

REVISED
AGENDA

REGULAR MEETING
DES MOINES CITY COUNCIL

March 22, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor Kaplan

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC:

At this time the audience is invited to comment on any topic to bring it to Council's attention. Please sign in prior to the meeting and limit comments to three minutes or less.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

Presentation on Healthy Des Moines – Katy Bell Sata, Seattle King County Public Health

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve minutes from the regular meetings of March 1, 2012

Item 2: APPROVAL OF VOUCHERS

Motion is to approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks **\$620,541.77**

Payroll fund transfers in the total amount of **\$ 420,876.80**

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are **\$1,041,418.57**

Item 3: TRANSPORTATION GATEWAY PROJECT: 216TH AVE S RIGHT-OF-WAY
ACQUISITION: PARK (FORMERLY HESS) PARCEL #70

Motion 1: I move to rescind Des Moines City Council Motion, Consent Calendar Item #5, approved during open public on December 8, 2012, to purchase property from Douglas and Lynette Hess.

Motion 2: I move to purchase 280 square feet of land from Hea Sook Park in the amount of \$1201.20, a 275 square foot Slope Easement in the amount of \$294.94 and Statutory Evaluation Allowance in the amount of \$150 for a grand total of \$1,646.00 (*rounded to nearest*

dollar) plus closing costs, and further authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Construction Easement, and Real Property Voucher substantially in the form as submitted and accept the right of way on behalf of the City of Des Moines.

Item 4: TRANSPORTATION GATEWAY PROJECT: 24TH AVE S RIGHT-OF-WAY
ACQUISITION: MANGRUM – PARCEL 70

Motion is to purchase 450 square feet of land from estate of Carl Mangrum in the amount of \$4,347.00, a 150 square foot Slope Easement in the amount of \$362.25; compensation for improvements of \$675 and a \$200 administrative settlement for a grand total of \$5,584. (rounded to nearest dollar), plus closing costs, and further to authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Construction Easement & Right of Entry and Real Voucher Property Agreement substantially in the form as submitted and accept the right of way on behalf of the City of Des Moines.

Item 5: BARNES CREEK 223RD CULVERT: CONTRACT AWARD; HIGHLINE
WATER DISTRICT ILA; TETRA TECH CONSULTANT AMENDMENT

Motion 1 is to approve the interlocal agreement with Highline Water District for the inclusion of the District's water main replacement as part of the South 223rd Culvert Replacement Project and further to authorize the City Manager to sign said agreement substantially in the form as attached.

Motion 2 is to move to award the construction contract for the South 223rd Culvert Replacement to MVG, LLC in the amount of \$190,881.50, plus a 10% contingency and further to authorize the City Manager to sign said contract.

Motion 3 is to move to supplement the existing consultant contract with Tetra Tech, Inc., to include construction management services, in the amount of \$32,369.00, bringing the total amount of the contract to \$312,741.00, authorize the City Manager to approve additional supplements as necessary up to \$4,000.00 for the entire contract, and to authorize the City Manager to sign said supplement substantially in the form as attached.

EXECUTIVE SESSION

Litigation Settlement

OLD BUSINESS

1. Marina District Design Theme Policy Discussion
Staff Presentation: Planning Manager Denise Lathrop

NEW BUSINESS

1. First Reading of Bond Ordinance – LTGO Refunding Bonds 2012
Staff Presentation: Finance Director Paula Henderson

NEXT MEETING DATE – March 29, 2012, City Council Regular Meeting

ADJOURNMENT

AGENDA
REGULAR MEETING
DES MOINES CITY COUNCIL
March 22, 2012 - 7:30 p.m.

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OLD BUSINESS

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Staff Presentation: Planning Manager Denise Lathrop

NEW BUSINESS

1. First Reading of Bond Ordinance – LTGO Refunding Bonds 2012
Staff Presentation: Finance Director Paula Henderson

NEXT MEETING DATE – March 29, 2012, City Council Regular Meeting

ADJOURNMENT

MINUTES
STUDY SESSION DES MOINES CITY COUNCIL
March 1, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor Kaplan called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE – The flag salute was led by Mayor Kaplan.

ROLL CALL

Present were Mayor Dave Kaplan; Mayor Pro-Tem Matt Pina; Councilmembers Dan Caldwell, Melissa Musser, Jeanette Burrage, and Carmen Scott.

Councilmember Bob Sheckler was absent. Mayor Pro-tem Pina moved to excuse Councilmember Sheckler; Councilmember Scott, second; all the votes were *ayes*.

Staff present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Lorri Ericson; Planning Building and Public Works Director Grant Fredricks; Interim Police Chief John O'Leary; Building Official Larry Pickard; City Clerk Sandy Paul

DISCUSSION ITEMS:

1. Policy Discussion on the Sound Code

Planning Building Public Works Director Grant Fredricks began the discussion with background information about the Sound Code. Maps of noise sound contours as they were in 1998 and as they are projected to be in 2016 and were distributed by Building Official Larry Pickard.

ACTION/DIRECTION

Following discussion of each of six policy questions the City Council asked that the City's existing Sound Code be relaxed and directed staff to write an ordinance that would modify stringent requirements to building and remodeling in Des Moines, making sound improvements advisory.

A public hearing will be held on the new ordinance when it is prepared.

BREAK – The City Council meeting was recessed for a 10-minute break. The meeting reconvened at 9:10 p.m.

2. EXECUTIVE SESSION

The City Council recessed at 9:10 p.m. to hold an Executive Session for approximately 30 minutes to discuss an update on litigation per RCW 42.030.110(1).

Present were Mayor Dave Kaplan; Mayor Pro-Tem Matt Pina; Councilmembers Dan Caldwell, Melissa Musser, Jeanette Burrage, and Carmen Scott. Staff Present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Lorri Ericson; Assistant City Attorney Tim George; Planning Building and Public Works Director Grant Fredricks.

The Executive Session was adjourned at 9:36 p.m. The Council meeting was reconvened at 9:38 p.m.

3. SCA Support of Governor's Petition to Federal Government Regarding Change in the Classification of Marijuana from Schedule I to Schedule II Substance

City Manager Tony Piasecki introduced the discussion on the Governor's petition to change the classification of Marijuana from a Schedule 1 to a Schedule 2 substance.

Councilmember Musser moved to direct Mayor Pro-Tem Pina to vote in support of the Suburban Cities Association supporting the petition of Governors Gregoire and Chaffee asking the Federal Government to reclassify marijuana from a Schedule I to a Schedule II drug; Councilmember Burrage, second.

Following discussion, the motion passed 5-1. Councilmember Caldwell voted *no*.

4. City Council Process

Mayor Dave Kaplan distributed a prepared list of topics (meetings, meeting agendas, policy review structure, leadership determination and responsibilities, council compensation, and rules of procedure) to be covered in the discussion.

Consensus was reached on a number of items including, but not limited to, meetings will continue to be held on Thursdays but will begin at 7:00 p.m.; keeping study sessions as they are; devising ways to increase public access to conference rooms where committee meetings are held; ceasing to read the Consent Agenda at each meeting; a time specific for public hearings; no change in Council compensation or Council Committees;

Prior to time running out at 10:29 p.m., Mayor Pro-Tem Pina moved to extend the meeting for ten minutes; Councilmember Musser, second. The motion passed unanimously.

The Council Rules of Procedure will be reviewed for typos and corrected all at once.

Staff was directed to draft an ordinance for the Consent Agenda to change the Council meeting time to 7:00 p.m. and discontinue reading the Consent Calendar.

NEXT MEETING DATE: Regular Meeting March 8, 2012

ADJOURNMENT

There being no further business to come before the City Council, Councilmember Caldwell moved to adjourn; Mayor Pro-Tem Pina, second. The motion passed unanimously. The meeting was adjourned at 10:39 p.m.

Respectfully submitted,

Sandy Paul CMC
City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Transportation Gateway Project: S.
24th Avenue South Right of Way
Acquisition: Park – Tax Parcel
092204-9166– Project Parcel #70

AGENDA OF: March 22, 2012

DEPT. OF ORIGIN: Planning, Building & Public
Works

DATE SUBMITTED: March 12, 2012

ATTACHMENTS:

1. Statutory Warranty Deed
2. Slope Easement
3. Construction Easement/Right Entry
4. Real Property Voucher
5. Project Map

CLEARANCES:

- [X] Legal PB
[X] Finance pl
[] Marina _____
[] Parks, Recreation & Senior
Services _____
[X] Planning, Building & Public
Works MS
[] Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: _____

Purpose and Recommendation:

The purpose of this agenda item is to seek City Council acceptance of right of way and easements required to widen 24th Avenue South, consistent with the City's adopted right of way plan for CIP project #319.131. The Council previously approved purchase of the above referenced property that was subsequently sold to another owner before funds were transferred and the purchase could be completed. The following motions will appear on the Consent Calendar:

Suggested Motions

"I move to rescind Des Moines City Council Motion, Consent Calendar Item #5, approved during open public on December 8, 2012, to purchase property from Douglas and Lynette Hess.

"I move to purchase 280 square feet of land from Hea Sook Park in the amount of \$1201.20, a 275 square foot Slope Easement in the amount of \$294.94 and Statutory Evaluation Allowance in the amount of \$150 for a grand total of \$1,646.00 (*rounded to nearest dollar*) plus closing costs, and further authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Construction Easement, and Real Property Voucher substantially in the form as submitted and accept the right of way on behalf of the City of Des Moines."

Background:

Widening and improvement 24th Avenue S. to 18th Avenue S. is an element of the City of Des Moines Comprehensive Plan and an adopted element of the 2012 Capital Improvement Program, Project #319.131. This arterial segment is of one of the three roadway segments referred collectively as the Transportation Gateway Project. The City Council passed a motion on April 7, 2011, to begin the right of way acquisition phase for S. 216th Street Segment 2 and 24th Avenue S. from S. 208th Street to S. 216th Street including roadway transitions. The negotiated right of way is consistent with the June 2, 2011 Council direction to extend and match the sidewalk with developer improvements adjacent to and south of the project.

Discussion:

Design of this project is complete including all environmental documentation under NEPA and SEPA.

The adopted right of way plan requires this 280 sq. ft. right of way take for future sidewalk, road and intersection improvements fronting this property and a 275 sq. ft. Slope Easement to protect the improvements. In addition, the negotiated right of way is consistent with the June 2, 2011 Council direction to extend and match the sidewalk with developer improvements adjacent to and south of the project. There is no money exchanged for the Construction Easement/Right of Entry as this agreement is considered mutually beneficial to restore the property during construction. A \$150 Statutory Evaluation Allowance was reimbursed due to international notary service by US Embassy in Korea.

This property was originally approved by the Council under the name of Douglass and Lynette Hess on December 8, 2011; however, the property was sold to Ms. Park prior to final cash settlement, requiring that the transaction be renegotiated w/ Ms. Park. No payment was received by Hess.

Alternatives:

The final design and alignment for the roadway is based upon an offset alignment which minimizes impacts to developed properties. Alternatives were considered during predesign (symmetrical verses an offset alignment) resulting in settling on a right of way plan supported by final design. No other alternatives are currently available.

Financial Impact:

Funds for acquisition of this right of way were approved as part of the City of Des Moines 2012 budget.

Recommendation/Conclusion:

Staff recommends the Council approve the proposed motion.

Concurrence:

The Legal, Finance, and Planning, Building, and Public Works Department concur.

After Recording, Return to:

CITY OF DES MOINES
ATTN: CITY ATTORNEY
21630 11th Avenue South, Suite C
Des Moines, WA 98198-6398

STATUTORY WARRANTY DEED

Grantor: *Hea Sook Park, an unmarried individual*
Grantee: *City of Des Moines, a municipal corporation of the State of Washington*
Abbr. Legal Desc.: *PTN SEC9 TWP 22N RNG. 4E, SW. QTR, NE. QTR. W.M., KING*
COUNTY
Tax Parcel No.: *0922049166*
Project Parcel No: *70*

THE GRANTOR, *Hea Sook Park, an unmarried individual*, for and in consideration of sum of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, hereby conveys and warrants to the City of Des Moines, a Washington municipal corporation of the State of Washington, its successor and assigns, under the imminent threat of the Grantee's exercise of its rights of Eminent Domain per Chapter 8.12 RCW, for the use of the public, the real property described and attached hereto as Exhibit A and illustrated and attached hereto as Exhibit A-1, situated in City of Des Moines, in King County, Washington.

Also, the Grantor request the Assessor and Treasurer of said County to set over to the remainder of Tax Parcel No.092204-9165, the lien of all unpaid taxes, if any, affecting the real estate herein conveyed, as provided by RCW 84.60.070

(This Statutory Warranty Deed is given for the purpose of correcting and replacing the Statutory Warranty Deed dated November 11, 2011, recorded under Auditor's File No. 2012010500026, record of King County, Washington. Grantor of said deed held no interest in said property at time of recordation.)

DATED this 22th day of February, 2012.

GRANTOR:

Hea Sook Park
Hea Sook Park

STATE OF

COUNTY OF

} ss

I certify that I know or have satisfactory evidence that Hea Sook Park, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it to be her free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated Feb. 22, 2012

ss

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

ACCEPTED BY:

CITY OF DES MOINES
A Municipal Corporation

Anthony A. Piasecki, City Manager

Date:

By direction of the Des Moines City Council taken in open public meeting on _____, 2012.

APPROVED as to form only:

Pat Bosmans, City Attorney

Date

CERTIFICATE OF ACKNOWLEDGMENT OF EXECUTION OF AN INSTRUMENT

KOREA

(Country)

CITY OF SEOUL

(County and/or other political division)

EMBASSY OF THE

(County and/or other political division)

} SS:

UNITED STATES OF AMERICA

(Name of foreign service office)

Erik T. Finch

Vice Consul

of the United States of America at Seoul, Korea

duly commissioned and qualified, do hereby certify that on this

day of , before me personally appeared
Date (mm-dd-yyyy)

HEA SOOK PARK X X X

to me personally known, and known to me to be the individual-described in, whose name IS subscribed to,

and who executed the annexed instrument, and being informed by me of the contents of said instrument SHE

duly acknowledged to me that SHE executed the same freely and voluntarily for the uses and purposes.

therein mentioned.

[SEAL]

In witness whereof I have hereunto set my hand and
official seal the day and year last above written.

Erik T. Finch
Vice Consul

of the United States of America.

NOTE: Wherever practicable all signatures to a document should be included in one certificate.

**EXHIBIT **
PARCEL NUMBER 092204-9166
RIGHT OF WAY ACQUISITION

THE EAST 6.50 FEET OF THE HEREINAFTER DESCRIBED PARCEL "A":
CONTAINING 280 SQUARE FEET, MORE OR LESS.

PARCEL "A"

(PER PACIFIC NORTHWEST TITLE COMPANY ORDER NO. 1164785, DATED JUL. 11, 2011)

THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., RECORDS OF
KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 30.00 FEET FOR MORGAN O'BRIEN ROAD (SOUTH 216TH STREET);

EXCEPT THE EAST 30.00 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES (24TH
AVENUE SOUTH) BY DEED RECORDED UNDER RECORDING NO. 742312;

EXCEPT THE WEST HALF OF THE REMAINDER THEREOF;

EXCEPT PORTIONS LYING NORTH OF THE SOUTHERLY 154 FEET THEREOF;

AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTHERLY 154 FEET WITH
THE WEST MARGIN OF 24TH AVENUE SOUTH AS CONVEYED TO KING COUNTY BY DEED RECORDED
UNDER RECORDING NO. 742312;

THENCE SOUTH $01^{\circ}06'21''$ WEST ALONG SAID WEST MARGIN 99.30 FEET TO A POINT OF CURVE TO
THE RIGHT;

THENCE ALONG SAID CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH $88^{\circ}53'39''$
WEST, 25.00 FEET THROUGH A CENTRAL ANGLE OF $89^{\circ}17'58''$ AN ARC DISTANCE OF 39.27 FEET;

THENCE NORTH $88^{\circ}11'37''$ WEST 100.30 FEET; THENCE NORTH $01^{\circ}06'21''$ EAST TO THE NORTH LINE
OF SAID SOUTHERLY 154 FEET;

THENCE SOUTH $88^{\circ}11'37''$ EAST ALONG SAID NORTHERLY LINE 125.00 FEET
THE POINT OF
BEGINNING.

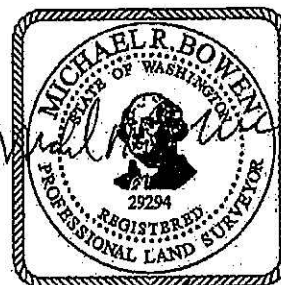
SURVEYOR'S NOTE:

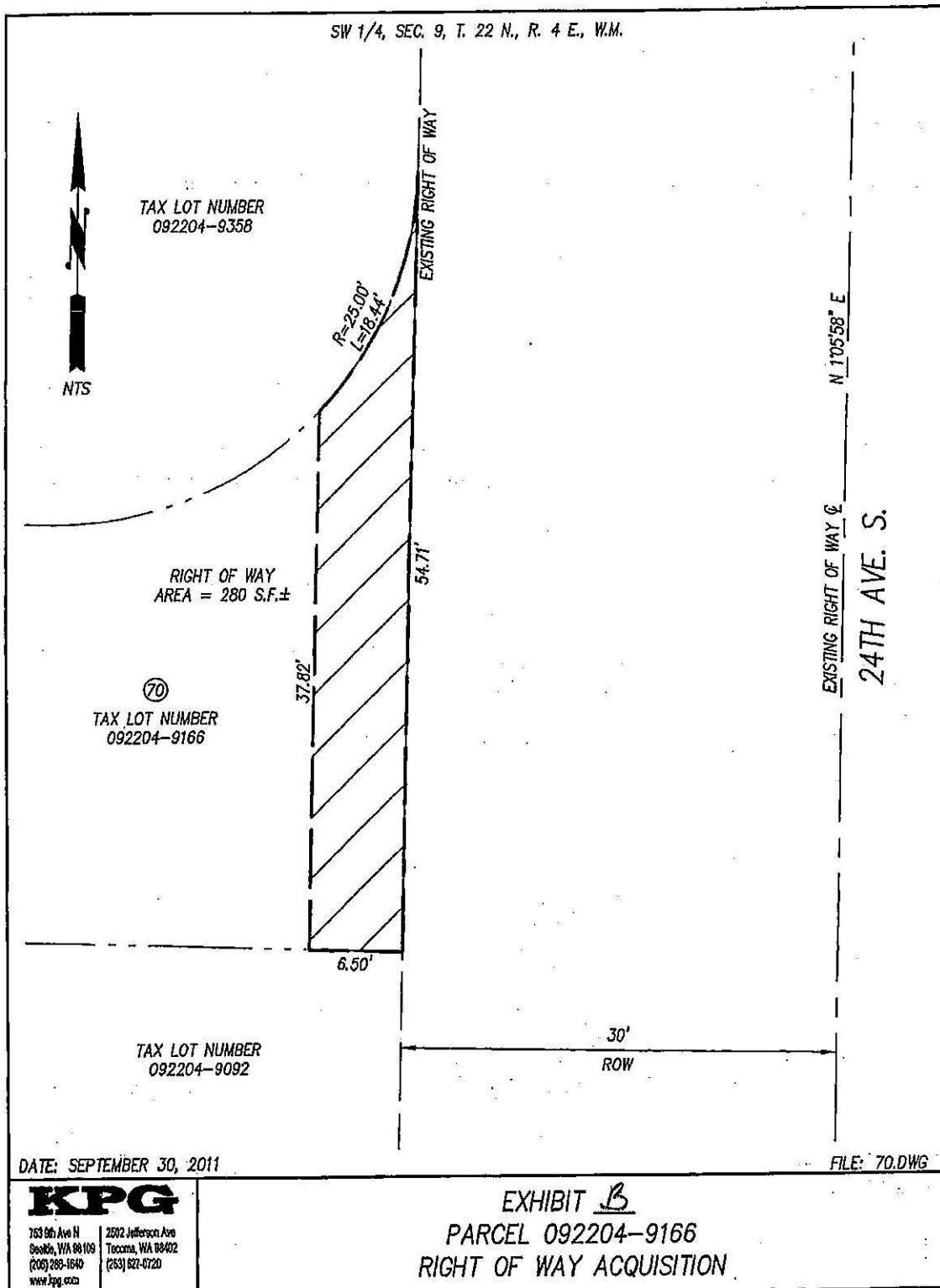
THE CENTERLINE OF SOUTH 216TH STREET AND 24TH AVENUE SOUTH IS
BASED ON THE RIGHT OF WAY PLANS FOR THE GATEWAY PROJECT, 24TH
AVENUE SOUTH, ON FILE WITH THE CITY OF DES MOINES PUBLIC WORKS.

70-0922049166 row .doc.

Page 1 of 1

KPG
TACOMA · SEATTLE





After Recording, Return to:

CITY OF DES MOINES
ATTN: CITY ATTORNEY
21630 11th Avenue South, Suite C
Des Moines, WA 98198-6398

SLOPE EASEMENT

ROW Plan #	
Grantors:	Hea Sook Park, an unmarried individual
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	PTN SEC9 TWP 22N RNG. 4E, SW. QTR, NE. QTR. W.M., KING COUNTY
Assessor's Tax Parcel ID#:	092204-9166
Property Address:	2XX 24 th Ave S., Des Moines, WA
Mailing Address:	31224 10 th Ave South, Federal Way
Phone Contact #:	

TRANSPORTATION GATEWAY PROJECT
24th Avenue South Improvements

THIS EASEMENT AGREEMENT, made this 22 day of Feb, 2012, by and between **Hea Sook Park**, ("Grantor" herein), and the **CITY OF DES MOINES**, a municipal corporation of the State of Washington, ("Grantee" herein),

(This Slope Easement is given for the purpose of correcting and replacing the Slope Easement dated November 11, 2011, recorded under Auditor's File No. 2012010500027, record of King County, Washington. Grantor of said Easement held no interest in said property at time of recordation.)

WITNESSETH:

1. **Grant of Easement.** The Grantor, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grants and conveys to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors and assigns (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for constructing and maintaining roadway walls and slopes in excavation and/or

embankment ("Easement" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.

2. **Property Subject to Easement.**

- a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit A-1, attached hereto and incorporated by reference.
 - b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the Property legally described in Exhibit "A" and Exhibit A-1 ("Easement Areas" herein) attached hereto and incorporated by reference.
3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and enlarge walls and/or slopes in excavation and/or embankment, and other associated features within the Easement Areas for the purpose constructing and maintaining roadway side slopes.
4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantors for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Areas Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Areas. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Areas.
6. **Grantors' Use of Easement Areas.** Grantors reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the easement rights herein granted. Grantors may install groundcover and shrub landscaping plantings within the Easement Areas with Grantee's prior written consent. Grantors shall not alter the ground surface and subsurface within the Easement Areas by excavation, placement of fill material, or installation of any wall or rockery, without Grantee's prior written consent. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantors shall not construct or maintain any buildings within the Easement Areas.
7. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.

8. **Covenant Running With the Land.** This Easement shall be a covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.

Grantor acknowledge that the property and/or property rights conveyed herein are in consideration of a mutual benefit to be derived; and Grantor have been informed of its right to receive just compensation and have waived said rights.

The lands herein described can be found in design plans on file with the Director of the City of Des Moines Public Works in Des Moines, Washington, CIP Road Project 319.333, S. 216th Street Improvement, Segment 2, and/or CITY CIP Road Project CIP 319.131, 24th Avenue South Improvements.

DATED this 22 day of Feb, 2012

GRANTOR:

Hea Sook Park
Hea Sook Park

STATE OF

COUNTY OF

)
) ss
)

I certify that I know or have satisfactory evidence that Hea Sook Park, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it to be her free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

**CERTIFICATE OF ACKNOWLEDGMENT OF
EXECUTION OF AN INSTRUMENT**

KOREA

(Country)

CITY OF SEOUL

(County and/or other political division)

EMBASSY OF THE

(County and/or other political division)

SS:

UNITED STATES OF AMERICA

(Name of foreign service office)

Erik T. Finch

Vice Consul

of the United States of America at

Seoul, Korea

duly commissioned and qualified, do hereby certify that on this

day of

Date (mm-dd-yyyy)

, before me personally appeared

HEA SOOK PARK X X X

to me personally known, and known to me to be the individual-described in, whose name IS subscribed to,

and who executed the annexed instrument, and being informed by me of the contents of said instrument SHE

duly acknowledged to me that SHE executed the same freely and voluntarily for the uses and purposes.

therein mentioned.

[SEAL]

In witness whereof I have hereunto set my hand and

official seal the day and year last above written.

Erik T. Finch

Vice Consul

of the United States of America.

NOTE: Wherever practicable all signatures to a document should be included in one certificate.

GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date: _____

By direction of the Des Moines City Council taken at open public meeting _____,
2012.

APPROVED as to form only:

By: Pat Bosmans, City Attorney

Date: _____

STATE OF WASHINGTON)
COUNTY OF KING) ss

This instrument was acknowledged before me on _____ (date of acknowledgment)
by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal
corporation, on behalf of said corporation.

Dated _____

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

Return Address:
City of Des Moines
Attn: City Attorney
21630 11th Avenue So., Suite C
Des Moines, WA 98198-6398

CONSTRUCTION EASEMENT

ROW Plan #	
Grantors:	<i>Hea Sook Park, an unmarried individual</i>
Grantee:	<i>City of Des Moines, a municipal corporation of the State of Washington</i>
Legal Description/STR:	<i>PTN SEC9 TWP 22N RNG. 4E, SW. QTR, NE. QTR. W.M., KING COUNTY</i>
Assessor's Tax Parcel ID#:	<i>092204-9166</i>
Property Address:	<i>2XX 24th Ave S., Des Moines, WA</i>
Mailing Address:	<i>31224 10th Ave South, Federal Way</i>
Phone Contact #:	

TRANSPORTATION GATEWAY PROJECT **24th Avenue South Improvements**

THIS EASEMENT AGREEMENT, made this 22 day of Feb, 2012, by and between Hea Sook Park, an unmarried individual ("Grantor" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein),

In consideration of the transportation, sidewalk, utility and general improvements planned to occur immediately on or adjacent to property that is subject to this easement as a result of the above S. 216th Street and/or 24th Avenue S. Improvements, the Grantor(s) hereby grants to the Grantee, its contractors, employees, agents, successors and assigns, for mutual benefit and other valuable consideration, the right to enter upon land known as King County Assessor's Parcel Number(s) 092204-9166 located adjacent to South 24th Ave South., Des Moines, WA 98198, as required for the purpose of placing personnel and equipment on said premises to re-construct driveway access, restore fences, utility services, mailboxes, plantings, walls and/or walkways to match newly constructed roadway and sidewalk grades within right of way as shown in the plans and specifications found on file with the City Engineer of the Grantee.

(This Construction Easement is given for the purpose of correcting and replacing the Construction Easement dated November 11, 2011, recorded under Auditor's File No.

2012010500028, record of King County, Washington. Grantor of said deed held no interest in said property at time of recordation.)

SPECIAL STIPULATIONS

1. This license shall remain in force until such time as the construction of street improvements has been accepted for operation and maintenance by the Grantee. Specific details concerning the public street improvements may be found on maps, plans, and specifications on file with Grantee's City Engineer.
2. Grantee, its agents and assigns, will notify Grantor their agents, successors, and assigns, of its construction schedule, and will, to the greatest extent practicable, schedule the construction activity so as to minimize any inconvenience to the property.
3. The Grantee agrees, to the extent practicable, to leave the property in as good condition as existed on the day construction commenced. This shall include the timely removal of any and all debris, rubbish or combustible material resulting from construction activities.
4. Compensation: Grantors acknowledge that the property and/or property rights conveyed herein are in consideration for benefits to be derived by matching the roadway improvements with the Grantors' property. The Grantors agree the expenses of the Grantee for conversion and under-grounding of said secondary utilities cited in Section 4 above, if necessary, is good and valuable consideration.
5. Grantor authorize and appoint Grantee as its agent and attorney-in-fact to make application for any and all permits required to complete the project.
6. The rights herein granted shall include all incidental rights, including but not limited to, rights of ingress and egress necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the property. Grantee hereby agrees to indemnify and hold harmless Grantors against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.

DATED this 22 day of Feb, 2012.

GRANTOR:

Hea Sook Park
Hea Sook Park

STATE OF

COUNTY OF

} ss
}

I certify that I know or have satisfactory evidence that Hea Sook Park, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it to be her free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date: _____

At the direction of the Des Moines City Council taken at open public meeting the _____ day of _____, 2012.

APPROVED as to form only:

Pat Bosmans, City Attorney

Date _____

**CERTIFICATE OF ACKNOWLEDGMENT OF
EXECUTION OF AN INSTRUMENT**

KOREA

(Country)

CITY OF SEOUL

(County and/or other political division)

EMBASSY OF THE

(County and/or other political division)

SS:

UNITED STATES OF AMERICA

(Name of foreign service office)

Erik T. Finch

Vice Consul

of the United States of America at

Seoul, Korea

duly commissioned and qualified, do hereby certify that on this

day of SEP 2 2000, before me personally appeared

Date (mm-dd-yyyy)

HEA SOOK PARK X X X

to me personally known, and known to me to be the individual-described in, whose name IS subscribed to,

and who executed the annexed instrument, and being informed by me of the contents of said instrument SHE

duly acknowledged to me that SHE executed the same freely and voluntarily for the uses and purposes therein mentioned.

[SEAL]

In witness whereof I have hereunto set my hand and

official seal the day and year last above written.

Erik T. Finch

Vice Consul

of the United States of America.

NOTE: Wherever practicable all signatures to a document should be included in one certificate.

STATE OF)
COUNTY OF) ss

This instrument was acknowledged before me on _____ (date of acknowledgment) by Anthony Pjasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Seal

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

X

REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Engineering 21650 11 th Avenue South Des Moines, WA 98198		I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: (Sign in Ink)	
GRANTOR or CLAIMANT Hea Sook Park, an unmarried individual 31224 10 th Ave South Federal Way, WA 98003		By: <u><i>Hea Sook Park</i></u> Date: <u>Feb. 22, 2012</u> SSN/Tax ID: <u>220-08-4918</u>	
TRANSPORTATION GATEWAY PROJECT PROJECT NUMBER: CIP#319.333 TITLE: S. 216 th Street Improvement Segment 2 (18 th Ave. S to 24 th Ave S.)		TAX PARCEL NUMBER: 092204-9166 PROJECT PARCEL NUMBER: 70	
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Statutory Warranty Deed Date: <u>2/22/2012</u> Slope Easement Date: <u>2/22/2012</u> Construction Easement/Right of Entry Date: <u>2/22/2012</u>		AMOUNT	
For All Lands Convey: 280 SF in Fee Simple @ \$4.29 per SF 275 SF in Slope Easement @ 25% of Fee Construction Easement/Right of Entry		+ \$ 1,201.20 + \$ 294.94 + \$ + \$ + \$ + \$ + \$ 150.00	
For All Improvements: n/a For All Damages: n/a Less Special Benefits: n/a Statutory Evaluation Allowance: <u>OUT OF THE COUNTRY NOTARY SERVICE</u>		+ \$ 1,646.00 (R)	
Legal / Administrative: Other Items: Deductions:		JUST COMPENSATION	
		FINAL SETTLEMENT \$ 1,646.00	
		SUBTOTAL \$ 1,646.00	
		TOTAL AMOUNT TO BE PAID: \$ 1,646.00	
Acquisition Agent: Sonja Kraus CERTIFIED Land Services Corporation 4619 37 th Ave SW, Seattle, WA 98126 Phone: (206) 287-9858 AGENT <u><i>Sonja Kraus</i></u> Date <u>2/29/2012</u>		The City of Des Moines agrees to the terms and conditions listed above, by direction of the Des Moines City Council on _____, _____ Anthony A. Piasecki, City Manager Date _____	

☐ Original - Public Works



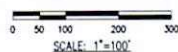
**ROW & EASEMENT ACQUISITIONS
TRANSPORTATION GATEWAY PROJECT
MARCH, 2012**

NOTES:

- ROW ACQUISITION COMPLETE
- ROW ACQUISITION PENDING



KPG
713 Oak Avenue N. 1117 Broadway
St. Louis, MO 63101 St. Louis, MO 63101
(314) 241-1440 (314) 241-1440
www.kpg.com (314) 241-1440



AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Transportation Gateway Project: S.
216th Street Right of Way
Acquisition: Carl Mangrum – Tax
Parcel 092204-9174 – Project
Parcel #14

AGENDA OF: March 22, 2012

DEPT. OF ORIGIN: Planning, Building & Public
Works

DATE SUBMITTED: March 8, 2012

ATTACHMENTS:

1. Statutory Warranty Deed
2. Slope Easement
3. Construction Easement/Right Entry
4. Real Property Voucher.
5. Construction Commitment Log
6. Project Map (Color)

CLEARANCES:

- [X] Legal PB
[X] Finance _____
[] Marina N/A
[] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works MS
[] Police N/A
[] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AA

Purpose and Recommendation:

The purpose of this agenda item is to seek City Council acceptance of right of way and easements required to widen S. 216th Street, Segment 2, consistent with the City's adopted right of way plan for CIP project #319.333. The following motion will appear on the Consent Calendar:

Suggested Motion

Motion: "I move to purchase 450 square feet of land from estate of Carl Mangrum in the amount of \$4,347.00, a 150 square foot Slope Easement in the amount of \$362.25; compensation for improvements of \$675 and a \$200 administrative settlement for a grand total of \$5,584. (rounded to nearest dollar), plus closing costs, and further to authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Construction Easement & Right of Entry and Real Voucher Property Agreement substantially in the form as submitted and accept the right of way on behalf of the City of Des Moines."

Background:

Widening and improvement of S. 216th Street, Segment #2: 24th Avenue S. to 18th Avenue S. is an element of the City of Des Moines Comprehensive Plan and an adopted element of the 2012 Capital Improvement Program, Project #319.333. This arterial segment is of one of the three roadway segments referred collectively as the Transportation Gateway Project. The City Council passed a motion on April

7, 2011, to begin the right of way acquisition phase for S. 216th Street Segment 2 and 24th Avenue S. from S. 208th Street to S. 216th Street including roadway transitions. The negotiated right of way is consistent with the June 2, 2011, Council direction to extend and match the sidewalk with developer improvements adjacent to and south of the project.

Discussion:

Design of this project is complete including all environmental documentation under NEPA and SEPA.

The adopted right of way plan requires this 450 square foot right of way take for future sidewalk, utility and road improvements fronting this property as well as a 150 sq. ft. slope easement to protect and maintain the improvements. In addition, \$675 will be paid in compensation for grass sod and pavement improvements for this property. *(According to the State and Federal guidelines, any improvements (grass, mulch, shrubs, trees, pavement, gravel, etc.) within the fee acquisition area are given contributory value and owners are compensated for as part of the acquisition. This value determined from a book called "The Guide-Building, Construction and Material Prices". Prices contained in the Guide are from local supplier and contractor prices, and are representative of current market conditions. There is no money exchanged for the Construction Easement & Right of Entry as it is a mutual benefit to both parties for transitioning from the project to owner's property.*

In addition there was an administration settlement approved in the amount of \$200 to cover replacement of replacement of shrubs. The City also signed a construction memorandum (attachment 5) to replace a fence along adjusted right of way line

Between the time of initial contact and signing of the agreements, Carl Mangrum became too ill to sign and the family furnished power of attorney and agreed upon settlement. Subsequently Mr. Mangrum passed away before execution and recording of documents. The right-of-way consultant advised the City how to proceed to conclude these transactions which constituted having the executors sign the documents.

Alternatives:

The final design and alignment for the roadway requires this easement. Alternatives were considered during predesign (symmetrical verses an offset alignment) resulting in settling on a right of way plan supported by final design. No other alternatives are currently available.

Financial Impact:

Funds for acquisition of this right of way were approved as part of the City of Des Moines 2012 budget.

Recommendation/Conclusion:

Staff recommends the Council approve the proposed motions.

Concurrence:

The Legal, Finance, and Planning, Building, and Public Works Department concur.

After Recording, Return to:

CITY OF DES MOINES
ATTN: CITY ATTORNEY
21630 11th Avenue South, Suite C
Des Moines, WA 98198-6398

STATUTORY WARRANTY DEED

Grantor/s: Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007

Grantee: City of Des Moines, a municipal corporation of the State of Washington

Abbr. Legal Desc.: Ptn. Sec. 9 Twp. 22N Rge. 4E SW Qtr NE Qtr W.M., King County

Tax Parcel No.: 092204-9174

Project Parcel No: 14

THE GRANTOR/S, *Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007*, for and in consideration of sum of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, hereby convey and warrant to the City of Des Moines, a Washington municipal corporation of the State of Washington, its successor and assigns, under the imminent threat of the Grantee's exercise of its rights of Eminent Domain per Chapter 8.12 RCW, for the use of the public, the real property described and attached hereto as Exhibit A and illustrated and attached hereto as Exhibit A-1, situated in City of Des Moines, in King County, Washington.

Also, the Grantors request the Assessor and Treasurer of said County to set over to the remainder of Tax Parcel No.092204-9174, the lien of all unpaid taxes, if any, affecting the real estate herein conveyed, as provided by RCW 84.60.070

DATED this 15th day of February, 2012.

GRANTOR/S:

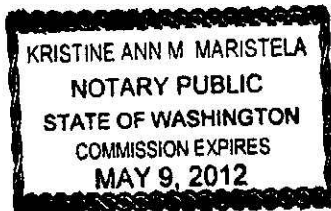
By: [Signature]
Michael L Mangrum 2/15/12
Signature over Printed Name Date

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Michael L. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 02/15/2012

[Signature]
Kristine Ann Maristela
Notary Public in and for the State of WA
residing at Renton
My appointment expires May 9, 2012



DATED this 15th day of February, 2012.

GRANTOR/S:

By:

By: Freda G. Mangrum
Freda G. Mangrum 2-15-2012
 Signature over Printed Name Date

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Freda G. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 02/15/2012

Kristine Ann Maristela
Kristine Ann Maristela
 Notary Public in and for the State of WA
 residing at RENTON
 My appointment expires May 9, 2012

DATED this 1st day of March, 2012.

GRANTOR/S:

By:

Carl L. Mangrum 3-1-2012
Signature over Printed Name Date

CARL L. MANGRUM

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Carl L. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 3-1-12

Bob Huber
Notary Public in and for the State of AZ
residing at Mesa, AZ
My appointment expires 04-05-2015

ACCEPTED BY:

CITY OF DES MOINES
A Municipal Corporation

Anthony A. Piasecki, City Manager

Date:

By direction of the Des Moines City Council taken in open public meeting on
_____, 2011.

APPROVED as to form only:

Pat Bosmans, City Attorney

Date

EXHIBIT A
PARCEL NUMBER 092204-9174
RIGHT OF WAY ACQUISITION

THE EAST 6.00 FEET OF THE HEREINAFTER DESCRIBED PARCEL "A".
CONTAINING 450 SQUARE FEET, MORE OR LESS.

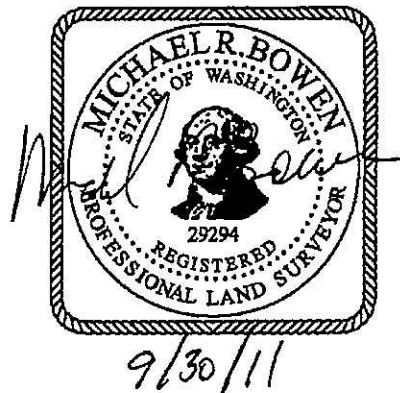
PARCEL "A"

(PER PACIFIC NORTHWEST TITLE COMPANY ORDER NO. 1164783, DATED JUL. 13, 2011)

THE NORTH 75 FEET OF THE SOUTH 229 FEET OF THE EAST 145 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO THE KING COUNTY FOR ROAD PURPOSED BY DEED RECORDED UNDER AUDITOR'S FILE NO. 742312.

SURVEYOR'S NOTE:

THE CENTERLINE OF SOUTH 216TH STREET AND 24TH AVENUE SOUTH IS BASED ON THE RIGHT OF WAY PLANS FOR THE GATEWAY PROJECT, 24TH AVENUE SOUTH, ON FILE WITH THE CITY OF DES MOINES PUBLIC WORKS.



SW 1/4, SEC. 9, T. 22 N., R. 4 E., W.M.

TAX LOT NUMBER
092204-9207

PROPERTY LINE

RIGHT OF WAY
AREA = 450 S.F.±

⑭
TAX LOT NUMBER
092204-9174

PROPERTY LINE

TAX LOT NUMBER
092204-9358

EXISTING RIGHT OF WAY

6.00'

75.01'

75.01'

6.00'

30'

ROW

N 1°05'58" E

EXISTING RIGHT OF WAY

24TH AVE. S.



NTS

DATE: SEPTEMBER 30, 2011

FILE: 14.DWG

KPG

753 9th Ave N
Seattle, WA 98109
(206) 286-1640
www.kpg.com

2502 Jefferson Ave
Tacoma, WA 98402
(253) 627-0720

EXHIBIT A-1
PARCEL 092204-9174
RIGHT OF WAY ACQUISITION

After Recording, Return to:

CITY OF DES MOINES
ATTN: CITY ATTORNEY
21630 11th Avenue South, Suite C
Des Moines, WA 98198-6398

SLOPE EASEMENT

<i>ROW Plan #</i>	
<i>Grantor:</i>	<i>Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007</i>
<i>Grantee:</i>	<i>City of Des Moines, a municipal corporation of the State of Washington</i>
<i>Legal Description/STR:</i>	<i>Ptn. Sec. 9 Twp. 22N Rge. 4E SW Qtr NE Qtr W.M., King County</i>
<i>Assessor's Tax Parcel ID#:</i>	<i>092204-9174</i>
<i>Property Address:</i>	<i>21611 24th Avenue South Des Moines, WA 98198</i>
<i>Mailing Address:</i>	<i>Same</i>
<i>Phone Contact #:</i>	

TRANSPORTATION GATEWAY PROJECT **24TH Avenue South Improvements**

THIS EASEMENT AGREEMENT, made this 15th day of February, 2012, by and between *Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007* ("Grantor" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein).

WITNESSETH:

1. **Grant of Easement.** The Grantor, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors and assigns (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for constructing and maintaining roadway walls and slopes in excavation and/or embankment ("Easement" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.
2. **Property Subject to Easement.**
 - a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit A-1, attached hereto and incorporated by reference.
 - b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the Property legally described in Exhibit "A" and Exhibit A-1 ("Easement Areas" herein) attached hereto and incorporated by reference.
3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and enlarge walls and/or slopes in excavation and/or embankment, and other associated features within the Easement Areas for the purpose constructing and maintaining roadway side slopes.
4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Areas Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Areas. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Areas.
6. **Grantor's Use of Easement Areas.** Grantor reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the easement rights herein granted. Grantor may install groundcover and shrub landscaping plantings within the Easement Areas with Grantee's prior written consent. Grantor shall not alter the ground surface and subsurface within the Easement Areas by excavation, placement of fill material, or installation of any wall or rockery, without Grantee's prior written consent. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Areas.

7. **Indemnity.** Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor or the negligence of others.
8. **Covenant Running With the Land.** This Easement shall be a covenant running with the land and shall forever bind Grantor, their heirs, successors, and assigns.

Grantor acknowledges that the property and/or property rights conveyed herein are in consideration of a mutual benefit to be derived; and Grantor has been informed of its right to receive just compensation and have waived said rights.

The lands herein described can be found in design plans on file with the Director of the City of Des Moines Public Works in Des Moines, Washington, CIP Road Project 319.333, S. 216th Street Improvement, Segment 2, and/or CITY CIP Road Project CIP 319.131, 24th Avenue South Improvements.

DATED this 15th day of February, 2012

GRANTOR/S:

By:

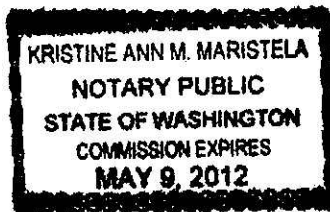
Michael L. Mangrum 2/15/12
Signature over Printed Name Date

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Michael L. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 02/15/2012

Kristine Ann Maristela
Notary Public in and for the State of WA
residing at Renton
My appointment expires May 9, 2012



DATED this 15th day of February, 2012.

GRANTOR/S:

By:

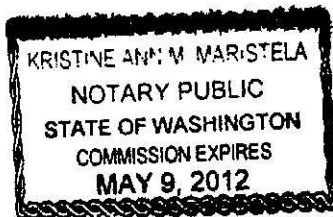
Freda G. Mangrum
Freda G. Mangrum 2-15-2012
Signature over Printed Name Date

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Freda G. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 02/15/2012

Kristine Ann Maristela
Kristine Ann Maristela
Notary Public in and for the State of WA
residing at Renton
My appointment expires May 9, 2012



DATED this 1st day of March, 2012.

GRANTOR/S:

By:

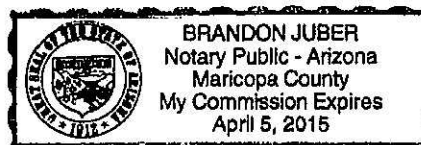
Carl L. Mangrum 3-2-2012 EM
Signature over Printed Name Date B2
CARL L. MANGRUM

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Carl Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 3-1-12

Brandon Juber
Notary Public in and for the State of AZ
residing at Mesa, AZ
My appointment expires 04-05-2015



GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date: _____

By direction of the Des Moines City Council taken at open public meeting _____,
2011.

APPROVED as to form only:

By: Pat Bosmans, City Attorney

Date: _____

STATE OF WASHINGTON)
COUNTY OF KING } ss

This instrument was acknowledged before me on _____ (date of acknowledgment)
by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal
corporation, on behalf of said corporation.

Dated _____

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

EXHIBIT A
PARCEL NUMBER 092204-9174
PERMANENT SLOPE EASEMENT

THE WEST 2.00 FEET OF THE EAST 8.00 FEET OF THE HEREINAFTER DESCRIBED PARCEL "A".
CONTAINING 150 SQUARE FEET, MORE OR LESS.

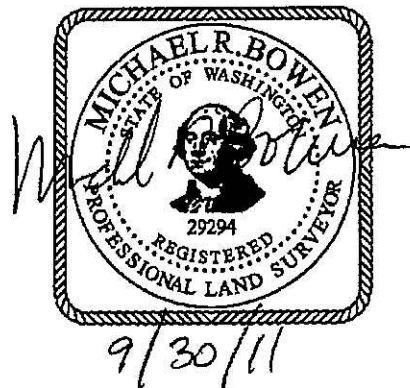
PARCEL "A"

(PER PACIFIC NORTHWEST TITLE COMPANY ORDER NO. 1164783, DATED JUL. 13, 2011)

THE NORTH 75 FEET OF THE SOUTH 229 FEET OF THE EAST 145 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO THE KING COUNTY FOR ROAD PURPOSED BY DEED RECORDED UNDER AUDITOR'S FILE NO. 742312.

SURVEYOR'S NOTE:

THE CENTERLINE OF SOUTH 216TH STREET AND 24TH AVENUE SOUTH IS BASED ON THE RIGHT OF WAY PLANS FOR THE GATEWAY PROJECT, 24TH AVENUE SOUTH, ON FILE WITH THE CITY OF DES MOINES PUBLIC WORKS.



SW 1/4, SEC. 9, T. 22 N., R. 4 E., W.M.

TAX LOT NUMBER
092204-9207

PROPERTY LINE

2.00'

8.00'

SLOPE EASEMENT
AREA = 150 S.F.±

(14)

TAX LOT NUMBER
092204-9174

75.01'

75.01'

R.O.W. ACQUISITION

PROPERTY LINE

2.00'

TAX LOT NUMBER
092204-9358

30'

ROW

N 1°05'58" E

EXISTING RIGHT OF WAY &

24TH AVE. S.



NTS

DATE: SEPTEMBER 30, 2011

FILE: 14.DWG

KPG

753 8th Ave N
Seattle, WA 98109
(206) 286-1640
www.kpg.com

2502 Jefferson Ave
Tacoma, WA 98402
(253) 627-6120

EXHIBIT A-1
PARCEL 092204-9174
PERMANENT SLOPE EASEMENT

Return Address:
City of Des Moines
Attn: City Attorney
21630 11th Avenue So., Suite C
Des Moines, WA 98198-6398

**CONSTRUCTION EASEMENT
AND RIGHT OF ENTRY**

ROW Plan #	
Grantor:	<i>Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007</i>
Grantee:	<i>City of Des Moines, a municipal corporation of the State of Washington</i>
Legal Description/STR:	<i>Ptn. Sec. 9 Twp. 22N Rge. 4E SW Qtr NE Qtr W.M., King County</i>
Assessor's Tax Parcel ID#:	<i>092204-9174</i>
Property Address:	<i>21611 24th Avenue South Des Moines, WA 98198</i>
Mailing Address:	<i>Same</i>
Phone Contact #:	

TRANSPORTATION GATEWAY PROJECT
24th Avenue South Improvements

THIS EASEMENT AGREEMENT, made this 15th day of FEBRUARY, 2012, by and between *Freda Mangrum, Carl L. Mangrum and Michael L.H. Mangrum, as the personal representatives of Carl H. Mangrum's estate to act jointly in the administration and settlement of said estate per Last Will and Testament signed and dated by Carl H. Mangrum on February 2, 2007* ("Grantor" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein).

In consideration of the transportation, sidewalk, utility and general improvements planned to occur immediately on or adjacent to property that is subject to this easement as a result of the above S. 216th Street and/or 24th Avenue S. Improvements, the Grantor(s) hereby grants to the

Grantee, its contractors, employees, agents, successors and assigns, for mutual benefit and other valuable consideration, the right to enter upon land known as King County Assessor's Parcel Number(s) 092204-9174 located adjacent to 24th Avenue South, Des Moines, WA 98198, as required for the purpose of placing personnel and equipment on said premises to re-construct driveway access, restore fences, utility services, mailboxes, plantings, walls and/or walkways to match newly constructed roadway and sidewalk grades within right of way as shown in the plans and specifications found on file with the City Engineer of the Grantee.

SPECIAL STIPULATIONS

1. This license shall remain in force until such time as the construction of street improvements has been accepted for operation and maintenance by the Grantee. Specific details concerning the public street improvements may be found on maps, plans, and specifications on file with Grantee's City Engineer.
2. Grantee, its agents and assigns, will notify Grantor their agents, successors, and assigns, of its construction schedule, and will, to the greatest extent practicable, schedule the construction activity so as to minimize any inconvenience to the property.
3. The Grantee agrees, to the extent practicable, to leave the property in as good condition as existed on the day construction commenced. This shall include the timely removal of any and all debris, rubbish or combustible material resulting from construction activities.
4. Compensation: Grantor acknowledge that the property and/or property rights conveyed herein are in consideration for benefits to be derived by matching the roadway improvements with the Grantor's property. The Grantor agree the expenses of the Grantee for conversion and under-grounding of said secondary utilities cited in Section 4 above, if necessary, is good and valuable consideration.
5. Grantor authorizes and appoints Grantee as its agent and attorney-in-fact to make application for any and all permits required to complete the project.
6. The rights herein granted shall include all incidental rights, including but not limited to, rights of ingress and egress necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the property. Grantee hereby agrees to indemnify and hold harmless Grantor against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.

GRANTOR/S:

By:

Mike L Mangrum

Mike L Mangrum 2/15/12

Signature over Printed Name

Date

STATE OF WASHINGTON)

COUNTY OF KING)

ss

I hereby certify that I know or have satisfactory evidence that Michael L. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

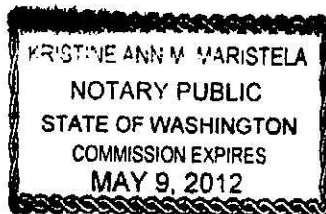
Dated 2/15/2012

Kristine Ann Maristela

Kristine Ann Maristela

Notary Public in and for the State of WA
residing at RENTON

My appointment expires May 9, 2012



GRANTOR/S:

By:

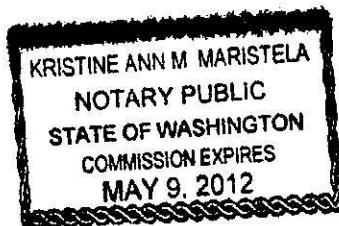
Freda G. Mangrum
Freda G. Mangrum 2-15-2012
Signature over Printed Name Date

STATE OF WASHINGTON)
COUNTY OF KING) ss

I hereby certify that I know or have satisfactory evidence that Freda G. Mangrum is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized, as personal representative of Carl H. Mangrum's estate, to execute the instrument, as evidenced by the Last Will and Testament of Carl H. Mangrum signed and dated on February 2, 2007 and acknowledged it to be his free and voluntary, act for the uses and purposes mentioned in this instrument.

Dated 2/15/2012

Kristine Ann Maristela
Kristine Ann Maristela
Notary Public in and for the State of WA
residing at RENTON
My appointment expires May 9, 2012



GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date:

At the direction of the Des Moines City Council taken at open public meeting the _____ day of _____, 2011.

APPROVED as to form only:

Pat Bosmans, City Attorney

Date

STATE OF)
) ss
COUNTY OF)

This instrument was acknowledged before me on _____ (date of acknowledgment) by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Seal

Notary Public in and for the State of _____
residing at _____
My appointment expires _____

REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Engineering 21650 11th Avenue South Des Moines, WA 98198	I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: (Sign in Ink)
GRANTOR or CLAIMANT <u>Michael L Mangrum</u> 21611 24th Avenue South Des Moines, WA 98198 Tel. No. <u>253-797-3724</u>	By: <u>Michael L Mangrum</u> Date: <u>1-24-12</u> SSN/Tax ID: <u>537-70-0444</u>
TRANSPORTATION GATEWAY PROJECT PROJECT NUMBER: CIP#319.333 TITLE: S. 216th Street Improvement Segment 2 (18th Ave. S to 24th Ave S.)	TAX PARCEL NUMBER: 092204-9174 PROJECT PARCEL NUMBER: 14
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Statutory Warranty Deed Date: <u>02/15/12</u> Slope Easement Date: <u>02/15/12</u> Construction Easement/Right of Entry Date: <u>02/15/12</u> / <u>3/1/2012</u> <i>mm</i>	
For All Lands Convey: 450 SF in Fee Simple @ \$9.66 per SF 150 SF in Slope Easement @ 25% of Fee Construction Easement/Right of Entry For All Improvements: Grass sod and pavement For All Damages: n/a Less Special Benefits: n/a Statutory Evaluation Allowance:	AMOUNT + \$ 4,347.00 + \$ 362.25 + \$.00 + \$ 675.00 + \$ + \$ + \$
JUST COMPENSATION	\$ 5,384.00
Legal / Administrative: Administrative Settlement Other Items: Deductions:	+ \$ 200.00
FINAL SETTLEMENT	\$ 5,584.00
SUBTOTAL	\$ 5,584.00
TOTAL AMOUNT TO BE PAID:	\$ 5,584.00 //
Acquisition Agent: Kristine Maristela CERTIFIED Land Services Corporation 4619 37th Ave SW, Seattle, WA 98126 Phone: (206) 287-9838 <u>Kristine Maristela</u> AGENT <u>1/26/2012</u> Date	The City of Des Moines agrees to the terms and conditions listed above, by direction of the Des Moines City Council on _____, _____. <u>Anthony A. Piasecki, City Manager</u> Date

☐ Original – Public Works

Date: January 4, 2012

City of Des Moines

Project Name: Transportation Gateway Project

Tax Parcel No: 092204-9174

Project Parcel No: 14

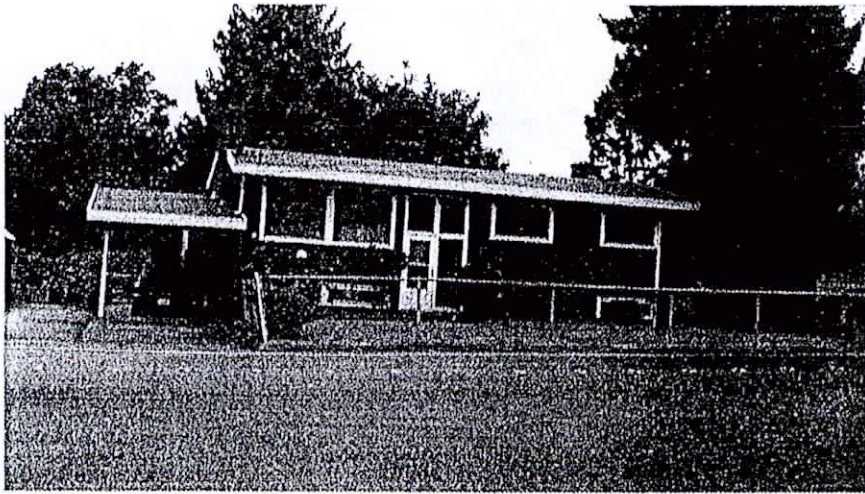
Owner/s: Carl Mangrum

Represented by: MIKE MANGRUM- per Power of Attorney dated Feb. 2, 2007

Address: 21611 24th Ave South, Des Moines, WA

CONSTRUCTION COMMITMENT LOG

As part of the above-referenced project, the City of Des Moines and the Owner/s confirm that, at its cost and as part of the Project, the City will remove the existing chainlink fence along the property's frontage as shown in the photo below, and shall undertake the replacement/ reinstallation of a similar chainlink fence along the property's new boundary lines.



In addition to the above, the total monetary compensation offered to the Owner/s is \$5,584.

Your signature below confirms our agreement.

Owner/s:

Michael Mangrum
Michael Mangrum 12/4/12
By: Date:

City of Des Moines, a municipal corporation of
state of Washington

Scott Anderson 1/12/12
By: Date:



**ROW & EASEMENT ACQUISITIONS
TRANSPORTATION GATEWAY PROJECT
MARCH, 2012**

NOTES:

- ROW ACQUISITION COMPLETE
- ROW ACQUISITION PENDING



KPG
723 1st Avenue S | 117 Broadway
Des Moines, IA 50319 | Des Moines, IA 50319
(515) 281-1541 | (515) 281-1541
www.kpg.com | (515) 281-1541



AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Barnes Creek 223rd Culvert
Replacement Project – Contract Award

ATTACHMENTS:

1. Highline Water District Interlocal Agreement
2. Construction Contract
3. Bid Summary
4. Tetra Tech Inc. Contract Supplement
5. 2012 SWM CIP Project Budget

FOR AGENDA OF: March 22, 2012

DEPT. OF ORIGIN: Planning, Building and
Public Works

DATE SUBMITTED: March 13, 2012

CLEARANCES:

- [X] Legal TS
[X] Finance ph
[] Marina N/A
[] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works TS
[] Police N/A
[] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: TS

Purpose and Recommendation

The purpose of this agenda is to award the construction contract for the 223rd Culvert Replacement Project to MVG, LLC for \$180,881.50 plus 10% contingency. The low bid is \$42,000 below budget. The contract includes a separate schedule for water line relocation work to be paid by Highline Water District, and Council is requested to approve an interlocal agreement with Highline Water District for this as a separate schedule to this construction contract, but this is included in overall contract amount above. References have been made, and of the twenty bids received, staff recommends awarding the contract to MVG Company, the low bidder.

Approval is also requested for a \$32,369 supplement to the consultant agreement with Tetra Tech, Inc., to allow for an additional 197 hours of construction management services including special inspections, submittal reviews, design clarifications, attendance at construction meetings when requested by the City, and geotechnical sub-consultant support. The average fully loaded hourly cost for this consultant support is about \$164 per hour.

Suggested Motions

Motion 1: “I move to approve the interlocal agreement with Highline Water District for the inclusion of the District’s water main replacement as part of the South 223rd Culvert Replacement Project and further to authorize the City Manager to sign said agreement substantially in the form as attached.”

Motion 2: "I move to award the construction contract for the South 223rd Culvert Replacement to MVG, LLC in the amount of \$180,881.50, plus a 10% contingency and further to authorize the City Manager to sign said contract."

Motion 3: I move to supplement the existing consultant contract with Tetra Tech, Inc., to include construction management services, in the amount of \$32,369.00, bringing the total amount of the contract to \$312,741.00, authorize the City Manager to approve additional supplements as necessary up to \$4,000.00 for the entire contract, and to authorize the City Manager to sign said supplement substantially in the form as attached."

Background

The project is for the replacement of a 36-inch corrugated metal stream culvert located at South 223rd and approximately 13th Avenue where Barnes Creek crosses the road. The undersized culvert is planned to be replaced with a new concrete box culvert that is 10-feet wide and 4 feet high to enable fish passage to the upper reaches of the creek. Because this is a resource stream project, the City was able to obtain a King Conservation District (KCD) Grant in the amount of \$153,000 which covers about half of the cost of the project.

Discussion

Twenty bids were received for the project ranging from the low bid of \$180,881.50 to \$291,784.50. The mean of the bids was \$221,079 which was slightly higher than the engineer's estimate of \$214,600. The low bid was lower than the engineer's estimate for the City's Schedule A by \$26,620. City staff has thoroughly reviewed the references provided by the contractor and have concluded the contractor is well qualified for the project. Highline Water District staff have also reviewed the qualifications and have previously contracted with MVG in 2004 for a water main construction project and have concluded the contractor is well qualified.

Although the project bid opening was in March, work will not be commencing until this summer's fish window starting mid-June. The project was bid early to allow for sufficient lead time for the contractor to fabricate the concrete culvert. The contract time is 90 calendar days, so work should be substantially complete by late September. In order to construct the project, it will be necessary to close S. 223rd Street in the immediate vicinity of the project for the duration of the project with traffic being detoured using 10th Avenue and 16th Avenue to S. 222nd Street.

Alternatives

Council may choose to award Schedule A only or to reject all bids and rebid the project. Neither of these alternatives is recommended as Highline Water District has reviewed the bids and desires to proceed with Schedule B of the low bidder. Also, rejecting the bids and rebidding the project could delay the project past the critical summer fish window as approved by the State Department of Fish and Wildlife. Delaying the project may also cause the City to lose the King Conservation District funds that must be utilized within five years of receipt. Award to a company other than the low bidder is not legally permissible without a reason to reject the low bidder.

Financial Impact

The bid for City Schedule A in the amount of \$165,880 is well below the \$208,000 budget for the improvements. The amount for the Tetra Tech supplement for the construction management services in the amount of \$32,369 is slightly higher than the budgeted amount of \$30,000. Combined, the amount

of the approved contracts for construction and construction management services, including a 10% contingency, is below the budgeted amount for the project.

Recommendation or Conclusion

Staff recommends awarding the construction contract to MVG and approving the contract supplement with Tetra Tech for the construction management services. Staff also recommends approving the interlocal agreement with Highline Water District for including their water main relocation work as a separate construction schedule.

Concurrence

The Highline Water District Board has approved the interlocal agreement and concurs with awarding the project to MVG. The Legal Department has reviewed the contract documents and the interlocal agreement and concurs with their approval.

**INTERLOCAL AGREEMENT
CITY OF DES MOINES AND HIGHLINE WATER DISTRICT
SOUTH 223RD STREET CULVERT REPLACEMENT**

WHEREAS, the City of Des Moines, Washington (hereinafter "City") is undertaking a capital improvement project known as the South 223rd Street Culvert Replacement Project (hereinafter "the Project"); and

WHEREAS, Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities; and

WHEREAS, the Highline Water District (hereinafter "District") owns and operates certain water utilities located in the South 223rd Street right-of-way within and adjacent to the project limits of the Project and the District has a franchise agreement to operate in said right-of-way; and

WHEREAS, the City intends to replace an existing culvert on South 223rd Street that serves Barnes Creek; and

WHEREAS, the City's Project requires certain work by the District to accommodate the District's existing water line and the proposed culvert; and

WHEREAS, integrating the District's work into the City's design and construction of the Project would be more expedient, less expensive, and less disruptive to the public than if the District undertook this work separately; and

WHEREAS, the City and the District (individually a "Party" and collectively the "Parties") mutually desire to establish a formal arrangement under which the District will pay the City in exchange for the City's incorporating the District's related utility work into the design and construction of the Project; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs, and liabilities regarding this undertaking; and

WHEREAS, the City Council of the City of Des Moines has taken appropriate action to approve the City's approval of and entry into this Agreement ("Agreement"); and

WHEREAS, the Board of Commissioners of the District has taken appropriate action to approve and enter into this Agreement;

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein, the Parties agree as follows:

TERMS

Section 1. Purpose. The purpose of this Agreement is to establish a formal arrangement under which the District will pay the City to incorporate the design of the District's water utility work into the Project contract documents and to construct said utility work in conjunction with the City's design and construction of the Project. The terms, conditions, and covenants of this Agreement shall accordingly be interpreted to advance this purpose. This Agreement further seeks to allocate and define the Parties' respective rights, obligations, costs and liabilities concerning the establishment, operation and maintenance of this undertaking.

Section 2. Term. This Agreement shall be effective upon execution by the Parties hereto. Unless terminated in accordance with Section 3, this Agreement shall remain effective until one of the following events, whichever is later: (a) the District's written acceptance of and payment for all District's work provided pursuant hereto, or (b) December 31, 2012. Thereafter, the agreement shall expire automatically. The Parties may at their option renew this Agreement for a mutually agreed upon term by a writing signed by both Parties.

Section 3. Termination. Either Party may terminate this Agreement with or without cause by providing the other Party with 30 days written notice of its intent to terminate. Termination or expiration shall not alter the District's payment obligations under Section 6 for services already rendered, as well as for the normal and reasonable costs incurred by the contractor in terminating and closing out the District's portion of the work, and shall not alter the Parties' respective obligations under Section 11 of this Agreement.

Section 4. Obligations of the District. The District agrees to:

A. Provide periodic payments to the City to reimburse the City for its costs of constructing the District's water utility work ("District Work") pursuant to Section 6 of this Agreement, and as follows:

- a. Engineering/Design. The District will coordinate with the City and its engineering consultants on the preparation of the engineering plans and specifications necessary to accommodate the District Work. The District shall review the final Plans and Specifications, and provide the City a written notice of approval and acceptance of the plans and specifications associated with the District's work.
- b. Bid Process. The District shall participate in the bid process as follows:
 - i. Accept or reject bids on bid items associated with the District Work. The District Work shall be included as a separate schedule in the Project contract and include the following bid items:

- “Mobilization”
- “Trench Safety Systems”
- “Water Main Relocation”
- “Minor Change”

ii. Within ten (10) days of receiving the bid tabulation from the City, the District shall notify the City in writing that the District either agrees to proceed with the District Work, or the District chooses to complete its work on its own as part of a separate project.

c. Construction. The District shall reimburse the City for the City’s actual costs for construction of the District Work based upon:

i. Contractor’s bid prices for the District Work, the actual quantities of work installed, and the final actual costs of construction. The engineer’s estimate for the District Work, excluding sales tax, is approximately \$25,000.

ii. All Washington State Sales tax associated with the District work.

B. The District shall pay the City an amount equal to ten percent (10%) of the final construction cost of the District work including sales tax to cover Administrative and Construction Management costs (e.g., project management, bidding, construction administration, inspection).

C. Respond promptly to information requests submitted by the City or its agents regarding the District Work.

D. Upon completion of the District Work to the District’s satisfaction, provide written acceptance of the District Work to the City.

E. The District agrees that the Project is a priority for the City and that a District inspector will be available during the project construction. The District inspector will have the responsibility for inspection and approval of the District’s work and that the contractor employed by the City will be directed to comply with the District’s requirements by the City’s engineer or designee in accordance with plans and specifications approved by the District. The District’s inspector shall immediately notify the City, verbally and in writing, of any disapproval of said work and provide said notification prior to progress payment for said work to the Contractor.

F. If the District decides to reject the bid for the District’s bid items, then the District acknowledges that construction of the District Work will be processed under a separate contract by the District.

Section 5. Obligations of the City. The City agrees to:

- A. Incorporate the design of the District's water utility work into the construction plans, specifications, and contract documents for the Project. The District's work will be under separate bid items/schedule in such a manner as to allow, to the greatest extent possible, identification of cost allocations between the District Work and the Project work.
- B. Assume responsibility for constructing the District's water utility work in accordance with the plans, specifications, and contract documents, including but not limited to securing all necessary consultants, contractors, and subcontractors. All construction contracts shall be procured through a formal competitive bidding process consistent with applicable State law. The City shall have sole authority to award and manage the construction contract per the terms of this Agreement.
- C. Submit to the District written invoices for payment in accordance with **Section 6**. Include copies of invoices or other documentation from consultants and/or contractors, clearly indicating the District's portion of the invoices.
- D. Assume lead agency status and responsibility for applying for and obtaining any and all regulatory permits and approvals necessary to complete the Project, including but not limited to right-of-way permits and SEPA approvals.
- E. Provide District personnel access to the Project's construction area for purposes of inspecting, monitoring, approving or disapproving the progress of work performed on the District's water utility work. The City shall notify a District representative of all construction meetings and shall allow the District representative to participate in all construction meetings.
- F. Respond promptly to information requests submitted by the District or its agents regarding the Project.
- G. The CITY shall require the contractor constructing the Project to have the DISTRICT, its elected and appointed officers, agents and employees named as an additional insured on all policies of insurance to be maintained by contractor(s) under the terms of any Project contract(s), with the CITY contractor building the Project required to maintain Commercial General Liability Insurance, Commercial Automobile Insurance and Workers Compensation. The Contractor shall provide the CITY with either a certified copy of all policies with endorsements attached or a Certificate of Insurance with endorsements attached as are necessary to comply with the contract specifications. The CITY shall provide the DISTRICT with copies of all such policies and documents upon receipt of same by the CITY.

The CITY shall require the contractor building the Project to indemnify, defend, and save harmless the DISTRICT and its elected and appointed officers, agents, or employees from any claim, damage, action, liability of proceeding brought or filed against the DISTRICT or its officers, agents or employees alleging damage or injury arising out of the contractor's participation in the Project. The Contractor shall also be

required to waive the Contractor's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the DISTRICT solely for the purposes of the indemnification.

The City shall require the contractor to be responsible for compliance with all applicable federal, state and local statutes, regulations and ordinances regarding safety.

Section 6. Payment Schedule. The Parties agree to the following billing and payment schedule:

- A. For construction contract costs and for administrative and construction management costs incurred by the City for the District's utility work on the Project, the City shall submit invoices to the District for the District's share of said expense for the District Work. Said invoices shall contain a reasonably detailed explanation of the methodology utilized by the City in determining the District's share of each expense. To the extent reasonably possible, the City shall document and tabulate separately the actual quantities of work installed to clearly identify the District's portion of the Project construction cost for the District Work. Final adjustment of prorated costs shall be delivered to the District within thirty (30) days of project close out.
- B. Within thirty (30) days of receiving any invoice pursuant to subsection 6.A, the District shall tender payment to the City in the form of a warrant, money order or other certified funds for the invoiced amount, except as to any disputed amounts.
- C. In the event that the Parties disagree regarding the District's share of any expense incurred by the City regarding the Project, the Parties may agree to submit the question for resolution in accordance with the mediation/arbitration clause contained herein.

Section 7. (reserved)

Section 8. Change Orders and Authorization of Cost Overruns:

- A. Change Orders. The District shall have the right to approve or reject change orders relating to the District Work. The City shall have the right to approve or reject change orders relating to the City's work. The Parties shall mutually accept or reject change orders relating to joint work. Any dispute between the Parties as to proportional payment for joint element change orders shall be resolved pursuant to the mediation/arbitration clause contained herein.
- B. Cost Overruns. The City is authorized on behalf of the District to negotiate and approve all unit price over-runs in bid quantities and change orders related to the installation of the District Work. The District also authorizes the expenditure by the City of a contingency of up to 10% of the contractor's total price for the District's bid items for over-runs in bid quantities and change orders associated with the

installation of the District Work. For any quantity overruns that cause the cost of the District's water line installation to exceed the authorized 10% contingency amount, the City will notify the District in writing requesting a letter of concurrence allowing the City to exceed the 10% contingency before proceeding with the work. The letter will include an explanation of the conditions necessitating exceeding the previously approved contingency. A letter of concurrence or objection/denial shall be provided to the City within a reasonable time frame so as to not cause a Project delay. If there is a potential delay due to extra work or a change order, the City will indicate in this notification to the District along with a time for response required from the District. The City will include a progress schedule and any change orders for the District Work with the District's monthly invoice. In any event and even without a letter of concurrence from the District, the City is authorized to take any reasonable action and to expend any reasonable amount of money to assure that the District's water line work will not interfere or delay the timely completion of the project. Any disputes as to the reasonableness of the City's actions or expenditures for the water line installation and related work will be resolved as set forth in Section 12 below.

Section 9. Ownership and Disposition of Property. The District Work pursuant to this Agreement shall become and remain the exclusive property of the District upon completion. All other work constructed under the Project shall become and remain the exclusive property of the City upon completion. The City will forward to the District any guarantee or warranty furnished as a normal trade practice in connection with the purchase of any equipment, materials, or items used in the construction of the Project. The City shall submit redline drawings to the District upon completion of the Project for District review and approval. The City's contractor shall warrant the workmanship and materials utilized in the District Work to be free from defects for a period of one (1) year from the date of the District's ownership of the District Work, provided the District shall retain any rights, claims or demands the District may have against the City's contractor relating to the District Work under applicable statutes of limitation.

Section 10. Administration; No Separate Entity Created. The City Planning, Building, Public Works Director, or his/her designee, shall serve as the City's administrator of this Agreement. The District General Manager, or his/her designee, shall serve as the District's administrator of this Agreement. No separate legal entity is formed by this Agreement.

Section 11. Release, Indemnification and Hold Harmless Agreement. Each Party to this Agreement shall be responsible for its own negligent and/or wrongful acts or omissions, and those of its own agents, employees, representatives, contractors or subcontractors, to the fullest extent required by laws of the State of Washington. Each Party agrees to protect, indemnify and save the other Party harmless from and against any and all such liability for injury or damage to the other party or the other Party's property, and also from and against all claims, demands, and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, to the extent caused by its own fault or that of its agents, employees, representatives, contractors or subcontractors.

The City specifically promises to indemnify the District against claims or suits brought under Title 51 RCW by its own employees, contractors, or subcontractors, and waives any immunity that the City may have under that title with respect to, but only to, the limited extent necessary to indemnify the District. The City shall also indemnify and hold the District harmless from any wage, overtime or benefit claim of any City employee, agent, representative, contractor, or subcontractor performing services under this Agreement. The City further agrees to fully indemnify the District from and against any and all costs of defending any such claim or demand to the end that the District is held harmless therefrom.

The District specifically promises to indemnify the City against claims or suits brought under Title 51 RCW by its own employees, contractors, or subcontractors, and waives any immunity that the District may have under that title with respect to, but only to, the limited extent necessary to indemnify the City. The District shall also indemnify and hold the City harmless from any wage, overtime or benefit claim of any District employee, agent, representative, contractor, or subcontractor performing services under this Agreement. The District further agrees to fully indemnify the City from and against any and all costs of defending any such claim or demand to the end that the City is held harmless therefrom.

Section 12. Mediation/Arbitration Clause: If a dispute arises from or relates to this Agreement 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 before a mutually agreed alternative dispute resolution entity or by mediation administered under the American Arbitration Association's Commercial or Construction Rules. The mediator may be selected by agreement of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof may be settled through binding arbitration if arbitration is mutually agreed to by the Parties. If the Parties agree to submit the controversy to arbitration, such arbitration shall be conducted under mutually agreed rules, or under the American Arbitration Association's Commercial or Construction Arbitration Rules. The arbitrator may be selected by agreement of the Parties or through appointment pursuant to the rules of the American Arbitration Association. 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. Following mediation, if the Parties do not agree to submit the controversy to arbitration, either Party may file an action in King County Superior Court. In any such court action, each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

Section 13. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County Superior Court.

Section 14. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between the District and any employee, agent, representative or contractor of the City, or between the City and any employee, agent, representative or contractor of the District.

Section 15. No Third Party Rights. This Agreement is intended for the sole and exclusive benefit of the parties hereto and no third party rights are created by this Agreement.

Section 16. Notices. Notices to the City shall be sent to the following address:

**City of Des Moines
City Transportation Engineer
21650 11th Avenue So.
Des Moines, WA 98198**

Notices to the District shall be sent to the following address:

**Highline Water District
Engineering and Operations Manager
23828 30th Ave S
Kent, WA 98032**

Section 17. Duty to File Agreement With County Auditor. The City shall, after this Agreement is executed by both Parties, file this Agreement with the King County Auditor.

Section 18. Integration/Entire Agreement. This document constitutes the entire embodiment of the Agreement between the Parties, and, unless modified in writing by an amendment to this Interlocal Agreement signed by the Parties hereto, shall be implemented as described above. This Agreement supersedes any oral representations that are inconsistent with or modify its terms and conditions.

Section 19. Non-Waiver. Waiver by any Party of any of the provisions contained within this Agreement, including but not limited to any performance deadline, shall not be construed as a waiver of any other provisions.

Section 20. Amendment. This Agreement may be amended only upon consent of all Parties hereto. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.

Section 21. Severability. If any provision of this Agreement shall be held invalid, the remainder of this agreement shall not be affected thereby.

Section 22. Counterparts. This Agreement shall be effective whether signed by all Parties on the same document or whether signed in counterparts.

Reviewed and approved as authorized by motion of the City of Des Moines City Council on the _____ day of _____, 2012

CITY OF DES MOINES

By: _____
Anthony A. Piasecki, City Manager

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Des Moines City Attorney

Reviewed and approved as authorized by motion of the Highline Water District Board of Commissioners on the _____ day of _____, 2012.

By: _____
Matt Everett, General Manager

Date: _____

STATE OF WASHINGTON)

COUNTY OF KING)

On this day, personally appeared before me _____, the _____ of Highline Water District and stated that he/she is authorized to sign this instrument on behalf of said District for the uses and purposes therein mentioned.

SUBSCRIBED AND SORN TO before me this _____ day of _____, 2012.

NOTARY

**PUBLIC WORKS CONTRACT
between City of Des Moines and**

[Insert Contractor's Company Name]

THIS CONTRACT is made and entered into this **[Enter Day]** day of **[Enter Month]**, **[Year]**, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and **[Insert Contractor's Co. Name]** organized under the laws of the State of **[Insert State Co. Formed Under]**, located and doing business at **[Insert Contractor's Address, Phone Number, and Contact Person]** (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.

South 223rd Street Culvert Replacement

Work to be performed under this contract is as follows:

The existing culvert below South 223rd Street east of 13th Avenue South will be replaced with a precast 3-sided box culvert with full precast invert. The culvert will be partially infilled with streambed material. An additive bid schedule to relocate the existing watermain to accommodate the culvert is also included.

This is a Public Works Project which is subject to Prevailing Wage and Sales Tax rules. 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. Retainage will be withheld.

The contract agrees to furnish all materials, tools, labor, equipment and other incidentals, and to perform all services and work as described in this Agreement and the contract documents, which consist of this Agreement and the following items, which are by this reference incorporated herein:

Exhibit A: Bid Documents

Exhibit B: Contract Documents

Exhibit C: General Conditions

Exhibit D: General Special Provisions

Exhibit E: Special Provisions

Appendix 1: Wage Rates

Appendix 2: WDFW Hydraulic Project Approval

Appendix 3: Highline Water District Standard Plans

Appendix 4: Geotechnical Report

Appendix 5: Standard Plans

Contract Plans

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, and 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 ninety (90) 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 **[Insert maximum dollar amount to be paid for services. You may type out the dollar amount and place the numerical dollar amount in parentheses or you may just enter the numerical dollar amount.]**, plus any applicable Washington State 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. 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 **\$[enter amount] (compute the amount to be entered using the following formula $0.15 \times$ original contract amount divided by original time for completion. Delete this after computing the amount to enter)** shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

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

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

VIII. Hours of Labor. Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor

shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

IX. Compliance with Wage, Hour, Safety, and Health Laws. The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

X. Days and Time of Work. Unless otherwise approved by the City, the working hours for this project will be limited to the following hours:

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

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

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

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

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

XII. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within fourteen (14) 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 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 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, 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 Contractor's performance of this Contract, except for that portion of the injuries and damages caused by the City's sole negligence.

Contractor shall also defend, indemnify and hold Highline Water District, 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 Contractor's performance of this Contract, except for that portion of the injuries and damages caused by the District's sole negligence.

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, agents 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. 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.

XVIII. INSURANCE. The Contractor shall, at least ten (10) days prior to the commencement of work, obtain and keep in force during the term of the Contract, insurance against claims for property damage or personal injury which may arise from or in connection with the performance of the contract work by the Contractor, their agents, representatives, employees, or subcontractors as follows:

No Limitation. Contractor's maintenance of insurance as required by the agreement 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 and name the City and Highline Water District as additional insureds:

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. 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 and the City's consulting design engineer, Tetra tech, Inc., and Highline Water District** 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.
- 3.

C. 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 and Builders Risk:

1. The Contractor's insurance coverage shall be primary insurance as respect to the City and the Water District. 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.
2. The Contractor'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.

D. Contractor's Insurance for Other Losses

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

E. Waiver of Subrogation

The Contractor and the City waive all rights against each other any of their Subcontractors, Sub-subcontractors, agents and employees, each of the

other, for damages caused by fire or other perils to the extend covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

F. Acceptability of Insurers

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

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 the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project.

G. Subcontractors

Contractor shall ensure that each subcontractor of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request by the City, the Contractor shall provide evidence of such insurance.

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. Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish a performance and payment bond to the City in the full amount of the bid with a surety company as surety, ensuring 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 bond 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 providing

such bond 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 bond is 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 \$35,000.00, 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 bond, elect to have the City retain 50% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

XXI. Debarment. The Contractor must certify that it, and its subcontractors, have not been and are not currently on the Federal or the Washington State Debarment List and if the Contractor or its subcontractors become listed on the Federal or State Debarment List, the City will be notified immediately.

XXII. MISCELLANEOUS PROVISIONS.

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

B. Resolution of Disputes and Governing Law.

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

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

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

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

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

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

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

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

I. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or

for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

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

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

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

CONTRACTOR:	CITY OF DES MOINES:
By: _____ (signature)	By: _____ (signature)
Print Name: _____	Print Name: <u>Anthony A. Piasecki</u>
Its _____ (Title)	Its <u>City Manager</u> (Title)
DATE: _____	DATE: _____
	Attest: _____ Approved as to Form: _____
	City Clerk _____ City Attorney _____
	DATE: _____ DATE: _____

Bid Summary

Bid Opening March 12, 2012 11:00 A.M.

South 223rd Street Culvert Replacement

	City Schedule A	Highline Water Dist Schedule B	Total
Engineer's Estimate	\$ 192,900.00	\$ 21,700.00	\$ 214,600.00
1 MVG, LLC	\$ 165,880.00	\$ 15,001.50	\$ 180,881.50
2 Reed Trucking & Excavation	\$ 167,674.00	\$ 16,698.75	\$ 184,372.75
3 Lloyd Enterprises	\$ 171,082.50	\$ 15,292.77	\$ 186,375.27
4 Barry Civil Construction	\$ 175,132.00	\$ 18,724.50	\$ 193,856.50
5 RL Alia Company	\$ 183,218.00	\$ 14,782.50	\$ 198,000.50
6 Tiger Construction & Excavation	\$ 179,503.75	\$ 23,986.50	\$ 203,490.25
7 Santana Trucking & Excavation	\$ 181,637.50	\$ 26,061.00	\$ 207,698.50
8 Hoffman Construction	\$ 191,396.50	\$ 20,974.73	\$ 212,371.23
9 Fardig Development	\$ 195,970.11	\$ 17,756.40	\$ 213,726.51
10 Sierra Pacific Construction	\$ 188,929.90	\$ 26,281.10	\$ 215,211.00
11 Scotty's General Construction	\$ 191,563.00	\$ 27,484.50	\$ 219,047.50
12 Scarsella Bros.	\$ 189,195.00	\$ 30,113.60	\$ 219,308.60
13 Kar-Vel Construction	\$ 217,636.00	\$ 9,964.50	\$ 227,600.50
14 Northwest New Construction	\$ 202,128.00	\$ 27,922.50	\$ 230,050.50
15 Nor Tec Construction	\$ 212,049.41	\$ 20,750.25	\$ 232,799.66
16 Thompson Bros. Excavating	\$ 219,144.00	\$ 19,710.00	\$ 238,854.00
17 CCT Construction	\$ 224,086.00	\$ 18,406.95	\$ 242,492.95
18 Laser Underground & Earthworks	\$ 221,265.00	\$ 38,325.00	\$ 259,590.00
19 Westwater Construction	\$ 242,719.00	\$ 21,352.50	\$ 264,071.50
20 Road Construction Northwest	\$ 263,424.00	\$ 28,360.50	\$ 291,784.50
Mean	\$ 199,181.68	\$ 21,897.50	\$ 221,079.19



Supplemental Agreement Number 8		Organization and Address	
Original Agreement Number n/a		Tetra Tech, Inc. 1420 Fifth Avenue, Suite 600 Seattle, WA 98101 Phone: 206-883-9300	
Project Number 135-21581-08-092	Execution Date 3/15/2012	Completion Date 12/31/2012	
Project Title Barnes Creek Regional Flood Attenuation Facility	New Maximum Amount Payable \$ 312,741.00		
Description of Work Construction services support for the S. 223rd St culvert replacement project.			

The Local Agency of City of Des Moines
desires to supplement the agreement entered into with Tetra Tech, Inc.
and executed on 3/18/2008 and identified as Agreement No. n/a

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

See attached.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion by 12/31/2012.

III

Section V, PAYMENT, shall be amended as follows:

See attached.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Cynthia Carlstad

By: _____

Consultant Signature

Approving Authority Signature

EXHIBIT B-1
CITY OF DES MOINES
SCOPE OF WORK
SUPPLEMENT 8
S 223RD STREET CULVERT REPLACEMENT
SERVICES DURING CONSTRUCTION

The objective of this supplement is for Tetra Tech (CONSULTANT) to provide additional professional services to the City of Des Moines (CITY) for construction administration services for the S 223rd Street Culvert Replacement Project. Professional services to include assistance during bidding, submittal approval, reviewing requests for information (RFI) and construction observation related to construction of the culvert replacement. Geotechnical support provided by AMEC as described below is also included.

Duration

The project budgeting and fee estimate are based on six (6) additional months in the overall project duration.

Services

The CONSULTANT shall perform all services and furnish all materials necessary to accomplish the following work items. Project Administration is included in each item.

This task includes attending a preconstruction meeting, responding to requests for information from the contractor, submittal reviews, periodic site visits, and material testing as requested by the City. Construction services will be provided on an on-call basis up to the budget limit or approved supplements. Quantities of work items below have been used to assist with generating a fee estimate, but may not be the actual number and cycles of reviews due to construction contractor performance. No design changes are assumed.

1. Assistance During Bidding: Provide assistance to the City to answer questions during bidding and review low bidder contractor qualifications.
2. Preconstruction Meeting: Prepare for and attend the preconstruction meeting. Minutes to be recorded by the City.
3. Coordination Meetings: Prepare for and attend six (6) construction coordination meetings at the request of the City. Minutes to be recorded by the City.
4. Submittal Reviews: Review shop drawings, catalog data, schedules and samples, the results of tests and inspections, and other data, which the Contractor is required to submit. These will be reviewed for general conformance with the project design concept and general compliance with the information given in the Contract Documents. Such review is not intended as an approval of the submittals if they deviate from the Contract Documents or contain errors, omissions and inconsistencies, nor is it intended to relieve the Contractor of his full responsibility for Contract performance, nor is the review intended to ensure or guarantee lack of inconsistencies, errors, and/or omissions between the

submittals and the Contract requirements. A written response to Contractor's submittals will be included on the submittals. Thirty-three (33) submittal reviews are estimated.

5. Precast Box Culvert Inspection: Inspect precast box culvert prior to shipping from providers manufacturing plant. Precast box culvert will be inspected for general conformance with the project design concept and general compliance with the information given in the Contract Documents. Such review is not intended as an approval of the submittal if it deviates from the Contract Documents or contain errors, omissions and inconsistencies, nor is it intended to relieve the Manufacturer of their full responsibility for Contract performance, nor is the review intended to ensure or guarantee lack of inconsistencies, errors, and/or omissions between the submittals and the Contract requirements. Task assumes Manufacture's plant can be reached in a 2 hour drive from Seattle, Washington.
6. Respond To Requests for Information (RFI): Respond to City and Contractor RFI's during the course of construction. This effort includes technical interpretation of the contract drawings and specifications and providing written clarification of the contract documents where required. Five (5) RFI's are estimated.
7. Site Visits for Construction Observation: Provide periodic observation of the construction on an as-needed basis to review conformance by the Contractor to the contract drawings and specifications. Where possible, site visits will be coordinated to occur on the day of the weekly construction meetings the City and their inspector will be conducting with the Contractor. Two (2) site visits are estimated at the discretion of the City. Geotechnical support is also provided under this task which included moisture-density determination and compaction testing. Refer to the geotechnical scope of work in Appendix A for specific work elements.
8. Final Walkthrough Meeting: Prepare for and attend the final project site walk-through. Minutes to be recorded by the City.

Appendix A
Geotechnical Scope of Work

PROPOSAL FOR SERVICES



TO	Tetra Tech Engineering & Architecture Services 1420 Fifth Ave, Ste 600 Seattle, WA 98101	DATE	PROPOSAL NO.	PAGE
		March 1, 2012	91P-21707	1 OF 1
		PROPOSAL NAME South 223 rd Culvert Replacement		
FROM	Attn: Greg Gaasland, PE	LOCATION Des Moines, Washington		
	James Dransfield, P.E. james.dransfield@amec.com	SUBJECT Geotechnical Monitoring Services		

SCOPE OF WORK

Per your request, AMEC will provide geotechnical monitoring during replacement of the existing culvert. We understand that the new culvert will be a precast concrete box measuring 50 feet long, 12 feet wide and 5 feet high. Depth of excavation for the new culvert will be on the order of 8 feet below existing roadway grades and we assume that temporary open cuts or shoring will be used. We propose providing geotechnical monitoring on a part-time basis for the following:

- -Evaluate the adequacy of the native subgrade for the new culvert once excavation is complete and provide recommendations for overexcavation if necessary.
- -Perform moisture-density determination on proposed backfill material (Modified proctor and sieve analysis) for compaction testing and to verify conformance with specifications.
- -Monitor and test compaction of backfill as specified on the project plans.

Our services will be completed on a time and expenses basis. We have assumed that four part-time site visits should be adequate (1 visit to observe the subgrade and 3 visits to monitor backfill compaction). AMEC will prepare a daily field report after each site visit is completed which summarizes our observations and test results. A detailed cost breakdown is attached.

ESTIMATED COST

BUDGET TOTAL (Time and Materials Estimate)..... \$4,703

All services will be performed in accordance with the attached rates and sub consultant agreement with TetraTech.

SUBMITTED BY

AMEC Environment & Infrastructure, Inc.

Stephen Siebert, P.E.
Associate

Reviewed By:
James Dransfield, P.E.
Principal

S. 223rd Street Culvert Replacement - Geotechnical Monitoring Summary of Costs

AMEC Labor Cost:

Revised: 29-Feb-12

Classification	Estimated Hours	Average Direct Rate	Average* Hourly Rate	Amount
Principal	1	\$70.07	\$219.81	\$ 220
Associate	3	\$48.94	\$153.52	\$ 461
Sr. Engineer		\$42.00	\$131.75	\$ -
Sr. Geologist	26	\$42.00	\$131.75	\$ 3,426
Technician/CAD Operator		\$29.77	\$93.39	\$ -
Project Administrator/Clerical	2	\$20.29	\$63.65	\$ 127
Sub-Total Labor Cost	32	\$42.17	\$132.29	\$ 4,233

* Basis for Average Hourly Rate:

Average Direct Hourly Labor Rates are January 2009 - December 2009 basis

Billing Multiplier of 313.70% of Direct Salary Cost per UDOT

183.70% 2009 FAR Overhead

30.0% Profit on Direct Labor

5.0% Salary Escalation for 0% percent of direct labor

AMEC Direct Costs:

Lab testing (1 proctor and 1 sieve)	1	\$	330.00	\$	330
Mileage (4 trips @ 65 miles)	260	\$	0.550	\$	140
				\$	-
				\$	-
				\$	-
				\$	470

AMEC	100.0%	\$ 4,703
-------------	--------	-----------------

SubConsultants:

None	hours	0.0%	\$	-
	hours	0.0%	\$	-
-	hours	0.0%	\$	-
-	hours	0.0%	\$	-

SubConsultant SubTotal:	-	0.0%	\$	-
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None	WBE	0.0%
	DBE	0.0%
		0.0%

Total Amount:	32 labor hours	\$ 4,703
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Tetra Tech, Inc.
1420 Fifth Avenue, Suite 600
Seattle WA 98101
(206) 883-9300
(206) 883-9301 (FAX)

CLIENT: City of Des Moines

PROJECT: Barnes Creek Culvert Replacement at 223rd Street
Construction support services

P.D. No.: 135BD-WR

Proj. No.:

EXHIBIT B-2: Estimate of Professional Services

Date: 2/15/2012

Phase Description	TETRA TECH							EXPENSES @ 1.10					SUBCONSULTANTS @ 1.15				PHASE TOTALS
	Principal Engineer	Senior Engineer	Engineer	Editor	CAD Operator	Administrator II	Totals	Travel / Meals	Printing / Reports	Computer / CAD	Misc.	Total Expenses	APS, Inc.	Geotechnical	Survey	Total Subs.	
1.0 Assistance during bidding																	
1.1 Eight hours allocated		8				2	10			\$30		\$33					\$1,504
2.0 Preconstruction meeting																	
2.1 Two hour travel, 4 hour meeting		6					6	\$25		\$18		\$47					\$1,040
3.0 Coordination meetings																	
3.1 Four meetings at 6 hours each		24					24	\$100		\$72		\$189					\$4,161
4.0 Submittal reviews																	
4.1 33 submittals at 2 hours each		66				4	70			\$210		\$231					\$11,448
5.0 Precast box culvert inspection																	
5.1 8 hrs travel & inspection, 10 hrs calcs & doc		18				2	20	\$50		\$60		\$121					\$3,247
6.0 Respond to Request for Information (RFI)																	
6.1 5 RFIs at 4 hours each		20				2	22			\$66		\$73					\$3,530
7.0 Site visits for construction observation																	
7.1 Site visits and geotechnical support		4	2			1	7			\$21		\$23		\$4,703		\$5,408	\$6,399
8.0 Final walk-through meeting																	
8.1 One meeting at 6 hours		6					6	\$25		\$18		\$47					\$1,040
TOTAL HOURS		152	2			11	165	\$200		\$495		\$765		\$4,703		\$5,408	\$32,369
DIRECT JOB WAGES (DJW)	\$66.00	\$54.00	\$37.80	\$32.00	\$28.00	\$24.00											
SUBTOTALS		\$8,208	\$76														
TOTAL ESTIMATED WAGES																	\$8,548
WAGE OVERHEAD @ 1.7547																	\$14,998
PROFESSIONAL FEE @ 0.31																	\$2,650

TOTAL COMPENSATION: \$32,369

Notes:

1. Direct Job Wages and number of hours are for estimating purposes only. Invoices will be based on actual wages and hours of staff assigned to the project.
2. Direct job wages are subject to change to reflect periodic adjustments in Tetra Tech salary levels.



2012-2017 CAPITAL IMPROVEMENT PLAN Surface Water Management

CAPITAL IMPROVEMENT PLAN REQUEST FORM

CATEGORY	Surface Water Management	City Project #	451.820
PROJECT	Barnes Creek 223rd Culvert Replacement	SWM Project #	SWM-06
LOCATION	Barnes Creek between S. 222nd Street and S. 223rd Street	Project Type	New/Replace
DESCRIPTION:	Replacement of the Barnes Creek culvert at 223rd Street with a 10 wide 4 foot high box culvert.	Council Goals Met:	4
		PROJECT STATUS:	90% design

EXPENDITURE SCHEDULE													
COST ELEMENTS	TOTAL*	Prior Yrs	FY 08 Act	FY 09 Act	FY 10 Act	FY 11 Est	FY 11 Amend	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
ADMINISTRATION	\$ 36,124	\$ 123	\$ 2,290	\$ 8,692	\$ 10,019	\$ 5,000	\$ 10,000	10,000					
CIP PROJ MANAGEMENT	30,000						5,000	30,000					
DESIGN / ENGINEERING	280,412		54,803	112,509	66,330	46,770		-					
WETLAND MITIGATION	-						75,000						
CITY PERMITS	-												
IMPROVEMENTS	208,000						662,779	208,000					
INSPECTION	25,000						75,000	25,000					
Highline Water District Relocate								30,000					
CONTINGENCY	60,000					20,000	150,000	40,000					
SALES TAX	-						66,000						
TOTAL	\$ 639,536	\$ 123	\$ 57,093	\$ 121,201	\$ 76,349	\$ 71,770	\$ 1,043,779	\$ 343,000					

FUNDING SOURCES	TOTAL*	Prior Yrs	FY 08 Act	FY 09 Act	FY 10 Act	FY 11 Est	FY 11 Amend	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
SWM CIP	\$ 486,536	\$ 123	\$ 57,093	\$ 121,201	\$ 10,019	\$ 400	\$ 1,028,479	\$ 297,700					
Highline Water District								30,000					
KING CONSERVATION FUNDS	153,000				137,700	-	15,300	15,300					
TOTAL	\$ 639,536	\$ 123	\$ 57,093	\$ 121,201	\$ 147,719	\$ 400	\$ 1,043,779	\$ 343,000					

*Excludes FY 11 Amd

ATTACHMENT 5

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Marina District Design Theme

FOR AGENDA OF: March 22, 2012

ATTACHMENTS:

1. Marina District Design Guidelines
2. Summary of Dot Exercise from April 30, and May 4, 2011 Open Houses

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: March 13, 2012

CLEARANCES:

- ☐ Legal N/A
- ☐ Finance N/A
- ☐ Marina N/A
- ☐ Parks, Recreation & Senior Services N/A
- ☒ Planning, Building & Public Works HA
- ☐ Police N/A
- ☐ Courts N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: HA

Purpose and Recommendation

The purpose of this agenda item is to clarify whether City Council wishes to formally establish a "Cape Cod" design theme for the Marina District Neighborhood.

Suggested Motion

Motion: "I move to establish a 'Cape Cod' design theme for the Marina District Neighborhood."

Background

In July 2010, Des Moines City Council adopted the *Marina District Design Guidelines*. This work was the culmination of more than 10 Planning Agency meetings, multiple City Council meetings, a public open house and media publications. Key goals of the Planning Agency were to develop guidelines that:

- Reflect the vision for the Marina District
- Are concrete and easily understood
- Guide staff, designers and developers as they evaluate, plan, and implement projects in the Marina District Neighborhood
- Avoid being too prescriptive
- Rely on development regulations for specified limitations

The *Marina District Design Guidelines* are intended to help shape the form of new development by paying particular attention to site design, building form, architecture and public spaces. They provide a framework for creating diverse and high quality commercial and multi-family projects in a way that is consistent with the vision for the Marina District. Each section of the Design Guidelines include graphic examples to assist project developers and their architects by illustrating the general intent of the City's guidelines and regulations. The graphic images are meant to be examples, and are not the only acceptable means of accomplishing the intent of the design standards.

During the course of the development of the *Marina District Design Guidelines* as well as the recent Stakeholder Group meetings and open houses for the Marina District zoning amendments, the community was asked about their desires for a specific design theme for the Marina District. The general consensus of the Planning Agency and community during the development of the Design Guidelines was to allow for design flexibility versus adopting a stated design theme.

At the April 30, and May 5, 2011 open houses that were held at Des Moines Activity Center, the community was afforded another opportunity to indicate their visual preferences for architectural styles and scale of development via a Dot Exercise. The purpose of the Dot Exercise was to understand the "desired character" for the Marina District; therefore, it does not constitute a statistically valid survey. For the Dot Exercise, a series of photographs were numbered and grouped into six categories as indicated below:

1. Historical Styles
2. Maritime and Traditional Styles
3. Contemporary Northwest Architecture,
4. 2-3 Story Mixed Use Development
5. 3-4 Story Mixed Use Development
6. 5-6 Story Mixed Use Development.

Each person was given three green dots, three yellow dots and three red dots and asked to rate the images with the understanding that: Green Dots = Great, Yellow Dots = Okay under certain conditions, and Red Dots = Do not like. Participants were also asked to complete a comment form to tell us how they rated their dots (Example – *Green Dot: Image #12, I like the use of wood, glass and lighting in the building design; Yellow Dot: Image #22, the varied rooflines of the building helps reduce the overall scale and mass of this building; Red Dot: Image 21, I don't like the artwork on this building*). Both the comment form and dots were assigned a corresponding number which allowed staff to cross-check how dots were voted. In addition, participants did not have to use all of their dots.

Attachment 2 provides a summary of how community members expressed their design preferences. Community members expressed strong preferences towards images showing historical as well as contemporary architectural styles. Some of the words people used to described their preference include use of wood and glass, maritime/coastal feel, open feel, gathering areas, pedestrian friendly, timeless style, clean architecture, contemporary also fits in with Marina and NW theme.

Discussion

Council has the option to establish a "Cape Cod" theme for the Marina District Neighborhood. The Cape Cod style would fit well for projects where an existing building is being remodeled or updated;

however, it may be more challenging for new construction projects, particularly those projects that are looking to take advantage of the 45- and 55-foot height limits.

In previous discussions with the Planning, Building, and South King County Fire and Rescue staff, it was determined that pitched roofs associated with the Cape Cod architectural style could negate the zoning heights that were recently established. The pitched roofs could also limit the amount of leasable space on the upper stories and would require additional sprinkling.

Alternatives

The alternative of taking no action would be to defer to the adopted *Marina District Design Guidelines* for guidance on the design of future buildings in the Marina District Neighborhood. The Design Guidelines are intended to provide design flexibility while illustrating the vision and desired character for the Marina District.

Financial Impact

Design guidelines can establish a climate for investment for businesses, residents and property owners because the associated review process provides assurance that alterations and new construction by others will reinforce the design goals and vision for the neighborhood. Revitalization of the Marina District will stimulate economic development in the business core. This in turn will help create jobs, new housing, a stronger tax base and tax revenues for the City of Des Moines.

Recommendation or Conclusion

None.

Concurrence

N/A



Marina District Design Guidelines

July 2010



MARINA DISTRICT DESIGN GUIDELINES

Ordinance No. 1486 approving the July 2010 Final Version of the *Marina District Design Guidelines* was adopted by the City Council of Des Moines, Washington on July 29, 2010.

Prepared for:

City of Des Moines
21630 11th Avenue S.
Des Moines, WA 98198

Prepared by:

Denise E. Lathrop, AICP – Planning Manager
Maja Hadlock – Planning Intern

Acknowledgements:

Des Moines City Council

Bob Sheckler, Mayor
Dave Kaplan, Mayor Pro-Tem
Dan Sherman
Scott Thomasson
Matt Pina
Melissa Musser
Carmen Scott

Des Moines Planning Agency

Bob Polwarth, Chair
Aaron Bekkerus, Vice-Chair
Don Riecks
Cass Prindle
Leslie Newman
Shannon Hoel

City Staff

Tony Piasecki, City Manager
Grant Fredricks, PBPW Director
Robert Ruth, Development Services Manager
Steve Schunzel, GIS
Dale Southwick, IT

MARINA DISTRICT DESIGN GUIDELINES

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I. Introduction

This document sets forth a series of Design Guidelines that will be used by the City of Des Moines for Administrative Design Review (ADR). The Planning Official will use these guidelines to interpret the development regulations established in the DMMC. The guidelines are also intended to assist project developers and their architects by providing graphic examples of the intent of the City's guidelines and regulations.

The purpose of the Design Guidelines is to establish a flexible design framework defined by a menu of design options for creating diverse and high quality commercial and multi-family construction projects in the Marina District which includes Downtown, the Marina and Beach Park (Figure 1).

The Design Guidelines are envisioned to complement the requirements established in the Des Moines Municipal Code (DMMC). The DMMC coupled with the Street Development Standards provide clear requirements for public rights-of-way and site and building requirements such as setbacks, lot coverage, landscape buffers, signage, and allowable land uses. The Design Guidelines are meant to shape the form of the area, paying particular attention to site design, building form and character.

The Guidelines present a clear set of objectives for improving pedestrian areas and improving the quality and diversity of building designs as defined by the goal and intention statements and through graphics, illustrations and photos. The graphics, illustrations and photographs are intended to illustrate the design elements and features being described by the guidelines; however, they do not supercede specific development requirements established in the Des Moines Municipal Code. These Guidelines include a set of examples for how these objectives are to be met. The menu of design options define a minimum condition for approval and identify a variety of design examples and options.

The Design Guidelines do not set a particular style of architecture or design theme. Rather, they will establish a greater sense of quality, unity, and conformance with Des Moines' physical assets and civic role. The Design Guidelines will work with improvements to streets and parks and the development of new public facilities to create a dynamic setting for civic activities and private development. It is important to note that these Guidelines are not intended to slow or restrict development, but rather to add consistency and predictability to the permit review process.

II. Marina District Neighborhood Context and Priority Design Objectives

The overriding objective of the Marina District Design Guidelines (MDDGs) is to ensure that new development fits in well with its surroundings. The following design guidelines share this objective, with an emphasis on siting and design conditions and priorities supported by the community, to guide the design of new development in a manner that strengthens the Marina District's mixed-use commercial core and connections to the Marina, Beach Park and the waterfront.

Through the planning process for the Downtown Neighborhood and MDDGs, Des Moines City Council, Planning Agency and the community stated the desire to enliven the Marina District by providing for a mix of uses and architectural styles along with quality design of storefronts, streetscapes, wayfinding, and on-street parking. It is recognized that new development provides the opportunity for a broader mix of businesses, services, residential units and employment that will help activate the Marina District.

In January 2009, City Council adopted a draft vision for the Marina District's future as well as a mission statement that identified public actions to make that vision a reality. One of the recommended actions is the adoption of a set of design guidelines to be used in reviewing all new development and major renovations in the Downtown Neighborhood. The vision and mission statement clearly express the importance of design in creating and maintaining a sense of place and enhancing the economic vitality of the Marina District:

Vision for the Marina District

The Marina District – the Downtown, Marina and Beach Park – is the civic and cultural center for Des Moines. A revitalized Marina District with a small-town charm reflecting the City's rich history invites new businesses, development, shoppers and residents. A quality mix of services in the District encourages residents to shop locally and creates a destination for visitors. Improved pedestrian access to and from the Marina and Beach Park, and pedestrian amenities along South 223rd Street and South 227th Street enhance the image of Des Moines as a special Puget Sound waterfront community. Design guidelines encourage private participation and public art to reflect and celebrate the City's unique location and maritime heritage.

Mission Statement for the Marina District

To strengthen the vitality of the Marina District as a place for people to live, shop, work and play by:

- Strengthening community sustainability, pedestrian accessibility, livability and downtown business vitality.
- Optimizing Des Moines' prime waterfront location and City views through the enhancement of cultural opportunities and experiences.
- Establishing design guidelines aimed at preserving Des Moines' small-town character while promoting diversity and creativity of new development.

- Creating an integrated transportation system that includes a comprehensive parking strategy, pedestrian and bicycle network, and streetscape improvements.
- Planning for the S. 223rd Street between Marine View Drive and Cliff Avenue focusing initially on public works street improvements and the Cliff Avenue connection to the Marina floor.
- Planning for the S. 227th Street corridor focusing initially on public works street improvements and Marina entrance enhancements.
- Coordinating with King County Metro the placement and funding of bus shelters on Marine View Drive.
- Developing detailed facilities, marina street furnishings, and amenities plans that include funding and priorities in the Municipal Facilities, Marina and Arterial Streets Capital Improvement Plans (CIP).
- Coordinating with the Des Moines Arts Commission and the Des Moines Historical Society to develop a Public Arts Plan that includes sculptures, murals, interpretive Marina railing displays and history trails.
- Executing a valid community survey to determine what citizens of Des Moines envision for the Marina District."

The MDDG directly address these objectives. It is especially important that development projects in the Marina District, particularly those on corner lots and key pedestrian streets, implement objectives of the Comprehensive Plan, Marina Master Plan and Comprehensive Transportation Plan by addressing the following:

- Employ façade modulation and articulation to provide appropriate human and architectural scale, view corridors, and visual interest.
- Locating the buildings adjacent to the public sidewalk or orienting the building to a plaza or publicly accessible open space that is located adjacent to the sidewalk.
- A continuous area of commercial and mixed use development is particularly important along Marine View Drive South between S 216th and S 227th Streets.
- Providing an enhanced sidewalk environment that includes elements such as storefronts near the sidewalk, minimal interruption by vehicular driveways, awnings for weather protection, public open space, street trees, attractive landscaping, and integrated signs and lighting.
- Providing pedestrian-oriented facades and entrances along public rights-of-way and designated pedestrian pathways. "Pedestrian-oriented facades" generally feature window areas or window displays, artwork or other amenities along the majority of the ground floor, and substantial weather protection.
- Minimizing paved surfaces devoted to vehicle circulation and parking. Below-grade or in-structure parking is strongly recommended.
- Minimizing the impact of driveways on pedestrian travel.
- Ensuring that public open spaces and pedestrian travel routes have sidewalks or other walkways, are safe and well lit, and respond to *Crime Prevention through Environmental Design* (CPTED) principles.

III. Design Guidelines

A. Site Planning

"Site planning" is the purposeful arrangement of buildings, landscaping, open spaces, circulation elements, and other features to support civic and private development growth goals. A well-conceived site design addresses the following:

- Site characteristics
- Street compatibility
- How the development relates to the street corner
- Human activity
- Transition between residence and street
- Residential open space
- Parking and vehicle access

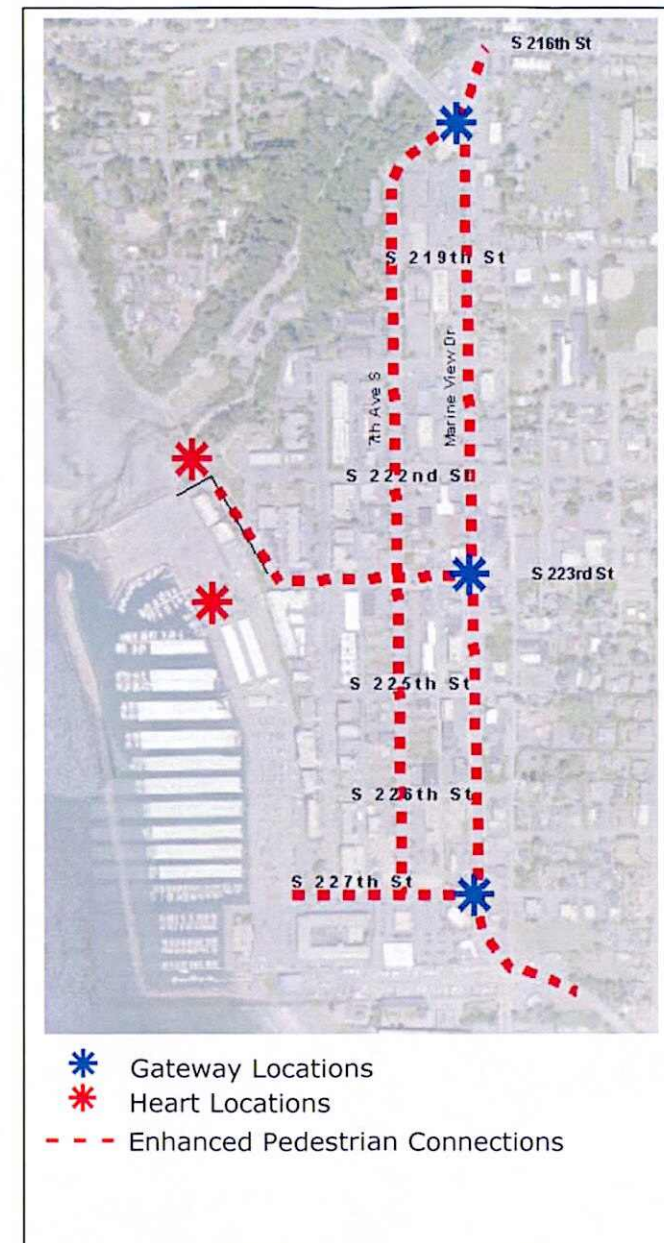
A.1. Responding to Site Characteristics

Intent – The siting of buildings should respond to specific site conditions and opportunities such as location on prominent intersections, unusual topography, significant vegetation and views, or other natural features.

Gateways

Gateways are transition locations, places that mark entry or departure points to a neighborhood for automobiles and pedestrians. They are sites that create opportunity for identification of a physical marker for the community to notice they are entering a special place. Methods to establish gateways should consider the site's characteristics such as topography, views or surrounding building patterns. Elements could include building out to meet the corner where appropriate, or tools such as:

- Setbacks to allow for pedestrian friendly spaces;
- Signage;
- Landscaping;
- Artwork;
- Façade treatments.



DESIGN GUIDELINES

The following intersection locations have been identified as gateways for the Marina District due to the level of traffic flow, general visibility and/or development potential.

- South 216th Street and Marine View Drive South
- South 223rd Street and Marine View Drive South
- South 227th Street and Marine View Drive South

Heart Locations

Heart locations serve as the perceived center of commercial and social activity within the neighborhood. These locations provide anchors for the community as they have identity and give form to the neighborhood. Development at heart locations should enhance their central character through appropriate site planning and architecture. These sites have a high priority for improvements to the public realm. A new building's primary entry and façade should respond to the heart location. Special street treatments are encouraged and buildings will need to relate to these centers of commercial and social activity. The following locations have been identified as heart locations within the Marina District:

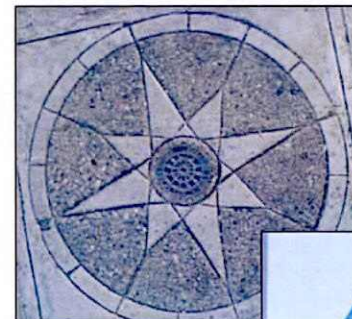
- South 223rd Street
- 7th Avenue South
- South 227th Street
- Marine View Drive South
- Marina and Beach Park

Guideline

- Encourage provision of "outlooks and overlooks" for the public to view Puget Sound, Olympic Mountains and cityscapes. Examples include provision of public plazas and/or other public open spaces and changing the form or setbacks of the building to enhance views.
- Reinforce community gateways and heart locations through the use of architectural elements, streetscape features, landscaping and signage.
 - Gateways can be defined through landscaping, artwork, and references that create a sense of place.
 - Heart Locations can be defined by amenities such as: pedestrian lighting, weather protection, public art, special paving, landscaping, additional public open space provided by curb bulbs and entry plazas.



Established nautical themes.



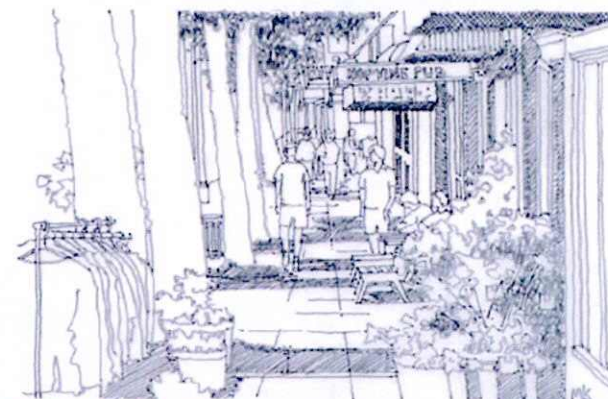
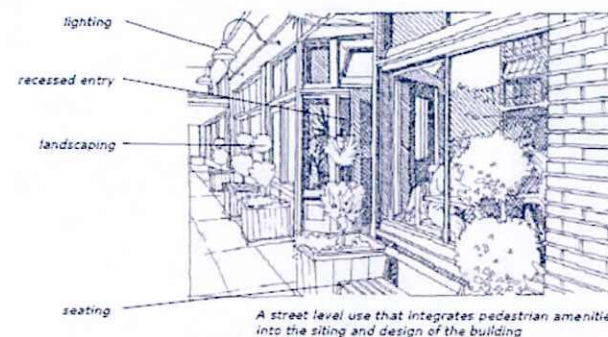
A.2. Street Compatibility – Relationship to Street

Intent – The vision for street level uses in the Marina District is a completed network of sidewalks that successfully accommodate pedestrians. Streetscape compatibility is a high priority of the neighborhood.

Guideline

Sidewalk-related spaces should appear safe, welcoming and open to the general public. The siting of buildings should acknowledge and reinforce the desirable spatial characteristics of the right-of-way. Entries should be clearly identifiable and visible from the street.

- Reinforce the scale of the street wall with well-organized commercial and residential bays and entries.
- Further articulate the street level facade to provide a comfortable pedestrian experience with placement of street trees, exterior lighting on buildings, planters and overhead weather protection.
- Provide street trees with tree grates or in planter strips, using appropriate species to provide summer shade, winter light and year-round visual interest.
- Encourage provision of spaces for street level uses that vary in size, width, and depth. Strongly encourage the use of awnings and weather protection along street fronts to enhance the pedestrian environment.
- The ground floors of buildings should appear inviting to the public by containing commercial uses and public open spaces with direct entry from the sidewalk. Vary in size, width and depth to accommodate a variety of appropriate uses and activities for the site and vicinity. This includes providing multiple entries at the street.
- Where appropriate, configure retail space so that it can spill-out onto the sidewalk (retaining six feet for pedestrian movement, where there is sufficient width)
- On Mixed Use Corridors, at least one primary business and residential entry shall be oriented to the primary public street. Secondary and service entries should be located off the alley, side street or parking lots.
- Encourage welcoming, slightly recessed main building or shop entrances consistent with a traditional downtown storefront design.



Street level faced with recessed entrances, pedestrian oriented signs and street trees.



Site
Planning

DESIGN GUIDELINES

- Clearly indicate main entries to new commercial and multiple family residential buildings through design, material changes, lighting and street visibility.
- In residential projects, except townhouses, it is generally preferable to have one walkway from the street that can serve several building entrances. At least one building entrance, preferably the main one, should be prominently visible from the street. To increase security, it is desirable that other entries also be visible from the street; however, the configuration of existing buildings may preclude this.
- When a courtyard is proposed for a residential project, the courtyard should have at least one entry from the street. Units facing the courtyard should have a porch, stoop, deck or seating area associated with the dwelling unit.
- In residential projects, front yard fences over four (4) feet in height that reduce visual access and security should be avoided.

A.3. Street Corners

Intent – Pedestrian activities are concentrated at street corners. These are places of convergence, where people wait to cross and are most likely to converse with others. New development on corner lots should take advantage of this condition, adding visual interest to the street while providing clear space for movement.

Guideline

New buildings should reinforce street corners, while enhancing the pedestrian environment.

- Special features and strong building forms should be used to visually anchor the block. Larger setbacks are encouraged to provide wider sidewalks or plazas. Focal elements such as public art, landscaping or a community information kiosk should be considered at some intersections.
- Public space at the corner, whether open or enclosed, should be scaled in a manner that allows for pedestrian flow and encourages social interaction. To achieve a human scale, these spaces should be well defined and integrated into the overall design of the building.



Building form and elements are oriented to the corner.



- Consider:
 - providing seating;
 - incorporating art that engages people;
 - setting back corner entries to facilitate pedestrian flow and allow for good visibility at the intersection.
- Building forms and design elements and features at the corner of key intersections should create gateways for the neighborhood. These buildings should 'announce the block' through the inclusion of features that grab one's interest and mark entry.
- To maintain strong definition of corners, street fronts and street corridors, parking lots and driveways should be located away from street corners.

A.4. Human Activity

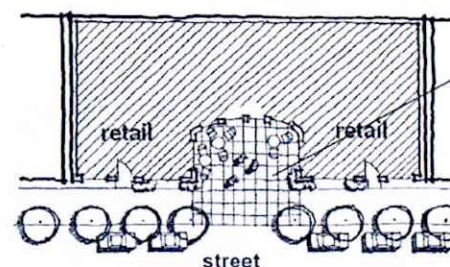
Intent – New development should be sited and designed to encourage human activity on the street. Sidewalks are the principal place of pedestrian movement and casual social interaction. Designs and uses should complement this function.

Guideline

- Outdoor Dining. Consider setting portions of the building back to create spaces at street level for pedestrian-oriented activities. Take the "indoors" outdoors by spilling interior space (e.g. dining areas, merchandise displays) onto plazas and walkways and bring the "outdoors" into the building by opening interior spaces to sunlight and views of sidewalk activity. Outdoor eating and drinking opportunities are encouraged along street-level building facades.
- Pedestrian orientation and activity should be emphasized in the Marina District. While most streets feature narrow sidewalks relative to the volume of pedestrian traffic, wider sidewalks and more small open spaces for sitting, street musicians, bus waiting, and other activities would benefit these areas. Pedestrian-oriented open spaces, such as wider sidewalks and plazas, are encouraged as long as the setback does not detract from the "street wall."



Emphasize human-scale design: the individual interacts with the street level of a building in an intimate fashion, and rich visual details at the street level add interest and character to the façade, setting the stage for an active street environment and reinforcing pedestrian comfort.



Design for uses that are accessible to the general public, generate walk-in business and contribute to a high level of pedestrian activity at street level. Consider extending street-level spaces out to the sidewalk with multiple entrances and open spaces featuring decorative paving, street furniture and artwork. Retail uses should front such spaces.



Site
Planning

DESIGN GUIDELINES

- Individualized Storefronts. A diversity of scale and appearance of storefronts contributes to the success and vitality of the business district. The community encourages opportunities for individual retail businesses to personalize or modify their storefronts. Such modifications could include:
 - awning or canopy design;
 - sign design;
 - window design; and
 - street-level building surface materials.
- Street level transparency. The intention of transparency in the street level facades of commercial and civic buildings is to provide for interaction between people in the interior of a building and people near the exterior of a building - particularly on the sidewalk - through a direct visual connection. The following are examples of less desirable design treatments that are discouraged:
 - windowless walls;
 - mirrored or non-transparent glass or glass block;
 - display cases;
 - narrow windows not meeting the intent above;
 - windows located above waist level to persons outside the building on the sidewalk;
 - windows into areas that are too small, shallow, or narrow to support normal human activity (e.g. the back of a tall display case, a narrow hallway); and
 - any interior wall, equipment, or functional layout that hampers the intent of transparency stated above.
- Create graceful transitions at the streetscape level between the public and private uses.
- Reinforce pedestrian connections both within the neighborhood and to other adjacent neighborhoods. Transportation infrastructure should be designed with adjacent sidewalks, as development occurs to enhance pedestrian connectivity.
- Reinforce retail concentrations with compatible spaces that encourage pedestrian activity.
- Create businesses and community activity clusters through co-location of retail and pedestrian uses as well as other high pedestrian traffic opportunities.

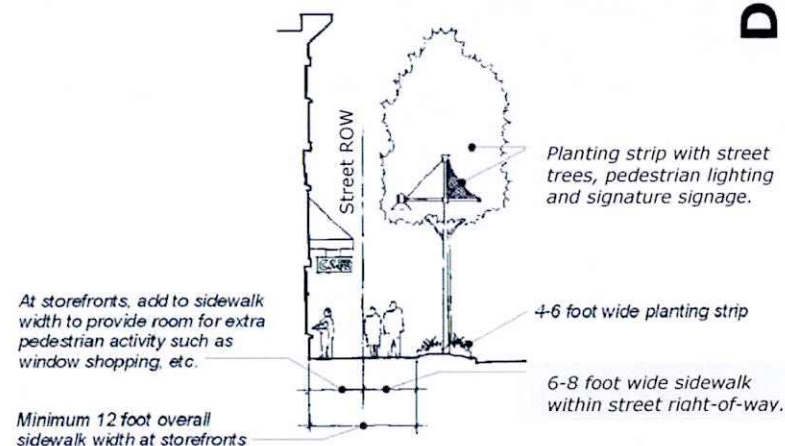


A well-marked, articulated building entrance that is oriented to the sidewalk and provides overhead cover.



Site
Planning

DESIGN GUIDELINES



- Design for a network of safe and well-lit connections to encourage human activity and link existing high activity areas.

A.5. Transition between Residence and Street

Intent – For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction among residents and neighbors. Buildings should respect adjacent properties by being located on their sites to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings.

Guideline

- Consider designing the entries of residential buildings to enhance the character of the streetscape through the use of small gardens, stoops and other elements to create a transition between the public and private areas.
- Residential entries should be set back from the street. On side streets, stoops with elevated entries and open spaces are positive features.
- Consider design options to accommodate various residential uses, i.e., townhouse, live-work, apartment and senior-assisted housing.

A.6. Residential Open Space

Intent – Residential projects should be sited to maximize opportunities for creating usable, attractive, well-integrated open space.

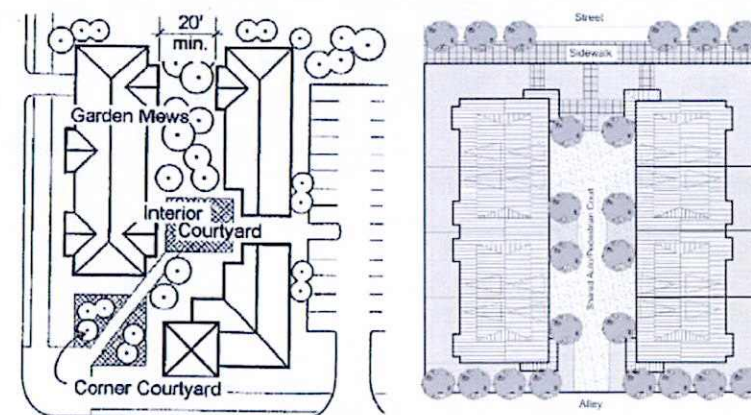
- New residential development should conform to the requirements of the DMMC, "Multifamily Recreational Areas."
- Residential buildings should be organized and sited to create usable open space.
- Design outdoor space to be inviting and promote contact among neighbors and provide security and privacy for individual units.
- Open spaces should be oriented to take advantage of views and sunlight. When possible, orient outdoor courtyards, terraces, and gardens to face west, east, or preferably south. Use deciduous trees to permit sunlight penetration in the winter and shading in the summer.
- If possible, incorporate the open space into the architectural concept (see Guideline 2.A.1.) and/or spatial layout of residential units.



Residential building entrances that enhance the streetscape.



DESIGN GUIDELINES



Example of residential open space concepts.

A.7. Parking and Vehicle Access

Intent – Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

Guideline

- Parking on a commercial street front should be minimized and where possible should be located behind a building.
- Site and design driveways to minimize conflicts between vehicles and pedestrians. Minimize the number of curb cuts and width of driveways and curb cuts along these streets.
- Install contrasting paving materials or colors to distinguish between pedestrian and vehicle circulation areas, especially at crosswalks and driveways.
- Provide additional lighting at pedestrian crossings and where security is a concern.
- Ensure that landscaping where vehicle and pedestrian movements intersect does not block pedestrians' and drivers' views.
- Separate service vehicle access and loading zones from pedestrian areas where possible.
- Use on-site directional signs to clearly mark vehicular routes.
- Use raised walkways, bollards, wheel stops, and/or landscaping to physically separate vehicles and pedestrians.
- Minimize the number of access points to the site by:
 - Using shared driveways and/or shared parking facilities with neighboring properties, and
 - Sharing access drives and circulation routes between customers, employees and service traffic, where possible.
- Below grade parking is encouraged with access located on alleys or side streets.
- Consider placing parking underground for all new development within the Downtown Core. Where this is not feasible, parking lots should be located behind buildings or in the interior of a block. Large parking lots should be visually and functionally segmented into smaller areas with planted medians, walkways, lighting, etc.
- Consider placing retail at the ground level of a parking structure along the primary facade, where appropriate.

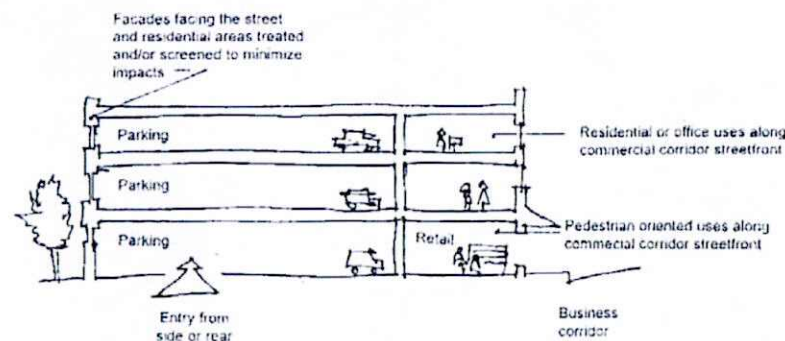


Site
Planning

DESIGN GUIDELINES



Design parking on ground floor behind shops and residential parking underground.



- Parking structure facades should be treated with high quality materials and given vertical articulation and emphasis similar to the principal structure. The facade should be designed to visually screen cars.
- Pedestrian entries should be clearly visible and architecturally expressed on the exterior of the building.
- Off-street bicycle rack parking and on-site storage areas are strongly encouraged.
- Consider amenities for pedestrian and pets.
- Creatively designed, clean and functional alleys should provide for vehicular access and pedestrian linkages. Lighting shall be provided for pedestrian safety and visibility.



Bicycle racks and storage areas.



Site
Planning

DESIGN GUIDELINES

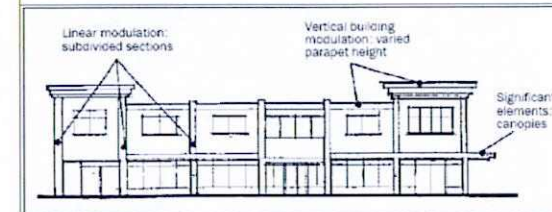
B. Height, Bulk and Scale

"Height, bulk and scale" relates to the size of buildings and their relationship to surrounding properties. Architectural design, choice of construction materials, and how the built form sits within the context of its surroundings influence the sense of place. A well designed building should be welcoming, add human interest, and allow opportunities for meaningful social interaction.

Intent – Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.

Guideline

- Address both the pedestrian and auto experience through building placement, scale and details with specific attention to regional transportation corridors such as Marine View Drive.
- Relate proportions of buildings to the width and scale of the street.
- Consider using architectural features to reduce building scale such as:
 - landscaping;
 - trellis;
 - complementary materials;
 - detailing; and
 - accent trim.
- Articulate the building facades vertically or horizontally in intervals that relate to the existing structures or existing pattern of development in the vicinity. Articulation can be accomplished in several ways, including:
 - Modulation—the stepping back or projection of a portion of the façade;
 - Including significant building elements such as balconies, porches, canopies, entry areas, etc. that visually break up the façade;
 - Building focal points that include distinctive entry features;
 - Changing the roofline; and
 - Changing materials.



vertical
modulation



horizontal
modulation



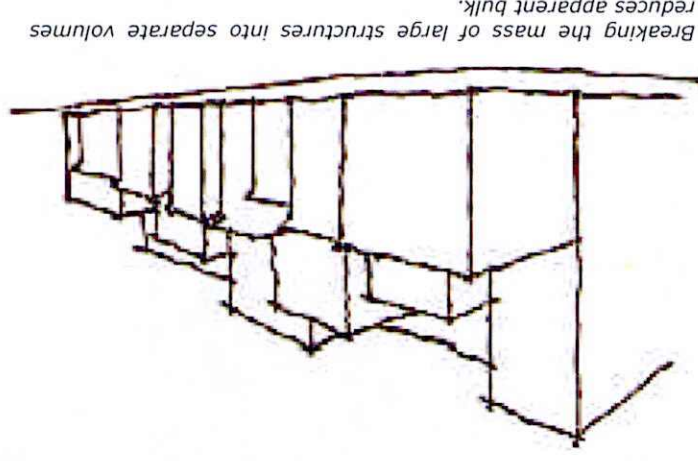
Height,
Bulk &
Scale

DESIGN GUIDELINES

- Building mass should be broken into distinct but related sections that reflect the desired small scale character of the Marina District. This can be achieved through changes in building height and setbacks, materials, coloring, and architectural detailing. Street-front facades are discouraged to extend beyond 60' without this architectural consideration.
- Several strategies for building modulation are preferred:
 - Bay windows, if consistent with the building's architectural vocabulary, are encouraged on street-facing facades.
 - Using a variety of modulation methods helps avoid monotony along the street frontage.



An example of building massing and orientation composed in a manner to take advantage of noteworthy views.



Breaking the mass of large structures into separate volumes reduces apparent bulk.

DESIGN GUIDELINES



C. Architectural Elements and Materials

Special elements in a building façade create a distinct character in an urban context. Each element must be designed for an appropriate urban setting and for public or private use. A building should incorporate special features that enhance its character and surroundings. Such features give a building a better defined “human scale.”

Requirements for specific architectural features should be avoided and variety encouraged. Building designs should incorporate one or more of the following architectural elements: arcade, balcony, bay window, roof deck, trellis, landscaping, awning, cornice, frieze, art concept, or courtyard.

The following guidelines address architectural elements and materials as they relate to architectural context, concept and consistency, human scale, exterior finish materials and structured parking entrances.

C.1. Architectural Context

Intent - New buildings proposed for the Marina District complement neighboring buildings with well-defined architectural character and siting patterns.

Guideline

- Support the existing small town scale of the neighborhood with a mix of building styles.
- Re-use and preserve important buildings and landmarks when possible.
- Encourage incorporating iconic features, signs and vintage advertising on buildings where appropriate.



Application of architectural elements to create distinct character.



Design that responds to historic and maritime heritage.



Architectural
Elements &
Materials

DESIGN GUIDELINES

C.2. Architectural Concept and Consistency

Intent – Building design elements, details and massing should create a well proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building. In general, the roof line or top of the structure should be clearly distinguished from its facade walls. The roofscape – in addition to the streetscape – is an important design element. Given the Marina District is situated in topographic depression, the roofs are viewed from locations surrounding the neighborhood.

Guideline

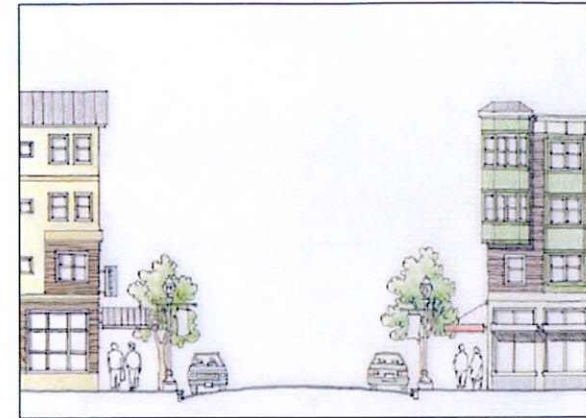
- The architectural forms, elements and details of a project should be organized to express the building's function(s), orientation, and relationship to the site and surrounding area. A strong architectural concept will indicate this organizational scheme, and convey the project's architectural character, or the style or character of the development.
- Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas.

C.3. Human Scale

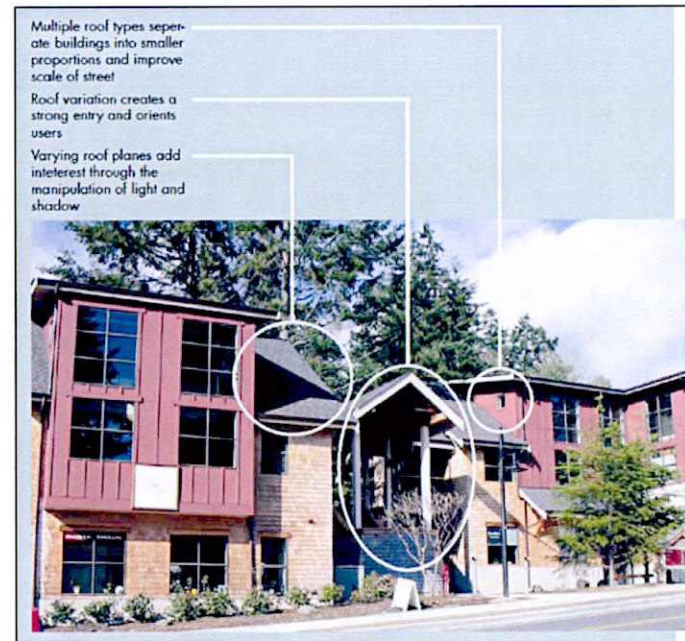
Intent – The design of new buildings should incorporate at least two architectural features, elements and details to achieve a good human scale.

Guideline

- Design buildings when possible to encourage multi-tenant occupancy and walk-in traffic at the street level.
- Generous street-level windows and entrances will animate the street.
- Use façade treatments and changes in materials to distinguish the ground level of building from the upper levels, especially where a building orients to the street and/or defines public space.
- Establish a rhythm of vertical and horizontal elements along the street-level façade. For instance, the regular cadence of display windows and shop entrances enhances the pedestrian experience.



Distinguish the ground level of a building from the upper levels to help define public space. Give greater attention to detail at the street level of a building to satisfy the pedestrian, and include elements such as overhead cover, blade signs, lighting and exterior light fixtures.



Multiple roof types separate buildings into smaller proportions and improve scale of street

Roof variation creates a strong entry and orients users

Varying roof planes add interest through the manipulation of light and shadow

- Facades should contain elements that enhance pedestrian comfort and orientation while presenting features with visual interest that invite activity.
- Overhead weather protection should be functional and appropriately scaled, as defined by the height and depth of the weather protection. It should be viewed as an architectural amenity, and therefore contribute positively to the design of the building with appropriate proportions and character.
- Overhead weather protection should be designed with consideration given to:
 - continuity with weather protection on nearby buildings;
 - when opaque material is used, encourage illumination of the underside; and (??)
 - the height and depth of the weather protection should provide a comfortable scale and environment for pedestrians.



Buildings using high quality materials at the street level.

C.4. Exterior Finish Materials

Intent – Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

Guideline

- Consider each building as a high-quality, long-term addition to the Marina District; exterior design and building materials should exhibit permanence and quality appropriate to an urban setting. A well-built structure contributes to a more pleasant and humane built environment.
- Employ especially durable and high-quality materials at the street level, minimize maintenance concerns, and extend the life of the building. These materials should be applied at a scale appropriate for pedestrian use.
- Use materials, colors and details to unify a building's appearance on all sides.
- Consider limiting the number of materials and colors used on the exterior of an individual building so that there is visual simplicity and harmony. If intense color is used it should only be used as an accent in a carefully executed and balanced color scheme.



Compatible colors and materials unify a building composition.



Architectural
Elements &
Materials

DESIGN GUIDELINES

- Design architectural features that are an integral part of the building. Avoid ornamentation and features that appear “tacked-on” or artificially thin.
- New buildings should emphasize durable, attractive, and well-detailed finish materials, including:
 - Brick (especially appropriate).
 - Concrete (if it features architecturally treated texture or color, other -- refined detailing, and/or complementary materials).
 - Cast stone, natural stone, tile.
 - Stucco and stucco-like panels, if they feature an even surface and properly trimmed joints and edging around doors and windows. Heavily textured finishes with obvious trowel marks are not generally appropriate.
 - Stucco should be avoided in areas that are susceptible to vandalism and graffiti. Stucco and stucco-like panels must be detailed and finished to avoid water staining and envelope failure.
 - Overhangs and protective trim are encouraged to increase weather resistance.
 - Art tile or other decorative wall details.
 - Wood, especially appropriate for residential structures and upper stories of commercial and mixed-use buildings.
- Where anodized metal is used for window and door trim, then care should be given to the proportion and breakup of glazing to reinforce the building concept and proportions.
- Fencing adjacent to the sidewalk should be sited and designed in an attractive and pedestrian oriented manner.
- Awnings made of translucent material may be backlit, but should not overpower neighboring light schemes.
- Lights, which direct light downward, mounted from the awning frame are acceptable. Lights that shine from the exterior down on the awning are acceptable.
- Light standards should be compatible with other site design and building elements.



Use of durable attractive and well-detailed finish materials.

D. Pedestrian Environment

Designing buildings and related site improvements for pedestrians is fundamental for creating an environment that encourages walking, biking and transit use. Pedestrian facilities and amenities provide a variety of areas to accommodate shoppers, residents, employees and Visitors.

Within the Marina District, a portion of the required open space should be designed as pedestrian-oriented space, particularly along designated pedestrian streets. Bicycle and pedestrian features should be considered whenever roadway or other capital improvements are considered.

The following guidelines address the pedestrian environment as it relates to pedestrian open spaces and entrances, blank walls, design of parking near sidewalks, visual impact of parking structures, screening of dumpsters, utilities and service areas, and personal safety and security.

D.1. Pedestrian Open Spaces and Entrances

Intent – Design projects to attract pedestrians to the commercial core of the Marina District. Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities to create lively, pedestrian-oriented open space should be considered.

Guideline

- New developments are encouraged to provide features that enhance the public realm, i.e. the transition zone between private property and the public right of way. Proposed elements include:
 - curb bulbs adjacent to active retail spaces where they are not interfering with primary corridors that are designated for high levels of traffic flow;
 - pedestrian-oriented street lighting; and
 - street furniture.



Street and pedestrian scale lighting.



curb bulb



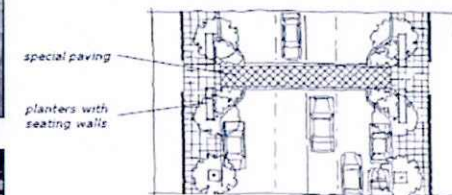
special paving



benches



lighting



Streetscape amenities help buildings connect to and enhance centers of commercial and social activity.





D.2. Blank Walls

Intent – To reduce the visual impact of blank walls by providing visual interest. Although blank walls are generally not encouraged along public streets and pedestrian ways, there may be a few occasions in which they are necessary for functional purposes. 1.) Special treatment for blank walls longer than 20 feet that are visible from pedestrian walkways and parking areas shall be provided. 2.) Incorporate one or more of the following methods to soften the appearance of blank walls that face pedestrian walkways and parking areas.

Guideline

- A vertical trellis in front of the wall with climbing vines or plant materials.
- A planting bed or raised planter in front of the wall and establish plant materials that will obscure or screen a significant portion of the wall's surface within three years.
- Artwork (a mosaic, mural, sculptural relief, etc.) over a significant portion of the blank wall surface.
- A change of materials or texture in the wall and/or accent with architectural details.
- Other methods that meet the intent of these criteria may be proposed.

D.3. Design of Parking Near Sidewalks

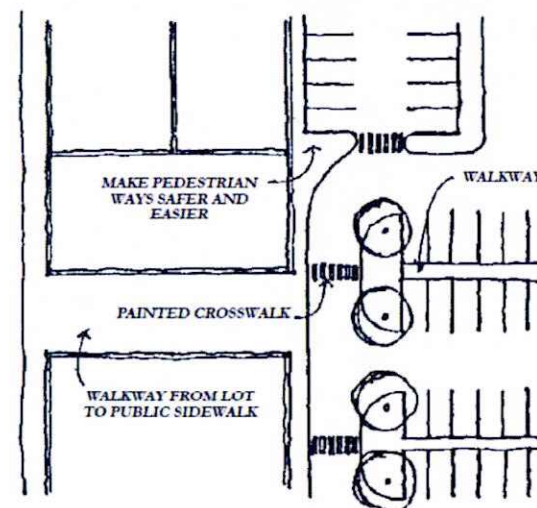
Intent – Parking lots near sidewalks should provide adequate security and lighting, avoid encroachment of vehicles onto the sidewalk, and minimize the visual clutter of parking lot signs and equipment.

Guideline

- Separate parking areas adjacent to public rights-of-way from the sidewalk by a low screen wall 24 to 36 inches high, a continuous hedge (24 to 36 inches high at plant maturity), or other screening element approved by the City. The screen walls must be constructed of permanent materials compatible with the materials of the proposed building. Plant materials, layout, and installation, including irrigation, shall be as approved by the City.
- Providing parking below grade is preferred.



Trellis, art and varied material offer visual appeal on blank walls



Parking lot design should be clear and well organized.

D.4. Visual Impact of Parking Structures

Intent - Parking structures should be designed and sited in a manner that enhances pedestrian access and circulation from the parking area to retail uses. The design of parking structures/areas adjacent to the public realm (sidewalks, alley) should improve the safety and appearance of parking uses in relation to the pedestrian environment.

Guideline

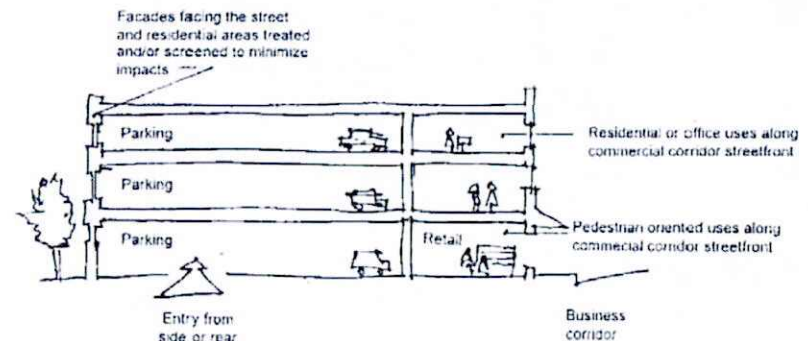
- The auto access should be from the alleys unless no feasible alternative exists. Located at the rear property line, the design of the parking façade could potentially be neglected. The City would like to see its alleys improved as a result of new development. The rear portion of a new building should not turn its back to the alley or residential street, but rather embrace it as potentially active and vibrant environment.
- The parking portion of a structure should be compatible with the rest of the building and the surrounding streetscape. Where appropriate, consider the following treatments:
 - Integrate the parking structure with building's overall design.
 - Provide a cornice, frieze, canopy, overhang, trellis or other device to "cap" the parking portion of the structure.
 - Incorporate architectural elements into the facade.
 - Recess portions of the structure facing the alley to provide adequate space to shield trash and recycling receptacles from public view.

Guideline

- Parking structures should include active uses such as retail or other appropriate uses at the ground level along the street frontage.
- Parking structures should be architecturally consistent with exterior architectural elements of the primary structure, including roof lines, façade design, articulation, modulation and finish materials. Visually integrate parking structures with adjacent buildings when they exhibit an appropriate level of architectural quality.
- Buildings built over parking should not appear to "float" over the parking area, but should be linked with ground-level uses or screening.



Example of structured parking with mixed use and active uses at the street level.



Example of how parking structures can be incorporated into a new development.



DESIGN GUIDELINES



Pedestrian
Environment

DESIGN GUIDELINES

- Parking structures and vehicle entrances should be designed to minimize views into the garage interior from surrounding streets. Methods to help minimize such views may include, but are not limited to landscaping, planters and decorative grilles and screens.
- Security grilles for parking structures should be architecturally consistent with and integrated with the overall design. Chain link fencing is not permitted for parking structure fencing.

D.5. Screening of Dumpsters, Utilities and Service Areas

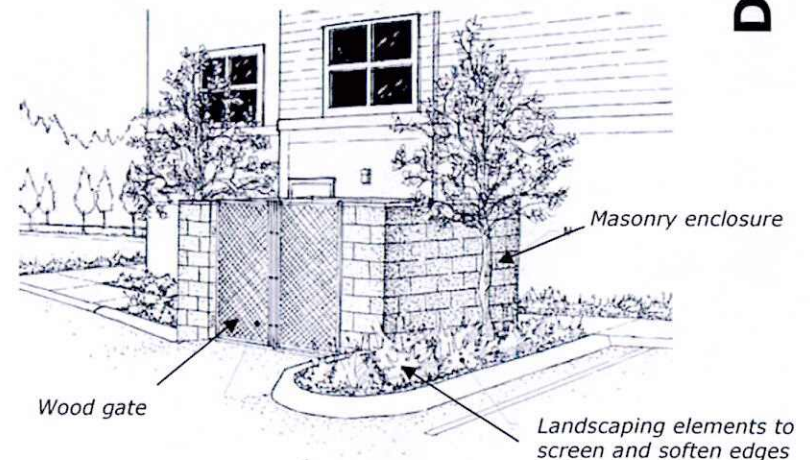
Intent – The visual presence of service areas for businesses, customers and surrounding property owners should be minimized:

- To reduce potential conflicts between users of service areas, customers and surrounding property owners.
- To ensure continued access to service areas.

The visual impacts of service areas such as loading docks, trash and recycling collection points, and utility maintenance areas should be minimized through site design, landscaping and screening. See Title 18 Zoning of the Des Moines Municipal Code for screening requirements for trash and recycling areas.

Guideline

- Service areas include, but are not limited to, trash dumpsters, compactors, ground level mechanical equipment, utility vaults, loading zones, outdoor storage areas, trash and recycling areas, and other intrusive site features.
- Locate service areas so that negative visual and auditory (noise) impacts on the street and adjacent properties are minimized.
- Avoid siting utility equipment where it displaces significant landscaping, or where servicing the equipment would damage landscaping. Provide access to equipment that requires regular servicing.
- Screening enclosures, walls and fences shall be architecturally integrated with the development's architecture.
- Provide sufficient landscaped screening around service areas, integrating landscaping with other site and adjacent public landscaping, where possible. However, do not create security hazards by providing a blind spot or hiding area.

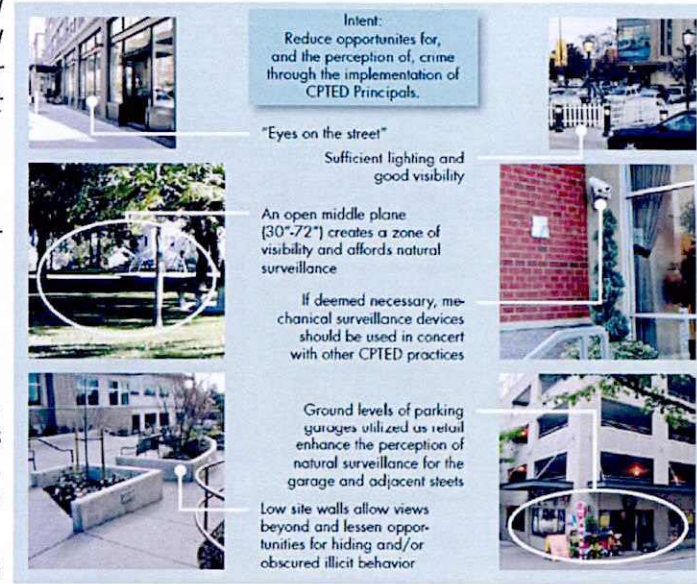


D.6. Personal Safety and Security

Intent – Reduce crime through design and create a feeling of security and safety through increased activity at street level through building design and improved pedestrian and gathering areas. Project design should consider opportunities for enhancing personal safety and security in the environment under review.

Guideline

- Enhance public safety throughout the neighborhood to foster 18-hour public activity. Methods to consider are:
 - enhanced pedestrian and street lighting;
 - well-designed public spaces that are defensively designed with clear sight lines and opportunities for eyes on the street;
- Effective lighting systems provide needed visibility for storefronts, drawing attention to key functional or aesthetic elements such as doorways, windows, signage, sidewalks, or architectural details. Strategic lighting can also deter criminals and increase the perception of safety for passing customers.
- There are several different kinds of lighting: entranceway lighting, sign lighting, merchandise storefront lighting, energy-saving night lighting, decorative detail lighting, and general area lighting. Each lighting type performs a different job and should attract attention to what it illuminates, not to the light fixture or bulb.
- Brighter is not always better.
- Security lighting can be at a relatively low level. Glare is light that beams directly from a bulb into eye. It hampers the vision of pedestrians, cyclists, and drivers. If lights are overly bright, they actually make it easier for a criminal to hide in the deep shadows produced by objects in the harsh light. Lights should point downward or toward the building or sign and not into the sky.
- Darkness can be better than lighting if no one is around to witness and report crimes or if lighting helps criminals to see what they are doing. Consider using motion-detector lights or timers when lights are not needed late at night. If an area is usually dark, people will more likely notice if it is suddenly lit up. Do not light back doors that cannot be seen by others.



Design principles to enhance personal safety and security.

E. Landscape Design

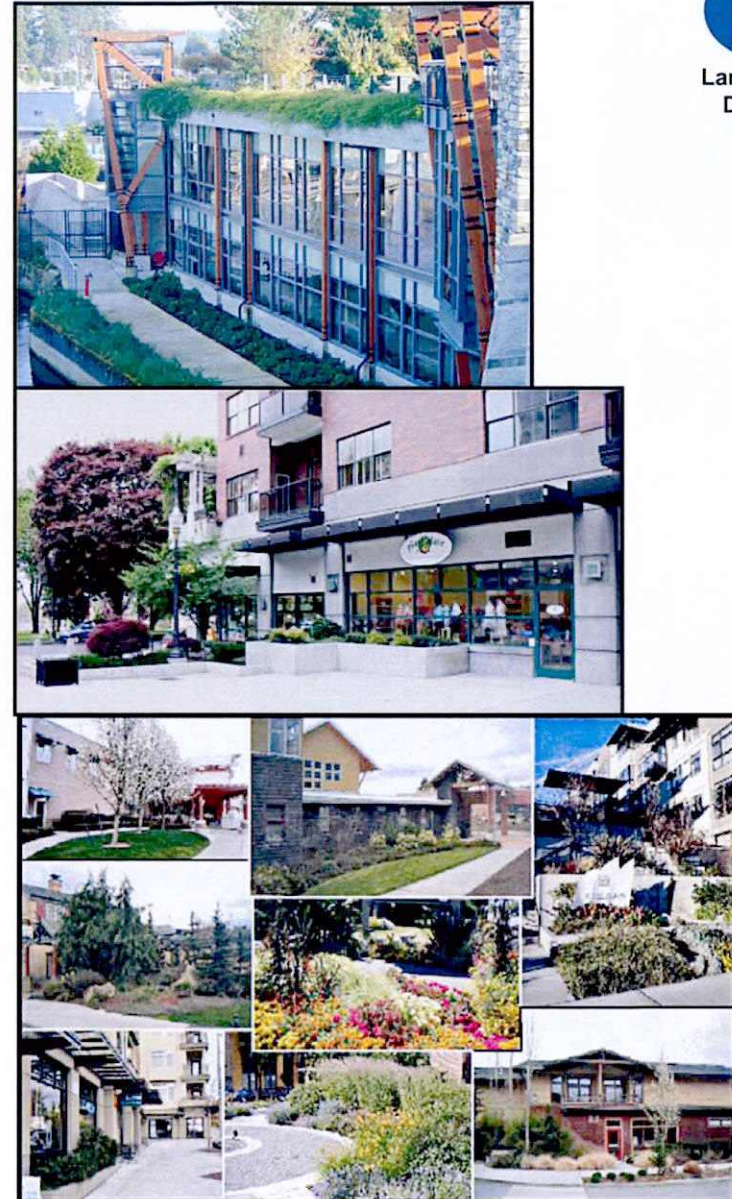
An important aspect of a pedestrian-oriented business district is its physical setting. Natural features of a place are key to residents' and visitors' perception.

A primary goal stated in the Marina District's Vision Statement is to *"enhance the image of Des Moines as a special Puget Sound waterfront community."* Besides its excellent waterfront, an important natural feature of the Marina District is its bowl-shaped topography which provides views from surrounding neighborhoods down toward the district. The valley topography also helps to define the Marina District's edges and facilitates the transition from largely commercial activities in the valley floor to the mostly residential areas in the uplands. The Marina, Beach Park and waterfront provide a naturalizing function.

This section lays out guidelines that help merge the design of structures and places with the natural environment. It discusses concepts behind new landscaping as well as the maintenance and protection of existing natural features.

Landscape design is intended to:

- Ensure that private landscaping reinforces, complements and enhances public streetscape improvements.
- Reinforce the positive visual elements of the Marina District.
- Ensure that landscape design is an integral part of overall site design and reinforces site functions.
- Use landscape design to advantage in the economic revitalization of the Marina District.
- Use landscape design to soften the transition between different land uses.
- Ensure that landscape design does not compromise site safety.
- Achieve greater continuity and transition between public streetscape and the private landscape design so that the two appear unified.
- Augment the visual impact of plantings in the public right-of-way.
- Improve the pedestrian environment.



Landscaping reinforces and enhances the streetscape.

E.1. Landscape to Reinforce the Character of the Marina District

Intent – Private landscaping should reinforce the character of neighboring properties and abutting streetscape and the positive visual elements of the Marina District.

Guideline

- Support the creation of a hierarchy of passive and active open space within the Marina District. This may include pooling open space requirements on-site to create larger spaces.
- Where appropriate, install indigenous trees and plants to improve aesthetics, and capture water.
- Retain existing, non-intrusive mature trees or replace with large caliper trees.
- Water features are encouraged including natural installations.
- Reference the Des Moines Street Design and Construction Standards for appropriate landscaping and lighting options for the area.

E.2. Landscape to Enhance the Building and/or Site

Intent – Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture and similar features should be appropriately incorporated into the design to enhance the project.

Guideline

- Integrate themes into publicly accessible areas of a building and landscape that evoke a sense of place related to the uses of the area. Neighborhood themes may include arts district, maritime, etc.



People places.

E.3. Landscape Design to Address Special Site Conditions

Intent – The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, and natural areas.

Guideline

- Take advantage of views to the waterfront and mountains.
- Support the adopted streetscape design standards for Marine View Drive, S 223rd Street and S 227th Street.

1. A landscape design concept should demonstrate a clear and appropriate aesthetic statement.

A landscape design concept should be consistent with and complementary to the site design and the development's architectural character. The landscape concept should also complement and enhance natural site features, significant existing landscape elements, or other existing amenities on the site or in the area. A comprehensive landscape concept will:

- a) Take advantage of views of the landscaping from inside the building.
- b) Enhance the building itself, as viewed from within the site and adjacent public streets.
- c) Organize, enhance and link the different spaces and activities on the site.
- d) Reinforce the streetscape design, and provide a pleasant transition to the site.
- e) Improve the appearance of parking and vehicular areas.
- f) Screen, soften and frame views.



Landscape
Design

DESIGN GUIDELINES

2. A landscape design concept should reinforce the site design and fulfill the functional requirements of the development, including screening and buffering.

In addition to aesthetic goals, landscaping can fulfill a number of functional goals for a project. Consider the following in developing the landscape plan.

- a) *Screening:* Landscaping can provide for visual screening of incompatible adjacent land uses or activities. It can also be used to screen service areas, unattractive sites or architectural features. Projects are encouraged in which landscaping is used to break up parking areas and screen parking areas from pedestrian walkways. However, screening should address security concerns and not create areas without passive surveillance (i.e., visibility from occupied buildings or active pedestrian-oriented areas).
- b) *Safety:* Vertical plantings can be used to 'mark' a pedestrian walkway, making it more visible from parking areas or driveways. Landscape strips can be used to separate pedestrian areas from vehicle areas.
- c) *Framing:* Landscaping can be used to frame and direct views.

3. The landscape design should reinforce and complement plantings in the public right-of-way.

One of the primary goals of these design guidelines is to improve the pedestrian and visual environment of the Marina District. Landscaping can play an important role in meeting this goal. A mix of shade trees, shrubs and groundcover is encouraged for every major landscape area on the site.

The following are design approaches that may be considered in developing a landscape concept:

- d) Indicate how the various spaces and plantings on the site are organized, and how movement through the site links the different spaces and activities. Indicate the character of these 'rooms' as determined by the spatial qualities, plant selection and design, and the activities that occur there.
- e) Use plant selection and design to highlight significant site and architectural features on the site, and provide definition between public and private spaces.



Signs

DESIGN GUIDELINES

F. Signs

Signs make a strong first impression and can be a creative demonstration of a business' character. Signs should clearly communicate the name and identity of the business. Four to seven words are the most passersby can effectively read. Well-designed signs market a business through quick impact.

There are several kinds of signs that can be effective if appropriate to the site and well designed.

- Projecting/hanging signs are double-sided and project from a building over the sidewalk. Pedestrians on the sidewalk see them best.
- Wall signs are attached to the primary façade and best viewed looking straight at the building from across the street. Wall signs are usually located in the sign band, the portion of the façade that is just above the storefront on the first floor and below the second floor windows. The sign band provides space for building signage in a consistent place from storefront to storefront. Even if building does not have a traditional sign band marked by architectural details, the similar look can be achieved by placing a wall sign in the area where a sign band would be located.
- Awning or canopy signs are printed on, painted on, or attached to an awning or canopy above a business door or window. They generally serve to bring color to the shopping environment and are oriented toward pedestrians from the opposite side of the street.
- Tenant directory signs are used to identify multitenant buildings and businesses that do not have direct frontage on a public street. Tenant directory signs should be constructed and oriented to the pedestrian.

These guidelines are to be used in conjunction with the Des Moines Sign Code and do not supersede the Sign Code regulations.



Example of wall signs on fascia with overhead lighting.



Artistic and unique signage.

F.1. Signage Concept

Intent – Design signs that are creative, engaging and appropriate for the pedestrian scale and character that is envisioned for the Marina District. The signage concept for the Marina District includes a hierarchy of elements based on use and function such as:

- Site signage for gateways, heart locations, wayfinding, and Marina District identity
- Building signage for addressing and landmarking
- Tenant signage to encourage expressive individualization

Guideline

- Signage should be designed to complement the architectural concept of the building in scale, detailing, use of color and materials, and placement. The following are suggestions for integrating signage with the architectural concept:
 - Provide for sign locations in the building design process
 - Locate wall signs on specific architectural elements, such as a canopy or fascia
 - Avoid obscuring important design features on building facades with signs
 - Coordinate color schemes or architectural details on signs, such as moldings, with the architectural scheme
 - Emphasize special building features, such as an entry or display window, with properly scaled signage
- Signage should reflect the pedestrian scale of the neighborhood, add interest to the street level environment, and reduce visual clutter.
- Signs direct users to a site and within the site and users are typically either driving or walking. Three-inch-high letters can be read at 120 feet and six-inch letters can be read at 300 feet. Pedestrian-oriented signs are most effective when located within 15 feet of the ground plane.
- Specific preferences include:
 - Blade signs attached to a building façade
 - Creative, detailed, artistic and unique signage
 - Signs with lighting attached (e.g., drop lights over a sign)
- Non-conforming signs should be phased out when properties redevelop or a business use changes.



Example of blade signs.

F.2. Signage Placement

Intent – Design signs that are creative, engaging and appropriate for the pedestrian scale and character that is envisioned for the Marina District. The signage concept for the Marina District includes a hierarchy of elements based on use and function such as:

- Site signage for gateways, heart locations, wayfinding, and Marina District identity
- Building signage for addressing and landmarking
- Tenant signage to encourage expressive individualization

Guideline

- Signage should be designed to complement the architectural concept of the building in scale, detailing, use of color and materials, and placement. The following are suggestions for integrating signage with the architectural concept:



Example of wall signs with overhead lighting.

Examples of signs that are Encouraged.



The following illustrations provide examples on how to improve facades and signage on existing buildings as new tenants come in or properties are remodeled.

Storefront Signs

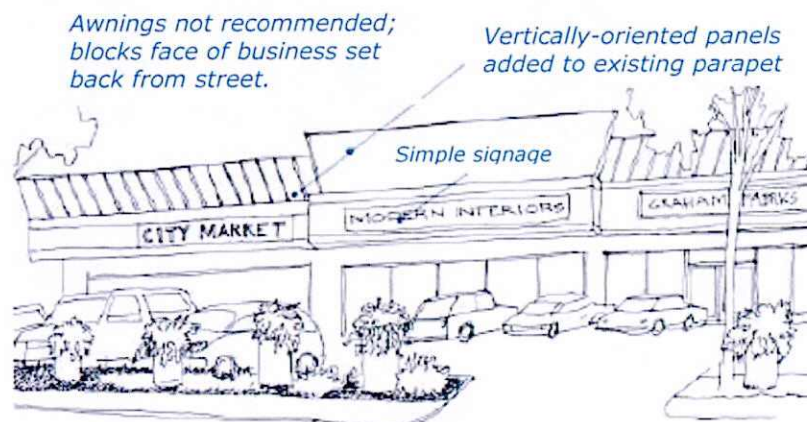


DESIGN GUIDELINES



BEFORE

Sings are well-located, but are backlighted and overwhelm this low building.



AFTER

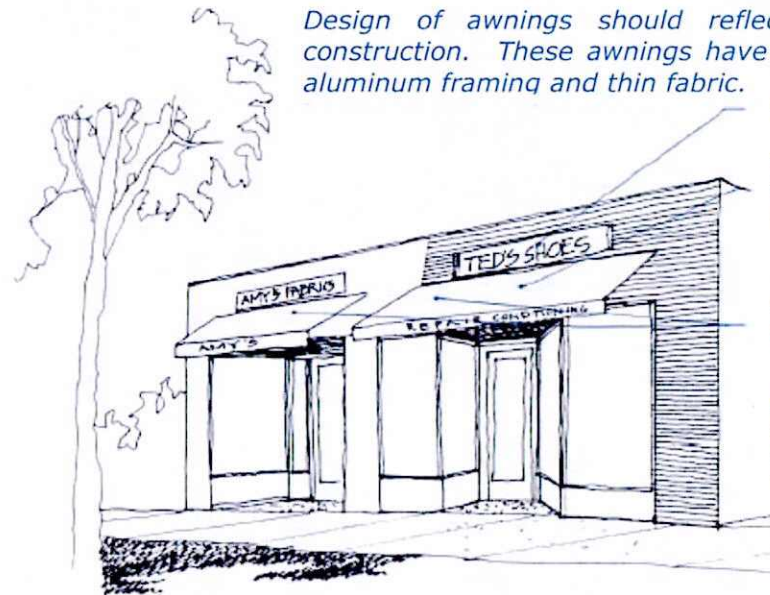
Simple, clear sign text in the sign band is encouraged.

1960's ERA STRIP SHOPPING CENTER

Canopies/Awnings



Before: This large metal awning overwhelms the small building.



Design of awnings should reflect their construction. These awnings have slender aluminum framing and thin fabric.

signage

shallow pitch of awning allows face of building to be viewed.

single awnings over each entrance

Note: thin profile can be effective at blocking sunlight while giving visibility to facade

AWNING STUDY - AFTER

IV. Definitions

Architectural Elements - As used in these guidelines, architectural elements refer to the elements that make up an architectural composition or the building form, and can include such features as the roof form, entries, an arcade, porch, columns, windows, doors and other openings. 'Architectural elements' is used interchangeably with architectural features in these guidelines.

Architectural Character - The architectural character of a building is that quality or qualities that make it distinctive and that are typically associated with its form and the arrangement of its architectural elements. For example the architectural character of a structure may be conveyed by a prominent design feature. Examples are a distinctive roof line, a turret or portico, an arcade, an elaborate entry, or an unusual pattern of windows and doors.

The architectural character may also be attributed to the building's style, which is typically conveyed by the architectural detailing associated with that style. For example, a building which is Neo-Classical in *style* may convey a formal architectural *character*.

Architectural Details - As used in these guidelines, architectural or building details refer to the minor building elements that contribute to the character or architectural style of the structure, and may include moldings, mullions, rooftop features, the style of the windows and doors, and other decorative features. As used in these guidelines, the architectural details that are used to *articulate* the structure may also include reveals, battens, and other three dimensional details that create shadow lines and break up the flat surfaces of a facade.

Architectural Form - As used in these guidelines, architectural form refers to the three dimensional shape of a structure, and is made up in part by the building elements.

Articulation - See *Architectural Details*.

Balcony - A balcony is an outdoor space built as an above ground platform projecting from the wall of a building and enclosed by a parapet or railing.

Bay Window - A bay window protrudes from the main exterior wall. Typically, the bay contains a surface that lies parallel to the exterior wall, and two surfaces that extend perpendicular or diagonally from the exterior wall.

Blank Walls - Walls subject to "blank wall" requirements are any ground level wall surface or section of a wall that is over six feet (6') in height measured from finished grade at the base of the wall, and longer than 50' measured horizontally, that does not have any significant building feature, such as a window, door, modulation or articulation, or other special wall treatment within that 50' section (see below).

Courtyard - A courtyard is an open space, usually landscaped, that is enclosed on at least three sides by a structure or structures.

Curb Cut - A curb cut is a depression in the curb for the purpose of accommodating a driveway that provides vehicular access between private property and the street.

Deck - A deck is a roofless outdoor space built as an above-ground platform projecting from the wall of a building and supported by piers or columns.

Facade - A facade is any portion of an exterior elevation of a building extending from the grade of the building to the top of the parapet wall or eaves, for the entire width of the building elevation. A front facade is typically the facade facing the major public street(s). An entry facade is typically the facade with the primary public entry.

Foot-candle - A foot-candle is a unit used for measuring the amount of illumination on a surface. The amount of usable light from any given source is partially determined by the source's angle of incidence and the distance to the illuminated surface.

Frieze - A horizontal band that runs above doorways and windows or below the cornice. The frieze may be decorated with designs or carvings.

Frontage - As used in these guidelines, frontage refers to length of a property line along a public street or right-of-way.

Front Yard - As used in these guidelines, the front yard is the area between the street(s) and the nearest building facade.

Impervious Surface - Those hard surfaces that prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions prior to development; or a hard surface area that causes water to run off the surface in greater quantities or an increased rate of flow from the flow present under natural conditions, prior to development. Such surfaces include, but are not limited to, rooftops, asphalt or concrete paving, compacted surfaces, or other surfaces that similarly affect the natural infiltration or runoff patterns existing prior to development. They may be occupied by such recreational facilities as playground equipment, swimming pools, game courts, etc.

Lumen - A lumen is a unit used for measuring the amount of light energy given off by a light source.

Modulation - Modulation is a stepping back or projecting forward of portions of a building facade within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure's continuous exterior walls. As used in these guidelines, the modulated portions must be at least 4 feet deep in order to qualify as modulation.

Parapet - A low wall along the edge of a roof or balcony.

Pedestrian-Friendly Facades - "Pedestrian-friendly" facades are those that feature one or more of the following characteristics:

- Transparent window area or window displays along at least half the length of the ground floor facade.
- Sculptural, mosaic or bas-relief artwork along at least half the length of the ground floor facade.
- "*Pedestrian-Oriented Space*" - As defined below. At least 500 SF must be located along or adjacent to the public or private sidewalk(s), for every 100 linear feet of ground floor facade that faces the public street(s).
- Other measures that meet the intent of the criteria, as approved in conjunction with overall design review approval.

Pedestrian-Oriented Space - A pedestrian-oriented space is an area between a building and a public street that promotes visual and pedestrian access onto the site and that provides pedestrian-friendly amenities and landscaping, which enhance the public's use of the space. To qualify as a "*pedestrian-oriented space*," an area must have:

- Visual and pedestrian access into the site from the public right-of-way,
- Paved walking surfaces of either concrete or approved unit paving,
- On-site or building-mounted lighting providing at least 2 foot candles (avg.) on the ground, and
- Seating; at least 2' of seating area (bench, ledge, etc.) or one individual seat per 60 SF of plaza area or open space.

A "pedestrian-oriented space" is encouraged to have:

- Landscaping that does not act as a visual barrier.
- Site furniture, artwork or amenities such as fountains, kiosks, etc.
- Pedestrian weather protection or other enclosure, such as an arcade or gazebo.

A "pedestrian-oriented space" should not have:

- Asphalt or gravel pavement.
- Adjacent unscreened parking lots.
- Adjacent chain-link fences.
- Adjacent "blank walls" without "blank wall treatment."

Scale, Human - The size of a building element or space relative to the dimensions and proportions of the human body.

Scale, Architectural - The perceived height and bulk of a building relative to other forms in its context. A building's apparent height and bulk may be reduced by modulating facades and other treatments.

Service Areas - Service areas refer broadly to the areas, whether enclosed or open, that contain such equipment and uses as ground level mechanical equipment, utility vaults, loading zones, outdoor storage areas, and trash and recycling areas.

Site Planning - Site planning is the arrangement of buildings, driveways, sidewalks, landscaping, parking, public open spaces, and other facilities on a specific site. Good site planning will display a cohesive site design concept, and take into consideration natural features, topography, drainage requirements, access points, the design of neighboring sites, and other features in the immediate vicinity of the site.

Streetscape - The streetscape is the visual character and quality of a street as determined by various elements located between the edge of the street and the building face, such as trees and other landscaping, street furniture, artwork, transit stops, utility fixtures and equipment, and paving. Where there are frequent and wide spaces between buildings, the streetscape will be defined by the pattern of building and open space and the character of that open space.

Viewshed - The viewshed is the extent of views from a particular site.

Attachment 2

Summary of Dot Exercise from April 30 and May 4, 2011 Open Houses

At the April 30, and May 5, 2011 open houses that were held at Des Moines Activity Center. The community was afforded an opportunity to indicate their visual preferences for architectural styles and scale of development via a Dot Exercise. The purpose of the Dot Exercise was to understand the “desired character” for the Marina District; therefore, it does not constitute a statistically valid survey. For the Dot Exercise, a series of photographs were numbered and grouped into six categories as indicated below and provided in Attachment 1:

1. Historical Styles
2. Maritime and Traditional Styles
3. Contemporary Northwest Architecture,
4. 2-3 Story Mixed Use Development
5. 3-4 Story Mixed Use Development
6. 5-6 Story Mixed Use Development.

Each person was given three green dots, three yellow dots and three red dots and asked to rate the images with the understanding that: Green Dots = Great, Yellow Dots = Okay under certain conditions, and Red Dots = Do not like. Participants were also asked to complete a comment form to tell us how they rated their dots (Example – Green Dot: Image #12, I like the use of wood, glass and lighting in the building design; *Yellow Dot: Image #22, the varied rooflines of the building helps reduce the overall scale and mass of this building*; Red Dot: Image 21, I don’t like the artwork on this building). Both the comment form and dots were assigned a corresponding number which allowed staff to cross-check how dots were voted. In addition, participants did not have to use all of their dots.

Table 1 tabulates the number of dots each image received (by color), while Table 2 provides a summary of the comments submitted on the Dot Exercise comment form. The summary includes direct quotes as well as paraphrased statements for clarification. Note that some forms did not indicate a specific image number on the comment form; therefore, each dot that the person rated on a particular image (green, yellow or red) was recorded on the comment form by staff. As a result, some comments are repeated for several images to ensure the participant’s comment was expressed as intended. Photographs of how the dots were rated along with scanned copies of the comment form will also be provided for the public record.

Table 1: Marina District Zoning Changes - Tabulation of Dot Exercise

Styles/Typology & Image #	Green	Yellow	Red
<i>Historical</i>			
1	0	6	3
2	32	3	0
3	3	1	2
4	4	5	2
Total:	39	15	7
<i>Maritime & Traditional</i>			
5	4	7	1
6	0	1	10
7	1	2	7
8	0	2	21
Total:	5	12	39
<i>Contemporary Northwest Architecture</i>			
9	10	6	2
10	0	7	3
11	5	8	6
12	11	9	1
Total:	26	30	12
<i>2-3 Story Mixed Use</i>			
13	5	7	6
14	5	6	4
15	2	7	0
16	23	7	4
Total:	35	6	14
<i>3-4 Story Mixed Use</i>			
17	0	1	4
18	8	8	3
19	4	10	4
20	3	3	9
Total:	15	22	20
<i>5-6 Story Mixed Use</i>			
21	1	1	33
22	12	5	11
23	13	7	8
24	7	5	5
Total:	33	18	57

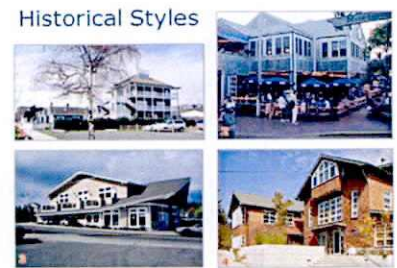


Table 2: Summary of Comments from Dot Exercise

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
1		• Maybe – Would not like to see this style; it has an amusement park feel to it; the old fashioned style does not see a city that is current or progressive. • Reminds me of buildings at shore. • Might suit a certain location and lot.	• Seems out of place in DM – too massive and overpowering. • Not historical style – DM is not Port Townsend.
2	• Seaside community look – very good. • Like the open court as used and the building looks “Des Moinesey.” • Like the wood and openness. • Really like the outdoor eating area and the “old fashioned” small look. • View that DM tends to be historical. • Reminds me of shore buildings. • Engages passers-by. • Love the outdoor café; add an outdoor theatre on the other side for summer nights (Fairhaven, WA). • Just “looks” like our city! • Building is the right height to footprint ratio for the Downtown area; especially if it is 100% commercial use. • Historical, outdoor/in-door use. • Beach-like, neutral colors, windows, outdoor seating, cozy. • Has spaces to attract people to the area like open, plants, outdoor seating, enjoyable area to walk and thus have people stop for coffee, a meal or meet someone for shopping or all of the above; also good for apartments/condos and retail spaces to draw people out. • Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people. • Appreciate marina style structures; historic styles are appealing, especially if you do a consistent theme. • Like the openness of historical style. • Most welcoming. • Favor pedestrian friendly styles; visually appealing as you walk along. • Gathering areas; captures the spirit of NW architecture – lots of glass and natural materials; fits in with the	• Liked this – especially on a corner; would be a good spot for such a restaurant. • Love the outdoor eating space; not crazy about architecture.	

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	environment; no tall big boxes of solid structure that creates walls between citizens and Puget Sound; lots of buildings may equal empty buildings. • Open community look to it; need shops that further a sense of community. • Like openness, lots of windows, friendly atmosphere. • Sloped roofs, house style structure. 2-3 story structure. • Creates outdoor use spaces, outdoor eating area. • Like the height limits where they are; need to change/update the facades, fix the parking problem; like maritime, traditional styles. • Like designs that withstand the test of time; don't design buildings that will be expensive to keep looking good. • Like maritime and historical architecture and mixed use structures; would like to have a variety of boutique shops.		
3		• This would be nice if it were in a spot where people went to more often (only 3 cars).	
4	• Wood, uses space well. • Like wood color and pitched roofs. • Attractive in color, but windows look plastic; needs more light.	• Like wood and windows.	• Traditional is not a good style for this city • No historical, no maritime, no contemporary - doesn't pay.
5	• Modern style would fit in with Marina theme. • Building is the right height to footprint ratio for the Downtown area, especially if it is 100% commercial use. • Like the height limits where they are; need to change/update the facades, fix the parking problem; like maritime, traditional styles. • Like the maritime – it very much fits the unique setting of our community.	• Like the Maritime Traditional. • Maritime feel. • Looks maritime, but needs wood-framed windows. • You can put lots of little shops in this building.	• What we need is DM – fewer boxes, more retail and real architecture. • Large, low buildings look like schools or hospitals.
6			• Too boxy and suburban looking. • Don't like the sterile look – one that serves to repel the walkers and the shoppers. • No historical, no maritime, no contemporary - doesn't pay. • Don't like styles that look like they belong in Florida rather than the NW.
7	• Attractive, color coordinated, coordinated dimensions. • Maritime styles follow and fit with theme of our city; great style for compromise.	• Like maritime (will 'endure').	• Don't like the color and think that the design of the building is very ugly. • Large, low buildings look like schools or hospitals.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
			• Not historical style – DM is not Port Townsend. • Sterile, minimal opportunities for gathering the community for walking, shopping or eating. • Favor mixed use projects. • Do not like; not interesting.
8		• Somewhat ugly, uses too much footprint • Contemporary NW architecture is less appealing (at least examples posted); would be an opposing theme to the current buildings in the Marina.	• Low, flat look is not appealing. • Horrible style – no height, no retail, ugly. • Don't think this would look good at all in the Marina District. • Style is wrong in my opinion. • Looks like a funeral home. • Large, low buildings look like schools or hospitals. • Not historical style – DM is not Port Townsend. • Sterile, minimal opportunities for gathering the community for walking, shopping or eating. • Does not fit in a revitalization development of this community – too much of the old style (some of the maritime examples). • Favor mixed use projects. • Old school, don't need more of this; one story buildings don't fit in Downtown. • Ugly style; promotes commuting via cars not consistent with surrounding area. • Massive glass and metal aren't appropriate for our waterland community.
9	• Like all of the plants around the building and the design of the building makes me want to live or be there even more. • Utilizes terrain and blends with flora. • Clean, open, inviting style; allow for and encourage congregation; pursue good, vital, common access and use; excellent examples – Port Townsend, Friday Harbor, Kent Station, downtown Renton, Bainbridge Island, Admiral on California Avenue. • Use current and existing properties in the City; would rather pay taxes to improve the existing city buildings. • Gathering areas; captures the spirit of NW architecture; lots of glass and natural materials; fit in with the environment; not tall big boxes of solid structure that creates walls between citizens and Puget Sound; lots of	• Okay; but looks like Weyerhaeuser office building. • Contemporary designs okay; think owner should be able to choose what works. • As noted for green dots on images 2, 12, and 23 (Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people); however with a bit less appeal. • Need variety of forms and setbacks to get the atmosphere a city needs. • Like green roof.	• Need variety of facades and setbacks to get the atmosphere a city needs.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	buildings may equal empty buildings. • Beautiful architecture – lots of glass and lower height. • Like openness, lots of windows, friendly atmosphere. • Nice use of glass, open feeling.		
10		• Somewhat ugly, uses too much footprint. • Looks like a public building, library, city hall. • Contemporary designs okay; think owner should be able to choose what works. • Low buildings that don't go against the wishes of citizens.	• Do not like. • Don't like styles that look like they belong in Florida rather than the NW.
11	• The angles and use of natural color wood is very pleasing; don't want to see all maritime looks; even though we are a seaside community, like the idea of multiple architectural styles and looks. • Tried to find places that would attract foot traffic and places where people would enjoy congregating. • Outside reminds me of Kent Station and Southern California (like it). • Beautiful architecture – lots of glass and lower height. • Nice use of glass, open feeling.	• Somewhat ugly, uses too much footprint • Glass and modern look. • Contemporary is nice but maybe a little opulent. • Acceptable. • Like the contemporary and more so the historical.	• Contemporary – not in keeping with style and feel of city. • Massive glass and metal aren't appropriate for our waterland community. • Contemporary NW styles do not keep with DM persona of maritime history.
12	• Like the clean lines of building; could be used in a mixed group of buildings as long as it is on the right footprint. • The angles and use of natural color wood is very pleasing; don't want to see all maritime looks; even though we are a seaside community, like the idea of multiple architectural styles and looks. • Contemporary and wood also fits in with Marina and NW theme. • Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people. • Gathering areas; captures the spirit of NW architecture; lots of glass and natural materials; fit in with the environment; not tall big boxes of solid structure that creates walls between citizens and Puget Sound; lots of buildings may equal empty buildings. • Like the maritime – it very much fits the unique setting of our community. • Open Northwest style, still makes it feel like a neighborhood, not a mall; doesn't crowded; gives a	• Modern look. • Openness and light. • Nice NW style but too generic – okay for office building. • Contemporary designs okay; think owner should be able to choose what works. • Contemporary NW architecture is less appealing (at least examples posted); would be an opposing theme to the current buildings in the Marina. • Shingled, weathered look is NW attitude. • Need variety of forms and setbacks to get the atmosphere a city needs.	• Need variety of facades, setbacks to get the atmosphere a city needs. • No historical, no maritime, no contemporary – doesn't pay.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	relaxed feeling. • Like designs that will withstand the test of time; don't design buildings that will be expensive to keep looking good. • Like the architecture with a shingled outside and white trim.		
13	• All for 2-3 story mixed use buildings in the downtown area. • Modern but still small-town feel. • Building represents a nice first attempt at revitalizing DM, both in style and size – represents a small town that is current and progressive in outlook; positive attribute when attracting new residence – hard working <u>taxpaying</u> residents and businesses. • Like variable height, liked parking in rear and design.	• Conforms to current height specifications. • Like varying roofline. • Acceptable. • Low buildings that don't go against the wishes of citizens. • Not blocky, tries to make view corridors.	• Patchwork – clock to add class? No.
14	• Outdoor space. • Building represents a nice first attempt at revitalizing DM, both in style and size – represents a small town that is current and progressive in outlook; positive attribute when attracting new residence – hard working <u>taxpaying</u> residents and businesses. • Use current and existing properties in the City; would rather pay taxes to improve the existing city buildings. • Beautiful architecture – lots of glass and lower height. • Open Northwest style, still makes it feel like a neighborhood, not a mall; doesn't feel crowded; gives a relaxed feeling.	• Great multi-use building but needs some residential. • This would look great if there were other shops nearby and no houses. • Low buildings that don't go against the wishes of citizens. • Like the contemporary and more so the historical.	• Sterile, minimal opportunities for gathering the community for walking, shopping or eating. • Does not fit in a revitalization development of this community. • Hate the box style!
15	• Open Northwest style, still makes it feel like a neighborhood, not a mall; doesn't crowded. Gives a relaxed feeling. • Like maritime and historical architecture and mixed use structures; would like to have a variety of boutique shops.	• This would look nice if there were homes on a private beach or if it was a public beach then buildings should relate to the beach (e.g., restaurant or canoe rental place). • We are going to need higher density – in the future people, especially young people, will need to live close to their jobs. • Shingled, weathered look is NW attitude.	• Cluttered, ugly, eyesore. • Out of place. • Wouldn't fit in our Marina area. • Jail? Construction site? • Don't like styles that look like they belong in Florida rather than the NW.
16	• Outdoor space. • Loof Style (i.e., multidimensional). • Like the historical look and use of natural wood. • Ok, looks like Cape Cod. • Like peaked roofs – prefer 2 stories not higher.	• Traditional but not too traditional; still not sure it fits. • Looks warm and inviting. • Has spaces to attract people to the area like open, plants, outdoor seating,	• Like the style but should be limited to 2 stories.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	• Rooms up, café and shops below – great look. • Building is the right height to footprint ratio for the Downtown area; especially if it is 100% commercial use. • Classic, neutral colors, beach-style- no garish gold, brick and black patchwork, Lego-style architect! • Appreciate marina style structures. Historic styles are appealing, especially if you do a consistent theme. • Use current and existing properties in the City; would rather pay taxes to improve the existing city buildings. • Like the height limits where they are; need to change/update the facades, fix the parking problem; like maritime, traditional styles. • Like the maritime – it very much fits the unique setting of our community. • Like maritime and historical architecture and mixed use structures; would like to have a variety of boutique shops.	enjoyable area to walk and thus have people stop for coffee, a meal or meet someone for shopping or all of the above; also good for apartments/condos and retail spaces to draw people out (but not as much draw as Images 2, 22, and 23). • As noted for green dots on images 2, 12, and 23 (Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people); however with a bit less appeal. • Use materials that will withstand most weather issues – strong winds and salt air. • Like NW contemporary look, glass windows and openness.	-
17			• No 'theme', looks hodge-podge. • Fear 3-4 or 5-6 stories; will create a feeling of the downtown area blocking access to the harbor and Beach Park areas.
18	• Attractive, color coordinated, coordinated dimensions. • Great building with living space and retail • Clean, open, inviting style; allow for and encourage congregation; pursue good, vital, common access and use; excellent examples – Port Townsend, Friday Harbor, Kent Station, downtown Renton, Bainbridge Island, Admiral on California Avenue. • Appropriate design elements – attractive, intentional.	• Outdoor space. • Might be appropriate somewhere. • Contemporary also but still not sure it has enough character. • Liked the waterfront area w/ dock because attracted to this sort of plan. • As noted for green dots on images 2, 12, and 23 (Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people); however with a bit less appeal. • Nice mix of commercial/residential space; roofline too "blocky" – may interfere with views. • Like the contemporary and more so the historical. • 3 or more story mixed use takes away from warmth of area; looks too crowded.	• Looks like everything else being built. • Patchwork, cold, no continuity. • This may be quick fix only but what does it do for the established home owner – raises our taxes and low property value; we need a fix or plan long term business. • Don't want any buildings over 45'.
19	• Seems to utilize terrain. • Multiuse sidewalk gives feeling of access.	• May work? Parking? • Structures do not distract from	• Heights.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	Contemporary, classy, good use of real estate, interesting design. Redmond Town center concept would fit great in a progressive downtown.	environment but blend in; do not create congestion by using such dense, tall structures. - Nice use of space right next to water; watch density. 3 or more story mixed use takes away from warmth of area; looks too crowded. - Use materials that will withstand most weather issues – strong winds and salt air.	
20	- Entrance foyer. - Like the lights and design; looks like a nice building – there are plants that make it look even more enjoyable. - Clean, open, inviting style; allow for and encourage congregation; pursue good, vital, common access and use; excellent examples – Port Townsend, Friday Harbor, Kent Station, downtown Renton, Bainbridge Island, Admiral on California Avenue.	- Structures do not distract from environment but blend in; do not create congestion by using such dense, tall structures. 3 or more story mixed use takes away from warmth of area; looks too crowded. - Use materials that will withstand most weather issues – strong winds and salt air.	- No reason, just don't like the look. - Building is so bland, strictly residential and offers more housing for those who can afford it but no retail or any benefit to the public besides sidewalk! - Don't like the sterile look – one that serves to repel the walkers and the shoppers. - High rise, square built.
21	Des Moines needs mixed use; the higher the better; other communities that have this design route, with the proper planning, prosper.		- Seems out of place in DM – too massive and overpowering. - Cluttered, ugly, eyesore. - Out of place. - No tall buildings downtown; current residents will be negatively impacted; we have no need to do this; city is delusional and disrespectful of the current businesses. - Love the building in Fremont but it would not fit in here. - Too much going on with the artwork on the side and slanted balcony. - Too tall, ugly design. - Do not want towering buildings in our community they are not in character with the surroundings, nor do they do anything to enhance the natural beauty surrounding DM. - Too tall and just plain ugly. - Will be 'dated' very soon. - You're joking, right? - Too busy. - Top heavy looking. - Does not fit in a revitalization development of this community – Fremont structure with the exterior stainless steel artwork, as interesting as it is to look at – it doesn't fit the community.

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
			• Modern 5-6 story mixed use condos would distract from a more historic Marina theme; there are some mixed use buildings that could meet theme – please seek out more examples. • Favor mixed use projects. • This may be quick fix only but what does it do for the established home owner – raises our taxes and low property value; we need a fix or plan long term business. • Stop trying to build tall buildings to improve the economy; it is blight to the environment and will kill the spirit of the community; look at Kent Station – there are few tall buildings, they did not attempt to increase downtown population, but it is a vibrant gathering area all day/evening with great economic benefits! • Too tall – takes small town charm away! • Height is a problem. • Do not like; not interesting. • High rise, square built. • “Too funky” for DM. • Heights. • Fear 3-4 or 5-6 stories; will create a feeling of the downtown area blocking access to the harbor and Beach Park areas. • 5 or more story mixed use takes away from environment, marina style and comfort; it would make DM look congested and buildings on top of one another. • Massive glass and metal aren’t appropriate for our waterland community. • Don’t like high gloss buildings with crooked decks; too “artsy.”
22	• Looks like a very friendly place that would be nice to be at. • Like the variable height. • Feeling of openness and space use looks good – not too sure of height for this city. • Would like to see 10-15 stories. • Has spaces to attract people to the area like open, plants, outdoor seating, enjoyable area to walk and thus have people stop for coffee, a meal or meet someone for	• Like the different levels giving not so square box look. • Like the lack of box style in architecture but want retail I can enjoy. • Shingled, weathered look is NW attitude.	• Seems out of place in DM – too massive and overpowering. • Too tall, ugly design. • No buildings over 4 stories (go to Burien for a nearby EMPTY example); other bad examples – Kirkland, Ballard, Belltown (Seattle), Renton Landing (empty). • This may be quick fix only but what does it do for the established home owner – raises our taxes and low property value; we need a fix or plan long term

Image #	Green Dots	COMMENTS Yellow Dots	Red Dots
	shopping or all of the above; also good for apartments/condos and retail spaces to draw people out. - Des Moines needs mixed use; the higher the better; other communities that have this design route, with the proper planning, prosper. - Like designs that will withstand the test of time; don't design buildings that will be expensive to keep looking good.		business. - Stop trying to build tall buildings to improve the economy. It is blight to the environment and will kill the spirit of the community. Look at Kent Station – there are few tall buildings, they did not attempt to increase downtown population, but it is a vibrant gathering area all day/evening with great economic benefits! - Height is a problem. 5 or more story mixed use takes away from environment, marina style and comfort; it would make DM look congested and buildings on top of one another.
23	- Attractive, color coordinated, coordinated dimensions. - Multi colored. - Like the offset – each new building should have retail! - Great mixed use- retail + residential. - Would like to see 10-15 stories. - Has spaces to attract people to the area like open, plants, outdoor seating, enjoyable area to walk and thus have people stop for coffee, a meal or meet someone for shopping or all of the above; also good for apartments/condos and retail spaces to draw people out. - Placement was inspired by overall clean architectural design, accessibility for user/customers, appealing presence that appears to attract and draw in people. - Appropriate design elements – attractive, intentional.	- Might work in the right location. - We are going to need higher density – in the future people, especially young people, will need to live close to their jobs. - Has nice feel and like, but may be a hassle for living. - Retail with multifamily above seems to be a successful and attractive way to go – Kirkland, Redmond, and Bellevue.	- Too tall, ugly design. - This block of buildings give a feel of being boxed in , being cut off from the natural beauty – mountains, water and even the skyline. - Dislike 'tunnel' effect. - Too tight. - Height is a problem. - No buildings over 4 stories (go to Burien for a nearby EMPTY example); other bad examples – Kirkland, Ballard, Belltown (Seattle), Renton Landing (empty). - Stop trying to build tall buildings to improve the economy; it is blight to the environment and will kill the spirit of the community; look at Kent Station – there are few tall buildings, they did not attempt to increase downtown population, but it is a vibrant gathering area all day/evening with great economic benefits! - Too tall – takes small town charm away! - Don't want any buildings over 45'.
24	- Would like to see 10-15 stories. - Tried to find places that would attract foot traffic and places where people would enjoy congregating. - Makes good use of existing hillside. - Favor pedestrian friendly styles; visually appealing as you walk along. - Appropriate design elements – attractive, intentional.	- Ugly building but it conforms to landscape. - Slope option. - We are going to need higher density – in the future people, especially young people, will need to live close to their jobs. - Structures do not distract from environment but blend in; do not create congestion by using such dense, tall structures.	- No buildings over 4 stories (go to Burien for a nearby EMPTY example); other bad examples – Kirkland, Ballard, Belltown (Seattle), Renton Landing (empty). - Too tall – takes small town charm away! - Height is a problem. - Do not like; not interesting. 5 or more story mixed use takes away from environment, marina style and comfort; it would make DM look congested and buildings on top of one another.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Sale and issuance of Limited Tax General Obligation Refunding Bonds, 2012, to provide funds to advance refund the City's Limited Tax General Obligation and Refunding Bonds, 2002.

ATTACHMENTS:

1. Draft Ordinance No. 12-034

FOR AGENDA OF: March 22, 2012

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: March 13, 2012

CLEARANCES:

- ☐ Legal N/A
- ☒ Finance ph
- ☐ Marina N/A
- ☐ Parks, Recreation & Senior Services N/A
- ☐ Planning, Building & Public Works N/A
- ☐ Police N/A
- ☐ Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this report is to seek City Council approval of Draft Ordinance No. 12-034 providing for the sale and issuance of Limited Tax General Obligation Refunding Bonds, 2012 (issue size depends upon market pricing), to provide funds to advance refund the Limited Tax General Obligation and Refunding Bonds, 2002.

Suggested Motion

Motion: "To pass Draft Ordinance No. 12-034 providing for the sale and issuance of Limited Tax General Obligation Refunding Bonds, 2012, to provide funds to advance refund the City's Limited Tax General Obligation and Refunding Bonds, 2002, to a second reading for enactment on April 5, 2012."

Background

The issuance of the 2002 Limited Tax General Obligation and Refunding Bonds were used to finance projects identified in Phase One of the Comprehensive Marina Master Plan that was adopted by the City Council in June of 2001 and to refund the outstanding Marina Revenue Bonds of 1968. All of the bond

proceeds have been spent. Bonds maturing 2013 through 2022 totaling \$2,590,000 are eligible to be advance refunded.

Discussion

An advance refunding is a financing technique that allows an issuer to obtain the benefit of lower interest rates when the outstanding bonds are not currently callable. The proceeds from the sale of the refunding bonds are used to purchase taxable government securities, which are deposited in an escrow account. The escrow account is structured so that the principal and interest earned on the securities are sufficient to pay all principal, interest, and call premium, if any, on the outstanding bonds up to and including the call date. The refunding bonds are secured by the same sources of taxes or revenue previously pledged to the payment of the outstanding bonds.

The outstanding debt is generally considered void (defeased) either legally or in substance. A legal defeasance occurs when the covenants relating to the outstanding bonds are satisfied with respect to the retirement of the debt. For accounting and financial reporting purposes the issue is treated as defeased when the escrow account is comprised of direct obligations or obligations guaranteed by the United States Government irrevocably pledged to the retirement of such debt.

The present value savings of advance refunding the 2002 Bonds is estimated at \$140,000. The true interest cost of the 2002 bonds is 4.32% while the refunding bonds are expected to have a true interest cost within the range of 2% to 3%.

Alternatives

None.

Financial Impact

As discussed, the financial impact provides for present value savings of approximately \$140,000.

Recommendation

Staff recommends that the City Council authorize the issuance of Limited Tax General Obligation Refunding Bonds, 2012, by adopting Draft Ordinance No. 12-034.

Concurrence

The Municipal Facilities Committee, and Finance Department both concur with this action.

CITY OF DES MOINES, WASHINGTON

DRAFT ORDINANCE NO. 12-034

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the incurrence of indebtedness; providing for the sale and issuance of \$_____ Limited Tax General Obligation Refunding Bonds, 2012, to obtain part of the funds necessary to advance refund and defease all of the City's outstanding Limited Tax General Obligation and Refunding Bonds, 2002, to fund a deposit to the Bond Reserve Account for the Bonds, and to pay the incidental costs and costs related to the sale and issuance of such bonds; providing for the date, denominations, form, terms, registration provisions, maturities, interest rates and covenants of such bonds; providing for the annual levy of taxes to pay the principal of and the interest on such bonds; establishing a Bond Principal and Interest Account and a Bond Reserve Account in the Marina Revenue Fund, for such bonds; providing for the disposition of the proceeds of such bonds; and providing for the sale and delivery of such bonds to Seattle-Northwest Securities Corporation.

WHEREAS, pursuant to Ordinance No. 1312, the City has heretofore issued and sold the 2002 Bonds, of which \$2,795,000 in aggregate principal amount is currently outstanding; and

WHEREAS, pursuant to Ordinance No. 1312, the City reserved the right to defease all or a portion of the 2002 Bonds pursuant to a refunding plan adopted by the City; and

WHEREAS, pursuant to Ordinance No. 1312, the City reserved the right to redeem the 2002 Bonds maturing on and after December 1, 2014, in whole or in part, at any time on and after December 1, 2012, at a redemption price of par plus accrued interest to the date fixed for redemption; and

WHEREAS, all of the outstanding 2002 Bonds mature on and after December 1, 2014; and

WHEREAS, undertaking a refunding plan to advance refund and defease all of the outstanding 2002 Bonds to their earliest redemption date on December 1, 2012, will effect a debt service savings to the City; and

WHEREAS, pursuant to chapter 39.53 RCW, the City is authorized to sell and issue, without an election, limited tax general obligation bonds of the City to refund the 2002 Bonds; and

WHEREAS, the City deems it to be in the best interest of the City that the City incur indebtedness and issue and sell its limited tax general obligation refunding bonds for the purpose of obtaining part of the funds necessary to undertake the Refunding Plan; and

WHEREAS, the incurrence of such indebtedness will not cause the total indebtedness of the City incurred without the assent of the voters of the City to exceed the limitations set forth in chapter 39.36 RCW; and

WHEREAS, the Purchaser has offered, by way of the Purchase Agreement, to purchase such limited tax general obligation bonds upon the terms and conditions set forth below; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Sec 1. Definitions. Unless the context otherwise requires, the terms defined in this Section, for all purposes of this Ordinance (including the recitals hereto) and of any ordinance supplemental hereto, shall have the meanings herein specified; words importing the singular number include the plural number and vice versa:

“Annual Debt Service” means, in any year, that year’s total of principal and interest requirements for the then-outstanding Bonds or Parity Bonds, as the context may require (except the principal maturity of any Bonds or Parity Bonds issued as term bonds), plus any mandatory sinking fund or mandatory bond redemption requirement for such Bonds or Parity Bonds for that year.

“Authorized Officer” means the City Manager and the City Finance Director, acting alone or in combination.

“Average Annual Debt Service” means, in any year, the sum of the remaining Annual Debt Service of the then-outstanding Bonds, divided by the number of years such Bonds are scheduled to remain outstanding.

“Beneficial Owner” means, with respect to any Bond, the Person named on the records of the Custodian as having the right, without a physical certificate evidencing such right, to transfer, to hypothecate and to receive the payment of the principal of, premium, if any, and interest on such Bond as the same becomes due and payable.

“Bond Principal and Interest Account” means the Limited Tax General Obligation Refunding Bond Principal and Interest Account, 2012 in the Marina Revenue Fund created pursuant to Section 20 of this Ordinance.

“Bond Register” means the registration books on which are maintained the names and addresses of the owners or nominees of the owners of the Bonds.

“Bond Reserve Account” means the Limited Tax General Obligation Refunding Bond Reserve Account, 2012 in the Marina Revenue Fund created pursuant to Section 20 of this Ordinance.

“Bonds” means the City of Des Moines, Washington, Limited Tax General Obligation Refunding Bonds, 2012, the sale and issuance of which are authorized by this Ordinance.

“Book-Entry Termination Date” means the fifth business day following the date of receipt by the Registrar of the City’s request to terminate the book-entry system of registering the beneficial ownership of the Bonds.

“City” means the City of Des Moines, Washington, a code city organized and existing under State law.

“City Council” means the City Council of the City.

“Closing” means the time on the Date of Issue when the Bonds are delivered to the Purchaser in exchange for payment in full therefor.

“Code” means the Internal Revenue Code of 1986, as heretofore or hereafter amended, together with all applicable rulings and regulations heretofore or hereafter promulgated thereunder.

“Custodian” means (a) The Depository Trust Company, New York, New York, or (b) any successor thereto engaged by the City to operate a book-entry system for recording, through electronic or manual means, the beneficial ownership of the Bonds, in which system no physical certificates are issued to the Beneficial Owners of the Bonds, but in which a limited number of physical certificates are issued to and registered in the name of the Custodian or its nominee, and delivered to the Custodian; provided, that such book-entry system operated by the Custodian may include the use of subsystems of recording the beneficial ownership of Bonds which are operated by parties other than the Custodian and the use of a nominee for the Custodian; and the term “Custodian,” as used herein, includes any party operating any such subsystem.

“Date of Issue” means the date on which the Bonds are issued and delivered to the Purchaser in return for payment of the purchase price therefor.

“Escrow Agent” means U.S. Bank National Association, acting in its fiduciary capacity as Escrow Agent pursuant to the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement, to be dated as of the Date of Issue, by and between the City and the Escrow Agent, in substantially the same form as the draft dated _____, 2012, a copy of which is on file with the City Clerk and is incorporated herein by this reference.

“Escrow Obligations” means those certain Government Obligations necessary to accomplish the Refunding Plan, as set forth on Schedule 1 to the Escrow Agreement.

"Future Parity Bonds" means all limited tax general obligation bonds of the City issued after the Date of Issue, for the payment of principal and interest on which the City has also pledged the Net Revenue.

"Government Obligations" means "government obligations," as defined in chapter 39.53 RCW, as now in existence or hereafter amended.

"Letter of Representations" means the Letter of Representations, between the City and the Custodian pertaining to the payment of the Bonds and the "book-entry" system for evidencing the beneficial ownership of the Bonds prior to the Book-Entry Termination Date.

"Marina" means the small boat harbor and marina, including the Redondo facilities, owned and operated by the City.

"Marina Improvement Projects" means capital improvements to the Marina, including, but not limited to, the improvements described in the marina master plan of the City.

"Marina Revenue Fund" means that special fund of the City into which all Revenue of the Marina (except for earnings in any special fund for the redemption of revenue obligations of the Marina) shall be deposited.

"Maximum Annual Debt Service" means the maximum amount of Annual Debt Service that shall become due in any future year on any outstanding Bonds or Parity Bonds, as the context may require.

"MSRB" means the Municipal Securities Rulemaking Board.

"Net Revenue" means the Revenue of the Marina less the Operating and Maintenance Expense.

"Operating and Maintenance Expense" means all necessary operating expenses of the Marina, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and all other expenses incident to the operation of the Marina, but shall exclude depreciation, interest expense, and all general administrative expenses of the City.

"Ordinance" means this Ordinance No. ____ of the City.

"Owner" means the person named as the registered owner of a Bond on the Bond Register.

"Parity Bonds" means, collectively, (a) the Bonds, (b) the City of Des Moines, Washington, Limited Tax General Obligation Bonds, 2008A, and (c) any Future Parity Bonds.

"Preliminary Official Statement" means the Preliminary Official Statement pertaining to the Bonds, dated _____, 2012.

"Purchase Agreement" means the Bond Purchase Agreement for the Bonds by and between the City and the Purchaser, which written Purchase Agreement is on file with the City Clerk and is incorporated herein by this reference.

"Purchaser" means Seattle-Northwest Securities Corporation.

"RCW" means the Revised Code of Washington, as amended.

"Refunding Plan" means the plan to advance refund and defease all of the outstanding 2002 Bonds, to fund a deposit to the Bond Reserve Account, and to pay the incidental costs and costs related to the sale and issuance of the Bonds, all as more particularly defined and described in the Escrow Agreement.

"Registrar" means the fiscal agency of the State located in New York, New York (as of the Date of Issue, The Bank of New York Mellon), which fiscal agency is appointed from time to time by the State Finance Committee pursuant to chapter 43.80 RCW.

"Reserve Requirement" means the least of (1) 1.25 times the Average Annual Debt Service with respect to all outstanding Bonds; (2) Maximum Annual Debt Service with respect to all outstanding Bonds; or (3) 10% of the proceeds of the Bonds.

"Revenue of the Marina" means all of the earnings and revenues received by the City from the maintenance and operation of the Marina, except government grants, proceeds from the sale of property, City taxes collected by or through the Marina, principal proceeds of bonds and earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund Marina obligations (until commingled with other earnings and revenues of the Marina) or held in a special account for the purpose of paying a rebate to the United States Government under the Code.

"Rule" means SEC Rule 15c2-12.

"SEC" means the United States Securities and Exchange Commission.

"State" means the State of Washington.

"2002 Bond Redemption Date" means December 1, 2012.

"2002 Bonds" means the City of Des Moines, Washington, Limited Tax General Obligation and Refunding Bonds, 2002, currently outstanding in the aggregate principal amount of \$2,795,000.

Sec 2. Finding, purpose and description of Bonds. The City Council hereby finds that undertaking the Refunding Plan will be in the best interest of the City because it will effect a

debt service savings to the City. To that end, the incurrence of indebtedness and the issuance of by the City of its "Limited Tax General Obligation Refunding Bonds, 2012" for the purpose of obtaining part of the funds necessary to undertake the Refunding Plan are hereby authorized.

The Bonds shall be issued in the aggregate principal amount of \$ _____. The Bonds shall be dated the Date of Issue; shall be issued in fully registered form as to both principal and interest; shall be in the denomination of \$5,000 each or any integral multiple thereof within a single maturity; and shall be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of identification. The Bonds shall bear interest at the rates and shall mature on December 1 in each of the years and in the principal amounts, all as set forth below:

Maturity Date (December 1)	Principal Amount	Interest Rate Per Annum
2012	\$	%
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		

The Bonds shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or from the most recent interest payment date to which interest has been paid or duly provided for, whichever is later, payable on December 1, 2012, and semiannually thereafter on December 1 and June 1 of each year to their maturity.

The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and RCW 62A.8-105.

On the Date of Issue, all Bonds maturing in the same maturity year and bearing the same initial CUSIP number shall be issued in the form of a single certificate, which certificate shall be registered in the name of the Custodian, or its nominee, and delivered to the Custodian. The Custodian shall hold each such Bond certificate in fully immobilized form for the benefit of the Beneficial Owners of the Bonds pursuant to the Letter of Representations, until the earliest to occur of either (a) the date of maturity of the Bonds evidenced by such certificate, at which time the Custodian shall surrender such certificate to the Registrar for payment of the principal of and interest on such Bonds coming due on such date, and the cancellation thereof; (b) the Book-Entry Termination Date; or (c) the date the City determines to utilize a new Custodian for the Bonds, at which time the old Custodian shall (provided the City is not then in default of any payment then

due on the outstanding Bonds) surrender the immobilized certificates to the Registrar for transfer to the new Custodian and cancellation as herein provided.

For so long as any outstanding Bonds are registered in the name of the Custodian or its nominee and held by the Custodian in fully immobilized form as described in this Section 2, the Custodian will be deemed to be the Owner of the Bonds for all purposes, the rights of the Beneficial Owners shall be evidenced solely by an electronic and/or manual entry made from time to time on the records established and maintained by the Custodian in accordance with the Letter of Representations, and no certificates evidencing such Bonds shall be issued and registered in the name of any Beneficial Owner or such Beneficial Owner's nominee.

The City may terminate the "book-entry" system of registering ownership of the Bonds at any time (provided the City is not then in default of any payment then due on the outstanding Bonds) by delivering to the Registrar: (1) a written request that it issue and deliver Bond certificates to each Beneficial Owner or such Beneficial Owner's nominee on the Book-Entry Termination Date; (2) a list identifying the Beneficial Owners as to both name and address; and (3) a supply of Bond certificates, if necessary for such purpose. Upon surrender to the Registrar of the immobilized certificates evidencing all of the then outstanding Bonds, the Registrar shall issue and deliver new certificates to each Beneficial Owner or such Beneficial Owner's duly appointed agent, naming such Beneficial Owner or such Beneficial Owner's nominee as the Owner thereof. Such certificates may be in any integral multiple of \$5,000 within a single maturity. Following such issuance, the Owners of such Bonds may transfer and exchange such Bonds in accordance with Section 11 hereof.

Neither the City nor the Registrar shall have at any time any responsibility or liability to any Beneficial Owner of Bonds or to any other person for any error, omission, action or failure to act on the part of the Custodian with respect to payment, when due, to the Beneficial Owner of the principal and interest on the Bonds, proper recording of beneficial ownership of Bonds, proper transfers of such beneficial ownership, or any notices to Beneficial Owners or any other matter pertaining to the Bonds.

Sec 3. Place, manner and medium of payment. Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Prior to the Book-Entry Termination Date, the principal of and interest on the Bonds shall be paid by the Registrar to the Custodian as the Owner thereof, for the benefit of the Beneficial Owners thereof, in accordance with the Letter of Representations. From and after the Book-Entry Termination Date, interest on the Bonds shall be paid by check or draft mailed by the Registrar (or, if approved by the City Finance Director, by wire transfer) on or before the interest payment date, to the Owners, at the addresses for such Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date. From and after the Book-Entry Termination Date, the principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the Owners at the principal corporate trust office of the Registrar.

Sec 4. No redemption; open market purchase. The Bonds shall not be subject to redemption prior to their scheduled maturity. However, the City reserves the right to purchase

any or all of the Bonds on the open market at any time and at any price. All Bonds so purchased by the City shall be surrendered to the Registrar for cancellation.

Sec 5. Debt limit not exceeded. The City finds and covenants that the Bonds are issued within all constitutional and statutory debt limitations presently applicable to the City.

Sec 6. Debt service coverage covenant. The City covenants and agrees that it has established, maintains, and revises as necessary and collects such rental fees and charges for boat moorage and other Marina services furnished, sufficient to produce Net Revenue in each calendar year, which, together with other revenue available therefor, will be at least equal to 1.25 times the Annual Debt Service on the outstanding Parity Bonds in the year for which such debt service coverage ratio is being calculated.

Sec 7. Pledge of full faith, credit and resources and Marina revenue. The Bonds are limited tax general obligations of the City. The City hereby irrevocably covenants that, unless the principal of and interest on the Bonds are paid from other sources, so long as any Bonds are outstanding, it will include in its budgets and make annual levies of taxes within the constitutional and statutory tax limitations provided by law without a vote of the voters of the City upon all property within the City subject to taxation in amounts which, together with the Net Revenue and any other money of the City legally available for such purposes, shall be sufficient to pay such principal and interest on the Bonds as the same shall become due. The City hereby irrevocably pledges its full faith, credit and resources to the annual levy and collection of such taxes and for the prompt payment of principal and interest on the Bonds. The City hereby irrevocably covenants that the annual tax provided for herein to be levied for the payment of the principal of and interest on the Bonds shall be within and as a part of the tax levy permitted the City without a vote.

In addition, the City hereby irrevocably pledges the Net Revenue for the payment of principal and interest on the Bonds. The City hereby further irrevocably sets aside, pledges and appropriates to the payment of the principal of and interest on the Bonds a sufficient portion of the Net Revenue and each annual tax levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bonds. Such portion of the Net Revenue, taxes and other money to be used for such purposes shall be deposited into the Bond Principal and Interest Account of the Marina Revenue Fund no later than the date such funds are required for the payment of principal of and interest on the Bonds.

Sec 8. Form of Bonds. The Bonds shall be wordprocessed, printed or lithographed on good bond paper in a form consistent with this Ordinance and State law.

Sec 9. Execution of Bonds. The Bonds shall be signed on behalf of the City with the facsimile or manual signatures of the Mayor and the City Clerk, and shall have the seal of the City impressed or a facsimile of such seal imprinted on the Bonds.

In case either or both of the officers who shall have executed any Bond shall cease to be such officer or officers of the City before the Bond so signed shall have been authenticated or delivered by the Registrar or issued by the City, such Bond nevertheless may be authenticated,

delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond also may be signed and attested on behalf of the City by such persons as at the actual date of execution of such Bond shall be the proper officers of the City although at the original date of such Bond such persons were not such officers of the City.

Sec 10. Authentication of Bonds by Registrar. The Registrar is authorized and directed, on behalf of the City, to authenticate and deliver Bonds initially issued or transferred or exchanged in accordance with the provisions of such Bonds and this Ordinance.

Only such Bonds as shall bear a "Certificate of Authentication" manually executed by an authorized signatory of the Registrar shall be valid or obligatory for any purpose or entitled to the benefits of this Ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered under and are entitled to the benefits of this Ordinance.

The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bonds.

Sec 11. Registration, transfer and exchange. The City covenants that, until all Bonds shall have been surrendered and cancelled, it will cause the Registrar to maintain a system of recording the ownership of each Bond that complies with the provisions of the Code. To that end, the Registrar shall keep, or cause to be kept, the Bond Register at its principal corporate trust office.

The City and the Registrar, in its discretion, may deem and treat the Owner of each Bond as the absolute owner thereof for all purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 3 of this Ordinance, but such registration may be transferred as provided in this Section 11. All such payments made as provided in Section 3 of this Ordinance shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

The registered ownership of any Bond may be transferred or exchanged. Prior to the Book-Entry Termination Date, the beneficial ownership of the Bonds may only be transferred on the records established and maintained by the Custodian. On and after the Book-Entry Termination Date, transfer of any Bond shall be valid only if it is surrendered at the principal corporate trust office of the Registrar, with the assignment form appearing on such Bond duly executed by the Owner or such Owner's duly authorized agent, in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Owner or transferee for such transfer (other than any taxes payable on account of such transfer), a new Bond or Bonds (at the option of the new Owner), of the same maturity and interest rate and for the same aggregate principal amount, in any authorized denomination, naming as Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond.

On and after the Book-Entry Termination Date, any Bond may be surrendered at the principal corporate trust office of the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same maturity and interest rate, in any authorized denomination. The Registrar shall not be obligated to transfer or exchange any Bond during the 15 days preceding any interest payment or maturity date.

The Registrar may become the Owner of any Bond with the same rights it would have if it were not the Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners of the Bonds.

Sec 12. Mutilated, lost, stolen or destroyed Bonds. If any Bond becomes mutilated, lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond of the same maturity and interest rate and of like tenor and effect in substitution for such mutilated, lost, stolen or destroyed Bond, all in accordance with law. If such mutilated, lost, stolen or destroyed Bond has matured, the City, at its option, may pay the same without the surrender of the original Bond. However, no such substitution or payment shall be made unless and until the applicant shall furnish (a) evidence satisfactory to the Registrar of the destruction or loss of the original Bond and of the ownership of such original Bond, and (b) such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute Bond shall be furnished unless the applicant shall reimburse the City and the Registrar for their respective expenses in the furnishing of such substitute Bond. Any such substitute Bond so furnished shall be equally and proportionately entitled to the security of this Ordinance with all other Bonds issued under this Ordinance.

Sec 13. Defeasance. The City may, at any time, defease all or a portion of the Bonds (the "Defeased Bonds"), as follows: if money and/or Government Obligations maturing at such times and bearing such interest as will provide, without any reinvestment, amounts sufficient to repay, redeem or retire the Defeased Bonds in accordance with their terms are set aside in a special trust fund or escrow account (the "Escrow Account") pledged irrevocably to the repayment, redemption or retirement of the Defeased Bonds, then all right and interest of the Owners of the Defeased Bonds in the covenants of this Ordinance and in the funds and accounts obligated to the payment of the Defeased Bonds shall cease and become void. The Owners of the Defeased Bonds shall have the right to receive payment of the principal of and interest on the Defeased Bonds only from the Escrow Account. The Defeased Bonds shall no longer be deemed to be outstanding, and the City may apply any money in any other fund or account established for the payment or redemption of the Defeased Bonds to any lawful purposes as it shall determine.

Sec 14. Sale of the Bonds. The Purchaser has presented the Purchase Agreement to the City pursuant to which the Purchaser has offered to purchase the Bonds upon the terms and conditions provided in the Purchase Agreement, which written Purchase Agreement is on file with the City Clerk and is incorporated in this Ordinance by this reference. The City Council finds that entering into the Purchase Agreement is in the City's best interest and therefore

accepts the offer contained in the Purchase Agreement and authorizes the execution of the Purchase Agreement by the City Manager.

Sec 15. Execution of documents; delivery of Bonds; temporary Bonds. The Bonds will be printed at City expense and will be delivered to the Purchaser at the Closing in accordance with the terms of the Purchase Agreement, together with the approving legal opinion of Gottlieb Fisher PLLC ("Bond Counsel"), Seattle, Washington, relative to the issuance of the Bonds. Bond Counsel has not been engaged to review or express any opinion concerning the completeness or accuracy of the official statement or other disclosure documentation used in connection with the offer or sale of the Bonds by any person, and Bond Counsel's opinion shall so state. Bond Counsel has not been retained to monitor, and shall not be responsible for monitoring, the City's compliance with any federal law or regulations to maintain the tax-exempt status of the interest on the Bonds.

If definitive Bonds are not ready for delivery by the Closing, the City Finance Director, upon the approval of the Purchaser, may cause to be issued and delivered to the Purchaser one or more temporary Bonds with appropriate omissions, changes and additions. Any temporary Bond or Bonds shall be entitled and subject to the same benefits and provisions of this Ordinance with respect to the payment, security and obligation of such temporary Bonds as definitive Bonds authorized by this Ordinance. Such temporary Bond or Bonds shall be exchangeable without cost to the Owners for definitive Bonds when the latter are ready for delivery.

The Authorized Officers are authorized and directed to execute and/or approve, as appropriate, all documents, including but not limited to, the final official statement pertaining to the Bonds, and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the Bonds, and the printing, execution and prompt delivery of the Bonds to the Purchaser and for the proper application and use of the proceeds of the sale thereof.

Sec 16. Conditional call of 2002 Bonds for redemption. The City hereby calls the 2002 Bonds for redemption on the 2002 Bond Redemption Date at a redemption price of par plus accrued interest to the 2002 Bond Redemption Date. Such call for redemption shall become irrevocable upon delivery of the Bonds to the Purchaser at the Closing; provided, however, that if the Bonds are not delivered to the Purchaser at the Closing, or if the Purchaser fails to pay the full purchase price therefor at the Closing for any reason, then this call of such 2002 Bonds for redemption shall be hereby automatically revoked and shall be null and void.

Sec 17. Escrow Agreement. The Escrow Agreement is hereby approved in order to accomplish the Refunding Plan. The Authorized Officers are authorized and directed: (a) to execute and to deliver the Escrow Agreement, on behalf of the City, to the Escrow Agent on the Date of Issue, with such changes as are deemed by such Authorized Officer(s) as actually execute such document to be in the best interests of the City; and such execution and delivery of the Escrow Agreement shall evidence irrevocably the approval of the executed Escrow Agreement by the City; and (b) to cause the Escrow Agent to deliver notices of defeasance and redemption of the 2002 Bonds in accordance with the Escrow Agreement.

Sec 18. Acquisition of Escrow Obligations. The Authorized Officers shall, at or prior to the Closing, make appropriate arrangements for the payment for and delivery of any Escrow Obligations which are to be purchased in the open market pursuant to the Refunding Plan; and shall, prior to the Closing, deliver or cause to be delivered to the United States Bureau of Public Debt subscriptions for any Escrow Obligations which are to be acquired from the United States Bureau of Public Debt pursuant to the Refunding Plan. The maturing principal of and the interest on such Escrow Obligations, together with the initial cash to be provided to the Escrow Agent pursuant to the Refunding Plan, shall be sufficient to pay all of the interest to become due on the 2002 Bonds from the Date of Issue to and including the 2002 Bond Redemption Date, when due, and to redeem on said date, all of the 2002 Bonds at a redemption price of par plus accrued interest to the 2002 Bond Redemption Date.

The Escrow Agent shall designate in any such subscriptions that all the principal of and interest on the Escrow Obligations subscribed for with the United States Bureau of Public Debt shall be payable to the Escrow Agent. Such subscription may be amended as permitted by federal law.

Sec 19. Verification of sufficiency of escrow. The Authorized Officers are authorized and directed to obtain, prior to Closing, independent verification that, among other things, the cash flow scheduled to be received from the Escrow Obligations, together with any uninvested initial cash, shall be sufficient to pay all of the interest to become due on the 2002 Bonds from the Date of Issue to and including the 2002 Bond Redemption Date, when due, and to redeem on said date, all of the 2002 Bonds at a redemption price of par plus accrued interest to the 2002 Bond Redemption Date.

Sec 20. Establishment of Bond Accounts. There is hereby created and established in the office of the City Finance Director special accounts for the Bonds in the Marina Revenue Fund to be designated as the "Limited Tax General Obligation Refunding Bond Principal and Interest Account, 2012" (the "Bond Principal and Interest Account") and "Limited Tax General Obligation Refunding Bond Reserve Account, 2012" (the "Bond Reserve Account"). Each such Bond account shall be held separate and apart from the other.

The accrued interest on the Bonds received by the City upon the sale of the Bonds, if any, shall be deposited into the Bond Principal and Interest Account in the Marina Revenue Fund and shall be applied to the payment of interest coming due on the Bonds. The money and investments in the Bond Principal and Interest Account shall be used by the City, together with any other money legally available and designated therefor, to pay the principal of and interest on the Bonds, when due.

The Bond Reserve Account is established in the Marina Revenue Fund for the purposes of securing the payment of the Bonds. At the Closing, the City will transfer and pay into the Bond Reserve Account (a) the sum of \$ _____ derived entirely from sale proceeds of the Bonds, and (b) the sum of \$ _____, constituting all of the funds on deposit in the City's Limited Tax General Obligation and Refunding Bond Reserve Account, 2002, established pursuant to Ordinance No. 1312. The City covenants and agrees that it will set aside and pay into the Bond Reserve Account out of Revenue of the Marina or from any other money that the

City may have available for that purpose such amounts so that by no later than December 31, 2012, there shall have been accumulated in the Bond Reserve Account an amount not less than the Reserve Requirement for the Bonds. The City further covenants and agrees that when the required amounts have been paid into the Bond Reserve Account in the Marina Revenue Fund, it will maintain an amount of money and assets in the Bond Reserve Account that will be equal to the Reserve Requirement.

In the event there shall be a deficiency in the Bond Principal and Interest Account to meet maturing installments of either principal of or interest on any Bonds, such deficiency shall be made up from the Bond Reserve Account by the withdrawal of money therefrom. Any deficiency created in the Bond Reserve Account by reason of any such withdrawal shall be made up from the Net Revenue or any other money legally available therefor (after providing for the required deposits to the Bond Principal and Interest Account).

Income from the investments in the Bond Principal and Interest Account shall be deposited in such account. Income from investments in the Bond Reserve Account shall be deposited in such account until the amount therein is equal to the Reserve Requirement, and any excess shall be deposited into the Bond Principal and Interest Account. Investments in the Bond Reserve Account shall be valued at fair market value and marked to market at least once each year. Investments in the Bond Reserve Account shall not have maturities extending beyond five years. If the value of the money and investments in the Bond Reserve Account exceeds the Reserve Requirement, the excess shall be transferred to the Bond Principal and Interest Account.

Sec. 21. Application of Bond proceeds. Proceeds from the sale of the Bonds in the amount of \$_____ (which is equal to the original aggregate principal amount of the Bonds, [plus][less] [net] original issue [premium][discount] of \$_____, less an underwriter's discount of \$_____) shall be applied as follows: (a) the sum of \$_____ shall be deposited into the Bond Reserve Account; (b) the sum of \$_____ shall be paid to the Escrow Agent, for application to the payment of the costs of advance refunding and defeasing all of the 2002 Bonds and paying the costs of issuing the Bonds; and (c) the sum of \$_____ (the "rounding amount") shall be deposited into the Bond Principal and Interest Account for application to the payment of the interest first coming due on the Bonds.

Sec 22. Tax-exemption covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation, and will take or require to be taken such acts as may be permitted by Washington law and as may from time to time be required under applicable law to continue the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation. Without limiting the generality of the foregoing, the City will not invest or make or permit any use of the proceeds of the Bonds or of its other money at any time during the term of the Bonds which would cause any Bond to be an "arbitrage bond" within the meaning of section 148 of the Code.

The City further covenants that it will calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of Bond proceeds that are in excess of the amount that would have been earned had the yield on such investments been equal to the yield

on the Bonds, plus income derived from such excess earnings, to the extent and in the manner required by section 148 of the Code.

The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond issuer the arbitrage certifications of which may not be relied upon.

The City will take no actions and will make no use of the proceeds of the Bonds or any other funds held under this Ordinance which would cause any Bond to be treated as a "private activity bond" (as defined in section 141(b) of the Code) subject to treatment under said section 141(b) as an obligation not described in section 103(a) of the Code, unless the tax exemption thereof is not affected.

The City hereby designates the Bonds as "qualified tax-exempt obligations," as defined in section 265 of the Code (relating to the partial interest expense deduction authorized for banks, thrift institutions and certain other financial institutions). The City covenants that it will not issue more than \$10,000,000 of "qualified tax-exempt obligations" during calendar year 2012, and authorizes and directs the Authorized Officers to execute and deliver all documents necessary to evidence such designation to any and all interested parties.

Sec 23. Preliminary official statement declaration. The City has been provided with copies of the Preliminary Official Statement. For the sole purpose of the Purchaser's compliance with SEC Rule 15c2-12(b)(1), the City "deems final" the Preliminary Official Statement, as of its date, except for the omission of information on offering prices, interest rates, selling compensation, delivery dates, ratings, and other terms of the Bonds dependent on such matters.

Sec 24. Undertaking to provide continuing disclosure. This Section constitutes the City's written undertaking for the benefit of the Owners and Beneficial Owners of the Bonds required by subsection (b)(5)(i) of Rule 15c2-12 of the SEC (the "Undertaking").

The City hereby agrees to provide or cause to be provided to the MSRB the following annual financial information and operating data (collectively, the "Annual Financial Information") for each prior fiscal year, commencing with the fiscal year ending December 31, 2011, on or before the last day of the seventh month following the end of such prior fiscal year:

(a) Annual financial statements prepared in accordance with the generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by state law; which statements will not be audited, except that if and when audited financial statements are otherwise prepared and available to the City, they will be provided (the "Annual Financial Statements");

(b) Principal amount of the Parity Bonds outstanding and the coverage calculation showing the ratio of Net Revenue to Annual Debt Service with respect to the Parity Bonds;

(c) Updated operating and financial data regarding the Marina, of the type found under the heading "The Marina" in the Preliminary Official Statement;

(d) Historical operating information (for the prior fiscal year only) of the type shown in the tables in the Preliminary Official Statement entitled "City of Des Moines Moorage Rates," "City of Des Moines Guest Moorage Rates," "City of Des Moines Public Launching Rates" and "Current Length Distribution of Waiting List Vessels";

(e) Historical operating information (for the prior fiscal year only) of the type shown in the tables in the Preliminary Official Statement entitled "City of Des Moines Marina Income Statement (Years ending December 31)" and "City of Des Moines Marina Statement of Net Assets (Years ending December 31)";

(f) Historical financial information (for the prior fiscal year only) of the type shown in the table in the Preliminary Official Statement entitled "Historical Assessed Valuation and Property Tax Collection Record";

(g) Historical financial information (for the prior fiscal year only and excluding overlapping debt information) of the type shown in the tables in the Preliminary Official Statement entitled "Debt Capacity Computation," "Debt Information" and "Bonded Debt Ratios";

(h) Historical financial information (for the prior fiscal year only) of the type shown in the Preliminary Official Statement under the headings "Pension System" and "Insurance Coverage";

(i) Any change in the auditing, budgetary process or investment policies of the City; and

(j) A narrative explanation of the reasons for any amendments to this Undertaking made during the previous fiscal year and the impact of such amendments on the Annual Financial Information being provided.

Items (b) through (j) shall be required only to the extent that such information is not included in the annual financial statements.

In its provision of such financial information and operating data, the City may cross-reference to any "final official statement" (as defined in the Rule) available to the public on the MSRB's internet web site or filed with the SEC.

If not submitted as part of the Annual Financial Information, then when and if available, the City shall provide its Annual Financial Statements, which shall have been audited by such auditor as shall be then required or permitted by State law, to the MSRB.

The City further agrees to provide or cause to be provided to the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;

2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of the Owners of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances of the Bonds;
10. Release, substitution or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City;
13. The consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

Solely for purposes of disclosure, and not intending to modify this Undertaking, the City advises with reference to item 14 above that there is no trustee for the Bonds.

The City also agrees to provide or cause to be provided to the MSRB, in a timely manner, notice of its failure to provide the Annual Financial Information for the prior fiscal year on or before the last day of the seventh month following the end of such prior fiscal year.

The City agrees that all documents provided to the MSRB pursuant to this Undertaking shall be provided in an electronic format and accompanied by such identifying information, each as prescribed by the MSRB.

The City may amend its obligations under, or waive any provision of, this Undertaking upon receipt of a favorable opinion of nationally recognized bond counsel or other counsel familiar with the federal securities law, or pursuant to a favorable "no-action letter" issued by the

SEC. In the event of any amendment or waiver of the City's obligations under this Undertaking, the City agrees to describe such amendment in the Annual Financial Information for such fiscal year and shall include, as applicable, a narrative explanation of the reason for such amendment or waiver and its impact of the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (A) notice of such change will be given in the same manner as for a material event, and (B) the Annual Financial Information for the fiscal year in which the change is made shall present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

The City's obligations to provide Annual Financial Information and notices of certain events shall terminate without amendment upon the defeasance or payment in full of all of the then outstanding Bonds. This Undertaking, or any provision hereof, shall be null and void if the City (i) obtains an opinion of nationally recognized bond counsel or other counsel familiar with the federal securities laws to the effect that those portions of the Rule which require this Undertaking or any such provision are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (ii) notifies and provides the MSRB with copies of such opinion.

The right of each Owner or Beneficial Owner of Bonds to enforce the provisions of this Undertaking shall be limited to the right to obtain specific enforcement of the City's obligations under this Undertaking, and any failure by the City to comply with the provisions of this Undertaking shall not be a default with respect to the Bonds under this Ordinance.

The Authorized Officers are authorized and directed to take such further action on behalf of the City as may be necessary, appropriate or convenient to carry out the requirements of this Undertaking.

Sec 25. Additional covenant. The City covenants to the Owners that it will at all times as long as the Bonds are outstanding (a) maintain the Marina in good repair, working order and condition, (b) operate the Marina in an efficient manner and at a reasonable cost, and (c) establish, maintain and collect rentals, rates and charges for Marina services as may be necessary to provide for (1) the Operating and Maintenance Expenses of the Marina and (2) the deposits into the Bond Principal and Interest Account and the Bond Reserve Account.

Sec 26. Contract; severability. The covenants contained in this Ordinance shall constitute a contract between the City and the Owners of each and every Bond. The City unconditionally covenants that it will keep and perform all of the covenants of the Bonds and this Ordinance. If any one or more of the provisions of this Ordinance shall be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining provisions of this Ordinance or the Bonds, and this Ordinance and the Bonds shall be construed and enforced as if such unconstitutional or invalid provision had not been contained in this Ordinance.

Sec 27. Effective date. This Ordinance shall take effect and be in full force five days following its passage, approval and publication according to law.

PASSED BY the City Council of the City of Des Moines this ____ day of ____, 2012,
and signed in authentication thereof this ____ day of ____, 2012.

MAYOR

APPROVED AS TO FORM:

CITY ATTORNEY

ATTEST:

CITY CLERK

Published: ____, 2012

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. ____, Adopted ____, 2012.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to the incurrence of indebtedness; providing for the sale and issuance of \$____ Limited Tax General Obligation Refunding Bonds, 2012, to obtain part of the funds necessary to advance refund and defease all of the City's outstanding Limited Tax General Obligation and Refunding Bonds, 2002, to fund a deposit to the Bond Reserve Account for the Bonds, and to pay the incidental costs and costs related to the sale and issuance of such bonds; providing for the date, denominations, form, terms, registration provisions, maturities, interest rates and covenants of such bonds; providing for the annual levy of taxes to pay the principal of and the interest on such bonds; establishing a Bond Principal and Interest Account and a Bond Reserve Account in the Marina Revenue Fund, for such bonds; providing for the disposition of the proceeds of such bonds; and providing for the sale and delivery of such bonds to Seattle-Northwest Securities Corporation

The full text of the Ordinance will be mailed without cost upon request.

City Clerk

MARINA DISTRICT DESIGN THEME

Denise Lathrop, Planning Manager

March 22, 2012

CAPE COD ARCHITECTURE

Based on a style of housing originating in 17th Century New England



Old shingled house - Chatham Cape Cod

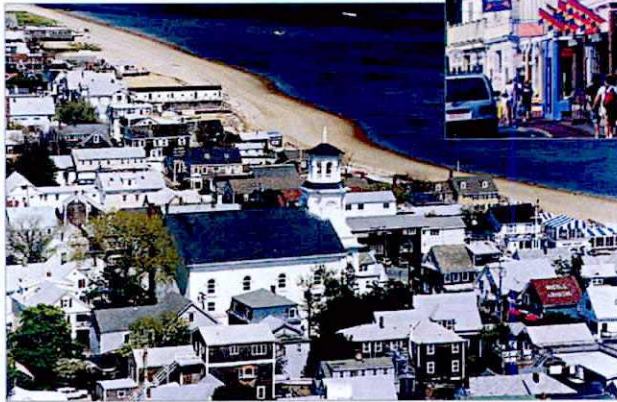


Cape Cod cottage - South Yarmouth Cape Cod

Design Characteristics:

- 1 ½ half stories with steep pitched roof
- Symmetrically designed w/central front door & 2 multi-paned windows on each side
- Windows surrounded by shutters that either match the front door or are painted white
- Shingled sides
- Two chimneys
- Subtle bow to the roof with a gentle sag in the middle
- Usually lack front porches

PROVINCETOWN CAPE COD



CAPE COD TOWNS



Rock Harbor



Oak Bluffs, Martha's Vineyard



Chatham



Chatham

MARINA DISTRICT DESIGN GUIDELINES

Purpose: "To establish a flexible design framework defined by a menu of design options for creating diverse and high quality commercial and multi-family construction projects in the Marina District which includes Downtown, the Marina and Beach Park."

- Complement the requirements established in the Des Moines Municipal Code (DMMC)
- Intended to establish a greater sense of quality, unity, and conformance with Des Moines' physical assets and civic role
- Not intended to slow or restrict development, but rather to add consistency and predictability to the permit review process

ARCHITECTURAL CONTEXT

Intent - New buildings proposed for the Marina District complement neighboring buildings with well-defined architectural character and siting patterns.

Guideline

- Support the existing small town scale of the neighborhood with a mix of building styles.
- Re-use and preserve important buildings and landmarks when possible.
- Encourage incorporating iconic features, signs and vintage advertising on buildings where appropriate.



Application of architectural elements to create distinct character.



Design that responds to historic and maritime heritage.



Architectural
Elements &
Materials

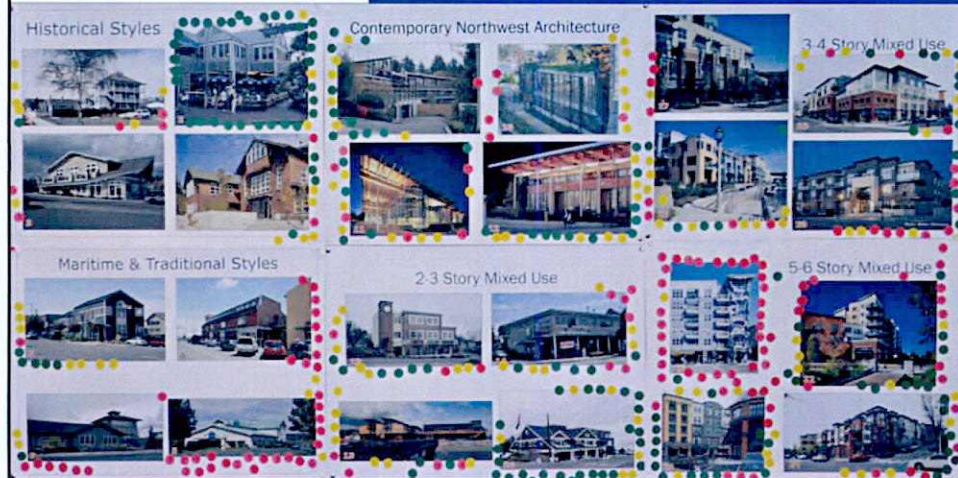
DESIGN GUIDELINES

COMMUNITY PREFERENCES

APRIL 30, & MAY 4, 2011

How did you rate your dots?

- What was it about an image that you liked or disliked?
- What conditions would make an architectural style and/or building heights acceptable to you?
- Example - Green Dot: Image #12, I liked the use of wood, glass and lighting in the building design.



POTENTIAL CHALLENGES

- ⦿ Move from flexible to prescriptive standards
- ⦿ Lose leasable space with pitched roofs
- ⦿ Additional sprinkling requirements w/ pitched roofs
- ⦿ Applicability for 4- and 5-story buildings
- ⦿ Other???

COUNCIL POLICY QUESTIONS

Does Council want to establish a design theme for the Marina District?

If so,

1. How do we define?
2. How do we regulate?
3. What type of incentives do we provide?
4. How do we prioritize potential regulatory changes into current Council work program?

Community Preferences

April 30, & May 4, 2011
Open Houses

How did you rate your dots?

- What was it about an image that you liked or disliked?
- What conditions would make an architectural style and/or building heights acceptable to you?
- Example - Green Dot: Image #12, I liked the use of wood, glass and lighting in the building design.

Historical Styles



Contemporary Northwest Architecture



3-4 Story Mixed Use



Maritime & Traditional Styles



2-3 Story Mixed Use



5-6 Story Mixed Use

