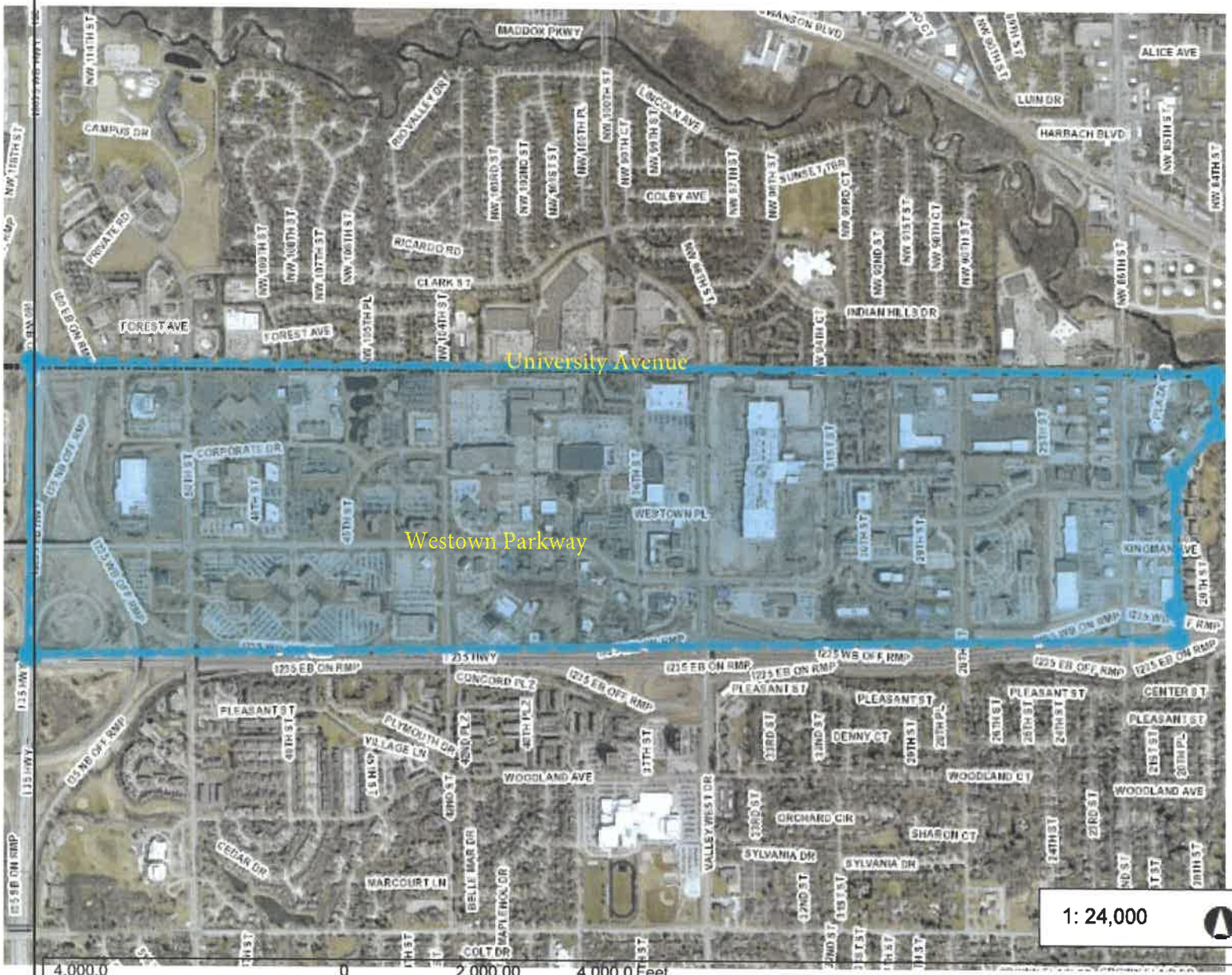
_____
(Print Name, Title)

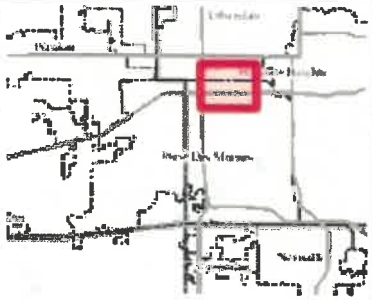
City of West Des Moines

_____ _____
(Signature) Date

_____
(Print Name, Title)

University Avenue Corridor Study Area





Legend

Corporate Limits

WGS_1984_Web_Mercator_Auxiliary_Sphere

© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Exhibit A

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING THE REQUEST FOR POPOSALS AND APPROVAL OF THE MEMORADUM OF UNDERSTANDING WITH CITY OF CLIVE – UNIVERSITY AVENUE CORRIDOR STUDY

WHEREAS, the City of West Des Moines has had one of the strongest retail and office corridors in the State along University Avenue; and

WHEREAS, the area has lost some of its economic vitality recently; and

WHEREAS, the City would like to hire a consultant to study the area and recommend possible redevelopment actions; and

WHEREAS, the City would like to partner with the City of Clive on this study as University Avenue is shared between the two cities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, the Request for Proposals and Memorandum of Understanding with City of Clive for the University Avenue Corridor Study are hereby approved.

PASSED AND ADOPTED on September 3, 2019

_____
Steven K. Gaer
Mayor

ATTEST:

_____
Ryan Jacobson
City Clerk