AMENDED AGENDA

DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington

Thursday, August 25, 2022 - 6:00 PM

The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 in response to the COVID 19 Pandemic. As of June 1, 2022 Governor Inslee rescinded the Stay-at-Home order issued on March 23, 2020 and accordingly all Council meetings will be held in Council Chambers, 21630 11th Avenue S, Suite C.

Public Comment is encouraged and will be accepted in the following manner:

(1) In writing, either by completing a council comment form or by mail; Attn: City Clerk Office, 21630 11th Avenue S., Des Moines WA 98198 no later than 4:00 p.m. day of the meeting. Please provide us with your first and last name and the city in which you live. Your full name and the subject of your public comment will be read into the record at the Council meeting. Incomplete forms will not be read into the record, however the full correspondence will be attached to the Council packet and uploaded to the website as part of the permanent record.

(2) In person at the Council meeting by signing up to speak prior to the public comment portion of the meeting.

City Council meeting can also be viewed live on Comcast Channel 21/321 or on the City's YouTube channel.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

Item 1. 08.25.2022 Correspondence

COMMENTS FROM THE PUBLIC

Item 1. Written Public Comments
Public Comment 08.25.2022

CITY MANAGER REPORT

- FERRY SERVICE

CONSENT CALENDAR

Item 1. APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers through August 15th, 2022 and the payroll transfers through August 5th, 2022 in the attached list and further described as follows:

ACH/EFT Vendor Payments	# 7043 TO 7121	$	1,471,672.46
EFT Voids	# 7071 TO 7071	$	(450.00)
Electronic Wires	# 2014 TO 2024	$	426,532.61
Accounts Payable Checks	# 164192 TO 164239	$	444,765.05
Payroll Checks	# 19521 TO 19530	$	6,581.75
Payroll Direct Deposit	# 2236 TO 2403	$	406,477.52

Total Checks and Wires for A/P and Payroll: $ 2,755,579.39

Approval of Vouchers

Item 2. STEPFAMILY DAY PROCLAMATION

Motion is to approve the Proclamation supporting September 16th as National Stepfamily Day.

National Stepfamily Day

Item 3. NATIONAL RECOVERY MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as National Recovery Month.

National Recovery Month

Item 4. NATIONAL PREPAREDNESS MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as National Preparedness Month.

National Preparedness Month

Item 5. INTERAGENCY REIMBURSEMENT AGREEMENT IAA23717 BETWEEN WASHINGTON STATE AOC AND DES MOINES MUNICIPAL COURT

Motion is to approve the Interagency Reimbursement agreement between the Administrative Offices of the Courts (AOC) and the City of Des Moines for extraordinary costs reimbursement and legal financial obligations reimbursement as a result of the *State V Blake* decision and further authorize the Judge of Des Moines Municipal Court to sign the agreement substantially in the form as submitted.

Interagency Reimbursement Agreement IAA23717 Between Washington State AOC and Des Moines Municipal Court

Item 6. ACCEPTANCE OF WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS - DES MOINES MUNICIPAL COURT-THERAPEUTIC COURT GRANT

Motion is to accept the grant from the Washington Administrative Office of the Courts in the amount of $87,000 for the purposes of supplementing operations of the Des Moines Municipal Court-Support Services and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached.

Acceptance of Washington State Administrative Office of the Courts-Des Moines Municipal Court-Therapeutic Court Grant

Item 7. INTERLOCAL AGREEMENT FOR JOINT SUPERVISION OF DEFENDANTS-CONSOLIDATED SUPERVISION SERVICES BETWEEN SOUTH KING COUNTY MUNICIPAL COURTS

Motion is to approve the Interlocal Agreement between the Municipal Courts of Federal Way, Kent, Renton, Tukwila, Seatac, Maple Valley and the Des Moines Municipal Court for consolidated supervision services of defendants and to authorize the Judge of the Des Moines Municipal Court to sign the agreement substantially in the form attached.

Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services Between South King County Municipal Courts

Item 8. AMENDMENT TO GRANT AGREEMENT WITH THE WASHINGTON STATE RECREATION AND CONSERVATION OFFICE, PROVIDING ADDITIONAL FUNDING FOR THE MARINA'S GUEST MOORAGE ELECTRICAL PROJECT

Motion is to approve Amendment No. 1 to the Grant Agreement for project number 19-1532D, increasing the grant amount by $45,648, to authorize an additional expenditure of Marina operating funds of $15,216 to provide the required additional matching funds, and to authorize the City Manager to sign the Amendment substantially in the form as attached.

Amendment to Grant Agreement with The Washington State Recreation and Conservation Office, Providing Additional Funding for the Marina's Guest Moorage Electrical Project

Item 9. DRAFT ORDINANCE NO. 22-043, AMENDING DMMC 9.68.070 TO UPDATE CIVIL PROTECTION ORDER VIOLATIONS

Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-043 on first reading.

Motion 2 is to enact Draft Ordinance No. 22-043, amending DMMC 9.68.070 to adopt by reference certain RCW sections relating to criminal violations of court orders.

Draft Ordinance No. 22-043, Amending DMMC 9.68.0470 to Update Civil Protection Order Violations

NEW BUSINESS

Item 1. WASHINGTON STATE OPIOID DISTRIBUTOR SETTLEMENT
Staff Presentation by City Attorney Tim George
Washington State Opioid Distribution Settlement

Item 2. CASH HANDLING POLICY
Staff Presentation by Deputy Finance Director Jeff Friend
Cash Handling Policy

Item 3. INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION -10 minutes

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

(4 minutes per Councilmember) - 30 minutes

EXECUTIVE SESSION

PRESIDING OFFICER'S REPORT

NEXT MEETING DATE

September 08, 2022 Budget Retreat

ADJOURNMENT

From: ann stieglitz
To: Ken Thomas; _CityCouncil
Cc: Bayshore Condos
Subject: ** CONSEQUENCES FOR 1747 & 1595 VIOLATIONS **
Date: Tuesday, August 16, 2022 8:48:49 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Chief Thomas,

The city now has signs on Redondo Beach Dr S that prohibits racing and restricts noise, the signs are conspicuously located and have been further enhanced with red flags.

It's unfortunate that Redondo lacks a police presence to demonstrate to the city that the new signs should produce results. **As I am writing this email at 8:30PM** I can attest to the fact that there are those who are putting these new signs to the test; it's apparent that your department has a short window of opportunity to enforce the ordinances before violators determine that there are no consequences, ie, no tickets.

These signs can and should be a win-win situation for residents and the city.
If you don't have an available officer I am interested in knowing if it is possible to request an overtime officer for Redondo for this same "window of opportunity" so that your department can prove that there shall be consequences when ordinances are violated.

I look forward to your reply.

Ann Waara

From: Matthew Handel
To: _CityCouncil
Subject: Noise Complaint
Date: Sunday, August 28, 2022 6:30:46 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello, my name is Matthew Handel and I'm a resident at Ingersoll Square apartments at 2005 Ingersoll Ave. i was emailing to ask what the noise code is for businesses? Every Sunday night and sometimes on weekdays the bar Zora plays music so unnecessarily loud that the bass sounds like it's coming from the apartment next to me. It's 8:30 on a Sunday and this is happening. It's not okay.

Graciously,

Matthew Handel
pronouns: he/him/his

From:	Christen Bourgeois
To:	_CityCouncil
Subject:	Tonight"s City Council Meeting
Date:	Thursday, August 25, 2022 9:19:58 PM

Upon arrival shortly after 6pm, my mother and I were unable to enter the building – all doors were locked and we attempted to use the call boxes but no one answered or came to the door to let us in to the meeting.

My concerns that I intended to share are below from an earlier thread that was shared with the Redondo Beach community - I join my neighbors in their effort to improve and sustain a safe community:

Re: Monthly Des Moines City Council Meeting -Thursday, 8/25 at 6:00pm

CB

Christen Bourgeois <christensinger@outlook.com>

To: Kim Lee; Alisa Kincade

Cc: Becky Reid; Karen Schartman; Pug Roxie Buddy; erikavanvick@gmail.com

+38 others

Thu 8/25/2022 2:16 PM

Hello, I was unable to attend the last meeting however will try to make it tonight around 6:15p on my way in from work.

I recently lived in Redondo Beach for the past 2-years renting a home on S 280th St where the illegal traffic congregates and private property bathroom issues frequently take place.

As of August, my daughter and I now live 3 minutes from our former address on the opposite end of Redondo Beach boardwalk, just up on Dash Point Road – and although I no longer experience estranged gentlemen peeing on my rental property and the private property of my neighbors, what I DO continue to experience are the traffic issues as we continue to frequent Redondo Beach with our friends and neighbors.

I ditto Kim's comment about her daughter on the scooter – our daughters bike and scooter and walk together frequently and have on many occasions experienced danger in their own front yards of Redondo Beach.

It's a sincere problem. See you tonight.

From: Kim Lee <emmabugsy@gmail.com>
Sent: Thursday, August 25, 2022 2:03 PM
To: Alisa Kincade <alisakincade57@gmail.com>
Cc: Becky Reid <beckypenreid@gmail.com>; Karen Schartman <kschartman@gmail.com>; Pug Roxie Buddy <pug-roxie@comcast.net>; erikavanvick@gmail.com <erikavanvick@gmail.com>; liz.bottemiller@gmail.com <liz.bottemiller@gmail.com>; melissalamey@yahoo.com <melissalamey@yahoo.com>; Redondorick@comcast.net <Redondorick@comcast.net>; Bayshore Condos <bayshoreinredondo@gmail.com>; carol-coleman <carol-coleman@cox.net>; Carrie Corey <ccorey777@gmail.com>; Christen Singer <christensinger@outlook.com>; Christina Haines <christina_haines@hotmail.com>; Christine Alar <christinealar@yahoo.com>; Chuck Personal Cell <chuckcoleman@cox.net>; David Emery <dwemery61@gmail.com>; David Emery <rhcbodpres2021@gmail.com>; Deborah Haehl <dhaehl@icloud.com>; Dennis Dunn <onenurseman@hotmail.com>; Dorothy McCloud <taeboe@outlook.com>; Dorothy Schedvin <dschedvin@gmail.com>; gail small <gailsmall383@gmail.com>; Gene Achziger <gachziger@yahoo.com>; greg blair <gdblair@harbornet.com>; JD Abts <jdabtsd@outlook.com>; jnjlancaster <jnjlancaster@comcast.net>; Karen Osborn <kosbornko@comcast.net>; Lorie Lucky <lorie916@gmail.com>; Melanie Barlow <melanie@designimports.com>; Nina Brown <ninabrownlovinlife@gmail.com>; Pamela Cicconi <pamcollinsrealestate@gmail.com>; Penelope S Manns <psmanns@gmail.com>; Peter Nielsen <nielsen.puntacana@gmail.com>; Rebecca Ford <rebecca.ford1@protonmail.com>; Richard Adams <thethirdfish@gmail.com>; Sandra Rominger <redondopal@aol.com>; Senovio Sandoval <ssgogreen@yahoo.com>; STACY GELLERSON <stacygellerson@gmail.com>; Susan White <susanrdo@aol.com>; Susie Horan <SusieHoran@bhhsnwre.com>; Tania H-A <taniahandersen@gmail.com>; Teresa <langfittfamily@aol.com>; Theresa Stewart <tasinia@gmail.com>; Sharon Morehouse <sharon.povertybay@gmail.com>
Subject: Re: Monthly Des Moines City Council Meeting -Thursday, 8/25 at 6:00pm

Hello everyone,
I'm glad the extra police patrol/drive by is noticeable! A BIG thank you should go to Officer Tonya Seaberry as she was the one who helped get extra police presence since Monday.

Thursday's aren't good for me but I will try to be there tonight with a few Woodmont neighbors.

Is it possible to add to the agenda the issues of: 1) people using our properties as their personal bathrooms, and 2) speeding the wrong way up 280th and Redondo Beach Drive? My daughter was nearly hit twice this last week scootering on the local street.

I fully support this neighborhood effort and happy to pitch in!

Kim Lee
710 S 280th St

On Aug 25, 2022, at 1:33 PM, Alisa Kincade <alisakincade57@gmail.com> wrote:

Hello,

I have lived on Redondo Beach Dr S for 10 months. This is the most beautiful place I have ever lived. However, I am stunned at the traffic noise, particularly around sunset. The drivers of unmuffled cars and motorcycles seem determined to disturb the beautiful sunsets. Unfortunately I cannot attend the meetings due to my schedule on Thursdays. Please feel free to share my thoughts on the traffic situation.
If there is any other way I can support the efforts of our neighborhood please let me know.

Alisa Kincade
28608 Redondo Beach Dr S

Sent from my iPhone

Taria Keane

From: Cheri Halko <cheri.halko@icloud.com>
Sent: Wednesday, August 10, 2022 8:56 AM
To: _CityCouncil
Subject: Ferry

Can anyone explain the reason for the ferry having first sailing at 10 AM when the whole purpose was the commute. We all know commute starts at 6-9AM. The City Manager has been in/on every news media promoting this ferry as a way to help with commute traffic. As a citizen and tax payer of Des Moines, I would really like to know how this is going to help.
Thank you
Cheri Halko

Sent from my iPad

From: notification@civiclive.com
To: Taria Keane
Subject: Contact Information 2022-08-19 01:37 PM(PST) Submission Notification
Date: Friday, August 19, 2022 1:37:24 PM

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Contact Information 2022-08-19 01:37 PM(PST) was submitted by Guest on 8/19/2022 4:37:20 PM (GMT-08:00) US/Pacific

Name	Value
First Name	John G.
Last Name	Hogan
Address1	918 S. 231st street
City	Des Moines
State	WA
Zip	98198
Phone	12532507782
Email	johnghogan3@comcast.net
Subject	Masonic Home Preservation
Comment	As a follow-up to my previous comment, I cannot emphasize enough how beautiful and valuable the Masonic Home is for Des Moines and for the entire Puget Sound region. It's a truly amazing edifice that any municipality in the entire U.S. would be proud to have situated in its territory. I grew up in the historic Boston area where centuries-old colonial and federal era buildings are numerous, but this building is not even outclassed by the ones back there. Thank you very much for your consideration of this matter.
Do you wish to speak at the City Council meeting?	No
wantCopy	True
Email address	johnghogan3@comcast.net

To view this form submission online, please follow the link below:

review_url

From:	notification@civiclive.com
To:	_CityCouncil
Subject:	Contact Information 2022-08-20 12:17 PM(PST) Submission Notification
Date:	Saturday, August 20, 2022 12:17:11 PM

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Contact Information 2022-08-20 12:17 PM(PST) was submitted by Guest on 8/20/2022 3:17:06 PM (GMT-08:00) US/Pacific

Name	Value
First Name	Sandy
Last Name	Sheridan
Address1	P.O. Box 114
City	Des Moines
State	WA
Zip	98198
Phone	2538524299
Email	ssheridan@comcast.net
Subject	Masonic Home - Idea's
Comment	My mom use to work at the Masonic Home. It is an amazing old structure that should be saved. People say it is haunted. There are some very wild stories that have come out of it. I can picture it as a Big Hotel, Resort or even a Million Dollar Retreat with a huge Restaurant out front. It is in the prime location for the south end getaway. The front yard reminds me of the White House. It would benefit Des Moines, WA as a tourist attraction with the Marina year-round. If the City of Des Moines took it over as part of their Parks & Recreation, they could ask for some of Binden Grant money for structual improvements for repairing old Historical Buildings. They could put a golf course, small park, walking path for Seniors out front. High School students from the local schools could earn class credit as a trade with money from the state fixing the structural up. (Put a Plaque who worked on it out front) They could even put in a small daycare run by the school giving High

From: cansan (null)
To: _CityCouncil
Subject: Fast ferry
Date: Saturday, August 20, 2022 7:20:42 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear city council:

I wanted to let you know how much we enjoyed taking the new fast ferry to Seattle today. We spoke with many people from various areas of south king county who made a point of coming to Des Moines to ride the fast ferry.

It is so smart of Des Moines to take advantage of being a waterfront community and promoting this rapid mode of transportation into Seattle. I applauded who came up with this experimental idea, and hope it can become a permanent venture.

Thank you for making this happen.

Sincerely,
Candy Santucci

Sent from my iPad

From:	notification@civiclive.com
To:	_CityCouncil
Subject:	Contact Information 2022-08-25 08:59 AM(PST) Submission Notification
Date:	Thursday, August 25, 2022 8:59:29 AM

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Contact Information 2022-08-25 08:59 AM(PST) was submitted by Guest on 8/25/2022 11:59:26 AM (GMT-08:00) US/Pacific

Name	Value
First Name	Raihab
Last Name	Baig
Address1	1710 37th Way SE
City	Auburn
State	WA
Zip	98002
Phone	
Email	raihab.irfan.ri23@gmail.com
Subject	Landmark on the Sound
Comment	Speaking on the preservation of the Des Moines Landmark on the Sound at the City Council meeting on August 25th, 2022.
Do you wish to speak at the City Council meeting?	Yes
wantCopy	True
Email address	raihab.irfan.ri23@gmail.com

To view this form submission online, please follow the link below:

review_url

	School girls credit. Even fix it up for tours & Des Moines can turn it into their Historical Museum. The City of Des Moines could rent it out for big functions, retreats, family functions, Weddings. They could have many functions at the same time going on. Even their Senior Center, Parks Rec. Bldg, Pool, Training Rooms, Day Outings, Metro Bus service every 30 minutes, Senior Functions, Card Rooms, Senior Snack Bar & best of all something to call home. Des Moines needs this. Teens need a place to hang out and get together after school maybe some poole tables, bowling alley, girl scout & boy scout meetings. Maybe add a King County Library as part of the building, Theatre. There is a lot the City can add to this building. Des Moines is overdue for this.
Do you wish to speak at the City Council meeting?	No
wantCopy	True
Email address	ssheridan@comcast.net

To view this form submission online, please follow the link below:

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From:	notification@civiclive.com
To:	_CityCouncil
Subject:	Contact Information 2022-08-25 02:12 PM(PST) Submission Notification
Date:	Thursday, August 25, 2022 2:12:49 PM

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Contact Information 2022-08-25 02:12 PM(PST) was submitted by Guest on 8/25/2022 5:12:43 PM (GMT-08:00) US/Pacific

Name	Value
First Name	Sharon
Last Name	Morehouse
Address1	
City	Des Moines
State	WA
Zip	98198
Phone	
Email	
Subject	
Comment	Neighborhood safety issues needs to be prioritized and police presence more evident.
Do you wish to speak at the City Council meeting?	Yes
wantCopy	True
Email address	

To view this form submission online, please follow the link below:

review_url

Statement to Des Moines City Council

08-25-2022

My name is David Emery, and I have been a resident of the Redondo Beach community since 2014. I am here today to dispel the myth that I and my fellow residents are simply “whining about a little noise” in our neighborhood.

To be clear, the street noise has become vastly worse in our neighborhood over the past couple of years. But to dismiss our concerns as whining ignores the simple truth that the noise has become so bad that many of us residents can no longer use our properties as we would like. This is especially problematic as more and more of us work from home offices.

But also to be clear, our concerns run much deeper. You have heard on many, many occasions of our concerns around truly reckless driving by the renegade racers that take over our streets virtually every evening. Not only are these cars and trucks deafeningly loud, but they also race through our crowded streets at breakneck speeds, blow through stop signs and sidewalks, force families with young children to run for safety, and congregate in packs that are apparently too large for the police to even safely contact.

These street gangs essentially take over large sections of the Boat Launch Parking lot, pushing out the visiting families and replacing them with jarring street noise, open drug and alcohol consumption, burn-outs that fill the air with the acrid smoke of burnt tires, verbally harassing families and young women who pass by, lighting off fireworks and chucking them at passing vehicles, and putting the whole neighborhood at risk of reckless and drunken drivers.

I personally witnessed someone get shot last July (2021), and this year have called the police on three separate occasions about groups of young people openly brandishing handguns. This includes twice where the groups looked as if they had just come from, or were going to, an armed robbery or carjacking, and once where the gang physically took over the street, forcing other drivers to turn around as the gang members danced in the street as they passed around the handgun over their heads.

Barely a day goes by where I don’t see one or more visitors openly passing around bottles of hard alcohol and/or joints, only to hop back into their vehicles and drive away clearly inebriated.

I’ve called in a number of cases where individuals in very expensive vehicles were selling drugs by the gallon freezer bags and even garbage bags, right there, on the street, just outside of my residence.

I could go on and on with these sorts of examples, including prostitution, physical assaults, and blocking essential fire lanes.

So please take note – we are not just whining about a little noise. We are very deeply concerned about the safety of our neighborhood and the apparent difficulties with adequate law enforcement in this regard.

Thank you for listening.

CITY COUNCIL REGULAR MEETING

CITY OF DES MOINES

Sails With Pride

Speaker Sign-Up Sheet

August 25, 2022

	NAME (PLEASE PRINT)	CITY YOU LIVE IN	TOPIC	PHONE/E-MAIL ADDRESS
5	Lilah & Natalie Nutting Girls	Des Moines	Police Foundation Donation	
1	David Emery	Des Moines	Public Safety at Redondo Beach	206.427.8754 dwemery61@gmail.com
3	Sharon Morehouse	Des Moines	Drug use & Speeding Double Standards at Redondo	253.230-9566 sharon.PoverTybay@gmail
4	Kay Vann	Des Moines/Redondo	Public Safety	206-670 7069 pug-roxie@comcast.net
5	Melanie Barlow	Redondo	Neighborhood issues multiple	206 941-5112 melanie@designimports.com
6	GARY W Petersen	Des Moines	Park & Public Safety	206-795-5524
7	Barbara McMichael	Des Moines	DM Masonic Home	bkmonger@nwlink.com
8	Kent Haehl	Des Moines	Public Saftey	kenthaehl@gmail.com
9	Luis medina	Des moines	Public Safety Business	(619) 791 6375
	Raihab Baig		Landmark on the Sound	

Consent Calendar Item #1

CITY OF DES MOINES
Voucher Certification Approval
August 25, 2022
Auditing Officer Certification

Voucher transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of August 25, 2022 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through August 15th, 2022 and payroll transfers through August 5, 2022 included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer:

Beth Anne Wroe

Beth Anne Wroe, Finance Director

		# From		# To	Amounts
Claims Vouchers:					
EFT Vendor Payments		7043		7121	1,471,672.46
EFT Voids		7071		7071	(450.00)
Electronic Wires		2014		2024	426,532.61
Accounts Payable Checks		164192		164239	444,765.05
Total claims paid					**2,342,520.12**

Payroll Vouchers						
Payroll Checks	8/5/2022		19521		19530	6,581.75
Direct Deposit			2236		2403	406,477.52
Total Paychecks/Direct Deposits paid						**413,059.27**
Total checks and wires for A/P & Payroll						**2,755,579.39**

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Stepfamily Day

ATTACHMENTS:
1. Proclamation

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 8, 2022

CLEARANCES:
[ ] Community Development
[ ] Marina
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works

CHIEF OPERATIONS OFFICER:________

[ ] Legal ____
[ ] Finance
[ ] Courts
[ ] Police
[X] City Clerk JK

APPROVED BY CITY MANAGER
FOR SUBMITTAL:________

Purpose and Recommendation:
The purpose of this agenda item is to recognize September 16th as National Stepfamily Day.

Suggested Motion

MOTION: "I move to approve the Proclamation supporting September 16th as National Stepfamily Day"

Background
National Stepfamily Day (NSFD) which was established in 1997 is celebrated on September 16th every year. The day is celebrated with Stepfamily Picnic's across our great nation. This year will mark the 25th anniversary. National Stepfamily Day is enhanced by our strong commitment to support the stepfamilies of our nation in their mission to raise their children, create strong family structures to support the individual members of the family, instill in them a sense of responsibility to all extended family members

Alternatives
None provided.

Financial Impact
No financial impact.

Recommendation/Concurrence
Administration supports Council approving the Proclamation supporting September 16th as National Stepfamily Day.

Attachment #1

City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540

Proclamation

WHEREAS, National Stepfamily Day is enhanced by our strong commitment to support the stepfamilies of our nation in their mission to raise their children, create strong family structures to support the individual members of the family, instill in them a sense of responsibility to all extended family members; and

WHEREAS, Approximately half of all Americans are currently involved in some form of stepfamily relationship and it is the vision of Christy Tusing-Borgeld and the Stepfamily Foundation, that all stepfamilies in the United States be accepted, supported and successful; and

WHEREAS, Washington has been blessed by thousands upon thousands of loving stepparents and stepchildren who are daily reminders of the joy, trials, and triumphs of the stepfamily experience and of the boundless love contained in the bond between all types of parents and children; and

WHEREAS, National Stepfamily Day is a day to celebrate the many invaluable contributions stepfamilies have made to enriching the lives and life experience of the children and parents of America and to strengthening the fabric of American families and society;

NOW THEREFORE, THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS September 16th as a day to celebrate

NATIONAL STEPFAMILY DAY

SIGNED this 25th day of August, 2022.

____
Matt Mahoney, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Recovery Month

ATTACHMENTS:
1. Proclamation

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 8, 2022

CLEARANCES:
[ ] Community Development
[ ] Marina
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works

CHIEF OPERATIONS OFFICER:_________

[ ] Legal ____
[ ] Finance
[ ] Courts
[ ] Police
[X] City Clerk JK

APPROVED BY CITY MANAGER
FOR SUBMITTAL: __________

Purpose and Recommendation:
The purpose of Recovery Month is to promote recovery, celebrate those in treatment, and continue to educate our community about how to overcome the barriers of stigma and discrimination associated with mental health issues and/or substance use disorders.

Suggested Motion

MOTION: "I move to approve the Proclamation supporting September as National Recovery Month"

Background
Recovery Month spreads the message that behavioral health is essential to health and overall wellness, and that prevention works, treatment is effective and people with substance use and mental health issues can and do recover. People in recovery lead healthier lifestyles and contribute in positive ways to their communities.

Throughout the years, hundreds of proclamations have been signed to support Recovery Month. Since 2001, the President of the United States has signed a proclamation declaring September as Recovery Month, further recognizing substance use disorders and mental disorders as conditions that need to be addressed, just like any other illness.

Discussion
Council previously approved a Proclamation supporting September as National Recovery Month in August, 2015 and September, 2017, 2018, 2019, 2020, and 2021.

Alternatives
None provided.

Financial Impact
No financial impact.

Recommendation/Concurrence
Administration supports Council approving the Proclamation supporting September as National Recovery Month.

Attachment #1

City of Des Moines
ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540

Proclamation

WHEREAS, behavioral health is an essential part of health and one's overall wellness; and

WHEREAS, prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

WHEREAS, preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyles, both physically and emotionally; and

WHEREAS, we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem, and guide those in need to appropriate treatment and recovery support services;

WHEREAS, an estimated 400,000 people in King County are affected by these conditions;

NOW THEREFORE, to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), and the City of Des Moines invites all residents to participate and proclaim the month of September as

NATIONAL RECOVERY MONTH

SIGNED this 25th day of August, 2022.

____
Matt Mahoney, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Preparedness Month

ATTACHMENTS:
1. Proclamation

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 08, 2022

CLEARANCES:
[ ] Community Development
[ ] Marina
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works

CHIEF OPERATIONS OFFICER:________

[ ] Legal ____
[ ] Finance
[ ] Courts
[ ] Police
[X] City Clerk JK

APPROVED BY CITY MANAGER
FOR SUBMITTAL: __________

The purpose of this agenda item is to recommend City Council approval of the attached Proclamation supporting September as National Preparedness Month.

Suggested Motion

Motion: "I move to approve the Proclamation supporting September as National Preparedness Month."

Background

National Preparedness Month, occurring annually in September since 9/11, creates an ideal opportunity for every resident to join citizens across the United States in preparing their homes, businesses, and communities for any type of emergency, including natural disasters and potential terrorist attacks. During an emergency, First Responders may not always be able to reach you quickly. Planning before a disaster happens is the best way to improve community recovery. During National Preparedness Month, community members are encouraged to take time to prepare for emergencies and disasters that can impact them for days at a time.

Discussion

Council previously approved a Proclamation supporting September as National Recovery Month in 2021.

Alternatives

None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting September as National Preparedness Month.

Attachment #1

City of Des Moines

ADMINISTRATION
21630 11th AVENUE S, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D: (206) 824-6024 FAX: (206) 870-6540

Proclamation

WHEREAS, National Preparedness Month, occurring annually in September since 9/11, creates an ideal opportunity for every resident to join citizens across the United States in preparing their homes, businesses, and communities for any type of emergency, including natural disasters and potential terrorist attacks; and

WHEREAS, planning now, before a disaster, is the best way to improve community recovery from disasters; and

WHEREAS, when individuals take responsibility for preparing their families and their communities, the chance of survival and return to normalcy following a disaster is greatly increased; and

WHEREAS, First Responders may not always be able to reach you quickly in an emergency or disaster, and the most important step you can take in helping them is being able to take care of yourself and those in your care for at least a short period of time following an incident

WHEREAS, during National Preparedness Month, community members are encouraged to take time to prepare yourself and those in your care for emergencies and disasters that can impact our neighborhoods for days at a time; and

NOW THEREFORE, The Des Moines City Council hereby declares September as

NATIONAL PREPAREDNESS MONTH

and urges all Des Moines residents to make sure that their families are prepared for an emergency by 1) prepare a Disaster Supply Kit and 2) create a Family Emergency Plan.

SIGNED this day 25th of August, 2022.

____
Matt Mahoney, Mayor

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Consent Calendar Item #5

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interagency Reimbursement Agreement IAA23717 Between Washington State AOC and Des Moines Municipal Court	FOR AGENDA OF: Aug 25, 2022 DEPT. OF ORIGIN: DATE SUBMITTED: Aug 6, 2022
ATTACHMENTS: 1. Agreement with Administrative Offices of the Courts (AOC) and Des Moines Municipal court for costs of refunding legal financial obligations (LFO'S)	CLEARANCES: [ ] Legal [ ] Court [ ] Parks, Recreation & Senior Services [ ] Public Works CHIEF OPERATIONS OFFICER:________ [X] Legal /s/ TG [ ] Finance ________ [X] Court /s/ JJ [ ] Police ________ APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to request the Council's approval of the Reimbursement Agreement between the Administrative Offices of the Court (AOC) and the Des Moines Municipal Court for the purposes of reimbursing for extraordinary costs of resentencing and vacating under the State Supreme Court's *Blake* decision and for the costs of refunding legal financial obligations (LFO's).

Suggested Motion

"I move to approve the Interagency Reimbursement agreement between the Administrative Offices of the Courts (AOC) and the City of Des Moines for extraordinary costs reimbursement and legal financial obligations reimbursement as a result of the *State v Blake* decision and further authorize the Judge of the Des Moines Municipal Court to sign the agreement substantially in the form as submitted."

Background

On February 25, 2021, the Washington State Supreme Court entered its decision in *State of Washington v. Blake*, invalidating as unconstitutional the crime of simple possession of a controlled substance under RCW 69.50.4013. The Supreme Court voided the law, not only prospectively, but also retroactively, with the effect that previous convictions were void at the time of conviction.

One consequence of this retroactive application is that prior legal financial obligations paid in connection with these voided convictions are now subject to refund. Additionally, court resources will be required to process requests to vacate convictions and potential resentencing on unrelated matters if a now void conviction affected their sentence. Courts must provide relief to all persons with simple drug possession convictions following *Blake*. The statute invalidated by Blake was enacted in 1971, and while pending charges have been dismissed, the number of persons potentially entitled to relief in the state may exceed 100,000.

In 2021, the Washington Legislature appropriated funds in the 2022 budget to cover the costs incurred by cities in the review and possible vacation of convictions for Blake-related cases in the local municipal court.

Discussion

At the end of 2021 Legislative session, the Legislation appropriated $44.5 million to the Administrative Office of the Courts "to assist counties with costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the State v Blake decision. In the 2022 supplemental budget, cities received $21.5 million to offset the financial impacts of vacating simple drug possession charges tied to the *Blake* decision. Of the amount appropriated, approximately $10 million is earmarked to reimburse legal and financial obligations tied to the vacated conviction. Des Moines has been designated as one of 112 cities to receive reimbursement.

Numerous defendants have been charged and convicted in the Des Moines Municipal Court for violations of RCW 69.50.4013 prior to the *Blake* decision. AOC has informed the City that, according to their methodology, 228 Des Moines Municipal Court cases are potentially affected. Accepting this agreement with AOC will allow the Court to request reimbursement for the costs associated with implementing the Supreme Court's decision from the funds appropriated by the Legislature.

Alternatives

Approve authorizing execution of the agreement as recommended by staff.
Decline to approve the agreement and receive no reimbursement from AOC.

Financial Impact

Defendants in the Des Moines Municipal Court whose cases are affected by the *Blake* decision are legally entitled to relief. Accepting this agreement with AOC would allow the Court to fulfill its obligation at no cost to the City, up to $190,065. In the absence of this agreement, the cost of processing petitions for relief and refunding fines and costs paid would come from City funds.

Recommendation

Staff recommends that the Council approve authorizing the Judge to execute an agreement with the Washington State Administrative Office of the Courts for reimbursement of amounts up to $190,065.

INTERAGENCY REIMBURSEMENT AGREEMENT IAA23717
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
DES MOINES

THIS REIMBURSEMENT AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and DES MOINES, for the purpose of reimbursing DES MOINES (City) for extraordinary costs of resentencing and vacating sentences under *Blake* and for the cost of refunding legal financial obligations (LFOs) under the *Blake* decision.

1. **PURPOSE**
The purpose of this Agreement is to provide reimbursements to assist Cities and Municipal Courts with extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences in are affected by the *State v. Blake* decision, and to provide reimbursements to assist Cities and Municipal Courts who have reimbursed or will reimburse LFOs to defendants whose convictions or sentences in Municipal Court are affected by the *State v. Blake* decision.

2. **REIMBURSEMENT**
   A. Extraordinary Expenses Reimbursement. AOC shall reimburse the City up to a maximum of 101,986 for extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v. Blake* decision incurred during the period of February 25, 2021 to June 30, 2023. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount will be denied. If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by agreement of the parties.

   B. LFO Reimbursement. AOC will reimburse the City up to a maximum of 88,079 for payments made by the City during the period February 25, 2021 to June 30, 2023 pursuant to court order which required reimbursement by the State of Washington of legal and financial obligations. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount stated in this Section 2 (b) will be denied. If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by agreement of the parties. Nothing in this Agreement requires the City to make payments pursuant to a court order when the funds available for reimbursement are less than the amount of the payment.

C. General. AOC shall provide reimbursement to the City for approved and completed reimbursements by warrant or account transfer within 30 days of receipt of a properly completed A-19 invoice and the completed data report as required below.

3. PERIOD OF PERFORMANCE

Performance under this Agreement begins **July 1, 2022**, regardless of the date of execution, and ends on **June 30, 2023**. The period of performance may be amended by mutual agreement of the parties if the Legislature provides additional funding or time for these purposes.

4. TERMS OF REIMBURSEMENT

a) The City shall request reimbursement as follows:

1. The City will submit its A-19 invoices monthly to payables@courts.wa.gov. A-19 invoices submitted under this agreement must include:
    a. Payment documents from the City indicating the amounts expended, the recipients, and the date of expenditure.
    b. Sufficient information to allow AOC to determine that the costs reimbursed are extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v. Blake*.
    c. Proper coding for expenses under both 2.A. and B. For DES MOINES , expenses under 2.A. must be coded **40021070**, and reimbursement under 2.B. must be coded **40022090**.
2. The City shall provide a monthly report to AOC that must contain at a minimum:
    a. A list of any case numbers associated with the services provided;
    b. A breakdown of expenses by judicial, prosecutorial, and defense-related costs;
    c. The amount of LFOs reimbursed, with the case number associated with that amount.
    d. Any positions supported by these funds, broken down by judicial, prosecutorial, and defense-related positions; and
    e. Data, including case numbers and aggregate data on the number and type of cases:
        i. Vacated under *Blake*;

ii. Resentenced under *Blake*; and

iii. Being worked on under *Blake*.

b) By May 1, 2023, the City agrees to report any allocated funds under either 2. A. or B. that it will be unable to spend during the term of the contract, or any additional funds it anticipates needing during the term of the contract should additional funds become available. AOC reserves the right to reallocate funds that are reported to be unable to be spent.

5. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by agreement of the parties. Such amendments are not binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement must be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

a. Applicable state and federal statutes and rules;
b. This Agreement; and
c. Any other provisions of the agreement, including materials incorporated by reference.

7. WAIVER

A failure by either party to exercise its rights under this Agreement does not preclude that party from subsequent exercise of such rights and is not a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

8. SEVERABILITY

If any provision of this Agreement, or any provision of any document incorporated by reference is held invalid, such invalidity does not affect the other provisions of this Agreement which can be given effect without the invalid provision and to this end the provisions of this Agreement are declared to be severable.

9. AGREEMENT MANAGEMENT

The program managers noted below are responsible for and are the contact people for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	City Program Manager
Christopher Stanley Chief Financial and Management Officer PO Box 41170 Olympia, WA 98504-1170 christopher.stanley@courts.wa.gov (360) 357-2406	Jennefer Johnson, Court Administrator 21630 11th Ave South, Ste C Des Moines, WA 98198 206-870-6517

10. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement are considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

AGREED:

Administrative Office of the Courts		**DES MOINES**	
DocuSigned by: Christopher Stanley B760CAAF4FE6410...	6/21/2022	DocuSigned by: Lisa Leone E1775E5CC7D34C8...	6/21/2022
Signature	*Date*	*Signature*	*Date*
Christopher Stanley		Lisa Leone	
Name		*Name*	
Chief Financial and Management Officer		Presiding Judge	
Title		*Title*	

Consent Calendar Item #6

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Acceptance of Washington State Administrative Office of the Courts- Des Moines Municipal Court-Therapeutic Court Grant

ATTACHMENTS:
1. Grant Contract GRT23010 between Washington State Administrative Office of the Courts and Des Moines Municipal Court.

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Court

DATE SUBMITTED: August 5, 2022

CLEARANCES:
[ ] Community Development
[ ] Marina
[ ] Parks, Recreation & Senior Services
[ ] Public Works

CHIEF OPERATIONS OFFICER:_________

[X] Legal /s/ TG
[X] Finance_________
[X] Court /s/ JJ
[ ] Police

APPROVED BY CITY MANAGER FOR SUBMITTAL: ________

Purpose and Recommendation
The purpose of this Agenda Item is to request the Council's authorization to accept a grant from the Washington State Administrative Office of Courts (AOC) to be used to increase services to clients and victims with matters within Des Moines Municipal Court utilizing a therapeutic approach. The grant will cover housing vouchers for justice involved individuals, electronic monitoring and victim notification, a technology program to allow for text notification of appointments, court dates and cellular phones for indigent clients, subsidized Domestic Violence Moral Reconation Therapy, increased drug testing for and labor fees incurred by Court Support Services outside normal operations as needed through June 30, 2023.

Suggested Motion

"I move to accept the grant from the Washington Administrative Office of the Courts in the amount of $87,000 for the purposes of supplementing operations of the Des Moines Municipal Court-Support Services and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached."

Background

Over the course of the last five years, Des Moines Municipal Court has expanded the application of therapeutic court principles in all court cases. To that end, in June 2021, our court reorganized and re-evaluated our use of probation. Through a project our Probation Officer, Melissa Patrick, completed for the American Probation and Parole Association's Leadership Academy, we shifted to a "Goal-Based" Supervision approach. Over the course of the last year, our probation department (now called "Support Services") has evolved from a standard conditions-based supervision model to a more inclusive goal-based, responsive model. Utilizing key features of therapeutic courts such as: isolating offense types, not mixing high needs/high risk populations with low needs or low risk populations, providing cognitive based therapies, utilizing a validated risk/needs/responsivity assessment (Ohio Risk Assessment System), expanding our relationships with community stakeholders, and providing robust, individualized case planning.

Discussion

Through this partnership with Washington State AOC our Court Support Services team has been afforded educational opportunities, increased networking and the opportunity to grow the division. Washington State AOC had awarded the court a grant of $87,000 to cover the expansion of these resources. The grant money requested would allow us to make permanent some of the changes we've already made while also allowing us to provide additional therapeutic services to one target population in particular: high risk/high need domestic violence offenders. This population will be assigned to a specialized caseload, and each client will be assigned a Case Manager or Support Services Specialist who will assist with housing vouchers, cell phones to connect with service providers, their Case Manager or their attorney. Moreover, as we achieved with our DUI Court, we will include stakeholders in this process and continue to build upon our network of partnerships within the City, County, and across jurisdictions in South King County.

To hold Domestic Violence (DV) offenders accountable, we intend to expand court-pay electronic home monitoring, GPS services, random drug testing, and continuous alcohol monitoring (TAD or SCRAM). The grant money would also be used to subsidize DV Moral Reconation Therapy for participants. Additionally, program participants will have regularly scheduled court appearances and meet regularly with their Case Manager/Support Services Specialist. The ultimate goal in providing individualized case plans and providing access to needed services and support is to treat the whole person. The focus is on long-term change in thinking and behaviors and fostering adherence rather than simply compliance. Through these efforts, and according to the most recent research in the area of evidence-based practices, this approach will reduce recidivism, return a justice-involved individual to the community with the tools necessary to avoid re-offense, maintain employment, and create a healthy support system.

Alternatives

City Council could choose to not approve the grant/contract. (Not recommended)

Financial Impact

The costs not covered by the grant will be absorbed by already budgeted line items in the court/probation budgets for 2022-2023 as these are not new cases or clients, but rather individuals that would already be serviced. Accordingly, there is no negative financial impact to accepting this grant.

Recommendation

Staff recommends that the Council approve and ratify the Grant with the Washington State Administrative Office of the Courts for the Des Moines Municipal Court-Support Services.

GRANT AGREEMENT - GRT23010
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
Des Moines Municipal Court

THIS AGREEMENT (Agreement) is made by and between, **Washington State Administrative Office of the Courts** (AOC) and Des Moines Municipal Court , (Grantee), (collectively as the **Parties** and individually each as a **Party**).

The Parties hereby enter into this Agreement whereby Grantee will perform certain services for, and provide product deliveries to AOC. Grantee is subject to the terms and conditions specified in Attachment A and agrees to the following terms and conditions.

1. SCOPE OF WORK

Grantee must use funding to identify individuals before their court with substance use disorders or other behavioral health needs and engage those individuals with community-based therapeutic interventions within the Grantee's jurisdiction in accordance with the Grantee's grant application, and Statement of Work (Attachment A). This contract constitutes an official award letter.

2. TERM AND PERIOD OF PERFORMANCE

This Agreement's period of performance runs from July 1, 2022 through June 30, 2023, unless otherwise terminated (Term). Notwithstanding the foregoing, this Agreement and all its terms and conditions shall remain in full force and effect until all deliverables are completed or otherwise terminated, and this Agreement is terminated and/or completed.

3. COMPENSATION AND PAYMENT

The awarded amount is **$87,000.00** . Grantee will use the funds for the following cost categories (these amounts need to match what the grantee submitted in their application):

Cost Category	Amount
Personnel salaries & benefits	$ 17,000
Staff equipment & training	$
Treatment services	$ 38,000
Other participant services	$ 32,000
Total	$ 87,000

Grantee may vary the amount in any particular category by up to 10%, but any adjustments beyond 10% require the explicit written consent of AOC's Project Manager, and in no case may the total amount exceed the awarded amount above.

This amount includes expenses necessary or incidental to performing the items under the Statement of Work, including, but not limited to, travel, lodging and per diem related expenses. Grantee will submit an invoice after the completion and acceptance of each deliverable noted above.

This amount will be disbursed in two allotments, one in August 2022 and the second in January 2023 upon receipt of a properly filled out Form A-19.

4. REPORTING

The Grantee must submit quarterly reports to AOC documenting the progress of their therapeutic court program. These reports will provide:

- The number of program participants for the corresponding quarter,
- The services provided to program participants for the corresponding quarter,
- The cost of services provided to program participants for the corresponding quarter,
- Other costs accrued by the Grantee to support the therapeutic court program during the corresponding quarter, and
- Any challenges faced by the Grantee in operating their therapeutic court program during the corresponding quarter.

Reports shall be **submitted to** https://inside.courts.wa.gov/apps/therapeuticgrants/view/dsp_therapeuticgrants.cfm on the following schedule:

Period	Report Due
07/01/22 - 09/16/22	09/30/22
09/17/22-02/14/23	02/28/23
02/15/23-06/30/23	07/15/23 (final report)

Failure to submit a report by the due date may adversely affect the Grantee's eligibility for future funding.

5. BILLING PROCEDURES

Grantee will submit properly prepared Form A-19s via email to AOC Financial Services at payables@courts.wa.gov. Invoices shall be submitted no more than twice during the pendency of the contract. Incorrect or incomplete invoices shall be returned by AOC to Grantee for correction and reissuance, and may result in delays in funding. All Invoices shall provide and itemize, at a minimum, the following:

A. Contract Number GRT23010;

B. Grantee name, address, phone number;

C. Grantee Federal Tax Identification Number;

D. Description of Services to be provided;

E. Date(s) Services will be provided;

F. Total Invoice Price.

Payment will be considered timely if made by the AOC within thirty (30) calendar days of receipt of a properly prepared invoice. Payment shall be sent to the address designated by the Grantee.

The AOC may, in its sole discretion, terminate the contract or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AOC.

6. SAFEGUARDING OF INFORMATION

The use or disclosure by the Grantee of any information obtained as a result of performance under this contract concerning the AOC or the Court for any purpose not directly connected with the administration of the AOC's, the Court's or the Grantee's responsibilities with respect to services provided under this contract is prohibited except by written consent of the AOC or the Court.

7. CONFLICT OF INTEREST

Grantee warrants that at the date of execution of this Agreement, no organizational conflict of interest exists or is likely to arise in the performance of its obligations under the Subcontract. Grantee warrants that it shall advise AOC immediately if a conflict of interest arises in the future.

8. PROJECT MANAGEMENT

The Project Manager for each of the parties shall be the contact person for all communications regarding the performance of this Contract.

AOC Project Manager	Grantee Project Manager
Stephanie Oyler PO Box 41170 Olympia, WA 98504-1170 Stephanie.Oyler@courts.wa.gov 360-890-0901	**Melissa Patrick** 21630 11th Ave S Ste C Des Moines, WA 98198-6317 mpatrick@desmoineswa.gov 206-870-6593

9. ASSIGNMENT

Grantee agrees that none of the deliverables to be furnished under this Agreement shall be assigned or subcontracted (including to independent consultants) without the prior written permission of AOC.

10. TERMINATION

A. Termination for Default

The AOC may, by written notice, terminate this contract, in whole or in part, for failure of the Grantee to perform any of the obligations or provisions required by the contract. In the event of default, the Grantee shall be liable for damages as authorized by law, including but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time; Provided, that if (i) it is determined for any reason the Grantee was not in default, or (ii) the Grantee’s failure to perform is without Grantee’s and/or SubGrantee’s control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

B. Termination for Convenience

Except as otherwise provided in this contract, the AOC may terminate this contract by providing written notice of such termination to the Grantee, specifying the effective date thereof, at least five (5) calendar days prior to such date. If this contract is so terminated, the AOC shall be liable only for payment for services rendered prior to the effective date of termination.

11. DISPUTES

The Parties agree to attempt to resolve any dispute arising under this Agreement first by elevating the matter to appropriate levels of management within each organization. Grantee agrees that pending any decision, appeal or judgment on the settlement of any dispute arising under this Agreement, Grantee shall proceed diligently with the performance of this Agreement.

12. INDEMNIFICATION

The Grantee shall defend, protect, and hold harmless the state of Washington, the AOC, or any employees thereof, from and against all claims, suits or actions arising from the Grantee's acts which are libelous or slanderous, which result in injury to persons or property, which violate a right of confidentiality, or which constitute an infringement of any copyright, patent, trademark or trade name through use or reproduction of material of any kind.

13. FORCE MAJEURE

Neither Grantee nor AOC shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to strikes, lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except SubGrantees).

14. REPRESENTATION AND CERTIFICATIONS

Grantee shall complete all required Representations and Certifications as they apply to this Agreement, if any. Grantee further agrees that it will provide additional or annual Representations and Certifications as may be requested by AOC in connection with this Agreement, and also agrees to promptly notify AOC of any changes which modify the information contained in any such Representations and Certifications.

15. COMPLIANCE WITH LAWS

Grantee shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Agreement.

16. INDEPENDENT GRANTEES

Grantee is an independent Grantee in relation to AOC with respect to all matters arising under this Agreement. Nothing herein shall be construed to establish a partnership, joint venture, association or employment relationship between the parties. Neither Party shall be deemed to be an agent of the other or to have any authority to bind or create any obligation, express or implied, on behalf of the other.

17. WHOLE AGREEMENT

This Agreement and the SOW attached hereto contain and embody the entire agreement of the Parties hereto and supersede all prior agreements, negotiations and discussions between the Parties hereto. Any representation, inducement or agreement that is not contained in this Agreement shall not be of any force or effect. Except as otherwise expressly provided in this Agreement, this Agreement may not be modified or changed in whole or in part in any manner other than by an instrument in writing duly signed by both Parties hereto.

18. GOVERNING LAW/VENUE

This Agreement will be governed by and construed and enforced in accordance with the laws of Washington without giving effect to the principles of conflict of laws thereunder.

19. EXECUTION IN COUNTERPARTS

This Agreement may be executed in one or more counterparts and each counterpart shall constitute one and the same Agreement.

20. WAIVER

No Party shall be deemed to have waived any right hereunder unless such waiver is in writing, and the waiver or failure of either Party to exercise in any respect any right provided for herein shall not be a waiver of any further right hereunder.

21. SEVERABILITY

If any portion of this Agreement is held or determined to be invalid or unenforceable, the remaining provisions shall continue in full force and effect as if this Agreement had been executed within the invalid portion eliminated.

22. HEADINGS

Any headings used in this Agreement are for purposes of organization only and have no independent legal significance.

In **WITNESS WHEREOF**, the parties hereto have caused this instrument to be signed as of the day and year below written.

Administrative Office of the Courts		**Grantee**	
Signature	*Date*	*Signature*	*Date*
Christopher Stanley			
Name		*Name*	
Director, MSD			
Title		*Title*	

Attachment A

Statement of Work:

The Grantee must use funding to identify individuals before their court with substance use disorders or other behavioral health needs and engage those individuals with community-based therapeutic interventions within the Grantee's jurisdiction in accordance with the Grantee's grant application.

Funds can be used for the following costs categories:

- personnel salaries & benefits,
- staff equipment & training,
- treatment services (therapeutic services specifically designed to address SUD and MH) & compliance monitoring, and
- other participant services (other supportive services meant to ensure participant success- i.e. transportation services, including bus passes or car services providing transportation to court related activities and direct provision of meals, water and snacks).

Funds cannot be used for:

- replacing or supplementing the salary of current employees of the Grantee (employees must be taking on additional work or be a new employee to be eligible for funding),
- program incentives that constitute a gift or reward
- items and activities outside of the cost categories listed in the Grantee's contract.

The Grantee shall submit quarterly reports to AOC documenting the progress their therapeutic court program. These reports shall provide:

- the number of program participants for the corresponding quarter,
- the services provided to program participants for the corresponding quarter,
- the cost of services provided to program participants for the corresponding quarter
- other cost accrued by the Grantee to support the therapeutic court program during the corresponding quarter, and
- challenges faced by the Grantee in operating their therapeutic court program during the corresponding quarter.

Reports shall be **submitted to** https://inside.courts.wa.gov/apps/therapeuticgrants/view/dsp_therapeuticgrants.cfm on the following schedule:

Reporting schedule:

Period	**Report Due**
07/01/22-09/16/22	09/30/22
09/17/22-02/14/23	02/28/23
02/15/23-06/30/23	07/15/23 (final report)

Failure to submit a report by the due date may adversely affect the Grantee's eligibility for future funding.

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services between South King County Municipal Courts

ATTACHMENTS:
1. Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Court

DATE SUBMITTED: August 4, 2022

CLEARANCES:
[ ] Community Development
[ ] Marina
[ ] Parks, Recreation & Senior Services
[ ] Public Works

CHIEF OPERATIONS OFFICER:_________

[X] Legal /s/ TG
[ ] Finance ________
[X] Court /s/ JJ
[ ] Police _________

APPROVED BY CITY MANAGER FOR SUBMITTAL: __________

Purpose and Recommendation

The purpose of this agenda item is to request the City Council's approval of the Interlocal Agreement for Joint Supervision of Defendants within South King County Municipal Courts.

Suggested Motion

"I move to approve the Interlocal Agreement between the Municipal Courts of Federal Way, Kent, Renton, Tukwila, Seatac, Maple Valley and the Des Moines Municipal Court for consolidated supervision services of defendants and to authorize the Judge of the Des Moines Municipal Court to sign the agreement in substantially the form attached."

Background

In 2021, Gov. Inslee signed SHB 1294 amending RCW 4.24.760, 39.34.180, and 70.48.090 and reenacting and amending RCW 10.64.120. The enactment authorized limited jurisdiction courts to enter into interlocal agreements for the provision of pretrial and post-judgment probation supervision services, and established criteria governing the formation and scope of the interlocal agreements. Additionally, the bill extends the limited immunity applicable to limited jurisdiction courts for the provision of misdemeanant probation services to persons operating at the direction of the court pursuant to an interlocal agreement.

Discussion

The signatories to this interlocal agreement include neighboring municipal courts, all of whom serve populations in South King County. By consolidating cases for supervision, defendants will continue to be monitored for compliance with court orders across all courts. One of the benefits of the agreement is that defendants with cases among multiple jurisdictions will report to a single supervising officer rather than several officers in different courts. Simplifying the reporting requirement reduces the likelihood that a defendant will fail to appear for regularly scheduled meetings with their supervising officers which, in turn, increases the likelihood that a defendant will comply with court-ordered conditions.

Each court retains original jurisdiction over any case transferred to a neighboring court for supervision; in addition, each court retains the authority accept or decline requests to transfer cases into or (out of) its court for supervision.

Participation in this interlocal agreement will allow the Court and our Support Services Department to share resources and information with neighboring courts and departments to ensure that the risk, needs and responsivity requirements of each individual on supervision are adequately addressed. Improving the quality of criminal case supervision increases the likelihood that a defendant will be successful on supervision thereby reducing the likelihood of recidivism.

Alternatives

The Council could decline to enter into an Interlocal Agreement for Consolidated Supervision Services with Limited Jurisdiction courts of South King County.

Financial Impact

There is no financial impact as the only clients eligible for consolidated supervision services would already be on supervision for convictions within the host jurisdiction.

Recommendation

Staff recommends that the Council approve the Interlocal Agreement for Joint Supervision of Defendants with Courts of Limited Jurisdiction in South King County.

INTERLOCAL AGREEMENT FOR JOINT SUPERVISION OF DEFENDANTS

CONSOLIDATED SUPERVISION SERVICES

In an effort to increase the likelihood of success for defendants on supervision in multiple courts the undersigned judges, as representatives of the respective courts, enter into the following Interlocal Agreement ("ILA") to be effective as of September 1, 2022.

PROVISIONS

A. DEFINITIONS: References to a "supervising department" means the department established by a court to supervise conditions of sentence imposed by that court. The "host jurisdiction" shall be the supervising department that the defendant reports to for supervision under this program. A "participating jurisdiction" is any court and/or supervising department that has imposed conditions or has referred conditions for supervision to a host jurisdiction.

B. PURPOSE: To establish a program that allows defendants to report to one court's supervising department when they are required to comply with conditions in multiple courts. Eligible individuals can elect to consolidate supervision of conditions by a single supervising department that would report completion of court ordered conditions and violations to all host and participating courts.

C. AUTHORITY: This ILA is established under RCW 39.34.180(6). In addition, ARLJ 11 provides that the *"…method of providing these services shall be established by the presiding judge of the local court to meet the specific needs of the court."* Each court shall continue to have exclusive original jurisdiction of all criminal law violations committed within the jurisdiction of that court as authorized by statute or ordinance.

D. ADMINISTRATION: The host jurisdiction shall supervise the conditions imposed by all participating courts pursuant to its own established practices and procedures. Nothing herein changes the authority of each court or supervising department to determine its own practices and to follow its own procedures. Participating jurisdiction judges and staff shall have no authority to supervise the host jurisdiction's staff.

E. APPLICATION: Any defendant with conditions on a criminal conviction in multiple courts that are signatories to this agreement may request or consent to the supervising department in one of those courts to act as the host jurisdiction for supervision. The request may be approved by the respective supervising departments if the presiding judge of the host jurisdiction and participating jurisdictions are signatories to this agreement. Not all jurisdictions need to agree, but the request will be denied unless at least one participating jurisdiction has approved the request along with the host jurisdiction. The decision to admit the defendant to the program will rest within the sole discretion of each jurisdiction. The parties may not agree to consolidate supervision as part of a resolution of the case, unless all applicable supervising departments agree to such supervision, but may recommend that a person be considered for such supervision. No supervising department shall be bound to the program unless consent has been given by that supervising department.

F. REPORTING: The host jurisdiction shall report completion of court ordered conditions and violations to the host jurisdiction and to each participating jurisdiction. Each court and supervising department will address compliance and violations pursuant to its own established policies and procedures. Staff designated by the presiding judge of each court shall serve as the point of contact. Defendants must still report to supervising departments of any non-participating jurisdiction.

G. PROPERTY: This program does not contemplate the acquisition, holding, or disposal of real or personal property.

H. FINANCING: There shall be no financing of any joint or cooperative undertaking pursuant to this program. There shall be no budget maintained for any joint or cooperative undertaking. supervision fees under RCW 10.64.120 shall only be collected by the host jurisdiction. No supervision fees can be collected by a participating jurisdiction while the defendant is part of the program. Non-participating supervising departments may charge fees pursuant to RCW 10.64.120. Participating supervising departments may charge fees pursuant to RCW 10.64.120 after revocation pursuant to Paragraph I.

I. REVOCATION OF SUPERVISION: The defendant may request that the court revoke the consolidated supervision at any time, except if alleged violations have been reported pursuant to this agreement. The judge of the host jurisdiction (or designee) or the judge (or designee) of any participating jurisdiction may remove its jurisdiction's approval of consolidated supervision at any time. The defendant will then be required to report to the supervising department of the jurisdiction(s) that revoked its participation.

J. LIABILITY: Each supervising department has its own duties and liabilities and nothing herein alters those liabilities or creates a respondeat superior or agency relationship between cities, courts, or supervising departments. All supervising departments are autonomous and nothing herein creates or contemplates a duty or ability to supervise or control the work of host jurisdictions by participating jurisdictions or vice versa.

K. AGREEMENT TO MEET AND CONFER: Participant courts shall meet and confer periodically during the life of this program at mutually agreeable times and dates to review program procedures and effectiveness.

L. TERMINATION AND NOTICE: Any court participating in this program may terminate its participation upon thirty-days written notice to the remaining participant courts. The termination by any one court shall not affect the rights of the remaining participants under this program. Any notice or other communication shall be sufficient if it is in writing and/or by electronic submission.

Signed below in our official capacity as judges of the respective courts.

________________________	___________________________
Judge David Larson, Presiding	Judge Brad Bales
Federal Way Municipal Court	Federal Way Municipal Court
Date: ____________________	Date: ____________________
________________________	___________________________
Judge Kara Murphy, Presiding	Judge Jessica Giner
Renton Municipal Court	Renton Municipal Court
Date: ____________________	Date: ____________________

____
Judge Michael Frans, Presiding
Kent Municipal Court
Date: _____________________

____
Judge Anthony Gipe
Kent Municipal Court
Date: _____________________

____
Judge Pauline Freund, Presiding
SeaTac Way Municipal Court
Date: _____________________

____
Judge Kimberly Walden, Presiding
Tukwila Municipal Court
Date: _____________________

____
Judge L. Stephen Rochon, Presiding
Maple Valley Municipal Court
Date: _____________________

____
Judge Lisa Leone, Presiding
Des Moines Municipal Court
Date: _____________________

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Amendment to Grant Agreement with The Washington State Recreation and Conservation Office, Providing Additional Funding for the Marina's Guest Moorage Electrical Project.	FOR AGENDA OF: August 25th 2022 DEPT. OF ORIGIN: Marina DATE SUBMITTED: August 4th 2022
ATTACHMENTS: 1. Amendment Number 1 to Grant Agreement with Washington Recreation and Conservation Office 2. Grant Agreement with Washington Recreation and Conservation Office RE: Project No. 19-1532D	CLEARANCES: [X] Marina SW [X] Legal /s/ TG [X] Finance Beth Anne Wroe CHIEF OPERATIONS OFFICER: DB APPROVED BY CITY MANAGER:

Purpose & Recommendation

The purpose of this agenda item is to consider an amendment to the existing grant agreement between the City and the State's Recreation and Conservation Office (RCO) that will increase the grant amount for the project to upgrade the electrical system in the Marina's guest moorage area.

Recommended Motion

"I move to approve Amendment No. 1 to the Grant Agreement for project number 19-1532D, increasing the grant amount by $45,648, to authorize an additional expenditure of Marina operating funds of $15,216 to provide the required additional matching funds, and to authorize the City Manager to sign the Amendment substantially in the form as attached."

Background

In 1988 all of the wood floating docks in the Marina's guest moorage area, (including the fuel dock) were replaced with concrete floating docks. At that time, all of the shore power pedestals were replaced with units with 30 Amp capacity. Over the years, a few of the pedestals have been upgraded to 50 amp services but the pedestals are predominantly 30 amp and the entire system is now 34 years old. When the bulkhead in the Guest Moorage area was replaced in 2010 part of the floating dock was enlarged to accommodate two transformers and a distribution panel on the dock.

Agenda Item – Amendment to Grant Agreement 19-1532D

Discussion

For several years the Marina staff has recognized the need to replace the existing shore power system in the Guest Moorage Area with a system that would provide 50 amp service to all the slips in the Guest Moorage area to accommodate the trend towards larger vessels with more electric appliances and electronics. In 2018 the staff began the project by retaining Wood Harbingers Electrical Engineers to design the new system and they also applied for a grant from the RCO's Boating Infrastructure Grant Program. The grant application was successful and the project began, but was delayed for almost two years because of the pandemic.

The delay was frustrating but during that time the staff was able to research some of the trends in the recreational boating industry. Now it is apparent to the staff that the industry is at the beginning of a fundamental change in propulsion systems for recreational boats. Although it is difficult to predict the path and timeline that new technology will take, it seems certain that similar to the automobile industry, recreational boats will adopt some degree of electrification and that means that some means of recharging will be needed. These upgrades will position the Marina to be able to provide the services future boaters will need.

Recharging capacity can range from 40 amp circuits that can recharge a boat in 8 to 12 hours to high capacity "super chargers" that put out 100 amps at 480 volts and will re-charge a large boat a reasonable amount of time. Adding any extra capacity for recharging means adding some additional equipment and the staff recommends adding equipment that will enable the Marina to expand charging capacity as it is needed. Adding another transformer and distribution panel now would create the capacity to install high capacity charging stations in the future. In the immediate future the new 50 amp shore power pedestals will allow boaters to re-charge in the several hour time frame.

To fund the extra equipment needed and the general cost increases that have occurred since the original project estimate was performed for the grant application in 2018, the staff went back to RCO's Boating Infrastructure Grant program to request additional funding. The request was approved for the amounts shown below as the Amended Grant.

	Original Grant		Amended Grant	
	Amount	%	Amount	%
RCO –BIG	$81,575	75%	$127,223	75%
Sponsor Match	$27,192	25%	$42,408	25%
Total Grant	$108,767	100%	$169,631	100%

Alternatives

Alternative No. 1: The Council may approve the amendment and accept the additional funding from RCO's BIG program.

Alternative No. 2: The Council may decline the extra funding from the BIG program.

Financial Impact

Agenda Item – Amendment to Grant Agreement 19-1532D

Acceptance of the amendment will result in an increase of $45,648.00 in grant funds from RCO to the City. This amendment will also increase the amount of the City's 25% match by up to $15,216.00, which is proposed to be funded from funds already appropriated from Marina operations..

Recommendation

Staff recommends that the Council approve Amendment No. 1 to the Grant Agreement No. 19-1532D.

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Attachment #1

WASHINGTON STATE
Recreation and
Conservation Office

Amendment to Grant Agreement

Project Sponsor: City of Des Moines **Project Number:** 19-1532D
Project Title: Des Moines Marina Guest Moorage Electrical Upgrad(**Amendment Number:** 1

Amendment Type:

Cost Change

Amendment Description:

With the availability of additional Boating Infrastructure Grant program funds from federal award #F19AP00336, the Grant Agreement referenced above is amended to increase the grant amount by $45,648. This increase provides a total grant of $127,223. Sponsor Match is increased proportionally, and A&E is increased to 20%.

Project Funding:

The total cost of the project for the purpose of this Agreement changes as follows:

	Old Amount		New Amount	
	Amount	%	Amount	%
RCO - BIG - Tier1	$81,575.00	75.00%	$127,223.00	75.00%
Project Sponsor	$27,192.00	25.00%	$42,408.00	25.00%
Total Project Cost	$108,767.00	100%	$169,631.00	100%
Admin Limit	$0.00	0.00%	$0.00	0.00%
A&E Limit	$14,296.00	15.13%	$28,271.00	20.00%

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State of Washington
Recreation and Conservation Office

BY: ______________________
for Megan Duffy

TITLE: Director

DATE: ______________________

Pre-approved as to form:

BY: /S/
Assistant Attorney General

City of Des Moines

AGENCY: ______________________

BY: ______________________

____

TITLE: ______________________

DATE: ______________________

BIG Project Cost Change Amendment
General Fund - Federal
AMENAGR1.RPT

RCW 79A.25. WAC 286

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WASHINGTON STATE Recreation and Conservation Office

RCO Grant Agreement

Project Sponsor: City of Des Moines

Project Title: Des Moines Marina Guest Moorage Electrical Upgrade

Project Number: 19-1532D

Approval Date: 09/14/2020

PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Des Moines (Sponsor, and primary Sponsor), 21630 11th Ave S Ste A, Des Moines, WA 98198, and shall be binding on the agents and all persons acting by or through the parties.

The Sponsor's Data Universal Numbering System (DUNS) Number is 079270443.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Prior to and during the Period of Performance, per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.

A. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant Resolution/Authorization signed by its governing body or a written delegation of authority to sign in lieu of originally authorized Representative/Agency(s). Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

B. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the General Fund - Federal of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT

The City of Des Moines Marina will use this funding to replace all 28 shore power pedestals in the transient moorage area. The existing pedestals currently have 20 and 30 Amp receptacles and the new pedestals will have 20, 30, and 50 Amp receptacles. This project will more than double the electric power capacity of the shore power system and bring the system into compliance with existing National Electric Code by installing GFCI circuit breakers in the main distribution panel. The primary recreational opportunity provided by this project is transient, recreational boating.

PERIOD OF PERFORMANCE

The period of performance begins on November 1, 2020 (project start date) and ends on October 31, 2022 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Recreation and Conservation Office are hereby incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

For this development project, the Sponsor's long-term obligations shall be for a period of useful service life based on the longest useful life period identified for one or more capital improvements within the project area, unless otherwise identified in the Agreement or as approved by the funding board or RCO.

PROJECT FUNDING

The total grant award provided for this project shall not exceed $81,575.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
RCFB - BIG - Tier1	75.00%	$81,575.00	Federal
Project Sponsor	25.00%	$27,192.00	
Total Project Cost	100.00%	$108,767.00	

FEDERAL FUND INFORMATION

If federal funding information is included in this section, this project is funded by, matched by, and/or funded in part by the following federal award, or subaward:

Federal Agency: US Dept of Interior
Catalog of Federal Domestic Assistance Number and Name: 15.622 - Boating Infrastructure
Federal Award Identification Number: F20AP12072
Federal Fiscal Year: 2020
Federal Award Date: 09/14/2020
Total Federal Award: $84,936
Federal Award Project Description: Des Moines, City of

Sponsor's Indirect Cost Rate: 10.00% of De Minimus base: MTDC, as defined by 2 CFR 200.414 (f)

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are $750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F–Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

Sponsor shall comply with the federal "Omni-circular" (2 C.F.R. Part 200).

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.

Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.

For the purpose of this Agreement, WAC Title 286, RCFB policies shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Boating Infrastructure Grant Program Manual 12
- Development Projects - Manual 4
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8

SPECIAL CONDITIONS

1. Financial Assistance Award Terms and Conditions.

This project is subject to the U.S. Fish and Wildlife Service Financial Assistance Award Terms and Conditions posted on the Internet at https://www.fws.gov/grants/.

2. Long-term Obligations of the Project and Sponsor.

The compliance period for the long-term obligation is 30 years from the date of final reimbursement and acceptance of the project as complete by RCO. The compliance period is determined by the longest useful life for one or more of the capital improvements as identified by the sponsor in the grant application. Useful life means the period during which a funded capital improvement is capable of fulfilling its intended purpose with adequate routine care and maintenance.

3. National Historic Preservation Act.

This project is subject to the National Historic Preservation Act (NHPA), Section 106, and therefore appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 8 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including any staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. The Sponsor must submit to RCO evidence of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

4. National Environmental Policy Act and Endangered Species Act.

This project is subject to the National Environmental Policy Act (NEPA) and Section 7 of the Endangered Species Act (ESA). No ground disturbing activities including demolition may occur until a NEPA and ESA determination has been made and a notice to proceed has been issued by RCO.

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

Sponsor Project Contact	RCO Contact
Joe Dusenbury City of Des Moines 22307 Dock Ave S Des Moines, WA 98198 jdusenbury@desmoineswa.gov	Allison Dellwo Natural Resources Building PO Box 40917 Olympia, WA 98504-0917 allison.dellwo@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

Unless otherwise provided for in this Agreement, this Agreement, for project 19-1532, shall not be effective and binding until the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

City of Des Moines

By: Michael Matthias
Michael Matthias (Jan 6, 2021 12:03 PST)

Date: Jan 6, 2021

Name (printed): Michael Matthias

Title: City Manager

State of Washington Recreation and Conservation Office
On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)

By: Marguerite Austin

Date: Jan 7, 2021

For Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By: David B. Merchant

Date: 07/01/2020

Assistant Attorney General

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

Development Metrics

Worksite #1, City of Des Moines Marina

Utilities

Install power utilities
Select the power utilities: General service connection, Power line, Transformers/panels

Permits

Obtain permits

Architectural & Engineering

Architectural & Engineering (A&E)

Project Sponsor: City of Des Moines **Project Number:** 19-1532D
Project Title: Des Moines Marina Guest Moorage Electrical Upgrade **Approval Date:** 09/14/2020

Project Milestones

PROJECT MILESTONE REPORT

Complete	Milestone	Target Date	Comments/Description
X	Project Start	11/01/2020	
	Design Initiated	02/01/2021	
	Cultural Resources Complete	03/01/2021	Documentation of completion of cultural resources review required, see special condition #3.
	Progress Report Due	03/31/2021	
	60% Plans to RCO	03/31/2021	
	Applied for Permits	03/31/2021	
	SEPA/NEPA Completed	06/01/2021	Documentation of completion of NEPA and ESA required, see special condition #4.
	All Bid Docs/Plans to RCO	07/01/2021	
	Annual Project Billing Due	07/31/2021	
	Bid Awarded/Contractor Hired	08/01/2021	
	Construction Started	10/01/2021	
	Progress Report Due	10/15/2021	For reporting period through 9/30/2021
	50% Construction Complete	12/31/2021	
	RCO Interim Inspection	01/31/2022	
	Progress Report Due	03/31/2022	
	90% Construction Complete	06/01/2022	
	Construction Complete	06/30/2022	
	Funding Acknowl Sign Posted	06/30/2022	
	Final Billing Due	07/31/2022	
	RCO Final Inspection	07/31/2022	
	Annual Project Billing Due	07/31/2022	
	Final Report Due	09/30/2022	For reporting period through 9/30/2022
	Agreement End Date	10/31/2022	

Project Sponsor: City of Des Moines **Project Number:** 19-1532D
Project Title: Des Moines Marina Guest Moorage Electrical Upgrade **Approval Date:** 09/14/2020

Standard Terms and Conditions of the Recreation and Conservation Office

Table of Contents

STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This agreement reflects Standard Terms and Conditions of the Recreation and Conservation Office as of 10/15/2020.

CITATIONS, HEADINGS AND DEFINITIONS

A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.

B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.

C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

Agreement, terms of the Agreement, or project agreement – The document entitled "RCO GRANT AGREEMENT" accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual – A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the "RCO director" for the term "board" in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) – Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the "RCO director" for the term "board" or "agency" in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the "Application" in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor's signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been paid by RCO.
- Property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term "development project" includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or $5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

maintenance project – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded on the property title of the project area(s) in the county or counties where the project property is located, or with the United States Government, that describes the project area on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project completion or completed project – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been paid by RCO.
- Property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

RESPONSIBILITY FOR PROJECT

While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.

Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.

C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.

   1) Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or

subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.

2) Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

E. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

ARCHAEOLOGICAL AND CULTURAL RESOURCES

A. Project Review. RCO facilitates the review of projects for potential impacts to archaeology and cultural resources, except as those listed below. The Sponsor shall follow RCO guidance and directives to assist it with such review as may apply.

1) **Projects occurring on State/Federal Lands:** Archaeological and cultural resources compliance for projects occurring on State or Federal Agency owned or managed lands, will be the responsibility of the respective agency, regardless of sponsoring entity type. Prior to ground disturbing work or alteration of a potentially historic or culturally significant structure, or release of final payments on an acquisition, the Sponsor must provide RCO all documentation acknowledging and demonstrating that the applicable archaeological and cultural resources responsibilities of such state or federal landowner or manager has been conducted.

B. Termination. RCO retains the right to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.

C. Notice To Proceed. No work shall commence in the project area until RCO has provided a notice of cultural resources completion. RCO may require on-site monitoring for impacts to archaeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns. Non ground disturbing projects (such as acquisition or planning project) all cultural resources requirements must be met prior to final reimbursement.

D. Compliance and Indemnification. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic resources in the project area, and comply with any RCO direction for such minimization and mitigation. All federal or state cultural resources requirements under Governor's Executive Order 05-05 and the National Historic Preservation Act, and the State Environmental Policy Act and the National Environmental Policy Act, and any local laws that may apply, must be completed prior to the start of any work on the project site. The Sponsor must agree to indemnify and hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the project funded under this Agreement. Sponsor shall comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

E. Costs associated with project review and evaluation of archeology and cultural resources are eligible for reimbursement under this agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan, and:

1) Keep the IDP at the project site.

2) Make the IDP readily available to anyone working at the project site.

3) Discuss the IDP with staff and contractors working at the project site.

4) Implement the IDP when cultural resources or human remains are found at the project site.

F. Discovery

1) If any archaeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.

2) If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the State provides a new notice to proceed.

a) Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP).

b) The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

RECORDS

A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.

B. **Maintenance and Retention.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.

D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

PROJECT FUNDING

A. **Authority**. This Agreement and funding is made available to Sponsor through the RCO.

B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.

C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

D. **Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in the FEDERAL FUND INFORMATION Section are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).

E. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

PROJECT REIMBURSEMENTS

A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.

B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.

C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.

D. **Conditions for Payment of Retainage.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:

1) RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.

2) On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO;Grant related fiscal transactions are complete, and

3) RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

4) A Notice of Grant for any property rights acquired or donated (if applicable) have been filed with the county lands records office (or United State Government) and a stamped copy received by RCO, and any property rights owned to RCO have been likewise recorded.

E. **Requirements for Federal Subawards:** Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:

1) Are verifiable from the non-Federal entity's (Sponsor's) records;

2) Are not included as contributions for any other Federal award;

3) Are necessary and reasonable for accomplishment of project or program objectives;

4) Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013) as updated and amended;

5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;

6) Are provided for in the approved budget when required by the Federal awarding agency identified in the FEDERAL FUND INFORMATION Section of this Agreement; and

7) Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

F. **Requirements for Federal Subawards:** Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1) Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.

2) Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

3) Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.

4) Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property rust relationship and 200.329 Reporting on real property (2013).

RECOVERY OF PAYMENTS

A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.

B. **Return of Overpayments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.

C. **Requirements for Federal Subawards.** RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INCOME (AND FEES) AND USE OF INCOME

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.

B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:

1) The Sponsor's matching resources;

2) The project's total cost;

3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;

4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;

5) Capital expenses for similar acquisition and/or development and renovation; and/or

6) Other purposes explicitly approved by RCO.

C. **Fees**. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:

1) Grant program laws, rules, and applicable manuals;

2) Value of any service(s) furnished;

3) Value of any opportunities furnished; and

4) Prevailing range of public fees in the state for the activity involved.

D. **Requirements for Federal Subawards.** Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013) as updated and amended.

PROCUREMENT REQUIREMENTS

A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:

1) Publish a notice to the public requesting bids/proposals for the project;

2) Specify in the notice the date for submittal of bids/proposals;

3) Specify in the notice the general procedure and criteria for selection; and

4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.

5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

B. **Requirements for Federal Subawards.**

1) For all Federal subawards, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).

TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

C. **Requirements for Federal Subawards**. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013) as updated and amended):

1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

4) Adequate maintenance procedures must be developed to keep the property in good condition.

5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

ACKNOWLEDGMENT AND SIGNS

A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

B. **Signs.**

   1) During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and

   2) During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.

D. **Federally Funded Projects.** When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:

1) The fund source;

2) The percentage of the total costs of the project that is financed with federal money;

3) The dollar amount of federal funds for the project; and

4) The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force:

A. **Operations and Maintenance**. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.

B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.

    1) Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.

C. **Control and Tenure**. The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.

D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009", "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

E. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

A. **Long-Term Obligations**. This section applies to completed projects only.

B. **Perpetuity**. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.

C. **Conversion**. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state of federal laws or regulation.

1) When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

A. **Property and facility operation and maintenance**. Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:

   1) According to applicable federal, state, and local laws and regulations, including public health standards and building codes;

   2) In a reasonably safe condition for the project's intended use;

   3) Throughout its estimated useful service life so as to prevent undue deterioration;

   4) In compliance with all federal and state nondiscrimination laws, regulations and policies.

B. **Open to the public**. Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:

   1) Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.

   2) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.

   3) Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

RECORDED NOTICE OF GRANT

At the request of RCO, another state agency, or a federal agency, Sponsor shall record a notice of grant on property subject to this Agreement and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to provide constructive notice of the grant and project and to ensure that the present and future use of the project area is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

PROVISIONS FOR FEDERAL SUBAWARDS

The following provisions shall be in force for this agreement:

A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.

B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

C. **Equal Employment Opportunity.** Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

   1) **Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

   2) **Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines "construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

D. **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

   In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section.

   The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: Federal Fund Information.

E. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

F. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

G. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-

Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).

H. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

I. **Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

J. **Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).

K. **Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

L. **Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS

Use of Sport Fish Restoration Logo. Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

A. Federal law and binding executive orders;

B. Code of federal regulations;

C. Terms and conditions of a grant award to the state from the federal government;

D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;

E. State Constitution, RCW, and WAC;

F. Agreement Terms and Conditions and Applicable Manuals;

G. Applicable deed restrictions, and/or governing documents.

LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SPECIFIC PERFORMANCE

RCO may enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

TERMINATION AND SUSPENSION

The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. **For Cause.**

1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:

a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;

b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or

c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;

2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.

3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. **For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1) The Sponsor was not in default; or

2) Failure to perform was outside Sponsor's control, fault or negligence.

C. **Rights of Remedies of the RCO.**

1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement , the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. **Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

2) **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

DISPUTE HEARING

Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

A. The disputed issues;

B. The relative positions of the parties;

C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

END OF AGREEMENT

This is the end of the agreement.

19-1532 City of Des Moines, Marina Guest Moorage Electrical Upgrade - Agreement

Final Audit Report 2021-01-07

Created:	2021-01-06
By:	Lanlalit Nicolai (lanlalit.nicolai@rco.wa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqtVe0pcqhHAxJvByZCVA1tN2alYYv4Vp

"19-1532 City of Des Moines, Marina Guest Moorage Electrical Upgrade - Agreement" History

- Document created by Lanlalit Nicolai (lanlalit.nicolai@rco.wa.gov)
  2021-01-06 - 4:57:42 PM GMT- IP address: 198.238.202.135

- Document emailed to Michael Matthias (mmatthias@desmoineswa.gov) for signature
  2021-01-06 - 5:00:39 PM GMT

- Email viewed by Michael Matthias (mmatthias@desmoineswa.gov)
  2021-01-06 - 6:20:29 PM GMT- IP address: 24.17.36.26

- Michael Matthias (mmatthias@desmoineswa.gov) entered valid password.
  2021-01-06 - 8:02:44 PM GMT

- Document e-signed by Michael Matthias (mmatthias@desmoineswa.gov)
  Signature Date: 2021-01-06 - 8:03:27 PM GMT - Time Source: server- IP address: 146.129.246.3

- Document emailed to Lanlalit Nicolai (lanlalit.nicolai@rco.wa.gov) for approval
  2021-01-06 - 8:03:29 PM GMT

- Email viewed by Lanlalit Nicolai (lanlalit.nicolai@rco.wa.gov)
  2021-01-06 - 8:03:49 PM GMT- IP address: 104.47.65.254

- Document approved by Lanlalit Nicolai (lanlalit.nicolai@rco.wa.gov)
  Approval Date: 2021-01-06 - 8:04:02 PM GMT - Time Source: server- IP address: 198.238.202.135

- Document emailed to Marguerite Austin (marguerite.austin@rco.wa.gov) for signature
  2021-01-06 - 8:04:03 PM GMT

- Email viewed by Marguerite Austin (marguerite.austin@rco.wa.gov)
  2021-01-07 - 3:04:33 PM GMT- IP address: 198.238.202.135

Document e-signed by Marguerite Austin (marguerite.austin@rco.wa.gov)

Signature Date: 2021-01-07 - 3:05:48 PM GMT - Time Source: server- IP address: 198.238.202.135

Agreement completed.

2021-01-07 - 3:05:48 PM GMT

Consent Calendar Item #9

A G E N D A   I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Draft Ordinance No. 22-043, amending DMMC 9.68.070 to update references to civil protection order violations

ATTACHMENTS:
1. Draft Ordinance No. 22-043

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: August 18, 2022

CLEARANCES:
[ ] Community Development ____
[ ] Marina ____
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: ____________
[X] Legal /s/ TG
[ ] Finance ____
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [signature]

Purpose and Recommendation
The purpose of this agenda item is for the City Council to consider proposed Draft Ordinance 22-043 that would adopt by reference sections in RCW chapter 7.105 criminalizing civil court order violations formerly contained in the newly-repealed RCW 26.50.110.

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-043 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 22-043, amending DMMC 9.68.070 to adopt by reference certain RCW sections relating to criminal violations of court orders."

Background
In an effort to clarify and simplify the civil protection order process, the state legislature recently enacted Engrossed Second Substitute House Bill 1320 that recodified Ch. 26.50 RCW into Ch. 7.105 RCW. One unforeseen consequence of this recent legislation is that cities that have adopted the crimes found in Ch. 26.50 RCW are now defending challenges made by defense attorneys that the crimes are not appropriately adopted to allow for their enforcement in municipal court.

Although the City of Des Moines has a broad "catch-all" "all in DMMC 9.04.020(c) that states:

> RCW sections that constitute misdemeanors and gross misdemeanors and the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement, and enforcement of misdemeanors and gross misdemeanors … as currently enacted, as hereafter amended, as subsequently adopted, ***or recodified***."

out of an abundance of caution and to eliminate this potential defense, the legal department is asking the Council to update the DMMC to reflect the updated RCW citations.

Discussion
Violations of civil court protection orders, particularly domestic violence protection orders but also stalking protection orders, sexual assault protection orders, and anti-harassment orders have been a criminal violation of the Des Moines Municipal Code for decades, and the prosecution of these offenses has been a priority for the City Attorney's office. The action of the Legislature to repeal the statute criminalizing violations and to reenact the same prohibitions in a different RCW title does nothing to change this.

The effect of this draft ordinance is simply to continue to define the same behavior that was illegal when it was defined in RCW 26.50.110 as an offense against the City that can be charged in the Municipal Court. Adopting this draft ordinance does not represent a change in the status quo. Rather, it is maintaining the Council's existing policy. In short, the Legislature has moved the violations to a different Title, and this ordinance is being updated to reference the new location.

Alternatives
The Council may:
1. Pass the Draft Ordinance as presented.
2. Pass the Draft Ordinance with amendments.
3. Decline to pass the Draft Ordinance. If the Council does not adopt these amendments and Court were to decline jurisdiction, the only recourse would be to contract with King County to prosecute, adjudicate, sentence, and incarcerate the defendant at the City's cost, through an interlocal agreement.

Financial Impact
The City is responsible for the costs of prosecution, adjudication, sentencing, and incarceration for violations of non-felony civil court order violations occurring in the City, whether or not this draft ordinance is adopted. Should the Council decline to adopt the draft ordinance and should the

Municipal Court decline jurisdiction for these charges, however, the City would need to contract with King County to provide the services through an interlocal agreement at a higher cost than had the cases been prosecuted in the Municipal Court.

Recommendation or Conclusion

Staff recommends approval of the proposed Draft Ordinance.

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CITY ATTORNEY'S FIRST DRAFT 08/18/2022

DRAFT ORDINANCE NO. 22-043

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety, adopting by reference certain RCW sections relating to criminal violations of court orders, and amending DMMC 9.68.070.

WHEREAS, Article XI Section 11 of the Washington State Constitution authorizes Cities to establish such crimes as necessary to protect the public safety, health, and welfare, so long as said crimes do not conflict with state law, and

WHEREAS, the Legislature has authorized Code Cities such as Des Moines to adopt and enforce misdemeanors and gross misdemeanors as appropriate to good government of the City through RCW 35A.11.020, and

WHEREAS, Code Cities may adopt by reference Washington state statutes per RCW 35A.21.180, and

WHEREAS, Title 9 of the Des Moines Municipal Code identifies certain criminal violations designed to provide for public health, welfare and safety within the City, and

WHEREAS, domestic violence offenses are among the most significant criminal violations of City code in terms of both seriousness and impact to the victims and community, and

WHEREAS, the City Council of the City of Des Moines has previously adopted by reference certain sections of RCW chapter 26.50 relating to violations of Domestic Violence Protection Orders and other civil protection orders issued by courts through Ordinance no. 1036, as amended by Ordinance 1604, and

WHEREAS, the Legislature enacted Engrossed Second Substitute House Bill 1320 in 2021 in an attempt to streamline and harmonize the various civil protection order statutes in order to clarify and simplify the process for petitioners, respondents, law enforcement, and courts, and

WHEREAS, section 170 of ESSHB 1320 repealed chapter 26.50 in its entirety, with the exception of two sections not adopted by the City, effective July 1, 2022, and

WHEREAS, ESSHB 1320 enacted a new RCW chapter 7.105, including new RCW sections that continue to define a violation of civil protection orders as a crime, and

WHEREAS, adopting these new sections of RCW chapter 7.105 will define the order violations previously made illegal by RCW 26.50.110 a crime against the City of Des Moines, and

WHEREAS, notwithstanding that DMMC 9.04.020, enacted by the City Council in Ordinance no. 1036, as amended by Ordinance no. 1604, adopts all RCW sections that constitute misdemeanors and gross misdemeanors as crimes against the City of Des Moines, including the newly enacted criminal violations contained in RCW chapter 7.105, and

WHEREAS, the City Council finds that the seriousness of order violations merits affirmatively adopting the criminal provisions of RCW chapter 7.105 to ensure violators may be promptly and effectively prosecuted in the Des Moines Municipal Court, and

WHEREAS, the City Council finds that adoption of this Ordinance is appropriate and necessary for the preservation of the public health and welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 9.68.070 and section 78 of Ordinance No. 1036, as amended by section 30 Ordinance No. 1604 are each amended to read as follows:

Domestic Violence.

The following state statutes are adopted by reference and are applicable within the city:

RCW

10.99.020 Definitions.

10.99.030 Law enforcement officers – Training, powers, duties – Domestic violence reports.

10.99.040 Duties of court – No contact orders.

10.99.045 Appearances by defendant – Defendant’s history – No contact order.

10.99.050 Restriction, prohibition – Violation, penalties – Written order – Procedures – Notice of change.

10.99.055 Enforcement of orders.

10.99.060 Prosecutor’s notice to victim – Description of available procedures.

10.99.070 Liability of peace officers.

~~26.50.010 Definitions.~~

~~26.50.020 Commencement of action – Jurisdiction – Venue.~~

~~26.50.030 Petition for an order for protection – Availability of forms and instructional brochures – Bond not required.~~

~~26.50.040 Fees not permitted – Filing, service of process, certified copies.~~

~~26.50.050 Hearing – Service – Time.~~

~~26.50.060 Relief – Duration – Realignment of designation of parties – Award of costs, service fees, and attorney’s fees.~~

~~26.50.070 Ex parte temporary order for protection.~~

~~26.50.080 Issuance of order – Assistance of peace officer – Designation of appropriate law enforcement agency.~~

~~26.50.090 Order – Service – Fees.~~

~~26.50.100 Order – Transmittal to law enforcement agency – Record in law enforcement information system – Enforceability.~~

~~26.50.110 Violation of order — Penalties.~~

~~26.50.120 Violation of order — Prosecuting attorney or attorney for municipality may be requested to assist — Costs and attorney's fee.~~

~~26.50.130 Order for protection — Modification or termination — Service — Transmittal.~~

~~26.50.140 Peace officers — Immunity.~~

7.105.010 Definintions.

7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.

7.105.455 Enforcement and penalties—Antiharassment protection orders.

7.105.460 Enforcement and penalties—Extreme risk protection orders—False petitions.

7.105.550 Orders under this and other chapters—Enforcement and consolidation—Validity and enforcement of orders under prior chapters.

Sec. 2. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 3. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of August, 2022 and signed in authentication thereof this ____ day of August, 2022.

____
M A Y O R

APPROVED AS TO FORM:

____
City Attorney

ATTEST:

____
City Clerk

Published: ____________

Effective Date: _______

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A G E N D A   I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Washington State Opioid Distributor Settlement

ATTACHMENTS:
1. Letter from Attorney General Bob Ferguson regarding Opioid Settlement
2. Subdivision Settlement Participation Form
3. Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: August 18, 2022

CLEARANCES:
[ ] Community Development ____
[ ] Marina ____
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: ____________
[X] Legal _TG_
[X] Finance ____
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: ____________

Purpose
The purpose of this agenda item is for the City Council to authorize participation in the Washington State Opioid Distributor Settlement Agreement and to execute agreements necessary to participate in the settlement.

Suggested Motion

Motion 1: "I move to approve the City of Des Moines' participation in the Washington State Opioid Distributor Settlement Agreement and to direct the City Manager to sign the attached Settlement Participation Form and the Allocation Agreement substantially in the form as attached."

Background
In May of 2022, the City Council approved entry into the One Washington Memorandum of Understanding that provided a preliminary framework for the settlement of a lawsuit brought on behalf of local jurisdictions against pharmaceutical companies that contributed to the opioid crisis. Since that time, the Attorney General of the State of Washington has entered into a settlement agreement on behalf of the State which requires approval by local jurisdictions of several forms.

According to the State Attorney General's office, prescriptions and sales of opioids in Washington increased more than 500% between 1997 and 2011, a major driver in the opioid epidemic that has imposed severe economic and social costs locally and nationwide. In 2011, at the peak of overall sales in Washington, more than 112 million daily doses of all prescription opioids were dispensed in the state — enough for a 16-day supply for every woman, man and child in Washington. At one time, there were sixteen Washington counties in which there were more prescriptions than people. Between 2006 and 2021, opioid overdoses killed more than 11,800 Washingtonians, more than were killed by car accidents or firearms. The majority of drug overdose deaths in Washington State involve opioids. Opioids are also devastating families. A 2018 internal survey of Washington State Assistant Attorneys General handling child abuse and neglect cases revealed that nearly half of their child dependency cases and about 40 percent of parental rights termination cases are impacted by opioids.

In 2019, the state of Washington filed a lawsuit against the three largest distributors of prescription opioids in Washington State, alleging that they failed to alert law enforcement of suspicious opioid orders, and illegally shipped those orders into Washington for years, and contributed to the illegal supply of opioids, fueling the state's opioid epidemic. Between 2006 and 2014, the three companies, McKesson Corp., Cardinal Health Inc., and AmerisourceBergen Drug Corp., supplied more than 2 billion opioid pills to Washington, allegedly in disregard of their legal responsibility to monitor the size and frequency of prescription opioid orders to identify suspicious orders that could be diverted into the illegal drug market. Distributors are required to stop these suspicious shipments and report them to the federal Drug Enforcement Agency (DEA).

The state rejected a proposed national settlement by the three companies and proceeded to trial in November 2021. In May of 2022, the state Attorney General announced a resolution in principle to settle the case that would require the companies to pay $518 million over 17 years to the state, cities that participated in the lawsuit, and other jurisdictions over 10,000 population to compensate for the damage caused by these companies' actions. This represents an increase of $46 million over what was proposed in the settlement accepted by 48 states.

The tentative settlement agreement requires that all of the participating jurisdictions and 90% of the other qualified jurisdictions accept the agreement in writing by September 23, 2022. Failure to meet this deadline will allow the companies to opt out of the agreement.

Discussion

Des Moines, having a population in excess of 10,000, stands to receive proceeds of the settlement and is included among the pool of jurisdictions where 90% must accept the settlement to lock in the settlement. It is estimated that the City of Des Moines' share of the disbursement will be up to approximately $253,000 over 17 years, less attorney fees, according to the schedule set out in the agreement. The first payment is scheduled to occur December 1, 2022.

The funds must be used for certain purposes related to combating the opioid epidemic that are specified in the settlement agreement. These strategies can include:

- Supporting treatment programs
- Support to pregnant and postpartum women with opioid use disorder ("OUD")
- Treatment and recovery support for incarcerated persons

- Prevention programs
- Connection to support services
- Harm reduction strategies
- Support for first responders

The City may spend the funds itself or may partner with the King County Regional Council that will be created to pool and administer settlement funds.

Failing to accept the settlement will be a rejection of the funds that would be allocated to the City under the agreement. Rejection of the agreement may also jeopardize the settlement for the state and the other jurisdictions entitled to funds under the settlement, which will contribute statewide and locally to efforts to combat the opioid epidemic.

The Subdivision Settlement Agreement is official acceptance by the City of Des Moines of the settlement with the three companies and joining the pool of beneficiaries of the settlement proceeds. The Allocation agreement finalizes the terms of the distribution between the state and the participating cities. Signing both is required for Des Moines to receive its distribution from the settlement. This settlement does not affect future settlements or judgments related to suits the state has brought against other opioid distributors.

Alternatives
The Council may:
1. Approve participation in the settlement agreement.
2. Decline to participate. (not recommended) In rejecting the settlement, the City would technically retain the right to pursue its own suits against the companies, but such suits would be extremely costly and specific damages to the City may be difficult to establish at trial. Some or all claims may be foreclosed by applicable statutes of limitation as well. It is extremely unlikely the City would be able to recover damages equal to or greater than that available under the settlement.

Financial Impact
Approval and execution of this agreement will allow the City to receive up to approximately $253,000, minus attorney fees, which may be used for to combat the opioid epidemic in our community.

Recommendation or Conclusion
Staff recommends approval of the agreement as presented.

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Attachment #1

Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE – PO Box 40100 – Olympia, WA 98504-0100

July 14, 2022

RE: ***Opioid Settlement***

Dear Local Elected Leaders:

One of my highest priorities as Attorney General has been to address the opioid crisis that has devastated so many communities and families throughout our state. I know you are already familiar with how destructive the opioid epidemic has been for Washington, and I am grateful for all you've already done to confront the many challenges it presents.

After two years of litigation and a lengthy trial against the three largest pharmaceutical distributors in the nation, my office recently entered into a settlement agreement in which the defendants have agreed to pay $518 million over 17 years if all conditions are met. These funds will provide much needed resources and assistance to deal with this crisis.

You and your colleagues will have discretion to earmark a significant portion of this settlement to combat the opioid epidemic in your communities.

For the distributor settlement agreement to become effective, we must have sign on to the settlement from (1) all jurisdictions in our state that filed a lawsuit against the distributors and (2) 90% of jurisdictions with a population of over 10,000 that did not file a lawsuit. This structure is similar to the arrangement that 48 other states and local governments have entered into with opioid distributors. Importantly, no group of litigating or non-litigating jurisdictions has decided not to approve the national settlement, and this resolution will bring tens of millions more to our communities.

As a non-litigating jurisdiction, your participation in the settlement agreement is crucial to ensure we receive the funding necessary to provide additional resources to providers and treatment to individuals who desperately need our help. If we do not receive the requisite participation by the local governments, we will not receive the $518 million to help Washington combat the opioid epidemic.

Your jurisdiction can sign on by executing and returning the enclosed Participation Form. **We have a deadline of Friday, September 23, 2022 for local government approval.**

Please return the completed Participation Form to: comopioidscases@atg.wa.gov

ATTORNEY GENERAL OF WASHINGTON

Thank you for all you have already done to address the opioid crisis in our state. I urge you to sign on to the settlement agreement as soon as possible to allow us to begin distributing these funds promptly and get additional treatment and support to those who need it most.

Here are links to Washington's settlement with the distributors and the national distributor settlement, which is an exhibit to Washington's settlement:

- Washington Distributor settlement
- National Distributor Settlement

Our office has recovered a total of more than $730 million from opioid litigation, including $183 million in recoveries from Purdue Pharma, more than $18 million from Mallinckrodt, and $13.5 million from McKinsey to address harms from the opioid crisis. This includes $159 million in additional resources because we rejected national settlements involving Purdue Pharma and the distributors and took those corporations to court.

If you have any questions, please contact Jeff Rupert, Chief of my Complex Litigation Division at 206-389-2116 or Jeffrey.Rupert@atg.wa.gov.

Sincerely,

Bob Ferguson

BOB FERGUSON
Attorney General

RWF/jlg
Encl.

Exhibit F
Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated May 2, 2022 ("*Distributors Washington Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Distributors Washington Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributors Washington Settlement, including the Distributor Global Settlement Agreement dated July 21, 2021 ("*Global Settlement*") attached to the Distributors Washington Settlement as Exhibit H, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributors Washington Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall, within 14 days of October 1, 2022 and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.

4. The Governmental Entity agrees to the terms of the Distributors Washington Settlement pertaining to Subdivisions as defined therein.

5. By agreeing to the terms of the Distributors Washington Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after December 1, 2022.

6. The Governmental Entity agrees to use any monies it receives through the Distributors Washington Settlement solely for the purposes provided therein.

7. The Governmental Entity submits to the jurisdiction of the Washington Consent Judgment Court for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributors Washington Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the Distributors Washington Settlement.

8. The Governmental Entity has the right to enforce the Distributors Washington Settlement as provided therein.

9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributors Washington Settlement, including, but not limited to, all provisions of Section XI of the Global Settlement, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributors Washington Settlement are intended by the Agreement Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributors Washington Settlement shall be a complete bar to any Released Claim.

10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributors Washington Settlement.

11. In connection with the releases provided for in the Distributors Washington Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

    > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

    A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date the Distributors Washington Settlement becomes effective pursuant to Section II.B of the Distributors Washington Settlement, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributors Washington Settlement.

12. Nothing herein is intended to modify in any way the terms of the Distributors Washington Settlement, to which Governmental Entity hereby agrees. To the extent this Participation Form is worded differently from Exhibit F to the Distributors Washington Settlement or interpreted differently from the Distributors Washington Settlement in any respect, the Distributors Washington Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: ______________________________

Name: _________________________________

Title: __________________________________

Date: __________________________________

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ALLOCATION AGREEMENT GOVERNING THE ALLOCATION OF FUNDS PAID BY THE SETTLING OPIOID DISTRIBUTORS IN WASHINGTON STATE

AUGUST 8, 2022

This Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State (the "Allocation Agreement") governs the distribution of funds obtained from AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation (the "Settling Distributors") in connection with its resolution of any and all claims by the State of Washington and the counties, cities, and towns in Washington State ("Local Governments") against the Settling Distributors (the "Distributors Settlement"). The Distributors Settlement including any amendments are attached hereto as Exhibit 1.

1. This Allocation Agreement is intended to be a State-Subdivision Agreement as defined in Section I.VVV of the Global Settlement (the "Global Settlement"), which is Exhibit H of the Distributors Settlement. This Allocation Agreement shall be interpreted to be consistent with the requirements of a State-Subdivision Agreement in the Global Settlement.

2. This Allocation Agreement shall become effective only if all of the following occur:

   A. All Litigating Subdivisions in Washington and 90% of Non-Litigating Primary Subdivisions in Washington as the terms are used in Section II.C.1 of the Distributors Settlement must execute and return the Subdivision Settlement Participation Form, Exhibit F of the Distributors Settlement (the "Participation Form") by **September 23, 2022**. This form is also attached hereto as Exhibit 2.

   B. The Consent Judgment and Stipulation of Dismissal with Prejudice, Exhibit G of the Distributors Settlement, is filed and approved by the Court.

   C. The number of Local Governments that execute and return this Allocation Agreement satisfies the participation requirements for a State-Subdivision Agreement as specified in Exhibit O of the Global Settlement.

3. *Requirements to become a Participating Local Government*. To become a Participating Local Government that can participate in this Allocation Agreement, a Local Government must do all of the following:

   A. The Local Government must execute and return this Allocation Agreement.

   B. The Local Government must release their claims against the Settling Distributors and agree to by bound by the terms of the Distributors Settlement by timely executing and returning the Participation Form. This form is attached hereto as Exhibit 2.

C. Litigating Subdivisions must dismiss the Settling Distributors with prejudice from their lawsuits. The Litigating Subdivisions are listed on Exhibit B of the Distributors Settlement.

D. The Local Government must execute and return the One Washington Memorandum of Understanding Between Washington Municipalities ("MOU") agreed to by the Participating Local Governments in Washington State, which is attached hereto as Exhibit 3. As specified in Paragraph 10.A of this Allocation Agreement, the Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only.

A Local Government that meets all of the conditions in this paragraph shall be deemed a "Participating Local Government." Alternatively, if the requirements of Paragraphs 2(A), 2(B), and 2(C) of this Allocation Agreement are satisfied and this Allocation Agreement becomes effective, then all Local Governments that comply with Paragraph 3(B) of this Allocation Agreement shall be deemed a "Participating Local Government."

4. This Allocation Agreement applies to the Washington Abatement Amount as defined in Section IV.A of the Distributors Settlement. The maximum possible Washington Abatement Amount for the Distributors Settlement is $430,249,769.02. As specified in the Global Settlement, the Washington Abatement Amount varies dependent on the percentage of Primary Subdivisions that choose to become Participating Local Governments and whether there are any Later Litigating Subdivisions as defined in Section I.EE of the Global Settlement.

5. This Allocation Agreement does not apply to the Washington Fees and Costs as defined in Section V of the Distributors Settlement. After satisfying its obligations to its outside counsel for attorneys' fees and costs, the State estimates that it will receive approximately $46 million for its own attorneys' fees and costs pursuant to Section V.B.1 of the Distributors Settlement. The State shall utilize any and all amounts it receives for its own attorneys' fees and costs pursuant to Section V.B.1 of the Distributors Settlement to provide statewide programs and services for Opioid Remediation as defined in Section I.SS of the Global Settlement.

6. While this Allocation Agreement does not apply to the Washington Fees and Costs as defined in Section V of the Distributors Settlement, Section V.B.2 of the Distributors Settlement estimates that the Settling Distributors shall pay $10,920,914.70 to Participating Litigating Subdivisions' attorneys for fees and costs. The actual amount may be greater or less. This Allocation Agreement and the MOU are a State Back-Stop Agreement. The total contingent fees an attorney receives from the Contingency Fee Fund pursuant to Section II. D in Exhibit R the Global Settlement, the MOU, and this Allocation Agreement combined cannot exceed 15% of the portion of the LG Share paid to the Litigating Local Government that retained that firm (i.e., if City X filed suit with outside counsel

on a contingency fee contract and City X receives $1,000,000 from the Distributors Settlement, then the maximum that the firm can receive is $150,000 for fees.)

7. No portion of the Washington Fees and Costs as defined in Section V of the Distributors Settlement and/or the State Share as defined in Paragraph 8.A of this Allocation Agreement shall be used to fund the Government Fee Fund ("GFF") referred to in Paragraph 10 of this Allocation Agreement and Section D of the MOU, or in any other way to fund any Participating Local Government's attorneys' fees, costs, or common benefit tax other than the aforementioned payment by the Settling Distributors to Participating Litigating Subdivisions' attorneys for fees and costs in Section V.B.2 of the Distributors Settlement.

8. The Washington Abatement Amount shall and must be used by the State and Participating Local Governments for Opioid Remediation as defined in Section I.SS of the Global Settlement, except as allowed by Section V of the Global Settlement. Exhibit 4 is a non-exhaustive list of expenditures that qualify as Opioid Remediation. Further, the Washington Abatement Amount shall and must be used by the State and Participating Local Governments as provided for in the Distributors Settlement.

9. The State and the Participating Local Governments agree to divide the Washington Abatement Amount as follows:

   A. Fifty percent (50%) to the State of Washington ("State Share").

   B. Fifty percent (50%) to the Participating Local Governments ("LG Share").

10. The LG Share shall be distributed pursuant to the MOU attached hereto as Exhibit 3 as amended and modified in this Allocation Agreement.

11. For purposes of this Allocation Agreement only, the MOU is modified as follows and any contrary provisions in the MOU are struck:

   A. The MOU is amended to add new Section E.6, which provides as follows:

      A Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only. If a Local Governments executes the MOU for purposes of this Allocation Agreement only, then the MOU will only bind such Local Government and be effective with respect to this Allocation Agreement and the Distributors Settlement, and not any other Settlement as that term is defined in Section A.14 of the MOU. To execute the MOU for purposes of this Allocation Agreement only, the Local Government may either (a) check the applicable box on its signature page of this Allocation Agreement that is returned or (b) add language below its signature lines in the MOU that is returned indicating that the Local Government is executing or has executed the MOU only for purposes of the Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State.

B. Exhibit A of the MOU is replaced by Exhibit E of the Global Settlement, which is attached as Exhibit 4 to this Agreement.

C. The definition of "Litigating Local Governments" in Section A.4 of the MOU shall mean Local Governments that filed suit against one or more of the Settling Defendants prior to May 3, 2022. The Litigating Local Governments are listed on Exhibit B of the Distributors Settlement, and are referred to as Litigating Subdivisions in the Distributors Settlement.

D. The definition of "National Settlement Agreement" in Section A.6 of the MOU shall mean the Global Settlement.

E. The definition of "Settlement" in Section A.14 of the MOU shall mean the Distributors Settlement.

F. The MOU is amended to add new Section C.4.g.vii, which provides as follows:

> "If a Participating Local Government receiving a direct payment (a) uses Opioid Funds other than as provided for in the Distributors Settlement, (b) does not comply with conditions for receiving direct payments under the MOU, or (c) does not promptly submit necessary reporting and compliance information to its Regional Opioid Abatement Counsel ("Regional OAC") as defined at Section C.4.h of the MOU, then the Regional OAC may suspend direct payments to the Participating Local Government after notice, an opportunity to cure, and sufficient due process. If direct payments to Participating Local Government are suspended, the payments shall be treated as if the Participating Local Government is foregoing their allocation of Opioid Funds pursuant to Section C.4.d and C.4.j.iii of the MOU. In the event of a suspension, the Regional OAC shall give prompt notice to the suspended Participating Local Government and the Settlement Fund Administrator specifying the reasons for the suspension, the process for reinstatement, the factors that will be considered for reinstatement, and the due process that will be provided. A suspended Participating Local Government may apply to the Regional OAC to be reinstated for direct payments no earlier than five years after the suspension."

G. Consistent with how attorney fee funds for outside counsel for Participating Local Subdivisions are being administered in most states across the country, the Government Fee Fund ("GFF") set forth in the

MOU shall be overseen by the MDL Fee Panel (David R. Cohen, Randi S. Ellis and Hon. David R. Herndon (ret.)). The Fee Panel will preside over allocation and disbursement of attorney's fees in a manner consistent with the *Motion to Appoint the Fee Panel to Allocate and Disburse Attorney's Fees Provided for in State Back-Stop Agreements* and the *Order Appointing the Fee Panel to Allocate and Disburse Attorney's Fees Provided for in State Back-Stop Agreements*, Case No. 1:17-md-02804-DAP Doc #: 4543 (June 17, 2022).

H. The GFF set forth in the MOU shall be funded by the LG Share of the Washington Abatement Amount only. To the extent the common benefit tax is not already payable by the Settling Distributors as contemplated by Section D.8 of the MOU, the GFF shall be used to pay Litigating Local Government contingency fee agreements and any common benefit tax referred to in Section D of the MOU, which shall be paid on a pro rata basis to eligible law firms as determined by the Fee Panel.

I. To fund the GFF, fifteen percent (15%) of the LG Share shall be deposited in the GFF from each LG Share settlement payment until the Litigating Subdivisions contingency fee agreements and common benefit tax (if any) referred to in Section D of the MOU are satisfied. Under no circumstances will any Non-Litigating Primary Subdivision or Litigating Local Government be required to contribute to the GFF more than 15% of the portion of the LG Share allocated to such Non-Litigating Primary Subdivision or Litigating Local Government. In addition, under no circumstances will any portion of the LG Share allocated to a Litigating Local Government be used to pay the contingency fees or litigation expenses of counsel for some other Litigating Local Government.

J. The maximum amount of any Litigating Local Government contingency fee agreement (from the Contingency Fee Fund pursuant to Section II. D in Exhibit R the Global Settlement) payable to a law firm permitted for compensation shall be fifteen percent (15%) of the portion of the LG Share paid to the Litigating Local Government that retained that firm (i.e., if City X filed suit with outside counsel on a contingency fee contract and City X receives $1,000,000 from the Distributors Settlement, then the maximum that the firm can receive is $150,000 for fees.) The firms also shall be paid documented expenses due under their contingency fee agreements that have been paid by the law firm attributable to that Litigating Local Government. Consistent with the Distributors Settlement and Exhibit R of the Global Settlement, amounts due to Participating Litigating Subdivisions' attorneys under this Allocation Agreement shall not impact (i) costs paid by the subdivisions to their attorneys pursuant to a State Back-Stop agreement, (ii) fees paid to subdivision attorneys from the Common Benefit Fund for common benefit work performed by the attorneys pursuant to Section II.C of Exhibit R of the Global Settlement, or (iii) costs paid to subdivision attorneys from the MDL Expense Fund for expenses incurred by the attorneys pursuant to Section II.E of the Global Settlement.

K. Under no circumstances may counsel receive more for its work on behalf of a Litigating Local Government than it would under its contingency agreement with that Litigating Local Government. To the extent a law firm was retained by a Litigating Local Government on a contingency fee agreement that provides for compensation at a rate that is less than fifteen percent (15%) of that Litigating Local Government's recovery, the maximum amount payable to that law firm referred to in Section D.3 of the MOU shall be the percentage set forth in that contingency fee agreement.

L. For the avoidance of doubt, both payments from the GFF and the payment to the Participating Litigating Local Governments' attorneys for fees and costs referred to in Paragraph 6 of this Allocation Agreement and Section V.B.2 Distributors Settlement shall be included when calculating whether the aforementioned fifteen percent (15%) maximum percentage (or less if the provisions of Paragraph 10.K of this Allocation Agreement apply) of any Litigating Local Government contingency fee agreement referred to above has been met.

M. To the extent there are any excess funds in the GFF, the Fee Panel and the Settlement Administrator shall facilitate the return of those funds to the Participating Local Governments as provided for in Section D.6 of the MOU.

12. In connection with the execution and administration of this Allocation Agreement, the State and the Participating Local Governments agree to abide by the Public Records Act, RCW 42.56 *eq seq.*

13. All Participating Local Governments, Regional OACs, and the State shall maintain all non-transitory records related to this Allocation Agreement as well as the receipt and expenditure of the funds from the Distributors Settlement for no less than five (5) years.

14. If any party to this Allocation Agreement believes that a Participating Local Government, Regional OAC, the State, an entity, or individual involved in the receipt, distribution, or administration of the funds from the Distributors Settlement has violated any applicable ethics codes or rules, a complaint shall be lodged with the appropriate forum for handling such matters, with a copy of the complaint promptly sent to the Washington Attorney General, Complex Litigation Division, Division Chief, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104.

15. To the extent (i) a region utilizes a pre-existing regional body to establish its Opioid Abatement Council pursuant to the Section 4.h of the MOU, and (ii) that

pre-existing regional body is subject to the requirements of the Community Behavioral Health Services Act, RCW 71.24 *et seq.*, the State and the Participating Local Governments agree that the Opioid Funds paid by the Settling Distributors are subject to the requirements of the MOU and this Allocation Agreement.

16. Upon request by the Settling Distributors, the Participating Local Governments must comply with the Tax Cooperation and Reporting provisions of the Distributors Settlement and the Global Settlement.

17. Venue for any legal action related to this Allocation Agreement (separate and apart from the MOU, the Distributors Settlement, or the Global Settlement) shall be in King County, Washington.

18. Each party represents that all procedures necessary to authorize such party's execution of this Allocation Agreement have been performed and that such person signing for such party has been authorized to execute this Allocation Agreement.

FOR THE STATE OF WASHINGTON:

ROBERT W. FERGUSON
Attorney General

____
JEFFREY G. RUPERT
Division Chief

Date: __________________________________

FOR THE PARTICIPATING LOCAL GOVERNMENT:

Name of Participating Local Government: ______________________________________

Authorized signature: ____

Name: ____

Title: ____

Date: ____

A Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only by checking this box (see Paragraph 10.A of this Allocation Agreement):

☐ Local Government is executing the MOU in the form attached hereto as Exhibit 3, but which is further amended and modified as set forth in this Allocation Agreement, only for purposes of this Allocation Agreement.

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New Business Item #2

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Cash Handling Policy

ATTACHMENTS:
1. Draft Resolution No. 22-044
2. Exhibit A – Cash Handling Policy

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: August 15, 2022

CLEARANCES:
[ ] Community Development ____
[ ] Marina ____
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: ____________

[X] Legal /s/ TG
[X] Finance
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: ____________

Purpose and Recommendation

The purpose of this agenda item is for the City Council to authorize a policy for cash handling. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to adopt Draft Resolution No. 22-044 establishing a cash handling policy for the City."

Background

The Washington State Auditor's Office (SAO) issued a finding to the City on December 4, 2020 for a lack of adequate internal controls over cash receipting in the Parks, Recreation, and Senior Services Department. According to the SAO, "City management is responsible for designing, implementing, and maintaining internal controls to provide reasonable assurance public resources are safeguarded against misappropriation or loss."

Discussion

To design a policy that strengthens the City's internal controls related to cash receipting, the Finance Department researched best practices including a review of the Cash Handling Training Manual by the Association of Public Treasurers of the United States and Canada. The Finance Department also reviewed various municipal cash handling policies implemented by other cities.

The recommended policy strengthens the City's internal controls by establishing processes for cash receipting that include segregation of duties and instructions for securely storing cash. The policy also establishes the action to be taken when a loss is identified, and the proper treatment of non-City funds.

Alternatives

The Council could choose not to approve the recommended cash handling policy.

Financial Impact

There is no financial cost to adopting the cash handling policy.

Recommendation

Staff recommends approval of the motion.

Council Committee Review

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 08/18/2022

DRAFT RESOLUTION NO. 22-044

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, approving and adopting the City of Des Moines Cash Handling Policy.

WHEREAS, the City regularly receives cash in payment for a variety of transactions, and

WHEREAS, the Washington State Auditor's Office issued the City a finding in 2020 for lack of adequate internal control over cash receipting in the Parks, Recreation and Senior Services Department, and

WHEREAS, the City is required to perform corrective action and strengthen its internal controls related to cash receipting, and

WHEREAS, City staff conducted research into best practices and cash handling policies implemented by other cities which have been incorporated into the City of Des Moines Cash Handling Policy, and

WHEREAS, this policy aims to reduce the risk of fraud and waste of City resources by implementing procedures to safeguard the City's cash receipts, and

WHEREAS, the City Council finds that adoption of this policy is necessary and proper to safeguard taxpayer funds; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

Sec. 1. The City Council hereby approves and adopts the City of Des Moines Cash Handling Policy substantially in the form attached as Exhibit A and incorporated herein by reference.

Sec. 2. The City Manager is hereby authorized to take such other action as may be necessary to carry out the directives of this legislation, as necessary and in the best interest of the City of Des Moines.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of August, 2022 and signed in authentication thereof this ____ day of August, 2022.

____
M A Y O R

APPROVED AS TO FORM:

____
City Attorney

ATTEST:

____
City Clerk

EXHIBIT A

CASH HANDLING POLICY

I. PURPOSE

The purpose of this cash handling policy is to provide all City departments with guidelines for handling cash when it is received. This policy establishes proper internal controls for cash handling in order to limit the City's losses as well as the City's involvement in investigations of losses of funds. This policy provides information on how and when to collect and secure payments in accordance with legal and policy requirements. All cash collection processes shall be performed within the delegated scope of authority and in compliance with all Federal, State, and City laws, regulations, and policies.

II. CASH MANAGEMENT CITY-WIDE

The City has instituted this policy to safeguard the resources received and manage those resources according to their intended purposes. This policy is designed to protect against theft, fraud, loss or unauthorized use of cash or cash equivalents that the City has received. The policy should enhance the accuracy and reliability of the City's financial records by reducing the risk of errors and irregularity in the accounting process. The City's financial records shall report cash flows and cash balances in an accurate and timely manner.

III. DEFINITIONS

A. **Cash** – any device that stores value and can be transferred between parties through a mutually agreed medium of exchange. In day-to-day business operations performed by City departments, "cash" is received in the forms of:

- Coins and bills (US Currency)
- Checks (personal checks, cashier's checks, money orders)

B. **Cash handling** – As used in this policy statement, describes the receiving, transmitting, safeguarding, and depositing of all funds of any type received by the City.

C. **Cash handler** – As used in this policy statement, denotes any employee whose job description includes responsibility for receiving, transmitting, safeguarding, and/or depositing of City funds of any type.

D. **Overage/Shortage** – A cash handler is short when an unintentional collection error is made, i.e. does not obtain physical custody of money or a change-making error. A cash handler is over when too much money is collected and the excess cannot immediately be returned to the customer.

E. **Loss** – A cash handler has obtained physical custody of money and then due to reasons like negligence, an act of God or an unlawful action, loses custody of the money and cannot deposit that money in the bank.

IV. DELEGATION OF AUTHORITY

The Finance Director is authorized to promulgate rules for establishing procedures for the receipt, handling and deposit by City officers and employees of City cash into City bank accounts.

V. GENERAL CASH CONTROLS

A. Cash drawers should be locked when left unattended by the cash handler.

B. To the extent staffing levels permit, separation of duties from the function of custodian of cash balances and the accounting of record keeping of the same shall be maintained.

C. Cash received by cash handlers should be kept in a cash bag when not being used in a cash drawer. Cash bags should be kept in a safe until the monies are deposited.

D. If checks are received regularly in the mail or in a drop box, two persons should be present (ideally) when the mail is opened.

E. A random cash drawer audit may be conducted under the direction of the Finance Director.

VI. CASH RECEIPTING

A. A permanent collection record or log (preferably electronic) should be kept of all monies received and transactions including voids, refunds, or cancels. The record should contain the amount received, the name of the payer, and the purpose of the payment as well as its form (cash or check). This requirement can be fulfilled by cashiering systems that retain this information. Cash register tapes are also sufficient.

B. Upon setting up the cash drawer, the beginning dollar amount should be verified through an opening count.

C. Currency and coin should be arranged in a consistent manner.

D. Checks should be restrictively endorsed immediately upon receipt. For example, “For Deposit Only – City of Des Moines, WA”.

E. Each check shall be inspected to ensure the following:

   a. Current date (postdated checks shall not be accepted)

   b. Proper signature

   c. No alterations

   d. Bank name and routing number printed on check

   e. If temporary check, payer’s name and address written on check

   f. Not a third party check

   g. Written amount matches numeric amount

F. No checks shall be cashed.

G. Receipts should be physically safeguarded during the operating day and secured in a safe or vault overnight. Access to the cashiering area should be appropriately restricted whenever possible.

H. Cash registers and credit card machines should be balanced daily.

I. Deposits should be made within 24 hours unless amounts are insignificant (less than $100) or the Finance Director has granted a written waiver of the 24 hour deposit requirement.

J. Electronic check scanners should be used to deposit checks into the City’s bank accounts.

K. Occasionally a deposited check may not clear the bank for one or several reasons; such as non-sufficient funds, account closed, stop payment, funds held, stolen checks, forgery, endorsement, or signature. The Finance Department is responsible for collections with cooperation from the receipting department.

L. The Finance Director has the authority to refuse the acceptance of checks as deemed necessary.

VII. OVERAGES AND SHORTAGES

Every reasonable effort should be made to locate any cash differences.

A. It is the responsibility of the cash handler to ensure cash on hand equals the cash drawer plus actual receipts at all times.

B. The Finance Department shall be notified in writing via a memorandum of all overages and shortages, as well as any known circumstances surrounding the overage/shortage.

VIII. LOSS

A. Once a loss has been identified, it shall be immediately reported to the department director, the Finance Department, and the Des Moines Police Department. Do not conduct any investigation or discuss with other staff prior to notification of proper authority.

B. All loss shall be documented in a memorandum to the Finance Director within one (1) business day as well as kept on file by the reporting department.

IX. REFUNDS

A. Refunds will only be made to the original entity (person or company) that submitted the original payment to the City.

B. Refunds of payments that were originally paid by credit card will be credited back to the credit card in which the payment was made from.

X. NON-CITY MONEY

Non-City money is money that is collected from a non-City entity such as park adoption organizations, employee associations, or by a City office, employee, or agent for non-City use. For such funds, the City is taking on additional fiduciary responsibility; therefore all cash handling requirements in this policy should be met.

A. Non-City funds should be segregated from City funds and deposited as agreed to between the City and the organization.

B. The agreement for responsibility of non-City funds while they are in the possession of the City should be clearly stated in a fiduciary agreement approved by the Finance Director.