

## RESOLUTION R-85-07

**A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES  
AGREEMENT FOR A CONSULTING ENGINEER/DESIGNER  
DOWNTOWN KIOSKS**

**WHEREAS**, the City of Wheaton, Illinois ("City") is an Illinois Home Rule Municipality pursuant to provisions of Article VII, Section 6, of the Illinois Constitution of 1970, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

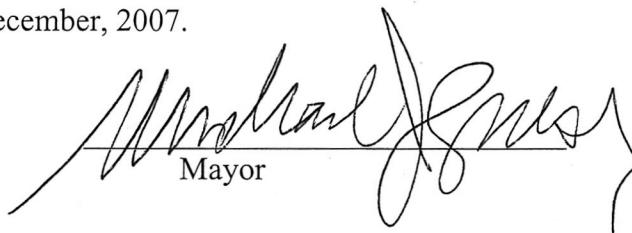
**WHEREAS**, the subject matter of this resolution pertains to the government and affairs of the City and its residents; and

**WHEREAS**, the City is seeking a qualified consulting engineer/designer to provide two informational kiosks in the Downtown; and

**WHEREAS**, the City has determined the proposal provided by Western Remac, Inc. meets the City's needs for professional services for the Downtown Kiosk project, and City staff is recommending to the Mayor and City Council that the proposal received from Western Remac, Inc., Woodridge, Illinois, be accepted.

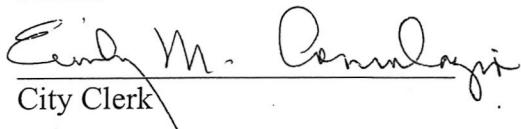
**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to sign and the City Clerk is authorized to attest to an agreement between the City of Wheaton and Western Remac, Inc., as attached hereto and made a part thereof.

**ADOPTED** this 17<sup>th</sup> day of December, 2007.



Michael J. Gresk  
Mayor

Attest:



Cindy M. Annalagio  
City Clerk

Roll Call Vote:

Councilman Mouhelis  
Councilman Prendiville  
Councilman Suess  
Councilwoman Corry  
Councilman Johnson  
Councilman Levine  
Mayor Gresk

Ayes: None

Nays: None

Absent: None

Motion Carried Unanimously

AGREEMENT BETWEEN THE CITY OF WHEATON, ILLINOIS,  
AND WESTERN REMAC, INC, WOODRIDGE, ILLINOIS -

THE CITY OF WHEATON DESIGN BUILD KIOSK PROJECT  
ENGINEERING AND IMPLEMENTATION OF CONCEPT #1:  
INFORMATION KIOSK AT NORTHEAST CORNER OF FRONT AND MAIN  
INFORMATION KIOSK IN THE ALLEY BETWEEN HALE AND PARKING GARAGE

THIS AGREEMENT is made and entered into by and between THE CITY OF WHEATON, an Illinois municipal corporation ("City"), 303 West Wesley Street, Wheaton, IL 60187, and WESTERN REMAC, INC. ("Consultant"), 1740 Internationale Parkway, Woodridge, IL 60517.

**RECITALS**

A. The City desires the project commonly known as "The City of Wheaton Design Build Project – Engineering and Implementation of Concept #1: Information Kiosk at Northeast Corner of Front and Main and Information Kiosk in the Alley between Hale and Parking Garage" to be performed; and

B. The City has determined that it is necessary to obtain the services of a licensed Consultant to engineer, design, furnish, and install two information kiosks, as more fully recited in the proposal (and appendix) dated 11/29/07, from Consultant, a copy of which is attached to, and incorporated in, this contract as Exhibit A; and

C. Consultant desires to provide the necessary services upon the terms set forth in this contract.

IN CONSIDERATION OF the mutual promises, terms, and conditions recited in this contract, the City and Consultant agree as follows:

1. *Scope of Services.* Consultant shall perform the services described in the proposal (and appendix) dated 11/29/2007, which are attached to, and incorporated in, this contract as Exhibit A. Consultant represents and warrants that it shall perform its services in a manner consistent with the level of care and skill customarily exercised by other professional consultants under similar circumstances at the time the services are performed.

2. *Compensation.* Compensation shall be as provided for in Exhibit A.

3. *Additional Services.* Consultant shall perform only those services specified herein. In the event Consultant and the City determines that additional services are required to complete the project, such additional services shall not be performed unless directed in writing by the City prior to executing said additional services. Payment for additional services shall be as mutually agreed upon in writing by the parties.

4. *Hold Harmless and Indemnification.* Consultant shall defend, hold harmless, and indemnify City, its directors, officers, employees, and agents, from and against any and all liabilities, losses, claims, demands, damages, fines, penalties, costs, and expenses, including, but not limited to, reasonable attorneys' fees and costs of litigation, and all causes of action of any kind or character, except as otherwise provided herein, to the extent that such matter arises from either of the following:

- a) Consultant's breach of any term, provision, warranty, standard or requirement of this Agreement including, but not limited to, those provisions of the contract documents pertaining to Consultant's work; or
- b) The negligence or willful misconduct of Consultant, its employees, agents, representatives, and subcontractors.

City shall defend, hold harmless, and indemnify Consultant, its directors, officers, employees, and agents, from and against any and all liabilities, losses, claims, demands, damages, fines, penalties, costs, and expenses, including, but not limited to, reasonable attorneys' fees and costs of litigation, and all causes of action of any kind or character, except as otherwise provided herein, to the extent that such matter arises from either of the following:

- a) City's breach of any term, provision, warranty, standard or requirement of this Agreement including, but not limited to, those provisions of the contract documents pertaining to City's work; or

b) The negligence or willful misconduct of City, its employees, agents, representatives, and subcontractors.

In the event that any claim for indemnification hereunder arises from the negligence or willful misconduct of both Consultant and City, the parties agree that any and all liabilities, losses, claims, shall be apportioned between the parties on the basis of their comparative degrees of fault, except as otherwise herein provided.

5. *Insurance.* Consultant and each of its agents, subcontractors, and consultants hired to perform any services provided for herein shall purchase and maintain during the term of this contract insurance coverage which will satisfactorily insure Consultant and, where appropriate, the City against claims and liabilities which may arise out of the services referred to in this contract. Such insurance shall be issued by companies authorized to do business in the State of Illinois and approved by the City. The insurance coverages shall include, but not necessarily be limited to, the following:

A. Worker's compensation insurance with limits as required by the applicable statutes of the State of Illinois. The employer's liability coverage under the worker's compensation policy shall have limits of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) each accident/injury and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) each employee/disease.

B. Commercial general liability insurance protecting Consultant against any and all public liability claims which may arise in the course of performance of this contract. The limits of liability shall be not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence bodily injury/property damage combined single limit and ONE MILLION DOLLARS (\$1,000,000.00) aggregate bodily injury/property damage combined single limit. The policy of commercial liability insurance shall include contractual liability coverage and an endorsement naming the City as an additional insured.

C. Commercial automobile liability insurance covering Consultant's owned, non-owned, and leased vehicles which protects Consultant against automobile liability claims whether on or off of the City's premises with coverage limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident bodily injury/property damage combined single limit.

D. Umbrella or excess liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence bodily injury/property damage combined single unit. The umbrella or excess coverage shall apply in excess of the limits stated in subparagraphs B and C above, and shall either include an endorsement naming the City as an additional insured or provide "following form" coverage for the primary insurance.

E. ~~Professional liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per claim covering Consultant against all sums which Consultant may become obligated to pay on account of any liability arising out of the performance of the professional services for the City under this contract when caused by any negligence act, error, or omission of Consultant or of any person employed by Consultant or any others for whose actions Consultant is legally liable. The professional liability insurance shall remain in force for a period for not less than four (4) years after the completion of the services to be performed by Consultant under this contract.~~

6. *Evidence of Insurance.* Consultant shall furnish the City with a certificate of insurance and, upon the request of the City, copies of all insurance policies and endorsements evidencing the coverages stated above. The insurance certificates and policies shall provide that no cancellation or modification of the policies shall occur without at least thirty (30) days prior written notice to the City. Consultant shall not commence any services under this contract until evidence of the required insurance is received and approved by the City.

7. *Compliance with Laws.* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations, and all City ordinances, rules, and regulations now in force or hereafter enacted in the performance of the services required under this contract.

8. *Contract of Services.* The City shall not be responsible for or have control over the means, methods, techniques, or procedures with respect to the performance by Consultant of the services in this contract.

9. *Termination of Contract.* If Consultant fails to perform according to the terms of this contract, the City may terminate this contract upon seven (7) days written notice to Consultant. In the event of a termination, the City shall pay Consultant for the services performed and expenses incurred as of the effective date of termination, less any sums attributable, directly or indirectly, to Consultant's breach. The written notice required under this paragraph shall be either (i) served personally during regular business hours; (ii) served by facsimile during regular business hours; or (iii) served by certified or registered mail, return receipt requested, addressed to the address listed in this contract with postage prepaid and deposited in the United States mail. Notice served personally or by facsimile transmission shall be effective upon receipt, and notice served by mail shall be effective three (3) business days after mailing.

10. *Discrimination Prohibited.* Consultant shall comply with the provisions of the Illinois Human Rights Act, as amended, 775 ILCS 5/1-101, *et seq.* (1992 State Bar Edition), and with all rules and regulations established by the Department of Human Rights. Consultant agrees that it will not deny employment to any person or refuse to enter into any contract for the performance of any services provided for in this contract to be performed on its behalf on the basis of unlawful discrimination as defined in the Illinois Human Rights Act.

11. *Recovery of Costs.* In the event the City is required to file any action, whether legal or equitable, to enforce any provision of this contract, the City shall be entitled to recover all costs and expenses incurred as a result of the action or proceeding, including expert witness and attorney's fees, if so provided in any order of Court.

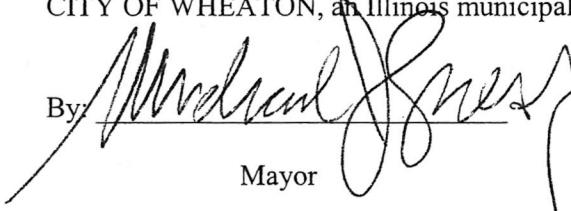
12. *Integration.* The provisions set forth in this contract represent the entire agreement between the parties and supersede all prior agreements, promises, and representations, as it is the intent of the parties to provide for a complete integration within the terms of this contract. This contract may be

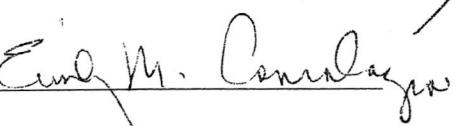
modified only by a further written agreement between the parties, and no modification shall be effective unless properly approved and signed by each party.

IN WITNESS WHEREOF, the parties have entered into this contract this 5<sup>th</sup> day of November, 2007.

CITY OF WHEATON, an Illinois municipal corporation

By:

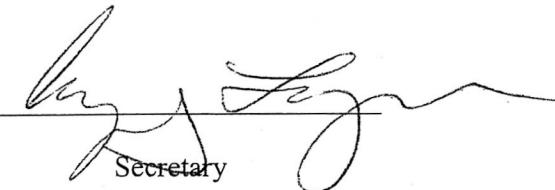
  
Mayor

ATTEST:   
Cindy M. Conradigan  
City Clerk

WESTERN REMAC, INC., "Consultant"

By: 

President

ATTEST:   
Lynn L. Jones  
Secretary

R-85-07

**Exhibit A**  
**Furnish and Installation Breakdown**  
**City of Wheaton Design Build Kiosk Project**

11/29/2007

Item / Description	Quantity	Lump Sum
Engineering and Shop Drawings	1	\$ 3,000.00
Furnish and Install two (2) Information Kiosks	2	\$ TBD
		<b>Totals</b> <b>\$TBD<sup>†</sup></b>

<sup>†</sup>Payment to Consultant will be made based on the quantities and services listed below at a total cost not to exceed \$30,000.00. The City will reimburse the Consultant for all permits, licenses, and fees associated with performing the services listed below.

Engineering, shop drawings, conceptual drawing, fabrication, and installation of two (2) information kiosks, roughly 5' x 8' in size, which incorporate dimensional and painted text, 2 cast plaques, a magnetic bulletin board, and a backlit wayfinding map (See Attached "Exhibit A Drawing"). All artwork will be provided by The City. Contract Price includes installation and final electrical hook-up at the site; however, The City is responsible to bring power (amount to be determined after the engineering phase of the project is complete) and communication (phone line, modem, and/or fiber optics), if necessary, to the site.

During the engineering phase, before final shop drawings are created, initial launch and follow-up meetings will be needed to specify products and materials to be incorporated into the Project for the two proposed sites. If The City deems additional Kiosks are necessary, the cost will be added to the Contract as a Change Order, at an amount to be proposed by the Consultant and agreed upon by both The City and the Consultant.

After shop drawings are created, a sign-off meeting will be held to approve shop drawings, materials, and color samples, and to determine the final budget. After the sign-off meeting, the Kiosks will be fabricated in accordance with the shop drawings. The Consultant will install the two Kiosks at the proposed sites.

If The City would like drawings stamped by a structural engineer, the stamped drawings will cost an additional \$1,500.00. Prices do not include sales tax. The City of Wheaton is a public body and is exempt from excise, sales, and use taxes and therefore sales tax will not be charged on this project. Upon request, The City will furnish the Consultant with its State of Illinois Exemption Number to procure materials to be incorporated into the project.

**Payment Schedule:**

1. \$3,000.00 (~10%) to commence engineering
2. 40% due at shop drawing, material, and color sample approval to procure materials
3. 30% due before installation
4. 20% due upon complete performance and acceptance of work by The City.

When requested, the Consultant will furnish applicable partial or final waivers of lien to The City at the time of payment.

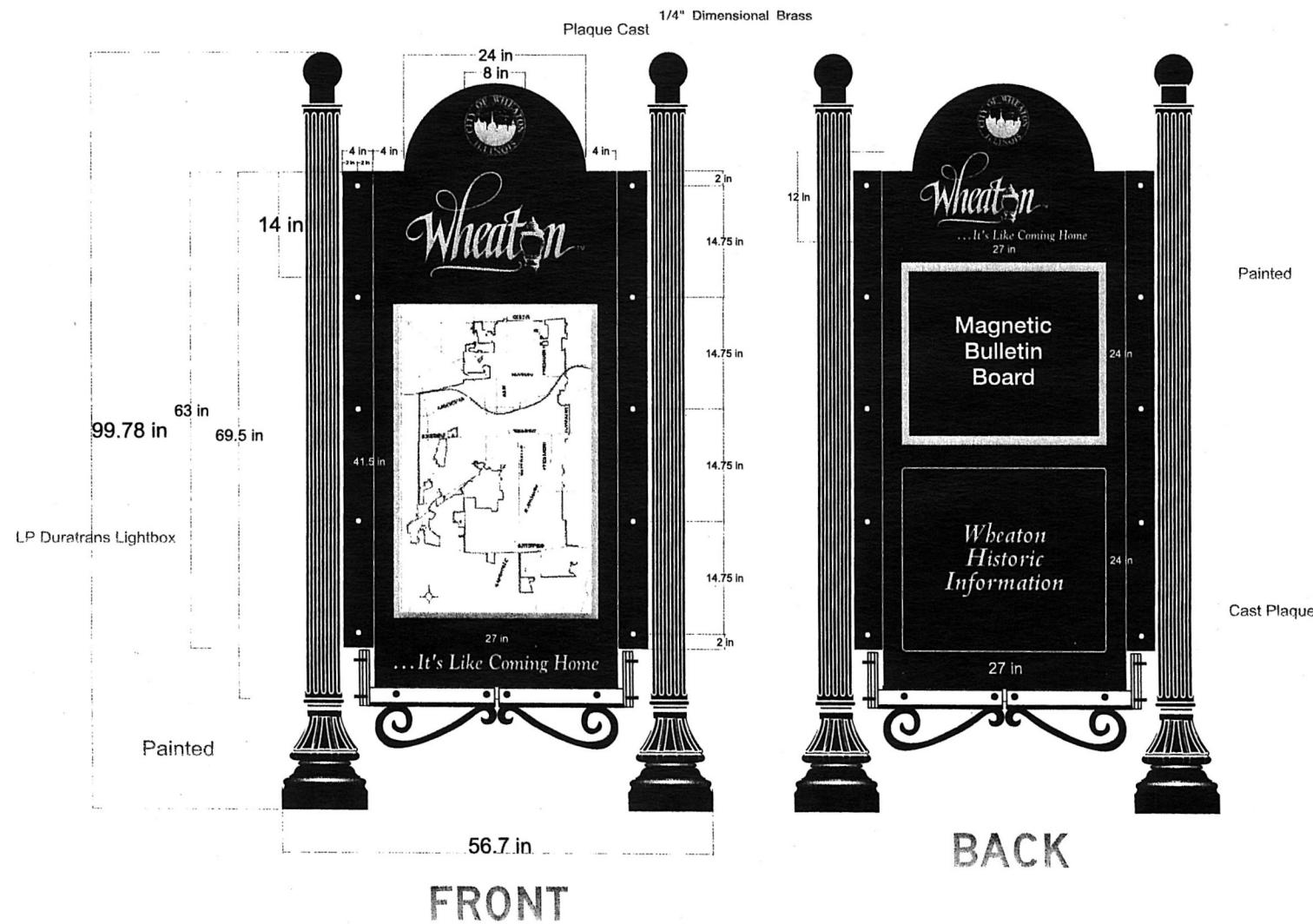
**Preliminary Project Schedule:**

From the date of the full execution of this contract:

1. The Consultant will submit Shop Drawings to The City within 2 weeks of the receipt of the 10% (\$3,000.00) down payment.
2. The City will have 1 week from the date it receives the Shop Drawings and Color Samples from the Consultant to approve them.
3. From the date The City notifies the Consultant in writing that the City has approved the Shop Drawings and Color Samples and forwards payment in the amount of 40% to the Consultant, the Consultant will have 12-14 weeks to fabricate kiosks.
4. Upon completion of fabrication, The City will forward payment in the amount of 30% to the Consultant, and the Consultant will have 1 week to install the kiosks.
5. At the completion of the project and acceptance by The City, a final payment of 20% will be due to the Consultant from The City.

# Exhibit A Drawing

 <b>Western™</b> <b>Remac</b> <b>Inc.</b> <i>Your Complete Sign Solution Provider™</i>		PROJECT:	DATE: 11/29/2007
1740 Internationale Pkwy. (630) 972-7770 Woodridge, IL 60517 fax(630) 972 9680		CUSTOMER: City of Wheaton	CONTACT:
		SALESPERSON: Mike Conoscenti	PHONE: FAX:
		PROD. FILE NAME: wheaton kiosk.FS	DESIGNER: Lisa Covington
		CUSTOMER APPROVAL SIGNATURE:	
		SCALE: 0.051	



PROCESS/MATERIALS
<input type="checkbox"/> CUT VINYL
<input type="checkbox"/> EXTRUDED PANEL
<input type="checkbox"/> ROUTED
<input type="checkbox"/> DIGITAL
<input type="checkbox"/> SILKSCREEN
<input type="checkbox"/> WRI DURAGRAPHICS
<input type="checkbox"/> OTHER color names:
CUT VINYL:
<input type="checkbox"/> le/r <input type="checkbox"/> le/g <input type="checkbox"/> le/c
<input type="checkbox"/> h/i <input type="checkbox"/> lt/l <input type="checkbox"/> hip
<input type="checkbox"/> d/g3 <input type="checkbox"/> d/g
1st or 2nd surf: 1st substrate:
ROUTED:
substrate:
de-mount:
finish:
mounting:
DIGITAL PRINT:
media:
overlame:
substrate:
1st or 2nd surf
R1, R2, R3
SILKSCREEN
media:
ink:
substrate:
ADA SIGNAGE:
wri-duragraphic:
photopolymer:
other
fonts:
radius:
margin:
border:
mounting instructions: