

AGENDA

DES MOINES CITY COUNCIL REGULAR MEETING City Council Chambers VIA ZOOM

Thursday, October 7, 2021 - 5:00 PM

NOTE: The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 and Governor Inslee's Stay-at-Home order issued March 23, 2020 in response to the COVID-19 Pandemic. Accordingly, this meeting will be held virtually using Zoom.

Public Comment continues to be 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)** By participation via Zoom. If you wish to provide oral public comment please complete the [council comment form](#) no later than 4:00 p.m. day of the meeting to receive your Zoom log-in and personal identification number. Please note that Zoom attendees do not interact with one another; they join in listen-only mode until it is their turn to address the Council

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

COMMENTS FROM THE PUBLIC VIA ZOOM/WRITTEN PUBLIC COMMENT

CITY MANAGER REPORT

- Item 1. PRELIMINARY 2022 ANNUAL BUDGET
- Item 2. MARINA BULKHEAD PROJECT UPDATE

CONSENT CALENDAR

- Item 1. APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through September 27, 2021 in the attached list and further described as follows:

Total A/P Checks/Vouchers	#163030-163104	\$738,838.57
Voided Check	#157547-157547	\$(21.57)
Electronic Wire Transfers	#1799-1817	\$2,321,679.38
Payroll Checks	#19420-19420	\$1,864.26
Payroll Direct Deposit	#370001-370154	\$412,133.87

Total Checks and Wires for A/P and Payroll: \$3,474,494.51

[Approval of Vouchers](#)

- Item 2. SOUND VIEW PARK (VAN GASKEN) CONTRACT AWARD AND CONSULTANT AGREEMENT TASK ORDER FOR CONSTRUCTION ENGINEERING SERVICES

Motion 1 is to award the Sound View Park (Van Gasken) Public Works Contract to Prospect Construction, Inc. in the amount of \$993,788.36, and authorize the City Manager to sign said contract substantially in the form as submitted. I further move to authorize a contingency of up to \$149,000 to cover unforeseen conditions and change orders as determined necessary by the Public Works Director.

Motion 2 is to approve KPFF, Inc. Task Order 19-159-02 Amendment 3 for Construction Services necessary for the Sound View Park Project in the amount of \$136,535.93 and authorize the City Manager to sign the contract amendment substantially in the form as submitted.

[Sound View Park \(Van Gasken\) Contract Award and Consultant Agreement Task Order For Construction Engineering Services](#)

- Item 3. 2021-2023 RECYCLING PROGRAM FUNDING

Motion is to authorize the City Manager to sign the 2021-2023 Local Solid Waste Financial Assistance Grant agreement between the City of Des Moines and the Washington State Department of Ecology, substantially in the form as attached.

[2021-2023 Recycling Program Funding](#)

- Item 4. DOMESTIC VIOLENCE AWARENESS MONTH PROCLAMATION

Motion is to approve the Proclamation supporting October as Domestic Violence Awareness Month.

[Domestic Violence Awareness Month Proclamation](#)

- Item 5. METRO COMMUNITY SHUTTLE PROJECT AGREEMENT
EXTENSION

Motion is to adopt the Des Moines Community Shuttle Project Agreement Extension between King County Metro and the City of Des Moines and authorize the City Manager to sign and implement the agreement extension substantially in the form presented.

[Metro Community Shuttle Project Agreement Extension](#)

- Item 6. CONSULTANT CONTRACT AMENDMENT #11 – GRANT FREDRICKS

Motion is to approve Amendment #11 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2022, with an increase of \$10,000 for 2021 (bringing the total not-to-exceed amount for 2021 services to \$70,000.00) and up to \$50,000 in 2022 services, and authorize the City Manager to sign the contract amendment substantially in the form submitted.

[Consultant Contract Amendment #11–Grant Fredricks](#)

NEW BUSINESS

INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10
Minutes

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

(4 minutes per Councilmember) - 30 minutes

PRESIDING OFFICER’S REPORT

EXECUTIVE SESSION

NEXT MEETING DATE

October 21, 2021 City Council Regular Meeting

ADJOURNMENT

October 7, 2021**Auditing Officer Certification**

Vouchers and Payroll 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 **October 7, 2021** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through September 27, 2021 and payroll transfers through September 20, 2021 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, Finance Director

			# From	# To	Amounts	
Claims Vouchers:						
Total A/P Checks/Vouchers			163030		163104	738,838.57
Voided Check			157547		157547	(21.57)
Electronic Wire Transfer			1799		1817	2,321,679.38
Total claims paid						3,060,496.38
Payroll Vouchers						
Payroll Checks		9/20/2021	19420		19420	1,864.26
Direct Deposit			370001		370154	412,133.87
Total Paychecks/Direct Deposits paid						413,998.13
Total checks and wires for A/P & Payroll						3,474,494.51

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Sound View Park (Van Gasken) Contract Award
and Consultant Agreement Task Order for
Construction Engineering Services

ATTACHMENTS:

1. Public Works Contract Sound View Park
2. Task Order 19-159-02 Amendment 3 with
KPPF Consulting Services
3. Contract Bid Tabulations
4. Capital Improvement Project worksheet for
Sound View Park (Van Gasken Park)

FOR AGENDA OF: October 7, 2021

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: September 29, 2021

CLEARANCES:

☒ Community Development /s/DL

☐ Marina _____

☒ Parks, Recreation & Senior Services h. Mordahl

☒ Public Works R. Blum

CHIEF OPERATIONS OFFICER: DiPietro

☒ Legal /s/TG

☐ Finance _____

☐ Courts _____

☐ Police _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: Vitus

Purpose and Recommendation

The purpose of this agenda item is for the City Council to award the Public Works Contract (Attachment 1) for the Sound View Park Improvements (Van Gasken Park) and to seek Council approval of Task Order 19-159-02 Amendment 3 (Attachment 2) with KPPF Consulting Engineers, Inc. for Construction Engineering and Cultural Resource Management Services. Administration recommends that the Council concurrently award and approve the Public Works Contract and the Consultant Agreement. The following motions will appear on the consent calendar:

Suggested Motions

Motion 1: “I move to award the Sound View Park (Van Gasken) Public Works Contract to Prospect Construction, Inc. in the amount of **\$993,788.36**, and authorize the City Manager to sign said contract substantially in the form as submitted. I further move to authorize a contingency of up to **\$149,000** to cover unforeseen conditions and change orders as determined necessary by the Public Works Director.”

AND

Motion 2: “I move to approve KPFF, Inc. Task Order 19-159-02 Amendment 3 for Construction Services necessary for the Sound View Park Project in the amount of **\$136,535.93** and authorize the City Manager to sign the contract amendment substantially in the form as submitted.”

Background

In early 2017, the City identified the Van Gasken property (402 S. 222nd St.) for acquisition in order to preserve the property, provide additional park and open spaces in the City in accordance with the Comprehensive Plan, and to ensure that the site was not redeveloped in a manner that would further limit public access and views of Puget Sound. The City partnered with Forterra NW to purchase the property for \$1,190,000. The property is now owned solely by the City.

The purchase was funded by a \$594,000 King County Conservation Futures grant (CFT), and an additional grant of \$273,720 from the State’s Recreation Conservation Office (RCO). In addition to this grant funding, the City has allocated “park in-lieu” fees from current and former development projects to cover the remaining portion of the purchase price. The funds have been received from King County CFT, and reimbursement to the City of the RCO funds is contingent on work included in this task order.

In early 2018, City staff were in the process of installing an irrigation system on the property. During the installation, cultural resources were observed. Staff immediately reached out to the State’s Department of Archeological and Historical Preservation (DAHP), and entered into a Contract with Environmental Science Associates (ESA) for assistance. A site evaluation was conducted and consultations with several Native American tribes have since taken place. The property has also been covered with a geotextile fabric. In the following months the City was able to complete the work required under an emergency permit and developed a conceptual landscape plan.

The City worked with a Landscape Architect to develop preliminary landscape plans consistent with site constraints. These plans will need to be approved by RCO, and permitted with the tribes and DAHP, and the City anticipates that an additional Contract Addendum with ESA will be needed for the permanent permitting work.

The emergency work has been completed and a conceptual landscape plan developed. In early March 2020, the City shared the conceptual plan with RCO, the tribes, and DAHP for their initial concurrence which they provided. As a requirement of reimbursement from the RCO grant, a tribal and DAHP approved Cultural Resources Management Plan (CRMP) is required as one of the task order deliverables. This CRMP will guide long-term management of cultural resources at Sound View Park (Van Gasken Park). The design was completed in July and the management plan completed at the end of August.

Discussion

Public Works Contract (Motion #1):

On August 16 and August 23, 2021, the Des Moines Sound View Park Project was advertised for bids in both the Seattle Daily Journal of Commerce and The Seattle Times. Staff also utilized the Builder's Exchange of Washington (an on-line plan center) to reach the majority of contractors and encourage the most competitive bidding atmosphere. A mandatory pre-bid walkthrough was held onsite on Wednesday, August 25, 2021 – thirteen (13) contractors were in attendance. Bids were publicly opened and read aloud via Zoom on September 2, 2021 by the City Clerk. A total of three (3) bids for the project were received. Prospect Construction, Inc. is the apparent lowest responsive bidder at \$993,788.36 as noted in the proposed Public Works Contract ([Attachment 1](#)).

Bids from the three (3) contractors are summarized below and in the bid tabulation ([Attachment 3](#)).

BID Results

\$ 993,788.36	Prospect Construction, Inc. (Apparent Low Bidder)
\$ 1,174,785.88	Tunista Construction LLC
\$ 1,272,193.39	A-1 Landscaping & Const. Inc.

The Engineer's Estimate range was between \$1M -- \$1.3M.

The bid tabulation and pre-bid documentation, as well as the contractor qualifications and references, have been reviewed and staff recommends award of the contract to Prospect Construction, Inc. ([Attachment 1](#)).

Construction Engineering Services (Motion #2):

Outside construction engineering services are necessary to manage this culturally sensitive construction contract for the City. These services are proposed to be provided by KPFF, the engineer of record for the project, as provided in a supplemental Task Order 19-159-02 ([Attachment 2](#)) Amendment 3.

Alternatives

The Council could choose to reject all bids, and not award the contract as well as postpone future efforts to implement the Sound View Park project. Attempting to restart this work a later time would be costly and would involve revisiting agreements and may also jeopardize previously acquired funding for the project. Rejection is not recommended by staff as the bids that were received for the project are very good, all of which were within the Engineer's estimate range.

Financial Impact

Funds for the construction contract are allocated in the approved 2021 – 2026 Capital Improvement Plan as shown the project worksheet ([Attachment 4](#)).

Recommendation

Staff recommends approval of the motions.

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PUBLIC WORKS CONTRACT between City of Des Moines and Prospect Construction, Inc.

THIS CONTRACT is made and entered into by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Prospect Construction, Inc. organized under the laws of the State of Washington, located and doing business at 116 23rd Street SE, Puyallup, WA 98372, (253) 446-1600, Ryan Sondgroth (hereinafter the "Contractor").

CONTRACT

The parties agree as follows:

I. DESCRIPTION OF WORK.

Contractor shall perform the services for the City as specifically described in Exhibit "A" Scope of Work, attached hereto and incorporated herein by reference.

The City of Des Moines (City), is developing the Van Gasken property into Sound View Park and connecting it to the City's existing Overlook Park II. The parks provide gathering space and offer sweeping vistas of Puget Sound, Vashon Island, Maury Island, and the Olympic Mountains. The project will perform work needed to convert the site from the existing use into the proposed park. The existing house and garage structures will be removed to allow development of site into a park. Sensitive cultural resources exist on this site and no excavation or disturbance of the existing ground is allowed. The park features will be developed per the construction plans and specifications and all other items of work needed to satisfactorily complete the scope of work described in Exhibit "A".

a. Contractor represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time such services are performed.

b. The Contractor shall provide and furnish any and all labor, materials, tools, equipment and utility and transportation services along with all miscellaneous items necessary to perform this Contract except for those items mentioned therein to be furnished by the City.

c. All work shall be accomplished in a workmanlike manner in strict conformity with the attached plans and specifications including any and all Addenda issued by the City, City Regulations and Standards, other Contract Documents hereinafter enumerated.

In addition, the work shall be in conformance with the following documents which are by reference incorporated herein and made part hereof:

- (i) the Standard Specifications of the Washington State Department of Transportation (WSDOT) (current edition);
- (ii) the American Public Works Association (APWA) (current edition);
- (iii) the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (current edition);
- (iv) the Standard Plans for Road, Bridge and Municipal Construction (as prepared by the WSDOT/APWA current edition);
- (v) the American Water Works Association Standard (AWWA) (current edition), and;
- (vi) shall perform any changes in the work in accord with the Contract Documents.

d. Any inconsistency in the parts of the Contract and the documents referenced in section I c above shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

- 1. Terms and provisions of the Contract
- 2. Addenda,
- 3. Proposal Form,
- 4. Special Provisions, including APWA General Special Provisions, if they are included,
- 5. Contract Plans,
- 6. Amendments to the Standard Specifications,
- 7. WSDOT Standard Specifications for Road, Bridge and Municipal Construction,
- 8. Contracting Agency's Standard Plans (if any), and
- 9. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

II. TIME OF COMPLETION. The parties agree that work on the tasks described in Section I above and more specifically detailed in Exhibit "A" attached hereto will begin immediately upon execution of this Contract. Upon the effective date of this Contract, the Contractor shall complete the work described in Section I within **80 Working Days, and be completed no later than April 30, 2022.** If said work is not completed within the time specified, the Contractor agrees to pay the City the sum specified in Section VI - Liquidated Damages of this contract.

III. COMPENSATION. The City shall pay the Contractor a total amount not to exceed \$902,623.40, plus any applicable Washington State Sales Tax, for the work and services contemplated in this Contract per attached Exhibit "A". Total amount of contract, including applicable sales tax, not to exceed \$993,788.36. The Contractor shall invoice the

City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor's request until the work is complete and accepted by the City. The City's payment shall not constitute a waiver of the City's right to final inspection and acceptance of the project.

- A. Retainage. The City shall hold back a retainage in the amount of five percent (5%) of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.
- B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City's payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.
- C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

IV. INDEPENDENT CONTRACTOR. The parties understand and agree that Contractor is a firm skilled in matters pertaining to construction and will perform

independent functions and responsibilities in the area of its particular field of expertise. Contractor and its personnel, subcontractors, agents and assigns, shall act as independent contractors and not employees of the City. As such, they have no authority to bind the City or control employees of the City, contractors, or other entities. The City's Public Works Director or his or her designated representative shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

The Contractor acknowledges that all mandatory deductions, charges and taxes imposed by any and all federal, state, and local laws and regulations shall be the sole responsibility of the Contractor. The Contractor represents and warrants that all such deductions, charges and taxes imposed by law and/or regulations upon the Contractor are, and will remain, current. If the City is assessed, liable or responsible in any manner for those deductions, charges or taxes, the Contractor agrees to indemnify and hold the City harmless from those costs, including attorney's fees.

V. TERMINATION. The City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

- A. The Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the Contract work.
- B. The Contractor's failure to complete the work within the time specified in this Contract.
- C. The Contractor's failure to make full and prompt payment to subcontractors or for material or labor.
- D. The Contractor's persistent disregard of federal, state or local laws, rules or regulations.
- E. The Contractor's filing for bankruptcy or becoming adjudged bankrupt.
- F. The Contractor's breach of any portion of this Contract.

If the City terminates this Contract for good cause, the Contractor shall not receive any further money due under this Contract until the Contract work is completed. After termination, the City may take possession of all records and data within the Contractor's possession pertaining to this project which may be used by the City without restriction.

VI. LIQUIDATED DAMAGES. This section of the Contract shall apply only in the event of a delay in the completion of the work within the timeframe specified in the Contract. This being a Public Works project performed for the benefit of the public, and there being a need for the completion of the project in the time specified in the Contract, City and Contractor agree that damages for delay in the performance or completion of the work are extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide

the work for the benefit of the health, safety and welfare of the public, the failure to complete the work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

Although difficult to quantify and ascertain, City and Contractor agree that the sum listed as liquidated damages represents a fair and reasonable forecast of the actual damage caused by a delay in the performance or completion of the work specified in the Contract. In addition, City and Contractor agree that the liquidated damages set forth below are intended to compensate the City for its loss and damage caused by delay. The liquidated damages are not intended to induce the performance of Contractor.

Contractor declares that it is familiar with liquidated damages provisions, and understands their intent and purpose. By signing this Contract, Contractor further declares that it understands the liquidated damages provision of this contract, that it is a product of negotiation, and that it is a fair estimation of the damage and loss that City will suffer in the event of delay.

City and Contractor further agree that the contractor shall not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes.

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **\$1,863.35** [*Liquidated Damages = (0.15*Contract Amount)/Time for Completion*] shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

In the event that the Contract is terminated by City for cause pursuant to the general conditions of the contract, this liquidated damages section shall apply, but only to the extent that the contract is delayed. In addition to liquidated damages, City shall be permitted to recover from Contractor the cost of completion of the work if the cost of completion exceeds the original sum of money agreed upon.

VII. PREVAILING WAGES. Contractor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work and an Affidavit of prevailing wages paid after completion of the work. The Statement of Intent to Pay Prevailing Wages," shall include Contractor's registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Contractor shall pay prevailing wages in effect on the date the bid is accepted or executed by Contractor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries must

be submitted to the City by Contractor. It shall be the responsibility of Contractor to require all subcontractors to comply with Chapter 39.12 RCW and this section of the Contract.

VIII. HOURS OF LABOR. Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

IX. COMPLIANCE WITH WAGE, HOUR, SAFETY, AND HEALTH LAWS. The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 29 U.S.C. 201 *et seq*, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq*, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

X. DAYS AND TIME OF WORK. Unless otherwise approved by the City, the working hours for this project will be limited to the following hours:

Monday through Friday: 7:00 a.m. to 7:00 p.m.

Saturday, Sunday and Holidays: 8:00 a.m. to 5:00 p.m.

XI. WORKERS' COMPENSATION. The Contractor shall maintain Workers' Compensation insurance in the amount and type required by law for all employees employed under this Contract who may come within the protection of Workers' Compensation Laws. In jurisdictions not providing complete Workers' Compensation protection, the Contractor shall maintain Employer's Liability Insurance in the amount, form and company satisfactory to the City for the benefit of all employees not protected by Workers' Compensation Laws.

The Contractor shall make all payments arising from the performance of this Contract due to the State of Washington pursuant to Titles 50 and 51 of the Revised Code of Washington.

Whenever any work by the Contractor under the authority of this Contract is on or about navigable waters of the United States, Workers' Compensation coverage shall be extended to include United States Longshoreman and harbor worker coverage. The Contractor shall provide the City with a copy of the necessary documentation prior to the start of any activity.

XII. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within seven (7) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Contractor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change

order from the City or an oral order from the City before actually receiving the written change order. If the Contractor fails to require a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

The Contractor accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by Contractor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

XIII. CLAIMS. If the Contractor disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Contractor may file a claim as provided in this section. The Contractor shall give written notice to the City of all claims within seven (7) calendar days of the occurrence of the events giving rise to the claims, or within seven (7) calendar days of the date the Contractor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Contractor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Contractor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Contract that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.

B. Records. The Contractor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City

shall have access to any of the Contractor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

- C. Contractor's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Contractor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).
- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Contractor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

XIV. LIMITATION OF ACTIONS. CONTRACTOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

XV. WARRANTY. Upon acceptance of the contract work, Contractor must provide the City a warranty bond for one year in the amount of the contract value specified in Section III above and in a form acceptable to the City. In the event any defects are found within the first year, the warranty bond shall be extended for an additional year. The Contractor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any parts are repaired or replaced, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.

XVI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Contractor, its sub-contractors, or any person acting on behalf of the Contractor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental,

or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XVII. INDEMNIFICATION. Contractor shall defend, indemnify and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this Contract.

XVIII. INSURANCE. The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors.

No Limitation. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial

General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

C. Other Insurance Provisions

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

E. Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing insurance of the Contractor before commencement of the work.

F. Subcontractors

The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

G. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

H. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

XIX. WORK PERFORMED AT CONTRACTOR'S RISK. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XX. BOND - SEPARATE PAYMENT AND PERFORMANCE BONDS REQUIRED. Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish both a performance bond and a payment bond to the City, both in the full amount of the bid with a surety company as surety. The purpose of the bonds is to ensure that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bonds shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company/companies providing such bonds shall agree to be bound to the laws of the State of Washington, and subjected to the jurisdiction of the State of Washington and the King County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bonds are supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than \$150,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bonds, elect to have the City retain 10% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

XXI. DEBARMENT. The Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List

and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

XXII. MISCELLANEOUS PROVISIONS.

A. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Contract, or to exercise any option conferred by this Contract in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

B. Resolution of Disputes and Governing Law.

1. Alternative Dispute Resolution. If a dispute arises from or relates to this Contract or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon written Contract of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Contract or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

2. Applicable Law and Jurisdiction. This Contract shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method as set forth above, in the event any claim, dispute or action arising from or relating to this Contract cannot be submitted to arbitration, then it shall be commenced exclusively in the King County Superior Court or the United States District Court, Western District of Washington as appropriate. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XVII of this Contract.

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of the Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

D. Assignment. Any assignment of this Contract by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Contract shall continue in full force and effect and no further assignment shall be made without additional written consent.

E. Modification. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by a duly authorized representative of the City and Contractor.

F. Compliance with Laws. The Contractor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Contractor's business, equipment, and personnel engaged in operations covered by this Contract or accruing out of the performance of those operations.

G. Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Contract.

H. Business License. Contractor shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.

I. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

J. Entire Contract. The written provisions and terms of this Contract, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Contract. All of the above documents are hereby made a part of this Contract. However, should any language in any of the Exhibits to this Contract conflict with any language contained in this Contract, then the order of precedence shall be in accordance with Section I c of this Contract.

K. Severability. If any one or more sections, sub-sections, or sentences of this Contract are held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this Contract and the remainder shall remain in full force and effect.

IN WITNESS, the parties below execute this Contract, which shall become effective on the last date entered below.

CONTRACTOR:	CITY OF DES MOINES:
By: _____ (Signature)	By: _____ (Signature)
Print Name: _____	Print Name: Michael Matthias
Its: _____ (Title)	Its: City Manager
DATE: _____	DATE: _____
	Approved as to Form: _____ City Attorney DATE: _____

NOTICES TO BE SENT TO:	NOTICES TO BE SENT TO:
CONTRACTOR:	CITY OF DES MOINES:
Ryan Sondgroth Prospect Construction, Inc. 116 23 rd Street SE Puyallup, WA 98372 (253) 446-1600 (telephone) rsondgroth@prospectconst.com (e-mail address)	Scott J. Romano City of Des Moines 21650 11 th Avenue South Des Moines, WA 98198 (206) 870-6539 (telephone) sromano@desmoineswa.gov (e-mail address)

At the direction of the Des Moines
City Council taken at an open
Public meeting on _____.

PUBLIC WORKS PAYMENT BOND
to City of Des Moines, WA

Bond No. _____

The City of Des Moines, Washington, (City) has awarded to _____ (Principal), a contract for the construction of the project designated as _____ (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City of Des Moines, in the sum of _____ US Dollars (\$ _____) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Titles 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond shall be executed in four (4) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature

Date

Surety Signature

Date

Printed Name

Printed Name

Title

Title

Name, address, and telephone of local office/agent of Surety Company is:

PUBLIC WORKS PERFORMANCE BOND
to City of Des Moines, WA

Bond No. _____

The City of Des Moines, Washington, (City) has awarded to _____ (Principal), a contract for the construction of the project designated as _____, (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City of Des Moines, in the sum of _____ US Dollars (\$ _____) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all the terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond shall be executed in four (4) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature

Date

Surety Signature

Date

Printed Name

Printed Name

Title

Title

Name, address, and telephone of local office/agent of Surety Company is:

EXHIBIT “A” – SCOPE OF WORK

Exhibit “A” -- Scope of Work

City of Des Moines

Des Moines Sound View Park Project

The project will consist of the following work at Des Moines Sound View Park:

Descriptions of Work:

The City of Des Moines (City), is developing the Van Gasken property into Sound View Park and connecting it to the City's existing Overlook Park II. The parks provide gathering space and offer sweeping vistas of Puget Sound, Vashon Island, Maury Island, and the Olympic Mountains. The project will perform work needed to convert the site from the existing use into the proposed park. The existing house and garage structures will be removed to allow development of site into a park. Sensitive cultural resources exist on this site and no excavation or disturbance of the existing ground is allowed. The park features will be developed per the attached construction plans and specifications.

Project Location: Des Moines Sound View Park
402 South 222nd Street
Des Moines, WA 98198



Attachment #2

Formal Task Assignment Document

Task Number 02 Amendment 3

The general provisions and clauses of Agreement 19-159 shall be in full force and effect for this Task Assignment.

Location of Project: Des Moines, WA

Project Title: Sound View Park Construction Services

Maximum Amount Payable Per Task Assignment: Time and materials not to exceed \$136,535.93

Completion Date: 06/30/2022

Description of Work:

(Note attachments and give brief description)

Refer to Exhibit A – Scope of Services

Refer to Exhibit B – Budget

Agency Project Manager Signature: _____ Date: _____

Oral Authorization Date: _____ See Letter Dated: _____

Consultant Signature:  _____ Date: 9/22/2021 _____

Agency Approving Authority: _____ Date: _____

EXHIBIT A

SCOPE OF SERVICES

Project Description

Task Order 02 included design services to develop the Van Gasken's property into a City park (Sound View Park) and provide full plans, specifications, and cost estimates to construct the project. This amendment is to add construction assistance tasks during the construction of Sound View Park as requested by the City. The following work elements have been added to the scope and are included as part of this amendment:

- Bidding assistance to respond to bidder questions, bid amendment work, attend the pre-bid construction meeting.
- As needed construction administration assistance including the following:
 - Review construction submittals including demolition plan, product submittals, and shop drawings.
 - RFI review and response
 - Change orders
 - Field construction reviews
- Create as-built record drawings
- Landscaping establishment period field reviews
- Archeological screening and monitoring during construction
- Archeological monitoring and permit reporting
- Archeological site form update
- Preparation of Associated Records and Artifacts for Permanent Curation
- Project management

PROJECT SCHEDULE

As needed services will be provided for the construction schedule until construction is completed.

TASK 1 - KPFF

Task 1.1: Project Management and Pre-Bid Services

This task will include the following:

- Ongoing project team and City coordination
- Updated Bid package with planting change and other City comments.
- Attend Pre-Bid Construction meeting
- Cultural coordination with RCO and Tribes

Deliverables

- Updated bid amendments in PDF format.
- Written documentation as needed for Project team and City coordination.
- Invoicing and progress reports.

EXHIBIT A

Assumptions

- Assume a 10-month schedule for construction pre-bid, construction, and construction closeout with record drawings.
- Attendance at weekly construction meetings is not included and is available as additional services.

Task 1.2: Construction Administration Assistance

1.2.1 Construction Submittal Review

Provide construction submittal review including product data submittals, demolition plan review, shop drawings, and other construction submittals as required by the Construction documents.

Deliverables

- Associated written documentation for submittal review.

Assumptions

- Provide as needed review for up to 60 hours of submittal review.

1.2.2 RFI Review

Respond to Contractor questions and clarifications and provide associated written responses and required forms.

Deliverables

- Associated written documentation and responses for RFIs.

Assumptions

- Provide up to 40 hours of RFI assistance as needed.

1.2.3 Change Order Review

Respond and prepare documents and provide engineering services related to construction change orders.

Deliverables

- Associated written documentation and possible PDF design drawings to address change orders.

Assumptions

- Provide as-needed assistance for change order design work up to 60 hours. Additional change order work will be considered additional services.

1.2.4 Construction Field Review

Provide up to seven (7) on-site construction field reviews. Prepare associated written field review reports to document review.

Deliverables

EXHIBIT A

- Written field review reports.

Assumptions

- Perform up to seven (7) on-site field visits.
- Provide up to 54 hours of total field review work as needed. This includes preparing associated field reports and field visit prep.

1.2.5 Create Record As-Built Drawings

Provide record as-built drawings using information provided by the Contractor.

Deliverables

- Digital copy of record drawings in PDF 11x17 format.
- Civil 3D/AutoCad files

Assumptions

- Contractor will provide marked up drawings and/or CAD drawings with associated construction information for incorporation into the record drawings.
- Provide up to 80 hours of total as-built record drawing creation.

Assumptions:

The scope of work and fee is based on the following assumptions:

- Contractor management and payment is not included in this scope of work.
- Construction inspection, acceptance, and documentation will be provided by the City and is not included in this scope of work.
- Only the items listed in the scope of work will be performed as part of these construction services. Tasks requested by the City not listed in this scope of work are considered additional services.

TASK 2 – HBB

See attached scope.

TASK 3 – ESA

See attached scope.



Eric Mendel, P.E.
Associate, Project Manager
KPFF Consulting Engineers
1601 Fifth Avenue, Suite 1600
Seattle, WA 98101

16 August 2021

RE: Sound View Park
Construction Administration Assistance & Close-Out Services
Des Moines, WA

Dear Eric,

Hough Beck & Baird Inc. (HBB) is pleased to submit this proposal for construction administration assistance services for the Sound View Park project.

Based upon our knowledge of this project, we are proposing the following professional services for your consideration:

TASK 1: BIDDING ASSISTANCE

1. **Planting Change.** Revised planting plan in response to permitting comments received and resubmitted Bid Documents.
2. **Pre-Bid Site Walk-Through.** Attend Pre-Bid Site walk-through on 26 August 2021.

TASK 2: CONSTRUCTION ADMINISTRATION ASSISTANCE

1. **Submittals.** Review and assist with the processing of submittals (16 total). Submittals include product data, product samples, shop drawings, and other submittals required by the Construction Documents.
2. **RFI Review and Response.** Respond to Contractor questions and clarifications and process substitution request(s).
3. **Change Orders.** Assist with the preparation of one (1) change order.
4. **Field Reviews.** Provide up to 13 field reviews. All field reviews will receive a written field report that is reviewed by a licensed landscape architect.
5. **Record Drawings.** Review of contractor's as-built information and prepare record drawings based on Contractor provided as-built information.
6. **Establishment Period Field Reviews:** Provide up to 11 field reviews during the plant establishment period. Occurs once per month during the 1-year Plant Establishment Period. Reviews will include review of irrigation system and a Final Review.

Deliverables =

- Written submittal responses.
- Written documentation of RFI responses and substitution requests.
- Preparation of one (1) change order to landscape construction documents.
- Written documentation of field reviews.
- Landscape Record Drawings.

Sound View Park / Soundview Park
Construction Administration Assistance & Close-Out Services
16 August 2021

Our proposed hourly rates for additional work and the work described above are listed in Exhibit A. In consideration of the above services, we are proposing the following estimated fee (see Exhibit A):

TASK 1 Construction Administration Assistance \$ 36,459.70

The above fee is an estimate of how we expect to allocate our time. The above fee is also based on the following assumptions:

- 1) Review of Contractor's payment requests will be by others or available from HBB as additional services.
- 2) HBB attendance at weekly construction meetings is not included and is available as additional services.
- 3) Construction is anticipated to begin in September 2021 with physical completion in April 2022.

If you have any questions regarding the above proposal, please call.

Best regards,
HOUGH BECK & BAIRD INC.



Rachel Dotson, WRPA, CPSI
Principal

Exhibit A: HBB Fee Proposal
Exhibit B: List of Anticipated Submittals and Site Visits



HBB Landscape Architecture
 2101 Fourth Avenue, Suite 1800
 Seattle, WA 98121

206.682.3051 Phone
 206.682.3245 Fax
 www.hbbseattle.com

Date 16 August 2021

Project No. 2019-26B

Project Name Sound View Park

Memorandum

1. List of anticipated submittals for HBB review (16 total):

- a. Irrigation & Planting:
 1. 9-15 Irrigation material documentation (samples or manufacturer's "catalog cuts") for each product specified, irrigation design drawings.
 2. 8-03.3(13) Written documentation of existing static water pressure.
 3. 8-03.3(12) Irrigation double check valve assembly and test results.
 4. 8-03.3(11) Irrigation System Operation: Written documentation of the date the irrigation system was winterized and inspection results during the guarantee period.
 5. 8-03.3(10) Irrigation As-Built Plans.
 6. 9-14.1 Plant material documentation; plant species, sizes, and quantities prior to securing plant material.
 7. 9-14.1 Lawn Sod analysis and sample.
 8. 9-14.1 Soil components including soil amendments, supplier certifications, and test reports for compost, sand, sandy loam. Sample of Topsoil Type A, Lawn Soil.
 9. 9-14.1 Mulch material documentation, test reports, and sample.
 10. 8-02.3(2)A Roadside Work Plan.
 11. 8-02.3(2)B Weed and Pest Control Plan.
 12. 8-02.3(2)C Plant Establishment Plan.
 13. 8-05.3(1) Product Data: Bench, Picnic Table, Litter & Recycle Receptacle, Interpretive Sign, Skate Block, Guardrail, Handrail, Composite Wood: decking & fascia, Cap Rail, Lattice.
 14. LS1.1 Expansion and Control Joint Shop Drawing.
 15. Closeout Submittals (up to 2).

2. List of anticipated HBB site reviews:

- a. Irrigation & Planting (13 total):
 1. 8-03.3(1) Layout of Irrigation System
 2. 8-03.3(1)A, -03.3(2) & 8-03.3(9) Locating Irrigation Sleeves and Pipe Trench Excavation prior to backfilling
 3. 8-03.3(7) Mainline Pressure Test
 4. 8-03.3(7) Lateral Line Pressure Test
 5. 8-03.3(11) System Operation
 6. 8-02.3(5)C Following placement of sandy loam.
 7. 8-02.3(5)C Review finish grade of Topsoil Type A and Lawn Soil prior to planting.
 8. 9-14.7(4) Inspection of Sod prior to installation
 9. 8-02.3(8)A Inspection of plant materials before planting.
 10. 8-02.3(7) Layout of Planting and Lawn Areas
 11. 8-02.3(10)C & 8-02.3(12) Lawn Establishment for acceptance of lawn sodding to begin the Lawn Establishment Period (1 total review). And completion of Initial Planting for acceptance of planting and mulch to begin the Plant Establishment Period. Assumes review will also include punch list review of all site furnishings at the same time. (1 total review).
 12. LS1.1 Staked/marked location of Concrete Mow Strip.
 13. 8-05.3(1) Marked locations of site furnishings: Bench, Picnic Table, Litter & Recycle Receptacle, Interpretive Sign, Skate Block, Guardrail, Handrail, Composite Wood: decking & fascia, Cap Rail, Lattice.
- b. Establishment Period Reviews (11 total):
 1. 8-02.3(13) Plant Establishment Period Reviews (10 total reviews).
 2. 8-03.3(11) System Operation: Final Inspection of Planting and Irrigation (1 total review).

EXHIBIT A

TASK 3: ESA SCOPE OF SERVICES

Project Understanding

The City of Des Moines (City), is developing the Van Gasken property (located at 402 South 222nd Street on parcel 2009003925) into Van Gasken Sound View Park, and connecting it to the City's existing Overlook Park II. Van Gasken Sound View Park is located in Township 22 North, Range 4 East, Section 8, on the Des Moines, Washington 7.5' series topographic map.

The parks provide gathering space and offer sweeping vistas of Puget Sound, Vashon Island, Maury Island, and the Olympic Mountains. The City acquired the Van Gasken property with assistance from Forterra, and financial support from the Washington State Recreation and Conservation Office (RCO) and King County. The Van Gasken property will be converted into a public park that connects the Des Moines downtown Marina District to its waterfront, parks, and open space system. Development will include walking paths, benches, a viewpoint, lawn space, and a viewing area. A seating wall with accent planting and landscaping will tie the space together.

In March 2018, City staff were conducting initial stabilization measures, such as installing a shallow irrigation system, at the newly acquired Van Gasken property. During installation of the irrigation system, shell midden deposits were encountered across the property. Excavation was halted and ESA excavated shovel probes and test units on the Van Gasken property to delineate the site (Dellert et al. 2019). Following evaluation of the results and consultation with DAHP, the Muckleshoot Indian Tribe, the Puyallup Tribe of Indians, Tulalip Tribes, and the Snoqualmie Tribe, it was determined that the inadvertent discovery area represented an extension of site 45-KI-449. As a result of the site retaining significant integrity of location and association, the site was recommended Eligible for listing in the National Register of Historic Places (NRHP), due to its ability to provide information on precontact life in the local area (Dellert et al 2019).

As per the Cultural Resources reports, the existing structures will be partially demolished, and fill material will be placed appropriately as a preservation measure to protect the remaining portions of archaeological site 45KI449. Van Gasken Sound View Park contains Archaeological site 45-KI-449, a multi component archaeological site and cemetery consisting of a precontact shell midden and historic debris scatter, which is protected under Revised Code of Washington (RCW) 27.53, Archaeological Sites and Resources. The Project has an archaeological monitoring plan and DAHP archaeological permit in place to allow for construction and demolition activities to move forward. This amendment contains the services necessary to implement and follow the procedures and produce the deliverables required by these documents.

EXHIBIT A

Task 1: Project Management

- 1.1 This task includes communication with the City, as well as internal team communication and coordination. Work under this task will include an on-site pre bid meeting with potential contractors, and an on-site preconstruction meeting with the selected contractor. ESA will coordinate with KPFF and the City throughout the demolition and construction phase in order to provide archaeological services as needed. ESA will also attend virtual meetings with the Washington State Department of Archaeology and Historic Preservation (DAHP), Washington Recreation and Conservation Office (RCO) and Affected Tribes as needed.

Assumptions

- A single ESA staff person will be present for the pre bid and pre construction meetings, which will be less than two hours in length each.
- A single ESA staff person will attend up to 4 virtual One-hour meetings as needed

Task 2: Archaeological Monitoring and Screening During Construction

- 2.1 ESA will conduct archaeological monitoring and screening of backdirt of hand excavation for utility decommissioning, and conduct on-site archaeological monitoring of building demolition and initial placement of the geo-fabric barrier and armoring fill across the Project Area. During the construction and demolition phase ESA will coordinate with the City and KPFF for project schedule information in order to provide a field monitor during work requiring an on-site archaeologist. ESA will conduct limited hand screening of artifacts from excavation spoils produced during utility decommissioning. Additionally, ESA will conduct check-in monitoring visits weekly, as required by the permit, during construction and demolition work not requiring an On-Site monitor. The results of this work will be provided to the consulting parties in weekly update emails.

Deliverables

- Up to 10 weekly monitoring results emails

Assumptions

- The City or KPFF will provide a minimum of 48 hours' notice prior to work requiring on-site archaeological monitoring
- Hand excavation for gas line decommissioning will require archaeological screening of less than 1 cubic yard of material
- Less than 100 new artifacts will be collected during the monitoring and hand screening work
- No human remains will be identified
- Up to 6 work days of fulltime on site monitoring (work days assume 8.5 hours on site with 1.5 hours of drive time) and up to 10 check-in monitoring days (check in days assume 2.5 hours on site with 1.5 hours of drive time)

EXHIBIT A

Task 3: Monitoring and Permit Report

3.1 Draft and Final Monitoring Report

ESA will produce a report of results from archaeological monitoring and spoils screening conducted during the demolition and initial construction phase of the project. The report will be written to satisfy the requirements of the archaeological permit. The permit specifically requires that ESA obtain two radiocarbon dates for materials collected from 45-KI-449. The results of this analysis will be presented, along with the other findings.

Deliverables

- Draft Report for review by KPFF and City
- Final Report for Review by RCO Tribes and DAHP

Assumptions

- Two radiocarbon samples will be submitted to fulfill the DAHP permit requirement
- The City will provide a consolidated set of report comments
- deliverable will be in electronic format.

Task 4: Archaeological Site Form Update

4.1 DAHP Site Form for 45-KI-449

ESA will prepare and submit a site form update to DAHP containing the results of all work performed under permit 2021-12 at site 45-KI-449

Deliverable

- Final DAHP Site Form

Task 5: Curation

5.1 Preparation of Associated Records and Artifacts for Permanent Curation

ESA will prepare and house artifacts and associated records produced during the work under permit 2021-12 for permanent curation. Materials will be housed in archival quality artifact bags, storage materials, and printed on acid free paper. Physical photos will be printed and submitted along with the archival assemblage.

Deliverable

- Artifacts and Associated records delivered to the Muckleshoot Tribal Repository

Assumptions

- Artifacts and associated records will be permanently curated by the Muckleshoot Tribal Repository. ESA will prepare (e.g., bag, box, print) associated records and artifacts to the curation standards of the Muckleshoot Tribal Repository.
- Up to two banker's boxes of artifacts and one archival box of associated records will be curated
- Delivery of associated records and artifacts to the Muckleshoot Tribal Repository will be conducted by a single ESA staff person
- The City will deed artifacts and associated records to the Muckleshoot Indian Tribe
- Performance of permanent curation services from the Muckleshoot Tribal Repository are

EXHIBIT A

not part of this scope The City will be directly invoiced by the Muckleshoot Tribal Repository for the cost of permanent curation services.

Consultant Contract Fee Estimate

City of Des Moines 2020-2021 On-Call Civil Engineering Services
 Task Order 02: Van Gasken Final Design - Amendment 3 - Construction Services

Task No	Description	KPFF	HBB	ESA	Subtotal
1	KPFF	\$ 50,331.77	\$ -	\$ -	\$ 50,331.77
1.1	Project Management and Pre-Bid Services	\$ 8,493.48			\$ 8,493.48
1.2	Construction Administration Assistance	\$ -			\$ -
1.2.1	Construction Submittal Review	\$ 8,253.42			\$ 8,253.42
1.2.2	RFI Review	\$ 5,678.94			\$ 5,678.94
1.2.3	Change Order Review	\$ 8,399.81			\$ 8,399.81
1.2.4	Construction Field Review	\$ 8,542.15			\$ 8,542.15
1.2.5	Record As-Built Drawings	\$ 10,963.96			\$ 10,963.96
2	HBB	\$ -	\$ 35,019.70	\$ -	\$ 35,019.70
1.0	Bidding Services				
1.1	Planting Change		\$ 3,246.98		\$ 3,246.98
1.2	Pre-Bid Site Walk-through		\$ 418.24		\$ 418.24
2.0	Construction Administration Assistance				
2.1	Submittal Reviews		\$ 5,180.77		\$ 5,180.77
2.2	RFI Review and Response		\$ 2,950.16		\$ 2,950.16
2.3	Change Orders		\$ 1,326.67		\$ 1,326.67
2.4	Field Reviews		\$ 12,906.96		\$ 12,906.96
2.5	Record Drawings		\$ 1,632.48		\$ 1,632.48
2.6	Establishment Period Field Reviews		\$ 7,357.42		\$ 7,357.42
3	ESA	\$ -	\$ -	\$ 37,072.47	\$ 37,072.47
1.1	Scope, budget and schedule management, meetings			\$ 4,898.36	\$ 4,898.36
2.1	On-Site Monitoring and Screening of Midden Soils			\$ 16,659.37	\$ 16,659.37
3.1	Preparation of draft and final reports to fulfill DAHP Permit			\$ 9,119.74	\$ 9,119.74
4.1	DAHP Site Form for 45-KJ-449			\$ 2,952.85	\$ 2,952.85
5.1	Preparation of Associated Records and Artifacts for permanent Curation			\$ 3,442.14	\$ 3,442.14
Total Direct Labor		\$ 18,613.82	\$ 15,574.00	\$ 11,448.48	\$ 45,636.30
Total Overhead		\$ 26,133.80	\$ 14,773.50	\$ 22,189.44	\$ 63,096.74
Total Fee		\$ 5,584.15	\$ 4,672.20	\$ 3,434.54	\$ 13,690.89
Subtotal - Labor		\$ 50,331.77	\$ 35,019.70	\$ 37,072.47	\$ 122,423.93
Reimbursable Expenses		\$ 112.00	\$ 1,440.00	\$ 2,560.00	\$ 4,112.00
Management Reserve					\$ 10,000
TOTAL - labor and expenses		\$ 50,443.77	\$ 36,459.70	\$ 39,632.47	\$ 136,535.93

Consultant Contract Fee Estimate

City of Des Moines 2020-2021 On-Call Civil Engineering Services

Task Order 02: Van Gasken Final Design - Amendment 3 - Construction Services

KPFF		Justin Matthews	Eric Mendel	Cory Morton	Terence Johnson	Renee Rehn	Subtotal
		On Call PM	Project Engineer	Design Engineer	CAD	Project Coordinator	
		\$ 69.72	\$ 63.47	\$ 41.54	\$ 44.43	\$ 36.64	
Task No	Description						
1	KPFF CONSTRUCTION SERVICES	5	186	86	32	40	\$ 18,613.82
1.1	Project Management and Pre-Bid Services	1	40	4		10	\$ 3,141.08
1.2	Construction Administration Assistance						\$ -
1.2.1	Construction Submittal Review		30	10		20	\$ 3,052.30
1.2.2	RFI Review		20	20			\$ 2,100.20
1.2.3	Change Order Review		28	32			\$ 3,106.44
1.2.4	Construction Field Review		44			10	\$ 3,159.08
1.2.5	Record As-Built Drawings	4	24	20	32		\$ 4,054.72
		0	0	0	0	0	\$ 0.00
							\$ -
Total Hours		5	186	86	32	40	349
Total Direct Labor		\$ 348.60	\$ 11,805.42	\$ 3,572.44	\$ 1,421.76	\$ 1,465.60	\$ 18,613.82
Overhead @ 140.4%		\$ 489.43	\$ 16,574.81	\$ 5,015.71	\$ 1,996.15	\$ 2,057.70	\$ 26,133.80
Fee @ 30% of Direct Labor		\$ 104.58	\$ 3,541.63	\$ 1,071.73	\$ 426.53	\$ 439.68	\$ 5,584.15
Total Labor		\$ 942.61	\$ 31,921.86	\$ 9,659.88	\$ 3,844.44	\$ 3,962.98	\$ 50,331.77
Other Direct Costs		Qty	Cost per Unit				Total
Mileage		200.00	\$ 0.56				\$ 112.00
Parking		0.00	\$ -				\$ -
Reprographics		0.00	\$ -				\$ -
Courier		0.00	\$ -				\$ -
Postage		0.00	\$ -				\$ -
Other		0.00	\$ -				\$ -
Total Reimbursable Costs							\$ 112.00
KPFF Total							\$ 50,443.77

Consultant Contract Fee Estimate

City of Des Moines 2020-2021 On-Call Civil Engineering Services

Task Order 02: Van Gasken Final Design - Amendment 3 - Construction Services

HBB		Principal	Project Manager/ Landscape Architect	Design	Comp. / Tech.	Subtotal
		\$ 70.00	\$ 62.00	\$ 40.00	\$ 34.00	
Task No	Description					
1	Bidding Services	4	13	0	16	\$ 1,630.00
1.1	Planting Change	4	10	0	16	\$ 1,444.00
1.2	Pre-Bid Site Walk-through	0	3	0	0	\$ 186.00
2	Construction Administration Assistance	14	162	56	20	\$ 13,944.00
2.1	Submittal Reviews	0	32	8	0	\$ 2,304.00
2.2	RFI Review and Response	0	16	8	0	\$ 1,312.00
2.3	Change Orders	1	4	0	8	\$ 590.00
2.4	Field Reviews	6	60	40	0	\$ 5,740.00
2.5	Record Drawings	1	4	0	12	\$ 726.00
2.6	Establishment Period Field Reviews	6	46	0	0	\$ 3,272.00
Total Hours		18	175	56	36	285
Total Direct Labor		\$ 1,260.00	\$ 10,850.00	\$ 2,240.00	\$ 1,224.00	\$ 15,574.00
Overhead @ 137.25%		\$ 1,195.24	\$ 10,292.31	\$ 2,124.86	\$ 1,161.09	\$ 14,773.50
Fee @ 30% of Direct Labor		\$ 378.00	\$ 3,255.00	\$ 672.00	\$ 367.20	\$ 4,672.20
Total Labor		\$ 2,833.24	\$ 24,397.31	\$ 5,036.86	\$ 2,752.29	\$ 35,019.70
Other Direct Costs		Qty	Cost per Unit			Total
Mileage		0.00	\$ 0.56			\$ -
Parking		0.00	\$ -			\$ -
Reprographics		0.00	\$ 30.00			\$ -
Courier		0.00	\$ -			\$ -
Postage		0.00	\$ -			\$ -
Other (Zip Car)		24.00	\$ 60.00			\$ 1,440.00
Total Reimbursable Costs						\$ 1,440.00
HBB Total						\$ 36,459.70

Consultant Contract Fee Estimate

City of Des Moines 2020-2021 On-Call Civil Engineering Services
Task Order 02: Van Gasken Final Design - Amendment 3 - Construction Services

ESA		Colleen Kroe	Chris Lockwood	Tom Ostrander	Chanda Schneider	Justin Colon	Peter Carr	Colin Struthers	Susan Bjork	Subtotal
		Biologist	Project Archaeologist	Archaeologist	Curation Specialist	Archaeological Monitor	Technical Editor	Graphics	Admin	
		\$ 55.53	\$ 58.89	\$ 37.60	\$ 31.56	\$ 33.66	\$ 49.66	\$ 39.97	\$ 37.28	
Task No	Description									
1	Project Management	0	4	30	0	0	0	0	4	\$ 1,512.68
1.1	Scope, budget and schedule management, meetings		4	30	0	0	0	0	4	\$ 1,512.68
2	Monitoring During Construction	0	4	20	20	100	0	4	0	\$ 5,144.64
2.1	On-Site Monitoring and Screening of Midden Soils		4	20	20	100	0	4	0	\$ 5,144.64
3	Monitoring/Permit Report	6	4	32	6	10	4	8	0	\$ 2,816.30
3.1	Preparation of draft and final reports to fulfill DAHP Permit	6	4	32	6	10	4	8	0	\$ 2,816.30
4	Site Form Update	0	0	20	0	0	0	4	0	\$ 911.88
4.1	DAHP Site Form for 45-KI-449	0	0	20	0	0	0	4	0	\$ 911.88
5	Curation	0	0	6	24	0	0	2	0	\$ 1,062.98
5.1	Preparation of Associated Records and Artifacts for permanent Curation	0	0	6	24	0	0	2	0	\$ 1,062.98
Total Hours		6	12	108	50	110	4	18	4	312
Total Direct Labor		\$ 333.18	\$ 706.68	\$ 4,060.80	\$ 1,578.00	\$ 3,702.60	\$ 198.64	\$ 719.46	\$ 149.12	\$ 11,448.48
Overhead @ 193.82%		\$ 645.77	\$ 1,369.69	\$ 7,870.64	\$ 3,058.48	\$ 7,176.38	\$ 385.00	\$ 1,394.46	\$ 289.02	\$ 22,189.44
Fee @ 30% of Direct Labor		\$ 99.95	\$ 212.00	\$ 1,218.24	\$ 473.40	\$ 1,110.78	\$ 59.59	\$ 215.84	\$ 44.74	\$ 3,434.54
Total Labor		\$ 1,078.90	\$ 2,288.37	\$ 13,149.68	\$ 5,109.88	\$ 11,989.76	\$ 643.24	\$ 2,329.76	\$ 482.88	\$ 37,072.47
Other Direct Costs		Qty		Cost per Unit						Total
Mileage		1000		\$ 0.56						\$ 560.00
Parking		0		\$ -						\$ -
Reprographics		0		\$ 30.00						\$ -
Courier		0		\$ -						\$ -
Postage		0		\$ -						\$ -
Other (Radiocarbon Dating)		1		\$ 1,500.00						\$ 1,500.00
Other (Curation Supplies)		1		\$ 500.00						\$ 500.00
Total Reimbursable Costs										\$ 2,560.00
ESA Total										\$ 39,632.47

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BASIC BID ITEMS

PARK ITEMS

1	Concrete Mow Strip	57	LF	\$ 50.00	\$ 2,850.00	\$ 53.00	\$ 3,021.00	6%	\$ 60.70	\$ 3,459.90	21%	\$ 60.00	\$ 3,420.00	20%
2	Concrete Seatwall	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 34,000.00	\$ 34,000.00	240%	\$ 50,570.00	\$ 50,570.00	406%	\$ 48,000.00	\$ 48,000.00	380%
3	Concrete Planter Wall	1	LS	\$ 6,000.00	\$ 6,000.00	\$ 11,000.00	\$ 11,000.00	83%	\$ 17,240.00	\$ 17,240.00	187%	\$ 16,400.00	\$ 16,400.00	173%
4	Stairs	1	LS	\$ 1,600.00	\$ 1,600.00	\$ 2,200.00	\$ 2,200.00	38%	\$ 9,333.00	\$ 9,333.00	483%	\$ 9,240.00	\$ 9,240.00	478%
5	Bench	2	EA	\$ 3,400.00	\$ 6,800.00	\$ 7,400.00	\$ 7,400.00	9%	\$ 4,385.00	\$ 8,770.00	29%	\$ 3,580.00	\$ 7,160.00	5%
6	Picnic Table	1	EA	\$ 6,800.00	\$ 6,800.00	\$ 7,100.00	\$ 7,100.00	4%	\$ 6,992.00	\$ 6,992.00	3%	\$ 6,000.00	\$ 6,000.00	-12%
7	Litter Receptacle	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 2,200.00	\$ 2,200.00	-12%	\$ 3,113.00	\$ 3,113.00	25%	\$ 2,600.00	\$ 2,600.00	4%
8	Recycle Receptacle	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 2,200.00	\$ 2,200.00	-12%	\$ 3,220.00	\$ 3,220.00	29%	\$ 2,870.00	\$ 2,870.00	15%
9	Interpretive Sign	3	EA	\$ 1,000.00	\$ 3,000.00	\$ 500.00	\$ 1,500.00	-50%	\$ 812.00	\$ 2,436.00	-19%	\$ 1,150.00	\$ 3,450.00	15%
10	Skate Stops	58	EA	\$ 30.00	\$ 1,740.00	\$ 100.00	\$ 5,800.00	233%	\$ 148.75	\$ 8,627.50	396%	\$ 180.00	\$ 10,440.00	500%
11	Rail Cap	238	LF	\$ 6.00	\$ 1,428.00	\$ 22.00	\$ 5,236.00	267%	\$ 48.08	\$ 11,443.04	701%	\$ 48.00	\$ 11,424.00	700%
12	Sandy Loam	549	CY	\$ 60.00	\$ 32,940.00	\$ 42.00	\$ 23,058.00	-30%	\$ 40.07	\$ 21,988.43	-33%	\$ 145.00	\$ 79,605.00	142%
13	Topsoil Type A (8" Depth)	142	CY	\$ 60.00	\$ 8,520.00	\$ 58.00	\$ 8,236.00	-3%	\$ 45.79	\$ 6,502.18	-24%	\$ 155.00	\$ 22,010.00	158%
14	Lawn Soil (8" Depth)	225	CY	\$ 60.00	\$ 13,500.00	\$ 66.00	\$ 14,850.00	10%	\$ 51.52	\$ 11,592.00	-14%	\$ 155.00	\$ 34,875.00	158%
15	Bark or Wood Chip Mulch	634	SY	\$ 6.50	\$ 4,121.00	\$ 5.00	\$ 3,170.00	-23%	\$ 49.23	\$ 31,211.82	657%	\$ 28.00	\$ 17,752.00	331%
16	PSIPE Autumn Crocus (Top Grade Bulb)	7	EA	\$ 1.00	\$ 7.00	\$ 4.00	\$ 28.00	300%	\$ 4.45	\$ 31.15	345%	\$ 10.00	\$ 70.00	900%
17	PSIPE Common Camas (Top Grade Bulb)	35	EA	\$ 1.00	\$ 35.00	\$ 4.00	\$ 140.00	300%	\$ 5.70	\$ 199.50	470%	\$ 10.00	\$ 350.00	900%
18	PSIPE Elijah Blue Fescue (1 Gal. Cont.)	108	EA	\$ 20.00	\$ 2,160.00	\$ 20.00	\$ 2,160.00	0%	\$ 18.32	\$ 1,978.56	-8%	\$ 15.00	\$ 1,620.00	-25%
19	PSIPE Dwarf Fothergilla (1 Gal. Cont.)	53	EA	\$ 20.00	\$ 1,060.00	\$ 20.00	\$ 1,060.00	0%	\$ 18.30	\$ 969.90	-8%	\$ 22.00	\$ 1,166.00	10%
20	PSIPE Common Yarrow (1 Gal. Cont.)	27	EA	\$ 20.00	\$ 540.00	\$ 20.00	\$ 540.00	0%	\$ 18.30	\$ 494.10	-9%	\$ 15.00	\$ 405.00	-25%
21	PSIPE Roemer's Fescus (1 Gal. Cont.)	47	EA	\$ 20.00	\$ 940.00	\$ 20.00	\$ 940.00	0%	\$ 18.30	\$ 860.10	-9%	\$ 15.00	\$ 705.00	-25%
22	PSIPE Pee Wee Oakleaf Hydrangea (1 Gal. Cont.)	67	EA	\$ 20.00	\$ 1,340.00	\$ 20.00	\$ 1,340.00	0%	\$ 18.30	\$ 1,226.10	-8%	\$ 22.00	\$ 1,474.00	10%
23	PSIPE Lavender (1 Gal. Cont.)	12	EA	\$ 20.00	\$ 240.00	\$ 20.00	\$ 240.00	0%	\$ 18.30	\$ 219.60	-8%	\$ 15.00	\$ 180.00	-25%
24	PSIPE Dwarf Oregon Grape (2 Gal. Cont.)	25	EA	\$ 30.00	\$ 750.00	\$ 28.00	\$ 700.00	-7%	\$ 25.20	\$ 630.00	-16%	\$ 26.00	\$ 650.00	-13%
25	PSIPE Flower Carpet Coral Rose (2 Gal. Cont.)	140	EA	\$ 30.00	\$ 4,200.00	\$ 28.00	\$ 3,920.00	-7%	\$ 22.90	\$ 3,206.00	-24%	\$ 26.00	\$ 3,640.00	-13%
26	PSIPE Cluster Rose (2 Gal. Cont.)	77	EA	\$ 20.00	\$ 1,540.00	\$ 28.00	\$ 2,156.00	40%	\$ 22.90	\$ 1,763.30	15%	\$ 22.00	\$ 1,694.00	10%
27	PSIPE Sword Fern (1 Gal. Cont.)	42	EA	\$ 20.00	\$ 840.00	\$ 20.00	\$ 840.00	0%	\$ 17.15	\$ 720.30	-14%	\$ 16.00	\$ 672.00	-20%
28	PSIPE Kit Cat Catmint (1 Gal. Cont.)	59	EA	\$ 20.00	\$ 1,180.00	\$ 20.00	\$ 1,180.00	0%	\$ 18.30	\$ 1,079.70	-9%	\$ 15.00	\$ 885.00	-25%
29	PSIPE Irene Rosemary (1 Gal. Cont.)	22	EA	\$ 20.00	\$ 440.00	\$ 20.00	\$ 440.00	0%	\$ 18.30	\$ 402.60	-9%	\$ 15.00	\$ 330.00	-25%
30	PSIPE Evergreen Huckleberry (2 Gal. Cont.)	26	EA	\$ 30.00	\$ 780.00	\$ 28.00	\$ 728.00	-7%	\$ 22.90	\$ 595.40	-24%	\$ 22.00	\$ 572.00	-27%
31	PSIPE Happy Returns Daylily (1 Gal. Cont.)	245	EA	\$ 20.00	\$ 4,900.00	\$ 20.00	\$ 4,900.00	0%	\$ 17.17	\$ 4,206.65	-14%	\$ 16.00	\$ 3,920.00	-20%
32	PSIPE Hardy Geranium (1 Gal. Cont.)	197	EA	\$ 20.00	\$ 3,940.00	\$ 20.00	\$ 3,940.00	0%	\$ 17.17	\$ 3,382.49	-14%	\$ 16.00	\$ 3,152.00	-20%
33	PSIPE Streibs Finding Cotoneaster (1 Gal. Cont.)	807	EA	\$ 20.00	\$ 16,140.00	\$ 16.00	\$ 12,912.00	-20%	\$ 17.17	\$ 13,856.19	-14%	\$ 16.00	\$ 12,912.00	-20%
34	PSIPE Little Bunny Fountain Grass (1 Gal. Cont.)	38	EA	\$ 20.00	\$ 760.00	\$ 20.00	\$ 760.00	0%	\$ 19.45	\$ 739.10	-3%	\$ 15.00	\$ 570.00	-25%
35	PSIPE Compact Strawberry Tree (5 Gal. Cont.)	3	EA	\$ 35.00	\$ 105.00	\$ 56.00	\$ 168.00	60%	\$ 54.95	\$ 164.85	57%	\$ 35.00	\$ 105.00	0%
36	Sod	1,013	SY	\$ 3.00	\$ 3,039.00	\$ 15.00	\$ 15,195.00	400%	\$ 15.46	\$ 15,660.98	415%	\$ 15.00	\$ 15,195.00	400%
37	Irrigation Systems	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 16,800.00	\$ 16,800.00	-52%	\$ 31,640.00	\$ 31,640.00	-10%	\$ 22,540.00	\$ 22,540.00	-36%
38	Irrigation Meter	1	LS	\$ 6,000.00	\$ 6,000.00	\$ 1.00	\$ 1.00	-100%	\$ 2,406.00	\$ 2,406.00	-60%	\$ 7,800.00	\$ 7,800.00	30%
39	Guardrail	226	LF	\$ 200.00	\$ 45,200.00	\$ 288.00	\$ 65,088.00	44%	\$ 280.49	\$ 63,390.74	40%	\$ 305.00	\$ 68,930.00	53%
40	Stair Handrail	12	LF	\$ 200.00	\$ 2,400.00	\$ 63.00	\$ 756.00	-69%	\$ 526.75	\$ 6,321.00	163%	\$ 525.00	\$ 6,300.00	163%
41	Sidewalk Railing	125	LF	\$ 100.00	\$ 12,500.00	\$ 142.00	\$ 17,750.00	42%	\$ 217.52	\$ 27,190.00	118%	\$ 225.00	\$ 28,125.00	125%
42	Roadway Excavation Incl. Haul	8	CY	\$ 100.00	\$ 800.00	\$ 140.00	\$ 1,120.00	40%	\$ 180.50	\$ 1,444.00	81%	\$ 125.00	\$ 1,000.00	25%
43	Sawcutting	195	LF	\$ 5.00	\$ 975.00	\$ 3.00	\$ 585.00	-40%	\$ 3.86	\$ 752.70	-23%	\$ 6.00	\$ 1,170.00	20%
44	Grind Curb	15	LF	\$ 25.00	\$ 375.00	\$ 37.00	\$ 555.00	48%	\$ 59.00	\$ 885.00	136%	\$ 70.00	\$ 1,050.00	180%
45	Remove Building	1	LS	\$ 75,000.00	\$ 75,000.00	\$ 39,000.00	\$ 39,000.00	-48%	\$ 145,600.00	\$ 145,600.00	94%	\$ 72,450.00	\$ 72,450.00	-3%
46	Remove Fence	330	LF	\$ 5.00	\$ 1,650.00	\$ 6.00	\$ 1,980.00	20%	\$ 3.58	\$ 1,181.40	-28%	\$ 14.00	\$ 4,620.00	180%
47	Remove Light Pole	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 224.00	\$ 224.00	-78%	\$ 243.25	\$ 243.25	-76%	\$ 450.00	\$ 450.00	-55%
48	Remove Flag Pole	1	LS	\$ 500.00	\$ 500.00	\$ 224.00	\$ 224.00	-55%	\$ 410.75	\$ 410.75	-18%	\$ 650.00	\$ 650.00	30%
49	Removal of Structures and Obstructions	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 16,500.00	\$ 16,500.00	10%	\$ 6,181.00	\$ 6,181.00	-59%	\$ 42,150.00	\$ 42,150.00	181%
50	Abandon Fuel Tank	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 2,800.00	\$ 2,800.00	-44%	\$ 2,290.00	\$ 2,290.00	-54%	\$ 12,540.00	\$ 12,540.00	151%
51	Gravel Borrow Incl. Haul	400	TN	\$ 40.00	\$ 16,000.00	\$ 78.00	\$ 31,200.00	95%	\$ 74.53	\$ 29,812.00	86%	\$ 32.00	\$ 12,800.00	-20%
52	Demolition Plan	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 112.00	\$ 112.00	-98%	\$ 1,380.00	\$ 1,380.00	-72%	\$ 35,780.00	\$ 35,780.00	616%
53	Construction Geotextile for Permanent Erosion Control	2,850	SY	\$ 5.00	\$ 14,250.00	\$ 3.00	\$ 8,550.00	-40%	\$ 2.67	\$ 7,609.50	-47%	\$ 5.00	\$ 14,250.00	0%
54	Crushed Surfacing Top Course	460	TN	\$ 100.00	\$ 46,000.00	\$ 107.00	\$ 49,220.00	7%	\$ 29.59	\$ 13,611.40	-70%	\$ 70.00	\$ 32,200.00	-30%
55	Commercial HMA	15	TN	\$ 1,000.00	\$ 15,000.00	\$ 418.00	\$ 6,270.00	-58%	\$ 790.50	\$ 11,857.50	-21%	\$ 540.00	\$ 8,100.00	-46%
56	Cement Conc. Pavement	15	CY	\$ 500.00	\$ 7,500.00	\$ 527.00	\$ 7,905.00	5%	\$ 713.50	\$ 10,702.50	43%	\$ 550.00	\$ 8,250.00	10%
57	Retaining Wall	300	SF	\$ 150.00	\$ 45,000.00	\$ 47.00	\$ 14,100.00	-69%	\$ 35.89	\$ 10,767.00	-76%	\$ 89.00	\$ 26,700.00	-41%
58	Service Connection 1-1/4 In. Diam.	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 224.00	\$ 224.00	-96%	\$ 928.00	\$ 928.00	-81%	\$ 3,870.00	\$ 3,870.00	-23%
59	Inlet Protection	2	EA	\$ 150.00	\$ 300.00	\$ 280.00	\$ 560.00	87%	\$ 74.65	\$ 149.30	-50%	\$ 185.00	\$ 370.00	23%
60	High Visibility Silt Fence	510	LF	\$ 7.00	\$ 3,570.00	\$ 9.00	\$ 4,590.00	29%	\$ 6.92	\$ 3,529.20	-1%	\$ 15.00	\$ 7,650.00	114%
61	Straw Wattle	150	LF	\$ 5.00	\$ 750.00	\$ 5.00	\$ 750.00	0%	\$ 5.95	\$ 892.50	19%	\$ 18.00	\$ 2,700.00	260%
62	Cement Concrete Traffic Curb and Gutter	193	LF	\$ 75.00	\$ 14,475.00	\$ 43.00	\$ 8,299.00	-43%	\$ 61.06	\$ 11,784.58	-19%	\$ 55.00	\$ 10,615.00	-27%
63	Cement Concrete Driveway Entrance	50	SY	\$ 120.00	\$ 6,000.00	\$ 76.00	\$ 3,800.00	-37%	\$ 109.00	\$ 5,450.00	-9%	\$ 110.00	\$ 5,500.00	-8%
64	Cement Concrete Sidewalk	650	SY	\$ 75.00	\$ 48,750.00	\$ 105.00	\$ 68,250.00	40%	\$ 120.20	\$ 78,130.00	60%	\$ 72.00	\$ 46,800.00	-4%
65	Cement Concrete Curb Ramp Type Perpendicular A	1	EA	\$ 4,000.00	\$ 4,000.00	\$ 1,680.00	\$ 1,680.00	-58%	\$ 1,814.00	\$ 1,814.00	-55%	\$ 3,200.00	\$ 3,200.00	-20%
66	Permanent Signage	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 56.00	\$ 56.00	-94%	\$ 629.75	\$ 629.75	-37%	\$ 4,500.00	\$ 4,500.00	350%
67	Paint Line	170	LF	\$ 2.00	\$ 340.00	\$ 2.00	\$ 340.00	0%	\$ 3.70	\$ 629.00	85%	\$ 3.00	\$ 510.00	50%
68	Painted Access Parking Space Symbol	2	EA	\$ 100.00	\$ 200.00	\$ 616.00	\$ 1,232.00	516%	\$ 189.00	\$ 378.00	89%	\$ 450.00	\$ 900.00	350%
69	Concrete Curb Stop	2	EA	\$ 250.00	\$ 500.00	\$ 168.00	\$ 336.00	-33%	\$ 157.50	\$ 315.00	-37%	\$ 425.00	\$ 850.00	70%

DECK ITEMS

70 Composite Wood Deck (Decking, Fascia, Beams, Foundations)

BID ITEMS SUBTOTAL

10.1% WSST

TOTAL PROPOSAL COST

QTY	UNIT	COST ESTIMATE		PROSPECT CONSTRUCTION, INC.			TUNISTA CONSTRUCTION LLC			A-1 LANDSCAPING & CONST., INC.		
		UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	% DIFF.	UNIT PRICE	TOTAL PRICE	% DIFF.	UNIT PRICE	TOTAL PRICE	% DIFF.
4,648	SF	\$ 80.00	\$ 371,840.00	\$ 74.55	\$ 346,508.40	-7%	\$ 72.68	\$ 337,816.64	-9%	\$ 72.00	\$ 334,656.00	-10%
			\$ 956,110.00		\$ 902,623.40			\$ 1,067,017.15			\$ 1,155,489.00	
			\$ 96,567.11		\$ 91,164.96			\$ 107,768.73			\$ 116,704.39	
			\$ 1,052,677.11		\$ 993,788.36	-6%		\$ 1,174,785.88	12%		\$ 1,272,193.39	21%

NOTES:

Indicates the submitted proposal contained a smaller amount
Indicates the submitted proposal contained a larger amount

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Attachment #4

The Van Gasken Park

Project #

310.067

TOTAL PROJECT SCOPE				Annual Allocations									
Expenditure Categories	Adopted Current CIP Budget	CIP Supplemental Request	Revised CIP Budget Estimate	Actuals to Date 12/31/20	Project Year to Date 12/31/2021	Project Life to Date 12/31/2021	Estimated Year End 2021	Plan Year 2021	Plan Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026
Design													
External Engineering				145,091.38	83,613.09	228,704.47	86,000						
Internal Engineering/Project Mgmt				2,666.44	6,836.79	9,503.23	10,000						
Permits				3,342.69	20,260.21	23,602.90	21,000						
Total Design	202,000	-	202,000	151,100.51	111,745.03	262,845.54	117,000	50,000	-	-	-	-	-
Prop/ROW/Easements													
Internal Engineering				5,169.98	-	5,169.98							
Other Professional Services				68,932.50	935.85	69,868.35	1,000						
Environmental				7,590.98	-	7,590.98							
Land				1,437,623.48	-	1,437,623.48							
Other Miscellaneous				3,250.00	-	3,250.00							
Total Prop/ROW/Easements	1,523,000	-	1,523,000	1,522,566.94	935.85	1,523,502.79	1,000	-	-	-	-	-	-
Construction													
External Engineering				-	-	-	136,536						
Internal Engr-Proj Mgmt/Inspect				2,037.00	4,373.54	6,410.54	40,000						
Construction Contract 1				-	-	-	993,788						
Construction Contract Contingency				-	-	-	149,000						
Internal Construction - Labor				-	-	-							
Materials				-	-	-							
Material Testing				-	-	-							
				-	-	-							
Other Miscellaneous				700.00	7,780.77	8,480.77							
Interfund Financial Services				16,624.38	-	16,624.38	14,373						
Non-Capitalizable Services				10,199.09	-	10,199.09							
Total Construction	1,410,000	-	1,410,000	29,560.47	12,154.31	41,714.78	1,333,698	1,380,000	-	-	-	-	-
Project Contingency	180,000	-	180,000	-	-	-	158,302	180,000	-	-	-	-	-
Total Project Expenditures	3,315,000	-	3,315,000	1,703,227.92	124,835.19	1,828,063.11	1,610,000	1,610,000	-	-	-	-	-
Funding Sources	Adopted Current CIP Budget	CIP Supplemental Request	Revised CIP Budget Estimate	Project to Date 12/31/20	Project Year to Date 12/31/2021	Project to Date 12/31/2021	Estimated Year End 2021	Scheduled Year 2021	Scheduled Year 2022	Scheduled Year 2023	Scheduled Year 2024	Scheduled Year 2025	Planned Year 2026
One Time Tax	228,000	-	228,000	227,007.00	-	227,007.00		-	-	-	-	-	-
CFT Grant (Secured)	594,000	-	594,000	594,000.00	-	594,000.00		-	-	-	-	-	-
RCO Grant (Secured)	554,000	-	554,000	553,873.42	2,743.39	556,616.81		-	-	-	-	-	-
Park In Lieu	328,000	-	328,000	327,239.24	-	327,239.24		-	-	-	-	-	-
State of Washington Grants (Unsecured)	-	-	-	-	-	-		-	-	-	-	-	-
Interfund Loan	-	-	-	-	-	-		-	-	-	-	-	-
King County Park Levy	302,000	-	302,000	1,108.26	51,392.00	52,500.26		300,000	-	-	-	-	-
REET 1	654,000	-	654,000	-	-	-		654,000	-	-	-	-	-
REET 2	655,000	-	655,000	-	-	-		655,000	-	-	-	-	-
Total Project Funding	3,315,000	-	3,315,000	1,703,227.92	54,135.39	1,757,363.31	-	1,609,000	-	-	-	-	-

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2021-2023 Recycling Program
Funding

FOR AGENDA OF: October 7, 2021

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: September 28, 2021

ATTACHMENTS:

1. Washington State Department of Ecology
Solid Waste Management Local Solid
Waste Financial Assistance Agreement
(LSWFA) 2021-2023 Agreement No.
SWMLSWFA-2021-DeMDSD-00077

CLEARANCES:

- ☒ Community Development /s/ LT
☐ Marina _____
☐ Parks, Recreation & Senior Services _____
☐ Public Works _____

CHIEF OPERATIONS OFFICER: 

- ☒ Legal /s/ TG
☐ Finance _____
☐ Courts _____
☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to provide information to Council, enabling it to take action on the acceptance of a grant partially funding the City's Recycling Program for the service period of 2021-2023.

Suggested Motion

Motion 1: "I move to authorize the City Manager to sign the 2021-2023 Local Solid Waste Financial Assistance Grant agreement between the City of Des Moines and the Washington State Department of Ecology, substantially in the form as attached."

Background

Staff is requesting Council to authorize acceptance of one of three grants for the City's recycling program. The grant is the 2021-2023 Washington State Department of Ecology's Solid Waste Management Local Solid Waste Financial Assistance Agreement (LSWFA) (Attachment 1).

The subject grant will partially fund the City's semi-annual Household Waste Collection and Recycling Events for 2021-2023.

Discussion

The City uses grant funds to sponsor recycling and collection events for Des Moines residents and promotes recycling or the use of recycled-content products. For the 2021-2023 Recycling Program, the City will sponsor two residential recycling collection events per year (i.e. the Fall and Spring events).

This agenda item seeks City Council approval of the LSWFA grant contract for 2021-2023 (retroactive to July 1, 2021 through June 30, 2023). The LSWFA grant will allocate a state grant share of \$15,166.33 to the City of Des Moines recycling program for household recycling events for the 2021-2023 timeframe.

If the City Council accepts the LSWFA grant for 2021-2023, the City will continue to reduce the amount of hazardous and non-hazardous materials going into the local waste stream at no additional cost to the City.

Household Collection and Recycling Events – For over 20 years, the City has used grant monies to sponsor semi-annual Household Waste Collection and Recycling Events. The Spring and Fall events have proven to be exceptionally popular among Des Moines residents because they provide a local site to recycle materials that are not accepted by the curbside recycling program. Residents will be able to recycle items including tires, lead acid and alkaline batteries, cardboard, propane tanks, appliances and scrap metal, bulky wood, electronic equipment, mattresses and box springs, and reusable household items. Additional items continue to be explored as the number and type of materials collected curbside have increased under the solid waste contract that began collection on November 1, 2011.

Alternatives

1. The City Council may accept the 2021-2023 LSWFA Grant No. SWMLSWFA-2021-DeMDSD-00077 between the City of Des Moines and the Washington State Department of Ecology.
2. The City Council may decline the 2021-2023 LSWFA Grant No. SWMLSWFA-2021-DeMDSD-00077 between the City of Des Moines and the Washington State Department of Ecology and forego LSWFA grant funds.

Financial Impact

If the City Council accepts the LSWFA grant, there will be no fiscal impact to the City related to Contract Number SWMLSWFA-2021-DeMDSD-000772. However, if the City Council does not accept the LSWFA grant, then the City will need to use General Fund monies to maintain the City's recycling program. The required matching funds for this grant are provided by the two other grants used to fund the recycling program: King County Health Department Local Hazardous Waste Management Program (LHWMP) Grant and the King County Solid Waste Division Waste Reduction and Recycling (WRR) Grant.

Recommendation

Staff recommends that the City Council accept the 2021-2023 Washington State Department of Ecology LSWFA Grant.

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Agreement No. SWMLSWFA-2021-DeMDSD-00077

SOLID WASTE MANAGEMENT LOCAL SOLID WASTE FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF DES MOINES

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and CITY OF DES MOINES, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	IMP City of Des Moines
Total Cost:	\$60,665.33
Total Eligible Cost:	\$60,665.33
Ecology Share:	\$45,499.00
Recipient Share:	\$15,166.33
The Effective Date of this Agreement is:	07/01/2021
The Expiration Date of this Agreement is no later than:	06/30/2023
Project Type:	Planning & Implementation

Project Short Description:

The RECIPIENT will host up to four Residential Recycling Collection Events for City residents with its \$60,665.33 (state share plus local share) grant funds. The RECIPIENT expects to divert 119 tons of recycled material, which includes an estimated 15 tons of organics, 24 tons of moderate risk waste, and 80 tons of recyclable material from 1,500 residential participants as a result of making over 20,045 residential contacts during the 2021-2023 grant cycle.

Project Long Description:

See the Scope of Work section for more detailed information related to individual Tasks.

Overall Goal:

Provide regional solutions and intergovernmental cooperation; prevent or minimize environmental contamination through planning and project implementation; and comply with state and local solid and hazardous waste management plans and

State of Washington Department of Ecology

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Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

laws.

Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

RECIPIENT INFORMATION

Organization Name: CITY OF DES MOINES

Federal Tax ID: 91-6016496

DUNS Number: 079270443

Mailing Address: 21630 11th Ave S, Ste D
Des Moines, WA 98198-6398

Physical Address: 21630 11th Ave S, Ste D
Des Moines, Washington 98198-6398

Organization Fax: (206) 870-6544

Contacts

Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

Project Manager	Laura Techico Principal Planner 21630 11th Avenue South Suite D Des Moines, Washington 98198 Email: ltechico@desmoineswa.gov Phone: (206) 870-6595
Billing Contact	Paul Devine General Manager 4715 SW WALKER ST Seattle, Washington 98116 Email: pauldevine@msn.com Phone: (206) 938-8262
Authorized Signatory	Michael Matthias City Manager 21630 11th AVE S Des Moines, Washington 98198 Email: mmatthias@desmoineswa.gov Phone: (206) 824-5700

Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Solid Waste Management
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Solid Waste Management
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	Diana Wadley PO Box 330316 Shoreline, Washington 98133-9716 Email: dwad461@ecy.wa.gov Phone: (425) 429-4639
Financial Manager	Diana Wadley PO Box 330316 Shoreline, Washington 98133-9716 Email: dwad461@ecy.wa.gov Phone: (425) 429-4639

State of Washington Department of Ecology
Agreement No: SWMLSWFA-2021-DeMDSD-00077
Project Title: IMP City of Des Moines
Recipient Name: CITY OF DES MOINES

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AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State
Department of Ecology

CITY OF DES MOINES

By: _____

By: _____

Laurie Davies
Solid Waste Management
Program Manager

Michael Matthias
City Manager

Template Approved to Form by
Attorney General's Office

SCOPE OF WORK

Task Number: 1 **Task Cost: \$60,665.33**

Task Title: CROP Recycling Operations

Task Description:

The RECIPIENT will host up to four residential recycling collection events for City residents. Organics, household hazardous waste (HHW), and other large or hard-to-recycle items will be collected along with 'usual' recyclables at a convenient City location. Educational materials, which describe how to reduce waste and recycle more using City-sponsored or private sector recycling programs, will also be distributed.

Work to be performed:

- Organize, stage, and staff the event, including scheduling and paying vendors.
- Advertisement of the event.
- Distribution of the outreach materials at the event.
- Responsible recycling, reusing, or disposing (such as for some hazardous waste) of the collected materials.
- Calculating and reporting outcomes of each event to ECOLOGY.

Who will perform it:

- A contractor, in conjunction with any vendors hired or utilized by said contractor for final management of materials.
- RECIPIENT employee intends to be minimally involved, performing basic oversight.

This task includes development and distribution of promotional materials in a variety of formats to encourage participation. RECIPIENT is encouraged to work with their ECOLOGY grant manager when developing promotional materials, and is reminded of provisions 3 and 19 of the General Terms and Conditions of this Agreement.

This task will not reimburse costs covered by existing product stewardship organizations (E-Cycle Washington, LightRecycle Washington, PaintCare, Call2Recycle) or for costs covered by new product stewardship organizations that are fully implemented during this agreement period.

RECIPIENT is not participating in the PaintCare product stewardship program and will be implementing special collection events. ECOLOGY encourages RECIPIENT to contact PaintCare to coordinate PaintCare's presence at events. PaintCare will take all acceptable products during the event at no charge to the RECIPIENT, resulting in a cost savings to the RECIPIENT. LSWFA will not cover the costs at collection events that are covered by PaintCare.

RECIPIENT will credit the grant for any revenue received from the collection of fees or commodity sales of items this task is directly supporting.

The scope of this task includes recycling activity managed or performed by RECIPIENT at a recycling center such as a transfer station or drop box location, or at another location. Disposal of any materials collected or advertised as collected for recycling or reuse or marketed for recycling or reuse under this task is prohibited. RECIPIENT must immediately notify ECOLOGY when they become aware that disposal of materials collected for recycling or reuse occurred. ECOLOGY may deny new costs or require RECIPIENT to repay costs already reimbursed or both.

Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

Task Goal Statement:

The goal of this task is to decrease the amount of organic waste, household hazardous waste, and hard-to-recycle items going to landfill by holding collection events in a convenient location for City residents. The City will also help reduce waste and encourage recycling by distributing educational materials to City residents. The events will also provide an opportunity to distribute environmentally friendly products such as rain barrels and compost/worm bins.

Task Expected Outcome:

The RECIPIENT expects to divert an estimated 15 tons of organics, properly manage 24 tons of household hazardous waste, and recycle 80 tons of material, all from 1,500 residential participants. Depending on vendor availability, there is potential to also collect items for reuse. These metrics represent the percentage of the task's total overall cost that is supported by the Ecology Share plus Recipient Share under this Agreement.

Recipient Task Coordinator: Paul Devine**CROP Recycling Operations****Deliverables**

Number	Description	Due Date
1.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

Agreement No: SWMLSWFA-2021-DeMDSD-00077

Project Title: IMP City of Des Moines

Recipient Name: CITY OF DES MOINES

BUDGET**Funding Distribution EG220128**

NOTE: The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.

Funding Title: City of Des Moines

Funding Type: Grant

Funding Effective Date: 07/01/2021

Funding Expiration Date: 06/30/2023

Funding Source:

Title: Model Toxics Control Operating Account (MTCOA)

Fund:

Type: State

Funding Source %: 100%

Description: Local Solid Waste Financial Assistance

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 25%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

City of Des Moines	Task Total
CROP Recycling Operations	\$ 60,665.33

Total: \$ 60,665.33

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
City of Des Moines	25.00 %	\$ 15,166.33	\$ 45,499.00	\$ 60,665.33
Total		\$ 15,166.33	\$ 45,499.00	\$ 60,665.33

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

If the scope of this Agreement includes recycling activity managed or performed by the RECIPIENT at a recycling center (such as a transfer station or drop box location) or other locations, Ecology will not reimburse disposal costs for materials collected or advertised as collected for recycling/reuse or marketed for recycling/reuse under this Agreement, unless approved in writing by Ecology. RECIPIENT must immediately notify ECOLOGY when the RECIPIENT becomes aware that disposal of materials occurred or may occur due to the market conditions for recycled/reused materials. ECOLOGY may deny new costs or require repayment of costs already reimbursed or remove the task from the Agreement or terminate the Agreement.

Ecology will conduct a risk assessment of all Local Solid Waste Financial Assistance recipients. The level of risk determines the level of oversight required by Ecology throughout the biennium. If the RECIPIENT's performance or project circumstances change, Ecology may reassess risk and notify the RECIPIENT of any changes to administrative requirements.

RECIPIENT shall update the Spending Plan and Outcomes Data Collection form at least quarterly. The Spending Plan and Outcomes Data Collection form must be completed concurrent with the submittal of each payment Request/Progress Report. RECIPIENT shall report outcomes in a manner consistent with instructions in the Local Solid Waste Financial Assistance guidelines.

RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial (including payment requests), performance, and other reports required by this Agreement. Ecology shall have the right to deny reimbursement of payment requests received after this date.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements

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contained in the certification, they must provide an explanation as to why they cannot.

2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE

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SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](#) <https://sam.gov/SAM/> exclusion list.

GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

06/24/2021 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- * For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff, volunteers, and contractors working at the project site.
 - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

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The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

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16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

20. PROGRESS REPORTING

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a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.

c) RECIPIENT shall use ECOLOGY's provided progress report format.

d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.

e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.

b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.

d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.

2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

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22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
 - b) Be kept in a common file to facilitate audits and inspections.
 - c) Clearly indicate total receipts and expenditures related to this Agreement.
 - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall 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.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

28. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

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event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Domestic Violence Awareness Month

FOR AGENDA OF: October 7, 2021

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

1. Proclamation

DATE SUBMITTED: September 27, 2021

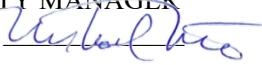
CLEARANCES:

- ☐ Community Development
- ☐ Marina
- ☐ Parks, Recreation & Senior Services _____
- ☐ Public Works

CHIEF OPERATIONS OFFICER: _____

- ☐ Legal _____
- ☐ Finance
- ☐ Courts
- ☐ Police

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

The purpose of this agenda item is to recommend City Council approval of the attached Proclamation supporting October as Domestic Violence Awareness Month.

Suggested Motion

Motion: "I move to approve the Proclamation supporting October as Domestic Violence Awareness Month."

Background

Domestic Violence Awareness Month was launched nationwide in October 1987 as a way to connect and unite individuals and organizations working on domestic violence issues and raise awareness for those issues.

Over the last three decades, much progress has been made to support domestic violence victims and survivors, to hold abusers accountable, and to create and update legislation to further those goals.

Discussion

This is the third year that this proclamation has been before Council.

Alternatives

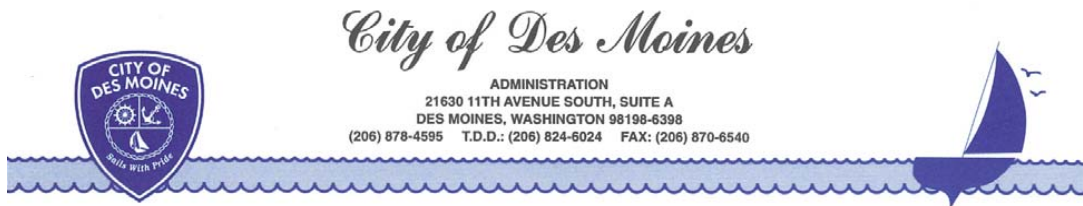
None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting October as Domestic Violence Awareness Month.



Proclamation

WHEREAS, every one of our residents deserves to live a life free from violence and abuse; and

WHEREAS, anyone can be a victim of domestic violence regardless of age, sex, ability, ethnicity, sexual orientation, socioeconomic status, or religion; and

WHEREAS, children that grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, Domestic Violence Awareness Month provides an excellent opportunity for our community to learn more about preventing domestic violence and to show support for the numerous organizations and individuals providing critical advocacy, services and assistance to its victims;

NOW THEREFORE, the Des Moines City Council wishes to recognize October as

DOMESTIC VIOLENCE AWARENESS MONTH

and encourages the community to ensure that victims of domestic violence know that they are not alone and are here to support survivors of domestic violence as they courageously move forward to enjoy full and healthy lives.

SIGNED this 7th day of October, 2021

Matt Pina, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Metro Community Shuttle Project
Agreement Extension

FOR AGENDA OF: October 7, 2021

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: September 29, 2021

ATTACHMENTS:

1. Community Shuttle Project Agreement Extension between the City of Des Moines and King County Metro
2. City of Des Moines/ Metro Shuttle Brochure and Timetable
3. Metro Community Shuttle Demonstration Project Agreement (March 2018 to March 2020)
4. Transit Service Funding Agreement between the City of Des Moines and King County Metro (September 21, 2019 to September 17, 2021)

CLEARANCES:

- ☐ Community Development _____
- ☐ Marina N/A
- ☐ Parks, Recreation & Senior Services N/A
- ☒ Public Works R. Blum

CHIEF OPERATIONS OFFICER: David J. [Signature]

- ☒ Legal/s/TG
- ☒ Finance Anthony [Signature]
- ☐ Courts N/A
- ☐ Police N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for City Council to approve the Community Shuttle Project Agreement Extension with King County Metro that endorses continued operation of Community Shuttle Route 635 through the end of December 2022. The following will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to adopt the Des Moines Community Shuttle Project Agreement Extension between King County Metro and the City of Des Moines and authorize the City Manager to sign and implement the agreement extension substantially in the form presented."

Background

The King County Council approved \$15 million for the Community Connections program in the 2017-2018 biennium budget as the King County Metro Alternative Services Program (Metro). Community Connections is the new name for the program (March 2017).

In 2016, City of Des Moines staff applied to be a participant under this program to establish a demonstration pilot project to fill a gap in transit service linking the Angle Lake Link light rail station and the downtown Marina District via the Des Moines Creek Business Park. The overall intent of program develop innovative and cost-efficient transportation solutions in areas of King County that don't have the infrastructure, density, or land use to support regular fixed route services. The City was shortlisted and selected as a candidate for these services contingent upon developing a plan for a pilot program

In early spring, 2017 City staff assumed the lead in helping Metro in identifying public transportation needs and alternatives that might best meet community needs. A stakeholders group of more than 30 representatives from the Marina District, Wesley Homes and businesses surrounding the Des Moines Creek Business Park participated in a several meetings to define the demonstration project. Metro reached out to the employees of these businesses, with an “all hands” effort at the FAA, to identify needs and make recommendations to enhance public transportation services. Final recommendations from Metro evolved in the fall including three pilot projects: 1. A frequent peak period Community Shuttle linking the downtown with the Angle Lake Station; 2. A program termed “Midday Your Way” that would fill in midday service needs of employees and others; and, 3. A Vanshare program that would provide other direct commuter service connections that are not served by the pilot or other fixed route services. The terms of the two year Community Shuttle pilot are addressed in Attachment 1.

In January, 2018, in advance of occupancy of the FAA Regional Headquarters, the Des Moines Community Shuttle, Route 635, was launched as a frequent peak period operation in an attempt to capture commuters. The FAA settled in the new facility in late February and ridership is building.

On April 12, 2018, the City of Des Moines and King County Metro entered into an interlocal agreement for the initial phase of the Community Shuttle Project ([Attachment 3](#)) which outlined the overall agreement for the shuttle service which had an initial sunset of March 20, 2020. Prior to the end of the initial interlocal agreement in March of 2019, a new agreement ([Attachment 4](#)) was developed that was approved by the City Council which updated the service frequency of the shuttle and extended the contract expiration date to September 17, 2021.

Discussion

Route 635 Community Shuttle ([Attachment 2](#)) has been an asset to the City and a key transportation connector between the City’s Marina District and the Sound Transit light rail station on South 200th Street. In late March of 2021, Metro reached out to the City to explore interest in continuing the service beyond the fall 2021 service change which goes into effect October 7th, 2021. Administration was very supportive of extending the service beyond fall 2021 and subsequently met with Metro in August of this year to discuss logistics.

While there has been a drop in ridership the last 18 months primarily due to COVID, Metro and the City were willing to continue the funding agreement at (50/50) cost sharing through the end of December 2022. Metro did note that they did intend to reduce the frequency (currently 15 minutes) during weekday peak periods to 30 minute headways due to overall resource restructuring within Metro, but

would continue to deliver 30 minute headway service every day (including Sat/Sun) between March 2022 – December 2022.

Alternatives

During public presentations on the project, the City Council endorsed the project to improve mobility and transportation sustainability. Not approving the agreement will jeopardize the City's commitment to continue participating in the partnership as well as construction of the capital improvement on 24th Avenue S.

Financial Impact

The finance and budget office have identified one-time funds and in the amount of \$63,831 for 2021 Q4 costs, and approximately \$185,000 for 2022 to cover the City's cost of the shuttle operations, of which \$125,000 will be funded by ARPA (American Rescue Plan Act).

Recommendation

Staff recommends adoption of the motion as presented.

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**AMENDMENT No. 1
TO THE
TRANSIT SERVICE FUNDING AGREEMENT
BY AND BETWEEN
KING COUNTY
AND
CITY OF DES MOINES**

This Amendment No. 1 to the Transit Service Funding Agreement (“Amendment No. 1” or the “First Amendment”) is made by and between King County, a political subdivision of the State of Washington and home rule charter county with broad powers to provide public transportation within the County’s geographic boundaries, by and through its Metro Transit Department, Mobility Division (“**County**” or “**Metro Transit**”) and the City of Des Moines, a Washington municipal corporation (“**City**”), which entities may be referred to hereinafter individually as “**Party**” or collectively as the “**Parties**.”

WHEREAS, on October 7, 2021 the Parties entered into a Transit Service Funding Agreement (the “Agreement”); and

WHEREAS, Section 4 of the Agreement provides that this Agreement may be extended upon the mutual agreement of both Parties: and

WHEREAS, Section 9 of the Agreement provides that this Agreement may be amended or modified only by a prior written amendment signed by authorized representatives of the Parties hereto;

NOW, THEREFORE, in consideration of the terms, conditions and mutual covenants set forth herein, the Parties agree to amend the Agreement as follows:

1. AGREEMENT DURATION

The expiration date of this Agreement is extended to December 31, 2022.

2. **NO OTHER MODIFICATIONS.**

Except as specifically provided for in this Amendment No. 1, all other provisions of the Agreement shall remain unchanged and in full force and effect.

3. **EFFECTIVE DATE.**

This Amendment No. 1 shall be effective upon signature of both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment No. 1 to the Agreement as of the date set forth below their signatures.

KING COUNTY

By:

Title:

Date:

CITY OF DES MOINES

By:

Title:

Date:

Effective October 2, 2021 thru March 18, 2022

The Des Moines Community Shuttle is a flexible transit service that offers weekday and Saturday service between Angle Lake Station and the Des Moines Marina District.

SERVICE INFORMATION

See map inside.

The Des Moines Community Shuttle provides fixed-route service between Angle Lake Station and the Des Moines Marina District. Limited flexible routing to and from the Wesley Homes Flexible Service Area is also available on a reservation basis.

Scheduled Service/Fixed Routing

The Des Moines Community Shuttle operates Monday through Friday from approximately 5:15 a.m. to 7 p.m., and Saturday from 6:30 a.m. to 6:30 p.m. You can wait at any bus stop along the route for regularly scheduled trips. For more information, please call Metro Customer Service Information at 206-553-3000.

Reservations/Flexible Routing

Rides within the Wesley Homes Flexible Service Area must be scheduled in advance.

Make your trip request at least two hours before you want to be picked up. You may make reservations for up to 30 days in advance. Reservations are on a first-come, first-served basis.

To schedule a ride in the Wesley Homes Flexible Service Area:

- Call 1-866-261-3278 (voice) or
- 1-800-246-1646 (TTY), or visit,
- hopelink.org/need-help/transportation/dart-ride-request

Please leave a message if calling outside the following reservation hours:

Monday – Friday..... 5 a.m. – 11 p.m.

Saturday..... 7:30 a.m. – 9:30 p.m.

Sunday/Holidays..... 9:30 a.m. – 6:30 p.m.

HOW TO PAY

Upon boarding, pay your fare with the regional ORCA card. Get your ORCA card online at orcacard.com, by phone at 1-888-988-6722 (ORCA) or WA Relay: 711 (1-888-889-6368), at ticket vending machines in Sounder and 1 Line (Link) rail stations, or at one of the regional transit agency customer service offices. The ORCA website also provides information on how to use the card, as well as locations at which it can be reloaded with a new pass or additional cash.

FARES

Adults (19 and older)	\$2.75
ORCA LIFT Fare*	\$1.50
Youth (6–18 yrs)	\$1.50
RRFP cardholders (registered seniors, Medicare, disabled)	\$1.00
Children (thru age 5)	Four may ride free with person paying adult fare

*income qualified



Get real-time bus arrival information on your mobile device
Text your bus stop number to 62550



Metro Customer Information:
206-553-3000



TTY/Hearing Impaired:
WA Relay: 711



Metro Website: kingcounty.gov/metro



Interpreter - 206-553-3000
Intérprete 口譯員 Переводчик
مترجم Thông dịch viên 통역관
Перекладач Soomaali ስልተገቢያ

Alternative Formats Available
206-263-3113

1202M M&S/SRL:3K:10/21



Route 635 Des Moines Community Shuttle

Service between
Angle Lake Station
and the Des Moines
Marina District



The Des Moines Community Shuttle is operated by Hopelink and is supported through a partnership between the City of Des Moines and King County Metro.



King County
METRO

Moving forward together



Route 635 Des Moines Community Shuttle

Monday thru Friday

TO Des Moines Marina District

Angle Lake Station	Des Moines	Des Moines
S 200th St	24th Ave S	7th Ave S
28th Ave S	S 216th St	S 226th St
Stop #47200	Stop #47403	Stop #47369
5:21	5:24	5:29
5:41	5:44	5:49
5:56	5:59	6:04
6:11	6:14	6:20
6:26	6:29	6:35
6:41	6:44	6:50
6:56	6:59	7:05
7:12	7:15	7:22
7:28	7:31	7:38
7:49	7:52	7:59
8:05	8:08	8:14
8:22	8:25	8:31
8:37	8:40	8:46
8:52	8:55	9:01
9:12	9:15	9:21
9:42	9:45	9:51
10:12	10:15	10:21
10:42	10:45	10:51
11:12	11:15	11:21
11:42	11:45	11:51
12:12	12:15	12:21
12:42	12:45	12:51
1:12	1:15	1:21
1:42	1:45	1:51
2:11	2:14	2:21
2:31	2:34	2:41
2:46	2:49	2:56
3:01	3:04	3:11
3:16	3:19	3:26
3:31	3:34	3:41
3:46	3:49	3:57
4:01	4:04	4:12
4:19	4:22	4:30
4:38	4:41	4:49
4:56	4:59	5:07
5:11	5:14	5:22
5:29	5:32	5:40
5:43	5:46	5:54
6:00	6:03	6:10
6:15	6:18	6:25
6:29	6:32	6:39
6:44	6:47	6:54

Monday thru Friday

TO Angle Lake Station

Des Moines	Angle Lake Station	Angle Lake Station
7th Ave S	24th Ave S	S 200th St
S 226th St	S 216th St	28th Ave S
Stop #47369	Stop #47206	Stop #47200
5:29	5:36	5:41
5:49	5:57	6:02
6:04	6:12	6:17
6:20	6:29	6:34
6:35	6:44	6:49
6:50	6:59	7:04
7:05	7:15	7:20
7:22	7:32	7:37
7:38	7:48	7:53
7:59	8:09	8:14
8:14	8:22	8:27
8:31	8:39	8:44
8:46	8:54	8:59
9:01	9:09	9:14
9:21	9:29	9:34
9:51	9:59	10:04
10:21	10:29	10:34
10:51	10:59	11:04
11:21	11:29	11:34
11:51	11:59	12:04
12:21	12:29	12:34
12:51	12:59	1:04
1:21	1:29	1:34
1:51	1:59	2:04
2:21	2:29	2:34
2:41	2:49	2:54
2:56	3:04	3:09
3:11	3:19	3:24
3:26	3:35	3:40
3:41	3:50	3:55
3:57	4:06	4:11
4:12	4:21	4:26
4:30	4:39	4:44
4:49	4:58	5:03
5:07	5:16	5:21
5:22	5:30	5:35
5:40	5:48	5:53
5:54	6:02	6:07
6:10	6:18	6:23
6:25	6:32	6:37
6:39	6:46	6:51

Bold PM time

Saturday

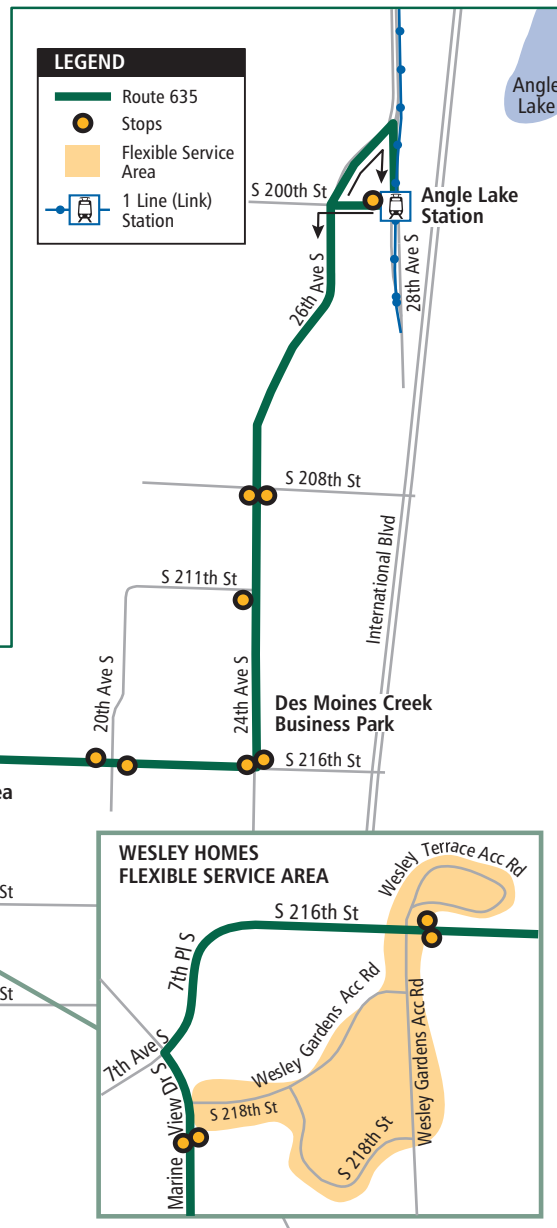
TO Des Moines Marina District

Angle Lake Station	Des Moines	Des Moines
S 200th St	24th Ave S	7th Ave S
28th Ave S	S 216th St	S 226th St
Stop #47200	Stop #47403	Stop #47369
6:30	6:33	6:38
7:00	7:03	7:08
7:30	7:33	7:38
8:00	8:03	8:08
8:30	8:33	8:38
9:00	9:03	9:08
9:35	9:38	9:43
10:05	10:08	10:13
10:35	10:38	10:44
11:05	11:08	11:14
11:35	11:38	11:44
12:11	12:14	12:20
12:41	12:44	12:50
1:11	1:14	1:20
1:41	1:44	1:50
2:18	2:21	2:27
2:48	2:51	2:57
3:18	3:21	3:27
3:48	3:51	3:57
4:18	4:21	4:27
4:52	4:55	5:01
5:22	5:25	5:31
5:52	5:55	6:01
6:21	6:24	6:30

Saturday

TO Angle Lake Station

Des Moines	Angle Lake Station	Angle Lake Station
7th Ave S	24th Ave S	S 200th St
S 226th St	S 216th St	28th Ave S
Stop #47369	Stop #47206	Stop #47200
6:38	6:44	6:49
7:08	7:14	7:19
7:38	7:44	7:49
8:08	8:14	8:19
8:38	8:44	8:49
9:08	9:14	9:19
9:43	9:49	9:54
10:13	10:20	10:25
10:44	10:51	10:56
11:14	11:21	11:26
11:44	11:51	11:56
12:20	12:28	12:33
12:50	12:58	1:03
1:20	1:28	1:33
1:50	1:58	2:03
2:27	2:35	2:40
2:57	3:05	3:10
3:27	3:35	3:40
3:57	4:05	4:10
4:27	4:35	4:40
5:01	5:09	5:14
5:31	5:39	5:44
6:01	6:09	6:14



TRIP PLANNING

Use Metro's Puget Sound Trip Planner via app or desktop to plan trips on scheduled transit service in King, Pierce and Snohomish counties. Trip Planner results include details about transit stops, routes and schedules. Trip planner itineraries do not include unplanned service disruptions or reroutes caused by weather, emergencies, traffic, events or construction. Visit: kingcounty.gov/tripplanner

COMMUNITY SHUTTLE DEMONSTRATION PROJECT AGREEMENT

Between

THE CITY OF DES MOINES

And

KING COUNTY

THIS COMMUNITY SHUTTLE DEMONSTRATION PROJECT AGREEMENT ("Agreement") is made by and between the City of Des Moines, a Washington municipal corporation ("City") and King County, a political subdivision of the State of Washington, through its Department of Transportation, Metro Transit Division ("County" or "Metro"), either of which may be referred to hereinafter individually as "Party" or collectively as the "Parties."

WHEREAS, Metro operates a public transportation system in King County, including routes within Des Moines boundaries; and

WHEREAS, in July 2011, via Ordinance 17143, the King County Council adopted the King County Metro Transit Strategic Plan for Public Transportation 2011-2021 (the "Strategic Plan") and Service Guidelines; and

WHEREAS, the Strategic Plan and Service Guidelines have been amended from time to time and in June 2016, via Ordinance 18301, the most recent updates to the Strategic Plan and Service Guidelines were adopted; and

WHEREAS, strategies 2.1.1, 2.1.3, and 2.1.4 of the Strategic Plan encourage Metro to design and offer a variety of transportation products and services, including non-fixed-route transit service, that meet different mobility needs and provide value to all areas of King County; and

WHEREAS, strategies 6.2.3 and 6.2.4 of the Strategic Plan call for Metro to develop and implement alternative public transportation services and delivery strategies; and

WHEREAS, in September 2012, the King County Council, via Motion 13736, accepted the King County Metro Transit Five-Year Implementation Plan for Alternatives to Traditional Transit Service Delivery ("Five-Year Implementation Plan"), which calls for Metro to establish alternatives to traditional transit service as an integral part of a comprehensive transit system, and use it as an option to, among other things, meet unmet travel needs; and

WHEREAS, in November 2016, the King County Council, via Ordinance 18409, appropriated \$15 million for the 2017-2018 biennium to implement an alternative services demonstration program consistent with the Strategic Plan and Five-Year Implementation Plan that will more effectively serve the affected communities, with a range of transportation and mobility services that may be different for each community depending on its needs and circumstances; and

WHEREAS, the County's alternative services program allows Metro to collaborate with local agencies to design transportation services that meet community transportation needs not met by fixed-route or other traditional transit service, or in locations where fixed-route bus service is cost prohibitive; and

WHEREAS, the City and the County share the objective of improving mobility and increasing travel-options and access to public transportation in Des Moines; and

WHEREAS, as part of Metro's efforts to expand alternative transit service delivery in King County in order to more effectively serve communities where fixed-route transit service may not be effective, the Parties desire to engage in a collaborative effort to develop a demonstration Community Shuttle service and evaluate its efficacy as an alternative transit service in the Des Moines area; and

WHEREAS, the Community Shuttle demonstration project ("Project") provided for herein provides for an alternative service that may require adjustments during the term of this Agreement in order to achieve the Parties' objectives and serve the community more effectively;

NOW, THEREFORE, in consideration of the terms, conditions and mutual promises set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to set forth the terms and conditions by which the Parties will develop a demonstration Community Shuttle service as an alternative transportation service pilot project.

2. DEFINITIONS

- 2.1 Alternative services program. A program consisting of demonstration projects designed to provide non-fixed-route public transportation service to areas of King County that

lack the infrastructure, density, or land use to support traditional fixed-route transit service, or that have been significantly impacted by fixed-route service reductions.

- 2.2 Flexible service area. A designated area in which limited, off-route deviations may be made upon request and with advance notice.
- 2.3 Level of service. The total number of trips provided while a specified route is in operation.
- 2.4 ORCA. Acronym for "One Regional Card for All," a regional fare payment system using smart card technology.
- 2.5 Peak service. Transit service operated between the hours of 5:00 AM and 9:00 AM and between 3:00 PM and 7:00 PM on weekdays.
- 2.6 Portable FTP. A fare transaction processor ("FTP") used to accept ORCA cards and that is capable of being removed from a transit vehicle for purposes of downloading data.
- 2.7 Service frequency. The number of trips in the same direction of travel within a specified time frame, usually expressed as the number of trips per hour.
- 2.8 Service quality. Transit service on-time performance, which may be affected by numerous variables including traffic congestion and increased ridership per trip.
- 2.9 Service span. The amount of time each day in which a specified route is operating.

3. DUTIES AND RESPONSIBILITIES OF THE PARTIES FOR THE OPERATION AND FUNDING OF A DES MOINES COMMUNITY SHUTTLE DEMONSTRATION PROJECT

- 3.1 Des Moines Community Shuttle Demonstration Service Description. The County will provide peak period service that will operate generally between Angle Lake Link Light Rail Station Street and the intersection of S 227th St and Marine View Drive with a flexible service area serving Wesley Gardens and Wesley Terrace. The Des Moines Community Shuttle will be operated for an initial demonstration period beginning Spring 2018 and ending at the close of Metro's Fall 2019 service change on March 20, 2020.

The anticipated frequency and span of the Des Moines Community Shuttle demonstration service is identified in Exhibit A, which is attached hereto and incorporated herein by this reference. The Parties will jointly monitor the level of service and may, if Metro approves, adjust the frequency and span of service to respond

to use and changing needs in the service area. The Des Moines Community Shuttle will be open to the general public.

- 3.2 Service Operations. The County retains responsibility for scheduling and operating the Des Moines Community Shuttle and will manage the service in accordance with its standard procedures. The County will monitor service quality in accordance with its established standards and policies. As an alternative transit service demonstration project, the Des Moines Community Shuttle will be designated as Metro route number 635 and be included in Metro's Online Trip Planner. The vehicles will be branded consistent with the County's alternative services program guidelines. The Des Moines Community Shuttle will be part of the ORCA regional fare system and regular Metro fares will be charged for the service.

The Parties agree to meet as needed and in a timely manner to address any operational or service issues that arise, including capacity or performance issues.

- 3.3 Communication and Service Information Procedures. The County will follow its standard procedures for developing and distributing Des Moines Community Shuttle service information to the public using its existing communications tools and activities. No printed timetable will be produced for Route 635 to allow more flexibility in making adjustments to the service schedule. If the Parties determine there is an additional communication need related to the Des Moines Community Shuttle demonstration service, the Parties will coordinate that effort through their respective communications and marketing staff. The City will, in cooperation with the County, use reasonable efforts to communicate and promote the Des Moines Community Shuttle demonstration service to the general public including employers/employees in the service area.

- 3.4 Service Performance Review. The Parties' designated contacts listed in Exhibit A will meet at least twice each year to review service performance and, if warranted, to propose adjustments for the success of the demonstration service. Specific metrics and performance indicators are included in Exhibit A. The Parties will also evaluate the need for midday and weekend service in the context of the performance of related pilot services, specifically, *Midday Your Way* for midday service and *Flex VanPool* for weekend commute needs. An evaluation of the demonstration service, along with other alternative services, will be included in the Community Connections section of the County's Annual System Evaluation Report. Evaluation data will be taken into consideration when determining any proposed extension or modifications to this Agreement.

3.5 24th Avenue S. Mid-block Stop. The City will be responsible for all tasks and activities required for the design, construction and inspection of a midblock transit stop and crossing on 24th Avenue South (the "Improvements"). The Improvements are to include, but are not limited to, ADA ramps, a pedestrian refuge, markings and solar powered rectangular rapid flashing beacons. The cost of the Improvements is estimated to be \$95,000. The County will reimburse the City for actual costs of the Improvements in an amount not to exceed \$50,000 (the "Reimbursement Cap") subject to County review and approval of the design; provided, however, that neither the County's review nor approval of the design plans will relieve the City of its responsibility for the improvements and for any liability that may arise out of the design and construction of such improvements. The City will pay for all other costs associated with the Improvements, including but not limited to administration, engineering, construction, and inspection costs, currently estimated to be \$45,000. The County is not responsible for funding any costs associated with the design, construction and maintenance of the improvements except as specifically provided for herein.

The City shall be solely responsible for obtaining any and all necessary land use, development and construction permits, licenses, easements and required approvals of any kind whatsoever to undertake the design and construction of the Improvements. The City shall be responsible for complying with all applicable federal state and local laws and regulations, including but not limited to compliance with any applicable prevailing wage statutes and environmental laws, and shall also ensure that any of its subcontractors comply with all applicable laws and regulations. The City will ensure that the Improvements are constructed and maintained consistent with best standards and industry practices and consistent with design approval by the County.

4. INVOICES/PAYMENT PROCEDURE

Upon physical completion of the Improvements, the City will invoice the County for actual costs incurred in the design and construction of the Improvements, subject to the Reimbursement Cap, as provided for in Subsection 3.5 of the Agreement. The invoice shall provide sufficient detail and/or supporting documentation to validate the actual costs for which the City seeks reimbursement. The County shall pay the invoiced costs, subject to the Reimbursement Cap, within thirty (30) days of receipt of the invoice; provided that if the County disputes the charges, documentation or completeness of the invoice, the County will provide written notice of any such objections to the City in within ten (10) business days after receipt of the invoice. The Parties shall use their best efforts to promptly resolve any such dispute. Any such dispute will be subject to the dispute resolution procedures set forth at Section 8 of this Agreement. If the County does not dispute the invoice, should the County fail to pay the City the amount due within thirty (30) days of the receipt of the invoice from the City, interest will be applied to any

outstanding balance due. Interest will be assessed at the maximum rate allowable under Washington state law.

5. EFFECTIVE DATE AND DURATION

This Agreement shall be effective upon its execution by all Parties and shall remain in effect until March 20, 2020 unless earlier terminated pursuant to the provisions of Section 6 of this Agreement. It is the Parties' expectation that the Des Moines Community Shuttle demonstration service provided for herein will continue as a demonstration project until March 20, 2020 with adjustments possible during that time as described in Section 3.5 (Service Performance Review) of this Agreement, and in more detail in Exhibit A. During this period Metro will, in consultation with the City, monitor and evaluate the service, measuring key performance indicators as outlined in Exhibit A. If, after the initial Agreement period, the demonstration service is deemed viable by both Parties, and both County and City funds are available to continue supporting the service, the demonstration service may be converted to regular service, subject to approval by the King County Council. Alternatively, if the Parties determine that further evaluation of the service is needed, the demonstration Agreement may be extended for another 12-month pilot period. Any such mutually acceptable extension must be in the form of a written amendment to this Agreement signed by authorized representatives of the Parties. If after one 12-month extension, the service is deemed not viable by all Parties, the Agreement will be terminated.

6. TERMINATION

- 6.1 Termination for Cause. Either Party may terminate this Agreement in the event that the other Party materially breaches this Agreement. Written notice of such termination and a description of the breach must be given via certified mail by the Party proposing termination to the breaching Party not less than sixty (60) days prior to the effective date of termination. The breaching Party shall be given this sixty days in which to cure its material breach. If the breaching Party fails to cure within sixty days, the Agreement is immediately terminated. Upon termination, the Parties shall determine final costs and payments to be made by each Party.
- 6.2 Termination for Non-appropriation or Loss of Grant Funding. Upon written notice, the County may immediately terminate this Agreement for non-appropriation or if there is a reduction in or loss of any grant funding necessary to cover the costs of the Agreement. If possible, the County will provide written notice thirty (30) calendar days prior to the effective date of termination.

- 6.3 Termination for Convenience. Either Party may terminate this Agreement for convenience and without cause by giving the other Party written notice of such termination at least thirty (30) calendar days prior to the effective date of termination.
- 6.4 Pre-termination Costs. Termination by either Party shall not release the other Party from liability for or extinguish claims or obligations it has to third parties existing as of the time of termination. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance with the terms of the Agreement.

7. NOTIFICATION AND IDENTIFICATION OF CONTRACT MANAGEMENT AND PROJECT CONTACTS

- 7.1 Notice. Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the contact persons and addresses identified in Subsection 7.3 of this Agreement unless otherwise indicated by the Parties in writing.
- 7.2 Contact Persons and Addresses. The Parties shall designate a contact person ("Designated Contact" or "Contract Manager") for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement. Any changes to the Designated Contact person or address information shall be promptly provided in writing or electronic mail to the other Parties. Any update to the Contract Managers shall state the effective date of said update.
- 7.3 Designation of Contact Persons and Addresses. As provided for in Subsection 7.2, the Parties designate the following contact persons for the management and administration of this Agreement:

Contract Manager	Des Moines	King County Metro
Contact Name	Leonard Madsen	Cathy Snow
Title	Special Transportation Project Manager	Community Connections Program Manager
Address	21650 11 th Ave S Des Moines, WA 98198	King County Metro King Street Center – KSC-TR-0411 201 S. Jackson Street Seattle, WA 98104-38565
Telephone	206 353 1328; 206 870 6523	206-477-5760
E-Mail	LMADSEN@DESMOINESWA.GOV	cathleen.snow@kingcounty.gov

8. DISPUTE RESOLUTION

The Parties, through their Designated Contacts identified in Subsection 7.3 of this Agreement, shall use their best efforts, through good faith discussion and negotiation, to resolve any disputes pertaining to this Agreement that may arise between the Parties. If the Designated Contacts are unable, after good faith efforts, to resolve a dispute, the Des Moines City Manager or his/her designee and the General Manager of Metro or her/his designee shall confer and exercise good faith to resolve the dispute. In the event the Des Moines City Manager and the General Manager of Metro are unable to resolve the dispute, the Parties may, if mutually agreed in writing, submit the matter to non-binding mediation. The Parties shall then seek to mutually agree upon the mediation process, who shall serve as the mediator, and the time frame in which the Parties are willing to discuss the disputed issue(s). If the Parties cannot mutually agree as to the appropriateness of mediation, the mediation process, who shall serve as mediator, or the mediation is not successful, then either Party may institute legal action in the King County Superior Court, situated in Seattle, Washington, unless another venue is mutually agreed to in writing. The Parties agree to exhaust each of these informal dispute resolution efforts before seeking to resolve disputes in a court of law or any other forum.

9. RECORDS RETENTION AND AUDIT

9.1 Maintenance of Records. During the term of the Agreement and for a period not less than six (6) years from the date of its expiration or earlier termination, the records and accounts pertaining to this Agreement are to be kept available by all Parties for inspection and audit by any other Party and the State Auditor, and copies of all records, accounts, documents, or other data pertaining to the Agreement will be furnished upon reasonable notice. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

9.2 Disclosure of Public Records. The Parties acknowledge and agree that all non-privileged, non-exempt records that may be maintained pursuant to Subsection 9.1 of this Agreement are subject to public disclosure under the Washington State Public Records Act, Chapter 42.56 RCW.

10. NONDISCRIMINATION

The Parties agree to comply with all applicable federal, state, and local laws, rules, and regulations pertaining to nondiscrimination and agree to require the same of any and all

subcontractors providing services or performing any work using funds provided under this Agreement. During the performance of this Agreement, no Party nor any entity subcontracting under the authority of this Agreement, shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the administration or delivery of services or any other benefits under this Agreement. King County Code Chapter 12.16 and 12.17 are incorporated herein by reference, and such requirements shall apply to this Agreement.

11. FORCE MAJEURE

Either Party to this Agreement shall be excused from performance of its responsibilities and obligations under this Agreement, and shall not be liable for damages due to failure to perform, during the time and to the extent that it is prevented from performing by a cause directly or indirectly beyond its control, including, but not limited to: late delivery or nonperformance by vendors of materials or supplies; any incidence of fire, flood, snow, earthquake, or acts of nature; strikes or labor actions; accidents, riots, insurrection, terrorism, or acts of war; order of any court or civil authority; commandeering material, products, or facilities by the federal, state or local government; or national fuel shortage; when satisfactory evidence of such cause is presented to the other Parties to this Agreement, and provided that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

12. INDEMNIFICATION

The City shall protect, defend, indemnify, and save harmless the County, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, including damages for injuries to persons and/or damage to tangible property, arising out of, or in any way resulting from, the acts or omissions of the City and its officers, employees or agents including, but not limited to, all claims against the County by an employee of the City or any of its agents or subcontractors. The County shall protect, defend, indemnify, and save harmless the City, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, including damages for injuries to persons and/or damage to tangible property, arising out of, or in any way resulting from, the acts or omissions of the County and its officers or employees including, but not limited to, all claims against the City by an employee of the County or any of its subcontractors. The Parties each expressly waive by mutual negotiation all immunity and limitation on liability under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be

applicable in the case of such claim. In the event that any Party incurs any costs including attorneys' fees to enforce the provisions of this Section 12, all such costs and fees shall be recoverable from the Party breaching the terms of this Section. The obligations of this section shall survive any expiration or earlier termination of this Agreement. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

13. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by prior written agreement signed by the Parties hereto. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the Parties hereto.

14. GENERAL TERMS AND CONDITIONS

- 14.1 No Agency, Partnership, or Third Party Beneficiaries. It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no rights to any other person or entity. No joint venture, agent-principal relationship, or partnership is formed as a result of this Agreement. No officers, employees or agents of one Party, or any of its contractors or subcontractors, shall be deemed, or represent themselves to be, employees or agents of the other Parties.
- 14.2 Waiver of Default. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this 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 this Agreement unless stated to be such in writing, signed by authorized representatives of the Parties, and attached to the original Agreement.
- 14.3 Assignment. No Party shall assign or delegate any interest, or any rights and responsibilities, in this Agreement without the prior written consent of the other Parties.
- 14.4 Binding on Successors and Assigns. This Agreement and all of its terms, provisions, conditions, and covenants, together with any exhibits and attachments now or hereafter made a part hereof, shall be binding on the Parties and their respective successors and assigns.
- 14.5. Entire Agreement. This Agreement embodies the Parties' entire understanding and agreement on the issues covered by it, except as may be supplemented by subsequent

written amendment to this Agreement, and supersedes any prior negotiations, representations or draft agreements on this matter, either written or oral.

- 14.6 Governing Law and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. Any legal action arising out of this Agreement shall be brought in the King County Superior Court, situated in Seattle.
- 14.7 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between and mutually drafted by the Parties and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against any Party.
- 14.8 Severability. If any provision of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated by the Parties.
- 14.9 Attorneys' Fees. In the event any Party incurs attorneys' fees, costs or other legal expenses to enforce the provisions of this Agreement against any other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.
- 14.10 Limitation of Effect; Property. This Agreement does not establish a separate legal entity, joint board, joint venture, or administrative section for the purpose of acquiring, managing, or disposing of property, or incurring any other financial obligation, nor does this Agreement provide for jointly owned property. All property presently owned or hereafter acquired by any Party to enable it to perform the services required under this Agreement shall remain the property of the acquiring Party in the event of the expiration or earlier termination of this Agreement.
- 14.11 Survival. The provisions of this Section 16 shall survive the expiration or earlier termination of this Agreement.

15. AUTHORITY TO BIND

The Parties represent and warrant that they: (a) have all right, power, and authority necessary to enter into and perform this Agreement; (b) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation enforceable against the Parties in accordance with its terms; and (c) the Parties will comply with all applicable laws, statutes, ordinances,

rules, regulations, orders or determinations of any federal, state or local governmental authority in their performance of this Agreement.

16. EXECUTION OF AGREEMENT – COUNTERPARTS

This Agreement may be executed in multiple counterparts, any of which shall be regarded for all purposes as an original.

IN WITNESS THEREOF the Parties hereto have executed this Agreement by duly authorized representatives on the dates shown below their respective signatures.

KING COUNTY METRO TRANSIT

By: 
Bill Bryant, Managing Director,
Service Development

Date: 5/2/18

DES MOINES

By: 
Michael Matthias, City Manager

Date: 4-13-18

At the direction of the Des Moines City Council during open meeting on April 12, 2018.

Approved as to Form

By: 
Tim George, City Attorney

Date: 4-13-18

EXHIBIT A

SERVICE DESCRIPTION

Des Moines Community Shuttle	
General Service Information	Description
Route Number	Route 635
Co-Branding Name	Des Moines Community Shuttle
Contract Service Provider	Hopelink
Official start date	Spring 2018
Service description	Angle Lake Link Light Rail Station and the intersection of S 227th St and Marine View Drive
Flexible Service Area	Wesley Gardens and Wesley Terrace
Service frequency	About 15 minutes frequency
Service span	5:21 AM and 9:14 AM; 2:12 PM and 6:51 PM on weekdays
Total number of trips	To Des Moines Marina District: 31 To Angle Lake Station: 32
Service type description	Two-way, peak period route
Fare collection method	ORCA Reader – portable fare transaction processor (PFTP)
Number of vehicles	2 plus spare

Community Shuttle Performance Measures

Quantitative targets to support performance evaluation will be set for the performance measures shown below. Actual performance relative to these targets will be considered when determining any proposed adjustments to the service and/or its continuation.

Measure	Description
Average daily ridership	• Purpose: This metric is designed to measure the level of use of alternative services over time. • High ridership may trigger additional trips and/or conditional conversion to fixed-route • Low ridership may trigger a re-evaluation of the service and potential right-sizing
Cost per boarding	Direct fixed costs/number of boardings • Purpose: This measure compares the direct cost of the service on a per-passenger basis. Direct cost is defined as the fixed cost of operating the service. In the case of this service, the direct cost is determined through a

Measure	Description
	contract with Hopelink. This cost includes service operation, vehicle maintenance and administration conducted by the service provider. Due to the highly variable nature of fuel prices, this cost is excluded from this measure in order to be able to generate numerical targets in this measure for a particular route. Including fuel prices into this measure would require Metro to forecast the future price of fuel in order to set realistic performance targets. • Example: a shuttle which costs \$1,200 per day to operate and provides an average of 100 boardings per day costs \$12 per boarding to provide the service. • An uncharacteristically high cost per boarding may trigger a re-evaluation of the service and potential right-sizing
Vehicle capacity used	Rides per seats provided • Purpose: This metric is designed to measure the level of use of alternative services relative to the capacity of the service provided. • Example: a shuttle with 16 seats making four one-way trips per weekday will provide 1,280 seats over the course of a month. This measure compares the rides provided in that month to the number of seats. • High vehicle capacity used may trigger additional trips and/or conditional conversion to fixed-route • Low vehicle capacity used may trigger a re-evaluation of the service and potential right-sizing
Customer satisfaction	Measures customer satisfaction with the service based on intercept surveys of current riders. • Purpose: This metric is designed to determine if the service is meeting the community-identified transportation need effectively. • Highly-satisfied customers suggest that an Alternative Services implementation is meeting the needs of the community effectively. • Low customer satisfaction suggests that the service in its current form is not effectively meeting the needs of the community and may trigger a re-evaluation of the service to better fit customer needs.



King County

**Metro Transit Department
Mobility Division**

**TRANSIT SERVICE FUNDING AGREEMENT
BY AND BETWEEN
KING COUNTY
AND
CITY OF DES MOINES**

THIS TRANSIT SERVICE FUNDING AGREEMENT (“**Agreement**”) is made by and between King County, a political subdivision of the State of Washington and home rule charter county with broad powers to provide public transportation within the County's geographic boundaries, by and through its Metro Transit Department, Mobility Division (“**County**” or “**Metro Transit**”) and the City of Des Moines, a Washington municipal corporation (“**City**”), which entities may be referred to hereinafter individually as “**Party**” or collectively as the “**Parties**.”

WHEREAS, the County holds the authority to provide public transportation within King County’s geographic boundaries; and

WHEREAS, The City of Des Moines has identified funding within its organization to support certain public transit service in partnership with the County; and

WHEREAS, the County and the City have identified specific routes and times where this additional investment in transit service would benefit the customers and employees of both parties; and

WHEREAS, the County has determined it has the resources and funding available to implement these service hours in accordance with the service description specified within this Agreement; and

WHEREAS, Strategies 3.1.1 and 6.3.1 of the King County Metro Transit Strategic Plan for Public Transportation 2011-2021 (“**Strategic Plan**”) identify partnerships with local jurisdictions and businesses as a potential source of the revenue necessary to provide transit service in support of a strong, sustainable economy;

WHEREAS, Metro Transit and the City executed a Community Shuttle Demonstration Project Agreement, April 13, 2018 implementing Route 635 peak period service and said service is nearing productivity targets and may benefit by adding day base service as proposed during the duration of this agreement

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND AGREEMENTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE

CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY
ACKNOWLEDGED BY THE PARTIES, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to set forth the terms and conditions under which King County public transit service supported with funding from the City of Des Moines will be operated and incorporates, as is fully set forth in this Agreement, Exhibits A and B.

2. COUNTY'S RESPONSIBILITIES

- 2.1 The County will provide transit service in accordance with the service identified in Exhibit A, and the City will pay a share of the operating cost of the scheduled service hours (as defined in Section 5 of this Agreement) identified in Exhibit A ("**Service**"). The Parties agree that the transit service to be provided in connection with this Agreement will be consistent with the King County Metro Transit Service Guidelines ("**Service Guidelines**"). Metro Transit will adhere to KCC Section 28.94.020, which requires King County Council approval of major service changes.
- 2.2 The County will manage the Service in accordance with its regular procedures and as may be further specified in this Agreement. The Parties understand and agree that the Service referenced herein will be open to the general public.
- 2.3 Service performance will be evaluated based on the following metrics as measured against comparable service:
- a. Average daily ridership;
 - b. Cost per boarding;
 - c. Vehicle capacity used;
 - d. Customer satisfaction.

Evaluation data will be taken into consideration when determining any proposed extension or modification to this agreement.

2.4 Service Management

The Service will begin on September 21, 2019. The County retains responsibility for scheduling, managing and operating the Service. The County will:

- a. Solely upon the City's written request, include specific identification of those trips/services that are being supported by the City in printed and electronic schedule information; and
- b. Notify the City in writing of:

- 1. Any major changes to the Service (no later than 90 days prior to the change);

2. Planned changes in fare policies or levels (no later than 90 days prior to the change).

The service hours specified in Exhibit A are estimates only. The County will use actual service hours operated and fuel costs to invoice the City for the Service provided, and the City will pay for actual service hours and fuel costs in accordance with Sections 5 and 6.1 of this Agreement.

2.6 Changes to Service

The City acknowledges that the County routinely implements transit service changes. As of the effective date of this Agreement, the service change dates occur in March and September. The Parties agree to coordinate changes to the Service in conjunction with the County's scheduled service change dates, where possible.

2.7 Customer Marketing and Communications

For the Service specified in this Agreement, the County will continue to follow its standard procedures for developing and distributing full service marketing and communications information to the public through its existing tools and activities. If the City determines there is an additional communication need related to the Service, the City will coordinate that effort with the County through its transit communications and marketing staff.

3. CITY'S RESPONSIBILITIES

County will invoice the City in accordance with Sections 5 and 6 of this Agreement, and the City will pay all properly invoiced amounts as set out in Section 6.2.

4. AGREEMENT DURATION

This Agreement will commence upon signature by both Parties and remain in effect until September 17, 2021, unless earlier terminated in accordance with its terms. This Agreement may be extended for up to three (3) additional years upon mutual agreement of both Parties, but will not exceed a total term of five (5) years beyond the original service start date of September 2019.

5. SERVICE COSTS/REVENUES

5.1 Compensation

The City will provide compensation to the County in support of the County's operation of the Service, based on the Contract Service Hourly Rate. Exhibit B sets forth the projected hourly rates and service costs for the 2-year term of this Agreement.

5.2 **Contract Service Hourly Rate**

Metro Transit will use its contract with an outside transportation firm to operate the Service identified in Exhibit A of this Agreement. The City will compensate the County in accordance with the Hourly Rates per Revenue Hour specified in Metro Transit's service contract. As detailed in Exhibit B, the City will pay for fifty percent (50%) of the actual revenue service hours and fuel costs for the Service.

6. **INVOICES/PAYMENT PROCEDURES**

- 6.1 The County will invoice the City quarterly for Metro Transit's costs to provide the Service in accordance with Exhibits A and B; provided however, the first invoice, to be issued in December 2019 will cover service provided from September 2019 to December 2019. Subsequent invoice will be sent quarterly, no later than March 31, June 30, September 30 and December 31 of each year for the Service rendered in that quarter. These quarterly invoices will be in accordance with the requirements of this Agreement.
- 6.2 The City shall make payment within thirty (30) days after receipt of all properly invoiced amounts. Each invoice will contain reasonable detail describing the basis for the invoiced amounts.

7. **RECORDS**

- 7.1 Maintenance of Records. The Parties shall maintain books, records, and documents directly pertinent to performance of the work under this Agreement for a period of six (6) years after the expiration or earlier termination of the Agreement.
- 7.2 Disclosure of Public Records. The Parties acknowledge that all non-privileged, non-exempt records that may result from access to records under this Agreement are subject to public disclosure.

8. **INDEMNIFICATION AND LEGAL RELATIONS**

- 8.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.
- 8.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.

- 8.3 Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
- 8.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 8.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, located in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 8.6 The provisions of this Section 8 shall survive any termination of this Agreement.

9. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by a prior written amendment signed by authorized representatives of the Parties hereto.

10. TERMINATION OF AGREEMENT

- 10.1 Either Party may terminate this Agreement in writing if the other Party materially breaches this Agreement; provided, however, that, insofar as practicable, the Party terminating the Agreement will give not less than 180 calendar days prior to the County's next scheduled service change date, by written notice delivered by certified mail, return receipt requested, of intent to terminate.
- 10.2 In addition to termination under Subsection 10.1 of this Agreement, either Party may terminate this Agreement for its convenience, provided that the other Party will be given not less than 180 calendar days prior to the County's next scheduled service change date, by written notice delivered by certified mail, return receipt requested, of intent to terminate.
- 10.3 Performance of any responsibilities undertaken by the County pursuant to this Agreement beyond the County's current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the work provided for in this Agreement. Should such an

appropriation not be approved, the Agreement shall terminate at the close of the current appropriation year. King County is on a biennial budgeting cycle and appropriations end on December 31st of the last year of the biennium (even calendar years).

- 10.4 If either Party terminates, the City will pay the County a pro-rated amount for the Service performed in accordance with the Agreement to the date of termination.

11. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature, including adverse winter weather; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate the City's obligation to make payment to the County for services performed in accordance with this Agreement.

12. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this 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 this Agreement unless stated to be such in writing, signed by authorized Parties and attached to the Agreement as an exhibit.

13. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that neither Party shall assign nor transfer in any manner any interest, obligation or benefit of this Agreement without the other Party's prior written consent.

14. NO THIRD PARTY BENEFICIARIES

Except with respect to the Indemnified Parties, nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

15. HEADINGS FOR CONVENIENCE ONLY

Section titles or other headings contained in this Agreement are for convenience only and shall not be deemed part of this Agreement or be taken into consideration in the interpretation or construction of this Agreement.

16. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

17. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof, contains all the terms and conditions agreed upon by the Parties, and constitutes the entire agreement between the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto.

18. CONTACT PERSONS

The County and the City shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	City of Des Moines
Contact Name	Leonard Madsen
Title	Special Transportation Project Manager
Address	21650 11 th Ave S, Des Moines, WA 98198
Telephone	206-353-1328; 206-870-6523
E-Mail	lmadsen@desmoineswa.gov

	King County
Contact Name	Jeremy Fichter
Title	Transportation Planner IV
Address	201 South Jackson Street, Seattle, WA 98104
Telephone	206-477-5848
E-Mail	Jeremy.Fichter@kingcounty.gov

Each Party agrees to advise the other Party in writing with updates to its contact information as needed.

19. EXECUTION OF AGREEMENT – COUNTERPARTS

This Agreement may be executed in two (2) counterparts, either of which shall be regarded for all purposes as an original.

20. EFFECTIVE DATE

This Agreement shall take effect on the last date it has been executed by both Parties.

KING COUNTY

By: 
Title: ROB GANNON
GENERAL MANAGER
Date: 3 APR 2019

CITY OF DES MOINES

By: 
Title: MICHAEL MATHIAS
CITY MANAGER
Date: 4/2/19

At the direction of the Des Moines
City Council taken at an open public
meeting on MARCH 28, 2019


APPROVED _____
Des Moines City Council

Exhibit A – Service Description

Des Moines Community Shuttle	
General Service Information	Description
Route Number	Route 635
Co-Branding Name	Des Moines Community Shuttle
Contract Service Provider	Hopelink
Service Implementation Date	September 21, 2019
Service Description	Angle Lake Link light rail station and the intersection of S 227 th St and Marine View Drive
Flexible Service Area	Wesley Gardens and Wesley Terrace
Service Frequency	About every 30 minutes
Service Span	Weekdays: Approximately 9 AM to 2 PM Saturdays: Approximately 7 AM to 7 PM
Fare collection method	ORCA Reader – portable fare transaction processor (PFTP)

Exhibit B

Hourly Rates and Projected Service Costs

DES MOINES ADDITIONAL SHUTTLE COST PROJECTION

Assumptions:

- o Service Period - **Saturday, Sept 21, 2019 thru Sept 17, 2021**
- o Estimated fuel cost is based on 2018 average fuel cost per hour
- o 2020 hourly rate reflects an estimated 6% increase over the 2019 rate.
- o 2021 hourly rate reflects an estimated 3% increase over the 2020 rate.

2019	Daily Rev. Hours	# of Days	Total Hours	Hourly Rate	Total Cost
1 Vehicle (weekday)	5	70	350	\$79.00	\$27,650
1 Vehicle (Sat)	12	15	180	\$79.00	\$14,220
Est. Fuel Cost:			530	\$8.30	\$4,399
TOTAL ANNUAL COST:					\$46,269

2020					
1 Vehicle (weekday)	5	255	1,275	\$83.74	\$106,769
1 Vehicle (Sat)	12	52	624	\$83.74	\$52,254
Est. Fuel Cost:			1,899	\$8.30	\$15,762
TOTAL ANNUAL COST:					\$174,784

2021					
1 Vehicle (weekday)	5	186	930	\$86.25	\$80,215
1 Vehicle (Sat)	12	37	444	\$86.25	\$38,296
Est. Fuel Cost:			1,374	\$8.30	\$11,404
TOTAL ANNUAL COST:					\$129,915

TOTAL COST: \$350,968

50% Share \$175,483.84

Service Period	# of weekdays	# of Saturdays
Sept 20 - Dec 31, 2019	70	15
Jan 1 - Dec 31, 2020	255	52
Jan 1 - Sept 17, 2021	186	37
	511	104

Memorandum of Understanding AMENDMENT

Project Name: Community Shuttle Demonstration Project Agreement

Partner: City of Des Moines

Contract No: MOU

Address: Leonard Madsen, Special
Transportation Project Manager

Amendment Date : 3/1/2019

21650 11th Ave S
Des Moines, WA 98198

Amendment No: 3

AMENDMENT REQUESTED BY

Contracted Services, Mobility Services Division

Organization

Cathy Snow

Name

Transportation Planner IV

Title

AMENDMENT EFFECTS

- ☐ Change of Scope
- ☐ Method of Payment
- ☒ Time of Performance
- ☐ Compensation
- ☐ Terms and Conditions
- ☐ Results of Services
- ☐ Other – Contact Persons

Amendment under 2015-2017 Agreement: Extend the Des Moines Community Shuttle Route 635 through the end of Metro's Summer 2021 service change (September 17, 2021).

IN WITNESS HEREOF, THE PARTIES HERETO HAVE CAUSED THIS AMENDMENT TO BE EXECUTED AND INSTITUTED ON THE DATE FIRST ABOVE WRITTEN.



King County, Washington

By Rob Gannon

Title General Manager, King County
Metro Transit

Date 3 APR 2019



City of Des Moines

By

Title

Date

MICHAEL MATTHIAS
CITY MANAGER

At the direction of the Des Moines
City Council taken at an open public
meeting on MARCH 28, 2019

3/1/20109

APPROVED

Des Moines

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AGENDA ITEM

SUBJECT: Consultant Contract Amendment #11–
Grant Fredricks

ATTACHMENTS:

1. Proposed Amendment #11 to Professional Services Agreement with Grant Fredricks
2. Services Agreement with Grant Fredricks

AGENDA OF: October 7, 2021

DEPT. OF ORIGIN: Chief Operations Officer

DATE SUBMITTED: September 29, 2021

CLEARANCES:

- [X] Community Development /s/DL
[X] Public Works *R. R. C.*

CHIEF OPERATIONS OFFICER: *[Signature]*

- [X] Legal /s/TG
[X] Finance *Catherine W.*
[] Courts N/A
[] Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: *[Signature]*

Purpose and Recommendation:

The purpose of this item is for the City Council to approve a contract amendment with Grant Fredricks for additional 2021 and 2022 consulting services related to the Sound Transit's (ST) Federal Way Link Extension (FWLE). Funds for the proposed amendment are available in the 2021 adopted budget and proposed 2022 budget by the \$3 million Task Order #3 of the Services Agreement between the City and Sound Transit for City FWLE project services through 2024. The following motion will appear on the Consent Calendar:

Suggested Motion:

Motion: "I move to approve Amendment #11 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2022, with an increase of \$10,000 for 2021 (bringing the total not-to-exceed amount for 2021 services to \$70,000.00) and up to \$50,000 in 2022 services, and authorize the City Manager to sign the contract amendment substantially in the form submitted."

Background:

Mr. Fredricks has been providing management consulting services under contract since January 2013 following his retirement from the City in November 2012. As a State Personnel System (PERS) 2 retiree, he may work up to 867 hours a year for employers covered by PERS such as the City. In 2013 he worked a total of 800 hours, 482 hours in 2014, 410 hours in 2015, 494 hours in 2016, 500 hours in 2017, 682

hours in 2018, 459 hours in 2019, 500 hours in 2020, and up to 466 hours in 2021 and 333 hours in 2022 if this amendment is approved.

All his 2021 time was spent on FWLE and will continue to be fully reimbursed by Sound Transit through 2022 under the terms of Task Orders #3.

Discussion

Mr. Fredricks had been working in Des Moines four or five days a month until the City Hall COVID-19 closures and from his home office when it was not necessary to commute to City Hall. He occasionally participated in City Council and Council Committee meetings and currently represents the City with Sound Transit as a City project coordinator. He now works remotely from home on parts of 18 days per month on average.

In 2021, Mr. Fredricks has been working under a \$60,000 (400 hours) City Council-approved contract on FWLE planning, design review and permitting, managing agreements with Sound Transit, and working with Highline College on the College Way Connection Project in the College East Parking Lot. Mr. Fredricks' hourly rate was increased in 2018 and will remain unchanged through 2022.

The FWLE-related work in 2021 has been more complex and time consuming than anticipated when the 2021 contract was approved last fall. It has included reviewing detailed design builder plans and designs; completing Sound Transit's rights-of-way vacations and dedications; supporting City FWLE-designated task force staff through design and construction; and administering ST agreements.

Consultant Selection Process

Professions outside the fields described in RCW 39.80 may provide consulting services such as long-range planning and studies, project management, economic analyses, and real estate negotiations. These consulting services are provided through personal service agreements in accordance with RCW 39.29. For professional service contracts, like the one for Mr. Fredricks, the City can select or appoint based on the specific experience of the individual and the proposed work to be performed. There are no other specific selection requirements for professional service contracts.

Alternatives

Council may choose not to approve the 2021 contract amendment in which case Mr. Fredricks will continue to work until early fall when his contract authority is reached. Other staff would be required to back fill his assignments through the end of the year and in 2022.

Financial Impact

The 2021 budget has enough capacity to accommodate up to \$10,000 of additional 2021 spending because Sound Transit fully reimburses his time as provided for in Task Order #3. The adopted 2022 Budget has been developed to accommodate up to \$50,000 in services provided by this contract as proposed anticipating that these costs will continue to be reimbursed by ST in accordance with Task Order #3 authorized by the City Council-approved Services Agreement with ST.

Recommendation/Conclusion:

Staff recommends that Council approve the proposed contract Amendment.

CONTRACT AMENDMENT 11
CONTRACT FOR SERVICES BETWEEN
THE CITY OF DES MOINES AND GRANT FREDRICKS

THIS AMENDMENT is entered into on this ____ of _____, 2021, pursuant to that certain Contract entered into on the 2nd day of January, 2014 and subsequent amendments between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **GRANT FREDRICKS** (hereinafter "VENDOR").

The parties herein agree that the Contract dated January 2, 2014 and all subsequent amendments, shall remain in full force and effect, except set forth as follows:

I) **SECTION II** of the Contract is hereby amended to read as follows:

II. **TIME OF COMPLETION.** Upon the effective date of this Amendment, Vendor shall complete the work and provide all goods, materials, and services by December 31, 2022.

II) **SECTION III** of the Contract, is hereby amended to read as follows:

III. **COMPENSATION.** The City shall pay the Vendor an amount not to exceed \$70,000 for services performed in 2021, and \$50,000 for services performed in 2022 at a rate of \$150.00 per hour for the goods materials, and services contemplated in this Agreement. Vendor shall invoice the City not later than the 5th of the following month. The invoice will include an itemized work summary.

Except as modified hereby, all other terms and conditions of contract dated January 2, 2014 and subsequent amendments remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment 11 as of the date first above written.

GRANT L. FREDRICKS: By: _____ (signature) Print Name: <u>Grant L. Fredricks</u> Vendor DATE: _____	CITY OF DES MOINES: By: _____ (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> DATE: _____ Approved by the Des Moines City Council in an open public meeting on _____, 2021. Attest: _____ Approved as to form: _____ _____ City Clerk City Attorney DATE: _____ DATE: _____
NOTICES TO BE SENT TO: Grant L. Fredricks: dba Fredricks Management Consulting 9020 Valley Green Dr SE Olympia, WA 98513 (360) 584-3164 (cell phone) granita.fredricks@gmail.com	NOTICES TO BE SENT TO: CITY OF DES MOINES: Daniel J. Brewer, PE Chief Operations Officer City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 206-870-6554 (telephone) 206-870-6540 (facsimile)

SERVICES AGREEMENT between the City of Des Moines and Grant Fredricks

THIS AGREEMENT is made by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Grant Fredricks dba Fredricks Management Consulting (hereinafter the "Vendor") as a personal services contract not to exceed \$50,000 in value and expiring December 31, 2014.

AGREEMENT

I. DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City. Working with other City staff, assist in:

1. Planning for the extension of light rail through Des Moines.
2. Developing the Des Moines Creek Business Park.
3. Updating the Zoning Code along the Pacific Highway South corridor and in other commercial zones in the City.
4. Helping promote economic development.
5. Commercially developing the Marina.
6. Advising the City Council on policy and other matters.
7. Working on other City Manager assignments as directed.

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

II. TIME OF COMPLETION. Upon the effective date of this Agreement, Vendor shall complete the work and provide all goods, materials, and services by December, 31, 2014.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed \$50,000, at a rate of \$120.00 per hour, for the goods, materials, and services contemplated in this Agreement. Vendor shall invoice the City not later than the 5th of the following month. The invoice will include an itemized work summary.

If the City objects to all or any portion of an invoice, it shall notify Vendor and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

- A. Defective or Unauthorized Work. The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services. If Vendor is unable, for any reason, to complete any part of this Agreement, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Agreement price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Agreement with other sources, from any and all amounts due or to become due the Vendor.
- B. Final Payment: Waiver of Claims. VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Agreement and that the Vendor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement.

V. TERMINATION. Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Agreement.

VI. CHANGES. The City may issue a written amendment for any change in the goods, materials or services to be provided during the performance of this Agreement. If the Vendor determines, for any reason, that an amendment is necessary, Vendor must submit a written amendment request to the person listed in the notice provision section of this Agreement, section XIV(D), within fourteen (14) calendar days of the date Vendor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Vendor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Vendor on all equitable adjustment. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the amended work upon receiving either a written amendment from the City or an oral order from the City before actually receiving the written amendment. If the Vendor fails to require an amendment within the time allowed, the Vendor waives its right to make any claim or submit subsequent amendment requests for that portion of the contract work. If the Vendor disagrees with the

equitable adjustment, the Vendor must complete the amended work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VII, Claims, below.

The Vendor accepts all requirements of an amendment by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. An amendment that is accepted by Vendor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VII. CLAIMS. If the Vendor disagrees with anything required by an amendment, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Vendor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Agreement or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Agreement.

At a minimum, a Vendor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Agreement that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Vendor is asserting a schedule change or disruption.

B. Records. The Vendor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall

have access to any of the Vendor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

- C. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Agreement.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).
- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Vendor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

VIII. LIMITATION OF ACTIONS. VENDOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS AGREEMENT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR VENDOR'S ABILITY TO FILE THAT SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

IX. WARRANTY. This Agreement is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any part of the goods are repaired, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City May complete the corrections and the vendor or shall pay all costs incurred by the City in order to accomplish the correction.

X. DISCRIMINATION. In the hiring of employees for the performance of work under this Agreement or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age,

sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XI. **INDEMNIFICATION.** Vendor shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Vendor's performance of this Agreement, except for that portion of the injuries and damages caused by the City's negligence.

The City's inspection or acceptance of any of Vendor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE VENDOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Agreement.

XII. **WORK PERFORMED AT VENDOR'S RISK.** Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize **all** protection necessary for that purpose. All work shall be done at Vendor's own risk, and Vendor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XIII. MISCELLANEOUS PROVISIONS.

A. Recyclable Materials. The city recommends that its contractors and consultants use recycled and recyclable products whenever practicable.

B. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

C. Resolution of Disputes and Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court,

King County, Washington, unless the parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XI of this Agreement.

D. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

E. Assignment. Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

F. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.

G. Entire Agreement. The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

H. Compliance with Laws. The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

I. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Agreement:

IN WITNESS, the parties below execute this Agreement, which shall become effective on the last date entered below.

VENDOR: By: <u>Grant L. Fredricks</u> (signature) Print Name: Grant L. Fredricks DATE: <u>1/2/14</u>	CITY OF DES MOINES: By: <u>Anthony A. Piasecki</u> (signature) Print Name: Anthony A. Piasecki Its: City Manager DATE: <u>12/24/13</u>
NOTICES TO BE SENT TO: VENDOR: Grant L. Fredricks 9020 Valley Green Dr. SE Olympia, WA 98513 (360) 584-3164 (cell phone) grantita@ix.netcom.com	NOTICES TO BE SENT TO: CITY OF DES MOINES: Tony Piasecki, City Manager City of Des Moines 21630 11th Ave. So., Suite A (206) 870-6541 (telephone) (206) 870-6540 (facsimile)

APPROVED AS TO FORM

City Attorney

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