ATTACHMENT 2

TECHNICAL MEMORANDUM

Date: December 18, 2025

To: Chris Korwel, City of Lake Forest Park

Copy to: Sarah Ponte and Jessica Schwing, Ecology

From: Rebecca Dugopolski, PE, Herrera Environmental Consultants, Inc.; Chad Praul and Molly Daniels, Environmental Incentives; Lisa O'Fiesh and Sri Vedachalam, CIS

Subject: Proposed Performance-based Contracting Procurement Approach for City of Lake Forest Park

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Background

The Washington State Department of Ecology (Ecology) is providing consultant technical assistance and grant opportunities to local governments interested in developing and implementing community-based public-private partnerships (CBP3s) or performance-based contracts. The City of Lake Forest Park (City) staff requested technical assistance to explore an alternative procurement approach for developing a performance-based green stormwater infrastructure (GSI) retrofit program to reduce stormwater runoff and treat flows from existing residential development.

This memorandum explores fundamental elements of the CBP3 design process presented in *"Is a Community-Based Public-Private Partnership Right for your Community? A Guide for Municipal Stormwater Managers in Washington State*", including:

- Contracting and payment models
- Performance measures and verification
- Financing approach
- Legal review
- Potential program partners

This technical memorandum can be used by the City to educate internal program partners, invite input to help refine the contracting approach, and gain support from decision makers to move this concept forward. Future technical assistance may be available to further develop the contracting approach and support the alternative procurement process.

Performance-Based Program

The City is interested in designing a CBP3 to deliver GSI best management practices (BMPs) (e.g., rain gardens, cisterns, and native vegetation) to manage stormwater runoff on residential private property. This program will provide water quality and flow control benefits for multiple City receiving waters, including Lyon Creek, by reducing stormwater contributions and associated pollutants (including total suspended solids [TSS] and fecal coliform bacteria) from residential private parcels.

The City is currently developing an incentive-based pilot project designed to identify interested residents and install GSI BMPs on residential private parcels. The City has applied for King Conservation District (KCD)'s Member Jurisdiction Grant Program to fund the incentive-based pilot project. If the City receives the KCD grant, KCD will fund up to twenty GSI BMPs on residential private properties. The City will collaborate with KCD and their selected Community Based Organization (CBO) (e.g., EarthCorps, Dirt Corps) on marketing the program to find willing property owners and installation of GSI BMPs. The City has already received initial interest from residential property owners. Once property owners have agreed to participate in the pilot project and are determined to be suitable fit based on KCD's eligibility criteria, KCD will contract with a CBO to install the GSI BMPs and monitor vegetation establishment rates and other maintenance performance measures (dependent on the GSI BMP installed).

The future CBP3 program will expand this program to help with broader implementation of GSI BMPs across the City and will be organized into two phases:

- Building on lessons from the incentive-based pilot project, the CBP3 Planning Phase, anticipated to start in early 2027, will develop an approach for expanded programmatic delivery of GSI BMPs via a CBP3 approach. Planning will include defining the program scope and outcomes, conducting a financial analysis and legal evaluation, and developing an RFP and contract. During this phase, the City will evaluate the feasibility and impervious area managed (e.g., roofs, driveways, sidewalks, decks, and patios) on residential private parcels to maximize the potential water quality and flow control benefits of the program. In addition, the City will consider expanding the program to include public parcels (e.g., a demonstration project at City Hall) after evaluating private parcels. However, since the primary land use in the City is residential (approximately 90 percent single-family residential zoning), it is expected that there will be limited opportunities for program expansion. The City has applied for Ecology grant funding to support the CBP3 Planning Phase of the program.
- Under the CBP3 Implementation Phase the City will initiate a performance-based contract with an implementation partner to implement the program. While the delivery mechanism will be confirmed in the CBP3 Planning Phase, it is envisioned that the City will contract with a CBO or Conservation District who will administer the program, including marketing the program to find willing property owners and installation of GSI BMPs to meet performance requirements. Maintenance could either be performed by the implementation partner as part of the contract or required by residential property owners through a maintenance agreement. The City has started identifying funding mechanisms for the CBP3 Implementation Phase of the program.

This memorandum explores a performance-based contracting approach to deliver the Lake Forest Park Residential GSI Retrofit Program (CBP3 Planning Phase and CBP3 Implementation bullets) to meet stormwater and community performance metrics (summarized in Figure 1).

Figure 1. Summary of Key Performance-Based Contracting Elements.

City of Lake Forest Park Residential GSI Retrofit Program

GSI retrofit program to reduce stormwater runoff and treat flows from existing residential development

HERRERA Science + Planning + Design

Contract Model		(1) A Single-Award, CBO-Led Design-Build model, or (2) a City-Led DBOM model supported by substantial CBO involvement
Payment Terms		Partial Pay for Performance: portion of the payment is provided upfront and/or at certain project phases, regardless of performance, and a portion of the payment is tied to achieving verifiable outcomes
Stormwater Performance	Performance Measures and Payment	• Stormwater runoff from impervious areas is managed using GSI BMPs. BMPs are sized to meet a specified performance standard (TBD). Sizing tables or a calculator could be provided to simplify calculations and verification. Payment is based on $ per impervious area managed. • BMPs are designed per City standards or abbreviated standards (e.g., RainWise). • BMPs are maintained in accordance with a maintenance checklist that specifies activities and frequencies. If homeowner is responsible, implementation partner must send seasonal communications and reminders.
Stormwater Performance	Target	Up to 50 parcels (total impervious area managed TBD)
Community and Economic Performance		A minimum percentage (X%) of paid work hours completed by residents of Lake Forest Park
Verification		• Verification of area manages based on figure delineating impervious area managed and BMP location/size, database that includes property and BMP information, and photograph of completed BMP installation • City, implementation partner, or third party fills out punch list to verify that the GSI BMP is constructed according to the applicable standards • Implementation partner submits a maintenance table/checklist OR photos showing the BMP is present and functional • Monthly reporting of total work hours and work hours completed by contractor staff residing in Lake Forest Park



Rain garden installation
Photo credit: Chris Korwel

Outcomes

Stormwater Outcome
- Impervious areas on residential parcels are managed by GSI BMPs.

Community and Economic Outcome
- Jobs and workforce training for Lake Forest Park residents

Contracting and Payment Model

There are a range of CBP3-style and performance-based contracting and payment models. For the City's Residential GSI Retrofit Program, two contracting options are proposed for the City to consider: (1) a Single-Award, CBO-led Design-Build model, or (2) a City-led Design, Build, Operate and Maintain (DBOM) model supported by substantial CBO involvement. Both options support strong participation from a CBO and rely on performance-based implementation, but they differ in which entity holds primary responsibility and how program management is structured.

Contract Model

Option 1. Single-Award, CBO-led Design-Build Model

Under this option, the City contracts with a single CBO or Conservation District to lead program implementation for the Residential GSI Retrofit Program. The CBO becomes the primary delivery partner and assumes many responsibilities that the City would traditionally manage. These responsibilities include community outreach, homeowner enrollment, design coordination, contractor procurement, installation oversight, and day-to-day project management. The CBO is also responsible for coordinating designers and contractors, ensuring that BMPs meet defined performance metrics and providing verification for the total impervious area managed. Although the City does not use a formal DBOM contract under this option, the CBO would in effect be executing a role similar to that in a DBOM by managing design, construction, and short-term establishment activities. For this reason, the CBO must have sufficient technical qualifications, contractor management experience, and financial capacity to oversee the program successfully.

This model offers several advantages over more segmented contracting approaches. By consolidating outreach, design, and construction coordination within a single partner organization, the program benefits from streamlined implementation that minimizes delays and reduces inefficiencies associated with transitioning between entities. CBOs are typically well positioned to build trust with residents, support equitable participation, and navigate the varied site conditions typical of distributed residential BMPs. Allowing the CBO to procure designers and contractors directly also provides flexibility and responsiveness, resulting in improved cost-efficiency and smoother delivery.

There are important considerations under this option. Because the CBO will take on roles traditionally held by the City, the City must clearly define expectations at the outset, including performance metrics and verification requirements. The CBO will require early funding to support staffing, outreach, design initiation, and procurement activities, and many CBOs do not have the financial capacity to carry up-front program costs without initial payment. If the City does not already have an appropriate partner identified, a Design-Build style procurement process may be necessary to competitively select an organization or team with the capability to manage both community engagement and technical delivery.

The disadvantages of the Single-Award, CBO-led Design-Build model include the need for the CBO to have sufficient financial capacity and technical qualifications to effectively execute responsibilities that mirror elements of a DBOM structure, which may significantly limit the pool of eligible partners and reduce competition. This option also requires the City to provide detailed performance metrics and increased oversight to ensure consistent design, construction, and verification across multiple residential sites.

Option 2. City-Led DBOM Model with Significant CBO Involvement

The second option uses a traditional DBOM contract model, with the City contracting directly with a private DBOM partner. Under this structure, the City defines program requirements, oversees compliance with regulations and standards, and administers the DBOM contract throughout the program lifecycle. The DBOM partner manages design, construction, and short-term establishment of BMPs, ensuring that installations meet all defined goals and performance metrics, including standards required to verify stormwater credits. A community-based organization would still play a substantial role under this option, particularly in homeowner engagement, site identification, community support, and communication. However, the CBO would not serve as the primary delivery partner. Instead, the CBO would operate alongside the DBOM contractor, with the City managing coordination between the two.

This model offers strengths associated with traditional DBOM approaches. Integrated delivery can streamline program implementation by reducing delays and inefficiencies that occur when responsibilities are divided among multiple entities. Placing design, construction, and establishment activities under a single DBOM contractor creates clear accountability and enables long-term performance considerations to be incorporated from the outset. DBOM contractors also generally possess strong technical capabilities and established project management systems, which may reduce risk for the City if there is uncertainty about the capacity of local CBOs to manage a full delivery model.

There are also considerations for the City-Led DBOM approach. A DBOM contract requires a contractor with broad capabilities across design, construction, and maintenance, which can limit competition and challenge smaller firms. The City must also ensure that coordination between the DBOM partner and the CBO is well defined, particularly regarding communication with residents, scheduling site visits, and expectations for homeowner support. While this option reduces the technical burden on the CBO, it increases the need for clear coordination protocols to maintain a positive resident experience and ensure alignment between community engagement and technical delivery.

The disadvantages of the DBOM model include the complexity of managing the contract and the necessity for the implementation partner to have broad capabilities across design, construction, operation, and maintenance, which may limit the pool of potential bidders and reduce competition. This model also requires strong coordination between the DBOM partner and the CBO to ensure consistent homeowner engagement and support throughout the installation process.

Payment Terms

Traditional contracts have action-based payment terms, wherein the City provides payment to the implementation partner for expenditures or completion of actions (e.g., time and material payments). Performance-based contracts have payment terms that are outcome-based, wherein at least some portion of the payment is linked to achieving verified performance outcomes (e.g., payment for area of new plus replaced area managed to meet redevelopment requirements). Linking payment to outcomes creates financial incentives for the implementation partner to determine the most cost-effective ways to achieve the desired performance measures and aligns the goals of the City and the partner.

For the City's Residential GSI Retrofit Program, a partial pay-for-performance model is recommended. Under this model, a portion of the payment is provided upfront and/or at certain program phases, regardless of performance, and a portion of the payment is tied to achieving verifiable outcomes (see *Performance Measures and Verification* section). This is especially helpful under Option 1 where a CBO or Conservation District may not have reserve funds to pay for upfront costs involved in program management, outreach, early planning and design. This approach balances the need for performance incentives with the practicalities of program financing, ensuring the implementation partner remains motivated to meet or exceed standards and has adequate early funding to support staffing, outreach, design coordination, and procurement activities. Performance-based payments would be linked to verified stormwater benefits based on impervious area managed.

If state or federal grant programs restrict the use of pay-for-performance models, a full delivery approach, where the implementation partner is paid upon completion of defined tasks, can be adopted to ensure program milestones are met effectively.

Performance Measures and Verification

Under a partial pay-for-performance contract, the City would pay the implementation partner when the program successfully achieves measurable outcomes. Key outcomes for the City's program could include meeting design, and installation standards, as well as delivering additional community and economic benefits. The following subsections describe potential outcomes, performance measures, and verification methods for stormwater, community, and economic outcomes.

Stormwater Outcomes, Performance Measures, and Verification

Potential stormwater outcomes, performance measures, and verification approaches for the Lake Forest Residential GSI Retrofit Program are provided in Table 1. Stormwater outcomes are the overarching results that the program aims to achieve. Performance measures are the minimum requirements to achieve the stormwater outcomes. Verification methods are used to verify that the performance measures are achieved.

Table 1. Potential Stormwater Outcomes, Performance Measures, and Verification Methods.

Outcome	Performance Measure	Verification Method
Impervious areas on residential parcels are managed by GSI BMPs	Stormwater runoff from impervious areas such as roofs, driveways, and patios, is managed using GSI BMPs (e.g., rain gardens, cisterns, and native vegetation). BMPs are sized to meet a specified performance standard (e.g., RainWise standard is to reduce the 1-year storm by 95%). Sizing tables or a calculator could be provided to simplify calculations and verification. Payment is based on $ per impervious area managed.	Verification of area managed is based on: ● Figure that delineates and labels impervious area managed (including downspouts for roof areas) and BMP location/size ● Database that includes the property address, owner's contact information, area managed, BMP type, and BMP size ● Photograph of completed BMP installation
Impervious areas on residential parcels are managed by GSI BMPs	BMPs are designed in accordance with minimum design standards (e.g., redevelopment requirements for Lake Forest Park or abbreviated standards like those for Seattle and King County's RainWise program).	City, implementation partner, or third party fills out punch list to verify that the GSI BMP is constructed according to the applicable standards (based on before and after photographs and/or field inspection, if feasible).
GSI BMPs are maintained and functional	BMPs are maintained in accordance with a maintenance checklist that specifies activities and frequencies. If the homeowner is responsible for maintenance, the implementation partner must send seasonal communications and reminders.	Implementation partner submits a maintenance table/checklist (e.g., date maintenance completed, timestamped photographs [before and after maintenance]). Alternatively, the implementation partner submits photos showing that the BMP is present and appears to be in working order.

Community and Economic Outcomes, Performance Measures, and Verification

Community and economic outcomes can be delivered through contract implementation (e.g., local job training) or as an outcome of the work conducted (e.g., greening on residential properties, educating homeowners on stormwater management, building capacity of CBO or Conservation District) (Table 2). Performance measures for these outcomes could either be included as minimum requirements for contract delivery or the implementation partner could receive financial incentives for meeting (or exceeding) them. If the City must award the contract to the lowest bidder, it is recommended that any community performance measures be included as minimum requirements. To receive payment under the partial pay-for-performance model, the implementation partner will be required to provide verification of program performance in accordance with the performance measures.

Table 2. Potential Community and Economic Outcomes, Performance Measures, and Verification Methods.

Outcome	Performance Measure	Verification Method
Jobs for Lake Forest Park residents	A minimum percentage (X%) of work hours completed by residents of Lake Forest Park	Monthly reporting of total work hours and work hours completed by contractor staff residing in Lake Forest Park

Outreach Plan

The program team will develop community outreach materials, a program webpage, and hold community events to promote the Residential GSI Retrofit Program. The program will be advertised through social media and other City notifications. The program team will attend two community events in the summer/fall of 2027 to engage residents and gather community feedback about the program. This task will also involve preparing a short set of program guidelines for residents and implementation partners interested in participating in the program.

Financing Approach

Potential financing for this program is summarized in Table 3.

Table 3. Proposed Program Financing.

Potential Funding Source	Program Phase (if applicable)	Notes
Federal Funding		
Flood Mitigation Assistance (FMA) Program (Federal Emergency Management Agency [FEMA])	CBP3 Implementation Phase	Competitive federal grant program supporting projects that reduce or eliminate flood risk to National Flood Insurance Program (NFIP)-insured properties and improve community flood resilience. Projects demonstrating measurable flood-mitigation benefits through stormwater or green infrastructure may qualify if consistent with the State Hazard Mitigation Plan.
Better Utilizing Investments to Leverage Development (BUILD) Grant Program (U.S. Department of Transportation)	CBP3 Implementation Phase	BUILD grants support surface-transportation projects with regional impact. Stormwater improvements integrated into transportation corridors (e.g., green streets, right-of-way bioretention, flood-resilient roadways) may qualify under environmental-sustainability and resilience criteria. Projects solely on private property or off-corridor would likely be ineligible.
State Funding		
CBP3 Funding (new grant funding program from Ecology; part of the Water Quality Combined Funding Program)	CBP3 Planning Phase	The City applied for Ecology funding for the Planning Phase of this program in the fall of 2025.
	CBP3 Implementation Phase	The City could apply for implementation funding for the Implementation Phase of this program if implementation funding is available in a future grant cycle.
Stormwater Financial Assistance Program (SFAP); part of the Water Quality Combined Funding Program	CBP3 Implementation Phase	If the stormwater BMPs are addressing runoff from existing development, then they would be eligible for SFAP grant funding. If the BMPs are supporting redevelopment, then they would not be eligible for SFAP grant funding.
Local Revenue		
Stormwater utility fees	CBP3 Planning and CBP3 Implementation Phase	It is assumed that City stormwater utility fees will most likely be needed as a match for any state funding received and will also be used to support longer term CBP3 program implementation.

Legal Review

A legal review is recommended to evaluate any legal barriers to performance-based contracting. For example, the City should consider if their procurement rules allow best value awards instead of lowest bidder awards. The City should also assess whether their procurement rules require that companies have prior experience with design-build procurement to bid on such contracts. This restriction would limit the types of alternative contracting models available to the City, such as DBOM. There are specific state (RCW 39.10) and federal (41 USC 3309) guidelines and requirements for managing DBOM contracts that cover a range of topics including, but not limited to, agency experience with similar contracting models, transparent and competitive contract awarding process, implementation partner selection based on best value (vs. lowest bid), budget contingencies set asides, subcontracting opportunities for diverse firms, and public disclosure and participation.

The current legal framework supports the City in pursuing performance-based contracting, ensuring adherence to both state and federal regulations, promoting transparency, fostering public involvement, and facilitating high-quality outcomes for public projects. Confirming compliance with these provisions will help ensure the City's approach is legally defensible, transparent, and consistent with state and federal requirements.

Potential Program Partners

A successful performance-based contract will require one or more internal champions as well as a broad base of support from internal and external program partners. Potential program partners are listed in Table 4 along with the proposed engagement level (e.g., Inform, Consult, Collaborate).

Table 4. Potential Program Partners.

Potential Partners	Contact Name	Engagement Level
City departments/divisions		
Community Development Director	Mark Hofman	Inform
City Attorney	Kim Pratt	Consult
Director of Procurement	Lindsey Vaughn	Collaborate
Neighboring cities/counties		
City of Mountlake Terrace	Patrick Hutchins	Inform
City of Shoreline	Zack Richardson	Inform
Tribes		
Muckleshoot	Martin Fox	Inform
Snohomish	TBD	Inform

Table 4 (continued). Potential Program Partners.		
Potential Partners	**Contact Name**	**Engagement Level**
Private organizations and implementation partners		
Property owners	TBD	Collaborate
Consultants, contractors, implementation partners	TBD	Collaborate
Lake Forest Park Stewardship Foundation	Kim Josund	Consult
Lake Forest Park Civic Club	TBD	Consult
Sheridan Beach Community Club & Homeowners Association (HOA)	TBD	Consult
Public schools and youth organizations	TBD	Consult
Faith-based institutions	TBD	Consult

Outreach Plan

The implementation partner should work with the City to develop and implement a comprehensive outreach plan to engage the community, focusing on residential property owners. This plan should outline strategies for building relationships, understanding program partner priorities, and ensuring transparent communication throughout the program lifecycle.

Next Steps

This memorandum explores a partial pay-for performance procurement approach for the City to explore an alternative procurement approach for contracting the installation of GSI BMPs on private residential parcels within the City. The list below outlines next steps to refine this approach:

- Refine performance-based procurement outcomes, performance measures, reporting, and verification
- Develop draft engagement plan
- Define scope, including contract duration and payment terms
- Conduct financial analysis
- Research legal authorities, if needed
- Identify revenue sources and financing models
- Develop draft RFP
- Develop draft contract

Additional technical assistance may be available to the City to further refine this contracting approach.