

**Consulting Services Contract
City of Waukesha – 110%, Inc.
Project Name: SDScorecard**

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, 201 Delafield Street, Waukesha, Wisconsin 53188, referred to herein as the City; and 110%, Inc., a Colorado corporation, Post Office Box 21541, Boulder, Colorado 80308, referred to herein as the Consultant. Together, the City and Consultant are referred to as the Parties.

Recitals

Consultant offers service-delivery-optimization analysis and consulting services. The City wishes to engage Consultant for analysis and recommendations of the operations of its Department of Parks, Recreation and Forestry.

Consultant represents that it has the necessary qualifications to perform such consulting services for the City, and is willing to contract with the City to do so.

Now, therefore, the City and the Consultant agree and contract as follows:

1. **Scope of Work.** The Consultant shall perform the Work described on Schedule A, according to the terms and conditions of this Contract. Schedule A is incorporated into this Contract by reference.
2. **Standard of Work.** Consultant will perform the Work according to generally-accepted industry practices and standards.
3. **Payment.** The City shall pay to Consultant a total, not-to-exceed Contract Price of Twenty-Nine Thousand Nine Hundred Forty-Nine Dollars (\$29,949.00) for performance of the Work in compliance with the terms and conditions of this Contract. The Contract Price is all-inclusive of administrative, travel and other associated expenses. Consultant shall invoice the City as Work progresses, monthly. No more than 90% of the Contract Price shall be payable before Consultant's Work is complete and the final deliverable is delivered to the City. All invoices shall be payable net 30 days.
4. **Time.** Consultant shall commence the Work as promptly after execution of this Contract as is possible, shall proceed in substantial compliance with the Project Schedule in Schedule A, and shall complete the Work no later than May 1, 2016, subject only to delays for circumstances beyond Consultant's control, provided Consultant recommences work promptly in good faith upon the return of normal circumstances.
5. **Ownership of Work Product.** All materials produced in the performance of the Work shall be the sole property of the City, and shall be kept confidential and not disclosed to any third party by Consultant without the prior written permission of the City.
6. **Changes.** This Contract can only be amended by the written, mutual agreement of the Parties. No change to the scope of the Work, or the total amount to be paid to Consultant, shall be effective unless done by the prior, written, mutual agreement of the Parties. The Parties acknowledge that the fee for additional work beyond the Scope of Work in Schedule A will be \$145 per hour.
7. **Indemnification.** Consultant shall indemnify and hold the City harmless from any and all third-party claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind arising out of, or connected in any way with, Consultant's performance of the Work, including court costs and actual attorney fees.
8. **Insurance.** Consultant shall maintain insurance of the following kinds and for not less than the following limits, at Consultant's sole expense, at all times during the performance of the Work. Policies shall be occurrence, and not claims-made, policies. Consultant shall obtain an endorsement making the City an additional insured

and loss payee, and Consultant's insurance shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Upon the execution of this Contract, Consultant shall deliver a certificate of insurance to City showing that all requirements of this section are met.

- a. Commercial general liability, \$1,000,000 per occurrence, \$2,000,000 aggregate per project.
 - b. Automobile liability, \$1,000,000 bodily injury, \$1,000,000 property damage.
 - c. Umbrella, \$1,000,000.
 - d. Professional liability-errors and omissions, \$1,000,000, with extended-reporting period endorsement.
9. **Record Keeping.** Consultant shall keep all documents and records generated in the performance of the Work for no less than 7 years after completion of the Work, and shall make them available to the City at the City's request. Consultant acknowledges that such documents and records may be subject to Wisconsin's Open Records Law.
10. **Attendance at Meetings.** Consultant shall attend all meetings required for the performance of the Work. The City shall give Consultant reasonable notice of meetings the City schedules, so that Consultant may schedule and attend.
11. **Cooperation by City.** The City shall cooperate with the Consultant in the performance of the Work, and shall respond timely to all reasonable requests for information and access.
12. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
13. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
14. **Permits and Licenses.** Consultant shall be responsible, at Consultant's expense, for obtaining all permits and licenses required for the performance of the Work.
15. **Assignment Prohibited.** This Contract, and the Consultant's responsibility to perform the Work under this Contract, may not be assigned by the Consultant without the City's written consent.
16. **Notices.** All notices required by this Contract, and all other communications between the Parties, shall be addressed as follows:
- To the City: Attention Mona Bauer
City of Waukesha Dept of Parks Recreation & Forestry
1900 Aviation Dr
Waukesha WI 53188
 - To Consultant: Attention Jamie S. Sabbach
110%, Inc.
PO Box 21541
Boulder CO 80308
17. **Corporate Authorization.** The individuals executing this Contract on behalf of the Consultant warrant and represent that they are duly authorized to bind the Consultant to this Contract. Consultant warrants and

represents that the execution of this Contract is not prohibited by the Consultant's articles of incorporation, by-laws, operating agreement, or other internal operating orders, or by any applicable law, regulation or court order. Consultant shall provide proof upon request.

18. **Assistance of Counsel, Voluntary Contract.** The Consultant acknowledges that it has either had the assistance of legal counsel in the negotiation, review and execution of this Contract, or has voluntarily waived the opportunity to do so; that it has read and understood each of this Contract's terms, conditions and provisions, and their effects; and that it has executed this Contract freely and not under conditions of duress.
19. **Adequacy of Consideration.** The Parties acknowledge that the consideration expressed in this Contract is adequate and sufficient to make the obligations contained in this Contract binding upon the Parties.
20. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
21. **Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.
22. **Survival and Parties Bound.** Unless specifically limited in this Contract, any term, condition or provision of this Contract will survive the execution of this Contract or any stated time periods, to the extent necessary for their performance. This Contract is binding upon, and inures to the benefit of, the Parties' successors, assigns, heirs, executors, trustees and personal representatives.
23. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.
24. **Integration.** This Contract constitutes the entire agreement of the Parties. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable.

City of Waukesha

By Shawn N. Reilly, Mayor
Date: _____

Attested by Gina L. Kozlik, City Clerk
Date: _____

To certify that funds are provided for payment:

Richard L. Abbott, Director of Finance
Date: _____

110%, Inc.

By _____
Title: _____
Date: _____

Schedule A Scope of Work

General

Consultant will perform SDscorecard analysis of the City's Department of Parks, Recreation and Forestry, referred to as the Department. The SDscorecard is a cloud/internet-based service delivery optimization tool that filters programs and services through four criteria: alignment with organizational purpose, financial viability, market position, and competitive landscape. The process will identify those programs and services the Department should be providing and how best to provide those services effectively and efficiently.

SDscorecard will assist the Department in delivering higher-quality service in a focused way, reducing wasteful, unnecessary duplication and investing in those programs/services which either meet a community need or provide an opportunity for return on investment.

Specific Services

Module 1: SDscorecard Train & Build

Step 1: Kick-off Meeting

The process officially kicks-off via an SDscorecard Initiation Meeting with identified Department representatives. A thorough review of the process will take place at this meeting including the formalization of timeline and details. This will include: review of the proposed process, timeline, and review of information and data requested of the Department.

Step 2: SDscorecard Workshop – An Introduction

This introductory workshop will provide a comprehensive overview of the SDscorecard including the following.

1. Explanation and detailed description of the SDscorecard including what it is, how it works, and intended results.
2. Staff will create the Department Service Categories (i.e., Non-competitive Activities versus Intro to Gymnastics).
3. A comprehensive review of the PASS™ cost accounting tool and how its use leads to a thorough evaluation of existing cost of service provision and equitable fees and charges, and how results can be used to make informed financial decisions moving forward. This also includes an introduction of the data and information needed to begin to "build" PASS™.
4. A review of staff's roles and responsibilities moving forward.

Step 3: Financial Information & Data Collection

This phase of the process consists of data and information collection specific to the PASS™ Build. The Department will receive a comprehensive and detailed Financial Data and Information Request document to guide the collection process.

Step 4: "Cost of Doing Business" Analysis - PASS™ Build

Once all required data and information has been compiled and submitted, the PASS™ Build can begin and will take place on-site to ensure that there is clarity around the Department's financial system, and to gather further relevant information and data as needed.

Step 5: SDscorecard Workshop – Continued

As a result of all work to date, another opportunity to meet with staff will provide the following.

1. Department staff will receive a review of reports resulting from the PASS™ Build and how the data and information can be used to assist in the analysis of all park and recreation services (specifically, how the data will inform the assessment of each service's financial condition and viability, and ultimately, how the data will direct the Department in its efforts to develop appropriate and equitable fees and charges, and realistic cost recovery goals).
2. Staff will receive a refresher of the SDscorecard in order to gain a deeper understanding of what "homework" they will need to complete for the next phase of the process.
3. A comprehensive review and analysis of current cost recovery levels (based upon existing agency data and the PASS™ Build) will provide baselines for the development of realistic and achievable two-three year cost recovery goals for each Service Category and ultimately, a Cost Recovery Model.
4. Staff will begin the development of the Department's Cost Recovery Model.

Optional: In the event the Department should so choose, a series of external stakeholder meetings / workshops can be scheduled to enlist public opinion concerning the "public good" or "private good" of services. This approach provides a complement to staff's work and creates a comprehensive review of stakeholder perspectives. Board members will be encouraged to participate in this step of the process per direction from the agency Director. These optional meetings and workshops shall be at no additional expense to the City.

Step 6: Service Information & Data Collection

Staff will be encouraged to utilize various resources as they gather relevant data and information in preparation of completing SDscorecards for each of their services during Step 7. Staff will receive a Service Data and Information Request document to guide their efforts. Recommended resources include, but are not limited to the following:

1. Service need and goals
2. Service evaluation and survey reports
3. Registration data - past 3-5 years
4. Current target markets
5. Demographic information and data
6. Known competitors

Step 7: Staff Work Sessions

Facilitated service area work sessions for each service area or unit of the Department (e.g., aquatics, adult sports, and seniors) will be held beginning with a brief review of the process to date. Immediately following review, staff will evaluate and analyze each service in their respective area utilizing all of the data and information compiled as a result of their resource collection efforts in Step 6.

Module 2: Financial Management Strategies & Policies

The development of comprehensive financial management strategies informed by the completion of Module 1 will include:

1. Current cost recovery/subsidy allocation levels by individual service
2. A useful Cost Recovery Model based upon real-time data and actual performance levels rather than arbitrary benchmarks, and
3. Financial management strategies and policies that will position the agency to immediately address short term financial challenges as well as long term financial interests such as investing in infrastructure (e.g., retained earnings policy).

Project Schedule

Tasks	Proposed Completion Date(s)
1. Execution of Contract & Agreement	TBD
2. Step 1: Kick-off Meeting	January 11, 2016
3. Step 2: Workshop I - Introduction	January 26th, 2016
4. Step 3: Information & Data Collection	January 27-29, 2016
5. Step 4: Cost of Doing Business Analysis	January - February 2016
6. Step 5: Workshop II (& Public Input)	Week of February 29th, 2016
7. Step 6: Info & Data Collection	March 2016
8. Step 7: Staff Work Sessions -SDscorecard Build	Week of March 28th, 2016
9. Results	April 2016