

AMENDED AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington
Thursday, December 1, 2022 - 6:00 PM**

City Council meeting can be viewed live on the City's website, Comcast Channel 21/321 or on the City's [YouTube](#) channel.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

- Item 1. [12.01.2022 Correspondence](#)

COMMENTS FROM THE PUBLIC

- Item 1. [Public Comment 12.01.2022](#)

CITY MANAGER REPORT

- Item 1. FERRY SERVICE UPDATE
[Passenger Ferry Service](#)
[Des Moines Demonstration Project Final Report \(120122\) GAD](#)
[Passenger Ferry Pilot Project Survey](#)
[Passenger Ferry Comments](#)
- Item 2. MARK EVERTON, SEATTLE SOUTHSIDE
- Item 3. **CODE ENFORCEMENT UPDATE**

CONSENT CALENDAR

- Item 1. APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers through November 17, 2022 and the payroll transfers through November 21, 2022 in the attached list and further described as follows:

Accounts Payable	#164490-164491	\$ 5,170.03
Checks		
Payroll Checks	# 19602-19604	\$ 3,635.91
Payroll Direct Deposit	# 3388-3548	\$410,441.40
Payroll Direct Deposit	# 3549-3549	\$ 17,160.89

Total Checks and Wires for A/P and Payroll: \$436,408.23

[Approval of Vouchers](#)

- Item 2. CONSULTANT CONTRACT AMENDMENT #12 - GRANT FREDRICKS
Motion is to approve Amendment #12 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2023, with an increase of \$5,000 for 2022 and up to \$50,000 in 2023, and authorize the City Manager to sign the contract amendment substantially in the form as submitted.

[Consultant Contract Amendment #12 - Grant Fredricks](#)

- Item 3. PETER PHILIPS CONSULTING CONTRACT AMENDMENT 3
Motion is to approve Amendment 3 to the contract between the City and Peter Philips, extending the consultant services contract through December 31, 2023.

[Peter Philips Consulting Contract Amendment 3](#)

- Item 4. MARINA REDEVELOPMENT CONSULTING CONTRACT AMENDMENT
Motion is to approve the draft Consultant Agreement Amendment 1 with the Holmes Group, LLC, in an amount not to exceed \$80,000, for the purposes of providing consultant services for Marina redevelopment, and authorize the City Manager to sign the Agreement substantially in the form as attached.

[Marina Redevelopment Consulting Contract Amendment](#)

- Item 5. 2022 SIDEWALK REPLACEMENT PROJECT - PUBLIC WORKS CONSTRUCTION CONTRACT AWARD
Motion is to approve the Public Works Contract with Asphalt Patch System, Inc. for the 2022 Sidewalk Replacement Project, in the amount of \$63,280, authorize a construction contingency in the amount of \$6,400, and further authorize the City Manager to sign said Contract substantially in the form as submitted.

[2022 Sidewalk Replacement Project – Public Works Construction Contract Award](#)

NEW BUSINESS

- Item 1. 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

PERFORMANCE OF A PUBLIC EMPLOYEE UNDER RCW
42.30.110(1)(g) - 45 Minutes

NEXT MEETING DATE

December 08, 2022 City Council Regular Meeting

ADJOURNMENT

From: [Billie Klein](#)
To: [CityCouncil; desmoinesmarinawatch@gmail.com](#)
Subject: hotel
Date: Saturday, November 19, 2022 12:12:03 PM

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

I really need to express my opinion that a boutique hotel in the middle of Marina property is a misuse of the concept of "higher and best use". While the plan built out by Waggoner several years ago was a lovely plan, I believe it was not at all appropriate for the City of Des Moines. Frankly speaking, there is almost nothing in Des Moines that would attract folks from outside the City to visit. If there were, the streets would be crawling with people on the weekends, looking for a good way to spend their time on a Friday or Saturday night. Instead, streets are empty after 8. There are no outstanding restaurants, no upscale specialty stores, no unique entertainment spots. It is still just a small community that services the local residents, much of it catering to folks that would never have need for a "boutique hotel".

In addition, I happen to agree with the arguments set forth by the Des Moines Marina Watch group regarding the unsuitable location of such a venture. If it were actually located more centrally to Marine View Drive, in my opinion, it would be much more likely to spur additional investment of facilities that are currently absent from the community. I can't imagine that the current investor believes that it would be a money making project. I'd be interested in seeing the calculations.

Lastly, you should note, that I moved to Des Moines seven years ago, have a small business, a boat at the Marina, and I do not shop in the downtown area, seldom eat in restaurants there, and know of no places to hear good music. If you can't attract me, where are these other folks coming from?

Billie Klein, Owner
BK Accounting & Tax Solutions, LLC
360-580-8219
www.bkaccounting-tax.com



From: [Cristiano Piron](#)
To: [CityCouncil](#)
Subject: Yes to boutique hotel - but not in the proposed north parking lot Parcel A2
Date: Thursday, November 17, 2022 5:46:23 PM

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To whom it may concern:

My wife and I moved to the Marina District of lovely Des Moines 2 years ago. We are a young couple and would like to build our future and family here in Des Moines. One of the primary reasons we chose Des Moines over other areas was the wonderful access to public open space nearby at the marina.

Like the majority of residents in the Marina District, we do not have a view of the sound and mountains from our condo. To enjoy the view and maritime setting, we go to the Marina like everyone else. We walk, bike, or drive, but regardless of how we get there, we go to the north parking lot which has the best views.

Placing a 90-room hotel in that area is not ideal. It removes a large amount of valuable public open space that will not be recovered. Public space that has just had landscaping and restroom facility newly built! While we want to see the city grow and flourish, preserving the available open space for the residents of Des Moines must be a priority. Any development should be scaled to fit and preserve as much of the public's open space as possible.

The most obvious new location for a boutique hotel seems to be the Marina District downtown area where great views for hotel guests are still possible, like the new theater has, without sacrificing the public's space. This is where I would support a new hotel being placed. I believe that a master plan needs to be put together and the placement of a hotel needs further discussion and input from the community.

Best regards,
Cristiano Piron

From: [eddy duggar](#)
To: [CityCouncil](#)
Subject: Develop and Marina for our residents and local visitors-not for hotel guests
Date: Friday, November 18, 2022 4:03:36 PM

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We believe changes with public property in the Marina should be focused on options benefitting all our residents. Choosing the correct changes for residents, like having more areas for children to play and plenty of parking will attract visitors, businesses and investors.

We believe that there was a master plan 2021B for Des Moines and we should revisit it, in several public meetings. It is inconceivable that our elected officials would allow the city to give up premium Marina and Marina and Beach Park waterfront property to a private enterprise. One of the best views of the sound occurs on the northside of the Marina next to our very precious Coventry Beach Park.

Thank you for your time and effort for the city.

Sincerely,

Eleanor Duggar

816 s 216th ave TC106

Des Moines, wa 98198

From: [Eugene Stanley](#)
To: [CityCouncil](#)
Subject: Who are the morons trying to build a hotel. Beautiful marina f*** ed up by idiots.
Date: Thursday, November 24, 2022 2:33:16 PM

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Sent from my iPad

From: [Stephanie Harris](#)
To: [Andrew Merges](#); [_CityCouncil](#)
Subject: Re: Cecil Powell Park
Date: Friday, November 18, 2022 10:27:58 AM
Attachments: [image002.png](#)
[image003.png](#)

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Hi Andrew,
You had said to check-in 3 weeks from last we spoke to get an update on Cecil Powell Park. I am hoping to get that update. Looking forward to the south end receiving a much needed playscape.

Thank you,
Stephanie Harris

On Wed, Oct 19, 2022 at 7:05 AM Andrew Merges <AMerges@desmoineswa.gov> wrote:

Stephanie,

Good morning.

The City is planning on playground improvements at Cecil Powell Park in 2023 after we conclude design efforts (underway) and advertise for public bids (end of year). Much appreciated for your interest!

Thank you,

Andrew Merges, PE, Executive MPA

Public Works Director

City of Des Moines

21650 11th Avenue South

Des Moines, WA 98198-6317

(p) 206-870-6568

(c) 206-450-8792

(f) 206-870-6596



From: Taria Keane <tkeane@desmoineswa.gov>
Sent: Tuesday, October 18, 2022 12:32 PM
To: 'Stephanie Harris' <sjharr16@asu.edu>; _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: RE: Cecil Powell Park

Hello Stephanie,

Thank you for your email. Your email has been forwarded onto staff for further review and follow up. If you would like to make public comment the next council meeting is October 20, 2022 at 6:00 in the Council Chambers at 21630 11th Avenue S, Des Moines WA.

Thank you!

Taria Keane, CMC

City Clerk

Civil Service Secretary/Chief Examiner

City of Des Moines | 21630 11th Avenue S, Suite A | Des Moines WA 98198

206.870.6552 | 206.870.6540 (fax)

tkeane@desmoineswa.gov



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dissemination, distribution or copying of this communication, other than delivery to the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify the sender by reply e-mail.
Thank you.

From: Stephanie Harris <sjharr16@asu.edu>
Sent: Tuesday, October 18, 2022 12:05 PM
To: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Cecil Powell Park

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

Hi!

I would like to submit a public comment to get a playground at Cecil Powell park. I would like to be given a date of when this playground can be put into our park.

I have attached my park proposal to this email to be viewed by the council.

Thank you so much for your time,

Stephanie Harris

Mater's Student Forensic Psychology - Arizona State University

BSc in Psychology - Washington State University

From: [Joan Zatloukal](#)
To: [CityCouncil](#)
Subject: Marina is Des Moines crown jewel - No Hotel there
Date: Tuesday, November 29, 2022 4:23:56 PM

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I support your having a boutique hotel in Des Moines, but putting it at the Marina would be a catastrophic mistake. The park and marina are used daily by residents. It is a wonderful place to picnic, walk, enjoy the view, and get renewed. Regardless of time of the year, people enjoy walking along the marina. A council years ago saved the park by buying it instead of a developer. I look forward to the Farmers' Market, and entertainment events at the park.

Please encourage the development of a hotel in the business area which would also make it better for their guests to be able to choose from a variety of restaurants and close to public transportation. I see vacant land available in the business area.

Joan Zatloukal
Des Moines resident

Sent from [Mail](#) for Windows

From: [Pam Hawley](#)
To: [CityCouncil](#)
Subject: No hotel at Des Moines Marina
Date: Tuesday, November 22, 2022 5:14:22 PM

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Preserve our Waterfront open space. No hotel in the Marina.

From: dxpasta@gmail.com
To: [City Council](#)
Subject: Marina Development plans
Date: Thursday, December 1, 2022 7:22:29 AM

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CityCouncil@desmoineswa.gov Thursday, December 1, 2022

Dear City Council members,

I am grateful for the hard work you do balancing various interests to address the needs of all Des Moines community members. You are doing a fabulous job taking a long-term view of the economic and social health of the community. While I appreciate transparency and citizen involvement in government, I also trust the expertise of government employees.

There is a new group of unnamed persons hiding behind the name “desmoinesmarinawatch” passing out unsigned flyers advocating for citizens to contact you to oppose the plans for a hotel at the marina. I do not respond to such divisive tactics with emotional reaction, as seems to be their intent. The approach suggests a hidden financial interest (businesses farther from the marina or owners of property that could be sold as an alternative?). I respond to some of their points with my own, independent opinion.

A 90-room hotel at the waterfront is a lovely way to make Des Moines a destination city, with all the money that comes with that. I prefer a parking garage to surface parking, provided there is enough accessible parking for the disabled and seniors. Issuing resident parking permits could give locals priority or exclusive access to surface parking, as well. Shuttles can be added for events. Additional retail space there is a good idea, as well, and I love the idea of a recreational reflection pond. I am not concerned with the supposed downsides of changes in parking or traffic, nor do I care about losing “public open space” for community events— commercial activities need room too!

I do have concerns, however, about shoreline management and the now inevitable rise of flooding in low-lying areas. An environmental impact statement will flesh out these impacts. I think it is foolish to build in what will be a future flood plain. Any building there should be raised above the 100-year predicted flood level. That will change the projected height of the hotel and require some serious (expensive)

stabilization of the ground beneath any structure. Have such evaluations of flooding risk been evaluated? King County is developing a long-term flood management plan; it would be wise to use their resources to examine the impacts. How will this project interact with the city's Shoreline Master Plan? Can the reflection pond be a way to slow water to be an ecological way to reduce runoff and erosion?

I do not know how the development will affect emergency management. You will presumably explore the impact on delivery and emergency activities before finalizing plans.

In summary, I urge you to carefully examine the likelihood of future flood plain management issues and the impact on emergency services. We need to be planning for the impacts of climate change.

Appreciatively,

Diane Pasta
22525 7th Ave S. #503
Des Moines, WA 98198

We are made to tell the world that there are no outsiders. ~Desmond Tutu

From: [Tom Cashman](#)
To: [CityCouncil](#)
Subject: Proposed Marina Hotel
Date: Wednesday, November 30, 2022 10:13:10 PM

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Good People:

My wife and I have lived here now for 8 years and we love DesMoines. There is much to like in the proposed development plan outlined by the Mayor and planning group. But the proposed hotel out in the Marina is not one of the likeable concepts.

We've all been living with the repair of the seawall and parking area upgrade. Finally it is near completion. But we have already seen the impact of the fast ferry on parking during the trial period. It seems likely to become a regular addition to transportation. We've seen the parking impact of the frequent weddings and other celebrations that rent the park facilities. We've seen the impact of the Saturday Markets on parking. Adding a hotel will take away all the capacity we've been working to add.

Please don't locate a hotel in the Marina area. There are other good spaces in the "downtown" area. Modest low profile vendors like the Quarterdeck are a much better fit for the Marina area.

thanks for considering,

Tom and Lin Cashman
Boardwalk Apartment



CITY COUNCIL REGULAR MEETING

Speaker Sign-Up Sheet

December 01, 2022

NAME (PLEASE PRINT)	CITY YOU LIVE IN	TOPIC	PHONE/E-MAIL ADDRESS
✓ Cheri Haliko	Des Moines	Hotel	
✓ Bill Bishop	Des Moines	Marina Dev	
✓ Mike Haliko	Des Moines	Hotel	
✓ Charlene Bacalzo	Des Moines	Hotel	
Deanna Clifford-Schroeder	Des Moines	Hotel	

PASSENGER FERRY SERVICE

DES MOINES / SEATTLE

FINAL REPORT ON PILOT & RECOMMENDATIONS

December 1, 2022



TIMELINE

- July, 2020 Ferry demand study completed
 - Despite presence of COVID, community and stakeholder response was very strongly supportive of moving forward
- October, 2021 Feasibility Report completed
- April 14, 2022: Council approval to move forward with pilot
- Pilot Project Implemented from August 10 to October 9, 2022
 - Service from Des Moines to Seattle and Seattle to Des Moines
 - Technical and operational assistance from Maritime Consulting Partners



PROCESS TO ESTABLISH OPERATIONS

- In early 2022, Des Moines City Council approved conceptually a potential allocation of \$975,000 to implement passenger ferry service
- The City Administration, in early spring of 2022 brought forward to City Council contracts for approval to initiate the pilot study project
- It should be noted, that the entire cost of operations was approximately \$220,000, far below the initial contemplated cost structure

PARTNERSHIPS WITH OTHER AGENCIES

- City of Des Moines financed the passenger ferry service
- Operational dynamic required partnership with other agencies, including:
 - Port of Seattle that operates the Bell Harbor Marina
 - Utilizing Best Management Practices to avoid any conflicts in operations with tribal fishing rights in Puget Sound
 - Ongoing discussions with Puget Sound Regional Council regarding ferry service throughout Puget Sound
 - Working with the Regional Tourism Agency (RTA) and Seattle business associations to promote the ferry service

OPERATIONAL DYNAMICS

VESSEL

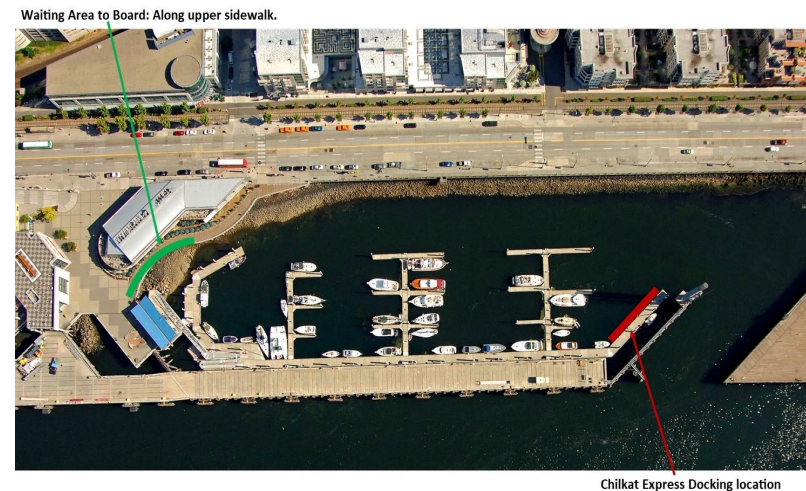
- A 60-passenger aluminum catamaran ferry was provided and operated by a maritime contractor (Puget Sound Express) for the duration of the project
 - The Chilkat Express is United States Coast Guard certified to carry 63 passengers but for this project the passenger limit was set at 60



OPERATIONAL DYNAMICS

TERMINALS

- The ferry vessel homeported at the Des Moines Marina on the guest moorage float at the north side of the marina, and landed on the Seattle waterfront at the Bell Harbor Marina guest dock - a facility owned and operated by the Port of Seattle
- Terminal services in Des Moines were provided by the City's Harbormaster Department. These services included assisting with the ticket reservation system, queuing passengers, inspecting and clearing docks of hazards, meeting passengers, checking them in, and generally coordinating shoreside activities in Des Moines
- Terminal services in Seattle were provided by the ferry vessel crew and Port of Seattle personnel





OPERATIONAL DYNAMICS

OPERATIONS AND PROJECT MANAGEMENT

- Operations and overall project management was provided by Maritime Consulting Partners, the firm that conducted the aforementioned Reconnaissance Study and wrote the 2022 Ferry Demonstration Project Operations Plan

REVENUE / FARE STRUCTURE

- Farebox recovery
- First week of ridership was free
- Fare was \$10/each direction; active military and seniors were half price, \$5/each way; children under 13 were free
- Fare box recovery is a measure of how much of a transportation system's operating costs are recovered from the fares collected
 - Operating costs do not include the cost of items like planning and capital assets
- The 2022 Ferry Demonstration Project operating costs were \$220,402 and are listed below:

Operating Item	Amount
Management	\$ 47,840
Vessel Crew, Insurance, Supplies, Maintenance, Other	\$ 74,000
Vessel Fuel	\$ 83,532
Vessel Moorage (in Seattle)	\$ 15,030
TOTAL OPERATING COSTS	\$220,402

- Operating costs do not include things like planning, mobilization, capital assets, marketing and communications
- Net fare revenue collected during the project was \$89,546, therefore fare box recovery is 41%

SCHEDULE

- Days and hours of operation August 10 – October 9, 2022
 - Wednesday through Sunday between Des Moines Marina and Bell Harbor Marina in Seattle

Depart Des Moines	Depart Seattle
10:00 am	11:00 am
12:00 pm	1:00 pm
2:00 pm	3:00 pm
4:00 pm	5:00 pm

RIDERSHIP

- Rider utilization is a key indicator of the potential viability for a long-term or permanent ferry service
- Vessel embarkation data indicates the total number of passengers that boarded the ferry during the demonstration project was 14,858
 - Given 45 days of service, this is an average of 330 passengers per day, or 41 passengers per one-way trip
- The total possible passengers that could be carried during the demonstration period was 21,600
 - Accordingly, the overall utilization of the service was 69% of total capacity
 - This measure (of utilization v capacity) is commonly referred to as the service “Load Factor”
- Projections developed prior to operations (during the reconnaissance and planning phase) estimated total utilization to be 3,600, a Load Factor of 17%
 - **KEY FINDING – 14,858 passengers were carried (a Load Factor of 69%) and actual ferry service utilization exceeded expectations (by 400%).**

DEMAND MOMENTUM

- Vessel embarkation data indicates the first week of service had the highest utilization with 1,897 passengers carried
- High utilization was predicted for that week and was attributed to the novelty of the service ***and that first week of service being free of charge***
- What was not predicted, was that **ridership would remain high throughout the entire demonstration project period**
- Ridership data indicates interest in, and utilization of, the demonstration ferry service had a high level of momentum
 - Meaning demand for the service remained high (as opposed to quickly dropping off) during the project period
 - This indicates utilization (demand) could remain high and even increase given a longer duration project
- The lowest rider utilization period occurred during week #6 with 1,549 passengers carried. The second highest utilization period occurred during week #7 with 1,689 passengers carried

FERRY RIDERSHIP GRAPHIC

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Total Checked In
Adult	1339	699	650	645	535	607	626	603	567	6271
Bike	30	22	20	10	5	20	15	15	3	140
Child	250	145	197	168	129	92	95	102	164	1342
Sr/Mil	308	842	765	786	911	850	968	908	907	7245
Total Passengers	1897	1686	1612	1599	1575	1549	1689	1613	1638	14858



KEY FINDINGS

- KEY FINDING: Leisure travel (site-seeing, events, and other) was the main type of use for the ferry service
- KEY FINDING: The vast majority of ferry passengers arrived at the Des Moines ferry in a passenger vehicle
- KEY FINDING: Though age distribution was fairly evenly distributed among adult age groups, the ferry was utilized most by users age 65 and older
- KEY FINDING: Ferry passengers came from around the region with most originating from Des Moines



KEY FINDINGS

- The vast majority of passengers said the \$10 (one-way) rate was just right
- The vast majority of passengers would prefer year-round ferry service
- The vast majority of ferry demonstration riders were very satisfied with the overall experience
- Fare box recovery was 41%, better than the industry average farebox recovery of about 30% for ferries, and substantially better than the average farebox recovery of roughly 19% for bus transit

IMPACT ON LOCAL BUSINESS

- Businesses who saw increases in activity as a result of the ferry pilot
- Chloe Tran (Owner of the Tea Cup)

“My name is Chloe Tran and I am the owner of TeaCup, located on 223rd and 7th Avenue. I did have my chance to meet Matt and Traci before and hope to meet you all soon.

I would like to thank you very much for your service and your help in building our city stronger, together. I would like to get feedback on our ferry services. Since the ferry service has started, we have had many new customers visiting our cafe.

When I have had the opportunity to talk with them, I often learn they are from out of town, visiting Des Moines for the day and using our ferry. In the past, September is one of our slowest month in sales, but not this year! Just two weeks into September, and we see our sales have been better than the Septembers of the past.”

IMPACT ON LOCAL BUSINESS

From Wesley Homes. CEO Kevin Anderson:

“I wanted to drop you a short note to let you know how much our residents have enjoyed having the ferry service to Seattle over the summer months. I know when I talked about this service at our town meetings over the summer a number of the residents were well aware of the service, had been on a ferry trip and encouraged others to take the ferry to Seattle for a day trip. I hope this service will continue in the future!

I also want to encourage the counsel to continue their plans for the redevelopment of the Marina District. There are many outstanding benefits to the City and it's residents with this redevelopment plan. I truly believe it will enhance the community and surrounding areas of our City.”



RECOMMENDATIONS GOING FORWARD

- The 2020 Des Moines Ferry pilot utilization and farebox recovery would place it at the upper end of the successful range in ferry services around the country
- Based on the high rate of utilization, healthy farebox recovery and positive response from the community, it is recommended that the City of Des Moines proceed with expanded service in 2023

ACTION ITEMS

- Define the objectives for the next Demonstration Period
- Expand project period.
 - Start earlier in the season, to test whether visitors and leisure travel interest would be as strong for entire spring summer season
- Expand daily service hours to determine if commuters would regularly use the service
- Establish links with other transportation modes and carriers to maximize intermodal connections
- Develop partnerships with private and public sector partners to create a rider incentive programs
- Develop partnerships with retail businesses adjacent to both terminals to drive customers to local businesses

EXPAND PROJECT PERIOD

- Extend the Demonstration Period
 - Given the high level of public acceptance, if another demonstration project is activated it is recommended it run for a longer period
 - For example Mother's Day, 2023 through September 30, 2023 (spanning the entirety of the Farmer's market)
- Extend the operating schedule to include traditional commute times
- Given the high level of public acceptance, if another demonstration project is activated, it is recommended the schedule be expanded to include times that are commonly considered commute periods
- An example of a modified schedule could be:

<u>Days of the Week</u>	<u>From Des Moines</u>	<u>From Seattle</u>
Monday - Friday	First sailing at 8:00 am	Last sailing at 6:00 pm
Saturday - Sunday	First sailing at 10:00 am	Last sailing at 7:00 pm

OPERATIONAL CONSIDERATIONS

- Secure a Vessel for 2023
 - If the City decides to proceed with a ferry demonstration project in 2023, it's recommended that it start working to secure a vessel as soon as possible
 - The vessel used during the 2022 demonstration project provided proved to be ideal. Accordingly, this would be the logical vessel to try and secure for future service
- Consider other Terminal Locations in Seattle
 - The Bell Harbor Marina was well suited for the service, and would be work well for future service, but other terminal owners have indicated an interest in hosting future ferry service and those alternative terminal locations should also be considered
- Improve ADA Accommodations
 - It is recommend that additional emphasis be made on providing ramps and boarding systems that minimize barriers for users with disabilities
 - Also, consider how additional seating areas on the vessel can be dedicated to passengers with mobility restrictions and/or disabilities

EXPANDED CUSTOMER SERVICE

- Provide Customer Service Representatives at both terminals:
 - Customer Service Representatives at both terminals (Des Moines and Seattle) during ferry operating hours can answer questions in person, by phone, email, chat, or social media and help manage booking and reservations
 - These persons can also manage passenger check-in and boarding activities, and provide other safety and security functions
 - Customer Service Representatives can act as ‘Ambassadors’ to promote Des Moines and enhance the visitor experience

COMMENTS FROM THE COMMUNITY

- Data was collected from the ticketing and reservation system, as well as surveys issued to ferry riders

“I have sang the ferry praises from the mountain top and told every neighbor here in Des Moines to book tickets by Sunday. I left a 5-star raving review on Google but if there is anything else I can do to inform the city council how important this initiative is to our town, please let me know.

Finger and toes are crossed you will be back in the spring for 4-5 months with extended times!”
S.M.

“Hi,

We rode your deluxe fast ferry Friday. We drove over from Renton, took a walk up Des Moines Creek, ferried to Seattle and back and then played games at Waterland Arcade and ate dogs at The Dog House.

The people on either side of us in the boat were tourists from Pendleton, OR by way of Graham.

If you're hoping to attract some of us to your part of Puget Sound, the fast ferry seems to be working!

Thanks - we had a very fun day.”
G&J.S

“We rode the Des Moines Ferry during Pilot Project 2022. We purchased our tickets online, which went great. We drove to Seattle with our family members who live in the area.

The crew and the boat were great. We loved our experience of riding back and forth. We had this experience simply for pleasure, and eating at Anthony's restaurant. Our niece had never been on a ferry. It was her last trip before passing away a week and a half ago. So thank you for fulfilling a last wish.”
L.R.



NEXT STEPS

- Final report will be posted on the City website tomorrow (December 2, 2022)
- Motion from City Council to move forward to establish potential terms to continue passenger ferry service pilot, phase II, into a second season

**City of Des Moines, WA
2022 Ferry Demonstration Project
Final Report**



Prepared for

The City of Des Moines, WA
21630 11th Avenue S, Suite A
Des Moines, WA 98189

Prepared by

Maritime Consulting Partners, LLC
7869 NE Day Rd W, Suite 206
Bainbridge Island, WA 98110



December 1, 2022

Table of Contents

1. PROJECT OVERVIEW	2
1.1 FERRY DEMONSTRATION PROJECT	2
1.2 SUMMARY OF SERVICE	2
2 PROJECT FINDINGS	3
2.1 RIDER UTILIZATION (AKA DEMAND)	4
2.2 DEMAND MOMENTUM	4
2.3 COLLECTED REVENUE.....	5
2.4 REASON FOR TRAVEL	5
2.5 HOW ARRIVED AT THE FERRY	6
2.6 AGE OF TRAVELER.....	6
2.7 ORIGIN OF RIDERS	6
2.8 FERRY FARES.....	7
2.9 YEAR-ROUND FERRY SERVICE.....	8
2.10 SATISFACTION WITH SERVICE	8
2.11 THE RIGHT BOAT	8
2.12 FAREBOX RECOVERY.....	8
3 RECOMMENDATIONS GOING FORWARD	9
3.01 DEFINE THE OBJECTIVES FOR THE NEXT DEMONSTRATION PERIOD	9
3.02 EXTEND THE DEMONSTRATION PERIOD.....	9
3.03 EXTEND THE OPERATING SCHEDULE TO INCLUDE TRADITIONAL COMMUTE TIMES.....	9
3.04 DEVELOP SHORESIDE SERVICE CONNECTIONS.....	10
3.05 START PLANNING FOR 2023 AS SOON AS POSSIBLE	10
3.06 SECURE A VESSEL FOR 2023	10
3.07 IMPROVE ADA ACCOMMODATIONS.....	10
3.08 PROVIDE CUSTOMER SERVICE REPRESENTATIVES AT BOTH TERMINALS	11
3.09 CONSIDER OTHER TERMINAL LOCATIONS IN SEATTLE	11

Attachments

Attachment 1: 2022 Operations Plan

Attachment 2: 2022 Budget / Actual

Attachment 3: Ferry Rider Survey

1. Project Overview

1.1 Ferry Demonstration Project

During the Summer/Fall of 2022, the City of Des Moines engaged in a passenger ferry demonstration project between Des Moines and Seattle (“2022 Ferry Demonstration Project”). The objective was to introduce the public and other stakeholders to the opportunities and benefits of a possible permanent ferry service and to verify certain estimates and assumptions.

Prior to 2022 Ferry Demonstration Project, the City of Des Moines completed a Ferry Demand Study Report¹ and a Ferry Demonstration Project Scoping and Reconnaissance Report.² These prior activities indicated there was demand for the service and operations where feasible.

Thus, the 2022 Ferry Demonstration Project was a logical step to confirm prior conclusions and to develop critical empirical data from operations.

1.2 Summary of Service

The 2022 Ferry Demonstration Project operated from August 10, 2022 through October 9, 2022 and provided 4 roundtrips per day, 5 days per week (Wednesday – Sunday), between Des Moines Marina and Bell Harbor Marina in Seattle.

Schedule

Departure times are listed below.

Table i) - Schedule

Depart Des Moines	Depart Seattle
10:00 am	11:00 am
12:00 pm	1:00 pm
2:00 pm	3:00 pm
4:00 pm	5:00 pm

Transit Time

The transit time between the Des Moines ferry loading dock (terminal) and the Seattle landing was ~ 35 minutes, with actual transit times impacted by ferry operating speeds and other factors (weather, vessel traffic, wildlife, etc....) encountered along the route.

¹ City of Des Moines Passenger Ferry Demand Report - Deadrich RPM, July 29, 2020

² City of Des Moines Ferry Demonstration Project Scoping and Reconnaissance Report – Maritime Consulting Partners, October 31, 2021

Vessel

A 60-passenger³ aluminum catamaran ferry was provided and operated by a maritime contractor for the duration of the project.⁴

Terminals

The ferry vessel homeported at the Des Moines Marina on the guest moorage float at the north side of the marina, and landed on the Seattle waterfront at the Bell Harbor Marina guest dock - a facility owned and operated by the Port of Seattle.

Terminal services in Des Moines were provided by the City's Harbor Master Department. These services included assisting with the ticket reservation system, queuing passengers, inspecting and clearing docks of hazards, meeting passengers, checking them in, and generally coordinating shoreside activities in Des Moines.

Terminal services in Seattle were provided by the ferry vessel crew and Port of Seattle personnel.

Operations and Project Management

Operations and overall project management was provided by Maritime Consulting Partners, the firm that conducted the aforementioned Reconnaissance Study and wrote the 2022 Ferry Demonstration Project Operations Plan.

2022 Ferry Demonstration Project Operations Plan

Before the 2022 Ferry Demonstration Project commenced, Maritime Consulting Partners completed an Operations Plan that described the details of how ferry service would be implemented and maintained during the demonstration period.

The Operations Plan, in its final form, is included in this report as Attachment 1.

2 Project Findings

This section summarizes key findings of 2022 Ferry Demonstration Project.

Data was collected from the ticketing and reservation system,⁵ as well as surveys issued to ferry riders.⁶

³ The Chilkat Express is U.S. Coast Guard certified to carry 63 passengers, but for this project the passenger limit was set at 60.

⁴ Puget Sound Express

⁵ Fare Harbor

⁶ Survey Monkey (issued 10/17/22)

2.1 Rider Utilization (aka Demand)

- Rider utilization is a key indicator of the potential viability for a long-term or permanent ferry service.
- Vessel embarkation data indicates the total number of passengers that boarded the ferry during the demonstration project was 14,858. Given 45 days of service, this is an average of 330 passengers per day, or 41 passengers per one-way trip.
- The total possible passengers that could be carried during the demonstration period was 21,600. Accordingly, the overall utilization of the service was 69% of total capacity. This measure (of utilization vs capacity) is commonly referred to as the service "Load Factor."
- Projections developed prior to operations (during the reconnaissance and planning phase) estimated total utilization to be 3,600 - a Load Factor of 17%, based on the industry averages from around the country.

⇒ **KEY FINDING – 14,858 passengers were carried (a Load Factor of 69%) and actual ferry service utilization exceeded expectations (by 400%).**

2.2 Demand Momentum

Vessel embarkation data indicates the first week of service had the highest utilization with 1,897 passengers carried. High utilization was predicted for that week and was attributed to the novelty of the service and that first week of service being free of charge.

What was not predicted, was that ridership would remain high throughout the entire demonstration project period. Ridership data indicates interest in, and utilization of, the demonstration ferry service had a high level of momentum. Meaning demand for the service remained high (as opposed to quickly dropping off) during the project period. This indicates utilization (demand) could remain high and even increase given a longer duration project.

The lowest rider utilization period occurred during week #6 with 1,549 passengers carried. The second highest utilization period occurred during week #7 with 1,689 passengers carried.

⇒ **KEY FINDING – Demand for ferry service remained high throughout the project Period, and in fact utilization increased during the last third of the pilot period.**

Table ii) – Ferry Ridership

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Total Checked In
Adult	1339	699	650	645	535	607	626	603	567	6271
Bike	30	22	20	10	5	20	15	15	3	140
Child	250	145	197	168	129	92	95	102	164	1342
Sr/Mil	308	842	765	786	911	850	968	908	907	7245
Total Passengers	1897	1686	1612	1599	1575	1549	1689	1613	1638	14858

2.3 Collected Revenue

Fare revenue tracked ridership closely except for Week #1, when passenger travel was free of charge.

Total net fare revenue collected during the 2022 Ferry Demonstration Project was \$89,346. This is the net amount collected after any sales or transaction fees.

Projections developed during the reconnaissance and planning phase estimated total collected revenue would be approximately \$36,000.

⇒ **KEY FINDING – \$89,346 of fare revenue was collected during the demonstration project and exceeded expectations (by 250%).**

Table iii) – Ferry Fare Revenue

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Total
Adult	\$0.00	\$7,415.17	\$6,717.28	\$6,482.90	\$5,485.90	\$6,743.20	\$6,443.76	\$6,401.20	\$6,061.90	\$51,751.31
Bike	\$0.00	\$54.00	\$44.00	\$20.00	\$10.00	\$41.80	\$30.00	\$32.00	\$6.00	\$237.80
Child	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sr/Mil	\$0.00	\$4,606.51	\$4,157.41	\$4,157.97	\$4,831.32	\$4,537.69	\$5,134.94	\$4,893.19	\$5,037.53	\$37,356.56
Total	\$0.00	\$12,075.68	\$10,918.69	\$10,660.87	\$10,327.22	\$11,322.69	\$11,608.70	\$11,326.39	\$11,105.43	\$89,345.67

2.4 Reason for Travel

Survey data indicates the majority of passengers (93%) traveled for leisure/recreational reasons. Followed next by event travel (2%) and business travel (2%). This reflects the impact the schedule had on the type of use that was realized on the ferry.

In the case of the ferry demonstration project, the schedule was not designed to address use by commuters. Rather, the schedule was established to provide optimal service given operational constraints. For example, the first departure from Des Moines was scheduled at 10 am, which is generally considered to fall on the fringe of traditional commute patterns. Likewise, the last departure from Seattle was scheduled at 5 pm, a time that does not provide for much of a work day (given the ferry's arrival times in Seattle). This condensed schedule was necessary due to constraints around the difficulty of finding maritime crew, unique to the summer of 2022.

Post-pandemic, it's generally recognized the way people commute is changing. Nonetheless, it can be stated that the ferry demonstration project sailing times were not established in a manner that effectively provided for use by daily business commuters (both in terms of the day of week and time of day when sailings were scheduled).

⇒ **KEY FINDING – Leisure travel (site-seeing, events, and other) was the main type of use for the ferry service.**

2.5 How Arrived at the Ferry

Survey data indicates the majority of passengers (76%) arrived at the ferry using a vehicle and parking on site. This was followed next by walking (14%) and public transportation (7%).

While this finding is predictable (passenger vehicle was the predominate way riders arrived at the ferry), it indicates an opportunity to establish better links with other modes of travel if future ferry projects activities are planned.

⇒ **KEY FINDING – The vast majority of ferry passengers arrived at the Des Moines ferry in a passenger vehicle.**

2.6 Age of Traveler

Survey data indicates the majority of passengers were 65 years and older (55%). This coincides with data that indicates the main reason for travel was leisure/recreation.

When viewed across the spectrum, demand correlated with age groupings as follows: age 0-34 5%, age 34-64 41%, age 65+ 55%.

⇒ **KEY FINDING – Though age distribution was fairly evenly distributed among adult age groups, the ferry was utilized most by users age 65 and older.**

2.7 Origin of Riders

Using zip code data from the reservation system, 95% of riders were from Washington State.⁷ From this zip code data, the majority of ferry riders came from around the Puget Sound region, the highest number originating from the City of Des Moines (31%). The next highest number of riders came from Burien/Normandy Park (8%), followed by Federal Way (5%).

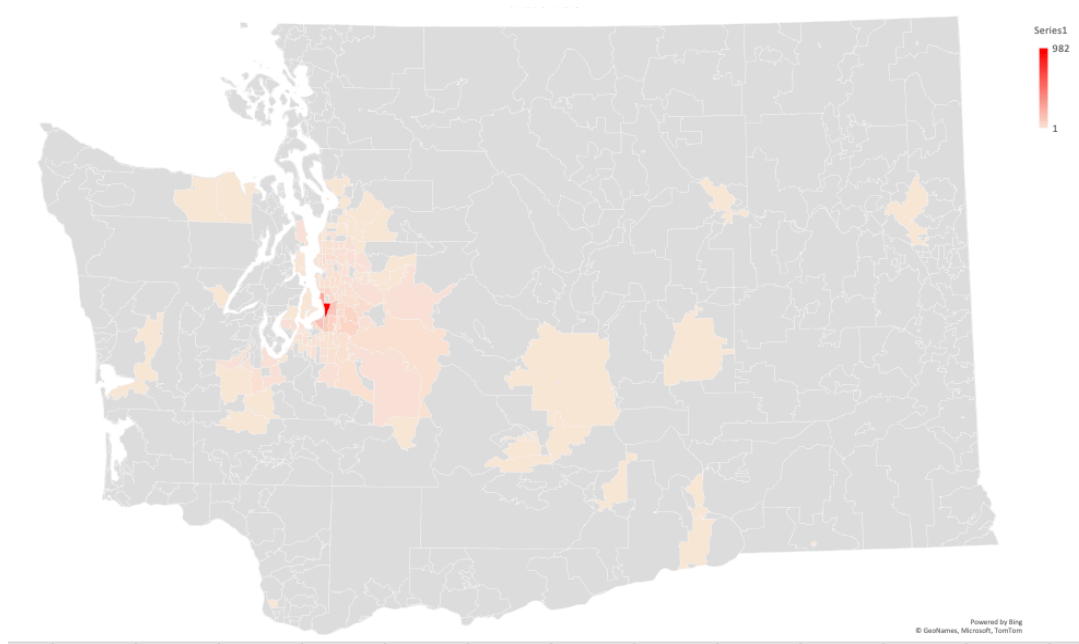
Table iv) – Top 5 Washington State Zip codes

Top 5 Zip Codes		
98198	Des Moines	982
98166	Burien/Normandy Park	264
98023	Federal Way West	144
98032	Kent	117
98003	Federal Way East	110

Other riders came from around Washington State. The following graphic shows the zip code areas where Washington state riders originated from.

⁷ Zip code data was not captured for all ferry riders in the reservation system. 3,177 zip code data points were collected.

Graphic a) – Washington State Zip codes where ferry demonstration riders originated from



The remaining riders were from out of state (5%). Reservation data does not indicate why these people were in Seattle, but it's likely these visitors chose to utilize the passenger ferry spontaneously - meaning they did not come to Seattle with the intent of riding a ferry to/from Des Moines. This indicates the upside potential for out of state visitors to use a ferry to visit Des Moines, making a trip they might not have previously planned.

⇒ **KEY FINDING – Ferry passengers came from around the region with most originating from Des Moines.**

2.8 Ferry Fares

Based on research conducted during the aforementioned Demand Study, demonstration ferry fares for adults were established at \$10 per person, for each direction of travel (\$20 roundtrip).

89% of respondents to the project survey identified ferry fares as “Just Right” while 7% believed they were too high and 4% felt fares were too low.

⇒ **KEY FINDING – The vast majority of passengers said the \$10 (one-way) rate was just right.**

2.9 Year-round Ferry Service

68% of respondents to the project survey indicated they would prefer year-round service to seasonal service.

⇒ **KEY FINDING – The vast majority of passengers would prefer year-round ferry service.**

2.10 Satisfaction with Service

88% of respondents to the project survey indicated they were very satisfied with their overall experience with the ferry demonstration project.

⇒ **KEY FINDING – The vast majority of ferry demonstration riders were very satisfied with the overall experience.**

2.11 The Right Boat

For numerous reasons, the ferry that was utilized for the demonstration project was a very good choice. This particular vessel was the right blend of size, speed, passenger capacity, and onboard comfort.⁸

From the project survey, 85% of passengers were very satisfied with the vessel.

2.12 Farebox Recovery

Fare box recovery is a measure of how much of a transportation system's operating costs are recovered from the fares collected.⁹ Operating costs do not include the cost of items like planning and capital assets.

The 2022 Ferry Demonstration Project operating costs were \$220,402 and are listed below.

Table v) – Ferry Operating Costs

Operating Item	Amount
Management	\$47,840
Vessel Crew, Insurance, Supplies, Maintenance, Other	\$74,000
Vessel Fuel	\$83,532
Vessel Moorage (in Seattle)	\$15,030
TOTAL OPERATING COSTS	\$220,402

⁸ The ferry is fully described in the Operations Plan – Attachment 1.

⁹ Operating Costs do not include things like planning, mobilization, capital assets, marketing and communications.

Net fare revenue collected during the project was \$89,546. Therefore, fare box recovery is 41%.

- ⇒ **KEY FINDING – Fare box recovery was 41%, better than the industry average farebox recovery of about 30% for ferries, and substantially better than the average farebox recovery of roughly 19% for bus transit.**

3 Recommendations Going Forward

The 2020 Des Moines Ferry pilot utilization and farebox recovery would place it at the upper end of the successful range in ferry services around the country.

Based on the high rate of utilization, healthy farebox recovery and positive response from the community, it is recommended that the City of Des Moines proceed with expanded service in 2023.

If the City of Des Moines decides to move forward, the following recommendations can be considered.

3.01 Define Objectives for Expanded Service

- Determine if commuters can be encouraged to use the service
- Establish links with other transportation modes and carriers
- Create a rider incentive program
- Develop partnerships with retail businesses adjacent to both terminals to drive customers to local businesses.

3.02 Extend the Demonstration Period

Given the high level of public acceptance, if another demonstration project is activated it is recommended it run for a longer period. Here are some possible scenarios based on six-month periods.

Scenario 1	April 1, 2023 – September 30, 2023	6 months
Scenario 2	April 15, 2023 – October 15, 2023	6 months
Scenario 3	May 1, 2023 – October 31, 2023	6 months

3.03 Extend the Operating Schedule to Include Traditional Commute Times

Given the high level of public acceptance, if another demonstration project is activated, it is recommended the schedule be expanded to include times that are commonly considered commute periods. An example of a modified schedule is outlined below.

Days of the Week	From Des Moines	From Seattle
Monday - Friday	First sailing at 8:00 am	Last sailing at 6:00 pm
Saturday – Sunday	First sailing at 10:00 am	Last sailing at 7:00 pm

3.04 Develop Shoreside Service Connections

Survey data indicates most passengers arrived at the ferry using their own vehicle. If the City decides to execute another demonstration project it's recommended a passenger shuttle be considered in Des Moines. This shuttle service would help bring Des Moines area residents to the ferry, as well as transport passenger that boarded in Seattle to various destinations and attractions in Des Moines.

Other possible shoreside connections could include arranging a carshare at the Des Moines Marina and/or having bike share services available.

3.05 Start Planning for 2023 as Soon as Possible

If the City decides to proceed with a ferry demonstration project in 2023, it's recommended that planning activities commence as soon as possible.

The first step would be to define the 2023 project goals and then update the 2022 Ferry Operations Plan.

From there, activities would commence to convert this report into a service plan that includes a detailed timeline that will serve as a foundation for vessel procurement, hiring qualified personnel, and service implementation strategies.

3.06 Secure a Vessel for 2023

If the City decides to proceed with a ferry demonstration project in 2023, it's recommended that it start working to secure a vessel as soon as possible.

The vessel used during the 2022 demonstration project proved to be ideal. Accordingly, this would be the logical vessel to try and secure for future service.

3.07 Improve ADA Accommodations

It is recommended that additional emphasis be made on providing ramps and boarding systems that minimize barriers for users with disabilities.

Also, consider how additional seating areas on the vessel can be dedicated to passengers with mobility restrictions and/or disabilities.

3.08 Provide Customer Service Representatives at Both Terminals

If the City of Des Moines decides to operate a subsequent ferry demonstration project, it's recommended that customer service representatives be present at both terminals (Des Moines and Seattle) during ferry operating hours.

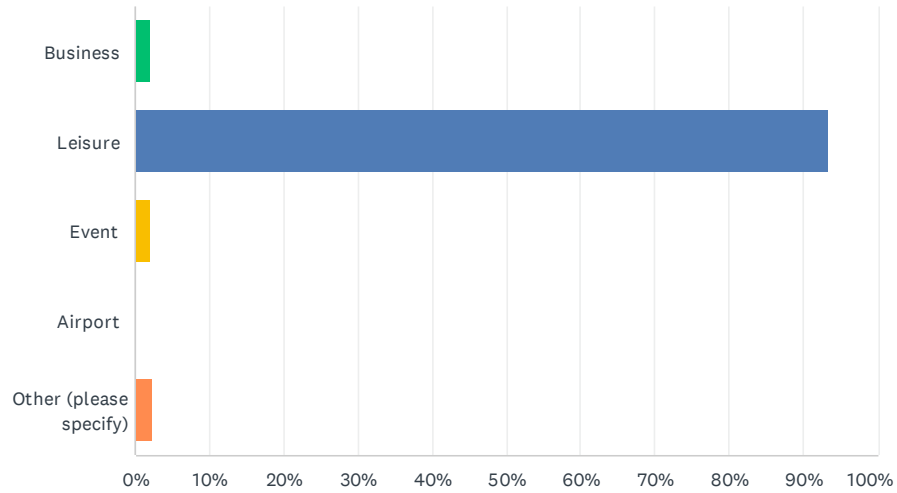
Customer service representatives can answer questions in person, by phone, email, chat, or social media and help manage booking and reservations. These persons can also manage passenger check-in and boarding activities, and provide other safety and security functions.

3.09 Consider other Terminal Locations in Seattle

The Bell Harbor Marina was well suited for the service, and would work well for future service, but other terminal owners have indicated an interest in hosting future ferry service and those alternative terminal locations should also be considered.

Q1 Why are you using the ferry?

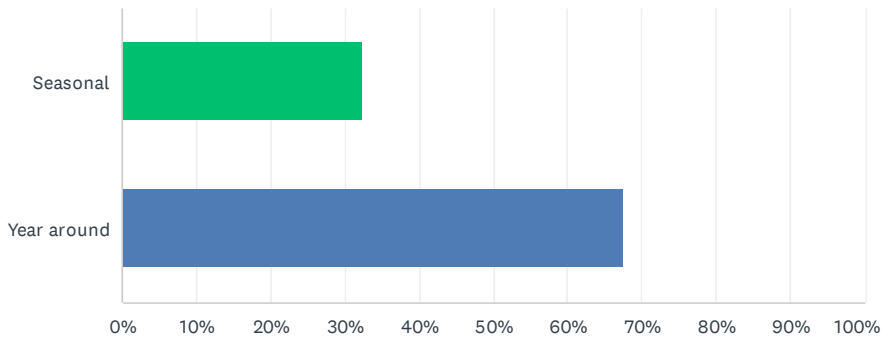
Answered: 1,423 Skipped: 4



ANSWER CHOICES	RESPONSES	
Business	2.04%	29
Leisure	93.39%	1,329
Event	2.18%	31
Airport	0.00%	0
Other (please specify)	2.39%	34
TOTAL		1,423

Q2 Would you prefer to see seasonal or year around service?

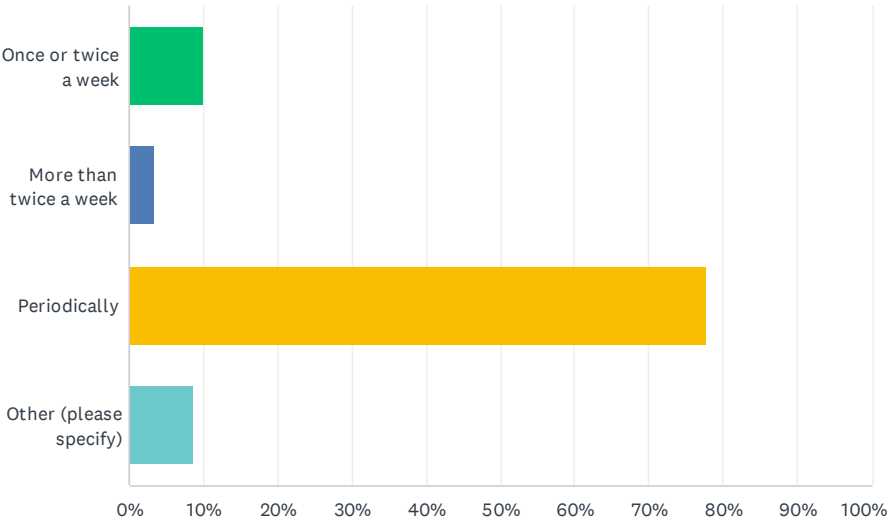
Answered: 1,393 Skipped: 34



ANSWER CHOICES		RESPONSES	
Seasonal		32.45%	452
Year around		67.55%	941
TOTAL			1,393

Q3 Which best describes how often you would use the ferry if it were permanent?

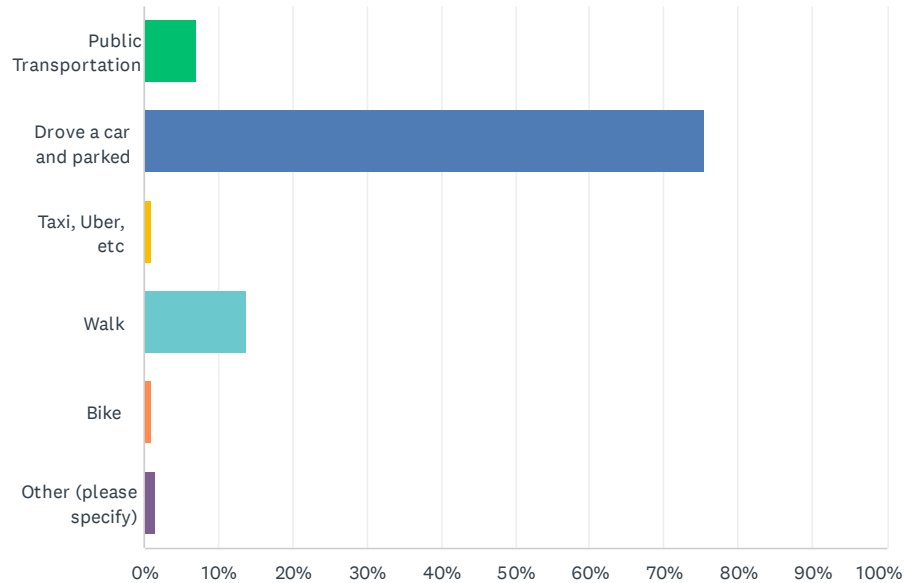
Answered: 1,421 Skipped: 6



ANSWER CHOICES	RESPONSES	
Once or twice a week	10.06%	143
More than twice a week	3.38%	48
Periodically	77.76%	1,105
Other (please specify)	8.80%	125
TOTAL		1,421

Q4 How did you arrive to the ferry?

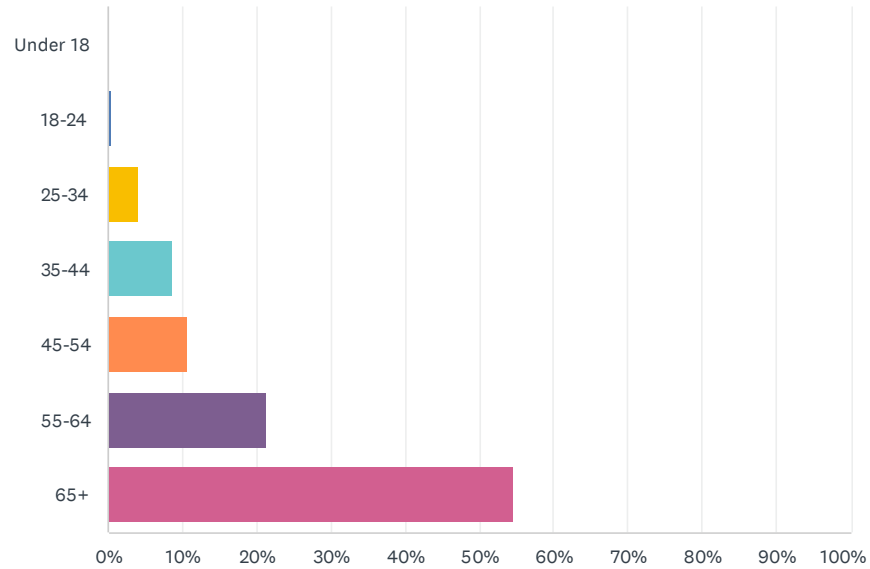
Answered: 1,422 Skipped: 5



ANSWER CHOICES	RESPONSES	
Public Transportation	6.96%	99
Drove a car and parked	75.53%	1,074
Taxi, Uber, etc	1.13%	16
Walk	13.85%	197
Bike	1.13%	16
Other (please specify)	1.41%	20
TOTAL		1,422

Q5 How old are you?

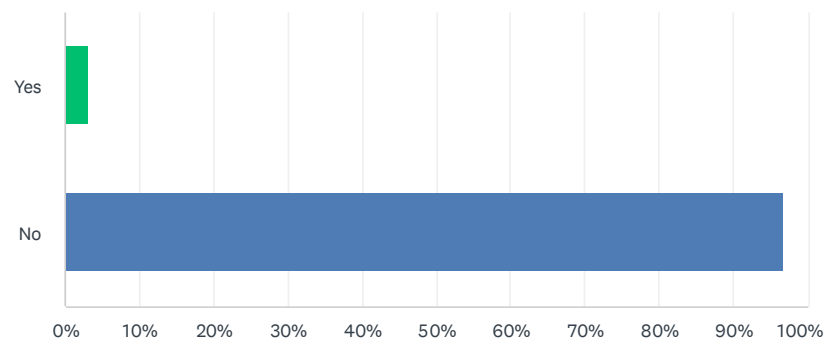
Answered: 1,422 Skipped: 5



ANSWER CHOICES	RESPONSES	
Under 18	0.07%	1
18-24	0.42%	6
25-34	4.15%	59
35-44	8.72%	124
45-54	10.62%	151
55-64	21.38%	304
65+	54.64%	777
TOTAL		1,422

Q6 Are you (or the person you book tickets for) a wheelchair user?

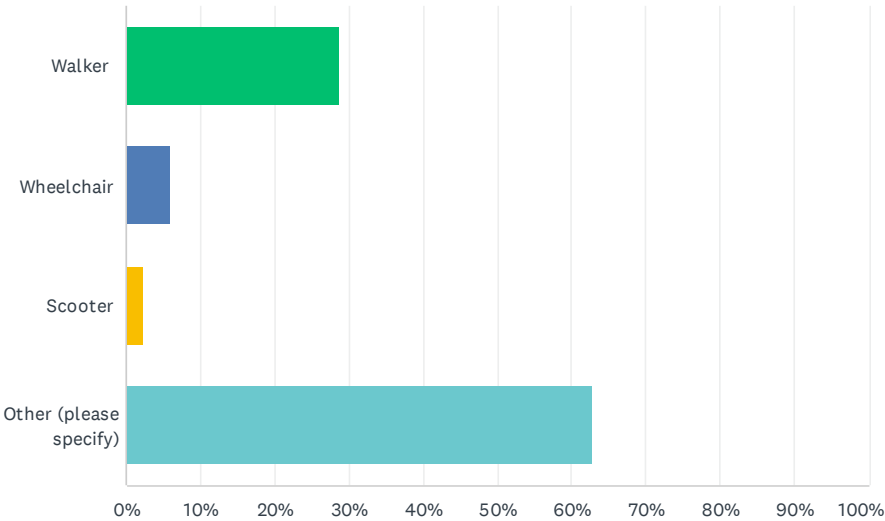
Answered: 1,427 Skipped: 0



ANSWER CHOICES		RESPONSES	
Yes		3.22%	46
No		96.78%	1,381
TOTAL			1,427

Q7 If you answered yes to the question above, please tell us which mobility device best describes yours

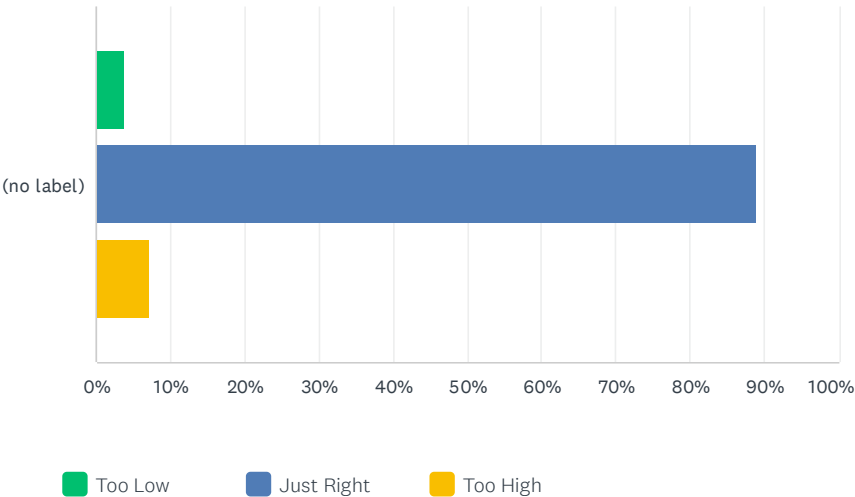
Answered: 251 Skipped: 1,176



ANSWER CHOICES	RESPONSES	
Walker	28.69%	72
Wheelchair	5.98%	15
Scooter	2.39%	6
Other (please specify)	62.95%	158
TOTAL		251

Q8 How would you rank the ticket price

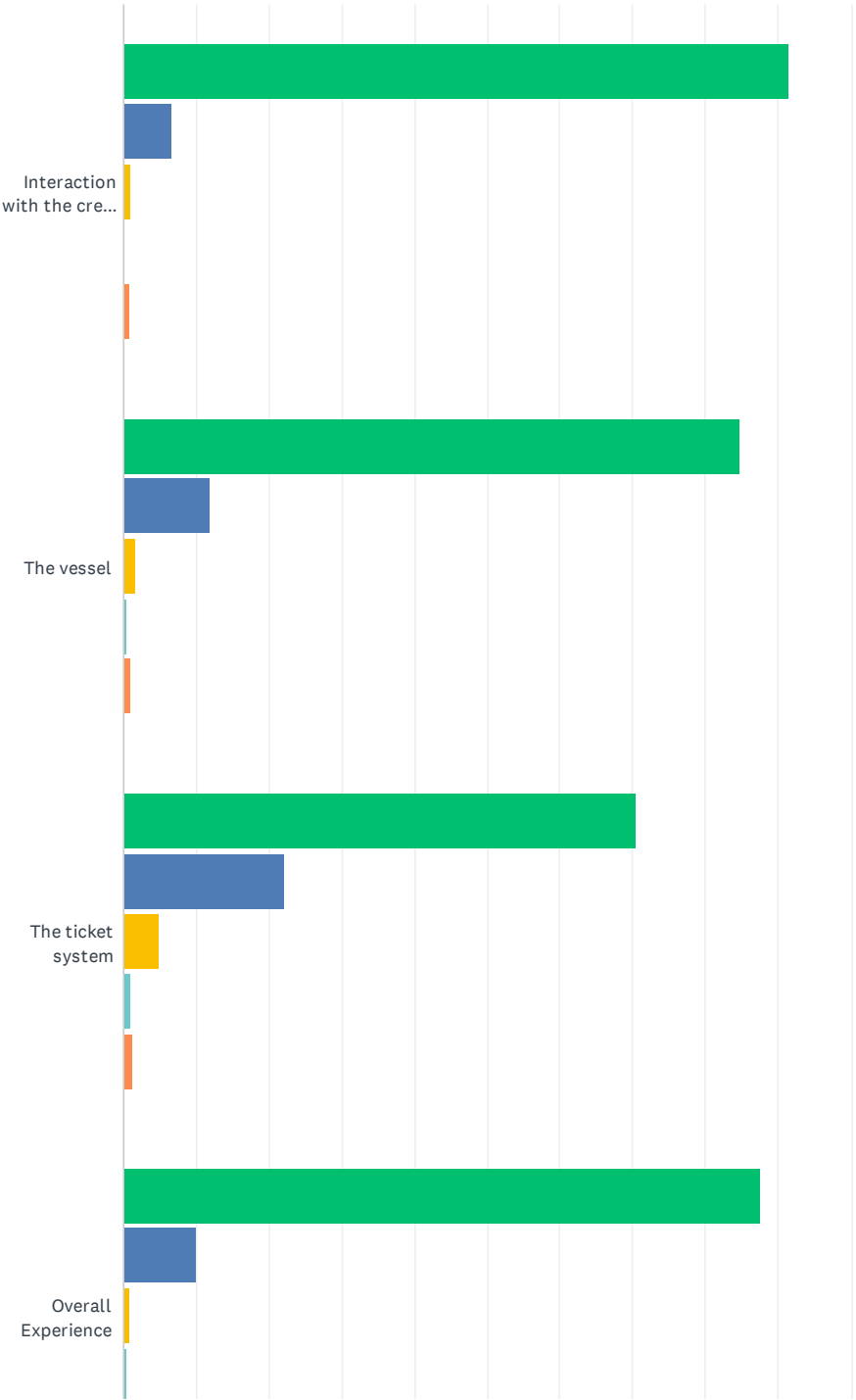
Answered: 1,402 Skipped: 25



	TOO LOW	JUST RIGHT	TOO HIGH	TOTAL	WEIGHTED AVERAGE
(no label)	3.85%	88.87%	7.28%		
	54	1,246	102	1,402	2.03

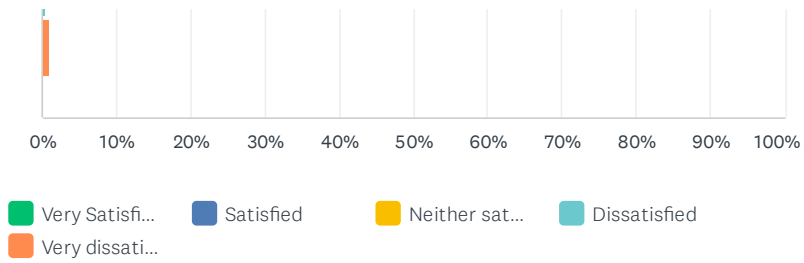
Q9 How satisfied or dissatisfied are you with each of the following?

Answered: 1,422 Skipped: 5



Des Moines Ferry Pilot Project 2022 (End of trial period)

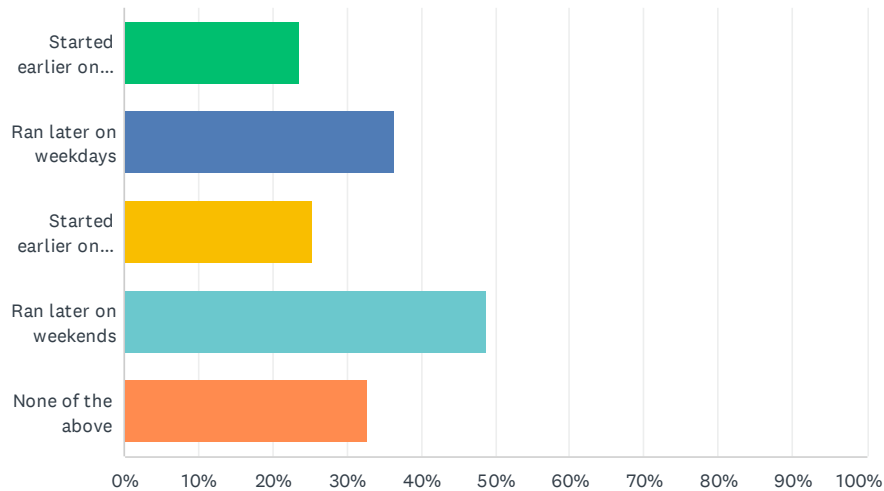
SurveyMonkey



	VERY SATISFIED	SATISFIED	NEITHER SATISFIED NOR DISSATISFIED	DISSATISFIED	VERY DISSATISFIED	TOTAL
Interaction with the crew of the ferry	91.49% 1,301	6.54% 93	1.05% 15	0.00% 0	0.91% 13	1,422
The vessel	84.86% 1,183	11.91% 166	1.79% 25	0.36% 5	1.08% 15	1,394
The ticket system	70.63% 986	22.21% 310	4.80% 67	1.15% 16	1.22% 17	1,396
Overall Experience	87.67% 1,216	10.09% 140	0.79% 11	0.36% 5	1.08% 15	1,387

Q10 (Schedule) Would you use the ferry more if the ferry (check all that apply)

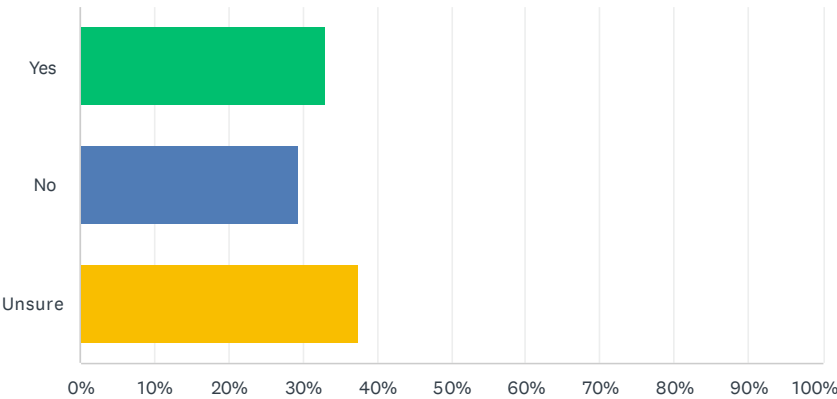
Answered: 1,406 Skipped: 21



ANSWER CHOICES	RESPONSES	
Started earlier on weekdays	23.76%	334
Ran later on weekdays	36.42%	512
Started earlier on weekends	25.32%	356
Ran later on weekends	48.79%	686
None of the above	32.86%	462
Total Respondents: 1,406		

Q11 (Schedule) The pilot project ran from 10am - 5pm. Would you be willing to pay a higher ticket price for more frequent service throughout the day?

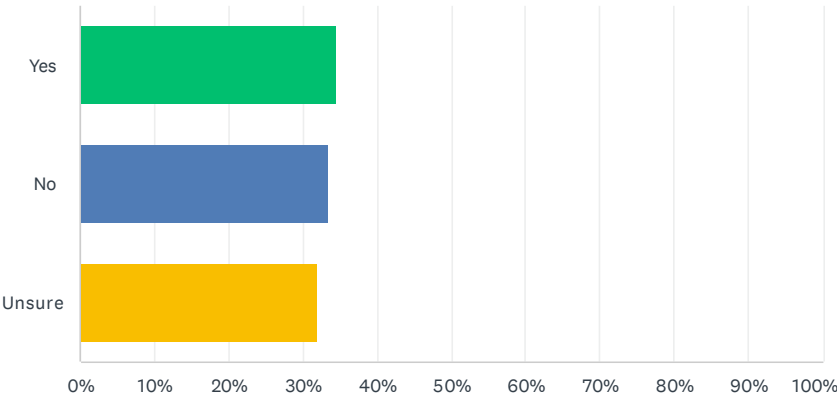
Answered: 1,416 Skipped: 11



ANSWER CHOICES		RESPONSES	
Yes		33.05%	468
No		29.52%	418
Unsure		37.43%	530
TOTAL			1,416

Q12 (Schedule) The pilot project ran from Wednesday to Sunday. Would you pay more to have the ferry run seven days a week?

Answered: 1,419 Skipped: 8

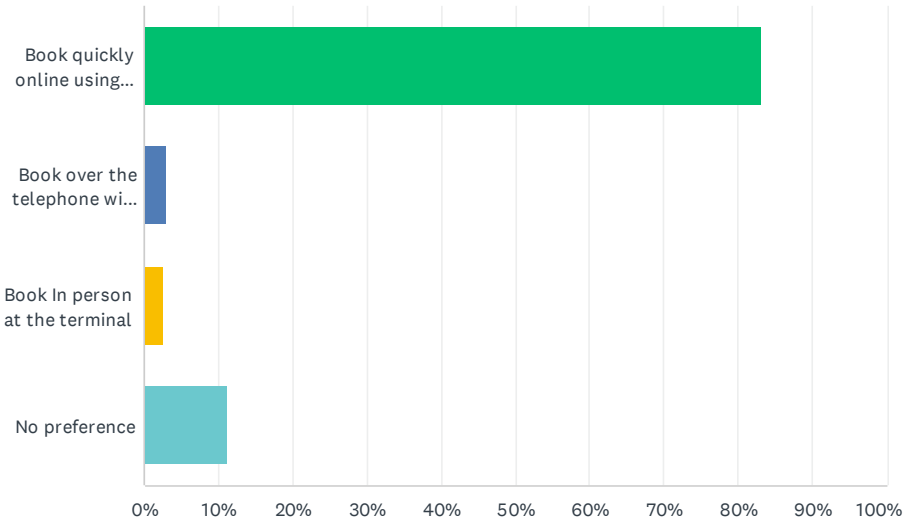


ANSWER CHOICES	RESPONSES	
Yes	34.60%	491
No	33.40%	474
Unsure	31.99%	454
TOTAL		1,419

Q13 (Investment/CSR) To reserve your seat on the ferry would your rather

...

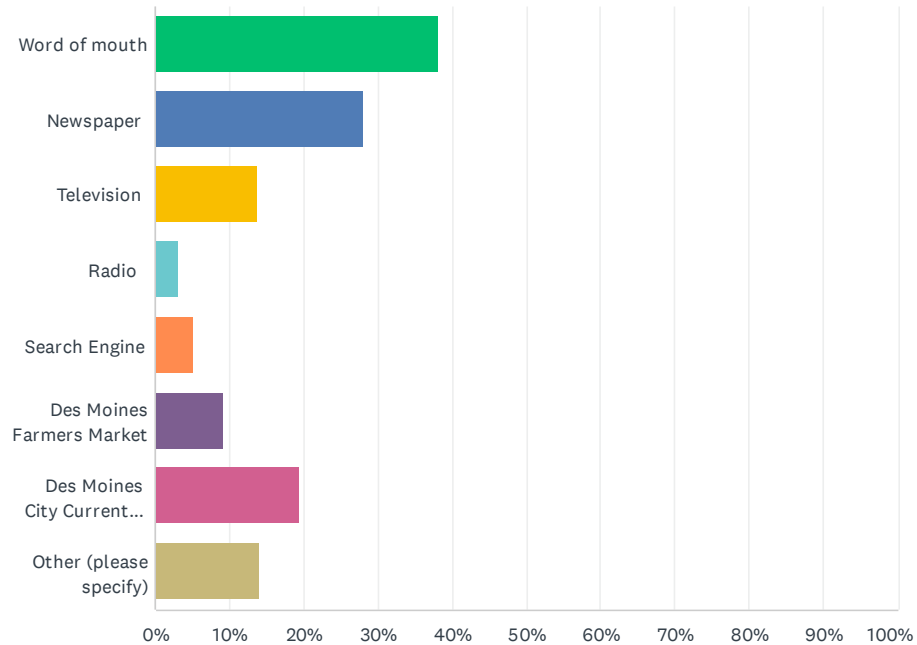
Answered: 1,418 Skipped: 9



ANSWER CHOICES	RESPONSES	
Book quickly online using your smartphone or computer	83.22%	1,180
Book over the telephone with an agent	2.96%	42
Book In person at the terminal	2.54%	36
No preference	11.28%	160
TOTAL		1,418

Q14 (Marketing) How did you hear about the ferry?

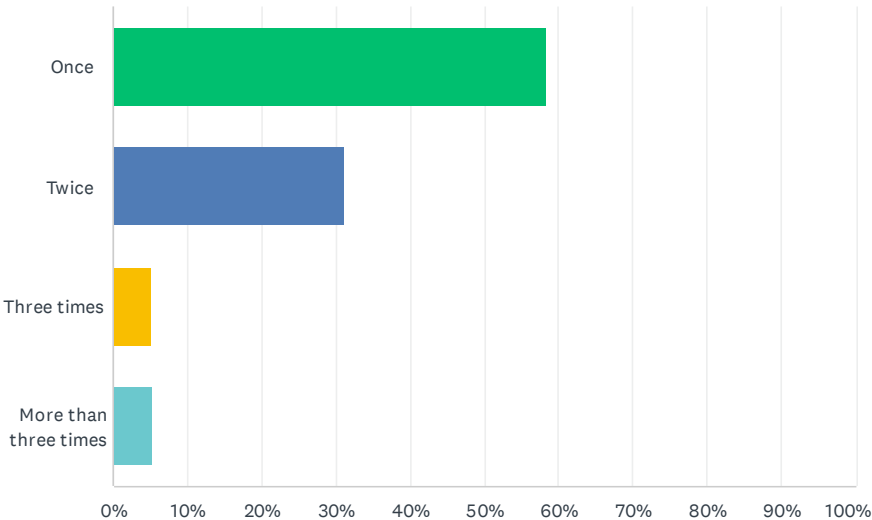
Answered: 1,424 Skipped: 3



ANSWER CHOICES	RESPONSES	
Word of mouth	38.20%	544
Newspaper	28.23%	402
Television	13.83%	197
Radio	3.23%	46
Search Engine	5.13%	73
Des Moines Farmers Market	9.20%	131
Des Moines City Currents Magazine	19.31%	275
Other (please specify)	14.04%	200
Total Respondents: 1,424		

Q15 (Repeat Users) How many times have you ridden the ferry?

Answered: 1,392 Skipped: 35



ANSWER CHOICES	RESPONSES	
Once	58.41%	813
Twice	31.11%	433
Three times	5.10%	71
More than three times	5.39%	75
TOTAL		1,392

FERRY COMMENTS - Emailed & Google Reviews		
	Date	Comment
1	8/11/2022	Hello, As someone who lives in Des Moines and works in Seattle, I am thrilled to have the water taxi trial begin. Thank you,
2	8/17/2022	Hi All, I took the ferry for free last week. I had a great time. I would love to see the ferry become a commuter ferry that leaves at 7 or 8 a.m. and takes Orca passes in the future. Please consider this. Thank you. Best, Kent resident
3	8/17/2022	Des Moines Fast Ferry. What a wonderful way to travel to and from Des Moines Marina and Downtown Seattle. Fast (30 minute transit), quiet, spectacular view ...and only \$10 each way! I highly recommend it!
4	8/19/2022	Fast foot ferry to Seattle in beta right now-- a great new transit option for the region.
5	8/20/2022	I love the Des Moines Marina. It is an extra treat to have a passenger ferry to and from Seattle. Yesterday I had the opportunity to take the ferry and it was a great experience. I didn't feel like I had to rush out if Seattle by a certain time because of traffic. It was a nice relaxing experience. The crew were friendly and accommodating. I will definitely use the passenger ferry in the future.
6	8/21/2022	We are a family of four, took the fast ferry to Des Moine on Sunday. Had a fun day there: Enjoyed tasty seafood, yummy ice cream, unique food from a butcher store, even bought a couple of second hand items, and had a nice walk on the trail. Even the picky boys said it was a fun day!
7	8/21/2022	Beautiful views, attentive, knowledgeable and very friendly crew, clean and comfortable seats with drop down trays for your computer or work space. Great way to get to Seattle and the best part NO TRAFFIC!! (Photos Included)
8	8/22/2022	We enjoyed the rides very much. It was fun to watch the coastline for familiar landmarks. The ride was smooth and very pleasant. Most of the passengers were old ladies like me. I hope south King County commuters who have to work in the city and brave I-5 traffic find out about the foot ferry. I hope you add runs at rush hour, and I hope Metro puts on buses at the north terminal that can take workers to their jobs. You should do a big public awareness campaign about the ferry, esp to the large companies downtown and in Belltown. Maybe suggest that they organize vanpools.

9	8/23/2022	On Thursday 8/18 I enjoyed a very smooth and quick ride to Seattle on the new passenger only ferry. The process of getting on and off the ferry was managed most efficiently by the crew. On board the crew explained safety items and general info in a very simple and pleasant manner. Coffee was great. I recommend this way to get to downtown Seattle, to all.
10	8/23/2022	Great ride. Employees were professional and friendly. Easy ride with food and clean restrooms onboard.
11	8/24/2022	Friendly and very competent crew. Smooth boat ride both ways. I recommend it to any one who wants to beat the traffic to Seattle.
12	8/25/2022	Des Moines to Seattle Fast Ferry trip from Seattle to Des Moines and back again! Enjoyable day on the water. Comfortable vessel with friendly and knowledgeable crew.
13	8/25/2022	The best way to travel to Seattle for lunch! The ferry was comfortable and quite enjoyable. The crew were upbeat, efficient and welcoming. Hope this continues after the two months! We would go quite frequently!
14	8/27/2022	I heard about the 2-month pilot of the ferry and was intrigued. We took it down on a Saturday and were able to go have lunch at Anthony's and then walk through the farmer's market for a fun short afternoon trip. The ferry ride is great and you get a nice view of Puget Sound. The staff are friendly and helpful. The ride is a quick 35 minutes. Note: The ferry goes fast 30+ knots so you remain indoors and aren't allowed on the forward, outside deck.
15	8/27/2022	This is an excellent new service. Efficient, clean, comfortable, exactly on time, wonderful crew. We hope that this becomes a permanent means of travel from the south sound to the Seattle waterfront and back.
16	8/28/2022	Great time!! friendly crew was a lot of fun and laughs thank guys we will see you again😊👉
17	8/29/2022	My family and I really enjoyed this venture. Extremely fun and scenic. Was nice to take advantage of the beautiful sound.. I hope they can stay permanently. Planning to ride again!!
18	8/30/2022	I took the new Fast Ferry to Seattle and had a great time. The crew was very friendly and helpful and the boat was fun to ride in. Give it a try! (Photo Included)
19	8/30/2022	Super convenient way to get to downtown. We didn't have a reservation for either direction but made it on board waiting in "stand by". Boat is fast and comfortable. Highly recommend this trip. We went on the 12:00 to Seattle. Walked along the waterfront, lunch, walked Pike Place, Sculpture Park, and a little of Myrtle Edward Park. Returned on the 5:00 back to Des Moines.

20	8/31/2022	What a fun and easy way to get north to Seattle waterfront without dealing with traffic and parking!! My husband and I did a fun lunch date to the Crab Cooker and a stroll along the Seattle waterfront then came back and had dinner at Via Marina Italian Café there in Des Moines. We enjoyed the day so much I booked 2 more trips during the pilot sailings! We're hoping the ferry will become a permanent part of Des Moines and additional sailing times will be added. Thank you Des Moines! (Photos Included)
21	8/31/2022	Great new passenger ferry service. Super fast trip and a friendly crew.
22	9/1/2022	We live at Des Moines Marina and took the Fast Ferry to Seattle for a week cruise to Alaska on the Norwegian Bliss. It worked so well, that on our return trip we invited a couple from Ireland to take it back home with us and enjoy the day at the marina instead of camping out at the airport all day. They were very impressed with our lovely community. (Photos Included)
23	9/1/2022	Fantastic experience! I hope this turns into a year-round opportunity! The staff was very friendly and informative. Can't wait to do it again real soon.
24	9/2/2022	I rode the ferry from Seattle today. I loved it and the crew. This was a very positive experience for me. Thank you. Shelia Mead
25	9/2/2022	Hi, We rode your deluxe fast ferry Friday. We drove over from Renton, took a walk up Des Moines Creek, ferried to Seattle and back and then played games at Waterland Arcade and ate dogs at The Dog House. The people on either side of us in the boat were tourists from Pendleton, OR by way of Graham. If you're hoping to attract some of us to your part of Puget Sound, the fast ferry seems to be working! Thanks - we had a very fun day. Greg and Jenny Swanson
26	9/2/2022	Took the new ferry to Seattle for a fun day, I sure hope they continue it after the trial period. Just fabulous!! (Photos Included)
27	9/2/2022	I was so happy to see that a ferry from Des Moines to Seattle may being considered. As a City employee this would be a huge time saver for those of us that commute daily to and from Seattle. This whole experience was awesome. The boat was very comfortable and clean, excellent staff. It is faster to get to Seattle and back than driving. Please please please consider running this ferry permanently.

28	9/2/2022	Easy ride and comfortable seats. Kinda fun to be a tourist in your own town. Easy pick up process and drop off. Also, the location for the stop in Seattle is perfect. Cannot wait to have visiting families take a turn.
29	9/3/2022	Lived the idea and the ease of getting to the Seattle Waterfront! At least keep for Summer!!!!
30	9/3/2022	Peter - thanks for bringing this fast, enjoyable and efficient transportation option to Des Moines. We thoroughly enjoyed ourselves. The twins are fantastic!
31	9/3/2022	This was a fantastic family outing! The crew is very friendly and helpful! The boat is nice, good seating, overall very comfortable. We left Des Moines on the 10:00am ferry and returned on the 3:00pm ferry. We had plenty of time in Seattle to walk the waterfront, have lunch, and visit the Pike Place Market. Thank you so much to the WA DOT and City of DesMoines!
32	9/3/2022	Great ferry ride into Seattle. Friendly and knowledgeable crew, comfy seating and wonderful scenery. Enjoyed return trip also. Very easy way to visit the Seattle piers, have lunch and not have to sit in traffic. Hope it continues into the future. I'd ride it a couple time a month.
33	9/3/2022	Excellent service and hope it stays all the time specially in summer.Views are tremendous and speed is phenomenal.They can increase the price little bit more but continue.
34	9/7/2022	Katy, thanks for a quick response !! I WILL be rebooking as I think this sounds AMAZING ! Have a great day!! Wendi
35	9/7/2022	Hello again – yes we only brought six people. When we reached the front of the line, the one doing the checkin recognized my name and face from last week's attempt at boarding, and said he checked us in in advance. That might explain why. No worries. Please withdraw my request for a refund. The crew went waaay above and beyond for our little gang of six, including three walkers and a wheelchair. They earned the whole extra five bucks. 😊
36	9/8/2022	This was a fun and fast passenger ferry ride on a beautiful Seattle day. The Farmers Market was a treat.

37	9/8/2022	We sailed from Seattle to Des Moines RT having never been there. The ride was great good views from the water. We Don't own a boat so it was a new perspective. Crew was friendly things ran on time. Seems like a flyer or map of Des Moines would have been nice with suggestions where to eat shop. So we wondered a bit in town. Would have spent more time at the park or packed a picnic or ate at Anthony's there. That would be my suggestion stay near the Marina. If they continue this they should give visitors more info on what to do see.
38	9/8/2022	We took the fast ferry from Des Moines to Seattle and back on Sept.1, and enjoyed the trip very much. We hope it becomes a permanent fixture of Des Moines.
39	9/9/2022	I rejoiced to have had the opportunity to take the ferry from Seattle to Des Moines!
40	9/9/2022	Fun ride! A great way to go to Seattle waterfront and not have to take your car. I hope they continue.
41	9/12/2022	Hello, We ended up using these tickets and had an amazing time. We love this ferry and hope it stays. Thank you!
42	9/12/2022	This is a lovely, easy ride. The staff are friendly and knowledgeable. The ferry is clean and fast. I highly recommend and truly hope it continues!
43	9/12/2022	Very fun ferry ride! What a great way to see Seattle! We enjoyed our trip so much. The crew on board were so nice! We will definitely be taking this Ferry again! (Photos Included
44	9/12/2022	The BEST way to travel to Seattle. What a fun ride we had on the boat and the views were wonderful. Mt Rainier was visible from the back deck and we got to go to the foredeck to see the city as we arrived. The skippers were very competent and kind. I so hope the ferry service continues for next summer too. Good job Des Moines!!

45	9/13/2022	To us, this ferry was a sign of the life Des Moines could have in the future. First, the staff was wonderful. Captain Tony and his crew were great and offered to help identify wildlife if you asked. As for the boat- the boat was wonderful, well maintained and comfortable. It offers opportunities for photography off the back deck the whole trip. My kids LOVED traveling on the back deck, and then the sights and sounds of Seattle greeting you from the front deck as you pulled in among the giant cruise ships. We took advantage of the small galley on board for snacks and enjoyed the scenery on our trip. It's the easiest back and forth trip to Seattle we have ever taken. We did what everyone in the pilot has done, I guess, ran to the market and grabbed lunch! ☺ After we got off the boat in Des Moines, my husband and I were wondering why they don't keep this ferry and put up a smaller hotel near the marina or run a shuttle to the marina from local hotels to encourage tourists to stay in Des Moines because it has lower crime, beautiful views, and the easiest access to Downtown seattle attractions and cruise terminals we have ever experienced! Even to go to a game or to concerts and theater, this option would be wonderful to have instead of light rail, even if it is at a more expensive price.
46	9/13/2022	This marina area gets better every time I visit. Aside from the pay to park, it's great. They have: - A hydro ferry to downtown Seattle - Long fishing dock - Great market on Saturday - Restaurants - Park, playground, and dog walking area. - Beach - Great view
47	9/13/2022	The boat ride was smooth and fast. The captain and crew were great and helpful. My family and I had no problems. The seats were comfy, and there were trays on the backs of the seats in front of you, like on a plane. Beverages and snacks available for purchase and the boat itself was clean.
48	9/13/2022	friendly crew and convenient trip in good weather! Had a blast. :)
49	9/13/2022	The Des Moines to Seattle walk on ferry ride is fantastic! 30 minutes from dock to dock. Comfortable and fun!
50	9/14/2022	Came down on a Saturday to try the new fast ferry from Des Moines to Seattle. How did we live without this thing? Kids had a great time, we had a great time- and NO DRIVING. Grabbed lunch and went to the market. And then when we came back, our Des Moines market was also still open! So many possibilities to expand tourism in our town all from one little boat.

51	9/14/2022	We took the ferry and it was great. Such a convenient service for spending a fun day downtown. I hope they keep the ferry all year round and not just a pilot.
52	9/14/2022	I was very pleased with my experience riding the new ferry to and from Seattle. If this same service is available during the summer of 2023, I will surely use it more often. Very clean.
53	9/14/2022	Great trip. Friendly staff!!
54	9/15/2022	A friend and I took the Ferry the first week and loved it. Seattle was never so easy. No traffic, great view, and didn't have to worry about parking! My family was in town this week and we took the Ferry. it was a chance for them to see the city coming in from the water. They loved Des Moines and Seattle Waterfront!
55	9/20/2022	We purchased tickets from Des Moines to Seattle and back on Sunday. We were at the ramp to the boat before noon and they closed it right in front of us—it was only a couple minutes before noon but we definitely would have been on the boat by noon if they hadn't closed the gate early and walked away. We yelled to them but they ignored us although I'm sure they heard us. We Uber'd to Seattle and got to the return ramp 30 minutes early and they made us wait until 2:55 until they would let us head towards the boat – three of the people in my party were over 65 including my 91 year old mother in a wheel chair and it's a bit of a walk on the Seattle side from the entrance to the boat. I saw other elderly people struggling to make the walk in the short time we were given. Communication and signage was almost nonexistent, no one communicated why we had to wait while the folks who hadn't purchased tickets in advance were allowed to board the boat 15 minutes before we were. Boat ride itself was excellent but this operation is poorly run in my opinion and I would definitely discourage this for elderly passengers.
56	9/20/2022	Fantastic day taking the ferry service from Des Moines to Seattle. It was a dream avoiding I-5 for a day. We plan to go again next weekend!
57	9/20/2022	This was such a wonderful experience! I only wish that I had heard about it before! It is a slick way to get downtown and so much less stressful than driving/parking. The crew was wonderful. Absolutely wonderful. I wish that the service was available all year long! PLEASE bring it back! I know that the boats would always be full once the service is common knowledge! My only complaint is that I wish there had been some signage to find the boat location in Des Moines. It was not easy to find.
58	9/21/2022	Clean, fast, friendly, on time. What more can I say. Do it!
59	9/21/2022	Man what a great experience! The crew was so nice, the ride was great and my wife and I had a terrific time. Definitely recommend this. Take it to Seattle, spend a couple or three hours at the market and come home!!! Perfect day, thank you so much

60	9/22/2022	Took ferry to Seattle. Love the view and the crew was awesome.
61	9/22/2022	Comfortable and clean vessel. Well organized with easy check-in. Parking on Sunday was a challenge due to on-going construction.
62	9/22/2022	I really enjoyed my solo getaway on a sunny September Sunday. From boarding in Seattle by the huge Norwegian cruise ship to docking at the compact Des Moines harbor, the experience was pleasant and fun. The crew is the perfect mix of easy-going and knowledgeable. It fun to have a brief chance to stand on the bow before the boat picks up speed - thanks to the crew for that option, and for being mellow about herding folks back to our seats.
63	9/23/2022	Wonderful smooth trip. Boat staff very fun and helpful. Fully enjoyed the experience. Will no doubt do it again. Roger & Nancy
64	9/23/2022	If you haven't done it yet, time is running out this year for the 'fast ferry' from Des Moines to Seattle and back. The crew was very accommodating - we had a wheelchair and a walker with us for a 93 yr. old person. Extremely affordable and 'highly' recommended. Wings Over Washington is a 'must' do whenever you go to Seattle. This was my second time, I was amazed at how much more I saw the second time I went to 'Wings Over Washington' and the trip to and from Seattle on the ferry. Could not thank you enough for making this a trip to remember for all.
65	9/24/2022	absolutely LOVED taking my out of town guests to downtown Seattle Waterfront and market on this fast ferry! The boat is clean and comfortable and FAST! We arrived at Bell Harbor in less than 25 minutes. You couldn't drive there from Des Moines in that time let alone the hassle of finding parking! My only wish is that you extend the hours past 5:00 so we can take it there for dinners and evening activities in Seattle. I hope to never have to drive into downtown ever again thanks to this new ferry!
66	9/24/2022	My home is located above the marina, so I have watched the Ferry come & go. So far, they maintain superb schedule reliability. The boat cabin is clean and well maintained. Crew is amiable and readily answered questions about the boat. One item to consider, the waiting areas in both locations are not covered, so bring an umbrella during rainy weather. Hopefully the city will expand the service next Spring/Summer/Fall.
67	9/25/2022	CHILKAT EXPRESS is a plush, comfortable, speedy pax-only ferry with a very competent and friendly crew. She operates on-time with no hassles for the passengers, even providing a snack bar, space for bikes, and access to the outdoor area on the bow in the sheltered waters of Elliott Bay. Makes for a very pleasant outing.
68	9/25/2022	It is a great way to travel to Seattle. We are visiting from Canada, loved the trip on the water. Hope to use it on our next trip.

69	9/25/2022	Enjoyed the ride very much. Sat at the front so we could look at the map as we cruised. Learned a lot about all of the landmarks! The crew was so friendly and helpful. Will definitely try to ride again before the end of the season and very much hope the City signs a new contract for next season.
70	9/26/2022	Huge fan of "water taxis", both West Seattle and DesMoines. The crew is friendly and informative. The "cat" was comfortable in both the seats and the ride. Highly recommend using these for getting to "the city". Avoid all the traffic and construction, take a water taxi!
71	9/26/2022	Smooth quick ride to downtown Seattle. Crew was great as were the views.
72	9/26/2022	Had a great time going to the Seattle waterfront for lunch. I've gone twice and have 2 more trips planned. The ferry ride is fun and I enjoyed seeing the coastline from the water.
73	9/27/2022	We rode the fast ferry round trip to the Seattle waterfront yesterday and I'm telling everybody about it! I hope they keep this in service it's amazing for people living south of Seattle! Affordable, comfortable and gives you an appreciation for where we live. We're planning to write it again and this time explore Pike Place Market! (included photos)
74	9/27/2022	Excellent service. Easy booking. Fantastic staff. An absolutely enjoyable and beautiful experience. Hope we get more!!
75	9/27/2022	he Fast Ferry is just a great time! I have ridden it twice and found it to be immensely enjoyable. The crew members are all so pleasant! Go before it's over! Hope that it becomes a permanent thing.
76	9/28/2022	Great. on-time service on a very sharp boat. We traveled at 45 mph over the water. It was fascinating passing even the fastest of the motorized boats out on the Sound that morning.
77	9/28/2022	WOW. What a great idea this ferry is! Quick, clean, pleasant crew, great view and getting to Seattle waterfront without dealing with the long drive, traffic and parking hassles is fantastic! We had a wonderful afternoon at the market and aquarium and hope to do it again.

78	9/28/2022	What a wonderful experience! The fast ferry was a great way to enjoy a lunch downtown with my mother and a couple of neighbors. Stress free of traffic & parking. It would be lovely if there were even later sailings and possibly more boats as I can envision so many possibilities and destinations (Ruston? Gig Harbor?). The crew on this boat were great, and very helpful. It would have been nice if maybe there could have been a dialog pointing out the various land areas as we went by. Not everyone knew what we were passing. We all look forward to doing this trip many more times in the future. The only real negative I have to say is that it is a long difficult walk for anyone handicapped that requires a walker or cane. There are not many places to sit and rest. But all in all it's worth the walk.
79	9/28/2022	Just found out about this ferry last week, so we took it from Des Moines to Seattle and back for a Saturday outing. Convenient parking in Des Moines, friendly crew, easy access to the boat, very comfortable and scenic ride. Can't wait to take it again next year for regular outings to Seattle for the day (from Tacoma).
80	9/29/2022	I have taken this trip from Des Moines twice with my husband. From the easy ticketing and parking to the friendly greeting and lovely marina, even the beginning of the trip was delightful. We were onboarded by an upbeat crew who introduced us to the comfortable cabin, complete with a galley offering warm and cold drinks and seats with tray tables. The trip was fast and smooth with an option to view our trip from the outdoor, back deck or follow our route on an active screen inside. The destination harbor hosts the Seattle Downtown Anthony's and that is the beginning of the walkable offerings on the Seattle Waterfront. With our 4-hour visit we were able to have lunch at Ivar's, ride the wheel, tour the Harbor Steps (a prototype of what Des Moines has planned for their Marina), and walk the Market. The return trip home was pleasant and we were greeted home by more passengers awaiting and adventure. One realization from the day was that most of the dining offerings on the Seattle side were a further walk than almost every dining experience available in Des Moines. A trip from Seattle to dine in Des Moines would be a treat on several levels.

81	9/29/2022	I loved this high speed ferry ride to Seattle! In spite of a rainy start, the sun did finally appear. It was an exhilarating experience watching the foaming wake from the rear deck. I do hope this ferry will continue next year! (included photos)
82	9/29/2022	Went on the pilot test for walk on ferry service between Des Moines and the Seattle water front. (included photos)
83	9/30/2022	It was a smooth, quick ride in a roomier cabin than our previous excursion on another operator's route. The crew was very nice and polite.
84	9/30/2022	
85	10/1/2022	This experience was GREAT! The ride is so quick and smooth. The crew on board was EXCEPTIONAL! Just made it a real pleasure. Hope to hear this service will be provided again next summer? Wish this type of service would be expanded to other waterfront cities!
86	10/1/2022	Fast Ferry from Des Moines Marina to Downtown Seattle's Pier 66 was a blast! Stupendous weather made for a fantastic ride up the sound, and coming around Alki Point to see Seattle there was breathtaking! Going back south later in the day was so lovely. I hope this stays forever!
87	10/1/2022	Fun trip! Very enjoyable and entertaining!!
88	10/2/2022	A terrific ride!
89	10/3/2022	Please continue offering DesMoines to Seattle ferry after the pilot program. I only heard of it by "word-of-mouth" and immediately reserved a ride. Its so long overdue to have this service. I think it's great. Currently its not widely known of but once it is...! There is considerably high-income neighborhoods and communities in the surrounding area so ridership seems very sure. Ferrying from DesMoines to Seattle for business and certainly vacation/recreational trips is a certainty. I was born in Seattle lived in DesMoines area for years we are thrilled. Please know it will catch on and ridership will increase.
90	10/3/2022	I just learned of this option via an Instagram ad, but after initially being enthusiastic I see that it was a two-month pilot project. Has the pilot been successful enough to extend this beyond the two-month trial? I want to use the service but not before October 9. Thx.
91	10/3/2022	This is such an awesome way to get into Seattle! It cheap and you don't have to hassle with parking and traffic. Crew was awesome and funny. Made it a really great trip
92	10/3/2022	Our family had a wonderful time on the ferry. The crew was fun and the ride was beautiful. My nine year old especially liked the blueberry muffins on board

93	10/4/2022	A fun, inexpensive way to travel to Seattle!! We enjoyed the scenery along the way. Much easier than driving to Seattle and paying for parking. We hope this becomes a permanent ferry service.
94	10/4/2022	What a blast! I hope the service returns soon... Connecting these two great waterfront areas is a great idea - for tourists and locals alike.
95	10/5/2022	This ferry is a great service and a great addition to Des Moines, and we certainly hope that it will continue because we would definitely use it again.
96	10/6/2022	Wonder day riding the fast boat to Seattle and Back. Highly recommend to everyone to give it a try. Clean, fast and great crew. 40 minute ride. Come early and shop the Des Moines local shops. After trip many great places for dinner. A perfect day!!!
97	October 2022	My mom and I had a great time on the next to last day of the Foot Ferry from Des Moines to Seattle and back. Super smooth, fast (40mph) & super pleasant staff. One of the twin brothers made muffins to share.
98	October 2022	Great experience! Really looking forward to doing it again soon. Please, when you come back, run later into the evenings so we can go see a game downtown:)
99	October 2022	Enjoyed every minute. A great way to see Seattle shoreline/skyline. Will definitely do it again next year.
100	October 2022	We loved the trip to Seattle and back to Des Moines. The crew were delightful, polite and efficient. It was a fun trip and do hope that the boat returns next year.
101	October 2022	Fabulous way to enjoy the beauty of our waterways and our skyline. So happy that this service is available. We hope it returns in the spring! The crew was fun to interact with, the boat was awesome, and the weather worked out perfectly!
102	October 2022	Review of the Des Moines Marina Walk-On Ferry - The boat is comfortable, it has all the amenities needed for a short ride - snacks, restroom, and an option to go outside during the trip. It even has the route map on TVs. The crew is efficient, friendly, knowledgeable, and welcoming. Riding the ferry is so convenient and opens up a wonderful opportunity to visit Seattle without the hassles of driving & parking. I will use this ferry frequently when it is available.
103	October 2022	A very pleasant experience. Lovely service, affordable and I'll take my family again. I just want to know how can I stay updated for the next season schedule.
104	October 2022	Such a great memory now... The day was perfect, the crew were professional and friendly and the ride was smooth. We will be doing this more often in 2023 if it's brought back.
105	October 2022	Great trip! Great boat! Great, fun, and friendly crew! Lovely way to travel to Seattle! Highly recommend!!

106	October 2022	What a fun way to get to the Seattle Waterfront. The 40 some minute trip seemed to fly by and before we knew it we were there. We ate at Anthony's and visited the aquarium. Next Spring when they offer it again we will be onboard with destination the Pike Place Market. Which is a short walk up from the pier.
107	October 2022	Wonderful trip-both ways--great crew and super fast, clean boat, very comfortable. Will definitely want to ride it again next year. Came early to Des Moines and walked around checking out stores and coffee shop. Ate dinner at local restaurant. Good food and friendly people. It was a wonderful day. Walked thru Pike Place Mkt and had lunch and looked at all the vendors goodies. A glass of wine and tiny donuts for ride home --perfect day!!!!
108	October 2022	This is an excellent way to get to Seattle and not have to pay outrageous parking fees, or even worry about parking at all. Great vessel, smooth and fast ride, lovely views of the water and shoreline. I will do this again if the service continues.
109	11/16/2022	Hello, City of Des Moines: We are excited about having the Chillkat Express docked by Anthony's, what a fantastic idea!
110	11/13/2022	Hi, We would love to know when your water taxi to Seattle is going to start up again we really loved the thought of parking in Des Moines and using the water taxi to see the Seattle waterfront. If there is a email list please add us!
111	10/29/2022	We rode the Des Moines Ferry during Pilot Project 2022. We purchased our tickets online, which went great. We drove to Seattle with our family members who live in the area. The challenge we had was finding where the boat was docked. We almost missed it because the signage was not good. The crew and the boat were great. We loved our experience of riding back and forth. We had this experience simply for pleasure, and eating at Anthony's restaurant. Our niece had never been on a ferry. It was her last trip before passing away a week and a half ago. So thank you for fulfilling a last wish.

CITY OF DES MOINES
Voucher Certification Approval

December 1, 2022

Auditing Officer Certification

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

As of **December 1, 2022** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through November 17th, 2022 and payroll transfers through November 21, 2022 included in the attached list and further described as follows:

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

Beth Anne Wroe

Beth Anne Wroe, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Accounts Payable Checks	164490	164491	5,170.03
Total claims paid			5,170.03

Payroll Vouchers						
Payroll Checks	11/18/2022		19602		19604	3,635.91
Direct Deposit			3388		3548	410,441.40
Payroll Checks	11/21/2022					
Direct Deposit			3549		3549	17,160.89
Total Paychecks/Direct Deposits paid						431,238.20
Total checks and wires for A/P & Payroll						436,408.23

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Consultant Contract Amendment #12–
Grant Fredricks

FOR AGENDA OF: December 01, 2022

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

1. Proposed Amendment #12 to Professional Services Agreement with Grant Fredricks
2. Services Agreement with Grant Fredricks

DATE SUBMITTED: October 24, 2022

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☐ Courts _____
- ☒ Director of Marina Redevelopment *[Signature]*
- ☐ Emergency Management _____
- ☒ Finance *[Signature]*
- ☐ Human Resources _____
- ☒ Legal */s/TG*
- ☐ Marina _____
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☒ Public Works *[Signature]*

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 2022 and 2023 consulting services related to the Sound Transit's (ST) Federal Way Link Extension (FWLE). Funds for the proposed amendment are available in the 2022 adopted budget and the proposed 2023 budget, provided by 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 #12 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2023, with an increase of \$5,000 for 2022 and up to \$50,000 in 2023, and authorize the City Manager to sign the contract amendment substantially in the form submitted.”

Background

Mr. Fredricks has been providing consulting services under contract since January 2013 following his retirement from the City in November 2012.

Following is a summary of hours billed since 2013: 800 hours in 2013, 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, 466 hours in 2021, and approximately 365 hours in 2022.

The proposed amendment provides for approximately 275 hours of consulting support in 2023. All of Grant’s costs in 2023 will continue to be fully reimbursed by Sound Transit under the terms of the City’s agreement (Task Orders #3).

Discussion

Mr. Fredricks had been working remotely from home on parts of 17 days per month on average since the City Hall COVID-19 closures. He currently represents the City with Sound Transit as a City project coordinator.

In 2022, Mr. Fredricks has been working under a \$50,000 (333 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 (CWCP) in the College East Parking Lot. Mr. Fredricks’ hourly rate was increased in 2018 and will remain unchanged through 2022 but increase to \$180 in 2023.

The FWLE-related work in 2022 has become less complex and time consuming than in 2021 but is still more than anticipated when the 2022 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.

In 2023, he will be helping to negotiate changes to the City/ST Development Agreement and Services Agreement, coordinate Phase 2 construction on and to Highline College next summer, construction of street ends and rehabilitation of haul routes in Pacific Ridge, closeout of construction with Kiewit and Sound Transit, and final preparation for opening for light rail service in 2025.

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 2022 contract amendment in which case Mr. Fredricks will continue to work through November when his contract authority is reached. Other staff would be required to back fill his assignments through the end of the year and in 2023. This is not recommended, as the City's Public Works department is currently significantly understaffed. In addition, project continuity would be lost if Grant was no longer on our project.

Financial Impact

The 2022 budget has enough capacity to accommodate up to \$5,000 of additional 2022 spending because Sound Transit fully reimburses his time as provided for in Task Order #3. The proposed 2023 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.

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CONTRACT AMENDMENT 12
CONTRACT FOR SERVICES BETWEEN
THE CITY OF DES MOINES AND GRANT FREDRICKS

THIS AMENDMENT is entered into on this ____ of _____, 2022, 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, shall remain in full force and effect, except for the amendments 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, 2023.

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 \$55,000 for services performed in 2022 at a rate of \$150.00 per hour. Effective January 1, 2023 the City shall pay the Vendor an amount not to exceed \$50,000 for services performed in 2023 at a rate of \$180.00 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 the contract dated January 2, 2014 and all subsequent amendments remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed Amendment 12 as of the date first above written.

GRANT L. FREDRICKS: By: _____ <i>(signature)</i> Print Name: <u>Grant L. Fredricks</u> Vendor DATE: _____	CITY OF DES MOINES: By: _____ <i>(signature)</i> 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 _____, 2022. Approved as to form: _____ City Attorney 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 Sound Transit Liason 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 try 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.

APPROVED AS TO FORM

City Attorney

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Peter Philips Consulting Contract
Amendment 3

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

DATE SUBMITTED: November 22, 2022

1. Consulting Amendment 3
2. Consulting Amendment 2
3. Consulting Amendment 1
4. Consulting Contract

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☐ Courts _____
- ☐ Director of Marina Redevelopment _____
- ☐ Emergency Management _____
- ☒ Finance *Berkman Warr*
- ☐ Human Resources _____
- ☒ Legal */s/ MH*
- ☒ Marina *3/11/23*
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Michael Warr*

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of an Amendment to extend the existing contract with Peter Philips for the purpose of assisting with passenger ferry service, marina redevelopment as well as other potential opportunities for the marina. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to approve Amendment 3 to the contract between the City and Peter Philips, extending the consultant services contract through December 31, 2023"

Background

The City entered into a consulting agreement with Peter Philips in 2020 in order to assist the City in developing strategies and implementation to achieve access to regional water taxi, ferry and other maritime transportation opportunities. Additional services included commercial engagement of the Marina floor and adjacent business district, including but not limited to ferries, commercial fishing boat expansion and sales and potential retail/dining opportunities.

The scope of the contract was expanded in June of 2021 to include the following additional tasks:

Assist the City in the sourcing and coordination of vendor companies tasked with feasibility, and if applicable, operations of maritime-related amenities: passenger-only ferries, off-boat fish sales and other opportunities as may arise from the continued development of the marina's physical infrastructure and supporting transportation opportunities around electrification.

Serve as the primary point of contact with vendor community to coordinate maritime transportation feasibility studies, resulting business plan(s) and, if determined by the city to be viable, startup of water taxi and/or water taxi pilot program(s).

Represent the City as the initial point of contact with the vendor community to provide them with a single point of contact for the city in achieving the above.

Provide periodic updates to Council Committees and City Council as determined by City Manager.

Mr. Philips has been very successful in providing preparation, coordination and implementation of Des Moines passenger ferry service to Seattle and back during the 2022 pilot study.

Discussion

The work Peter Philips has provided to the City has been extraordinary, and his assistance is vital as the City moves forward with marina redevelopment. He was instrumental in organizing the City's passenger ferry maiden voyage in September, 2021.

The contract amendment as proposed extends Peter Philips' contract through the end of 2023 at the rate of \$5,000/mo.

Alternatives

Do not extend the Contract or extend it on a more limited basis. This is not recommended.

Financial Impact

Funds for this Amendment have been included in the City budget for 2023.

Recommendation

Administration recommends approval of the motion.

CONTRACT AMENDMENT #3

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS AMENDMENT/ADDENDUM is entered into on this _____ day of December, 2022, pursuant to that certain Contract entered into on the 1st day of October, 2020, and subsequent amendment between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **PETER PHILIPS**, (hereinafter "Consultant").

The parties herein agree that the Contract dated October 1, 2020 and subsequent amendment, shall remain in full force and effect, except for the amendments/addendums set forth as follows:

- 1) **SECTION 2** is amended to extend the term of the Agreement through December 31, 2023.
- 2) **SECTION 3** is hereby amended to increase the monthly compensation to \$5,000 per month beginning January 1, 2023 through the end of the term of this Contract.

Except as modified hereby, all terms and conditions of the existing contract and amendment remain in full force and effect.

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

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CONTRACT AMENDMENT #2

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS SECOND AMENDMENT is entered into on this 26th day of August, 2022, pursuant to that certain Contract entered into on the 1st day of October, 2020, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **PETER PHILIPS**, (hereinafter "Contractor").

The parties herein agree that the Contract dated October 1, 2020 as well as subsequent amendments, shall remain in full force and effect, except for the amendments set forth as follows:

1. **SECTION I** is hereby amended to add the following duties and responsibilities:

Contractor has excellerated efforts and performance to establish passenger ferry service between Des Moines and Seattle in a successful manner.

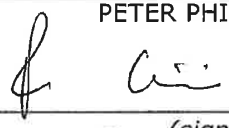
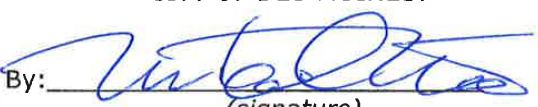
2. **SECTION II** is hereby amended to extend the term of the Contract through December 31, 2022.

3. **SECTION III** is hereby amended to increase the monthly compensation to \$4,100 per month beginning September 1, 2022 through the end of the term of this Contract.

Except as modified hereby, all terms and conditions of the Contract and subsequent amendments remain in full force and effect.

PP
9/20/22

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

PETER PHILIPS:	CITY OF DES MOINES:
By:  (signature)	By:  (signature)
Print Name: <u>Pete Philips</u>	Print Name: <u>Michael Matthias</u>
Its <u>Owner</u> (Title)	Its <u>City Manager</u> (Title)
DATE: <u>9/20/22</u>	DATE: _____
	Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>September 21, 2022</u>

CONTRACT AMENDMENT 1

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS AMENDMENT/ADDENDUM is entered into on this 3 day of June, 2021,
pursuant to that certain Contract entered into on the 1st day of October, 2020, between the CITY
OF DES MOINES, WASHINGTON (hereinafter "City"), and Peter Philips, (hereinafter
"Consultant").

The parties herein agree that the Contract dated October 1, 2020, shall remain in full
force and effect, except for the amendments/addendums set forth as follows:

1. **SECTION 1** of the Contract, is hereby amended to expand the Scope of Work as
follows:

Assist the City in developing strategies and implementation to achieve access to
regional water taxi, ferry and other maritime transportation opportunities.

Assist the city in the promoting to the private sector the opportunities around
commercial engagement of the marina floor and adjacent business district,
including but not limited to the development of regional water taxi, ferry and
maritime transportation opportunities.

Assist the City in the sourcing and coordination of vendor companies tasked with
feasibility, and if applicable, operations of maritime-related amenities: passenger-
only ferries, off-boat fish sales and other opportunities as may arise from the
continued development of the marina's physical infrastructure and supporting
transportation opportunities around electrification.

Serve as the primary point of contact with vendor community to coordinate
maritime transportation feasibility studie(s), resulting business plan(s) and, if
determined by the city to be viable, startup of water taxi and/or water taxi pilot
program(s)

Represent the city as the initial point of contact with the vendor community to
provide them with a single point of contact for the city in achieving the above.

NP
6/3/21

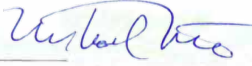
Provide periodic updates to Council Committees and City Council as determined by City Manager.

2. **SECTION 2** of the Contract is amended to extend the term of the contract through May 31, 2022.

3. **SECTION 3** of the Contract is amended to increase the compensation to a maximum of \$3,000 per month unless prior approval by the City is given.

Except as modified hereby, all terms and conditions of contract dated October 1, 2020, remain in full force and effect.

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

CONSULTANT: By: <u></u> (signature) Print Name: <u>Peter Philips</u> Its <u>Owner</u> (Title) DATE: <u>06.03.21</u>	CITY OF DES MOINES: By: <u></u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: <u>06.04.2021</u> Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>June 3, 2021</u>
NOTICES TO BE SENT TO: CONSULTANT: Peter Philips 19679 Marine View Dr SW Normandy Park, WA 98166 (206) 284-8285 (telephone) Peter@colibriNW.com (Email)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Bonnie Wilkins City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 (206) 870-6519 (telephone) BWilkins@desmoineswa.gov (Email)



CONSULTANT SERVICES CONTRACT between the City of Des Moines and

Peter Philips

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Peter Philips, located and doing business at 19679 Marine View Drive SW, Normandy Park WA 98166 (hereinafter the "Consultant").

I. DESCRIPTION OF WORK.

Consultant shall perform the following services for the City in accordance with the following described plans and/or specifications:

Assist the City in developing strategies and implementation to achieve access to regional water taxi, ferry and other maritime transportation opportunities.

Commercial engagement of the Marina floor and adjacent business district, including but not limited to ferries and commercial fishing boat expansion.

Consultant further 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 those services are performed.

II. TIME OF COMPLETION. The parties agree that work will begin on the tasks described in Section I above starting October 1, 2020 through December 31, 2021.

III. COMPENSATION.

- A. The City shall pay the Consultant for the services described in this Contract with a total amount not to exceed \$18,000.00 per year. This is the maximum amount to be paid under this Contract for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract.

CONSULTANT SERVICES CONTRACT
(Various)

RP
9/30/20

- B. The Consultant shall submit monthly payment invoices to the City for work performed, and a final bill upon completion of all services described in this Contract. The City shall provide payment within forty-five (45) days of receipt of an invoice. If the City objects to all or any portion of an invoice, it shall notify the Consultant 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.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Consultant has the ability to control and direct the performance and details of its work; however, the City shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

V. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Consultant determines, for any reason, that a change order is necessary, Consultant must submit a written change order request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Consultant 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 Consultant'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 Consultant on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Consultant 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 Consultant fails to require a change order within the time specified in this paragraph, the Consultant waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Consultant disagrees with the equitable adjustment, the Consultant must complete the change order work; however, the Consultant may elect to protest the adjustment as provided in subsections A through E of Section VI, Claims, below.

The Consultant 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 Consultant 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.

VI. CLAIMS. If the Consultant 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 Consultant may file a claim as provided in this section. The Consultant 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 Consultant 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 Consultant unless a

CONSULTANT SERVICES CONTRACT 2
(Various)

timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Consultant'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 Consultant'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 Consultant is asserting a schedule change or disruption.
- B. Records. The Consultant 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 Consultant'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. Consultant'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 Consultant 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 Consultant completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

VII. LIMITATION OF ACTIONS. CONSULTANT 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 CONSULTANT'S ABILITY

CONSULTANT SERVICES CONTRACT 3
(Various)

TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

VIII. TERMINATION. Either party may terminate this Contract, 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 Contract. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project, which may be used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

IX. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor 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.

X. INDEMNIFICATION. Consultant 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 resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The City's inspection or acceptance of any of Consultant'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 Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'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 Contract.

XI. Reserved

XII. EXCHANGE OF INFORMATION. The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to Consultant for the purpose of completion of the work under this Contract.

CONSULTANT SERVICES CONTRACT 4
(Various)

XIII. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS. Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Consultant will be safeguarded by the Consultant. Consultant shall make such data, documents, and files available to the City upon the City's request. The City's use or reuse of any of the documents, data and files created by Consultant for this project by anyone other than Consultant on any other project shall be without liability or legal exposure to Consultant.

XIV. CITY'S RIGHT OF INSPECTION. Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

XV. WORK PERFORMED AT CONSULTANT'S RISK. Consultant 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 Consultant's own risk, and Consultant 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.

XVI. 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 agreement 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

CONSULTANT SERVICES CONTRACT 5
(Various)

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 X 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 this 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 Consultant.

F. 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, the terms of this Contract shall prevail.

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

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

I. 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.

J. 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.

CONSULTANT SERVICES CONTRACT 6
(Various)

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

CONSULTANT: By: <u>[Signature]</u> (signature) Print Name: <u>Peter Philips</u> Its <u>owner</u> (Title) DATE: <u>9.30.20</u>	CITY OF DES MOINES: By: <u>[Signature]</u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: <u>10-1-2020</u> Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>10/01/2020</u>
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NOTICES TO BE SENT TO: CONSULTANT: Peter Philips 19679 Marine View Drive SW Normandy Park WA 98166 206-284-8285 (telephone) Peter@ColibriNW.com (email)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Bonnie Wilkins City of Des Moines 21630 11 th Avenue S., Suite A Des Moines, WA 98198 (206)870-6519 (telephone) BWilkins@desmoineswa.gov (email)
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CONSULTANT SERVICES CONTRACT 7
(Various)

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Marina Redevelopment Consulting
Contract Amendment

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: City Manager

ATTACHMENTS:

1. Consultant Services Contract
2. Consultant Services Contract Amendment
#1
3. Scope of Work

DATE SUBMITTED: November 23, 2022

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☐ Courts _____
- ☐ Director of Marina Redevelopment _____
- ☐ Emergency Management _____
- ☒ Finance *Bethanne W.*
- ☐ Human Resources _____
- ☒ Legal */s/ MH*
- ☒ Marina *(Signature)*
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☒ Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *(Signature)*

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of the Consultant Agreement Amendment 1 with the Holmes Group, LLC (THG) to provide services to accomplish the Scope of Work (Attachment 2), focusing on formulating and implementing strategies for City of Des Moines Marina Redevelopment.

Suggested Motion

Motion 1: "I move to approve the draft Consultant Agreement Amendment 1 with the Holmes Group, LLC, in an amount not to exceed \$80,000, for the purposes of providing consultant services for Marina redevelopment, and authorize the City Manager to sign the Agreement substantially in the form as attached."

Background

In September of 2019, City Council directed staff to proceed with issuance of a Request for Qualifications (RFQ) for Marina redevelopment [Motion made by Councilmember Bangs, second by Councilmember Nutting] to direct staff to prepare an RFQ for a private developer for Marina Redevelopment. Motion passed 7-0. As staff, working with consultants began the process of developing the RFQ, the COVID pandemic appeared and constrained efforts to proceed. Staff, in consultation with consultants decided to wait to issue the RFQ, subject to the dynamic of the virus spreading.

Since that time staff has been identifying potential alternative development strategies which will culminate in a discussion with City Council at a late January, 2023 Study Session. THG will continue to provide strategic guidance and support moving forward.

The Holmes Group has been involved in our Marina Redevelopment process since our first efforts beginning in 2016. Their Principal Consultant was involved in the development of the Seattle Harbor Steps and has brought that level of expertise to our current efforts.

Discussion

The path forward for Marina Redevelopment has been complicated by macro-economic factors related to availability of construction firms, cost of money for investment, supply chain challenges and labor shortages. The City has worked to utilize these challenges to our advantage in identifying alternative development options. One of the most significant challenges in developing the Marina-and in coordinating land side development with capital improvements on the water side-is to establish the appropriate role for private sector participation. THG provides a wealth of knowledge and experience in dealing with the private sector and in establishing public-private partnerships.

Financial Impact

The cost of this contract not to exceed \$80,000 and the funding will be provided by ARPA Funds, designated for Marina Redevelopment.

Recommendation

The City Manager recommends approval of the motion as written.

Concurrence

The City Attorney's Office, Harbormaster, Finance Department and Public Works concur.



CONTRACT AMENDMENT #1

**CONTRACT AMENDMENT #1 FOR CONSULTANT SERVICES
BETWEEN THE CITY OF DES MOINES AND THG, LLC**

THIS AMENDMENT/ADDENDUM is entered into on this ____ day of _____, 2022, pursuant to that certain Contract entered into on the 16th day of May, 2021, between the **CITY OF DES MOINES**, WASHINGTON (hereinafter "City"), and **THG, LLC**, (hereinafter "Contractor").

The parties herein agree that the original Contract shall remain in full force and effect, except for the amendments/addendums set forth as follows:

- 1.) **SECTION I** is amended to add the following language:

Description of Work: Scope of work is expanded to include tasks in Attachment A.

- 2.) **SECTION II** is amended as follows:

Consultant shall complete the work described in Section I by December 31, 2023.

- 3.) **SECTION III** is amended to add the following language:

The City shall pay the consultant, based on time and materials, an amount not to exceed \$80,000.

Except as modified hereby, all terms and conditions of contract dated May 16, 2021, remain in full force and effect.

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

THG	CITY OF DES MOINES:
By: _____ (signature)	By: _____ (signature)
Print Name: <u>Robert J. Holmes</u>	Print Name: <u>Michael Matthias</u>
It's <u>Managing Partner</u>	It's <u>City Manager</u>
Date: _____	Date: _____
	Approved as to Form: _____ City Attorney Date: _____

NOTICES TO BE SENT TO: CONSULTANT: Robert J. Holmes THG, LLC 1324 N Liberty Lake Road PMB 3661 Liberty Lake WA 99019 206-999-2600 rholfes@theadvisor.com	NOTICES TO BE SENT TO: CITY OF DES MOINES: Michael Matthias City of Des Moines 21630 11th Avenue S., Suite A Des Moines WA 98198 206-870-6519
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ATTACHMENT A

Scope of Work for THG Consulting – Marina Redevelopment Consulting contract

Ongoing strategic planning for Marina redevelopment

Private Developer outreach (including Urban Land Institute – Pacific Northwest), introductions, meetings, and tours.

Investors

Same as above but goal to align developer interest with capital.

Identifying potential tenants and users

Marketing by continuing to articulate story and value of Des Moines and Marina Steps

Review options for Pop up events and food trucks

Retail and experiential

Consider a meeting hosted by City and THG plus selected developers on how to leverage the vision to achieve the experiential vision and market creation

Marketing outreach piece-

targeting the wine industry

targeting the beer (microbrew) industry

Ongoing consultation with City Administration and City Council as needed.

Provision of tours of development options for City Council as needed.

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CONSULTANT SERVICES CONTRACT between the City of Des Moines and

THG, LLC

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and THG, LLC organized under the laws of the State of Washington, located and doing business at 1324 N. Liberty Lake Road PMB 3661, Liberty Lake, WA 99019 (hereinafter the "Consultant").

I. DESCRIPTION OF WORK.

Consultant shall perform the following services for the City in accordance with the following described plans and/or specifications:

See attached Scope of Work (Exhibit A)

Consultant further 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 those services are performed.

II. TIME OF COMPLETION. The parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Contract. Consultant shall complete the work described in Section I December 31, 2021.

III. COMPENSATION.

- A. The City shall pay the Consultant, based on time and materials, an amount not to exceed \$46,550 plus expense reimbursements for the services described in this Contract. This is the maximum amount to be paid under this Contract for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract.

CONSULTANT SERVICES CONTRACT
(Various)

- B. The Consultant shall submit monthly payment invoices to the City for work performed, and a final bill upon completion of all services described in this Contract. The City shall provide payment within forty-five (45) days of receipt of an invoice. If the City objects to all or any portion of an invoice, it shall notify the Consultant 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.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Consultant has the ability to control and direct the performance and details of its work; however, the City shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

V. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Consultant determines, for any reason, that a change order is necessary, Consultant must submit a written change order request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Consultant 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 Consultant'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 Consultant on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Consultant 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 Consultant fails to request a change order within the time specified in this paragraph, the Consultant waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Consultant disagrees with the equitable adjustment, the Consultant must complete the change order work; however, the Consultant may elect to protest the adjustment as provided in subsections A through E of Section VI, Claims, below.

The Consultant 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 Consultant as provided in this section shall constitute Consultant's agreement to accept the adjustment, if any, and once paid, shall be a 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.

VI. CLAIMS. If the Consultant 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 Consultant may file a claim as provided in this section. The Consultant 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 Consultant 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 Consultant unless a

CONSULTANT SERVICES CONTRACT 2
(Various)

timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Consultant'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 Consultant'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 Consultant is asserting a schedule change or disruption.
- B. Records. The Consultant 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 Consultant'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. Consultant'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 Consultant 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 Consultant completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

VII. LIMITATION OF ACTIONS. CONSULTANT 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 CONSULTANT'S ABILITY

CONSULTANT SERVICES CONTRACT 3
(Various)

TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

VIII. TERMINATION. Either party may terminate this Contract, 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 Contract. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project, which may be used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

IX. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor 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.

X. INDEMNIFICATION. Each party ("Indemnitor") shall defend, indemnify and hold the other party ("Indemnitee"), its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Indemnitor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Indemnitee.

Indemnitee's inspection or acceptance of any of Indemnitor'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 Indemnitor and the Indemnitee, its officers, officials, employees, and volunteers, the Indemnitor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Indemnitor's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'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 Contract.

XI. INSURANCE. The Consultant shall procure and maintain for the duration of the Contract, 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 Consultant, its agents, representatives, or employees.

No Limitation. Consultant's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Consultant to the coverage

CONSULTANT SERVICES CONTRACT 4
(Various)

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. Consultant 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 and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Minimum Amounts of Insurance: Consultant 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.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage 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 Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

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

D. Verification of Coverage Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily

CONSULTANT SERVICES CONTRACT 5
(Various)

limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

XII. EXCHANGE OF INFORMATION. The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to Consultant for the purpose of completion of the work under this Contract.

XIII. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS. Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Consultant will be safeguarded by the Consultant. Consultant shall make such data, documents, and files available to the City upon the City's request. The City's use or reuse of any of the documents, data and files created by Consultant for this project by anyone other than Consultant on any other project shall be without liability or legal exposure to Consultant.

XIV. CITY'S RIGHT OF INSPECTION. Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

XV. WORK PERFORMED AT CONSULTANT'S RISK. Consultant 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 Consultant's own risk, and Consultant 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.

XVI. 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 agreement 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

CONSULTANT SERVICES CONTRACT 6
(Various)

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 X 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 this 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 Consultant.

F. **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, the terms of this Contract shall prevail.

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

I. **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.

CONSULTANT SERVICES CONTRACT 7
(Various)

J. 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.

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

CONSULTANT: By: <u></u> (signature) Print Name: <u>ROBERT J. HOLMES</u> Its <u>MANAGER</u> (Title) DATE: <u>5-11-2021</u>	CITY OF DES MOINES: By: <u></u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: <u>5-16-2021</u> Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>05/10/2021</u>
NOTICES TO BE SENT TO: CONSULTANT: Robert J. Holmes THG, LLC 1324 N. Liberty Lake Road PMB 3661 Liberty Lake, WA 99019 (206) 999-2600 (telephone) Rholmes@thgadvisory.com (email)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Michael Matthias City of Des Moines 21630 11 th Avenue S., Suite A Des Moines, WA 98198 (206) 870-6554 (telephone) MMatthias@desmoineswa.gov (email)

CONSULTANT SERVICES CONTRACT 8
(Various)

SCOPE OF WORK

CITY OF DES MOINES AND THG, LLC

1. **Project Description:** Include a brief description of the goal(s) and/or issue to be addressed with each project.

Since 2018, THG (with The Concord Group) has worked to deliver recommendations to the Des Moines City Council, City Manager, and City staff regarding development strategies and scenarios at the Des Moines Marina. In 2020, we completed an initial draft of a Request for Qualifications ("RFQ"), which was put on abeyance as the COVID-19 pandemic took hold around the country. THG has also sought out and toured potential hotel operators/owners, developers, tenants, and users. At this time, the City is seeking to update and finalize the RFQ document in order to alert the development community to the opportunity at the Marina and to generate Statements of Qualifications ("SOQ"). As part of the process, THG is assisting the City in preparing a video 'virtual tour' of the downtown, waterfront, the project, and the property.

In addition to funding and operating Marina Steps, the City is assessing the opportunity to design, develop, own, and operate the parcel immediately south of the planned Marina Steps with a variety of uses, including boat / dry-boat storage, the Harbormaster House, and the structure to house the farmer's market.

Building on our prior work, we will work with The Concord Group, City staff and its architects, and other team members to:

- a. Continue to follow up with interested developers, operators, users, and tenants (for example: Embarcadero Hospitality Group, Outdoor Research, SeaLevel, 192 Brewing, Columbia Hospitality, REI, Amazon, Vulcan, Tom Cody, etc.) to further interest and energy;
- b. Have a kick-off meeting (virtual) with City staff to review project objectives and requirements and including any background information relevant to COVID;
- c. Identify, with the City, required changes to the RFQ draft and to the Marina master plan;
- d. As needed, update relevant data/high-level analysis and story that will be included in the RFQ including impacts of COVID;
- e. Update and revise the copy (text) for the RFQ;
- f. Coordinate and communicate with the design team retained by the City to ensure alignment with their work and any new Exhibit for the RFQ. Provide input to the City as it prepares the Data Room that will be accessible to developers;
- g. Work with the team to identify and generate images, maps, and graphs suitable for the RFQ;
- h. Assist in preparation of distribution lists;
- i. If required, present the final draft of the RFQ to the City Council (assumed to be a virtual session);

- j. Assist the City in assessing SOQs;
- k. Participate in interviews of selected developers and/or provide feedback and recommendations to assist City in assessment and preparations for negotiations (assumes interviews held virtually);
- l. Separately from the RFQ creation and assessments, work with the City and team to develop potential plan for parcel immediately south of Marina Steps ("Parcel B").

We will finish the above scope of work through point "l" prior to the planned May/June 2021 RFQ distribution target, assuming timely responses from the City and project team.

The professional fee required is \$46,550. Expense reimbursement for travel and materials will be billed with no mark up.



Robert J. Holmes
THG, LLC

April 29, 2021
Date



Michael Matthias
City of Des Moines

5.10.2021
Date

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2022 Sidewalk Replacement Project –
Public Works Construction Contract
Award

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: November 22, 2022

ATTACHMENTS:

1. Public Works Construction Contract

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☐ Courts _____
- ☐ Director of Marina Redevelopment _____
- ☐ Emergency Management _____
- ☒ Finance *MH*
- ☐ Human Resources _____
- ☒ Legal */s/ MH*
- ☐ Marina _____
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☒ Public Works *Thomas Oliver*

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

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of the Public Works Contract (Attachment 1), with Asphalt Patch System, Inc., for the 2022 Sidewalk Replacement Project. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: “I move to approve the Public Works Contract with Asphalt Patch System, Inc. for the 2022 Sidewalk Replacement Project, in the amount of \$63,280.00, authorize a construction contingency in the amount of \$6,400.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.”

Background

As a part of the City's ADA Compliance Program, staff conducts annual assessments of sidewalk infrastructure to identify locations of required maintenance. Locations are prioritized based on their proximity to public facilities, parks, schools, and commercial areas. Consideration is also given to locations with high amounts of pedestrian traffic, past pedestrian accident history, or identified through public input such as Fix-it-Forms.

While conducting sidewalk assessments, staff was able to identify a number of locations that exhibited lifted sidewalk panels and ADA compliance issues. As street trees and other vegetation within the City's right-of-way has matured, associated root systems have caused sidewalk panels to become displaced. To remedy these issues the panels must be removed and replaced in order to preserve the City's existing sidewalk infrastructure.

The City's 2023-2028 Capital Improvement Plan (CIP) identifies annual funding for repair and replacement of damaged sidewalk under the ADA Compliance Program in order to maintain City Street Standards and facilitate safe pedestrian travel.

Discussion

The 2022 Sidewalk Replacement Project consists of sidewalk panel replacement and curb ramp installations for high-priority locations throughout the City. Due to the quantity of locations, ongoing material procurement uncertainty, and current Public Works staffing challenges, this work cannot be completed without outside contractor support.

The 2022 Sidewalk Replacement Project was advertised for bids utilizing the MRSC Small Works Roster. The City received eight (8) bid proposals and Asphalt Patch System, Inc. is the apparent low bidder at \$63,280.00. The bid documentation, contractor qualifications, and references, have been reviewed by City staff. Staff finds that the low bid is responsive and recommends awards of the Contract to Asphalt Patch System, Inc.

Alternatives

The City Council could direct staff to re-submit for construction bids at a later time. However, there is no reason to believe projects bids would be lower given the present bidding and economic climate. Furthermore, sidewalk conditions at the identified locations will continue to deteriorate at an accelerated rate if not mitigated for in the near term.

Financial Impact

The City ADA Compliance Program includes revenues to accommodate full project funding.

Recommendation

Staff recommends adoption of the motion.

Council Committee Review

Not Applicable



PUBLIC WORKS CONTRACT
Between City of Des Moines and
Asphalt Patch System, Inc.

THIS CONTRACT is made and entered into this _____ day of _____, 2022, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Asphalt Patch System, Inc. organized under the laws of the State of Washington, located and doing business at 8812 Canyon Rd E, Puyallup WA 98371, Tyson Kiehn, 253-535-2590 (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 and Schedule of Work, attached hereto and incorporated herein by reference.

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 **15 calendar days**. 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 **\$63,280.00** (including sales Tax), for the work and services contemplated in this Contract. If the work and services to be performed as specified in Exhibit A "Scope and Schedule of Work" is for street, place, road, highway, etc. as defined in WAC 458-20-171, then the applicable Washington State Retail Sales Tax on this contract shall be governed by

WAC 458-20-171 and its related rules for the work contemplated in this Contract. 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, whichever is later. 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 Planning, Building and 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 **\$632.8** [*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. The Contractor certifies that, within the three-year period immediately preceding this Project, the Contractor is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

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.

E. 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.

F. 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, and certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. This contract shall become effective on the last date entered below.

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

NOTICES TO BE SENT TO: CONTRACTOR: Tyson Kiehn Asphalt Patch System, Inc. 8812 Canyon Rd E Puyallup, WA 98371 253-535-2590 (telephone)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Khai Le, P.E. City of Des Moines 21650 11th Avenue S. Des Moines, WA 98198 (206) 870-6537 (telephone) (206) 870-6596 (facsimile) kle@desmoineswa.gov
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INVITATION TO BID

EXHIBIT A

City of Des Moines 2022 SIDEWALK REPLACEMENT PROJECT

NOTICE IS HEREBY GIVEN that quotes will be received by, or emailed to, the Engineering Services Division of the City of Des Moines, Washington, until 4:00 PM, on **November 16th, 2022** to kle@desmoineswa.gov.

2022 SIDEWALK REPLACEMENT PROJECT

SCOPE OF WORK contemplated to be performed under this contract is as follows:

DESCRIPTION & CONSTRUCTION REQUIREMENTS

Contractor shall remove and replace all cement concrete sidewalk and curb and gutter within the designated work areas as described and illustrated in Appendix A: Project Location Map.

This work shall consist of traffic control, grading, roadway excavation, mobilization, temporary erosion and sediment control, supplying, transporting & installing Portland Cement Concrete as sidewalks and curb ramps at locations specified in Appendix A. All materials, equipment, labor, and other miscellaneous items required to complete the work shall be furnished by the contractor unless otherwise noted on the Contract Plans.

Concrete shall conform to the minimum requirements for Class 3000 as specified by WSDOT. Concrete shall be placed only when the air temperature is 40 degrees Fahrenheit and rising. Concrete will be protected from freezing for the first 24 hours. Appropriate levels of care will be employed by contractor to restrict public access to uncured concrete.

Cement concrete shall be installed not less than four inches (4") thick, with a width of not less than four feet (4') to match existing, unless otherwise described. Crushed surface top course 5/8" minus (CSTC) shall be installed not less than two inches (2") as leveling prior to installation of proposed materials.

All Sidewalks and curb ramps shall meet ADA Standards. Finish shall be broom with no tool marks left on panel surface to match existing.

Contractor must remove hazards completely from one end of the displaced sidewalk joint to the other if applicable, resulting in no displacement between sidewalk slabs across the full face of the raised edge.

Contractor shall provide all traffic control as required per Manual of Uniform Traffic Control Devices (MUTCD) and the City's Right-of-Way Permit requirements. The contractor shall erect and maintain all construction signs, warning signs, detour signs, and other traffic control devices necessary to warn and protect the public at all times from injury or damage as the result of the contractor's construction activities. No work shall be done on or adjacent to the roadway until all necessary signs and traffic control devices are in place.

Any replaced sidewalks or curb ramps that do not meet ADA standards, shall be removed and replaced at no additional cost to the Contracting Agency to contract specifications within five (5) days of discovery.

Any damage to adjacent property and facilities will be the sole responsibility of the Contractor.

MEASUREMENT

"Mobilization" will be measured by lump sum (LS).

"Temporary Traffic Control" will be measured by lump sum (LS).

"Removing Cement Concrete Sidewalk" will be measured by square yard (SY), regardless of depth and shall include curb ramps.

"Cement Concrete Sidewalk" will be measured by square yard (SY).

"Crushed Surface Top Course" will be measured by Ton (TN).

"Cement Concrete Curb Ramp Type Parallel A" will be measure by each (EA).

"Minor change" will be measured by estimate (EST).

PAYMENT

"Mobilization", per lump sum shall be paid in accordance with Section 1-09.7 of the WSDOT Standard Specifications.

"Removing Cement Concrete Sidewalk", per square yard shall be full compensation for all labor, tools, materials, and equipment costs necessary or incidental to saw cutting and completely remove curb ramps, concrete curbs and cement concrete panels, regardless of depth, to the extents specified on the Plans or as designated by the Engineer in the field, and disposal at an off-site location.

"Temporary Traffic Control", per lump sum shall be full compensation for costs of all labor (including traffic control supervisors, flaggers and spotters), tools, materials, equipment and incidentals necessary to perform all of the work described in Section 1-07.23 and 1-10 of the WSDOT Standard Specifications.

"Cement Concrete Sidewalk", per square yard shall be paid full compensation for costs of all labor, tools, materials, equipment and incidentals necessary to perform all of the work described in Section 8-14 of the WSDOT Standard Specifications.

"Cement Concrete Curb Ramp Type Parallel A", per each shall be full compensation for all labor, tools, materials, and equipment costs necessary or incidental for construction of the curb ramps as shown in Appendix A, including the cast-in-place detectable warning surface, curb & gutter and pedestrian curb as needed.

"Crushed Surface Top Course", per Ton shall be full compensation for all labor, tools, materials, and equipment costs necessary or incidental to install and compact as needed a minimum of two inches (2") thick crushed surface top course below all newly installed concrete.

"Minor Changes", per estimate shall be equal or less than the value shown under the bid item "Minor Changes", at the discretion of the City Engineer, and in accordance with Section 1-04.4(1) of the Standard Specifications. The actual amount paid under this item may vary from no payment to the full amount of the bid item. At the time of authorization, the City Engineer and contractor will agree to the basis of compensation for that work, by one of the following methods:

- a. By an accepted lump sum proposal from the contractor;
- b. By Bid prices already established in the Bid Proposal;

c. By Bid prices mutually agreed upon by the contractor and the City; or

d. By force account, as set forth in Section 1-09.6.

The City will provide the contractor a copy of the request for a minor change and will require the contractor to provide a cost estimate for the City Engineer's review and approval prior to the work being performed

The quantity of each bid items was estimated to establish the Low Bid and may be increased, decreased, or reduced to zero as directed by the Contracting Agency.

Each bid item shall also include the costs Temporary Erosion and Sediment Control, Spill Prevention and Pollution Control Plan, Material Haul and Disposal and any other labor, materials, and equipment necessary to complete the work.

This is a Public Works Project which is subject to Prevailing Wages. A current City of Des Moines Business License is required for all contractors and subcontractors that perform work under this contract. These licenses shall be in place prior to the issuance of any Notice to Proceed.

The undersigned Bidder hereby certifies that they have examined the site of all the proposed work under this Contract and that they have read and thoroughly understand the Plans, Specifications and other Contract Documents pertaining to this Contract, that they are fully aware of the construction problems and costs involved, and proposes to perform all work for the following stated prices.

The undersigned Bidder hereby agrees to start construction within ten (10) days after the date stated in the Notice to Proceed, and to complete the contract within **15** working days thereafter. This period shall be known as the "Contract Time" for the purposes of the project.

The project is exempt from retail sales (sewer/water relocation) and use tax per WAC 458-20-171, commonly known as Rule 171. This rule exempts the sale of or charge made for labor and services rendered in respect to building, repairing or improving any street, place, road, highway, easement, right of way, bridge, tunnel or trestle which is owned by a municipal corporation that is used for foot or vehicle traffic. Bidders should note that only the labor and services costs are exempt from the sales tax. Tax for materials need to be included in their respective quote items.

The schedule on the Proposal must be completed, or the Bid shall be considered non-responsive. Basis for award shall be total Bid for all items included in the Proposal.

The Owner will correct obvious mathematical errors in Bid proposals.

Unit prices for all items, all extensions and the total amount of bid must be shown. All entries must be typed or entered in ink.

Show unit prices in figures. Where conflict occurs between the unit price and the total amount named for any item, the unit price shall prevail, and totals shall be corrected to conform thereto.

Project Contact: Khai Le, Project Manager at (206) 870-6585 or kle@desmoineswa.gov for any project related questions.

Please Note:

Select Contractors who are currently registered and on the Municipal Research & Services Center (MRSC) Small Works Roster are being invited to bid based on the "Concrete Trip Hazard Removal" sub-category

EXHIBIT A

within "Concrete and Masonry" main category search as prescribed by RCW 39.04.155 Limited Public Works Projects.

The City of Des Moines hereby notifies all bidders that bids submitted in response to this invitation will not be subjected to discrimination on the grounds of race, color, creed, sex or national origin in consideration for an award.

The City reserves the right to reject any or all bids and to waive informalities in the bidding and to make the award as deemed to be in the best interest of the City. No bidder may withdraw his bid for a period of thirty days after the date set for the bid opening.

BID PROPOSAL

The following bid prices shall include all material, labor, tools, equipment and all taxes. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

Bid Item	ITEM DESCRIPTION	Total Qty	Unit	Unit Price	Total Price
1	Minor Change	1	EST	\$15,000	15,000.00
2	Mobilization	1	LS	4,700.00	4,700.00
2	Project Temporary Traffic Control	1	LS	1,500.00	1,500.00
3	Removing Cement Concrete Sidewalk	200	SY	45.00	9,000.00
4	Cement Concrete Sidewalk	230	SY	103.00	23,690.00
5	Crushed Surface Top Course	30	TN	123.00	3,690.00
6	Cement Concrete Curb Ramp Type Parallel A	1	EA	5,700.00	5,700.00

Total Bid Price (in figures) \$ 63,280.00

Total Bid Price (in words) Sixty Three Thousand Two Hundred Eighty and 00/100 dollars

Signed



Title

Vice President

Name of Bidder

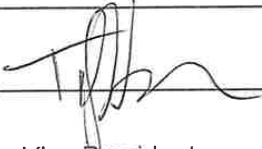
Tyson Kiehn

Date of Bid

11/16/2022

BID PROPOSAL (Continued)

Registration or license, Division of Professional Licensing:

1. License Number ASPHAPS0998BP
2. Date 11/16/2022
3. Contractor's Signature 
4. Title Vice President

Address of Bidder: 8812 Canyon Rd E Puyallup, WA 98371
Street City Zip

Telephone Number of Bidder (253)535-2590
Office Home

Email Contacts tyson@asphaltpatchsystems.com
office@asphaltpatchsystems.com

Non-Collusion Affidavit

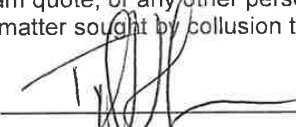
CITY OF DES MOINES

STATE OF WASHINGTON)

) ss.

County of King)

Tyson Kiehn, being first duly sworn on his oath, says he
is Vice President and that the bid above submitted
is a genuine and not a sham or collusive bid, or made in the interest or on behalf of any person not therein
named; and he further says that the said Bidder has not directly or indirectly induced or solicited any bidder
on the above work or supplies to put in a sham quote, or any other person or corporation to refrain from
quoting; and that said Bidder has not in any matter sought by collusion to secure to (her)(him)self an
advantage over any other Bid or Bidder.


SIGNATURE

Subscribed and sworn to before me this 16th day

of November, 2022.




Notary Public in and for the State of Washington,
Residing at Puyallup, WA
My commission expires 9.1.26

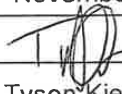
Certification of Non-Segregated Facilities

The Bidder certifies that s/he does not maintain or provide for his/her employees any segregated facilities at any of her/his establishments, and that s/he does not permit her/his employees to perform their services at any locations under her/his control where segregated facilities are maintained. The undersigned certifies further that s/he will not maintain or provide for her/his employees any segregated facilities at any of her/his establishments, and that s/he will not permit her/his employees to perform their services at any location under her/his control where segregated facilities are maintained. The undersigned agrees that a breach of this certification will be in violation of the Equal Opportunity clause set forth in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

The undersigned agrees that, except where s/he has obtained identical certification from subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that s/he will obtain identical certifications from subcontractors and that s/he will retain such certifications in her/his files.

DATE: November 16, 2022.

Signature: 

Name/Title: Tyson Kiehn/Vice President

Contractor Name: Asphalt Patch Systems, Inc

Address: 8812 Canyon Rd E

City/State/Zip: Puyallup, WA 98371

Statement of Bidders Qualifications

Each Bidder submitting a proposal on this work shall prepare and submit as part of this bid the following schedule:

1. Name of Bidder: Asphalt Patch Systems, Inc
2. Business address and telephone number:
8812 Canyon Rd E
Puyallup, WA 98371
(253)535-2590
3. How many years has said Bidder been engaged in the contracting business under present firm name:
41 years
4. Contracts now in hand (gross amount):
\$ 2,500,000.00
5. General character of work performed by said company:
asphalt and concrete restoration
6. List of more important projects constructed by said company, including approximate costs and dates:
Pierce County - 2021 Concrete Road Work - November 2021 \$51,000.00
Rainier School - Gym Stairs/Sidewalk - November 2022 \$10,500.00
So Kltsap School District - Remove & replace Conc -April 2022 \$37,000.00

EXHIBIT A

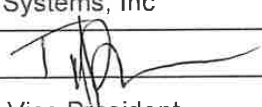
7. List of company's major equipment:
Bomag Grinder, Case Excavtor(s), Kenworth Dump Truck(s)

8. Bank references:
Banner Bank
(253)722-2900

9. Dept. of Labor and Industries' firm number:
481,054-01 3

10. Dept. of Revenue registration number:
601-290-396

11. Construction method(s) of sidewalk repairs to be utilized as part of this Contract:
Existing concrete removal and replacement. Remove roots and unsuitable base
material.

Name of Bidder: Asphalt Patch Systems, Inc
By: 
Title: Vice President
Date: 11/16/2022

Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address
and Telephone Number

Description of Work

N/A

Material Suppliers

Material (major items only)

Corliss Resources (253)826-8010

Concrete Delivery

Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date Oct 31, 2022, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Asphalt Patch Systems, Inc

Bidder's Business Name



Signature of Authorized Official*

Tyson Kiehn

Printed Name

Vice President

Title

11/16/2022

Puyallup

WA

Date

City

State

Check One:

Sole Proprietorship D Partnership D Joint Venture D Corporation D

State of Incorporation, or if not a corporation, State where business entity was formed:

WA

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co- partnership, proposal must be executed by a partner.*

Statement of Bidder Responsibility Criteria

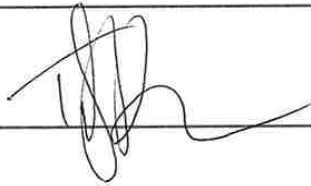
I, by signing the proposal and this statement, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned persons(s), firm, association, or corporation meet all the bidder responsibility criteria for public works contracts under RCW 39.04.350.
2. That the undersigned persons(s), firm, association, or corporation meet all the bidder responsibility as identified in the Contract Documents.
3. That by signing the proposal and this form, I am deemed to have signed and to have agreed to the provisions of this statement.
4. That by signing the proposal and this form, if omissions are found the bidder will be deemed an unresponsive bidder or if awarded a public works project, the contract will be immediately terminated by the Contracting Agency.

Contract Title: 2022 Sidewalk Replacement Project

Bidder's Business Name: Asphalt Patch Systems, Inc

Bidder's Name: Tyson Kiehn

Bidder's Signature: 

Bidders Title: Vice President

Date: 11/16/2022

Appendix A: Project Locations

APPENDIX A: PROJECT LOCATIONS			
Site	Address	Panel Dimensions	Photo
1	24564 20th Ave S	5 x 10	
2	2021 S 260th St	5 x 2	
3	2167 S 260th St	5 x 7	
4	2100 S 260th St	5 x 15	
5	2062 S 260th St	5 x 15	
6	1842 S 260th St	5 x 25	
7	1842 S 260th St	5 x 54	
8	1828 S 260th St	5 x 10	
9	2001 S 260th St	5 x 15	
10	1627 S 260th St	15 x 5	
11	1730 S 260th St	10 x 5	

EXHIBIT A

12	1834 S 260th St	10 x 5	
13	1699 S 260th St	20 x 5	
14	1730 S 260th St	10 x 5	
15	25916 18th Ave S	20 x 5	
16	1636 S 260th St	15 x 5	
17	1832 S 261st Pl	5 x 5	
18	24802 Marine View Drive S	5 x 10	
19	2329 S kent Des Moines Rd	5 x 20	
20	22975 24th Ave S (KDM)	5 x 10	
21	22975 24th Ave S (KDM)	5 x 15	
22	21823 14th Ave S	5 x 20	

EXHIBIT A

23	930 S 262nd Pl	5 x 10	
24	1000 S 220th St	See Exhibit A	See Exhibit A

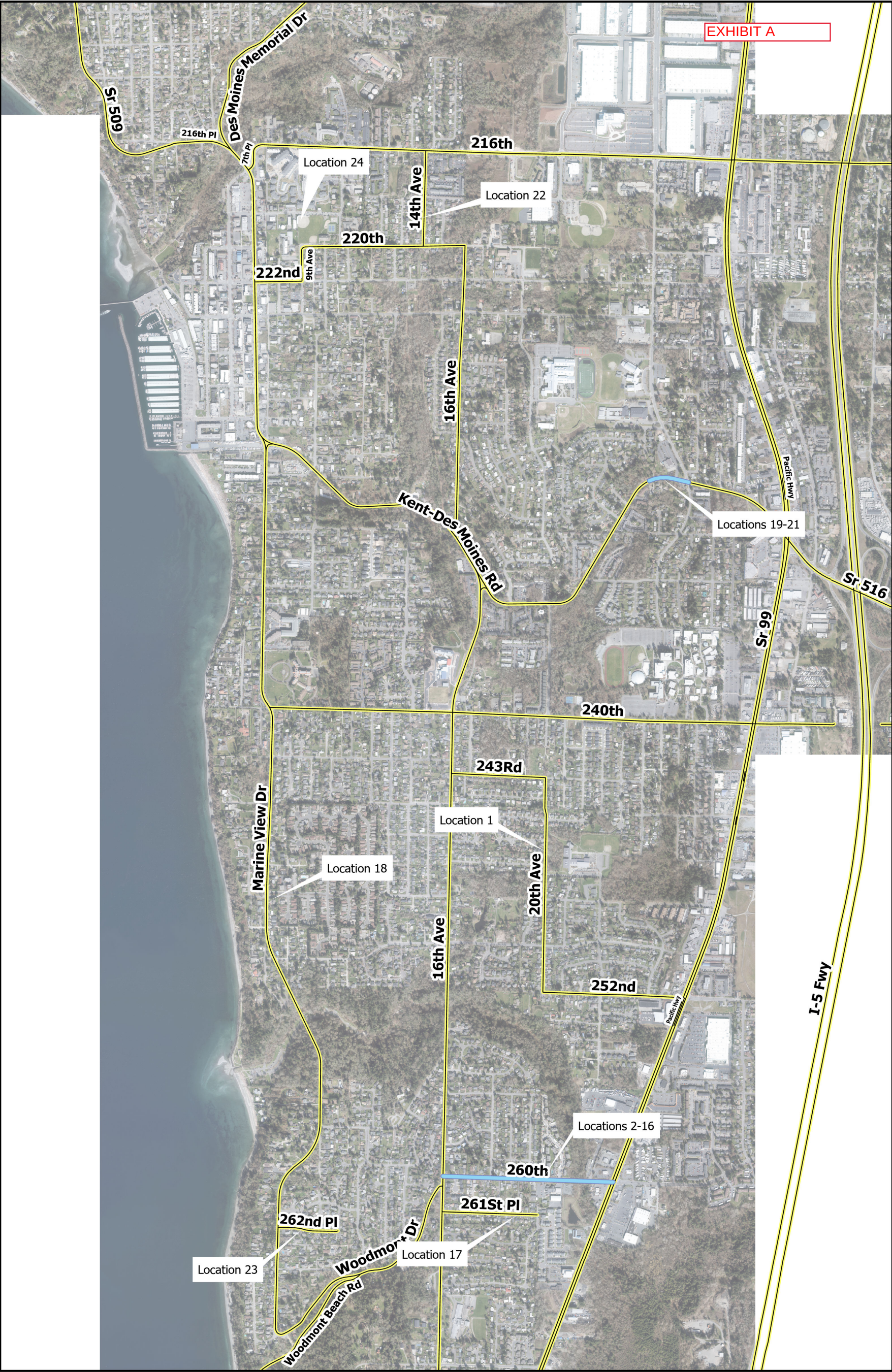
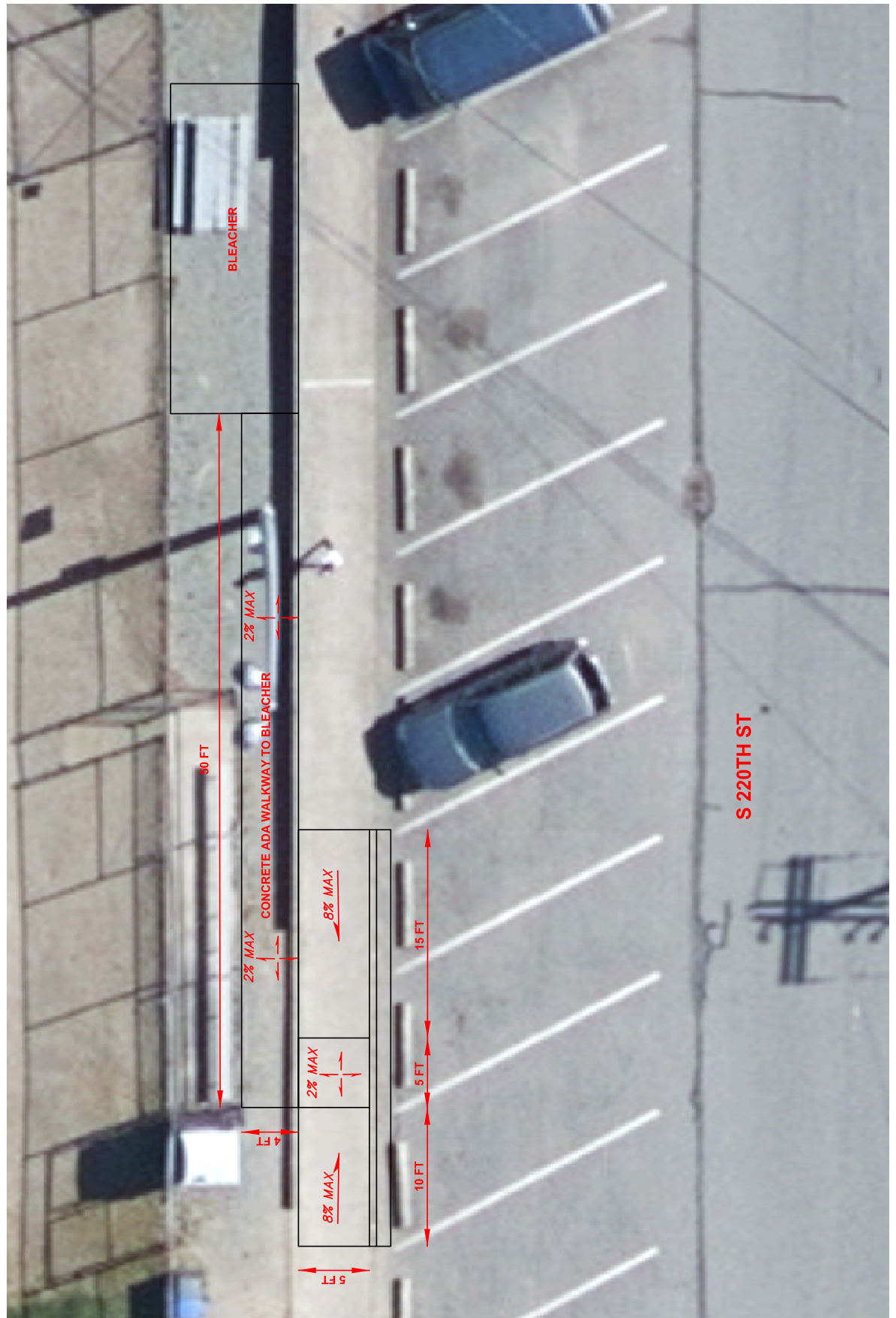


EXHIBIT A
LOCATION 24: 1000 S 220TH ST

EXHIBIT A



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