AGENDA
REGULAR MEETING DES MOINES CITY COUNCIL
September 4, 2003 - 7:30 p.m.

CALL TO ORDER - Mayor Steenrod   peterson absent. excused

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

none. all for Zenith

COMMENTS FROM THE PUBLIC: At this time you are invited to comment on items that you wish to bring to Council's attention. Please sign in prior to the meeting and limit your comments to three minutes or less.

BOARD & COMMITTEE REPORTS   tabled until end of meeting 4-2

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS   Solid waste letter authorized 6-0

CONSENT CALENDAR*   carried consent w/ contingency minutes

removed Benjamin 1. Motion is to approve the minutes of August 14, 2003.

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

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #   through #   & electronic fund transfers in the total amount of $

Payroll fund transfers in the total amount of $

3. Motion is to enter into a joint trench construction agreement with Qwest for their participation in costs for the utility undergrounding improvements of the Pacific Highway South Redevelopment Project and to authorize the City Manager to sign the agreement substantially in the form as submitted.

4. Motion is to enter into a supplement agreement with the Washington State Department of Transportation for the construction of asphalt overlay on Pacific Highway South, reducing the total reimbursement amount by $73,000 for a new revised total payment of $762,853 and to authorize the City Manager to sign the supplement agreement substantially in the form as submitted.

5. Motion is to enter into the general maintenance agreement with WSDOT (GM 1385) for an annual estimated cost of $69,506.88 for operation and maintenance of all traffic signals within the City limits and to authorize the City Manager to sign the agreement substantially in the form as submitted.

*NOTE: Items on the Consent Calendar are either
routine or have been previously discussed.
Any item may be removed by a Councilmember.

CONTINUED PUBLIC HEARING

Unclassified Use Permit & SEPA Appeal - Zenith Viewpointe, Alex White & Co., 23659 Marine View Drive South

SUMMARY: The purpose of this item is to continue the Public Hearing from August 14, 2003, to provide information related to an appeal of a SEPA decision and review of applications for an unclassified use permit and environmental sensitive area development exception. The Council will use this and other information to direct administration to prepare findings of fact and a draft resolution supporting Council action on the SEPA appeal and review of the underlying applications at a later date.

OLD BUSINESS

1. ~~Draft~~ Resolution No. 03-109 Amend Council Rules 5, 9, 10 & 20 - 2nd Reading

SUMMARY: This is the 2nd reading of the draft resolution as required in DMMC 4.12.030. This proposed amendment to the Council *Rules of Procedure* was discussed by the Council at the July 10, 2003 meeting and subsequently placed on this agenda for consideration. An affirmative vote of at least a majority of the whole membership of the Council is needed to adopt this resolution.

passed 4-2

Maggie Order of Business to move these up ahead of Zenith

NEW BUSINESS

1. Towing Services RFP

SUMMARY: The purpose of this agenda item is to give the City Council an opportunity to provide direction to staff regarding the possibility of issuing a Request for Proposal for towing/impound services. This item was placed on this Council agenda at the request of Councilmembers Sheckler, Sherman and White.

RFP passed 4-2 w/ 2 amendments

2. RCAA 2002 Invoices

SUMMARY: The purpose of this report is to provide the City Council an opportunity to review the July 11, 2003 letter from the Regional Commission on Airport Affairs (RCAA) regarding invoices for services they provided in 2002 to satisfy their responsibilities per the agreement between the City of Des Moines and RCAA, and to determine whether or not the Council will authorize payment for these services. This item was placed on the Agenda at the request of Councilmembers Sheckler, Sherman and White.

passed 4-2

NEXT MEETING DATE - Regular Meeting September 11, 2003

ADJOURNMENT

V

NEW BUSINESS
Item #1

AGENDA ITEM

passed 4-2

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

RFP changed
spec's changed

SUBJECT: Towing/Impound Services Request for Proposal	FOR AGENDA OF: September 4, 2003
	DEPT. OF ORIGIN:
ATTACHMENTS: A. RFP 02-001 B. Agenda Item October 31, 2002 City Council meeting regarding Towing/ Impound Services Contract C. Minutes of the October 31, 2003 City Council meeting	DATE SUBMITTED:
	CLEARANCES:
	APPROVED BY CITY MANAGER FOR SUBMITTAL:

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Purpose

The purpose of this agenda item is to give the City Council and opportunity to provide direction to staff regarding the possibility of issuing a Request for Proposal for towing/impound services. This item was placed on this City Council agenda at the request of Councilmembers Sherman, Sheckler, and White.

Potential Motions

"I move to direct staff to issue an RFP for towing/impound services with the same requirements and time frames as contained in RFP 02-001."

or

I move to direct staff to issue an RFP for towing/impound services similar in nature to RFP 02-001 with the following changes: ________________"

Background and Discussion

As noted above, this item has been placed on this agenda for discussion by Councilmembers Sherman, Sheckler, and White. For Council's information, attached is the Request for Proposal documents used in 2002 to solicit proposals for towing/impound services. For additional background information regarding the history of towing/impound services provided to Des Moines, see Attachment B. As a result of an action brought by a citizens group and a Superior Court judge's ruling that the relationship between the City and the previous towing/impound services provider (Pete's Towing) violated state law, the City currently now receives towing/impound services from RoadOne (Dick's Highline). These services are being provided without a written agreement between RoadOne and the City.

Financial Impact

Unknown. Since the agreement would also make provisions for towing of City-owned vehicles, the financial impact would depend on the proposed pricing of the winning vendor and how that compares to the current prices of RoadOne.

Alternatives

Council can direct staff to issue an RFP with the same requirements and timeframes as RFP 02-001 or direct that certain changes be made that document before a new RFP is issued. Council could elect to keep the situation as it is by continuing to have RoadOne provide towing/impound services without a written agreement or direct staff to negotiate a written agreement with RoadOne, given that they were the recommended vendor that came out of the last RFP process.

Recommendation

In the fall of 2002, staff recommended that towing and impound services be provided to the City via a written contract. Staff continues to support this recommendation. Issuing an RFP or entering into an agreement with RoadOne would accomplish this recommendation.

REQUEST FOR PROPOSAL

No. 02-001

CITY OF DES MOINES, WASHINGTON

DES MOINES POLICE DEPARTMENT VEHICLE TOWING/IMPOUND SERVICES

Notice is hereby given that sealed proposals will be received by the City Clerk or her designee at Des Moines City Hall, 21630 11th Ave. South, Des Moines, WA 98198, until 4:30 p.m. on July 24, 2002, to obtain Vehicle Towing Services for the Des Moines Police Department.

Proposals received after the specified time and date indicated cannot be considered. **Proposal number must appear on the outside of all Proposals submitted.**

All proposals shall be submitted on the forms that are furnished by the City of Des Moines. Qualifications of those submitting Proposals will be evaluated when determining award of contract. In order to qualify for consideration, the Proposal Page must be signed. Proposal documents may be examined at City of Des Moines, Office of the City Clerk, 21630 11th Ave. South, Des Moines, WA 98198.

The City will not accept any telegraphic, telephonic, or facsimile transmitted proposals.

Applicants must acknowledge they have read, understood and will comply with the:

- Instructions Regarding Proposal,
- Special Provisions, and
- Specification for Vehicle Towing and Impound Services

by initialing each paragraph of each document as provided. Information requested in the RFP that requires a written response beyond acknowledgement by initialing shall be provided on a separate document that clearly notes the section of the RFP to which it applies.

Applicants who wish to provide services in excess of those outlined in the Request for Proposal (RFP) packet should describe the improved service on a separate document and attach it with their completed response.

The City Council for the City of Des Moines reserves the right to reject any or all proposals, waive technicalities or irregularities, and to award one or more contracts if such action is believed to be in the best interest of the City.

Denis Staab
City Clerk

INSTRUCTIONS REGARDING PROPOSALS

CITY OF DES MOINES, WASHINGTON

1. **SUBMISSION OF PROPOSALS:** It is **IMPORTANT** THAT FOR PROPOSALS TO RECEIVE CONSIDERATION, THEY MUST BE RETURNED PRIOR TO THE SPECIFIED TIME, IN A SEALED ENVELOPE, CLEARLY MARKED WITH COMPANY NAME, ADDRESS, TELEPHONE NUMBER, PROPOSAL NUMBER, AND TITLE OF PROPOSAL, DELIVERED OR MAILED TO THE CITY OF DES MOINES, 21630 11th Ave. South, Des Moines, WA 98198. ***Initials*** ________

2. **SIGNATURE:** Each Proposal must be signed in longhand by the Applicant with the Applicant's usual signature. Proposals by partnership must be signed with the partnership name by one of the partners, followed by signature and designation of the partner signing. Proposals by corporations must be signed with the legal name of the corporation, followed by the name of the State or Province of Incorporation and by the signature of the President, Secretary, or other person authorized to bind it in the matter. Below the signature, type the name or each person signing. NOTE: If erasures or other changes appear on the Proposal forms as submitted, each erasure or change must have the initials of the person signing the Proposal. ***Initials*** ________

3. **PROPOSAL FORM:** No Proposal shall be considered except those submitted on the Proposal form supplied by the City of Des Moines. No oral, telephonic, facsimile, or telegraphic Proposals or modifications will be accepted. ***Initials*** ________

4. **WITHDRAWAL OF PROPOSALS:** Any Applicant may withdraw his/her Proposal, either personally or by written request, at any time prior to the time set for the Proposal Opening. ***Initials*** ________

5. **ALTERATIONS OF PROPOSALS:** A Proposal that is in the possession of the City may be altered by a telegram or letter bearing the signature of the name of the person authorized for Proposing, providing it is received prior to the time and Proposal due date. ***Initials*** ________

6. **PROPOSAL GUARANTEE:** All proposals must be accompanied by a Proposal Bond or certified check on a solvent bank, payable to the City of Des Moines, in the sum of five percent $5,000, as a guarantee that if the Proposal is accepted, a Contract will be entered into. Checks and Proposal Bonds of all other Applicants will be returned as soon as practicable after Proposals are opened. Should an Applicant fail to enter into Contract within ten (10) days after his proposal has been accepted, his/her Proposal Guarantee shall be forfeited to Buyer. ***Initials***________

7. **PERFORMANCE BOND:** Applicants must provide *a Performance Bond/Supply Bond as specified*, in this package. ***Initials*** ________

8. **EXCEPTIONS:** If awarded a Contract, the Applicant will be required to furnish the particular services referred to in strict accordance with the *specifications* unless a departure or substitution is clearly noted and described in *the Proposal*. Any exceptions to Proposal specifications must be clearly noted on page provided. ***Initials*** ________

9. **TAXES**: Prices quoted shall show as a separate entry, the total Proposal amount, before WASHINGTON STATE SALES TAX is applied. City of Des Moines reserves the right to remit sales tax at the Des Moines rate directly to Washington State Department of Revenue. EXCLUDE Federal Excise Tax and supply exemption certificate when necessary. Certificate of Registry No. 91-6015840 issued at Seattle, Washington, October 15, 1973. ***Initials*** ________

10. **COMPLETION OF PROPOSAL:** Applicants must submit all available and pertinent information with their Proposal. Failure to submit adequate, or requested information, could severely limit the City's ability to consider the Proposal. ***Initials*** ________

11. **LATE PROPOSALS AND MODIFICATIONS OF PROPOSALS:** Any Proposal or modification of a Proposal received at the City Clerk's Office after the exact time specified will not be considered unless it was received within the City or Des Moines's Mail System before the time set for Proposal receipt. ***Initials*** ________

12. **ADDENDA:** Receipt of amendments to the Proposal specification/documents by an Applicant must be acknowledged on the Proposal or by letter or telegram received before the time set for Proposal receipt. ***Initials*** ________

13. **ALTERNATE PROPOSALS:** Applicant must submit specifications and descriptive literature on all alternate Proposals. Proposals which include deviations or alternates, but which fail to identify these substitutions in the Proposal, will be considered as non-responsive. ***Initials*** ________

14. **NON-RESPONSIVE PROPOSALS:** Any Proposal that does not comply with the Proposal schedule or instructions, is not properly signed, supplements or deviates from its Proposal requirements or has an incomplete Proposal or proposal sheet when required, may be considered non-responsive. ***Initials*** ________

15. **REJECTION OF PROPOSALS:** The City of Des Moines reserves the right to reject any and all Proposals and to waive any informalities in the Proposals received.. ***Initials*** ________

16. **ALL OR NONE PROPOSALS:** "All or none" Proposals will be accepted so long as the item or group of items are clearly identified. Applicants who elect to Proposal in this manner thereby represent that they are Proposing solely for the purpose of offering the best possible price to the City and are not trying to prohibit or eliminate competition. ***Initials*** ________

17. **PROPOSAL AWARD:** The City will award to the Applicant or Applicants complying with the specifications, the Proposing regulations, and the advertisement for Proposals, provided the Proposal is in the City's best interest. A decision to make a partial award of this Proposal however will be based on how the Proposal results comply with budget constraints or limitations. ***Initials*** ________

18. **INTERPRETATION OF PROPOSAL AND CONTRACT DOCUMENTS:** No oral interpretations will be made to any Applicant as to the meaning of the Proposal or contract documents; and any oral communication is not binding upon the City of Des Moines. Requests for an interpretation shall be made in writing and delivered to the City Clerk at the address indicated in Section 1 at least ten (10) days before the date announced Proposals are due. Any interpretation deemed necessary by the City will be in the form of an addendum to the Proposal documents and when issued will be sent as promptly as is practical to all parties to whom the Proposal documents have been issued. All such addenda shall become part of the Proposal specifications. . ***Initials*** ________

19. **EXAMINATION OF PROPOSAL AND CONTRACT DOCUMENTS:** The submission of a Proposal shall constitute an acknowledgment upon which the City of Des Moines may rely that the Applicant has thoroughly examined and is familiar with the Proposal and contract documents (and any work site identified in such documents), and has reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions dealing with or related to the work and services to be provided herein. The failure or neglect of an Applicant to examine such documents, work site(s), statutes, regulations, ordinances, or resolutions shall in no way relieve the Applicant from any obligations with respect to the Applicant's Proposal or to the contract. No claim for additional compensation will be allowed which

is based upon a lack of knowledge of any contract documents, work site(s), statutes, regulations, ordinances, or resolutions. A signed purchase order or contract furnished to the successful Applicant results in a binding contract without further action by either party. ***Initials*** ________

20. **PROPOSAL PRICE:** The Proposal price shall include everything necessary for the prosecution and completion of the contract including, but not limited to, furnishing all materials, equipment, tools, plants, and other facilities and all management, superintendents, labor and service, except as may be provided otherwise in the contract documents. The offer shall remain in effect for **90 days** after Proposal receipt (unless indicated otherwise). In the event of a discrepancy between the unit price and the total price, the unit price will govern and the total price will be adjusted accordingly. Prospective Applicants should indicate in their Proposal the address to which payment should be mailed, if such address is different from that shown for the Applicant. ***Initials*** ________

21. **APPROVED EQUAL:** The term "approved equal" shall mean that the quality of equipment must be equal to the above named and receive the approval of the City. The City shall be the sole arbiter in the determination of equality; and it reserves the right to reject any and all Proposals and to accept the Proposal or Proposals which in its sole and absolute judgment will, under all circumstances, best serve the interests of the City. ***Initials*** ________

22. **NON-COLLUSION AFFIDAVIT:** All Applicants must complete the attached non-collusion affidavit. Proposals returned without a completed affidavit will be declared non-responsive. ***Initials*** ________

23. **ERRORS AND OMISSIONS:** The City will not consider a claim of an error in a Proposal unless the claim is presented in writing within 24 hours after the Proposal due date. Additionally, the Applicant claiming error must present supporting evidence, including but not limited to cost breakdown sheets, no later than 48 hours after the Proposal. ***Initials*** ________

24. **REFERENCES:** All Applicants must attach a reference sheet including a minimum of three professional references. ***Initials*** ________

25. **DRIVERS LICENSE AND PUBLIC RECORDS CHECKS:** All applicants must attach a listing of all employees' to include their date of birth, driver's license number and state of issue. All employees must pass a criminal history check and check with the Department of Licensing. ***Initials*** ________

The City of Des Moines
Police Department

Specifications for Vehicle Towing and Impound Services

Dated: June 13, 2002

Scope of Duties: The Contractor shall tow, store, protect and release or otherwise dispose of vehicles; (1) requested to be towed by the City's Police Department for a private individual, or (2) ordered impounded by the Police Department, or (3) all City vehicles requiring towing services upon request of an authorized city officer. The Contractor shall provide such ancillary services as set forth herein, as directed by the City. Except as otherwise provided, the City will employ only the Contractor to perform all services, not performed by city employees, in the City of Des Moines. If applicable, a citizen may request another towing company. ***Initials*** _______

Personnel, Facilities, and Equipment: In addition to communication and other equipment and personnel required elsewhere in this contract, the Contractor will have personnel, facilities and equipment on hand as follows:

Sufficient Vehicles: The Contractor shall have a sufficient number of tow trucks of adequate size and capacity, together with operating personnel, to respond to requests for services within the times specified herein. The Contractor shall have at least three (3) Class A tow trucks and drivers on duty at all times. "Tow Trucks must be approved and certified by the Washington State Patrol as set forth in W.A.C. 204-91A-050 as now or hereafter amended. ***Initials*** _______

Class "C" Tow Trucks: By ownership, lease, purchase contract or temporary use agreement, or subcontract, the Contractor shall at all times have the use of a heavy-duty tow truck, as defined by W.A.C. 204-91A-170 relating to Class "C" tow trucks as now or hereafter amended, together with a driver skilled in its operation.
Initials _______

Dispatch Office: The Contractor shall provide a staffed dispatch office twenty-four (24) hours per day, seven (7) days per week, which shall be capable of receiving requests for vehicle impound, towing or redemptions, verifying vehicle impounds and vehicle impound information, and dispatching personnel and equipment to the site of an impound, or tow, in response to a city request. From 8:00 a.m. to 8:00 p.m. the Contractor shall maintain an in-house dispatcher. From 8:00 p.m. to 8:00 a.m. the Contractor may utilize a hired dispatch service. The Contractor and any of its subcontractors or partners shall not have more than a total of two phone numbers published or used at any one time during the scope of the services provided herein. ***Initials*** _______

Skill and Supervision: The Contractor shall employ only persons competent at and skilled in the performance of the work assigned to them and shall provide skilled responsible supervision for such persons. ***Initials*** _______

Courtesy: Contractors and their agents and employees shall be courteous at all times when performing work under this Contract. The use of abusive, indecent, offensive, coarse or insulting language is prohibited and shall be deemed a violation of this Contract. ***Initials*** _______

Complaints: The Contractor shall promptly and courteously respond to complaints and shall not unreasonably or arbitrarily delay or refuse to pay claims resulting from its acts or omissions in impounding or towing vehicles pursuant to the Contract. This shall include the furnishing of the insurance company name and claims agent if requested by a complainant. ***Initials*** _______

Response Time: The Contractor will dispatch a tow truck to the location specified by the City immediately upon receiving a request for impound/tow and any Class A or B tow truck will arrive at the site of impound/tow within twenty (20) minutes of the time the Contractor receives the impound request. Class C tow trucks shall arrive at the site of the impound/tow within thirty (30) minutes of the request. ***Initials*** _______

Removal of Debris: Unless otherwise directed, the Contractor will remove, at no additional cost, from the street, sidewalk or parking strip any broken glass or other debris resulting from a collision involving the vehicle, before towing the vehicle away. The Contractor shall dispose of all such debris in a lawful manner.
Initials _______

Care and Skill: The Contractor will use reasonable care and skill in towing and/or impounding vehicles and will not damage them through lack of reasonable care. ***Initials*** _______

Storage Lot: The Contractor will provide a storage lot within a reasonable walking distance from a bus route and no further than ~~three~~ four miles from the City limits. Vehicles, except as otherwise directed, will be towed directly to the storage lot. ***Initials*** _______

Physical Conditions and Security: The Contractor's storage lot will be kept surfaced, graded, drained, lighted and free of obstacles and hazards in a manner satisfactory to the City Manager, or City Manager's designee, at all times, so that persons redeeming vehicles have safe and convenient access to the vehicles. The Contractor will provide adequate security at its storage lot to prevent loss or damage to vehicles or their contents. All such lots will be screened and fenced in accordance with state law at all times; gates will be securely locked at all times when an attendant is not on duty on the premises and all vehicles will be locked, if possible. ***Initials*** _______

Shelter: The Contractor shall provide adequate shelter at its storage lot for motorcycles, open convertibles, or other vehicles open and exposed to the elements, and will store such vehicles under the shelter when reasonable or necessary to protect such vehicles. The Contractor shall provide an isolated secure storage area not less than 10 feet by 20 feet in floor area that city police personnel can secure with city locks. These shelters shall be maintained in good repair at all times. ***Initials*** _______

Approval Required: The storage lot will be subject to the initial and continuing approval of the City Manager, or City Manager's designee, with respect to meeting the requirements of the contract. ***Initials*** _______

Other Storage Prohibited: The Contractor will not store towed and/or impounded vehicles on public streets or public property, or any place other than an approved storage lot. ***Initials*** _______

Abandoned Vehicles: The Contractor shall dispose of abandoned vehicles in the possession of the Contractor pursuant to RCW and WAC rules.
Initials _______

Removal of Junk Vehicle or Parts, Thereof: The tow truck contractor shall, upon request of the Des Moines Police Department, remove to a disposal site designated junk vehicles or parts thereof. Costs of such removal shall be recovered by the tow truck operators in accordance with RCW 46.55.130 as now or hereafter amended. ***Initials*** _______

Release: The Contractor shall release impounded vehicles as follows:

- **Release to Claimants,** Vehicles impounded for evidence by order of the Police Department will be released only upon order of the Police Department. The Contractor will notify the City of Des Moines Police Department in writing of all police impounds with holds which remain in storage before the expiration of the third day of storage or the Contractor shall not charge storage fees beyond the third day.
Initials _______

- **Vehicles impounded as authorized by RCW 46.55.080, RCW 46.55.085 or RCW 46.55.113,** as now or hereafter amended will be released or redeemed to proper persons all in accordance with the terms and regulations of RCW 46.55.120 as now or hereafter amended upon payment to the Contractor of towing and storage charges at the rates provided under terms of this Contract.
Initials _______

- **Release of Vehicles,** When a proper person seeks to redeem an impound vehicle, the Contractor shall deliver possession of such vehicle, not more than thirty (30) minutes after such person tenders payment in accordance with state law. ***Initials*** ________

Charges: Charges by the Contractor for towing and storage services pursuant to this Contract will not exceed the following:

- **Towing Fees.** The Contractor may charge a fee for each vehicle towed under this Contract, in the amount stated herein which will include all service required to place the vehicle in a position to be towed and to safely and properly tow the vehicle from the location of the impound to the Contractor's storage lot, together with storage for the first twelve (12) hours. ***Initials*** ________

- **Storage Fee.** The Contractor shall not charge a storage fee for the twelve (12) hours after a vehicle is towed. Thereafter, the Contractor may charge a daily storage fee for each 24-hour period during which an impounded vehicle is stored. Such storage charge shall begin after the lapse of the twelve (12) hour redemption period. The Contractor may charge one and one-half times the storage fee otherwise due for an impounded vehicle or combination of vehicles more than twenty-five (25) feet in length. ***Initials*** ________

- **Extra Charges**. In addition to the impound/tow and storage fees, and except as otherwise limited herein, the Contractor may make extra charges, whenever extra services are ordered by the Police Department or whenever towing without such extra services would be impossible or hazardous to persons or property. ***Initials*** ________

City Payment: The City shall pay the Contractor, at the rates provided in this Contract, for towing and storage charges under the following Circumstances:

- All City vehicles approved for tow or impound by an authorized City Employee; ***Initials*** ________

- For impound vehicles released by order of the Chief of Police or his/her representative after determination by the Police Department that the impoundment was erroneous; ***Initials*** ________

- Some cases require an evidence vehicle be towed and secured in the city garage for processing of the evidence. The vehicle will then be towed to the storage lot. Any tow to a City facility and then to the Contractor's storage lot shall be considered one tow; ***Initials*** ________

- Anytime a Contractor is called by the Police Department for services but the Contractor for whatever reason does not actually provide a service, neither the City nor the vehicle owner/operator shall pay any charges to the towing operator. ***Initials*** ________

Terms of Acceptance and Payment: For those impound or tow services billed to the City:

- Without exception, no payment will be made prior to acceptance of the work; ***Initials*** ________

- Washington State sales tax will be paid at the prevailing rate at the time of acceptance; ***Initials*** ________

- The City of Des Moines pays twice a month. Invoices will be paid by the second pay period following receipt. Contractor shall not charge late fees or interest for invoices paid within this schedule; ***Initials*** ________

- Except as otherwise noted, all those impound or tow services billed to private parties are subject to the rates and charges set forth in this Contract. ***Initials*** ________

STORAGE AND RETURN REQUIREMENTS

Location: All vehicles impounded shall be taken to the nearest storage location that has been inspected and approved by the City. ***Initials*** ________

Storage:. All vehicles shall be handled and returned in substantially the same condition as they existed before being towed. All personal property and contents in the vehicle shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license and other sufficient identification. Personal property shall not be sold at auction to fulfill a lien against the vehicle. All personal property not claimed before the auction shall be turned over to the City. ***Initials*** ________

Personal Property Defined:

1. Items of personal property, which the Police Department will not accept, include the following:

   a. Auto parts and accessories including, but not limited to:

      (1) Tire chains;

(2) Spare tires/wheels;
(3) Used auto parts and/or accessories;
(4) Seat covers;
(5) Fuel containers;
(6) Jacks, lug wrenches;
(7) Radios, stereos and other items attached to the vehicle by bolts, screws, or some other manner, which incorporates them to the vehicle, shall remain with the vehicle. ***Initials*** ________

b. Refuse:

(1) Trash;
(2) Garbage;
(3) Open alcohol containers;
(4) Soiled or mildewed clothing, shoes, blankets, tarpaulins, etc., having little or no actual value;
(5) Miscellaneous unofficial papers and other items having no actual value. ***Initials*** ________

2. Items, which must be turned over and inventoried, include, but are not limited to:

   a. Money;
   b. Wallets or purses;
   c. Bank or check books;
   d. Bank or credit cards;
   e. Official identification cards, operator's license or passports;
   f. Jewelry items;
   g. Firearms or any other type weapon;
   h. Contraband and/or controlled substances;
   i. Stocks, bonds, money orders, bank certificates, traveler's checks, postage stamps, food stamps, etc.; Other items of obvious value. ***Initials*** ________

Contractor Responsibilities:

1. Remove all property from each vehicle, keeping it separate from property removed from all other vehicles. ***Initials*** ________

2. Screen the property to see that it meets the department's definition of "personal property". ***Initials*** ________

3. Itemize all the property to be turned in and identify the property by the vehicle from which it was removed. ***Initials*** ________

a. Vehicle Make;
b. Vehicle Model;
c. Year,
d. License number;
e. License state;
f. Vehicle identification number,
g. Color,
h. Location of impound; and
i. Police case number (if any).

If some of the above information is unavailable, it should be noted.
Initials _________

4. A copy of the Vehicle Inventory and Department of Licensing Abandoned Vehicle Report must accompany the property when submitted by the Contractor to the property officer. ***Initials*** _________

5. The property officer must be contacted before anything is brought to the police station. Patrol officers will not transport the property.
Initials _________

COMMUNICATION: The Contractor shall provide and maintain in good working order the following communications equipment and capability.
Initials _________

- **Public Telephone.** The Contractor shall provide telephone equipment and service for receiving calls at its dispatch office twenty-four (24) hours per day. ***Initials*** _________

- **Radio**, The Contractor shall provide two-way radio communication equipment and service between its dispatch office and each tow truck used to impound vehicles pursuant to this Contract. ***Initials*** _________

- **Receipt**, The Contractor shall prepare a receipt using uniform, sequentially numbered forms approved by the City Manager, or City Manager's designee, for every impounded vehicle that leaves the Contractor's possession, except for those stolen or driven out without being properly redeemed. The receipt shall be prepared at the time the vehicle leaves the Contractor's possession and shall state legibly: ***Initials*** ________

  a. The date and time of delivery, to the claimant;

b. The name, address, and Washington State (or other State) driver's license number of the person to whom it is delivered;

c. The name and address of the employer or principal of such person, if such person is the agent for the registered owner or purchaser of the vehicle;

d. The name and address of the vehicle's registered owner at the time of impound, if known;

e. Either:

(1) An itemized statement of the impound, storage and extra charges collected by the Contractor, if redeemed by payment of charges; OR

(2) A complete statement of moneys or other consideration paid for the vehicle if sold:

f. The signature of the person to whom it is delivered, acknowledging such delivery and payment, if any, and;

g. The signature of the Contractor's employee making such delivery and receiving such payment, if any.

The Contractor shall deliver one (1) copy of the receipt to the person to whom the vehicle is delivered and will keep one (1) copy, filed serially in the order of the receipt number. ***Initials*** ________

__**Inspection:**__ The Contractor shall keep all records, including records required by the Contract, and other applicable Ordinances or statues, pertaining to vehicles impounded pursuant to the contract for at least three (3) years following the expiration or termination of the Contract. The Contractor shall keep all the records in its regular business Office or offices and shall not remove any of the records from its regular business office. The Contractor shall keep the records in an orderly manner as may be instructed by the City Manager, or City Manager's designee, to assure easy access and reference records and shall make all the records available for inspection and copying by the City at all times between 8:00 a.m. and 5:00 p.m. Monday through Friday, and at all other times when employees having charge of the records are present at the Contractor's office or offices. ***Initials*** ________

SPECIAL PROVISIONS

BASIS FOR AWARD

The City of Des Moines is not required by statute or ordinance to let this contract by public bidding. The City will make its award based on its determination, in its sole discretion, of proposer who can also best serve the interests of the City and its residents. Among factors that will be considered are:

1. Towing/impound price for Class A, B, C tow trucks;

2. The ability, capacity and skill of the corporation making the proposal to perform the contract or provide the service required;

3. The character, integrity, reputation, judgment, experience, and efficiency of the corporation making the proposal,

4. Whether the bidder can perform the contract within the time specified;

5. The quality of performance of previous contracts or services;

6. The previous and existing compliance by the corporation making the proposal with laws relating to the contract or services;

7. Servicing Resources, Capability and Capacity;

    a. The corporation making the proposal must state the number, type and location of owned equipment that bidder proposes to use to fulfill the Contract.

    b. The corporation making the proposal must state the number, type and location of all non-owned subcontracted equipment proposed for use by the corporation, to include name and address.

    c. The corporation making the proposal must state existence of other service contracts that are applicable to the equipment.

    d. The corporation making the proposal must state the location of their storage lot. All vehicles must be taken to one storage lot under the control of the corporation.

Initials _________

PERFORMANCE BOND: Prior to the execution of a contract, the Contractor shall file with the City Clerk of the City of Des Moines the original of a bond in the amount of $25,000.00 executed by the Contractor as principal and a surety authorized to do business as such in the State of Washington. The bond shall first be approved as to form by the City Attorney of the City of Des Moines and shall be conditioned upon the Contractor's and any subcontractor's faithful performance of its duties under this Contract, and damages including reasonable attorney's fees sustained by the City or by members of the public for failure to comply with the conditions of this Contract shall be recoverable by agreement of the Contractor and surety or by presentation to the surety of a certified copy of a judgment from any court of competent jurisdiction. The contractor shall maintain the bond in full force and effect throughout the life of the Contract and during the pendency of any claim brought against the bond during the life of the Contract. The bond shall provide for at least sixty (60) days written notice to the City Clerk or his/her designee by surety, prior to cancellation. The parties agree that such sum shall constitute liquidated damages suffered by the City as a consequence of the Contractor's failure to perform in a manner such as to constitute a material breach of Contract resulting in termination of the Contract.

Initials ________

INSURANCE: The Contractor and any subcontractor shall at its own expense, obtain and file with the City evidence (in the form of a Certificate of Insurance) and automobile coverage, which Certificate is subject to approval by the City as to company, form and coverage, which policy must fully protect the City from any and all claims and risks in connection with Contractor's, its agents, subcontractors and/or employees, acts or omissions in its performance of the Contract. Such policy must specifically name the City as an additional insured party thereunder and provide the following minimum limits:

- Automobile Liability insurance with combined single limit for bodily injury and property damage of $1,000,000 per accident and commercial general liability insurance with limits of $1,000,000 each occurrence and $2,000,000 general aggregate.

Said insurance policy must be maintained in full force and effect at the Contractor's sole expense throughout the entire term of the Contract and such policy or an endorsement thereto and the Certificate of Insurance must evidence the following coverage and contain the following provisions:

Coverage shall be provided under a Comprehensive General Liability and Automobile Liability form of insurance, such as is usual to the practice of the insurance industry, including (but not limited to) all the usual coverage referred to as:

a. Premises/Operations Liability (N&C);
b. Products and Completed Operations Liability;

c. Blanket Contractual Liability;

d. Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles;

e. Garage Liability;

f. Garage Keeper's Legal Liability. ($50,000 minimum per occurrence)

g. Hook coverage ($50,000 minimum coverage per incident).

The coverage provided by this policy to the City or any other named insured shall not be terminated, reduced or otherwise changed in any material respect without providing at least thirty (30) days prior written notice to the City of Des Moines.

The coverage's provided by this policy are primary to any insurance maintained by the City.

If the "ACCORD" form of Certificate of Insurance is used, it must be modified in the following manner:

- The wording at the top of "ACCORD" form, "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the below named Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company," <u>shall be changed to read,</u> "Should any of the above described policies be canceled or reduced as to coverage before the expiration date thereof, the issuing company will mail thirty (30) *days* written notice to the below named Certificate holder/City of Des Moines as an Additional Insured."

Failure of the Contractor to fully comply with any and all of the terms of the foregoing insurance provisions shall be considered a material breach of this Contract and cause for its immediate termination.

Initials _______

<u>SUBCONTRACTS</u>: The Contractor shall not subcontract with any other person, firm or corporation to perform duties under the contract or any portion thereof unless it has first requested and received approval of the subcontract from the City Manager, or City Manager's designee. In the event the City Manager, or City Manager's designee, approves of subcontracting for the performance of any duty under the Contract, the Contractor shall include and incorporate the contract terms in the subcontract and the Contractor shall remain responsible for performance under this Contract. The Contractor shall submit to the City with the Contractor's proposal any and all agreements or other documents setting forth the working relationship between the Contractor and any subcontractor(s) Contemplated or intended to be used by the Contractor to perform the duties of this Contract. ***Initials*** ________

SELLING OF CONTRACT: This Contract is a contract for personal services. The City enters the Contract in reliance upon the honesty, integrity and good business judgment of the Contractor. The City does not consent to the Contractor's sale or transfer of the Contract to any other person without prior City approval. Should the Contractor wish to sell or transfer its Contract, it must identify to the City the proposed buyer. The buyer must meet all of the qualifications of the original Contractor to hold a City Contract. Any attempt to sell or transfer the Contract to a person or business not approved by the City shall result in the termination of the Contract. ***Initials*** _______

CHANGE IN BUSINESS OWNERSHIP: The Contractor shall notify the City prior to any change in the ownership of the Contractor's business. Any new owner must meet all of the qualifications of the original owner to hold a City Contract. Any transfer of business ownership to a person not qualified by its honesty, integrity or good business judgment to hold the Contract shall result in termination of the Contract. ***Initials*** _______

GRATUITIES: The Contractor shall not directly or indirectly give, pay, deliver or perform- or agree to arrange to give, pay, deliver or perform- any gratuity, gift, bonus, donation or discount of any kind, in the form of goods, services or any other thing of value for any purpose, at any time, to any person employed by the City of Des Moines. Violations of these provisions will automatically result in termination of the Contract and forfeiture of the Contractor's Bond.

Initials _______

CONTRACTOR'S BOND. Nothing in the Contract prohibits donations to campaigns for election to city office, so long as the donation is disclosed as required by the election campaign disclosure laws of the State. ***Initials*** _______

MAILING ADDRESS: Unless otherwise specified in writing, all notices, inquiries and other communications from the Contractor shall be directed to the City Clerk, City of Des Moines, 21930 11th Ave. South, Des Moines, WA 98198.

Initials _______

DURATION. The duration of the Contract is two (2) years. Upon expiration of the Contract, the Contractor will continue to perform under the same terms and conditions, and for the same compensation as though the Contract had never expired, until the City terminates the contract by thirty (30) days prior written notice of cancellation or by the Contractor by sixty (60) days prior written notice of cancellation. ***Initials*** _______

AMENDMENT: The Contract may only be amended by written agreement of the City and the Contractor. ***Initials*** _______

TERMINATION: Notwithstanding any other provision of this Contract, the City Manager, or City Manager's designee, may, after at least thirty (30) days notice to the Contractor cancel this Contract with or without written cause. The Contractor may cancel this contract upon sixty (60) days written notice to the City; after such notice the Contract will be terminated at the end of sixty (60) days or upon the City entering into a new Tow Truck Contract with another Tow Company, which ever occurs first. ***Initials*** _______

REMEDIES NON-INCLUSIVE: NON-WAIVER: Any remedies of the City under this Contract are non-exclusive, the City retains the right to choose the appropriate remedy for any violation of this Contract except as otherwise limited by this Contract. No waiver, express or implied of any violation of this Contract by either party shall constitute a waiver of any other violation of the Contract. The exercise of the City of any remedy under the Contract shall not constitute a waiver of the right to exercise any other remedy available to it. ***Initials*** _______

WORKMEN'S COMPENSATION: The Contractor shall pay to the State of Washington the amounts required to be paid in connection with the Workmen's Compensation Act. ***Initials*** _______

SEVERABILITY:. If any provision or condition of this Contract shall be held to be invalid or unenforceable by any court, or regulatory of self-regulatory agency or body, such invalidity or unenforceability shall be attached only to such provision or condition; and the validity and enforceability of the remaining provisions and conditions shall not be affected thereby, and this Contract shall be carried out as if such invalid or unenforceable provisions were not contained in this Contract. ***Initials*** _______

ATTORNEY'S FEES: In the event the City employs legal counsel to enforce its rights under this Contract, the City shall be entitle to recover its reasonable attorney's fees. ***Initials*** _______

EXCEPTIONS

Any exceptions to the specifications as shown on the previous pages must be shown below. Failure to list any exceptions below will indicate individual or company making the proposal has no exceptions to specifications and will indicate that if awarded a contract, that individual or company could compete the contract at the amounts following all specifications with no exceptions.

PROPOSAL FORM

Having carefully examined the Request for Proposal, Specifications, Instructions Regarding Proposal, and the Special Provisions, the undersigned proposes to perform all work in strict compliance with the above-named documents for the amount set forth below.

IN ORDER TO QUALIFY YOUR PROPOSAL FOR CONSIDERATION, THE FORM OF PROPOSAL MUST BE SIGNED.

FIRM NAME ____

ADDRESS ____

CITY/STATE/ZIP ____

TELEPHONE ________________ FAX __________________

CONTRACTOR RATES

1.	Service Calls	$ ____________ Amount
2.	Towing: includes 1st hour	
	(A) Class "A" Truck	$ ____________ Amount
	(B) Class "B" Truck	$ ____________ Amount
	(C) Class "C" Truck	$ ____________ Amount
3.	Stand-By Time (15 Minute Intervals; after 1st hour)	$ ____________
	Class "A" & "B" Truck	$ ____________
	Class "C" Truck	$ ____________
4.	Winching (15-minute intervals)	$ ____________ (Per 15 minutes)
5.	Drive Line Removal	$ ____________
6.	Dolly Rental – included in tow tee	$ ____________
7.	Mileage Fee (after 10 miles)	$ ____________
8.	Vehicle release between 8:00 p.m. And 8:00 a.m.	$ ____________

9. Storage (1st 12 hours no charge)
Amount for each additional 24-hour period.

(A) Inside Storage $ ______________

(B) Outside Storage $ ______________

CHARGES SHALL BE AS STATED FOR ITEMS 3 through 9

SIGNED BY ____
(SIGNATURE OF APPROVED REPRESENTATIVE)

PLEASE PRINT NAME ____

I hereby acknowledge
Receipt of the
Following addenda ___________

By: ________________________

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ____, certify that I am the ____________________________ of the Corporation presenting the Proposal(s) attached hereto; that ____________________________________, who signed said Proposal(s) on behalf of the Bidder, was then ______________________ of said Corporation; that said Agreement was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

By ________________________

____
Title

STATE OF WASHINGTON)
(ss
COUNTY OF KING)

On this day personally appeared before me______________________ known to me to be the individual(s) who executed the within and foregoing instrument, and acknowledged that said instrument was signed as a free and voluntary act and deed, for the uses and purposes therein mentioned and further acknowledges that execution of said instrument was an authorized act.

GIVEN UNDER MY HAND and official seal this ______________day of _________, 200__.

____
NOTARY PUBLIC in and for the
State of Washington, residing at

____

AGENDA ITEM

SUBJECT:
Towing/Impound Services Contract

ATTACHMENTS:
Evaluation Spread Sheet
Memo From Commander Tucker regarding RFP Evaluation

AGENDA OF: October 31, 2002
DEPT. OF ORIGIN: Administration

DATE SUBMITTED: Sept. 20, 2002

CLEARANCES:
[ ] POLICE ____________
[ ] LEGAL ____________

APPROVED BY THE CITY MANAGER FOR SUBMITTAL: SM

Purpose and Recommendation:

The purpose of this report is to inform the City Council of the results of the Request for Proposals for towing / impound services and to recommend that RoadOne (Dick's Highline Towing) be awarded the contract.

Recommended Motion: "I move that the City Council award the A towing and impound contract to RoadOne (Dicks Highline Towing), waive the three-mile requirement, allow subcontracting of class C towing, and authorize the City Manager to finalize and sign the agreement."

Alternative Motions:

"I move to reject all responses to RFP Number 02-001 and direct staff to re-issue the RFP with the following changes:_______________."

"I move to reject all responses to RFP Number 02-001."

Background:

Since the late 1950's, the City of Des Moines has utilized the services of Pete's Towing for towing and impound services. These services include moving/towing vehicles that have been in accidents, towing abandoned vehicles, towing vehicles that are being impounded (driver's arrested for various offenses/warrants), and towing City vehicles for various reasons. Pete's Towing provided these services competently and professionally throughout the years. These services, however, were rendered without a written contract nor were they put out for competitive bid. It is good management practice to have a written contract for such services and to occasionally put them out for a competitive procurement process. Written contracts lay out the services to be rendered, the responsibilities of each party, dispute resolution procedures, and usually include insurance, indemnification, and hold harmless provisions. Subjecting such services to competitive procurement processes allows reasonable assurance that the services are being provided in a comprehensive and cost-effective manner.

In July of this year, the City issued a Request for Proposals (RFP) for towing and impound services. On July 24th four (4) proposals were received. The four tow contractors who responded to the RFP were RoadOne (Dick's Highline), Pro-Tow, Airport Towing, and Special Interest Auto Works, Inc.

Discussion:

Staff conducted an in-depth review of the proposals in August. This review included site visits, contacts with the managers, equipment review, and reference contacts. An initial review of the responses was completed by mid-August. Completing the reference checks, including a random check of customers of each company proved to be a more time consuming task than anticipated.

In conducting these reviews, it was found that no one contractor met all standards as outlined in the RFP. However, based upon discussions with the managers from the tow companies, adding the City of Des Moines to their client list would have a minimal impact on any of the companies' operations. In the review process a comparison spreadsheet was constructed outlining the essential criteria requirements that each tow company had to meet (see attached). RoadOne (Dick's Highline) provided the best response to the non-financial criteria, in addition to offering the best overall price schedule.

As noted earlier, all the proposing companies did not meet each RFP requirement. For example, the RFP required tow storage yards to be within three (3) miles of the Des Moines City limits. RoadOne (Dick's Highline) is 3.7 miles from the city limits, Airport Towing is 3.2 miles, Special Interest Auto Works is .2 miles, and Pro-Tow is in excess of 5 miles. These distances could cause an inability on the part of three of the four responding companies to meet the 20-minute response time at all times and could be less convenient for customers to retrieve their vehicles. The attached memo from Commander Tucker summarizes the issues and concerns with each responding tow company.

Alternatives:

Alternatives available to the City Council include awarding a contract to two or more towing companies and establishing a rotational system for towing vehicles and use that experience to determine which company(s) are able to regularly meet the 20-minute requirement. Council could also not award a contract to any of the companies that responded and re-issue the RFP, hoping to have more towing companies respond, particularly some within three miles of Des Moines and better able to guarantee a 20 minute response time. Council could also elect not to award a contract to any of the responders and leave the situation as it currently stands. This, however, would mean that Des Moines does not have a written contract for this service.

Financial Impact:

The financial impact to the City of Des Moines and the citizens who have their vehicles towed should be reduced since, in several tow categories, the fee that RoadOne (Dick's Highline) proposed is lower than the amount currently being charged.

Recommendation

It is staff's recommendation that RoadOne (Dick's Highline) be awarded the towing contract for the City of Des Moines. Staff also recommends that the City Council waive the three-mile requirement and allow subcontracting of Class C towing.

Copies of all four responses to RFP Number 02-001 are available in the City Clerk's Office.

Concurrence:

The Police Department concurs with this recommendation.

MEMORANDUM

Date: August 9, 2002

To: Chief Don Obermiller

From: Commander Kevin Tucker

Subject: RFP Review

I have reviewed all 4 request for proposals; conducted site visits on 3 out of the four. (I did not conduct site visit on Pro-Tow due to distance from City of Des Moines). While at each site I talked with the managers or owners to gain clarification on issues in the RFP as well as walked the business sites.

There is no one RFP submitted which currently would meet all specification required by the City of Des Moines. Below I have listed areas in which each proposal would require a waiver for contract or future changes by each business. Due to the fact the City of Des Moines towing services would only amount to approximately 2 tows per day, most of the tow company's would not add any more drivers or equipment to their fleet. The impact of adding our tow services would be minimal to each company.

RoadOne (Dicks Highline Towing)

- Driving Time from the City of Des Moines north limits 3.7 miles
- Subcontract waiver required for Class "C" tow, (Waiver requested in proposal document)

Pro-Tow

- Response time concerns
- Excess of 5 miles from City of Des Moines south boundary
- Auburn storage under construction and unapproved by State Patrol

No Site Visit Conducted

Airport Towing

- Driving Time from the City of Des Moines north limits 3.1 miles
- Subcontract waiver required for Class "C" tow
- Will charge registered owner of the vehicle for second tow from city garage

Airport Towing (Alternate Proposal)

- Driving Time from the City of Des Moines north limits 3.1 miles
- Subcontract waiver required for Class "C" tow
- Will charge registered owner of the vehicle for second tow from city garage
- In house dispatching 8:00 a.m. to 6:00 p.m. except Saturday, Sunday and holidays
- All abandoned vehicles will be towed to secondary storage lot in south Seattle
- City of Des Moines will make every effort to impound abandoned vehicles during non peak business hours
- Winching charged at ¼ hour minimum with other services and ½ hour minimum without other services

Special Interest Auto Works

- Does not have radio communication in each tow truck
- Does not have a 24-hour dispatch office. Driver answer cellular phones after hours.
- Does not have 3 Class "A" Tow Trucks. (Only has 2)
- No current isolated secure storage area as required for police evidence vehicles
- Lot storage area contains some temporary fence
- Intermixes body shop vehicles with impounded vehicles

Recommendations

After reviewing all proposals I believe the best overall package and value will be RoadOne (Dicks Highline). Dicks Highline is by far the ch all services over the other proposals. The majority of all tows will be the class "A" tows which will be charged to the city as well as our customers at $87.00 per tow. The next closest Class "A" tow was Special Interest at $107 00. I also added all contractor rates per proposal and found Dicks Highl at $590.00 for all services. The next closest was Special Interest at $743.70.

RoadOne (Dicks Highline) also has all the necessary equipment to provide services as well as 43 other pieces of equipment under subcontrac their parent company. Their storage yard and covered secure storage areas are adequate for our customers as well as our in-house needs.

Response time will be of concern at all times. This would need to be monitored and tracked.

Note:

In the future, if Special Interest Auto works can meet all RFP requirements I would recommend they be added to the city's future tow list if t the contractor rates currently in use. The proximity to the city and response times would make this contract beneficial to the city.

Attachments:

1. 3-page comparison matrix
2. RFP Road One (Dicks Highline)
3. RFP Pro-Tow
4. RFP Airport Towing
5. RFP Special Interest Auto Works
6. DOL Record Checks

	RoadOne (Dicks Highline)	Pro-Tow	Airport Towing	Airport Towing (Alternate)	Special Interest Auto Works, Inc
Contractor Rates					
Service Calls ($)	$60.00	$139.30	$69.50	$59.95	$45.00
Towing Includes 1st Hour Class "A" Truck	$87.00	$139.30	$285.59	$121.30	$107.00
Towing Includes 1st Hour Class "B" Truck	$127.00	$164.50	$325.24	$160.95	$131.00
Towing Includes 1st Hour Class "C" Truck	$127.00	$260.20	$396.24	$231.95	$231.00
Standby Time 15 minute intervals after 1st hour Class "A" & "B" Truck	$21.00	$34.82	$76.36	$30.33	$15.00
Standby Time 15 minute intervals after 1st hour Class "C" Truck	$21.00	$34.82	$99.06	$60.66	$30.00
Winching (15 minute intervals)	$24.00	$34.82 Class A $41.13 Class B $65.05 Class C	$76.36	$76.36	$65.00
Drive Line removal	$ 0	Hourly Per Class	$40.00	$40.00	$25.00
Dolly Rental-included in tow tee	N/A	Hourly Per Class	$40.00	$40.00	$25.00
Mileage Fee (after 10 Miles)	$5.00	Hourly Per Class	$4.00	$4.00	$2.50
Vehicle Release between 8:00 p.m. and 8:00 a.m.	$48.00	$69.65	$142.80	$60 65	$45.00
Storage (1st 12 hours no charge) Amount for each additional 24-hour period. Inside Storage	$40.00	$27.50	$57.95	$48.95	$38.60
Storage (1st 12 hours no charge) Amount for each additional 24-hour period. Outside Storage	$30.00	$49.70	$38.30	$33.75	$28.60
Total Package Costs	*$590.00*	*$954.61*	*$1,651 40*	*$968.85*	*$743 70*

Other Conditions	RoadOne (Dicks Highline)	Pro-Tow	Airport Towing	Airport Towing (Alternate)	Special Ir Auto Wor
(Forms Completed?) *Specifications For Vehicle Towing And Impound Services*	YES	YES	YES	YES	YES
(Forms Completed?) *Instructions Regarding Proposals*	YES	YES	YES	YES	YES
(Forms Completed?) *Special Provisions*	YES	YES	YES	YES	YES
(Forms Completed?) *Non-Collusion Affidavit*	YES	YES	YES	YES	YES
(Forms Completed?) *Certificate As To Corporate Principal*	YES	YES	YES	YES	YES
(Forms Completed?) *Exceptions*	YES	YES	YES	YES	YES
(Forms Completed?) *Proposal Form*	YES	YES	YES	YES	YES
Proposal Guarantee Submitted?	YES, Bid Bond	YES, Check for $5,000	YES, Check for $5,000	YES, Check for $5,000	YES, Check fo
Sufficient Vehicles? (at least 3 Class "A" Tow Trucks with drivers on duty at all times)	YES, 6 Class A, with 31 on sub-contract	YES, 3 Class A	Yes, 5 Class A	Yes, 5 Class A	NO, only 2 Cla

Other Conditions	RoadOne (Dicks Highline)	Pro-Tow	Airport Towing	Airport Towing (Alternate)	Special Interest Auto Works, Inc
Class "C", by ownership, lease, purchase contract or temporary use agreement. (At all times)	Yes with Subcontract approval by City Manager	YES	Yes with Subcontract approval by City Manager	Yes with Subcontract approval by City Manager	YES
24-7 dispatch office?	YES	Unknown	YES, Nextel Radios	YES, Nextel Radios	NO, after hours calls go directly to drivers
20 minute response time?	YES, except rush hour	Unknown	YES, except rush hour	YES, except rush hour	YES
Storage Lot? (No further than 3 miles from the city limits)	NO, 2012 S. 146th St Seatac, WA 98168 3.7 driving miles	NO, One lot under construction in Auburn the other in Maple Valley	NO, 817 S. 149th St, Burien, WA 98166 3.1 driving miles	NO, 817 S. 149th St, Burien, WA 98166 3.1 driving miles	YES, 24816 SR99, Kent, WA 98032 0 2 Miles
Towing a vehicle to city garage and second tow to contractors storage lot considered one tow.	OK	OK	Will charge registered owner of the vehicle for second tow from city garage	Will charge registered owner of the vehicle for second tow from city garage	OK
Physical Conditions and Security of storage lot?	Asphalt, fenced, poor lighting no alarms	Unknown, to far from City of Des Moines	Gravel/dirt under remodel no functioning drainage Alarmed and well Lighted	Gravel/dirt under remodel no functioning drainage Alarmed and well Lighted	Asphalt/gravel, slope drainage only. minimal lights, some temp fence
Shelter in good repairs and securable?	Good	Unknown, to far from City of Des Moines	One building needs repair other high quality	One building needs repair other high quality	None, Currently under construction / remodel
Radio Equipment?	Nextel	unknown	Nextel	Nextel	None
Staff Records Checks Results?	All clear except 2 contract employees	All clear	All clear	All clear	All clear
WSP Standards and Inspections within set guidelines?	Due for inspection, on WSP tow list, last complaint 1999	Inspected April 2002, on WSP tow list, last complaint 1999	Inspected June 2002, on WSP tow list, last complaint 1999	Inspected June 2002, on WSP tow list, last complaint 1999	Inspected April 2002, on WSP tow list.

EXCERPT
DES MOINES CITY COUNCIL MINUTES
October 31, 2002

OLD BUSINESS

Towing Services Contract

Police Commander Tucker informed Council that in July this year, request for proposals for impound and Towing services were sent to 16 companies, and four responded. He informed Council that he personally reviewed the proposals, made site visits, reviewed equipment and drive times, ran record checks with Washington State Patrol regarding complaints, contacted references and compared pricing. He advised Council that none of the companies met all of the criteria. He proceeded to review a three page comparison matrix furnished to Council in their packets. He concluded by recommending that the contract be awarded to RoadOne (Dick's Highline Towing) for having the best overall package and value. He did noted that response time will be of concern and would need to monitored and tracked.

City Manager Piasecki advised that should Council choose to award a contract, a standard contract would be prepared incorporating the information provided by the towing company, including all required insurance.

Upon questioning by Mayor Wasson, Commander Tucker advised that he ran a record check on all drivers for the companies submitting proposals.

Upon questioning by Mayor Pro Tem Benjamin, Commander Tucker advised that since the late 1950's the City has utilized the services of Pete's Towing. It is his opinion that Pete's is a quality company and has provided outstanding service, and he personally knows of no outstanding complaints.

Mayor Pro Tem Benjamin questioned why with a record of 40 years of outstanding service Council is even spending time considering this issue. He was of the opinion that this whole issue was politically motivated and since the service is already being provided, it is a waste of Council time.

Councilmember Steenrod felt that this issue has been raised to try to force Councilmember Petersen to resign. She noted that with longer towing times there is no benefit to the citizens and could force more overtime for Des Moines' Police officers. She reminded Council that Councilmember Petersen's case is still before the Judge to rule on a conflict of interest and that the Council should not make any decisions until the Judge has made his ruling.

MOTION was made by Councilmember Steenrod, seconded by Mayor Pro Tem Benjamin, that Council elect not to award a contract to any of the responders and leave the situation as it currently stands, pending the outcome of the Petersen conflict of interest lawsuit.

Councilmember Petersen announced that he must abstain from participation in this issue.

Councilmember Thomasson spoke against the motion citing that having a towing contract should have been accomplished 10 years ago, as it is just a good business practice. This issue has been heightened by Councilmember Petersen being on the Council and owning Pete's Towing. He felt there are valued reasons to have a contract including indemnity clauses and hold harmless agreements and other items of that nature. He is of the opinion that having a contract would have a guarantee for a fair price for citizens. He suggested that Council may wish to have a contract with several towing companies, which would be his preference, and let the citizens make the choice.

Mayor Pro Tem Benjamin voiced the opinion that this is a political issue. He noted currently citizens can have any towing company called they name. Picking one towing company does not encourage a free market. He advised that the current system is not broke, it is working well.

Councilmember Sheckler agreed that this is an emotional subject. He noted that probably no one is going to dispute the fact that Pete's Towing is the best company, but even Councilmember Petersen acknowledged at the beginning that he could see a potential problem with a conflict of interest. He reminded Council that three authorities in the State said that they believe there is a conflict and this is the real issue. He does not see any way around that. He acknowledged that the pending court case could be thrown out, then Council would have to revisit the issue.

10:28 p.m. **MOTION** was made by Councilmember Steenrod, seconded by Mayor Pro Tem Benjamin, to extend the meeting another 15 minutes. Motion passed 5 to 2 with Councilmembers Petersen and Thomasson voting NO.

Mayor Pro Tem Benjamin stated that he heard Councilmember Petersen say he may have a conflict and that he had been advised by past City legal representation, which was advice from the Attorney General's office, that he might have a conflict. He also reminded Council that Councilmember Petersen had stated that the State Auditor's office felt the only area that he might have a conflict of interest was in towing City of Des Moines vehicles, if he charged for towing City vehicles. [ED Note: Councilmember Petersen acknowledged this to be true.]

Upon questioning by Mayor Pro Tem Benjamin, Councilmember Petersen acknowledge that he is not charging the City for any towing of City vehicles.

Councilmember Steenrod felt that since Pete's Towing is not charging the City for towing City vehicles, which helps the City's budget, there is no conflict and therefore there is no need to take any action until after the Court case is settled.

Councilmember White stated that she did not believe this was a political issue, but rather a responsibility to have a contract in place outliming services, dispute resolution procedures, insurance, indemnification and hold harmless provisions.

Upon questioning by Council, City Attorney Marousek noted she had reviewed written opinions on the conflict of interest regarding Councilmember Petersen from the following:

- MRSC indicating that the current situation was an apparent conflict of interest
- Two letters from the Attorney General's office expressing an opinion that the current situation was a violation of the Conflict of Interest Rule for Councilmembers
- Opinion from the State Auditor's office noting that they would take the advice of the Attorney General

She noted that she had also read a letter from Mr. Langley, Mr. Petersen's attorney, disagreeing with those opinions. She further noted, that as she nnderstands it, the Court has not yet expressed an opinion, but simply issued an injunction which Mr. Petersen has complied with tonight.

Mayor Wasson voiced the opinion that until the Judge makes a formal ruling, there is no conflict of interest. He felt this expensive process was politically motivated by a disgruntled citizen. He noted that the City Manager used his best judgement to place this RFP. However, he feels the first step is to adopt procurement policy guidelines for all services before any RFP is ever issued. Therefore, he supports Councilmember Stenrod's motion. If Council were to proceed to award a contract, the City could be stuck with the second best choice.

Upon questioning by Council, Councilmember Petersen stated that he believes the Judge may reach a decision around mid-December. He noted that originally he was advised by the City Manager that there may be a possible conflict of interest. He was informed that the Attorney General's office and Washington Cities Insurance Authority believed that there was a potential conflict of interest. He further noted that he then contact his attorney, who informed him that he did not believe there is any conflict of interest, due to the fact that in 1999 the Legislature re-wrote the Conflict of Interest Laws, to allow individuals who had years of good business and involvement in communities to get involved in State government.

10:45 p.m. **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Sheckler, to extend the meeting another 15 minutes. Motion passed 5 to 2 with Councilmembers Thomasson and White voting NO.

City Manager Piasecki noted that when a Des Moines officer shows up at a stalled car on the side of the road, or an accident, the owner is asked if they have a preference of tow companies. He noted that even if Council chooses to award the contract, there would be no guarantee that they would have exclusive rights to towing all vehicles. Personal requests for a towing company would be honored. The Police only make the choice when the owner is not present or for some reason is unable to tell the police who they wish to have tow the vehicle.

VOTE ON MOTION: Motion failed by a 3 to 3 vote. With Councilmember Steenrod, Mayor Pro Tem Benjamin and Mayor Wasson voting YES. Councilmembers Sheckler, Thomasson and White voting NO. [ED NOTE: Councilmember Petersen did not participate.]

continued to 9/11/03

PRELIMINARY

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES August 14, 2003

The regular meeting of the Des Moines City Council was called to order at 7:41 p.m. by Mayor Steenrod in the City Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Petersen.

ROLL CALL - Present: Mayor Maggie Steenrod, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler, Dan Sherman, Scott Thomasson and Susan White (left at 10:03 p.m.). Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Assistant City Attorney Richard Brown, Public Works Director Tim Heydon, Assistant City Engineer Maiya Andrews, Park and Recreation Director Patrice Thorell, Finance Director Paula Henderson, Community Development Director Judith Kilgore, Development Services Manager Robert Ruth, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

City Attorney Marousek explained that any comments concerning any of the scheduled public hearings should be made during the hearing process rather than at this time.

Based upon this information, the following individuals elected to provide their comments to Council during the public hearings:

Corinna Harn	Jan Bergman
Denny Burnham	Danny Bergman
Jerry Bergman	Don Wasson

BOARD & COMMITTEE REPORTS

Public Safety and Transportation Committee

Mayor Pro Tem Benjamin informed Council that, due to savings realized from the asphalt chip sealing program, approximately $18,000 was available to install lighting in the Pacific Ridge area.

Public Works Director Heydon distributed the committee's recommendation to install lighting in Pacific Ridge.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Thomasson to instruct the City Manager to allocate funds to install lighting in the Pacific Ridge area.

Public Works Director Heydon explained that the lights would be placed south of South 216th Street on 28th Avenue South, 29th Avenue South, and 30th Avenue South.

City Manager Piasecki noted that six lights would be installed immediately and two additional lights, if necessary, would be budgeted for next year.

Mayor Pro Tem Benjamin noted that the project could be approved administratively as it's cost was under $20,000 but the PS&T Committee felt that it was an opportunity for Council to show their support for the community.

Councilmember Sherman said that he believed it was a good project but that he protested the procedure as the item had just been distributed to Council.

Councilmember Sheckler said he would support the motion but that he was also concerned with the process.

Councilmember Petersen voiced support for the motion. He felt Council should deal with the issue immediately as winter was coming. He hoped the lighting would alleviate crime in the area.

City Manager Piasecki confirmed that the motion was for Option B (Poles, luminaries and circuitry - $15,520.67; Trenching - $2,619.91; Monthly charge - $46.90).

VOTE ON MOTION: Motion passed unanimously.

ADMINISTRATION REPORTS

10th Avenue Culvert Project

City Manager Piasecki informed Council that the 10th Avenue Culvert Project was ahead of schedule and should be completed in October.

Redondo Boat Ramp

City Manager Piasecki announced that the Redondo boat ramp and parking lot would close September 2, 2003 for construction.

Pacific Highway South Project

City Manager Piasecki noted that the Pacific Highway South project would begin August 18, 2003.

Neighborhood Business Meeting

City Manager Piasecki informed Council that a Neighborhood Business Meeting would be held August 26, 2003 at the South Marina Park.

Chief of Police Selection Process

City Manager Piasecki informed Council that 53 applications for the Chief of Police position had been received. He expected the position to be filled by the end of September or early October.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the regular meeting minutes of June 26, July 7 and July 31, 2003.

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

Motion: As of this date the Des Moiues City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #90274 through #90673 & electronic fund transfers in the total amount of $1,472,243.27

Payroll fund transfers in the total amount of $766,547.62

3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of August 15, 2003 through September 4, 2003:

a. All vouchers for payment of payroll checks, including Marina payroll, and

b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the September 11, 2003 Council Meeting.

4. Motion is to authorize an extension of two (2) years to the City's Photocopying Agreement with IKON Office Solutions in the amount of minimum monthly payments of $1,764.00 and authorize the City Manager to sign the extension agreement substantially in the form as submitted.

5. Motion is to authorize the City Manager to sign the Interlocal Agreement with King County for commute trip reduction services through June 30, 2005.

~~6. Motion is to approve the Contract for the Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to $17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted. And to authorize City Manager to approve change orders not to exceed 15% of the total contract amount.~~

7. Motion is to enter into agreements with Puget Sound Energy to cover the costs of the materials, installation, energy and maintenance of the street and sidewalk lighting associated with the Pacific Highway South Redevelopment Project and to authorize the City Manager to sign the agreements substantially in the form as submitted.

8. Motion is to enter into an agreement with Puget Sound Energy for the Construction work associated with undergrounding the power distribution system on Pacific Highway South and to authorize the City Manager to sign the agreement substantially in the form as submitted.

9. Motion is to confirm the Mayor's appointment of Diane Kennish as the City's Citizen Representative to the Des Moines Memorial Drive Advisory Committee.

10. Motion is approve an increase in the contract with SKM Construction Inc. in the amount of $7,515, plus sales tax, for the installation of a bi-fold divider wall system for Des Moines Activity Center and authorize the City Manager to sign the contract, substantially in the form as submitted.

Mayor Pro Tem Benjamin removed Item No. 6.

In regard to Item Nos. 7 and 8, Assistant City Engineer Andrews explained that the cost of undergrounding utilities was goverued by tariffs set by the Washington Utilities and Transportation Commission. The undergrounding of the utilities would cost the City just over $500,000. The city's up-front cost for the lighting installations would be just under $700,000 while the monthly utility bill was estimated to be $2,620.

MOTION was made by Councilmember White, seconded by Councilmember Petersen and passed unanimously to approve the consent calendar as amended.

REMOVED CONSENT CALENDAR ITEM

Des Moines Activity Center Parking Lot Paving Project Contract

Mayor Pro Tem Benjamin expressed concern with the proposed 15% contingency for the project. He felt that a 5% contingency was reasonable.

MOTION was made by Mayor Pro Tem Benjamin to approve the contract for the Des Moines Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to $17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted and to authorize the City Manager to approve change orders not to exceed 5% of the total contract amount.

Park and Recreation Director Thorell explained that during the bid process, the seniors had requested that the number of proposed parking stalls be increased. Due to the low bid amount, the proposed contingency amount had been increased. She noted that $45,000 had been allocated for the project and the engineer's estimate was $35,000.

Mayor Pro Tem Benjamin's **motion died** for lack of a second.

MOTION was made by Mayor Steenrod and seconded by Councilmember Sheckler to approve the contract for the Des Moines Activity Center Paving Project with Northwest Asphalt, Inc. in the amount of up to $17,675.64 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted and to authorize the City Manager to approve change orders not to exceed 10% of the total contract amount.

Upon questioning from Councilmember Thomasson, Park and Recreation Director Thorell confirmed that the City had obtained all the necessary project permits.

VOTE ON MOTION: Motion passed, 6 – 1, with Mayor Pro Tem Benjamin opposed.

PUBLIC HEARING CONTINUED

Draft Ordinance No. 03-125 ***[Assigned Ord. No. 1328]*** Final Assessment Roll for LID No. 1-97-9 4th Place South Right-of-way - 1st Reading

City Manager Piasecki announced that the public hearing remained open.

Assistant City Attorney Brown reviewed the purpose of a Local Improvement District (LID) and the methods for forming one. He noted that nine of the twelve property owners had signed a petition requesting the formation of LID No. 1-97-9. The estimated cost for the project was $22,538. Construction was completed in November 1998 at a final cost of $21,693.30. Assistant City Attorney Brown displayed a picture of the neighborhood and its improvements. He noted that three protest letters to the final assessment had been received. In regard to the protests involving lack of notice, Assistant City Attorney Brown explained that there was no obligation on the part of the city to provide further notice to purchasers of affected properties. He said that the purchasers could seek remedy through the seller or their title company. In regard to the protest letter concerning lack of equal benefit, Assistant City Attorney Brown stated that the property in question had the same approximate length of frontage to the improvements. He explained the procedure for protesting equal benefit. Assistant City Attorney Brown noted that the City had received $1,807.78 from a title company on behalf of one of the protestors. He explained that Council could close the public hearing, waive rule 26(b) and adopt the LID assessment roll ordinance on the first reading, close the public hearing and adopt the final assessment roll ordinance at a subsequent second reading of the proposed ordinance, or direct staff to revise the assessment roll and set another public hearing date for the revised assessments.

Mayor Steenrod read the rules for conducting a public hearing. She said that the Appearance of Fairness Doctrine applied to the hearing and questioned whether any Councilmember was ineligible to participate.

None responded.

Mayor Steenrod called for speakers. She administered an oath to the speaker to provide truthful information to Council.

SPEAKER

Jack Brenner, 20209 4th Place South
Mr. Brenner questioned whether there was a statute of limitations concerning when the LID proceedings could take place.

City Attorney Marousek explained that as long as the LID was not finalized, there was no time limit attached.

Mayor Steenrod called for additional speakers three times.

None responded.

Mayor Steenrod closed the public hearing.

MOTION was made by Councilmember Thomasson and seconded by Councilmember White to suspend Council Rule 26(b) to consider Draft Ordinance No. 03-125 on the first reading.

City Attorney Marousek distributed a revised draft of the proposed ordinance.

Finance Director Henderson informed Council that the City had initially considered rolling the LID costs into the bond issue with the Marina. Later, they decided to self-finance the project.

Councilmember Sherman confirmed that no interest had been charged for the previous four years. He asked staff to check whether the protester of lack of equal benefit had testified at the July 10, 1997 public hearing regarding the preliminary assessment.

At 8:42 p.m., Mayor Steenrod declared a fifteen-minute break.

City Manager Piasecki informed Council that there had been no speakers at the July 10, 1997 public hearing establishing the preliminary assessment. He reiterated Finance Director Henderson's explanation regarding the delay in setting the final assessment roll. He recommended that Council adopt the proposed ordinance on the first reading.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to adopt Draft Ordinance 03-125.

City Manager Piasecki clarified that the revised version of the ordinance had been adopted.

PUBLIC HEARING

Unclassified Use Permit - Zenith Viewpointe, Alex White & Co., 23659 Marine View Drive South

Mayor Steenrod opened the public hearing and read the rules for conducting a public hearing.

City Attorney Marousek stated that the hearing was a quasi-judicial matter and inquired whether any Councilmember should be disqualified from participation.

Councilmember Thomasson stated that he had read an e-mail from the City Attorney directing Council to not read another e-mail. He said that he had followed the City Attorney's direction.

Mayor Pro Tem Benjamin said that he had attended a meeting with area neighbors and the developer. He also stated that he had read the letter from Peter and Helaine Skelly but had had no ex parte contact with them. Mayor Pro Tem Benjamin said that he did not believe that he had pre-judged or developed a bias in the matter.

Councilmember Sheckler said that he had not read the correspondence from the Skelly's.

Councilmember Petersen said that he had attended a meeting in late 2002 regarding the issue. He believed that he had not been influenced by the meeting.

Councilmember White said that she had not read the previously mentioned e-mail.

Councilmember Sherman said that he had only read the information contained in the packet materials.

Mayor Steenrod said that she had not read the previously mentioned e-mail.

City Attorney Marousek stated that she found no violation of the Appearance of Fairness Doctrine.

Audience participant Corraine Harns questioned whether the inquiry included information about Planning Agency proceedings.

Councilmember Thomasson said that the minutes of the Planning Agency meeting had been provided in the packet materials.

City Attorney Marousek asked if there were any challenges to any Councilmember's participation in the hearing.

Jerry Bergman, 620 South 239th

Mr. Bergman challenged Councilmember Thomasson's participation in the matter due to a pre-judgement on the issue. He said that Councilmember Thomasson had attended a gathering in a neighbor's home and had made statements supporting development.

City Attorney Marousek reread the Appearance of Fairness criteria and questioned Councilmember Thomasson.

Councilmember Thomasson said that he had attended a party for his church's youth director but that he did not speak of the issue. Councilmember Thomasson said that he was very knowledgeable of the Appearance of Fairness Doctrine. He questioned who had made the allegations.

City Attorney Marousek read Council Rule 15.2 and 15.3. She asked the Mayor for a brief recess in order to allow her an opportunity to interview Mr. Bergman.

At 9:24 p.m., Mayor Steenrod declared a five minute break.

City Attorney Marousek announced that she had spoken to the person identified by Mr. Bergman as the source of the information. The source could not remember any such comments. Therefore, Councilmember Thomasson was not disqualified from the proceedings.

Mayor Steenrod called for any further challenges.

Don Wasson, 22047 Cliff Avenue South
Mr. Wasson read a statement (Exhibit 1) asking for the disqualification of Councilmember White from the proceedings on the basis of a violation of the Appearance of Fairness Doctrine demonstrated by her prejudgment of the issue prior to hearing the facts on the record and ex parte contact with her husband. He alleged that her husband, a member of the Planning Agency, had instructed her how to vote on the matter.

City Attorney Marousek asked Councilmember White if she had consulted Mr. White regarding the Planning Agency's recommendation or his feelings on the issue.

Councilmember White said that she had not consulted Mr. White but had read the Planning Agency's minutes contained in the packet. She said that she was aware the Planning Agency had concurred on their decision as she had asked him.

At 9:40 p.m., Mayor Steenrod declared a five minute break.

City Attorney Marousek informed Council that during the previous year she had researched whether Councilmember White was eligible to participate in an appeal of a Planning Agency decision to Council. At that time, due to the role of the Planning Agency, it was her opinion that Councilmember White should recuse herself from the appeal. Now, the Planning Agency provided only an advisory opinion to Council. She then researched the provisions of RCW 42.36.070 and found no reason for Councilmember White to be disqualified from the hearing.

Councilmember White said, however, that for appearance reasons only, she would recuse herself from the proceedings.

At 10:03 p.m., Councilmember White left the meeting.

Mayor Steenrod called for any additional challenges.

No one responded.

City Attorney Marousek explained that the hearing would address two issues, the SEPA Appeal and the Unclassified Use Permit (UUP). Council must resolve the SEPA matter prior to addressing the UUP issue.

Development Services Manager Ruth entered staff's written report into the record (Exhibit 2) and displayed an excerpt of DMMC 18.32 explaining the purpose of the UUP process and Council's criteria for making a determination. He noted that the City's code allowed mixed use in the Neighborhood-Commercial (N-C) zone but required a UUP. Development Services Manager Ruth noted that the UUP process gave much discretion to Council. He explained that the concept plan contained in the packet was not binding and should only be viewed as a potential development. The applicants would provide additional information regarding the project later in the hearing. Development Services Manager Ruth displayed an aerial view of the site and described the surrounding properties. He said that the plan included the following elements:

- Demolition of the grocery store located on the property,
- Construction of eight dwellings and 1,800 square feet of office space,
- Development of open space,
- Complete construction of South 239th Street, and
- Reconstruction of the stairs with a tie in to the vista viewpoint.

Development Services Manager Ruth reviewed the permitted uses for N-C zones as identified in DMMC 18.20.020. In staff's opinion, the developer's plan was the best option for the property as it had a residential component and had less traffic and activity associated with it. Mr. Ruth explained the steep slope development process as identified in DMMC 18.86.092. He said that most of the natural vegetation on the property had been removed.

At 10:27 p.m., **MOTION** was made by Councilmember Sherman and seconded by Councilmember Sheckler to extend the meeting to 11:00 p.m.

In response to Mayor Steenrod's questioning, City Manager Piasecki suggested that the hearing be continued to September 4, 2003 or September 11, 2003.

VOTE ON MOTION: Motion passed, 5 – 1, with Mayor Pro Tem Benjamin opposed.

MOTION was made by Councilmember Sheckler and seconded by Councilmember Sherman to continue the hearing to August 28, 2003.

Mayor Steenrod and Mayor Pro Tem Benjamin said that they would be available for a meeting on that date.

Councilmember Petersen said that he would miss the September 4, 2003 and September 9, 2003 meetings.

Councilmember Sherman **withdrew his second of the motion. Motion failed for lack of a second.**

MOTION was made by Councilmember Thomasson and seconded by Councilmember Sheckler to continue the hearing to September 4, 2003. **VOTE ON MOTION**: Motion passed, 4 – 2, with Mayor Pro Tem Benjamin and Councilmember Petersen opposed.

Development Services Manager Ruth stated staff's opinion that the applicant had mitigated the impacts of the proposal. He voiced the following recommendation of staff:

- Limit the number of buildings to six,
- Increase the setbacks by ten feet for the first and second levels and by 13 feet on the third level,
- Limit the square footage of the residential units to 1,600 – 2,000 square feet, and
- Impose all items of the mitigation agreement.

Development Services Manager Ruth informed Council that the Planning Agency had deliberated on the matter for two meetings. They concurred with staff's recommendation except they recommended limiting the number of buildings to two in order to increase open space. Staff, however, believed that limiting the number of buildings to two would impact the character of the development as a whole.

Mayor Steenrod called for appellants. Each speaker was put under oath.

Debbie Workman, 23903 7th Avenue South
Ms. Workman said that she strongly protested the proposed development. She was primarily concerned with traffic, parking, and surface water runoff impacts and aesthetics. Ms. Workman stated that residents would access the development off 7th Avenue South causing traffic to drive through the neighborhood. She said that there were many elderly and family pedestrians in the neighborhood. In regard to the parking issue, Ms. Workman said that she understood each unit would be given a one-car garage. She believed that each condo owner would have more than one vehicle causing the overflow cars to be parked on the narrow street or private property. Ms. Workman also voiced concern that the project did not have adequate green space. She said that the project's buildings and pavement would create a considerable amount of surface water runoff.

Keith Workman, 23903 7th Avenue South
Mr. Workman said that he did not feel it was necessary for Alex White to construct such a large building on the property. He voiced support for Ms. Workman's surface water runoff concerns.

Corinna Harn, 23910 7th Avenue South
Ms. Harn said that the proceedings were violating her due process rights as she believed a Hearing Examiner rather than Council should hear the issue. She felt that that the increased number of vehicles and people in the area would compound existing parking difficulties. Referring to a map of the area, Ms. Harn said that any legal access to the development would need to go through South 236th Street as 7th Avenue South did not extend to the property. She also said that the property did not have any frontage on 7th Avenue South due to the placement of a pumping station utility on the street. Ms. Harn said that the property was totally undisturbed and natural. She encouraged Council to study Mr. Skully's letter analyzing the legal issues.

Mayor Steenrod asked the City Attorney to address Ms. Harn's allegation regarding a violation of due process rights.

City Attorney Marousek stated that the Washington Administrative Code and SEPA procedures clearly indicated that this was the correct forum for the action. She confirmed that the e-mail from Peter and Helaine Skelly was now a part of the record.

Mary Beth Benson, 702 South 236th
Ms. Benson said that she had installed a french drain on the west side of her property when she built her house. She voiced concern with the traffic on the quiet, windy road. Ms. Benson felt that the proposed development infringed upon her rights. She stated her opposition to the project.

At 10:59 p.m., **MOTION** was made by Councilmember Sherman, seconded by Mayor Pro Tem Benjamin and passed unanimously to extend the meeting by an additional ten minutes.

Shirley Robinson, 23660 7th Avenue South
Ms. Robinson stated that water currently runs down her driveway. She expressed concern with traffic generated by the project and felt the development was not reasonably compatible with the neighborhood.

City Attorney Marousek informed Council that, upon further discussion with the project's developer and architect, she determined that they have standing and should be given an opportunity to address Council. They would be allotted time at the continued hearing.

MOTION was made by Mayor Pro Tem Benjamin, seconded by Councilmember Sherman, and passed unanimously to continue the hearing to September 4, 2003.

PUBLIC HEARING

Draft Ordinance No. 03-172 Sanborn Street Vacation - 1st Reading
Mayor Steenrod opened the public hearing.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, and passed unanimously to continue the hearing to the September 11, 2003 meeting.

NEXT MEETING DATE – Regular Meeting, September 4, 2003

ADJOURNMENT

At 11:04 p.m., **MOTION** was made by Mayor Pro Tem Benjamin, seconded by Councilmember Thomasson and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

Action Items from 8/14/03 Council Meeting - None

CONSENT CALENDAR
Item #3

passed 6-0

AGENDA ITEM

SUBJECT: Joint Trench Construction Agreement with Qwest for Pacific Highway South Redevelopment Project ATTACHMENTS: 1. Joint Trench Construction Agreement with Qwest	AGENDA OF: September 4, 2003 DEPT. OF ORIGIN: Public Works DATE SUBMITTED: August 20, 2003 CLEARANCES: [X] Finance [X] Public Works [X] Legal APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this item is to enter into a joint trench construction agreement with Qwest to cover their participation in costs for the utility undergrounding improvements of the Pacific Highway South Redevelopment Project.

Suggested Motions

1) "I move to enter into the attached joint trench construction agreement with Qwest for their participation in costs for the utility undergrounding improvements of the Pacific Highway South Redevelopment Project and further to authorize the City Manager to sign said joint trench construction agreement substantially in the form as submitted."

Background:

During the early phases of the inception of the Pacific Highway South Redevelopment Project, the City met with all associated utility purveyors to inform them of the City's plans, and to request their input and participation on the project. Early on, Qwest agreed to participate in the joint utility trench to be shared with the City, Comcast (formerly AT&T Broadband), and Puget Sound Energy. Qwest has agreed to participate in their costs for the utility undergrounding improvements along Pacific Highway South for a total amount of $850,000.00 as part of the Pacific Highway South Redevelopment Project.

The purpose of these funds is to support the City in making utility undergrounding improvements along the Pacific Highway South corridor, extending from South 216th Street to Kent-Des Moines Road. These funds will be combined with the other grants, loans, and contributions to fund the project, which is estimated to cost $22.2 million total. The improvements are included in the completed design for the corridor.

Under this joint trench construction agreement, the City's contractor will install the necessary conduit and vault system furnished by Qwest, and Qwest will be responsible for installing their own wiring within the system and making all wiring connections. The joint trench construction agreement requires Qwest to abide by the City's Contractor's schedule.

Discussion:

The construction work necessary for the City's share of these improvements has been included in the contract plans and specifications. The work includes installation of a conduit and vault system. The attached joint trench construction agreement provides for the implementation of this work.

The joint trench construction agreement has provisions for Qwest's timely delivery of materials to the project, as well as their timely wiring and connection of the system.

The joint trench construction agreement requires Qwest to meet the City's schedule for completing the work. It also requires Qwest to pay for any delays they cause should they fail to deliver material on schedule, or delay the contractor in any way. It also requires Qwest to pay for any changes they request, or changes that are required as a result of errors in Qwest's design.

These utility undergrounding improvements have been envisioned from this project's inception, and Qwest, by their commitment of funds in this joint trench construction agreement, show that they are onboard with our vision for the improvement of this corridor.

Alternatives:

The City could elect to complete the Pacific Highway South Redevelopment Project without accepting funds from Qwest or entering into an agreement with them. This could potentially cause project delays and would cost the City additional funds to cover the cost of facilities they need for undergrounding their lines.

Financial Impact:

Per this joint trench construction agreement, Qwest will pay $850,000.00 toward the City's Pacific Highway South Redevelopment Project.

Recommendation/Conclusion:

Staff recommends that we enter into this joint trench construction agreement with Qwest and accept the funds offered.

Concurrence:

Legal and Finance are in agreement that the City should enter into this joint trench construction agreement with Qwest.

JOINT TRENCH CONSTRUCTION AGREEMENT

QWEST/CITY OF DES MOINES

THIS AGREEMENT ("Agreement"), effective as of the _____ day of _____________, 2003 (the "Effective Date"), is made by and between the City of Des Moines, a Washington Municipal Corporation ("the City"), and Qwest Corporation, a Colorado corporation ("Qwest"). The Attachments referred to herein are incorporated by this reference.

RECITALS

A. The City is making improvements to Pacific Highway South within the City of Des Moines, Washington.

B. Qwest provides telecommunications services in the City and the highway improvements require relocation of facilities that are currently located above ground and owned by Qwest and other utilities service providers (the "Project").

C. The Project requires trenching within the right of way for placement of facilities of utilities service providers, including Qwest, the City and others("the Joint Trench").

D. Qwest desires to secure the services of the City to install conduit and utility vaults underground and Qwest desires to cooperate in the planning, engineering, design and other work for such installation when and where such Joint Trench will be of mutual advantage in meeting the requirements of Qwest and the City for underground facilities service ("the Work").

E. In addition, the City has expended funds for design and construction of a non-standard drainage system around the existing Qwest duct bank to avoid relocation of the duct bank, and has accepted the resulting non-standard design.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions and obligations contained herein, and intending to be bound hereby, the parties agree as follows:

1. **Project Description.** The joint trench will be placed in the City right of way along Pacific Highway South between South 216th Street and 520 feet south of Kent Des Moines Road (SR 516) and laterally to those side streets included and as shown in Exhibit A, City Plans and Specifications. The Joint Trench will be constructed to accommodate the underground facilities of several utility service providers, including, without limitation, the City , Qwest, Comcast, and PSE. The City will send the entire project out for bid, and will enter into a subcontract that will include construction of the Project.

2. Performance of Work.

(a) In conjunction with its performance of the Project, the City, acting through its agent or contractor ("Contractor"), will perform and complete the Work on or before January 1, 2005. The City agrees to complete the Work in accordance with all applicable federal, state and local laws and the requirements of those that own or have jurisdiction over the rights of way in which the Work is to be performed.

(b) To the extent that performance of the Work requires the installation of any materials that would not be needed but for Qwest's participation in the Project, Qwest will arrange for the purchase and delivery of such materials to the Contractor.

3. Responsibility of Parties.

(a) **City Responsibilities**

(1) *Contractor Duties.* The Contractor will excavate the trench, accommodate and coordinate the installation of underground utilities, install vaults and conduits, furnish and install bedding material, backfill and compact the trench, and perform any restoration required by the City within the right-of-way. City and/or Contractor will exercise reasonable care in the performance of the Work herein, and will install Qwest conduit and utility vaults in accordance with written requirements and drawings provided in Exhibit B. The City will provide all traffic control required for the Work.

(2) *Notice of Materials Required.* The City will provide Qwest, not less than five (5) working days prior to the required delivery date, notice requesting delivery of necessary conduits and vaults.

(3) *Plan Discrepancies.* If there is any discrepancy between the CH2M Hill Plans and the Qwest Plans, the parties mutually agree to work together to resolve such discrepancy between said plans.

(b) **Qwest Responsibilities**

(1) *Coordination.* Qwest will maintain continued coordination with the Contractor regarding installation of Qwest's facilities. This coordination will include, but not be limited to the following:

(i) Qwest will attend a preconstruction meeting.

(ii) The City will provide Qwest a preliminary project schedule within one (1) week after the preconstruction meeting and a final construction schednle within thirty (30) working days after the preconstruction meeting. Qwest will be responsible for coordinating its work to meet the final construction schedule, which will be incorporated into this Agreement.

(iii)A weekly meeting will be held in which the Contractor will provide a schedule and list of materials needed for the following two (2) weeks. A representative from Qwest will attend each meeting and provide weekly progress reports. The Qwest representative will be responsible for coordinating the delivery of materials per the discussion of schedule at these weekly meetings, in accordance with Section 3(a)(2).

(iv)Qwest will furnish all materials required for the installation of Qwest conduit and utility vaults including vaults, conduits, and all other materials necessary for installation of the vaults and conduits required by the Contractor for the installation of Qwest facilities that week, not less than five (5) working days prior to the date that the work is scheduled based upon the weekly meeting, provided that Contractor gives Qwest notice in accordance with Section 3(a)(2). The Contractor will provide a reasonable location to Qwest of where the materials will be delivered. City will be responsible for loss or damage to Qwest materials once properly delivered to the designated site.

(v) Qwest and the City will provide an inspector on-site, on twenty-four (24) hours notice, to inspect the installation of all vault and conduit installation work. Qwest's inspector will not direct the Contractor in any manner; the Qwest inspector will communicate all requests in writing to the City's inspector.

Once sections of vault and conduit are installed by the City and accepted by Qwest, Qwest, or its contractor, will complete installation of conductors and equipment within ninety (90) working days and provide notice to the City when the new underground system has been spliced and is in service or has the capacity to provide dial-tone ("Energized"). Qwest will be responsible for plant installation and the removal of existing facilities that are no longer in use, associated with the Work. Qwest work will include, but not be limited to, furnishing and installing all cables, conductors, electrical equipment, and temporary utility poles; conversion to underground; and for the removal of poles, and other equipment no longer needed.

(vi)Qwest, or its contractor, will perform cut-over and transfer of existing customers and facilities to the new underground system where applicable within niuety (90) working days from the completion of the Work.

(vii)Qwest, or its contractor, will remove all overhead systems within one hundred twenty (120) working days from the completion of the Work.

(2) *Traffic Control.* Qwest or its contractor will provide traffic control when Qwest or its contractor is installing its new underground cabling and splicing along with Qwest overhead construction and removing its existing overhead facilities.

(3) *Installation Not in Right of Way.* The installation of any Qwest facilities not in City right of way, including but not limited to cable, conduit, and pedestals, will be the responsibility of Qwest. Qwest will coordinate with private property owners in order to not unduly delay the City's schedule. Coordination of work, and payment for necessary easements or agreements from private property owners, is the responsibility of Qwest.

4. Compensation

(a) *Lump sum.* Qwest agrees to pay to the City, as compensation for its work under this agreement, a lump sum of eight hundred and fifty thousand dollars ($850,000.00). This compensation covers joint trench costs, installation costs, traffic control costs, contractor project costs, mobilization, and adjustments to grade. The lump sum will be paid as follows:

(1) twenty percent (20%) of the total lump sum after the City's contractor has completed twenty percent (20%) of the Work;

(2) thirty percent (30%) of the total lump sum after the City's contractor has completed fifty percent (50%) of the Work;

(3) The remaining fifty percent (50%) of the total lump sum after the City's contractor has completed one hundred percent (100%) of the Work.

(b) *Share of additional expenses.* Qwest may pay additional expenses incurred for the Work, provided such additional expenses are mutually agreed upon by the parties in writing, prior to such additional expenses being incurred.

5. Change Orders

(a) Any reqnest for change must be agreed upon in advance as evidenced by written amendment and signed by authorized representatives of both parties.

(b) Any change requested by Qwest to be performed by the Contractor will be submitted to the City's Inspector, who will submit the request to the Contractor, obtain a reasonable price from the Contractor to perform the work, and notify Qwest within twenty-four (24) hours of the price. Qwest will have twenty-four (24) hours after being notified of the price to respond and confirm the requested change. Qwest will not be responsible for any delay caused to City's schedule as a result of City inspector's or Contractor's failure to provide a timely response to Qwest's requested change.

6. Schedule

(a) Should lane closures become necessary, Qwest or its contractor is limited to working between the hours of 8:30 AM to 3:00 PM.

(b) Once construction crews are mobilized, the conversion will be constructed in one continuous nonstop effort, end to end, until the Project is completed.

(c) The City estimates one hundred fifty (150) working days for the Contractor to perform the Work and estimates that the Contractor will begin construction of the Work on or about August 18, 2003. However, the Contractor will be responsible for planning and scheduling their work and will submit a progress schedule to the City and Qwest prior to beginning construction activities.

(d) Approximately ninety (90) working days of construction crew time by Qwest or its contractor will be necessary to complete and energize the new underground distribution system. Qwest will coordinate its conductor and equipment installation such that Qwest, or its contractor, will install as much of this equipment as possible prior to completion of the entire vault and conduit system by the Contractor.

(e) Qwest or its contractor will cut-over or transfer customers already served underground (off the overhead system) where applicable within ninety (90) working days from the completion of the Work. Qwest or its contractor will notify such customers 48 hours in advance of any potential pending outage.

(f) Qwest or its contractor will remove all Qwest overhead lines, conductors, devices, and equipment within one hundred twenty (120) working days from the completion of the Work.

7. Notices. All notices will be in writing and will be delivered by certified mail return receipt requested or any other delivery system which is capable of providing proof of delivery. Any such notice will be deemed effective on the date of mailing. All notices will be addressed to the parties as specified below:

If to Qwest:	Qwest Corporation
	____________________
	____________________
	Attention: ____________
If to City of Des Moines:	____________________
	____________________
	Attention: __________

Either party may change the above addresses to which notices are sent by giving notice of such change to the other party in accordance with the provisions of this Section.

8. Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of Washington.

9. Dispute Resolution. Any controversy or claim, whether based on contract, statute, tort, fraud misrepresentation or other theory, related directly or indirectly to this agreement between Qwest and the City will be resolved by negotiation between the parties. Should such negotiations fail to settle such controversy or claim settlement will be reached through binding arbitration. The Federal Arbitration Act, 9 U.S.C. Sections 1 to 16, not state law, will govern the arbitrability of all claims, and the resolution of the claims. Binding arbitration will be conducted under the then current rules of JAMS.

10. Force Majeure. Both parties shall be excused from their performance if prevented by acts or events beyond the parties reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities ("Force Majeure Event").

11. Indemnification. City will indemnify and hold harmless Qwest, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all liabilities, claims, judgements, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (a) fault or negligence of the City, its officers, employees, agents, Contractor, subcontractors and/or representatives; (b) any product liability claims relating to any material supplied by the City under this Contract; (c) failure of the City, its officers, employees, agents, Contractor, subcontractors and/or representatives to comply with any term of this Contract or any applicable local, state, or federal law or regulation, including but not limited to the OSH Act and environmental protection laws; (d) claims under workers' compensation or similar employee benefit acts by the City or its employees, agents, subcontractors, or subcontractors' employees or agents.

To the extent applicable for services provided by Qwest herein, Qwest will indemnify and hold harmless the City, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all claims, judgments, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and reasonable attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (a) fault or negligence of Qwest, its officers, employees, agents, subcontractors and/or representatives; (b) any product liability or service disruption claims relating to any material supplied by Qwest under this Contract; (c) failure of Qwest, its officers, employees, agents, subcontractors and/or representatives to comply with any applicable local, state, or federal law or regulation, including but not limited to environmental protection laws; (d) claims under workers' compensation or similar employee benefit acts by Qwest or its employees, agents subcontractors or subcontractors' employees or agents.

Except for each party's indemnification obligations under this section, neither party is liable to the other for consequential, incidental, indirect, punitive or special damages, including commercial loss and lost profits, however caused and regardless of legal theory or foreseeability, directly or indirectly arising under this Agreement, even if such party has been apprised of the possibility of such damages.

12. Insurance

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

A. Minimum Scope of Insurance

Qwest shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall include explosion, collapse or underground property hazard coverage. The City shall be designated as an additional insured under Qwest's Commercial General Liability insurance policy with respect to Qwest's work performed for the City using ISO additional insured endorsement CG 20 10 11 85 or a substitute endorsement providing equivalent coverage.

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

B. Minimum Amounts of Insurance

Qwest shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate and a $2,000,000 products- completed operations aggregate limit.

C. Other Insurance Provisions

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

1. Qwest's insurance coverage shall be primary insurance as respect the City subject to the indemnification provisions of this Agreement. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Qwest's insurance and shall not contribute with it subject to the indemnification provisions of this Agreement.

2. Qwest's insurance shall endeavor to provide that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice to the City.

D. Qwest's Insurance For Other Losses

Qwest shall assume all property loss or damage from any cause whatsoever to any Qwest tools, Qwest's employee owned tools, machinery, equipment, any motor vehicles owned or rented by e Qwest including any temporary structures, scaffolding and protective fences used in performance of work under this Agreement. Qwest shall require its agents and subcontractors to also assume the same property loss or damage as required under this paragraph. D for their property.

E. Waiver of Subrogation

Qwest 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 extent 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.

G. Verification of Coverage

Qwest 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 Qwest before commencement of the work. .

H. Subcontractors

Qwest shall furnish separate certificates and endorsements for each of its subcontractor performing work nnder this Agreement. All coverages for subcontractors shall be snbject to all of same insurance requirements as stated herein for Qwest.

13. Safety and Health.

13.1 During the performance of work hereunder, the City will be responsible for its safety, the safety of its employees, agents or subcontractors, the public, and the worksite in general and will comply with all applicable provisions of local, state and federal law, regulations and orders affecting safety and health that apply to the Project, including but not limited to the Occupational Safety and Health Act of 1970 (herein collectively referred to as "The OSH Act"). The City Agrees that it will promptly report serious accidents and/or fatalities to Qwest. The City agrees that it and its subcontractors will give access to the authorized representatives of Qwest, the Secretary of Labor or any state or local official for the purpose of inspecting, investigating or carrying out any required duties that apply to the Project, under the OSH Act and the City will immediately notify Qwest that access has been sought. Upon request of Qwest, the City will provide Qwest with copies of its written safety plan and procedures and/or written assurances that the City and its subcontractors have a written safety plan in effect and that applicable OSH Act training appropriate for the work has been conducted for the City and its subcontractors, including but not limited to the requirements as defined in OSHA Excavation Standard, 29 CFR 1926.650(b) for providing a "Competent Person" at all work sites, who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to personnel, and who has the authorization to take prompt corrective measures to eliminate such hazards. The City will be responsible for coordinating its safety plan with its subcontractors, other contractors and Qwest, where appropriate.

13.2 Qwest reserves the right to shut down the Qwest part of work operation if it reasonably believes the City, its employees, or subcontractors are performing work in a manner that imposes imminent danger to the workers, the job site, the public, and/or Qwest property.

13.3 This or a substantially similar Section will appear in all of the City's subcontracts.

14. Assignment. Neither party will assign this Agreement without the prior written consent of the other party. Such consent will not be unreasonably withheld.

15. Entire Agreement. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes all prior oral or written agreements with respect to the subject matter hereof. This Agreement may not be amended or modified except by a written instrument executed by the parties hereto. No modifications to these terms, including handwritten, are permitted or shall be made without a duly executed written amendment between the parties or, if prior to execution, a revised printed Agreement. In the event any handwritten modification is made to the Agreement terms and conditions, such modifications shall be considered null and void, whether or not acknowledged by the parties, and the Agreement shall continue in full force and effect under its original, unadulterated terms and conditions.

16. Binding. The terms, covenants and conditions contained in this Agreement will be binding on and inure to the benefit of the parties and their respective successors and assigns.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one agreement.

18. Authority. Each party represents and warrants that it has the authority to execute, deliver and perform under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

QWEST CORPORATION, a Colorado corporation

By:______________________________
Name:____________________________
Title:_____________________________
Date:_____________________________

CITY OF DES MOINES, a Washington Municipal Corporation

By:______________________________
Name:____________________________
Title:_____________________________
Date:_____________________________

Approved by direction of the Des Moines City Council in open public meeting on_____, 2003.

Approved as to Form:

By: ______________________________
Des Moines City Attorney

EXHIBIT A

City Plans and Specifications

EXHIBIT B

CONSNET CALENDAR
Item #4

passed 6-0

AGENDA ITEM

SUBJECT:

Supplement Agreement to WSDOT Local Agency Agreement GCA 3432 for Pacific Highway South Asphalt Overlay

ATTACHMENTS:

1. WSDOT Local Agency Agreement GCA 2965 for Pacific Highway South Overlay Design
2. WSDOT Local Agency Agreement GCA 3432 for Pacific Highway South Asphalt Overlay Construction
3. Supplement Agreement to WSDOT Local Agency Agreement GCA 3432 for Pacific Highway South Asphalt Overlay Construction

AGENDA OF: September 4, 2003

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: August 27, 2003

CLEARANCES:
[X] Finance ______
[X] Public Works ______
[X] Legal ______

APPROVED BY CITY MANAGER FOR SUBMITTAL: ______

Purpose and Recommendation:

The purpose of this item is to enter into a supplement agreement with the Washington State Department of Transportation (WSDOT) to correct an error in the construction costs for the asphalt overlay of Pacific Highway South.

Suggested Motions

1) "I move to enter into the attached supplement agreement with the Washington State Department of Transportation for the construction of asphalt overlay on Pacific Highway South, reducing the total reimbursement amount by $73,000 for a new revised total payment of $762,853, and further to authorize the City Manager to sign said supplement agreement substantially in the form as submitted."

Background:

RCW 47.24.020 requires cities with populations above 22,500 to be responsible for, among other things, stability of the slopes of cuts and fills and the embankments for state routes within city limits; as well as all traffic control signals, regulatory signs, striping, and other traffic control devices on state routes within city limits. However, maintenance of the pavement surface remains the responsibility of the WSDOT. The WSDOT sets aside funds to overlay these state routes on scheduled intervals as part of their maintenance program.

Since the City has elected to construct a major project on Pacific Highway South, the WSDOT has agreed to provide their budgeted overlay funds to the City for inclusion in the City's project. This is more cost effective than doing separate projects, allows easier coordination for the various construction elements, and results in reduced construction traffic impacts to the public.

The WSDOT has also agreed to financially participate on the low-profile concrete barrier and on some pedestrian improvements near the Kent-Des Moines Road intersection. The construction work necessary for all of these improvements has been included in the contract plans and specifications for the Pacific Highway South Redevelopment Project. There are currently agreements in place for all of these items.

There are two separate WSDOT Local Agency Agreements covering the overlay work. The first one (GCA 2965) was entered into on October 24, 2001, and was for the design costs (preliminary engineering) associated with the asphalt overlay. The second one (GCA 3432) was entered into on November 1, 2002, and was intended to include the construction costs associated with the asphalt overlay.

Discussion:

The purpose of the supplement agreement to GCA 3432 is to eliminate the inadvertent doubling of payment for the preliminary engineering work associated with the overlay. GCA 2965 was intended to provide full compensation for the preliminary engineering work in the amount of $73,000. GCA 3432 was intended to provide full compensation for the construction work associated with the overlay. GCA 3432 provided a total of $835,854. However, this amount unintentionally included a markup for preliminary engineering in the amount of $83,585.

The oversight has been recognized and the WSDOT has prepared a supplement agreement to correct the double payment. They have agreed to reduce the total funds on the agreement by the lower of amount of $73,000.

Alternatives:

The City could elect to not enter into the supplement agreement to GCA 3432; however, it is unlikely the WSDOT would agree to pay the double amount without legal action.

Financial Impact:

This supplement agreement corrects the WSDOT's total participation on the overlay work, resulting in a new total of $825,268, which includes $73,000 under GCA 2965, and $762,853 under GCA 3432. The project budget is not affected since the correct amount has been included in all recent project budgets.

Recommendation/Conclusion:

Staff recommends that we enter into this supplement agreement to GCA 3432 with WSDOT correcting this error.

Concurrence:

Legal has reviewed the agreement and concurs with this recommendation.

RECEIVED
NOV 1 4 2001
By

Washington State Department of Transportation

Sid Morrison
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000

Overlay Design

November 9, 2001

Maiya Andrews, P.E.
Asst. City Engineer-Transportation
City of Des Moines
Department of Public Works
21650 11th Avenue South
Des Moines, WA 98198-6317

RE: City of Des Moines
SR 99, Pacific Highway South HOV Lanes
SR 516 to S. 216th St. Section
Participation Agreement GCA 2965

Dear Ms. Andrews;

Enclosed is the city's original executed agreement. The WSDOT agreement manager is:

Phil Segami
WSDOT - King Area, MS 210
PO Box 330310
Seattle, WA 98133-9710

Phone: (206) 440-4665
Email: Segamip@wsdot.wa.gov

Please direct any questions regarding billing or payments to Mr. Segami.

Sincerely,

For TERRENCE G. PAANANEN, PE
Local Programs Engineer

TGP/JLS/jls
Attachments
Cc:

Lcl Prgrms:	GCA file
King Area:	P. Segami, MS 210
Pgmnt:	A. Sheikh-Taheri, MS 105

ATTACHMENT 1

11/9/2001, 2:54 PM
GCA 2965.2.ltr.doc

Washington State Department of Transportation

State Participating Agreement Work by Local Agency Actual Cost	Organization and Address City of Des Moines Public Works Department 21650 11th Avenue South Des Moines, WA 98198-6317
	Section / Location Pacific Highway South High Occupancy Vehicle Lanes SR 516 to S. 216th Street
Agreement Number GCA 2965	Description of Work Preliminary Engineering Phase for: ACP overlay and required safety work on existing portion of SR 99. The STATE's portion of the CITY's project will rehabilitate the existing pavement.
State Route Number: 99 — Control Section Number: 1701	
Region Northwest Region	

THIS AGREEMENT, made and entered into this 24th day of October, 2001, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, (hereinafter the "STATE") and the above named organization, (hereinafter the "LOCAL AGENCY").

WHEREAS, the LOCAL AGENCY is planning the construction of a project as shown above, and in connection therewith, the STATE has requested that the LOCAL AGENCY perform certain work as herein described, and

WHEREAS, it is deemed to be in the best interest for the STATE to include specific items of work in the LOCAL AGENCY's construction contract proposed for the above-noted project, and

WHEREAS, the STATE is obligated for the cost of work described herein.

NOW THEREFORE, by virtue of RCW 47.28.140 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I
GENERAL

The LOCAL AGENCY, as agent acting for and on behalf of the STATE, agrees to perform the above "Description of Work".

Plans, specifications and cost estimates shall be prepared by the LOCAL AGENCY in accordance with the current State of Washington Standard Specifications for Road, Bridge, and Municipal Construction, and amendments thereto, and adopted design standards, unless otherwise noted. The LOCAL AGENCY will incorporate the plans and specifications into the LOCAL AGENCY's project and thereafter advertise the resulting project for bid and, assuming bids are received and a contract is awarded, administer the contract.

The LOCAL AGENCY agrees to submit plans and specifications for the described work as shown on Exhibit "B", attached hereto and by this reference made a part of this AGREEMENT, to the STATE for approval prior to advertising the project.

The STATE may, if it desires, furnish an inspector on the project. Any costs for such inspection will be borne solely by the STATE. All contact between said inspector and the LOCAL AGENCY's contractor shall be through the LOCAL AGENCY's representative.

The STATE agrees, upon satisfactory completion of the work involved, to deliver a letter of acceptance which shall include a release and waiver of all future claims or demands of any nature resulting from the performance of the work under this AGREEMENT.

II
PAYMENT

The STATE, in consideration of the faithful performance of the work to be done by the LOCAL AGENCY, agrees to reimburse the LOCAL AGENCY for the actual direct and related indirect cost of the work.

An itemized estimate of cost for work to be performed by the LOCAL AGENCY at the STATE's expense is marked Exhibit "A", and is attached hereto and by this reference made a part of this AGREEMENT.

Partial payments shall be made by the STATE, upon request of the LOCAL AGENCY, to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item and that, at the time of the final audit, all required adjustments will be made and reflected in a final payment.

The LOCAL AGENCY agrees to submit a final bill to the STATE within forty-five (45) days after the LOCAL AGENCY has completed the work.

III
DELETION OF WORK

In the event the estimate of cost, Exhibit "A", is in excess of $10,000 and the total actual bid prices for the work covered by this AGREEMENT exceeds the estimate of cost by more than 15 percent, the STATE shall have the option of directing the LOCAL AGENCY to delete all or a portion of the work covered by this AGREEMENT from the LOCAL AGENCY's contract. Except, that this provision shall be null and void if the STATE's portion of the work exceeds 20 percent of the actual total contract bid price.

The STATE shall have five (5) working days from the date of written notification to inform the LOCAL AGENCY to delete the work. Should the STATE exercise its option to delete work, the STATE agrees, upon billing by the LOCAL AGENCY, to reimburse the LOCAL AGENCY for preliminary engineering costs incurred by the LOCAL AGENCY to include the work covered by this AGREEMENT in the LOCAL AGENCY's contract.

IV
EXTRA WORK

In the event unforeseen conditions require an increase in the cost of 25 percent or more from that agreed to on Exhibit "A", this AGREEMENT will be modified by supplemental AGREEMENT covering said increase.

In the event it is determined that any change from the description of work contained in this AGREEMENT is required, approval must be secured from the STATE prior to the beginning of such work. Where the change is substantial, written approval must be secured.

Reimbursement for increased work and/or a substantial change in the description of work shall be limited to costs covered by a written modification, change order or extra work order approved by the STATE.

V
RIGHT OF ENTRY

The STATE hereby grants and conveys to the LOCAL AGENCY the right of entry upon all land which the STATE has interest, within or adjacent to the right of way of the highway, for the purpose of constructing said improvements.

Upon completion of the work outlined herein, all future operation and maintenance of the STATE's facilities shall be at the sole cost of the STATE and without expense to the LOCAL AGENCY.

VI
LEGAL RELATIONS

No liability shall attach to the LOCAL AGENCY or the STATE by reason of entering into this agreement except as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

LOCAL AGENCY

By [signature]

Title City Manager

Date October 18, 2001

Approved as to form:

Gary N. McLean

City Attorney

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By [signature]

Title Asst. Regional Admin, King County

EXHIBIT A

SCOPE OF WORK & ESTIMATE OF COST

SR 99
Pacific Highway South High Occupancy Vehicle Lanes
SR 516 to S. 216th Street Section

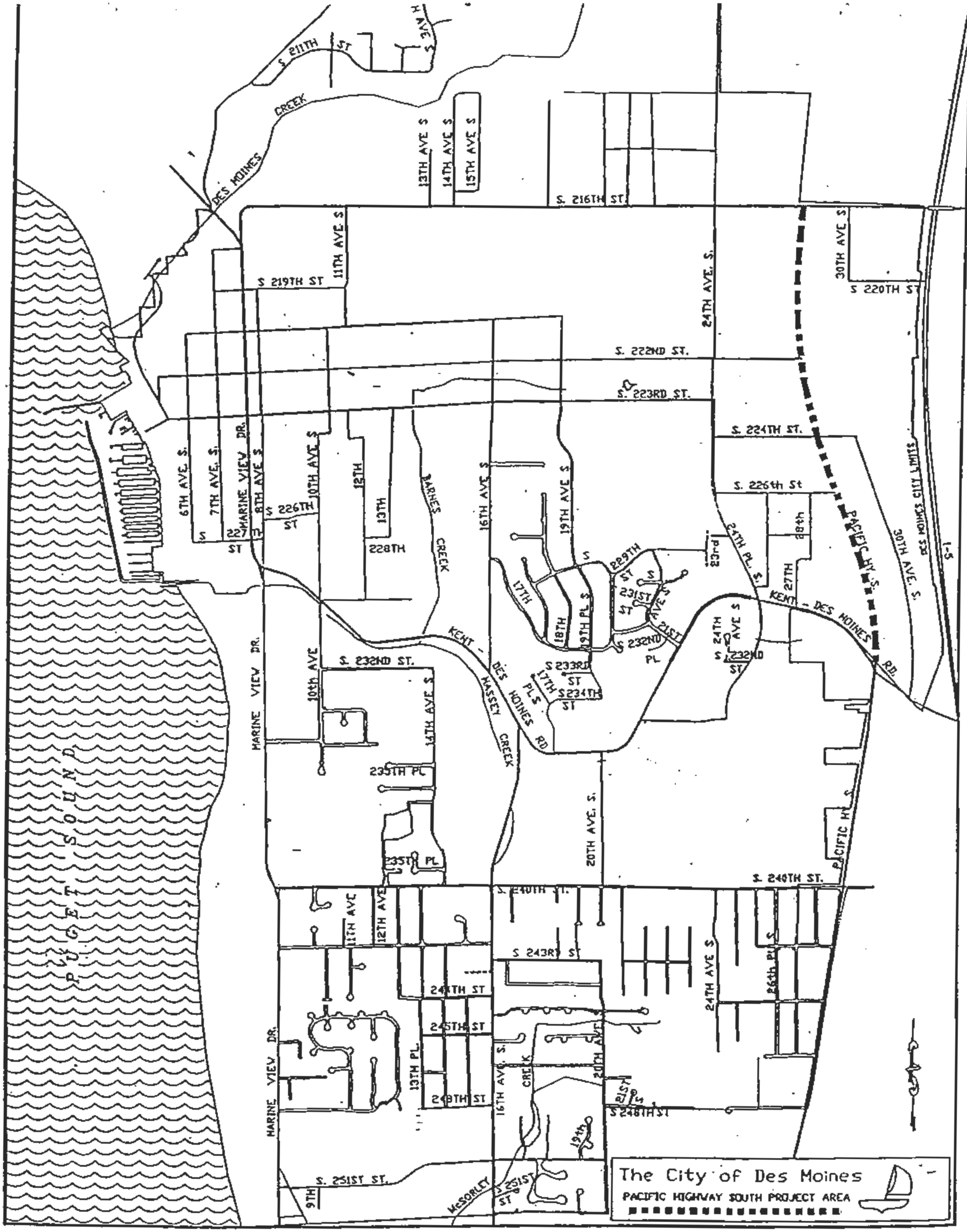
CITY Project:

The City of Des Moines is proposing to reconstruct and improve this section of Pacific Highway South by widening the roadway to accommodate a pair of HOV lanes, provide new curb, gutter and sidewalk, raised landscape median and planter strip. Additional improvements include new channelization, modification and interconnecting of existing traffic signal systems, illumination system, driveway access controls, and drainage system improvements.

STATE Participation:

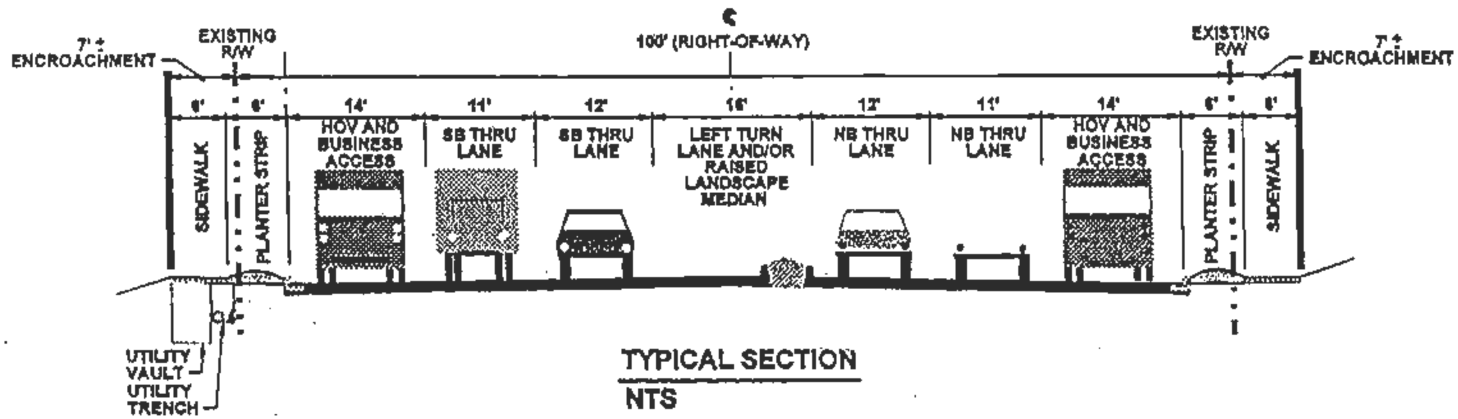
For preliminary engineering of the ACP overlay and required safety work for the existing pavement of SR 99. The STATE will participate in the CITY's project by providing funds for the rehabilitation of the existing pavement for this section of SR 99.

ITEM	**Project Total**
Preliminary Engineering - ACP overlay	**$73,000**



VICINITY MAP

GCA 2965
Exhibit "B" Sheet 1 of 2



TYPICAL SECTION

NTS

GCA 2965
Exhibit "B" Sheet 2 of 2

Washington State
Department of Transportation

State Participating Agreement Work by Local Agency Actual Cost	Organization and Address City of Des Moines 21630 11th Ave S Des Moines, WA 98198
Agreement Number GCA 3432	Section / Location South 216th Street to Kent-Des Moines Road (SR 516)
State Route Number: 99 — Control Section Number: 170107	Description of Work Planing, loop replacement,paving, curb,temporary water pollution and erosion control, adjust ntilities, striping, traffic control, and related items of work.
Region Northwest Region	

THIS AGREEMENT, made and entered into this 1st day of November, 2002, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, (hereinafter the "STATE") and the above named organization, (hereinafter the "LOCAL AGENCY").

WHEREAS, the LOCAL AGENCY is planning the construction of a project as shown above, and in connection therewith, the STATE has requested that the LOCAL AGENCY perform certain work as herein described, and

WHEREAS, it is deemed to be in the best interest for the STATE to include specific items of work in the LOCAL AGENCY's construction contract proposed for the above-noted project, and

WHEREAS, the STATE is obligated for the cost of work described herein.

NOW THEREFORE, by virtue of RCW 47.28.140 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I
GENERAL

The LOCAL AGENCY, as agent acting for and on behalf of the STATE, agrees to perform the above "Description of Work".

Plans, specifications and cost estimates shall be prepared by the LOCAL AGENCY in accordance with the current State of Washington Standard Specifications for Road, Bridge, and Municipal Construction, and amendments thereto, and adopted design standards, unless otherwise noted. The LOCAL AGENCY will incorporate the plans and specifications into the LOCAL AGENCY's project and thereafter advertise the resulting project for bid and, assuming bids are received and a contract is awarded, administer the contract.

The LOCAL AGENCY agrees to submit plans and specifications for the described work as shown on Exhibit "B", attached hereto and by this reference made a part of this AGREEMENT, to the STATE for approval prior to advertising the project.

The STATE may, if it desires, furnish an inspector on the project. Any costs for such inspection will be borne solely by the STATE. All contact between said inspector and the LOCAL AGENCY's contractor shall be through the LOCAL AGENCY's representative.

The STATE agrees, upon satisfactory completion of the work involved, to deliver a letter of acceptance which shall include a release and waiver of all future claims or demands of any nature resulting from the performance of the work under this AGREEMENT.

II
PAYMENT

The STATE, in consideration of the faithful performance of the work to be done by the LOCAL AGENCY, agrees to reimburse the LOCAL AGENCY for the actual direct and related indirect cost of the work.

An itemized estimate of cost for work to be performed by the LOCAL AGENCY at the STATE's expense is marked Exhibit "A", and is attached hereto and by this reference made a part of this AGREEMENT.

Partial payments shall be made by the STATE, upon request of the LOCAL AGENCY, to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item and that, at the time of the final audit, all required adjustments will be made and reflected in a final payment.

ATTACHMENT 2

The LOCAL AGENCY agrees to submit a final bill to the STATE within forty-five (45) days after the LOCAL AGENCY has completed the work.

III
DELETION OF WORK

In the event the estimate of cost, Exhibit "A", is in excess of $10,000 and the total actual bid prices for the work covered by this AGREEMENT exceeds the estimate of cost by more than 15 percent, the STATE shall have the option of directing the LOCAL AGENCY to delete all or a portion of the work covered by this AGREEMENT from the LOCAL AGENCY's contract. Except, that this provision shall be null and void if the STATE's portion of the work exceeds 20 percent of the actual total contract bid price.

The STATE shall have five (5) working days from the date of written notification to inform the LOCAL AGENCY to delete the work. Should the STATE exercise its option to delete work, the STATE agrees, upon billing by the LOCAL AGENCY, to reimburse the LOCAL AGENCY for preliminary engineering costs incurred by the LOCAL AGENCY to include the work covered by this AGREEMENT in the LOCAL AGENCY's contract.

IV
EXTRA WORK

In the event unforeseen conditions require an increase in the cost of 25 percent or more from that agreed to on Exhibit "A", this AGREEMENT will be modified by supplemental AGREEMENT covering said increase.

In the event it is determined that any change from the description of work contained in this AGREEMENT is required, approval must be secured from the STATE prior to the beginning of such work. Where the change is substantial, written approval must be secured.

Reimbursement for increased work and/or a substantial change in the description of work shall be limited to costs covered by a written modification, change order or extra work order approved by the STATE.

V
RIGHT OF ENTRY

The STATE hereby grants and conveys to the LOCAL AGENCY the right of entry upon all land which the STATE has interest, within or adjacent to the right of way of the highway, for the purpose of constructing said improvements.

Upon completion of the work outlined herein, all future operation and maintenance of the STATE's facilities shall be at the sole cost of the STATE and without expense to the LOCAL AGENCY.

VI
LEGAL RELATIONS

No liability shall attach to the LOCAL AGENCY or the STATE by reason of entering into this agreement except as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

LOCAL AGENCY

By ______________________

Title City Manager

Date 10/25/02

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By ______________________

Title Deputy Regional Administrator

Date 11/1/02

Exhibit A
GCA 3432
Estimate of Cost

Construction Total	$615,730
Sales Tax @ 8.6%	52,953
Subtotal	$668,683
Construction Engineering @ 12.5%	83,585
Preliminary Engineering @ 12.5%	83,585
Total Estimated Cost	**$835,854**

To be paid by the STATE to the CITY

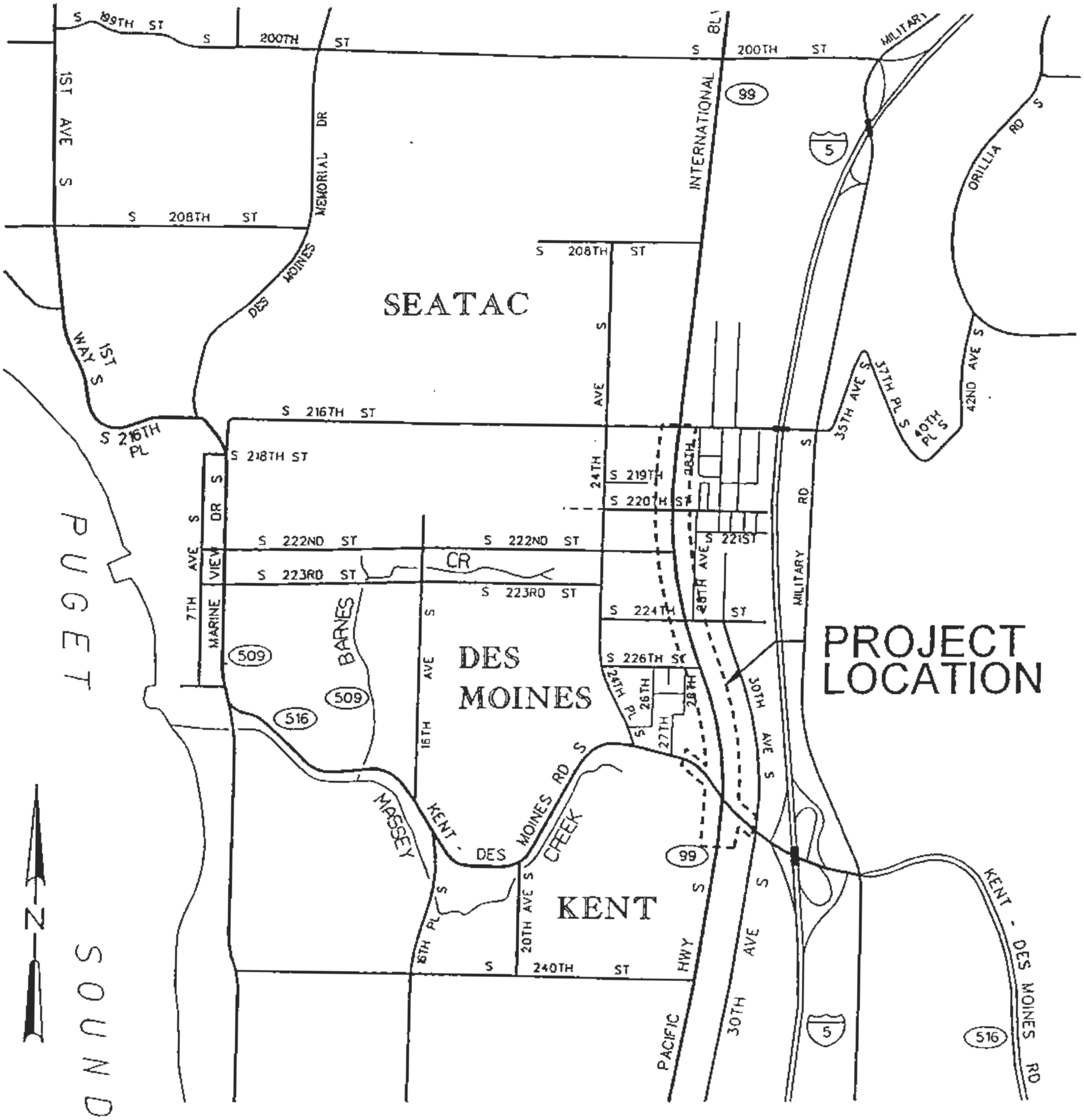
Pacific Highway South Redevelopment Project

SR 99 MP 15.34 TO MP 16.52
October 11,2002

Item	Quantity	Unit	Unit Cost		Total	
Overlay						
Remove Traffic Islands	1,540	SY	$	6	$	9,240
Cement Conc. Cl. 3000	351	CY	$	200	$	70,200
2" CSTC/CSBC	159	Tons	$	30	$	4,770
C-Curb	860	LF	$	14	$	12,040
Type A Traffic Curb	968	LF	$	10	$	9,680
Crosswalk	2,976	SF	$	2	$	4,464
Plastic Wide Line	2,405	LF	$	3	$	6,013
Traffic Arrows	69	EA	$	65	$	4,485
Paint Stripe	18,848	LF	$	0.11	$	2,073
Asphalt Conc. Pavement Cl. A	5,695	Tons	$	42	$	239,190
Preleveling ACP Cl. A	1,705	Tons	$	30	$	51,150
Planing Bituminous Pavement	900	SY	$	10	$	9,000
Loop Replacement	14	EA	$	1,000	$	14,000
Temporary Water Pollution & Erosion Control	1	EST	$	2,000	$	2,000
Adjust Junction Box	3	EA	$	475	$	1,425
Adjust Manhole	19	EA	$	385	$	7,315
Adjust Valve	71	EA	$	300	$	21,300
Adjust Catch Basin	136	EA	$	310	$	42,160
Adjust Monument in Case	3	EA	$	250	$	750
Water Meter	3	EA	$	300	$	900
Traffic Control Labor**	L.S.	L.S.	$	37,000	$	37,000
Traffic Control Supervisor	160	HR	$	45	$	7,200
Traffic Control Vehicle	20	Day	$	50	$	1,000
Sequential Arrow Sign	480	HR	$	5	$	2,400
Subtotal					**$**	**559,755**
Mobilization	10.0%	L.S.	**$**	**55,975**	**$**	**55,975**
Subtotal					**$**	**615,730**
Sales Tax	8.6%					668,683
Construction Engineering	12.5%					83,585
Preliminary Engineering	12.5%					83,585
Total Estimated Cost					**$**	**835,854**

**60 working days, 2 laborers, 8 hours per day @ $35 per hour

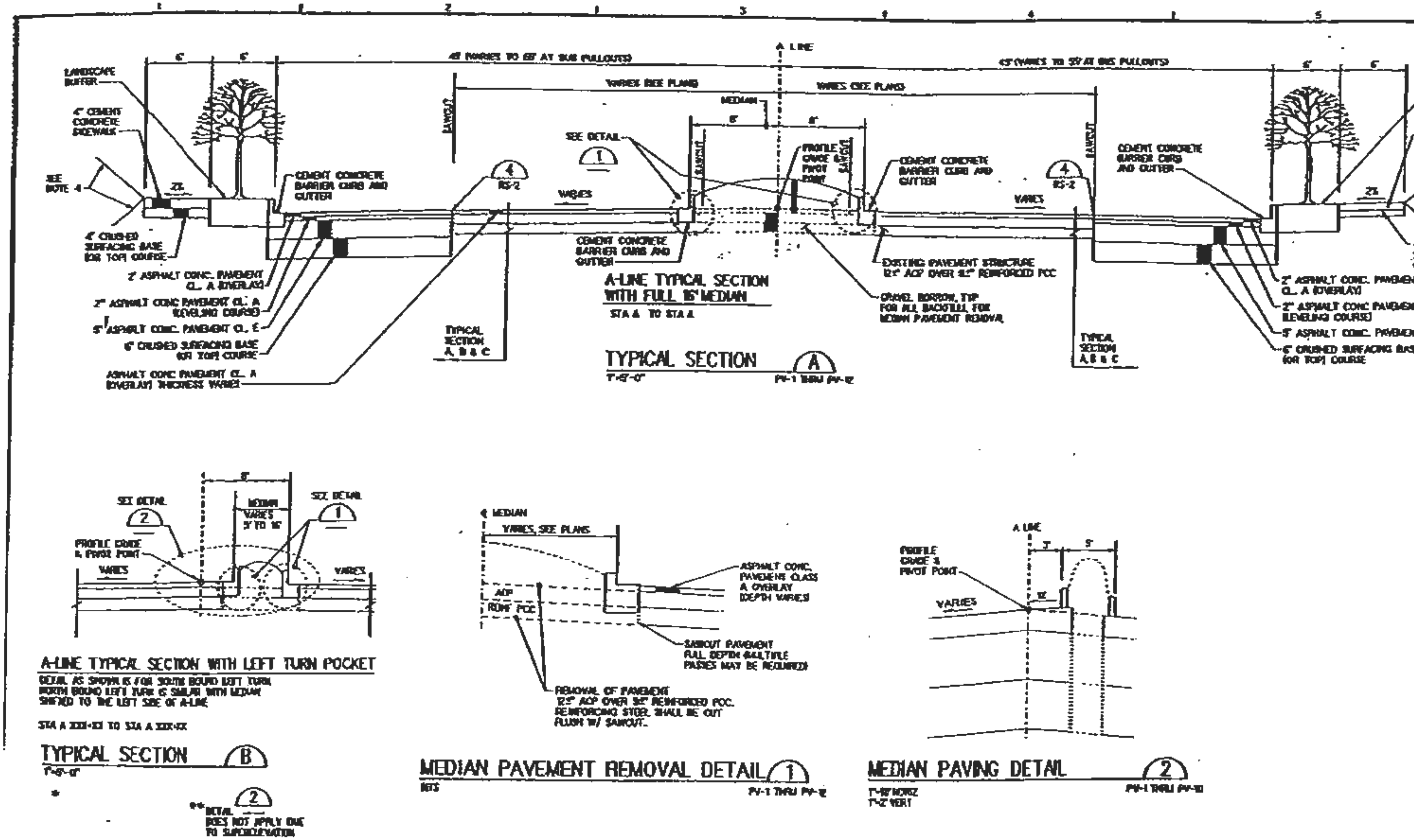
Exhibit A
GCA 3432
Pac Highway S Redevelopment
SR 516 to S 216th ACP Overlay 2/2



VICINITY MAP

PACIFIC HIGHWAY SOUTH REDEVELOPMENT PROJECT

Exhibit B
GCA 3349
SR 99, SR 516 to S. 216th
Page 1 of 2



Exhibi
GCA 3
Pac Hi
SR 51

PRELIMINARY
NOT FOR CONSTRUCTION

VERIFY SCALE

CH2MHILL

City of Des Moines
King County, Washington
Pacific Highway South
Redevelopment Project

PACIFIC HIGHWAY S
ROADW
AN

Supplement Agreement
GCA 3432 Supplement No. 1

THIS AGREEMENT, made and entered into this ________ day of ________________, 2003, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, (hereinafter the "STATE"), and the City of Des Moines, PO Box 34960, Seattle, WA 98124-1960, (hereinafter the "CITY").

WHEREAS, the parties hereto entered into Participating Agreement GCA 3432 on November 1, 2002, which provided for defining construction costs to be paid to the CITY by the STATE for SR 99, South 216th Street to Kent-Des Moines Road (SR 516), (hereinafter the "PROJECT")and

WHEREAS, Preliminary Engineering costs for the PROJECT are provided for in Participating Agreement GCA 2965, executed on October 24, 2001, and

WHEREAS, it is deemed desirable to supplement the original agreement, GCA 3432, to delete Preliminary Engineering costs from the Estimate of Cost, Exhibit A, to eliminate doubling of payment.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. Preliminary Engineering in the amount of $73,000 is hereby deleted from Exhibit A.
2. The Estimate of Cost, Exhibit A, in the original agreement is hereby superseded and replaced by Exhibit A-1, attached hereto and by this reference made a part of this agreement.
3. All other terms and conditions of the original agreement shall remain in full force and effect except as modified by this Supplement Agreement.

ATTACHMENT 3

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CITY OF DES MOINES	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By (print)	By Ronald J. Paananen, P.E.
Signature	Signature
Title	Assistant Regional Administrator SnoKing Area Title
Date	Date

Approved As To Form:	Approved As To Form:
By (print)	J. W. ATTRIDGE By (print)
Signature	J. W. Attridge Signature
Title	Assistant Attorney General Title
Date	March 19, 2003 Date

Exhibit A-1
GCA 3432 Supplement No. 1
Estimate of Cost

Construction Total	$615,730
Sales Tax @ 8.6%	52,953
Subtotal	$668,683
Construction Engineering @ 12.5%	83,585
Preliminary Engineering	10,585
Total Estimated Cost	**$762,853**

To be paid by the STATE to the CITY

Pacific Highway South Redevelopment Project

SR 99 MP 15.34 TO MP 16.52

October 11, 2002

Item	Quantity	Unit		Unit Cost		Total
Overlay						
Remove Traffic Islands	1,540	SY	$	6	$	9,240
Cement Conc. Cl. 3000	351	CY	$	200	$	70,200
2" CSTC/CSBC	159	Tons	$	30	$	4,770
C-Curb	860	LF	$	14	$	12,040
Type A Traffic Curb	968	LF	$	10	$	9,680
Crosswalk	2,976	SF	$	2	$	4,464
Plastic Wide Line	2,405	LF	$	3	$	6,013
Traffic Arrows	69	EA	$	65	$	4,485
Paint Stripe	18,848	LF	$	0.11	$	2,073
Asphalt Conc. Pavement Cl. A	5,695	Tons	$	42	$	239,190
Preleveling ACP Cl. A	1,705	Tons	$	30	$	51,150
Planing Bituminous Pavement	900	SY	$	10	$	9,000
Loop Replacement	14	EA	$	1,000	$	14,000
Temporary Water Pollution & Erosion Control	1	EST	$	2,000	$	2,000
Adjust Junction Box	3	EA	$	475	$	1,425
Adjust Manhole	19	EA	$	385	$	7,315
Adjust Valve	71	EA	$	300	$	21,300
Adjust Catch Basin	136	EA	$	310	$	42,160
Adjust Monument in Case	3	EA	$	250	$	750
Water Meter	3	EA	$	300	$	900
Traffic Control Labor**	L.S.	L.S.	$	37,000	$	37,000
Traffic Control Supervisor	160	HR	$	45	$	7,200
Traffic Control Vehicle	20	Day	$	50	$	1,000
Sequential Arrow Sign	480	HR	$	5	$	2,400
Subtotal					$	**559,755**
Mobilization	10.0%	L.S.	$	55,975	$	55,975
Subtotal					$	**615,730**
Sales Tax	8.6%					668,683
Construction Engineering	12.5%					83,585
					$	752,268

**60 working days, 2 laborers, 8 hours per day @ $35 per hour

Exhibit A-1
GCA 3432 Supplement No. 1
SR 99, S 216th St to SR 516 ACP
Overlay

Washington State Department of Transportation

State Participating Agreement Work by Local Agency Actual Cost	Organization and Address City of Des Moines Public Works Department 21650 11th Avenue South Des Moines, WA 98198-6317
	Section / Location Pacific Highway South High Occupancy Vehicle Lanes SR 516 to S. 216th Street
Agreement Number GCA 2965	Description of Work Preliminary Engineering Phase for: ACP overlay and required safety work on existing portion of SR 99. The STATE's portion of the CITY's project will rehabilitate the existing pavement.
State Route Number: 99 / Control Section Number: 1701	
Region Northwest Region	

THIS AGREEMENT, made and entered into this 24th day of October, 2001, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, (hereinafter the "STATE") and the above named organization, (hereinafter the "LOCAL AGENCY").

WHEREAS, the LOCAL AGENCY is planning the construction of a project as shown above, and in connection therewith, the STATE has requested that the LOCAL AGENCY perform certain work as herein described, and

WHEREAS, it is deemed to be in the best interest for the STATE to include specific items of work in the LOCAL AGENCY's construction contract proposed for the above-noted project, and

WHEREAS, the STATE is obligated for the cost of work described herein.

NOW THEREFORE, by virtue of RCW 47.28.140 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I
GENERAL

The LOCAL AGENCY, as agent acting for and on behalf of the STATE, agrees to perform the above "Description of Work".

Plans, specifications and cost estimates shall be prepared by the LOCAL AGENCY in accordance with the current State of Washington Standard Specifications for Road, Bridge, and Municipal Construction, and amendments thereto, and adopted design standards, unless otherwise noted. The LOCAL AGENCY will incorporate the plans and specifications into the LOCAL AGENCY's project and thereafter advertise the resulting project for bid and, assuming bids are received and a contract is awarded, administer the contract.

The LOCAL AGENCY agrees to submit plans and specifications for the described work as shown on Exhibit "B", attached hereto and by this reference made a part of this AGREEMENT, to the STATE for approval prior to advertising the project.

The STATE may, if it desires, furnish an inspector on the project. Any costs for such inspection will be borne solely by the STATE. All contact between said inspector and the LOCAL AGENCY's contractor shall be through the LOCAL AGENCY's representative.

The STATE agrees, upon satisfactory completion of the work involved, to deliver a letter of acceptance which shall include a release and waiver of all future claims or demands of any nature resulting from the performance of the work under this AGREEMENT.

II
PAYMENT

The STATE, in consideration of the faithful performance of the work to be done by the LOCAL AGENCY, agrees to reimburse the LOCAL AGENCY for the actual direct and related indirect cost of the work.

An itemized estimate of cost for work to be performed by the LOCAL AGENCY at the STATE's expense is marked Exhibit "A", and is attached hereto and by this reference made a part of this AGREEMENT.

Partial payments shall be made by the STATE, upon request of the LOCAL AGENCY, to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item and that, at the time of the final audit, all required adjustments will be made and reflected in a final payment.

EXHIBIT A

SCOPE OF WORK & ESTIMATE OF COST

SR 99
Pacific Highway South High Occupancy Vehicle Lanes
SR 516 to S. 216th Street Section

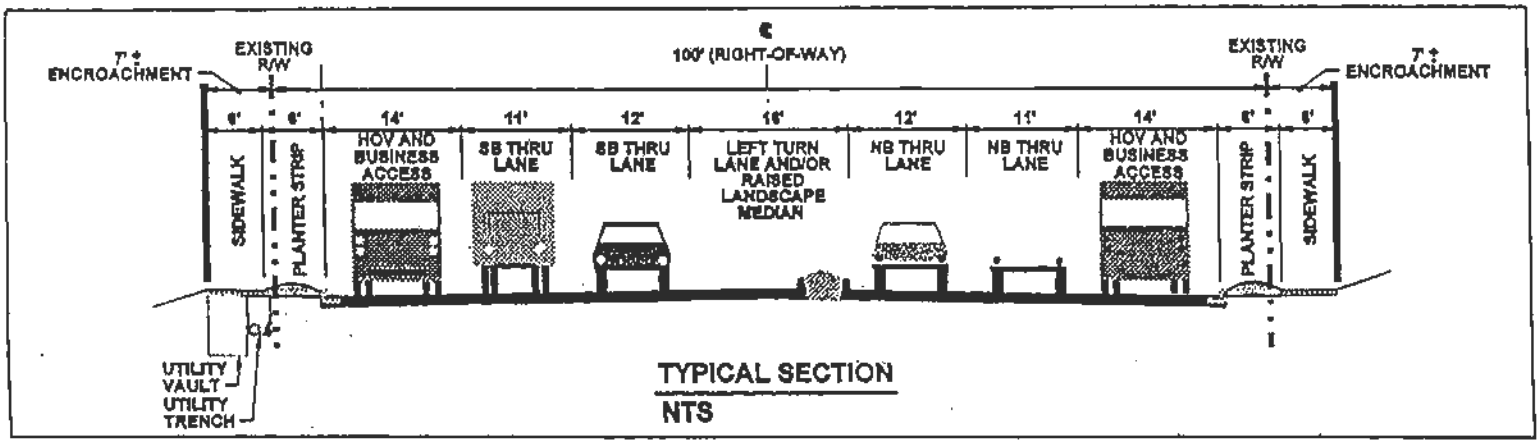
CITY Project:

The City of Des Moines is proposing to reconstruct and improve this section of Pacific Highway South by widening the roadway to accommodate a pair of HOV lanes, provide new curb, gutter and sidewalk, raised landscape median and planter strip. Additional improvements include new channelization, modification and interconnecting of existing traffic signal systems, illumination system, driveway access controls, and drainage system improvements.

STATE Participation:

For preliminary engineering of the ACP overlay and required safety work for the existing pavement of SR 99. The STATE will participate in the CITY's project by providing funds for the rehabilitation of the existing pavement for this section of SR 99.

ITEM	**Project Total**
Preliminary Engineering - ACP overlay	**$73,000**



TYPICAL SECTION

NTS

GCA 2965
Exhibit "B" Sheet

The LOCAL AGENCY agrees to submit a final bill to the STATE within forty-five (45) days after the LOCAL AGENCY has completed the work.

III
DELETION OF WORK

In the event the estimate of cost, Exhibit "A", is in excess of $10,000 and the total actual bid prices for the work covered by this AGREEMENT exceeds the estimate of cost by more than 15 percent, the STATE shall have the option of directing the LOCAL AGENCY to delete all or a portion of the work covered by this AGREEMENT from the LOCAL AGENCY's contract. Except, that this provision shall be null and void if the STATE's portion of the work exceeds 20 percent of the actual total contract bid price.

The STATE shall have five (5) working days from the date of written notification to inform the LOCAL AGENCY to delete the work. Should the STATE exercise its option to delete work, the STATE agrees, upon billing by the LOCAL AGENCY, to reimburse the LOCAL AGENCY for preliminary engineering costs incurred by the LOCAL AGENCY to include the work covered by this AGREEMENT in the LOCAL AGENCY's contract.

IV
EXTRA WORK

In the event unforeseen conditions require an increase in the cost of 25 percent or more from that agreed to on Exhibit "A", this AGREEMENT will be modified by supplemental AGREEMENT covering said increase.

In the event it is determined that any change from the description of work contained in this AGREEMENT is required, approval must be secured from the STATE prior to the beginning of such work. Where the change is substantial, written approval must be secured.

Reimbursement for increased work and/or a substantial change in the description of work shall be limited to costs covered by a written modification, change order or extra work order approved by the STATE.

V
RIGHT OF ENTRY

The STATE hereby grants and conveys to the LOCAL AGENCY the right of entry upon all land which the STATE has interest, within or adjacent to the right of way of the highway, for the purpose of constructing said improvements.

Upon completion of the work outlined herein, all future operation and maintenance of the STATE's facilities shall be at the sole cost of the STATE and without expense to the LOCAL AGENCY.

VI
LEGAL RELATIONS

No liability shall attach to the LOCAL AGENCY or the STATE by reason of entering into this agreement except as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

LOCAL AGENCY	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By	By
Title City Manager	Title Deputy Regional Administrator
Date 10/25/02	Date 11/1/02

Pacific Highway South Redevelopment Project

SR 99 MP 15.34 TO MP 16.52

October 11,2002

Item	Quantity	Unit	Unit Cost	Total
Overlay				
Remove Traffic Islands	1,540	SY	$ 6	$ 9,240
Cement Conc. Cl. 3000	351	CY	$ 200	$ 70,200
2" CSTC/CSBC	159	Tons	$ 30	$ 4,770
C-Curb	860	LF	$ 14	$ 12,040
Type A Traffic Curb	968	LF	$ 10	$ 9,680
Crosswalk	2,976	SF	$ 2	$ 4,464
Plastic Wide Line	2,405	LF	$ 3	$ 6,013
Traffic Arrows	69	EA	$ 65	$ 4,485
Paint Stripe	18,848	LF	$ 0.11	$ 2,073
Asphalt Conc. Pavement Cl. A	5,695	Tons	$ 42	$ 239,190
Preleveling ACP Cl. A	1,705	Tons	$ 30	$ 51,150
Planing Bituminous Pavement	900	SY	$ 10	$ 9,000
Loop Replacement	14	EA	$ 1,000	$ 14,000
Temporary Water Pollution & Erosion Control	1	EST	$ 2,000	$ 2,000
Adjust Junction Box	3	EA	$ 475	$ 1,425
Adjust Manhole	19	EA	$ 385	$ 7,315
Adjust Valve	71	EA	$ 300	$ 21,300
Adjust Catch Basin	136	EA	$ 310	$ 42,160
Adjust Monument in Case	3	EA	$ 250	$ 750
Water Meter	3	EA	$ 300	$ 900
Traffic Control Labor**	L.S.	L.S.	$ 37,000	$ 37,000
Traffic Control Supervisor	160	HR	$ 45	$ 7,200
Traffic Control Vehicle	20	Day	$ 50	$ 1,000
Sequential Arrow Sign	480	HR	$ 5	$ 2,400
Subtotal				**$ 559,755**
Mobilization	10.0%	L.S.	**$ 55,975**	**$ 55,975**
Subtotal				**$ 615,730**
Sales Tax	8.6%			668,683
Construction Engineering	12.5%			83,585
Preliminary Engineering	12.5%			83,585
Total Estimated Cost				**$ 835,854**

**60 working days, 2 laborers, 8 hours per day @ $35 per hour

Exhibit A
GCA 3432
Pac Highway S Redevelopment
SR 516 to S 216th ACP Overlay

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CITY OF DES MOINES	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By (print)	By Ronald J. Paananen, P.E.
Signature	Signature
Title	Assistant Regional Administrator SnoKing Area Title
Date	Date
Approved As To Form:	Approved As To Form:
By (print)	J. W. ATTRIDGE By (print)
Signature	J. W. Attridge Signature
Title	Assistant Attorney General Title
Date	March 19, 2003 Date

Pacific Highway South Redevelopment Project

SR 99 MP 15.34 TO MP 16.52

October 11, 2002

Item	Quantity	Unit		Unit Cost		Total
Overlay						
Remove Traffic Islands	1,540	SY	$	6	$	9,240
Cement Conc. Cl. 3000	351	CY	$	200	$	70,200
2" CSTC/CSBC	159	Tons	$	30	$	4,770
C-Curb	860	LF	$	14	$	12,040
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Plastic Wide Line	2,405	LF	$	3	$	6,013
Traffic Arrows	69	EA	$	65	$	4,485
Paint Stripe	18,848	LF	$	0.11	$	2,073
Asphalt Conc. Pavement Cl. A	5,695	Tons	$	42	$	239,190
Preleveling ACP Cl. A	1,705	Tons	$	30	$	51,150
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Loop Replacement	14	EA	$	1,000	$	14,000
Temporary Water Pollution & Erosion Control	1	EST	$	2,000	$	2,000
Adjust Junction Box	3	EA	$	475	$	1,425
Adjust Manhole	19	EA	$	385	$	7,315
Adjust Valve	71	EA	$	300	$	21,300
Adjust Catch Basin	136	EA	$	310	$	42,160
Adjust Monument in Case	3	EA	$	250	$	750
Water Meter	3	EA	$	300	$	900
Traffic Control Labor**	L.S.	L.S.	$	37,000	$	37,000
Traffic Control Supervisor	160	HR	$	45	$	7,200
Traffic Control Vehicle	20	Day	$	50	$	1,000
Sequential Arrow Sign	480	HR	$	5	$	2,400
Subtotal					$	**559,755**
Mobilization	10.0%	L.S.	$	55,975	$	55,975
Subtotal					$	**615,730**
Sales Tax	8.6%					668,683
Construction Engineering	12.5%					83,585
					$	**752,268**

**60 working days, 2 laborers, 8 hours per day @ $35 per hour

Exhibit A-1
GCA 3432 Supplement No. 1
SR 99, S 216th St to SR 516 ACP
Overlay

passed 6-0

CONSENT CALENDAR
Item #5

AGENDA ITEM

SUBJECT: General Maintenance Agreement (GM 1385) with WSDOT for Operation and Maintenance of all Signals within the City Limits ATTACHMENTS: 1. WSDOT General Maintenance Agreement (GM 1282) 2. WSDOT General Maintenance Agreement (GM 1385)	AGENDA OF: September 4, 2003 DEPT. OF ORIGIN: Public Works DATE SUBMITTED: August 24, 2003 CLEARANCES: [X] Finance ______ [X] Public Works ______ [X] Legal ______ APPROVED BY CITY MANAGER FOR SUBMITTAL: ______

Purpose and Recommendation:

The purpose of this item is to enter into a general maintenance agreement with the Washington State Department of Transportation (WSDOT) to cover the costs associated with the operation and maintenance on all traffic signals within the city limits.

Suggested Motions

1) "I move to enter into the attached general maintenance agreement with WSDOT (GM 1385) for an annual estimated cost of $69,506.88 for the operation and maintenance of all traffic signals within the city limits and further to authorize the City Manager to sign said agreement substantially in the form as submitted."

Background:

After the completion of the Marine View Drive/7th Avenue South Street Reconstruction Project, which improved both Marine View Drive and 7th Avenue South from approximately South 216th Street to approximately South 227th Street, the City entered into a general maintenance agreement with WSDOT (GM 1282 – Attachment 1) to cover the costs associated with the operation and maintenance of the new traffic signals that were installed as part of the above-mentioned project.

Since the signing of the initial general maintenance agreement (GM 1282), on October 14, 1994, the City has gone through some annexations which have caused the City to inherit more traffic signals from King County, and also caused the City population to rise above 22,500.

RCW 47.24.020 requires cities with populations above 22,500 to be responsible for, among other things, stability of the slopes of cuts and fills and the embankments for state routes within city limits; as well as all traffic control signals, regulatory signs, striping, and other traffic control devices on state routes within city limits. To date, WSDOT has been performing the necessary operation and maintenance work on all of the traffic signals within the city limits (17 full signals, 2 pedestrian signals, and 6 flashing signals) without having an actual contract or agreement. However, WSDOT has requested that the City execute a new agreement to incorporate all of the signals. After the completion of the Pacific Highway South Redevelopment Project, there will be two additional traffic signals, and one additional pedestrian signal.

The attached general maintenance agreement (GM 1385 – Attachment 2) includes all of the current traffic signals, pedestrian signals, and flashing beacons within the city limits, as well as those which will be added upon completion of the Pacific Highway South Redevelopment Project.

Discussion:

This general maintenance agreement (GM 1385 – Attachment 2) needs to be entered into with WSDOT, so that both parties are aware of what their responsibilities and duties are, as well as what their financial impacts are in relation to annual budgeting and parts requisition.

The traffic signal operation and maintenance agreement has not been amended since its inception in October of 1994, and both parties have been working together in a good faith effort to keep everything working in proper condition.

GM 1385 will place in writing what has been taking place over the last few years. The agreement is good for one year, and will automatically be renewed in yearly increments, unless either party desires to terminate it with 60 days written notice.

Alternatives:

The City could elect to not enter into the general maintenance agreement (GM 1385) with WSDOT, and contract with another provider for these services. However, the City's current experience with the WSDOT has been excellent. They have provided fast response on emergency calls; they have provided engineering assistance regarding signal timing; and their costs have been well under the budgeted amounts.

Financial Impact:

Per this general maintenance agreement (GM 1385), the City will pay WSDOT an estimated annual amount of $69,506.88 for the traffic signal operation and maintenance services. This amount will be included in the upcoming budget process. However, this is an "actual" cost agreement, and to date, the costs have been significantly less. This year the total costs from WSDOT will likely be less than $10,000. The cost for next year will also likely be lower than the estimate since the new signals from the Pacific Highway South Project will not require maintenance services until late in the year.

Recommendation/Conclusion:

Staff recommends that we enter into this general maintenance agreement (GM 1385) with WSDOT for traffic signal operation and maintenance.

Concurrence:

Legal and Finance are in agreement that the City should enter into this general maintenance agreement (GM 1385) with WSDOT.

AGREEMENT

THIS AGREEMENT, made and entered into this 14th day of October, 1994, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter called the "STATE", and the City of Des Moines, 21630 - 11th Avenue South, Des Moines, Washington, 98198, hereinafter called the "CITY";

WHEREAS, the CITY has constructed signal systems at 7th Avenue South and South 223rd Street and at 7th Avenue South and South 227th Street, and

WHEREAS, the CITY does not have the staff or expertise necessary to operate and maintain the signal systems, and

WHEREAS, it is desirable for the STATE to operate and maintain the CITY's signals, and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I

Upon execution of this agreement, the CITY will transfer operation and maintenance responsibilities to the STATE for the traffic signals and their appurtenances which provide traffic control on 7th Avenue South.

The STATE agrees to operate and maintain these signal in accordance with this agreement.

II

The CITY will arrange with the STATE's District Traffic Engineer to discuss potential operational problems and to provide keys for the existing CITY signal system controllers. Traffic signal timing and geometric sequences will be mutually agreed upon by the CITY and STATE.

III

At any time either party desires to terminate this agreement, they may do so with sixty (60) days advance written notice.

IV

The CITY, upon execution of this agreement, grants to the STATE permission to enter upon CITY right of way for the purposes of operating and maintaining the signal system.

V

The CITY agrees to reimburse the STATE for all actual direct and related indirect costs incurred for operation and maintenance of said existing CITY signals upon receipt of proper STATE billing. The STATE shall not bill more often than once per month. An estimate of cost is shown in Exhibit "A", attached hereto and by this reference made a part of this agreement.

VI

The STATE agrees to perform extraordinary maintenance on a reimbursable basis for the subject signals when authorized in writing by the CITY. Extraordinary maintenance is defined as the following:

1. Replacement of traffic signal and/or its appurtenances damaged or destroyed by outside forces or actions. Accidents, adverse weather, vandalism, or acts of God are causes which may precipitate this extraordinary maintenance.

2. Installation of a new traffic signal and/or appurtenances in the event replacement parts and/or materials become unavailable to allow the signal to function properly.

3. Installation of a new traffic signal as a part of the ongoing program for improvement to the CITY street system.

VII

The CITY will protect, save and hold harmless the STATE and their officers, agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the STATE, their assigns, agents, contractors, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this agreement. The CITY further agrees to defend the STATE and their authorized agents and employees in any litigation, including payment of any costs or attorney fees for any claims or action commenced thereon arising out of or in connection with the acts for activities authorized by this agreement. This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the STATE or the authorized agents or employees:

PROVIDED that if the claims or damages are caused by or result from the concurrent negligence of

a. STATE and their agents or employees, and

b. the CITY, it's agents or employees and involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the STATE, or their agents or employees.

No liability shall attach to the STATE or the CITY by reason of entering into this agreement except as expressly provided herein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CITY OF DES MOINES

City Manager

TITLE

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

BY Trans Aid Engineer

CHIEF MAINTENANCE ENGR.

APPROVED AS TO FORM:

ASSISTANT ATTORNEY GENERAL

Aug. 27 1998

DATED

GM 1282

EXHIBIT A

ESTIMATE OF
ANNUAL COST

ITEM OF WORK	COST	TOTAL
Preventative Maintenance	1,000.00	2,000.00
Engineering Services (8 hr / Signal @ $30 / hr)	240.00	480.00
SUBTOTAL (Normal Maintenance)	**$1,240.00**	**$2,480.00**
On-Call Maintenance (EMERGENCY assuming one call @ 4 hr every three months @ $35 / hr)	560.00	1,120.00
Material (estimated)	500.00	1,000.00
SUBTOTAL (Emergency)	**$1,060.00**	**$2,120.00**
ANNUAL TOTAL	**$2,300.00**	**$4,600.00**

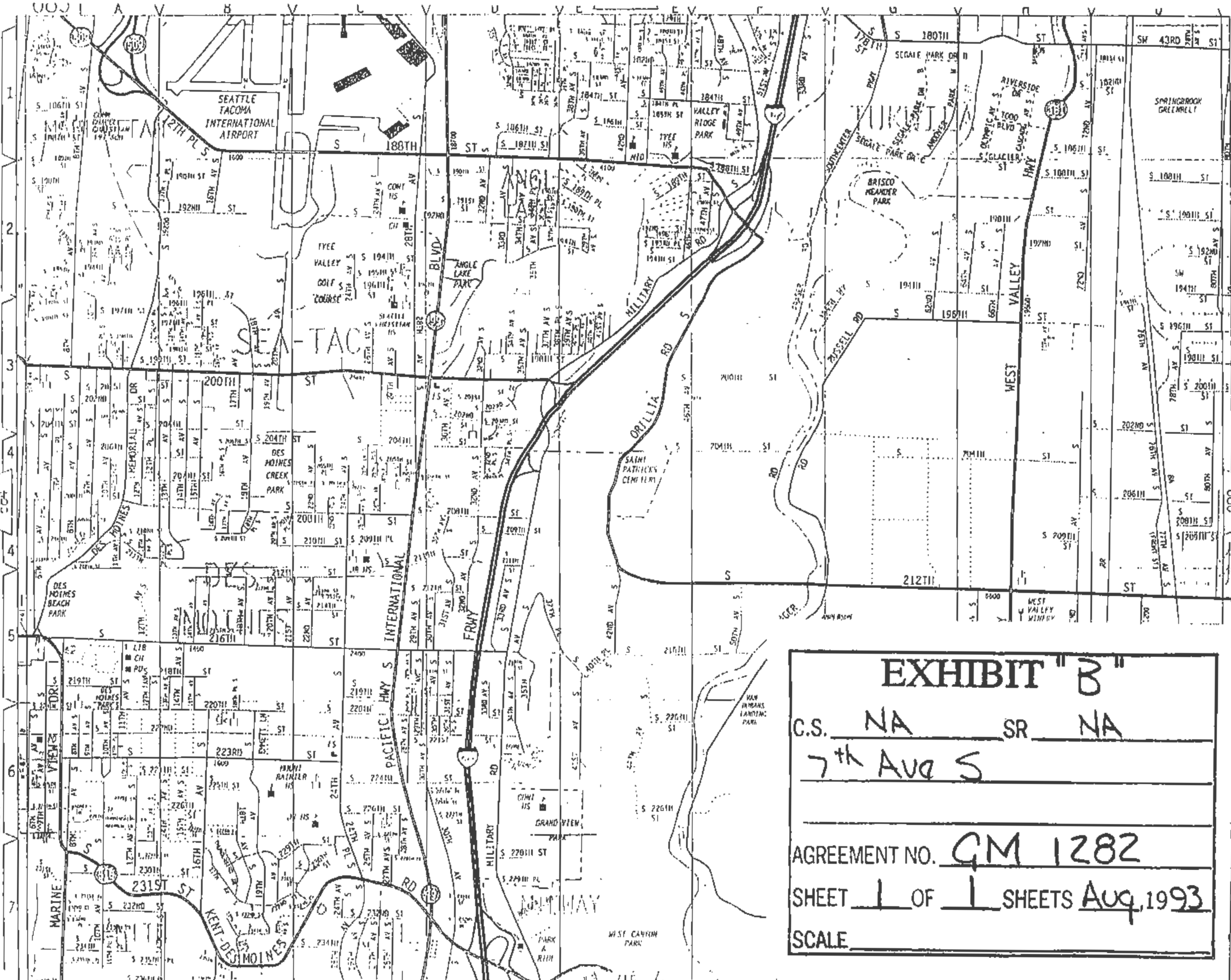

EXHIBIT "B"

C.S. NA SR NA

7th Ave S

AGREEMENT NO. GM 1282

SHEET 1 OF 1 SHEETS Aug, 1993

SCALE

GM 1385
GENERAL MAINTENANCE AGREEMENT

This **AGREEMENT** made and entered into this _____ day of _____________, 2003, is by and between the **State of Washington,** Department of Transportation, acting through the Secretary of Transportation, hereinafter called the **"STATE"**, and the **City of Des Moines** in King County, hereinafter called the **"CITY"**, acting through the chief executive of the **City of Des Moines,** hereinafter called the **"CITY MANAGER".**

WHEREAS, the **CITY** owns certain traffic signal systems, and

WHEREAS, it would be to the mutual benefit of the **STATE** and the **CITY** for the **STATE** to perform the operation and maintenance of those traffic signal systems to the extent set forth in this Agreement and to establish, in writing, each party's responsibility.

WHEREAS, maintenance of some of these signals has been addressed previously in general maintenance agreement GM1282 dated October 14, 1994, and

NOW THEREFORE, by virtue of RCW 47.28.140 and in consideration of the terms, conditions, covenants, and performance contained herein or attached and made part of, IT IS MUTUALLY AGREED AS FOLLOWS:

I
GENERAL

The **STATE** agrees to perform certain activities regarding the maintenance and operation of the designated traffic signal systems owned by the **CITY** as identified in Exhibit "A" attached hereto and by this reference made part of this Agreement.

The **CITY** and **STATE** will meet as necessary, at a minimum annually, to review matters related to coordination, system changes, and maintenance and operations for the **CITY** - owned traffic signal systems. The **STATE** will coordinate the review of modifications of the systems with the **CITY** prior to implementation. However, the **STATE** may undertake such repairs as are necessary, in the exercise of its reasonable discretion, to remedy any immediate traffic hazard without prior notice or consultation with the **CITY.** The **STATE** is responsible for implementing and maintaining necessary traffic control while making such repairs.

ATTACHMENT 2

General Maintenance Agreements GM 1209 and GM 0785 will, upon execution of General Maintenance Agreement GM 1385, become null and void.

II
STATE RESPONSIBILITY

As to the traffic signal systems identified in Exhibit "A," the **STATE** shall be responsible to perform the following tasks:

A. Signal Timing.

1. Perform original signal phasing and timing plans and all revisions thereto, as determined by the **STATE**. All such plans and revisions, except for temporary changes related to maintenance, shall be reviewed by the **CITY** before the plan and/or any revisions are implemented.

B. Routine Maintenance and Operation.

Provide routine maintenance and operation, which shall involve the performance of the following activities:

1. Day to day operation of signal timing, to include coordination and adjustments.
2. Removal and replacement of failed components (i.e. load switches, loop amplifiers, conflict monitors, etc.) inside the control cabinet. These components, installed by the **STATE** shall be replaced with **CITY** owned components or the **CITY** may purchase a new component from the **STATE**.
3. Replacing signal lamps that burn out.
4. Annual signal head cleaning and re-lamping.
5. Maintaining all associated interconnects.
6. Maintaining accurate maintenance records, as to the time and materials used in completing the various tasks for each location.
7. Routine preventative maintenance consistent with the **STATE'S** current preventative maintenance standards.

C. Emergency Maintenance

1. The **STATE** agrees to perform emergency maintenance on said traffic signal systems at **CITY** expense. Emergency maintenance includes repair or replacement of traffic signal systems or components and the necessary traffic control for **STATE** workers to perform the work. The **STATE** shall notify the **CITY** within 24 hours of the emergency work as to any relevant information the **STATE** may possess if the damage was caused by a third party.

D. Replacement or repair caused by accidents, vandalism, adverse weather or unanticipated forces or action.

1. The **STATE** agrees to perform replacement or repair of the traffic signal system components at **CITY** expense, if the damage was caused by accidents, vandalism, adverse weather or unanticipated forces or actions.

2. The **STATE** shall notify the **CITY** within 24 hours of the replacement or repair work as to any relevant information the **STATE** may possess if the damage was caused by a third party.

E. Additional work

The **STATE** will not perform work except as covered by paragraphs A, B, C and D above, except that the **CITY** may request that the **STATE** perform additional work at **CITY** expense. In that event, the parties will enter into a Signal Assignment For Repair Or Replacement, as shown in Exhibit "D" attached hereto and by this reference made a part of this Agreement.

F. Standards

Work to be performed by the **STATE** will be consistent with current **STATE** practices concerning the operation and maintenance of traffic signal systems as set forth as follows:

1. Components employed in traffic signal systems, Intelligent Transportation Systems (ITS) or any other electrical installation will conform to requirements of WAC 296-46A-104 Traffic management systems.

2. Work will be performed in accordance with section 2500, 2600 and 2700 (if illumination maintenance is included in the Agreement) of the current Time Standards Manual M54-05 for maintenance procedures for traffic signals, highway lighting and ITS equipment.

3. Work performed on these signal systems will be documented in Signal Maintenance Management records.

III
CITY RESPONSIBILITY

The **CITY'S** responsibilities regarding the designated traffic signal systems identified in Exhibit "A" shall include the following:

A. Payment of operational power costs associated with all signals.

B. Maintain **CITY** owned intersection illumination.

C. Provide maintenance, operation, repair and replacement activities that are not covered in Section II, STATE RESPONSIBILITY of this Agreement.

D. Request the **STATE** to perform repair or replacement work of the signal systems by using the Signal Assignment For Repair form as shown in Exhibit "D".

IV
SIGNAL ASSIGNMENT or DELETION

This Agreement may be amended to add or delete **CITY** owned traffic signal systems by way of a Signal Assignment or Deletion document, as shown in Exhibit "C" attached hereto and by reference made a part of this Agreement. The supplemental document shall include as a minimum a description of the signal installation(s) to be added or deleted and the system(s) precise location. The effective date of coverage or deletion shall be defined in the Signal Assignment or Deletion document.

The Signal Assignment or Deletion form shall be signed on behalf of the **STATE** by the Regional Administrator or his/her designee. The **CITY** shall review the Signal Assignment or Deletion document and indicate concurrence by authorized signature, and returning one copy of the document with original signatures to the **STATE.**

A signal may be deleted from this **AGREEMENT** at the discretion of either party upon 30 days written notice to the other.

V
PAYMENT AND ASSOCIATED COST

The estimated cost of routine maintenance and operation in (the current year) is as defined in Exhibit "B" attached hereto and by reference made part of this Agreement. The **CITY** agrees to set aside funds for payment to the **STATE** for such work in this amount. It is anticipated that actual costs will rise in subsequent years as materials, wages and other costs increase.

The **CITY** further agrees to reimburse the **STATE** for the actual cost of work covered by this Agreement including additional work for emergency maintenance and additional work performed at the request of the **CITY**. Payments shall be made upon presentation of progress billings by the **STATE,** and within thirty (30) days after the **CITY** has received each billing.

The **CITY** agrees that if payment for the work is not made within forty-five (45) days after the **CITY** has been billed for the work, the **STATE** may withhold any monies which the **CITY** is entitled to receive from the Motor Vehicle Fund and apply the withheld monies to the amount billed by the **STATE** until satisfied. The withholding shall not apply if, in the State's good faith opinion, the amounts owed are subject to a bona fide dispute.

During the progress of any and all work assigned to the **STATE**, and for a period of not less than three years from the date of payment to the **STATE** for that work the records and accounts pertaining to said work and accounting therefore are to be kept available for inspection and audit by the **CITY**. Copies of all records, accounts, documents, or other data pertaining to the project will be furnished upon request to the **CITY**.

If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim or audit finding has been resolved even though such litigation, claim or audit continues past the three-year retention period.

In the event that it is determined that an overpayment has been made to the **STATE** by the **CITY**, the **CITY** will bill the **STATE** for the amount of overpayment.

VI
RIGHT OF ENTRY

The **CITY** grants the **STATE** access to **CITY** right-of-way for the purpose of performing operation, maintenance, repair or replacement of the signal systems designated in Exhibit "A" and any systems that are added to this **AGREEMENT** by way of the Signal Assignment document Exhibit "C".

VII
TERM OF AGREEMENT

The term of this **AGREEMENT** shall be for up to one year, beginning on the date first entered above, and ending on December 31 of that year. This **AGREEMENT** shall automatically be renewed on a calendar year basis unless written notice of termination is given by either party by the preceding November 1 of any such year. Failure of either party to notify the other of such termination on or before November 1 of any such year shall cause this **AGREEMENT** to automatically be renewed for the next ensuing calendar year.

Either the **STATE** or the **CITY** may terminate this **AGREEMENT** for any reason with written notice to the other party at the end of sixty (60) calendar days following receipt of notice. Termination of this agreement shall constitute termination of all associated signal assignment documents as well. Upon such notice, the **STATE** shall have no further responsibility of any kind or nature regarding the **CITY'S** traffic signal systems, including any systems that were added to this **AGREEMENT** by amendment.

VIII
LEGAL RELATIONS

Each of the **PARTIES** to this **AGREEMENT** shall protect, defend, indemnify, and save harmless the other **PARTY**, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, each of the **PARTY'S** negligent acts or omissions.

No **PARTY** will be required to indemnify, defend, or save harmless the other **PARTY** if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other **PARTY**. Where such claims, suits, or actions result from concurrent negligence of the **PARTIES**, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the **PARTY'S** own negligence. Each of the **PARTIES** agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the **PARTIES**, by mutual negotiation, hereby waives, with respect to each of the other **PARTY** only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that any of the **PARTIES** or combination of the **PARTIES** incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this Section, all such fees, expenses, and costs shall be recoverable from the responsible **PARTY** or combination of the **PARTIES** to the extent of that **PARTY'S**/those **PARTIES'** culpability. This indemnification shall survive the termination of this **AGREEMENT**.

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this **AGREEMENT**, the **PARTIES** hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Thurston County, Washington.

All claims brought which arise out of, in connection with, or incident to the execution of this **AGREEMENT** will be forwarded to the **CITY** for initial processing. Any such claims believed to be caused by the concurrent or sole negligence of the **STATE** will be formally tendered to the General Administration/Office of Risk Management for processing pursuant to RCW 4.92.100.

IN WITNESS WHEREOF, the parties hereto have executed this **AGREEMENT** as of the day and year first above written.

STATE OF WASHINGTON **DEPARTMENT OF TRANSPORTATION**	**CITY OF DES MOINES** of King County
By: ______________________	By: ______________________
NW Region Maintenance Engineer	City Manager
Approved As To Form:	Approved As To Form:
Assistant Attorney General	Attorney for CITY
Date: ______________________	Date: ______________________

EXHIBIT "A"
AGREEMENT GM 1385

Signal Locations To Be Maintained

Intersection of 1st Ave. S./Marine View Drive and Des Moines Memorial Drive

Intersection of S. 216th Street and 7th Place S./Marine View Drive

Intersection of S. 216th Street and Pacific Highway S.

Intersection of S. 220th Street and Pacific Highway S.

Intersection of S. 223rd Street and Marine View Drive S.

Intersection of S. 224th Street and Pacific Highway S.

Intersection of S. 227th Street and Marine View Drive S.

Intersection of 7th Ave S. and S. 223rd Street

Intersection of 7th Ave S. and S. 227th Street

Intersection of Marine View Drive/8th Ave. S. and Kent-Des Moines Road

Intersection of 16th Ave. S. and Kent-Des Moines Road

Intersection of 24th Ave. S./25th Ave. S. and Kent-Des Moines Road

Intersection of Kent-Des Moines Road and Pacific Highway South

Intersection of 16th Ave S and S. 240th Street

Intersection of 16th Ave S and S. 260th Street

Intersection of 16th Ave S and Woodmont Drive

Intersection of 16th Ave S and S. 272nd Street

Intersection of 8th Ave. S. and S. 200th Street

Pedestrian Signal at S. 216th Street and Wesley Homes

Pedestrian Signal at S. 226th Street and Pacific Highway South

Red Flasher at intersection of 16th Ave. S and S. 250th Street

Red Flasher at intersection of Redondo Beach Drive and Redondo Way

Amber Flasher at intersection of 16th Ave. S and Woodmont Elementary

Flashing Warning at intersection of Marine View Drive South & S. 240th Street

Flashing Warning at intersection of Kent-Des Moines Road and 18th Ave. S

EXHIBIT "B"
AGREEMENT GM 1385

LOCATIONS SIGNALIZED INTERSECTIONS	Yearly Maintenance	Periodic Maintenance	Total Estimated Annual Costs
1st Ave. S./Marine View Drive and Des Moines Memorial Drive	$3,376.05	$160.67	$3,536.72
S. 216th Street and 7th Place S./Marine View Drive	$3,376.05	$160.67	$3,536.72
S. 216th Street and Pacific Highway S.	$3,376.05	$160.67	$3,536.72
S. 220th Street and Pacific Highway S.	$3,376.05	$160.67	$3,536.72
S. 223rd Street and Marine View Drive S.	$3,376.05	$160.67	$3,536.72
S. 224th Street and Pacific Highway S.	$3,376.05	$160.67	$3,536.72
S. 227th Street and Marine View Drive S.	$3,376.05	$160.67	$3,536.72
7th Ave S. and S. 223rd Street	$3,376.05	$160.67	$3,536.72
7th Ave S. and S. 227th Street	$3,376.05	$160.67	$3,536.72
Marine View Drive/8th Ave. S. and Kent-Des Moines Road	$3,376.05	$160.67	$3,536.72
16th Ave. S. and Kent-Des Moines Road	$3,376.05	$160.67	$3,536.72
24th Ave. S./25th Ave. S. and Kent-Des Moines Road	$3,376.05	$160.67	$3,536.72
Kent-Des Moines Road and Pacific Highway South	$3,376.05	$160.67	$3,536.72
16th Ave S and S. 240th Street	$3,376.05	$160.67	$3,536.72
16th Ave S and S. 260th Street	$3,376.05	$160.67	$3,536.72
16th Ave S and Woodmont Drive	$3,376.05	$160.67	$3,536.72
16th Ave S and S. 272nd Street	$3,376.05	$160.67	$3,536.72
PEDESTRIAN SIGNALS			
Pedestrian Signal at S. 216th Street and Wesley Homes	$4,048.25	$160.67	$4,208.92
Pedestrian Signal vicinity S. 226th and Pacific Highway S. (McDonalds)	$4,048.25	$160.67	$4,208.92
RED FLASHERS			
Red Flasher at Redondo Beach Drive and Redondo Way	$160.80		$160.80
Red Flasher at 16th Ave. S and S. 250th Street	$160.80		$160.80
Red Flasher at 8th Ave. S. and S. 200th Street	$160.80		$160.80
AMBER FLASHERS			
Flashing Warning at Marine View Drive South & S. 240th Street	$160.80		$160.80
Flashing Warning at Kent-Des Moines Road and 18th Ave. S	$160.80		$160.80
Amber Flasher at 16th Ave. S and Woodmont Elementary	$160.80		$160.80
TOTAL ESTIMATED ANNUAL COSTS			$69,506.88

EXHIBIT "B"
AGREEMENT GM 1385

SIGNAL MAINTENANCE ESTIMATE OF COSTS

The annual cost to maintain a traffic signal employing WSDOT Electronics Technicians and Traffic Signal Technicians is shown below. The rates reflect the current personnel costs and do not reflect any cost of living raises that state employees may receive in the future.

This estimate assumes that red and green LED indicators are replaced every 6 years and incandescent amber indicators are replaced every 3 years.

These figures do not reflect modifications or changes to the signals. Work of that nature must be funded separately:

ESTIMATED ANNUAL COSTS FOR SIGNALS:

One annual Traffic Signal Controller cabinet Major Preventive Maintenance (PM). Requires one Transportation Systems Technician, Electronics-C with a van and takes four hours:

1 TST-C – 4 hours @ $36.03 per hour		$144.12
1 Van – 4 hours @ $3.18 per hour		$ 12.72
Material		$ 50.00
	Total	$206.84

Twelve Monthly Minor Traffic Signal PM's Each PM requires one TST, Electronics-C with a van and takes 30 minutes to complete. This totals to six hours per year.

1 TST-C – 6 hours @ $36.03 per hour		$216.18
1 Van – 6 hours @ $3.18 per hour		$ 19.08
Material		$ 10.00
	Total	$245.26

Annual Traffic Signal Lamp Replacement- All but two of these signals are already equipped with LED's so the annual red and green re-lamps will not be required except for the signal at 8th Ave. S. and S. 200th Street and the pedestrian crosswalk at S.216th Street and Wesley Homes. Costs for these two locations are addressed on sheet 3 of 5. Costs for replacement of amber lamps are shown on sheet 4 of 5.

	Total	$ 0.00

SIGNAL MAINTENANCE ESTIMATE OF COSTS (Continued)

Signal Operations. An operations Engineer devotes approximately thirty six (36) hours per year to each signal in an interconnected system.

1 Traffic Engineer 3 - 36 hours @ $33.35 per hour		$1200.60
1 Van - 36 hours @ $2.77 per hour		$ 99.72
	Total	$1300.32

Emergency callouts – This can be the most difficult area to estimate as some signals require little or no after hours work where others can be very problematical. The material involved in repairs can also vary drastically. For purposes of this estimate we assume two after hours call outs per year for a TST-C Electronics and one after hour call out per year for a signal crew. It should also be noted that the callouts reduce drastically in signals equipped with LED's vice incandescent lamps. This estimate assumes incandescent lamps although the former state signals are already equipped with LED's.

1 TST-C Electronics – 8 hours @ $46.74 per hour		$373.92
1 Van – 4 hours @ $3.18 per hour		$ 12.72
1 TST-C Electrical – 8 hours @ $46.74 per hour		$373.92
1 TST-B Electrical – 8 hours @ $44.52 per hour		$356.16
Total material costs		$200.00
	Total	$ 1316.72

SUBTOTAL YEARLY MAINTENANCE COSTS $ 3069.14

Contingency – A 10% contingency is added to cover oversights and shortfalls.

Contingency – 10% of $3069.14 $ 306.91

Total Estimated Annual Cost per Signal - $3376.05*

*Annual costs for the pedestrian crosswalks would be identical with the Total Estimated Annual Cost per Signal - $3536.72 plus an additional $672.20 each for one annual Traffic Signal Lamp replacement. The total annual cost for each of these locations would then be $4208.92 per year.

SIGNAL MAINTENANCE ESTIMATE OF COSTS (Continued)

ESTIMATED PERIODIC COSTS:

EVERY SIX YEARS:

The LED equipped signals will require replacement of their LED's every sixth year. The LED's were all installed this year so in 2008 we will have the added expense of changing all of the LED's. LED prices are currently going down each year so it is difficult to predict in advance what replacement units will cost in 2008. This year we paid the following rates:

a. 12" Red Balls - $74.90 ea
b. 12" Red Arrows - $88.56 ea
c. 12" Green Balls - $170.00 ea
d. 12" Green Arrows - $104.75 ea
e. The other costs associated with LED Traffic Signal Lamp replacement are a traffic signal crew, a man lift truck and takes approximately eight hours to complete.

1 TST-C – 8 hours @ $36.03 per hour		$288.24
1 TST-B – 8 hours @ $34.47 per hour		$275.76
Miscellaneous Material		$ 20.00
	Total	$584.00

Annual Cost Per Signal $ 97.33

EVERY THREE YEARS:

LED equipped signals also employ incandescent Amber indications. Due to the very short period the amber lamps are on, we anticipate only replacing them every third year. In 2008 there would be no additional cost, as the fees would be absorbed as part of the LED replacement (paragraph 5). Replacement of the amber lamps will add the following cost to the signal maintenance in the year it is accomplished, 2005 & 2011:

This procedure requires a traffic signal crew, a man lift truck and takes approximately two hours to complete.

1 TST-C – 2 hours @ $36.03 per hour		$ 72.00
1 TST-B – 2 hours @ $34.47 per hour		$ 69.00
12 Signal Lamps @ $2.45 ea		$ 29.00
Miscellaneous Material		$ 20.00
	Total	$190.00

Annual Cost Per Signal $ 63.33

SIGNAL MAINTENANCE ESTIMATE OF COSTS (Continued)

ANNUAL COSTS FOR FLASHING BEACONS AND ADVANCE WARNING FLASHERS:

Annual re-lamp and repair requiring one Signal maintenance crew and a man lift truck. The work would require approximately 2 hours to complete:

1 TST-C – 2 hours @ $36.03 per hour	$ 72.00
1 TST-B – 2 hours @ $34.47 per hour	$ 69.00
4 Signal Lamps @ $2.45 ea	$ 9.80
Miscellaneous Material	$ 10.00
Total	$160.80

The above rates are in effect for the current year 2002. The rates may be adjusted on January 1st of each succeeding year based upon WSDOT'S actual costs in providing such services. If the Agreement is renewed pursuant to Section VII, the local agency agrees to pay the rates that will be in effect for the ensuing calendar year.

Prepared 9/26/02
By Northwest Region Signal Maintenance

EXHIBIT "C"
AGREEMENT GM 1385

SIGNAL ASSIGNMENT OR DELETION

This Signal Assignment, made and entered into this _____ day of ____________, 2003, is by and between The **State of Washington,** Department of Transportation, by virtue of Title 47 RCW, hereinafter designated as the **"STATE"** and the **City of Des Moines,** 21630 11th Avenue South, Des Moines, WA 98198; hereinafter called the **"CITY".**

WHEREAS, General Maintenance Agreement Number **GM 1385** entered into between the **STATE** and the **CITY** is incorporated and by this reference, made a part of this Signal Assignment or Deletion as if fully set forth herein.

NOW THEREFORE, it is mutually agreed as follows:

<u>Signal Assignment</u>

The work proposed under this Signal Assignment includes the maintenance of off-system signal systems, which have been constructed at the following locations:

City-wide Signal System Maintenance.
See detailed listing in Exhibit 'A', Sheet 1 of 1.

<u>Effective Date</u>

The effective date to start the above noted Signal Assignment work is January 1, 2002.

IN WITNESS WHEREOF, the parties hereto have executed this Signal Assignment or Deletion as of the day and year first above written.

CITY OF Des Moines (King Co.)	**STATE OF WASHINGTON** **DEPARTMENT OF TRANSPORTATION**
By: ____________________ City Manager	By: ____________________ NW Region Maintenance Engineer

EXHIBIT "D"
AGREEMENT GM 1385

SIGNAL ASSIGNMENT FOR REPAIR OR REPLACEMENT

This Signal Assignment for Repair or Replacement, made and entered into this ______ day of __________________, 2003, by and between The **State of Washington**, Department of Transportation, by virtue of Title 47 RCW, hereinafter designated as the **"STATE"** and the **City of Des Moines,** 21630 11th Avenue South, Des Moines, WA 98198; hereinafter called the **"CITY"**.

WHEREAS, Master Agreement Number **GM 1385,** entered into between the **STATE** and the **CITY** is incorporated and by this reference, made a part of this Signal Assignment for Repair or Replacement as if fully set forth herein.

NOW THEREFORE, it is mutually agreed that the following work is to be performed by the **STATE** at **CITY** expense:

1. Description and Location of Existing Facility:

2. Description of Work:

3. Cost (labor, materials and overhead):

4. The effective date to start this Signal Assignment for Repair or Replacement is:

IN WITNESS WHEREOF, the parties hereto have executed this Signal Assignment for Repair or Replacement as of the day and year first above written.

CITY OF Des Moines (King Co.)	**STATE OF WASHINGTON** **DEPARTMENT OF TRANSPORTATION**
By: ___________________________ City Manager	By: ___________________________ NW Region Maintenance Engineer

NEW BUSINESS
Item #2

passed 4-2

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: RCAA 2002 Invoices

ATTACHMENTS:
A. July 11, 2003 letter from RCAA Regarding 2002 invoices
B. Agreement between the City of Des Moines and RCAA for 2002
C. March 6, 2003 Agenda Item Regarding RCAA 2002 invoices
D. Minutes of March 6, 2003 City Council Meeting

FOR AGENDA OF: September 4, 2003

DEPT. OF ORIGIN: City Manager's Office

DATE SUBMITTED: August 8,2003

CLEARANCES:
[ ] LAM

APPROVED BY CITY MANAGER FOR SUBMITTAL: AJ

Purpose and Recommendation

The purpose of this report is to provide the City Council an opportunity to review the July 11, 2003 letter from the Regional Commission on Airport Affairs (RCAA) regarding invoices for services they provided in 2002 to satisfy their responsibilities per the agreement between the City of Des Moines and RCAA and to determine whether or not the Council will authorize payment for these services. This item was placed on this agenda at the request of Councilmembers Sherman, Sheckler, and White.

Suggested Motion:

> "I move to authorize payment of $ ~~24,589.~~ $22,065.22 to the Regional Commission on Airport Affairs as full and final payment for services provided in 2002 out of the General Fund fund balance for the 2003 budget."

11/02 #

or

> "I move to direct staff to negotiate with RCAA regarding the amounts of the invoices for services rendered in 2002, including the interest assessed on each, and to process the final negotiated amounts for payment using the 2003 General Fund fund balance."

Background

For several years, the City of Des Moines contracted with RCAA to provide various services to educate the public concerning the environmental, economic and social effects of the proposed third runway and related expansion of Seattle-Tacoma International Airport. The attached copy of the 2002 agreement provides greater detail. For these services, the City agreed to pay RCAA $28,000 in quarterly installments of $7,000 each.

At its September 5, 2002, meeting, the City Council voted to terminate the contract with RCAA. The City Manager notified RCAA of this action in a letter dated September 10, 2002, with an effective date of October 14, 2002. Under paragraph 5 of the contract, RCAA is "entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City".

In September and October 2002, RCAA sent the City invoices totaling $22,065.22 for services rendered before the contract was terminated. At its March 6, 2003 meeting, the City Council declined to authorize payment of these invoices, finding that the services rendered did not warrant payment.

Discussion

On July 11, 2003, RCAA sent a letter to the City resubmitting their invoices for 2002. Councilmembers Sherman, Sheckler, and White requested that this letter and invoices from RCAA be placed on this agenda for discussion. The invoices include the original amounts of $7,000 per quarter for the first and third quarter and a pro-rated amount of $1,065.22 for the fourth quarter plus interest. The total amount without interest would be $15,065.22. With interest, the total is $16,749.78. The second quarter invoice was not included with the July 11, 2003, letter, but would amount to $7,000 without interest and approximately $7,800 with interest. As of the finalization of this agenda item, staff has a call into RCAA to see if this was an oversight and if so, if it can be corrected.

Alternatives

The City Council may elect to pay all, part or none of the RCAA invoices, based upon Council's evaluation of the quantity and quality of services performed by RCAA in 2002 on behalf of the City. The City Council may also direct staff to negotiate the amounts, including interest, billed on each invoice.

Financial Impact

The total billings in the July 11, 2003, letter amount to $15,065.22 without interest and $16,749.78 with interest. The second quarter invoice will total $7,000 plus some amount of interest. $28,000 was allocated in the 2002 Budget for the RCAA contract. Since none of this was expended, it was carried over into the 2003 budget as part of the fund balance.

Recommendation

None.

11 July 2003

COUNCIL - FYI
Copy: Linda

RCAA
Regional Commission on Airport Affairs
19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
FAX (206) 824-3451
<rcaa@earthlink.net>
www.rcaanews.org

Tony Piasecki
City Manager
City of Des Moines
21630 Eleventh Ave. So., Suite A
Des Moines, Washington 98198-6398

Re: RCAA billings to Des Moines:

Dear Mr Piasecki:

By direction of the Board of Directors of RCAA, I herewith resubmit our invoices for services provided to the City by RCAA under the services contract between Des Moines and this organization for calendar year 2002.

Please note that interest charges have been brought current to 1 July.

Yours very truly,

Chas. H.W. Talbot
Office Administrator

encls (4)

L03-192-2

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

11 July 2003

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, first quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due, original invoice, & per contract	$7,000.00
Interest from 1 April 2002, at statutory rate, 15 months	1,050.00
Total now past due	$8,050.00

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

14 October 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, portion, fourth quarter, 2002
As per contract between RCAA and the City of Des Moines

Normal quarterly payment per contract, $7000
Fourth quarter, 92 days
Contract days, 14
Percentage, 15.2
Prorated amount due: 0.152 x 7000 = $1065.22

Amount due:	$1,065.22
Interest from 1 November, at statutory rate, seven months	74.57
Total now past due	$1,139.78

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

11 July 2003

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, third quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due, original invoice, & per contract	$7,000.00
Interest from 1 October 2002, at statutory rate, eight months	560.00
Total now past due	$7,560.00

AGREEMENT FOR SERVICES
BY AND BETWEEN
THE CITY OF DES MOINES AND
THE REGIONAL COMMISSION ON AIRPORT AFFAIRS ("RCAA")
FOR THE YEAR 2002

The CITY OF DES MOINES ("City"), a municipal corporation, and the **REGIONAL COMMISSION ON AIRPORT AFFAIRS ("RCAA")** agree as follows:

FACTS AND ASSUMPTIONS

THIS AGREEMENT is entered into on the basis of the following facts and assumptions:

RCAA is a corporation, incorporated under the Nonprofit Corporations Act of the State of Washington.

The purpose for which RCAA is organized is to actively oppose the proposed third runway and related expansion of Seattle-Tacoma International Airport (Sea-Tac Airport) and to educate the local public concerning the environmental, economic, and social effects.

The RCAA recognizes that the City, in cooperation with the Airport Communities Coalition (ACC), is or may become engaged in litigation with the Port of Seattle, the Federal Aviation Administration, the Puget Sound Regional Council and others regarding many of the same issues with which the RCAA is concerned.

For these reasons, the City Council of the City of Des Moines has allocated funds to contract with RCAA which will be of assistance to the City in regards to the third runway or expansion of Sea-Tac Airport.

AGREEMENT FOR SERVICES

Accordingly, and in reference to the foregoing, the parties agree as follows:

1. RCAA Responsibilities

(a) RCAA shall provide to the City services which the City may from time to time require in achieving the goals previously described with regard to the third runway or expansion of Sea-Tac Airport. These services shall include the following:

- Information booths at public festivals in Burien, Normandy Park, Des Moines, Federal Way, Tukwila, Beacon Hill, Magnolia and other areas impacted by the expansion of Sea-Tac Airport;
- Schedule monthly citizen involvement activities in Olympia, Seattle, Sea-Tac Airport and the Greater Puget Sound Region, as necessary;

- Host town meetings in the Greater Puget Sound Region to inform and educate the public and elected officials as needed.
- Maintain a web site to provide in-depth and immediate information to the public;
- Publish a quarterly newsletter;
- Recruit new members;
- Expand the mailing list upon request of city councils;
- Send action alerts to all RCAA members as deemed necessary by the RCAA Board of Directors;
- Placement of informational advertisements as deemed necessary by the RCAA Board of Directors;
- Conduct elected official outreach at the state, county, and local levels;
- Provide other activities as deemed necessary by city councils;

(b) RCAA shall ensure that all of its activities on behalf of the City are in compliance with applicable state, federal and local law, including without limitation, any reporting requirements of the Washington Public Disclosure Commission that are applicable, or in the future become applicable, to actions or assignments undertaken by RCAA;

(c) RCAA will at all times maintain accurate and appropriate financial records. At any time during the term of this Agreement, within seven (7) days of a written request from the Des Moines Finance Director, RCAA agrees to make available to the City Finance Director for audit and inspection any and all records maintained by RCAA, including without limitation, receipts for goods, services, payroll, expenditures, and study costs; and

(d) RCAA will regularly seek contributions through its mailings and public activities.

2. Limitations on RCAA Activities

To ensure that RCAA's efforts are consistent with and complement the City's efforts through the ACC, the RCAA shall not use City funds for the following activities, without the prior approval of the City:

- Retaining experts or professionals to assist in developing technical information related to the impacts of Sea-Tac Airport;
- Dissemination of technical reports or other technical information prepared in contemplation of litigation, or in any manner related to the issues raised (or to be raised) in ACC litigation;
- Retain any professional or consultant who has been retained by the ACC (unless approved by the ACC); or

- Publication (including electronic publication) of any attorney/client privileged materials prepared for litigation by the ACC, its counsel, consultants, or staff.

3. RCAA Meeting Requirements

An officer of the RCAA shall meet with a member or members of the City staff on a periodic basis so that the City may provide RCAA with its requirements and RCAA may report on services rendered.

4. City Responsibilities

In consideration of the services performed by RCAA, the City shall compensate RCAA in the amount of twenty-eight thousand dollars ($28,000.00) during the year 2002, payable in four installments, which shall be paid on or before February 15, 2002, May 15, 2002, August 15, 2002, and November 15, 2002, or when otherwise authorized by the City Council..

5. Termination

This contract may be terminated by either party upon thirty (30) days written notice, in which event RCAA will be entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City.

6. Independent Contractor, Hold Harmless Agreement

RCAA warrants and understands that in performing services under this agreement, it is an independent contractor and is not an agent, servant, or employee of the City of Des Moines and it will not represent itself as such. RCAA agrees to defend, indemnify, and hold the City, its officers, officials, agents, employees, and volunteers harmless from any claim, damages, suit, action or liability, costs of expenses in law or equity, including attorney fees and expenses in defending against any such claim because of damages to property or personal injury arising out of the services performed under this agreement, which may be occasioned by any willful or negligent act or omission of RCAA, or any of RCAA's agents, servants, employees, or subcontractors, except to the extent such injury is caused by the negligent or willful misconduct of the City, its directors, officers, agents, servants, or employees.

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7. Ratification, Confirmation, and Retroactive Application.

Any acts consistent with the authority and prior to the effective date of this agreement are hereby ratified and confirmed. This agreement is effective as of January 1, 2002.

DATED this 1st day of February, 2002.

APPROVED AS TO FORM:

Gary N. McLean
City Attorney

CITY OF DES MOINES

By

Robert L. Olander
Its City Manager

REGIONAL COMMISSION ON AIRPORT AFFAIRS

By

Its President

CONTRACT:RCAA 2002; 12/07/01

DISCUSSION ITEM
#1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: RCAA Final BIlling	FOR AGENDA OF: March 6, 2003
ATTACHMENTS: Various Letters and Memos regarding RCAA's Agreement with Des Moines and Final Payment	DEPT. OF ORIGIN: City Manager's Office
	DATE SUBMITTED: November 27, 2002
	CLEARANCES: [ ] Legal ______
	APPROVED BY CITY MANAGER FOR SUBMITTAL: ______

Purpose and Recommendation

The purpose of this report is to provide the City Council an opportunity to review the information supplied by the Regional Commission on Airport Affairs (RCAA) regarding the services they provided in 2002 to satisfy their responsibilities per the agreement between the City of Des Moines and RCAA and to determine the final payment amount the Council will authorize for these services.

Suggested Motion:

> "I move to authorize payment of $__________ to the Regional Commission on Airport Affairs as full and final payment for services provided in 2002."

Background

The City of Des Moines contracts with RCAA to provide various services to educate the public concerning the environmental, economic and social effects of the proposed third runway and related expansion of Seattle-Tacoma International Airport. The attached copy of the 2002 agreement provides greater detail. For these services, the City agreed to pay RCAA $28,000 in quarterly installments of $7,000 each.

Discussion

At its September 5, 2002, meeting, the City Council voted to terminate the contract with RCAA. The City Manager notified RCAA of this action in a letter dated September 10, 2002, with an effective date of October 14, 2002. Under paragraph 5 of the contract, RCAA is "entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City".

On September 6, 2002, RCAA sent the City an invoice for $7,000 for services rendered in the first quarter of 2002, and an invoice for $7,000 for services rendered in the second quarter of 2002. Attached to these two invoices was a detailed list of RCAA's 2002 expenditures to date. On September 20, 2002, RCAA invoiced the City $7,000 for services rendered in the third quarter. Finally, on October 14, 2002, RCAA sent a final, pro rata invoice totaling $1,065.22 for the first 14 days of the fourth quarter. Attached to this invoice was a letter detailing the services RCAA has rendered on behalf of the City and copies of several years worth of RCAA newsletters. All of this material has been previously given to the City Council and is attached to this report for Council's convenience.

Alternatives

The City Council may elect to pay all, part or none of the billings from RCAA, based upon Council's evaluation of the quantity and quality of services performed by RCAA on behalf of the City.

Financial Impact

The total billings amount to $22,065.22. $28,000 was allocated in the 2002 Budget for the RCAA contract.

Recommendation

None.

AGREEMENT FOR SERVICES
BY AND BETWEEN
THE CITY OF DES MOINES AND
THE REGIONAL COMMISSION ON AIRPORT AFFAIRS ("RCAA")
FOR THE YEAR 2002

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FACTS AND ASSUMPTIONS

THIS AGREEMENT is entered into on the basis of the following facts and assumptions:

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The purpose for which RCAA is organized is to actively oppose the proposed third runway and related expansion of Seattle-Tacoma International Airport (Sea-Tac Airport) and to educate the local public concerning the environmental, economic, and social effects.

The RCAA recognizes that the City, in cooperation with the Airport Communities Coalition (ACC), is or may become engaged in litigation with the Port of Seattle, the Federal Aviation Administration, the Puget Sound Regional Council and others regarding many of the same issues with which the RCAA is concerned.

For these reasons, the City Council of the City of Des Moines has allocated funds to contract with RCAA which will be of assistance to the City in regards to the third runway or expansion of Sea-Tac Airport.

AGREEMENT FOR SERVICES

Accordingly, and in reference to the foregoing, the parties agree as follows:

1. RCAA Responsibilities

(a) RCAA shall provide to the City services which the City may from time to time require in achieving the goals previously described with regard to the third runway or expansion of Sea-Tac Airport. These services shall include the following:

- Information booths at public festivals in Burien, Normandy Park, Des Moines, Federal Way, Tukwila, Beacon Hill, Magnolia and other areas impacted by the expansion of Sea-Tac Airport;
- Schedule monthly citizen involvement activities in Olympia, Seattle, Sea-Tac Airport and the Greater Puget Sound Region, as necessary;

- Host town meetings in the Greater Puget Sound Region to inform and educate the public and elected officials as needed.
- Maintain a web site to provide in-depth and immediate information to the public;
- Publish a quarterly newsletter;
- Recruit new members;
- Expand the mailing list upon request of city councils;
- Send action alerts to all RCAA members as deemed necessary by the RCAA Board of Directors;
- Placement of informational advertisements as deemed necessary by the RCAA Board of Directors;
- Conduct elected official outreach at the state, county, and local levels;
- Provide other activities as deemed necessary by city councils;

(b) RCAA shall ensure that all of its activities on behalf of the City are in compliance with applicable state, federal and local law, including without limitation, any reporting requirements of the Washington Public Disclosure Commission that are applicable, or in the future become applicable, to actions or assignments undertaken by RCAA;

(c) RCAA will at all times maintain accurate and appropriate financial records. At any time during the term of this Agreement, within seven (7) days of a written request from the Des Moines Finance Director, RCAA agrees to make available to the City Finance Director for audit and inspection any and all records maintained by RCAA, including without limitation, receipts for goods, services, payroll, expenditures, and study costs; and

(d) RCAA will regularly seek contributions through its mailings and public activities.

2. Limitations on RCAA Activities

To ensure that RCAA's efforts are consistent with and complement the City's efforts through the ACC, the RCAA shall not use City funds for the following activities, without the prior approval of the City:

- Retaining experts or professionals to assist in developing technical information related to the impacts of Sea-Tac Airport;
- Dissemination of technical reports or other technical information prepared in contemplation of litigation, or in any manner related to the issues raised (or to be raised) in ACC litigation;
- Retain any professional or consultant who has been retained by the ACC (unless approved by the ACC); or

- Publication (including electronic publication) of any attorney/client privileged materials prepared for litigation by the ACC, its counsel, consultants, or staff.

3. RCAA Meeting Requirements

An officer of the RCAA shall meet with a member or members of the City staff on a periodic basis so that the City may provide RCAA with its requirements and RCAA may report on services rendered.

4. City Responsibilities

In consideration of the services performed by RCAA, the City shall compensate RCAA in the amount of twenty-eight thousand dollars ($28,000.00) during the year 2002, payable in four installments, which shall be paid on or before February 15, 2002, May 15, 2002, August 15, 2002, and November 15, 2002, or when otherwise authorized by the City Council..

5. Termination

This contract may be terminated by either party upon thirty (30) days written notice, in which event RCAA will be entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City.

6. Independent Contractor, Hold Harmless Agreement

RCAA warrants and understands that in performing services under this agreement, it is an independent contractor and is not an agent, servant, or employee of the City of Des Moines and it will not represent itself as such. RCAA agrees to defend, indemnify, and hold the City, its officers, officials, agents, employees, and volunteers harmless from any claim, damages, suit, action or liability, costs of expenses in law or equity, including attorney fees and expenses in defending against any such claim because of damages to property or personal injury arising out of the services performed under this agreement, which may be occasioned by any willful or negligent act or omission of RCAA, or any of RCAA's agents, servants, employees, or subcontractors, except to the extent such injury is caused by the negligent or willful misconduct of the City, its directors, officers, agents, servants, or employees.

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7. ***Ratification, Confirmation, and Retroactive Application.***

Any acts consistent with the authority and prior to the effective date of this agreement are hereby ratified and confirmed. This agreement is effective as of January 1, 2002.

DATED this 1st day of February, 2002.

APPROVED AS TO FORM:

Gary N. McLean
City Attorney

CITY OF DES MOINES

By

Robert L. Olander
Its City Manager

REGIONAL COMMISSION ON AIRPORT AFFAIRS

By

Its President

CONTRACT:RCAA 2002; 12/07/01

MEMORANDUM

Date: October 30, 2002
To: City Council
From: City Manager
Subject: Information from RCAA Regarding Services Provided in and Billings for 2002
cc: City Attorney

Attached is information that I have received from the RCAA regarding the services that they have provided to the City of Des Moines in 2002. Also attached are copies of their quarterly billing statements for the first three quarters of 2002 and a prorated bill for the first two weeks of October. An item has been placed on the November 14, 2002, City Council meeting agenda to discuss RCAA's billings and to allow the City Council to decide if the services rendered meet the terms of the contract between the City and RCAA.

City of Des Moines

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

October 29, 2002

Lawrence J. Corvari, President
Regional Commission on Airport Affairs
19000 Fourth Avenue S.W.
Normandy Park, WA 98166

Dear Mr. Corvari:

Thank you for your letter of October 14, 2002, providing the requested information concerning RCAA services. The City of Des Moines will determine its 2002 payment to RCAA for all time periods prior to termination of the 2002 contract, including the first two quarters of 2002 that were first billed to the City on September 6, 2002, under the termination provision of the contract. That language specifically states that:

> RCAA will be entitled to pro rata compensation based on the **number of months** this contract has remained in effect and the **quantity and quality of services performed** by RCAA on behalf of the City.

We expect that the City Council will consider this issue on November 14, 2002. I invite a representative of RCAA to address the Council during the discussion on this issue. Please advise me who will represent RCAA at the November 14 meeting.

Thank you again for your response to my letter. Please let me know if you have any questions.

Sincerely,

Tony Piasecki
City Manager

TP:sb

City of Des Moines

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

September 10, 2002

Lawrence J. Corvari, President
RCAA
19900 Fourth Avenue SW
Normandy Park, WA 98166

Dear Mr. Corvari:

The City Council of the City of Des Moines, at its September 5, 2002 meeting, directed that the City terminate its contract with RCAA. In accordance with Paragraph 5 of the contract between the City and RCAA, you are hereby notified that the City terminates its contract with RCAA, effective October 14, 2002. This termination date provides you with thirty days written notice of termination, as required by the contract, counted as required by Civil Rule 6.

Under Paragraph 5 of the contract, upon termination of the contract, RCAA is "entitled to pro rata compensation based on the number of months this contract has remained in effect and the quantity and quality of services performed by RCAA on behalf of the City." To permit the City to comply with this provision, please provide the City with a final billing by October 1, 2002, for services provided through October 14, 2002, giving both a pro rata calculation and detailed identification of services provided and dates of services, for January 1, 2002 through October 14, 2002. In order to allow the City to evaluate the "quantity and quality of services," in addition please provide a detailed identification of services provided, and dates of services, under the 2001 contract with the City. The City acknowledges that on September 6, 2002, you provided us with a billing for the first two quarters of 2002. The City requests that you provide us with the additional detailed information requested in this letter for both 2001 and 2002, in order to facilitate our timely final payment under the contract.

Thank you.

Very truly yours,

Tony Piasecki
City Manager

TP/LAM:vs

Cc: Linda A. Marousek, City Attorney

W101:RCAA/02-057

RCAA
Regional Commission on Airport Affairs

19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
FAX (206) 824-3451

<rcaa@earthlink.net>

www.rcaanews.org

14 October 2002

Tony Piasecki
City Manager
City of Des Moines
21630 Eleventh Ave. So., Suite A
Des Moines, Washington 98198-6398

Re: RCAA billings to Des Moines:

Dear Mr Piasecki:

Please find enclosed for staff review & Council action our invoice for services for the fourth quarter, 2002, totaling $1,065.22. The computation leading to this figure is shown on the invoice itself. Given that our services are continuous & ongoing, we believe that the appropriate method for computing the amount due us per contract for the fourth quarter is simply to prorate the quarterly payment of $7,000 between days when the contract was in force (1-14 October), and the balance of the quarter. Your letter of 10 September, terminating the contract, asked for this computation specifically. While your letter terminating the contract asked for this billing by 1 October, our leadership has felt that it was inappropriate to submit a final bill before the terminal date, and our Office Administrator has discussed this with you, to, we believe, mutual agreement.

Your letter also asks for "detailed identification of services provided and dates of services, for January 1, 2002 through October 14, 2002". We trust that RCAA's services for the first three quarters of 2002, for which invoices are outstanding and unpaid, are not in dispute. There has been not the slightest hint of dissatisfaction with those services. Accordingly, we assume that the invoices for the first three quarters are being processed for timely payment, and that the request for a delineation of services during those quarters is only made to permit a basis for comparing prior services with services provided in the period 1–14 October.

* * * * *

It is appropriate to state at the outset that RCAA has provided the same services, in the same way, during the period 1-14 October, as during the period 1 January 2002 to 30 September 2002, and that services provided in the Year 2002 are very similar to those provided in Year 2001.

The services provided by RCAA to Burien, Des Moines, and Normandy

Park under its three separate but virtually identical contracts with those cities are generally of an indirect nature.

By that, I mean that instead of, say, providing material goods for the City's use, or performing consultant services direct to the City (as an engineer might do with respect to a proposed capital improvement), we provide services to the general public and others for the advantage of the City.

Purpose of services. As is said in the contract, RCAA's work is intended to "be of assistance to the City in regards to the proposed third runway and related expansion of Sea-Tac Airport". A list of activities that RCAA can engage in under this rubric is found in Paragraph 1(a) of the basic contract. And, naturally, we engage in other actions & activities in support of the no-third-runway position, though they are not listed per se in the contract. Generally, we have accepted the guidance of the Airport Communities Coalition in many of these day-to-day activities, tailoring our work to dovetail with theirs, and to be supportive of their rôle as the principal opponent of the runway project. Most our services can best be described as public-involvement and public-relations activities, premised on opposition to the third-runway project at Sea-Tac Airport, and other expansion projects there. Opposition to Sea-Tac expansion, and particularly, opposition to the third-runway proposal, has been this organization's focus since its founding, and that was the focus throughout 2002 – which is not just our position but is the position of the City of Des Moines, the other contracting cities, our friends & supporters, our affiliated organizations, and the Airport Communities Coalition.

Continuous services. Some of RCAA's services are provided day & night, week in & week out ("365/24/7"). This is particularly true of our pioneering website, which is the first great airport-concern website run by a citizen group. It is available for use by anyone any time. The website requires the services of a consultant webmaster, supported by information continuously fed to her by members of our Board, interested members of the public, and our Office Administrator. The website contains an ever-growing accumulation of Sea-Tac information that is difficult – perhaps impossible – to obtain elsewhere. Also provided 365/7/24 is our telephone answering service, by which we field public inquiries about Sea-Tac issues – many of them referred to us by staff of the contracting cities.

Work-day services. Some of our services are provided four days a week: Our office is open for regular business hours four days a week, with contract staff on duty to field phone, FAX, e-mail & in-person requests for information from contracting cities, ACC staff & consultants, other agencies, and the general public. In recent years, our office has received many requests for assistance in research and documentation from the ACC's attorneys and consultants, and from leadership, attorneys, and consultants of Citizens Against Sea-Tac Expansion, both of which

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have been actively involved in third-runway litigation on behalf of the ACC cities and the general public. We maintain extensive archives of relevant information and a library now occupying two rooms. Access to these resources is available during office hours to the public (but around the clock to our Board members, and as needed at any time by appointment through our contract staff).

After hours. Our Office Administrator reminds me that he handles a good volume of e-mail traffic outside of normal business hours for our Board and our affiliated organizations – this is a seven-day-a-week activity. He is not alone in this – our Board members are in touch with one another & with staff & consultants without regard to formal business hours. Urgent matters are dealt with urgently. The Administrator also reviews several e-mail publications relating to airport issues on a seven-day-a-week basis, & passes along items of interest to Board members, other volunteers, and affiliated organizations, and on occasion to news media.

Periodic services. Some of our services might be said to be provided periodically, although their impact is spread over long time periods. This category includes our (former) print newsletters and our present web letters. We published a quarterly print newsletter, focused on Sea-Tac issues, for several years, mailing to an extensive list. About 6000 Des Moines households received the newsletter regularly. Until we cut off Federal Way mailings, total distribution ran to about 40,000, and thereafter, to about 28,000. These newsletters went to all members of the Legislature, to the Congressional delegation & relevant staff, and to all voting members of the Puget Sound Regional Council, as well as the general public (some sample copies of the print newsletter are enclosed). There is further discussion of newsletters below.

Water-quality consultant. As you will note in reviewing our financial reports for Years 2001 and 2002 (previously furnished), a large item of expense for us in the last couple of years has been the services of our outstanding water-quality consultant. He has been a critical link in the technical arguments on our side of the third-runway administrative proceedings and associated litigation, with respect to environmental issues. His work has been significant in support of both the Airport Communities Coalition and C.A.S.E. (Citizens Against Sea-Tac Expansion) in this complex & highly technical effort. He has kept a watchful eye on how the Airport impacts Des Moines Creek -- rather a direct benefit to the City of DM. (We are not aware of anyone on your staff with these duties and expertise.) He reviews almost every water-quality document that is issued by any party – most importantly in the last few weeks, the drafts of the proposed renewal permit for the Airport under sec. 402 of the Clean Water Act ("NPDES permit"), & the Port's voluminous comments on the drafts. He is a key member of the Technical Committee. He is invaluable to us in preparing for the forthcoming hearing on the renewal. All of these services

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have been continuous and ongoing.

Web-based Newsletters. As you may be aware, our Board made a decision some months ago to switch to a different form of newsletter. This was not only a cost-cutting measure (postage costs are accelerating) but also the result of a prolonged Board review of the effectiveness, as well as timeliness, of this method of reaching the public with the Sea-Tac runway message. So, we now issue a "webletter", a less formal, and very timely, newsletter that is posted monthly on our website, with an e-mail alert sent to our e-mail lists at the time of posting. The first of these was posted in mid-August, the second, in mid-September, and the editors and the chairman of the Board's Communications Committee are at work on the third, scheduled for issuance on or about 24 October.

Episodic services. Some of our services are episodic, especially "Action Alerts". As occasion requires, we send out mailings to interested people about special events of interest, such as the various public hearings on the JARPA (sec. 401.404) applications, and the efforts of Mr Hopkins to revive the ill-fated Des Moines conveyor-belt proposal. In the last few months, we set aside funds for an Action Alert on the long-expected public hearing for a new sec. 402 ("NPDDES") permit for Sea-Tac Airport, and Board, staff, and consultant time has been expended in preparing for that Alert and for the public hearing.

Services to individuals. Some services are provided to specific persons. These include:

- Dealing with noise & flight-corridor inquiries
- Requests for information and research assistance, primarily from ACC's lawyers and consultants in the last few months, but also from the general public. Here's a comment that came in (unsolicited) the other day from a member of the public:

  > I personally have benefited greatly from RCAA's resources and from Chas' Insights {"chas" refers to our Office Administrator]. The mailed newsletter was extremely helpful to me as a newcomer to this area to understand just what was going on.

  (Maintaining an office with staff has been essential to our mission of building support for the runway position of the ACC cities.)

- Working with beat reporters. RCAA is recognized as a source for information on Sea-Tac related issues, se we receive some independent inquiries from various print media. In addition, we pass along news tips and formal news releases to the local dailies and to the national e-mail airport-interest publications, all in aid of the no-third-runway effort.

* * * * *

With respect to all of these activities, it has not been practical to engage in highly detailed accounting exercises, to allocate each hour of volunteer, staff, or consultant time to a particular category of activity, & then allocate the benefits of that activity as between the City of Des Moines on the one hand, other cities on the other, not to speak of the general public. To date, this has not been a requirement from any of the contracting cities.

We do track expenditures for special projects – like our recent aerial photography of various Sea-Tac construction sites (not available for inspection on the ground). We cannot (without a huge amount of new work) produce an accounting, hour by hour, for all of the time of Board members, other volunteers, contract staff, and other consultants. As is the case in any organization, a good deal of the expenses goes to overhead – phones, publications, contract staff. And there are services that are difficult to categorize – staff attendance at Port Commission meetings; Technical Committee members' meeting with the Army Corps of Engineers or the Department of Ecology; testimony at hearings; formal written comments on a variety of Airport-related issues; staff support to member groups – to mention just a few such activities.

The Board believes that it is not readily feasible to draw a distinction – which would be utterly artificial – between activities & expenditures that benefit the City of Des Moines separate and apart from benefit to the other contracting cities. For example, we made, at their request, a large contribution to the radio advertising campaign that ACC mounted earlier in the year. (This shows up in the accounting report that we sent you a few weeks back.) But how would one allocate the benefit of that expenditure as between the three cities? The cities' representative, the ACC, asked for the help; we provided it as part of the common effort.

I trust that you, your staff, & Council will find this sufficiently responsive to your inquiry. If not, please advise,

Yours sincerely,

Lawrence J. Corvari

Lawrence J. Corvari
President

Encls: Final invoice; sample print news letters

L02-287-1, -2 (DM)

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

14 October 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, portion, fourth quarter, 2002
As per contract between RCAA and the City of Des Moines

Normal quarterly payment per contract, $7000
Fourth quarter, 92 days
Contract days, 14
Percentage, 15.2
Prorated amount due: 0.152 x 7000 = $1065.22

Amount due: $1065.22

INV02-03-DM

Change in Local Passengers and Yield at Top 100 U.S. Airports

First Quarter 2002 vs. First Quarter 2001

	Airport	O&D Passengers	Passenger % Chg.	Yield % Chg.
1	Los Angeles	6,101,450	-17.8%	-11.2%
2	Las Vegas	6,016,710	-8.0%	-9.9%
3	Orlando	5,388,810	-13.3%	-9.1%
4	Atlanta	5,241,730	-14.4%	-18.8%
5	Chicago, O'Hare	5,202,850	-13.8%	-18.1%
6	Phoenix	4,890,820	-10.8%	-10.9%
7	New York, LaGuardia	4,210,120	-14.6%	-15.5%
8	Dallas/Fort Worth	4,040,050	-12.9%	-18.2%
9	Fort Lauderdale	3,913,930	-1.8%	-9.6%
10	New York, Newark	3,892,130	-15.7%	-17.8%
11	Denver	3,876,850	-9.7%	-14.8%
12	Seattle/Tacoma	3,582,480	-8.6%	-12.1%
13	Tampa	3,521,630	-7.7%	-14.1%
14	Boston	3,426,960	-21.0%	-15.8%
15	Baltimore	3,295,070	-8.8%	-9.9%
16	San Francisco	3,232,460	-25.5%	-13.6%
17	San Diego	2,982,140	-8.7%	-10.8%
18	Philadelphia	2,928,770	-6.6%	-17.6%
19	Minneapolis/St Paul	2,927,870	-15.5%	-8.0%
20	Detroit	2,894,910	-16.0%	-12.8%
21	Honolulu	2,800,720	-3.8%	-5.0%
22	Chicago, Midway	2,403,030	-10.0%	-8.7%
23	Oakland	2,385,850	0.3%	-15.4%
24	New York, Kennedy	2,361,250	1.6%	-14.3%
25	Houston, Bush	2,333,730	-11.6%	-14.0%
26	Miami	2,243,670	-9.6%	-13.3%
27	Salt Lake City	2,220,870	-10.8%	-3.7%
28	Washington, National	2,168,100	-26.2%	-8.9%
29	San Jose	2,134,390	-15.1%	-21.3%
30	Portland, OR	2,044,000	-9.9%	-10.7%
31	St. Louis	2,038,350	-17.3%	-17.4%
32	New Orleans	1,967,650	-9.0%	-6.5%
33	Kansas City	1,915,190	-12.0%	-12.7%
34	Sacramento	1,711,410	-0.6%	-12.1%
35	Washington, Dulles	1,680,200	-16.0%	-17.4%
36	Orange County	1,661,760	-1.9%	-17.1%
37	Raleigh/Durham	1,616,160	-8.9%	-25.0%
38	West Palm Beach	1,596,340	-9.8%	-6.6%
39	Fort Myers	1,574,880	-5.2%	-6.5%
40	Cleveland	1,509,270	-13.9%	-14.2%
41	Indianapolis	1,424,570	-11.9%	-14.6%
42	Pittsburgh	1,397,100	-12.4%	-17.7%
43	Nashville	1,373,130	-12.2%	-12.4%
44	Hartford	1,372,520	-12.8%	-14.1%
45	San Juan	1,363,790	-7.9%	-7.5%
46	San Antonio	1,352,490	-7.2%	-11.4%
47	Ontario	1,346,840	-7.1%	-12.8%
48	Houston, Hobby	1,332,270	-12.9%	-7.0%
49	Austin	1,288,650	-14.8%	-19.3%
50	Columbus, OH	1,288,260	-10.3%	-13.7%
51	Kahului	1,130,700	-6.1%	-9.7%
52	Providence	1,127,830	-3.9%	-11.5%
53	Albuquerque	1,076,450	-7.6%	-9.7%
54	Jacksonville	1,057,960	-12.2%	-14.9%
55	Charlotte	1,039,070	-15.0%	-14.0%
56	Dallas, Love	1,034,120	-25.6%	-3.9%
57	Burbank	1,025,380	-5.7%	-10.4%
58	Milwaukee	985,620	-14.7%	-8.3%
59	Reno	982,820	-15.9%	-7.6%
60	Cincinnati	962,240	-16.1%	-14.3%
61	Buffalo	848,820	-8.7%	-14.1%
62	Tucson	812,320	-6.3%	-10.6%
63	Memphis	746,430	-14.4%	-12.0%
64	Omaha	743,210	-6.2%	-13.0%
65	Manchester	717,710	2.1%	-10.4%
66	Louisville	715,060	-12.6%	-13.9%
67	Norfolk	654,700	14.8%	-28.3%
68	Oklahoma City	619,310	-13.4%	-9.7%
69	Tulsa	591,980	-15.7%	-11.5%
70	Albany, NY	589,620	-8.9%	-10.6%
71	Birmingham	564,250	-13.8%	-12.4%
72	Spokane	563,870	-10.7%	-5.3%
73	El Paso	559,670	-10.2%	-7.2%
74	Anchorage	549,360	3.7%	-8.2%
75	Lihue	545,250	-9.0%	-2.2%
76	Kona	538,080	-4.9%	-5.2%
77	Boise	536,850	-12.7%	-6.3%
78	Greensboro	483,680	-17.4%	-11.7%
79	Dayton	460,790	-7.4%	-14.4%
80	Rochester, NY	457,740	-13.6%	-16.5%
81	Little Rock	447,160	-14.9%	-7.9%
82	Richmond	435,660	-17.6%	-16.2%
83	Islip	415,230	-14.0%	-8.0%
84	Grand Rapids	413,540	-5.8%	-15.3%
85	Colorado Springs	410,890	-5.6%	-13.4%
86	Syracuse	388,030	-8.0%	-12.7%
87	Palm Springs	344,910	-13.4%	-8.0%
88	Des Moines	335,490	-7.8%	-18.7%
89	Savannah	331,010	-6.3%	-15.2%
90	Sarasota/Bradenton	324,430	-9.9%	-9.1%
91	Hilo	321,990	-10.7%	4.9%
92	Madison	299,570	-0.9%	-16.0%
93	Charleston	293,290	-9.9%	-9.3%
94	Pensacola	277,380	28.1%	-22.0%
95	St. Thomas	271,030	-0.3%	-18.0%
96	Greenville	257,350	-14.8%	-17.6%
97	Knoxville	256,920	-14.8%	-16.1%
98	Jackson	250,820	-14.8%	-11.2%
99	Vail/Eagle	247,780	-2.9%	-16.4%
100	Harrisburg	240,170	-1.6%	-14.9%

ECLAT consulting

Based on U.S. DOT O&D Survey

IN BRIEF

Highline Schools, Port Agree to Noise Pact

Settlement may have been reached in the long-running dispute between the Highline School District and the Port of Seattle about mitigation of jet-plane noise in classrooms, a development welcomed by the Regional Commission on Airport Affairs (RCAA).

In a "memorandum of understanding" between the District, the Port, Gov. Gary Locke, and U.S. Rep. Adam Smith (D-9), sources for up to $200 million in noise-mitigation money were identified, & the parties agreed to enter into a more-detailed agreement by 31 December.

Port Doubles Its Offer

In a breakthrough, the Port agreed to contribute up to $50 million of its own money. Previously, the Port had only offered $40 or $50 million that it might receive from the Federal Aviation Administration for noise mitigation. Highline School District will put up $50 million, to

Continued on page 6

IG To Audit Runway Costs

The Office of the Inspector General of the U.S. Department of Transportation and U.S. Rep. Adam Smith (D-9) have announced that the staff of the Inspector General will analyze the current estimated costs and sources of funding for the third-runway project at Sea-Tac. The audit will also cover 13 other major runway projects in the U.S. that are scheduled for completion by 2007.

Rep. Smith seeks a broader review of the third runway. He is pressing the Inspector General to report on the violation of a major condition in the Governor's certificate to the U.S. DOT that runway construction would not violate water-quality standards. He also has suggested that the Port of Seattle is not in compliance with fiscal standards for federally-assisted projects because it does not have a budget for the third runway—no current cost estimates & no complete financing plan.

Critics of the runway project wonder if the Inspector General can obtain from the Port what no-one else has been able to get: a complete, current cost estimate, and a description of a realistic financing plan.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 7, No. 2 Summer 2001

Port Announces New $3 Billion Terminal for Sea-Tac Airport

On 8 May, the Port of Seattle Commission approved final design and funding for a $94 million upgrade of the main terminal at Sea-Tac Airport. Construction work on the project is to begin in a year. The renovated terminal is scheduled for a grand re-opening in September 2004.

The airport also has pending a project for expansion of its south terminal, at a cost of $375 million.

On 26 June, Port staff presented the Port Commission with its preliminary plans for a new north terminal, to be located about 1300 yards north of the existing main terminal. The cost estimate for this project is $3 billion. Planners told the Commission that a detailed cost analysis would be available in about two years.

Bells, Whistles, and Gold-Plating

Included in this project would be expansion of the existing northern satellite terminal, one new 'people mover', two new parking garages, and three new concourses, with a light-rail station as an option as well. The cost includes removal and relocation of two freeways, and relocation of several cargo operations. According to the Port's planners, this third terminal is needed in order to accommodate a predicted increase in passenger traffic. The present main terminal was planned for 25 million travellers a year, and the new terminal is needed for the additional 11 million increase expected by the year 2010. Staff expects construction to start in the year 2004 and to be complete in 2014.

No firm sources of funding were identified by staff. One major component of funding for airport capital projects is revenue from tenant airlines. The Port has been in private negotiations with major airline tenants for a new master lease agreement since spring 2000. The present leases expire at the end of this year, and the Port wants hefty increases in rent from the airlines. The airlines are being asked to give up their present powers to control use of their lease payments.

Runway Safety Worries Mount

Veteran Pilot Says Wall Too Close, Incursions Dangerous

Airline pilot Sven Holm, who recently retired as chief pilot for Northwest Airlines, raised a series of concerns about the safety of the proposed third runway at Sea-Tac Airport in a letter to the *Seattle Post-Intelligencer* published on 20 June. He warned that careful pilots may refuse to use the runway.

Among the safety hazards, Capt. Holm pointed out the much higher risk of a "runway incursion" (on-the-ground collision of aircraft) with the proposed configuration of three parallel runways. The environmental impact statement for the runway project estimated that this risk would increase by 21 percent, though others have put the risk higher.

Another concern was the closeness of the runway to the edge of the embankment which drops 170 feet. To gain a 2500-foot separation between the new runway and the existing main runway, the Port must lay down 19.84 million cubic yards of fill, to extend the present level ground westward. The new runway would, according to Capt. Holm, be perilously close to the edge that embankment.

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Inspector General Says U.S. Incursion Problems Too Risky

"Further actions are needed to reduce runway incursions", Congress was told on 26 June by Kenneth M. Mead, Inspector General of the U.S. Department of Transportation. Runway incursions are incidents on the runway that create a collision hazard. The number of these incidents in the U.S. grew by 48 percent from 1997 to 2000, with a 25 percent spurt between 1999 and 2000, according to a study released by the Federal Aviation Administration just a few days before Mr Mead's testimony.

While many of the incidents pose only slight risk of a collision, Mr Mead noted that there is a significant number of close calls. Of these, 63 percent involved at least one commercial aircraft where the potential loss of life is high.

FAA Rapped

Primary responsibility for reducing incursions rests on the FAA. Inspector General Mead said "it is apparent that FAA's efforts, along with those of the aviation industry and airports are not sufficient. The number of runway incursions continues to go in the wrong direction." He called for "strong

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Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 7, No. 2 Fall 2001

IN BRIEF

Election Coverage:

Port of Seattle: Runway Foes Chosen To Challenge Incumbents

The third runway is emerging as an issue in Port Commission elections.

In the primary election on 18 September, two announced opponents of third-runway construction at Sea-Tac Airport were selected by voters to oppose incumbent Port Commissioners in the general election.

For Position 3, Richard Pope received 42,317 votes, and will face incumbent Paige Miller (with 87,662 votes). Two other challengers received a total of 30,716 votes. Mr Pope attributed a good part of Ms Miller's support to endorsements by Democratic Party groups.

In the Position 4 race, incumbent Pat Davis received fewer votes than the combined opposition. Christopher R. Cain will oppose her in the 6 November election. Ms Davis received 67,844 votes, Mr Cain, 39,488, Jake Jacobovitch, 29,187, and Al Yuen, 20,055. The *Post-Intelligencer's* election coverage erroneously reported that Mr Cain was not an active candidate, and did not even mention that he would be on the November ballot. Ms Davis' share of the vote (less than 44 percent) shows that the long-time incumbent is in serious difficulty.

Only two candidates filed for the seat now held by Jack Block—Mr Block and Lawrence Malloy. Their names will appear on the general-election ballot. Mr Malloy is a very keen supporter of the third runway. Mr Block has been known to express an occasional doubt.

Highline Area Races

In the Highline area, all candidates for City Council posts in Normandy Park and Burien are opposed to the Sea-Tac third-runway project, & the runway is not an issue at this time in the city of SeaTac.

In Des Moines, there are clear differences between the finalists on this issue. At present, all members of the Des Moines Council oppose the runway project & are supporters of the

Continued on page 2

Highline School Bonds

Story on page 2.

WHAT NOW?

Two weeks after the attacks on the World Trade Center & the Pentagon, Congress was forced to bail out the airlines to the tune of $15 billion. Some industry-watchers claim business will rebound quickly once people relax a little. Others, however, point out that the airlines were in big financial trouble *before* the Trade Center disaster because of a persistent drop in business travellers. This part of the problem, they argue, is likely to persist for a very long time, even if the public regains its confidence. The airlines themselves and Boeing seem to fall in to the latter camp, laying off tens of thousands.

Additional security needs will have a huge impact on airports. Some may never re-open. All of this affects airport expansion projects planned across the country, which are dependant on industry profits and customer demand. Sea-Tac's expansion is one of the most expensive in the country and will likely take some major cuts.

At many airports across the U.S., expansion projects are in serious jeopardy, as the money streams dry up. The immediate impacts are two-fold: first, fewer travellers means less money collected from passenger facility charges (PFCs), & second, insolvent airlines cannot meet their lease payments to airports. Third, revenues from the federal tax on aviation fuel & other taxes on air travel will start to fall. FAA's grants for airport construction come from these taxes.

Here's what is happening at some representative airports.

Twin Cities (Minneapolis - St. Paul, Minnesota). The St. Paul *Pioneer Press* reported on 22 September that the balance of a $2.7 billion expansion project at the Minneapolis-St. Paul Airport was at risk. To balance its budget the airport is likely to cut capital costs. Of the $2.7 billion expansion project, between $1.75 billion and $2 billion already has been spent or committed.

San Francisco. According to the *San Mateo Daily Journal* (20 September), the terrorist attacks may impact the decision whether or not to proceed with expansion at San Francisco. (The airport wants to fill in a big piece of the San Francisco Bay to make new land for the runway.)

Continued on page 3

ACC Blasts DOE Process, Appeals to State Pollution Board

On August 10 the state Department of Ecology (DOE) issued a Section 401 water quality certification for the third runway project. This is the third attempt by the Port to get its 401 approval. This process has been watched with concern by people in the airport communities ever since DOE reassigned the lead analyst, Tom Luster, to "more pressing projects", hired Port consultants as "independent" technical reviewers, and "negotiated" the certificate in meetings chaired by a mediator paid for by the Port. (See *TIA* Summer 2001, p.5.) The Airport Communities Coalition (ACC) has appealed the decision and asked for a stay. The hearing on the stay is scheduled for mid-October 2001, but no schedule for the main appeal has been set.

The 401 decision is a one-time opportunity for the State to determine whether the third runway meets applicable state aquatic resource regulations. These regulations cover areas such as fill, stormwater discharges, decreased streamflow, groundwater, water quality in the streams, and wetland health. By law, the Port must demonstrate that there is "reasonable assurance" that construction and the third runway itself will not violate State water quality standards.

Affidavits from experts in support of ACC's appeal point out that the Port did not even provide the information necessary to decide if applicable water quality standards *could* be met, much less reasonable assurance that they *would* be met. For example, instead of requiring a plan showing that the Port can prevent transport of contaminated groundwater through old utility corridors under the airport, DOE will allow the Port to submit the plan 60 days *after* the issuance of the certification. This, despite the fact that the Port has had years to come up with a plan, but has failed. ACC's lawyers point out that this gerrymandering of the requirements also destroys the public's legal right to comment on the plan.

In some instances, the Port provided conflicting information. For example, different Port reports claim that water behind the 150-foot high retaining wall, the "Great Wall of Sea-Tac", will transport through the wall, be diverted under the wall, or be collected behind the wall for later dis-

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Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 6, No. 2 *Summer 2000*

FAA, Port Sued Over Violations of Federal Endangered Species Act

The federal courts have been asked to order a halt to all Sea-Tac Airport construction projects until the Federal Aviation Administration has completed formal "consultations" with federal fish and wildlife agencies, as required by the Endangered Species Act (ESA). If endangered species exist in or near an area where a federal agency is sponsoring or funding a project, the sponsoring agency must complete a "consultation" with federal wildlife agencies as to the need for special protections before allowing work to begin (or to continue).

The endangered sea bird, the marbled murrelet, has been recently sighted within two two miles of the Airport by Audobon Society observers. Endangered chinook salmon are known to spawn in the Green River, which receives Airport run-off water via Gilliam Creek, a tributary of the Green; juvenile chinook have been observed in the upper reaches of Gilliam by a City of Tukwila fish biologist. Whether chinook could spawn in Miller Creek is disputed. There is no dispute that bull trout, also listed, and coho, cut-throat, and other salmonid fish occur in local streams.

When advised of these concerns by the Airport Communities Coalition (ACC), the FAA sought to brush off the legal requirements. Correspondence and negotiations have not persuaded the FAA that it, too, is bound by federal law, and

Continued on page 6

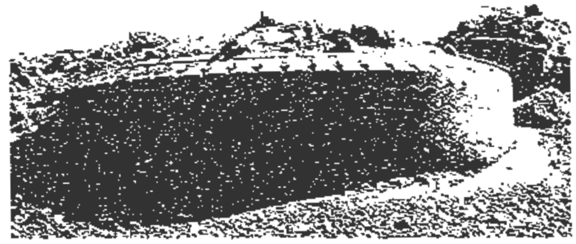

Photo credit: Chris Gower

Photo of "clean fill" taken Wednesday, August 9, 2000 on S. 192nd Street, near the entrance to the Tyee Golf Course. See story, p. 4

Agencies Talk Tough As Deadlines Loom Over Sea-Tac Third Runway Project

As this issue of *Truth in Aviation* heads toward the printer, major deadlines loom over the Sea-Tac third-runway project. By 28 September, the U.S. Army Corps of Engineers is to rule on the application of the Port of Seattle to fill in wetlands (a "section 404" permit). The Engineers are waiting for a ruling by the Department of Ecology as to whether the Port's project will meet water-quality standards ("section 401 certificate"). Ecology has given the Port till 5 September to file all complete, accurate documents in support of its plan. Ecology has pledged to issue its ruling by Friday, 8 September.

Ecology has repeatedly told the Port and its major water-quality consultant, Parametrix, Inc., about grave deficiencies in the supporting technical studies. On 11 August, the Corps of Engineers sent a 3-page letter covering a 19-page memorandum, pointing out in detail a long list of errors, inaccuracies, and so on in the paperwork filed with the Corps, and demanding that everything be tidied up as soon as possible.

The Engineers are plainly dissatisfied with the documents already submitted, and they are, in essence, demanding a major re-write. They politely say that the final document "will require some rethinking and the provision of a rationale and much added detail". They "look forward to receiving a comprehensive, better-organized and

Continued on page 6

IN BRIEF

Top Environmental Specialist Leaves Port, Joins ACC Staff

On 5 July, Barbara Hinkle, Senior Environmental Manager at Sea-Tac Airport, responsible for environmental oversight on all Airport expansion plans (including the third runway) left that job to join the staff of the Airport Communities Coalition, which is leading the legal fight against Sea-Tac expansion.

Ms. Hinkle became disenchanted with the mindset within the Airport staff toward the environmental rules that airport construction. She was quoted as saying that the Port does not follow through on its own environmental studies. Pressure from above to "get the job done", regardless of environmental consequences and applicable laws, was cited as a major factor in Ms Hinkle's leaving the Port. She said, "the pressure to put aside environmental concerns is growing, and with the number of projects coming on-line over the next several years, I can be more effective at the ACC, for the environment, that I ever could be at the Port of Seattle".

Announcing her employment change to the U.S. Environmental Protection Agency, she commented that she "could no longer work within a system that continually turned a deaf ear toward its obligation of public stewardship."

No interchange on SR 509 for third-runway fill trucks this year

Port of Seattle plans to build its own private interchange on SR 509 at So. 174th, for the exclusive use of trucks hauling fill, have been stopped, at least for this year, by actions of the Department of Ecology, as the result of strong pressure from the Airport Communities Coalition (ACC).

In a sternly-worded letter, Ecology told the Port that the project requires a "major modification" of a critical environmental permit – a detail that the Port conveniently overlooked in its planning. In addition, the project requires a hydraulic permit from the Department of Fish & Wildlife. Ecology also advised the Port that no action should be taken until the U.S. Army Corps of Engineers has decided whether the project falls under the federal Clean Water Act (which it does). Construction was to have begun on 1 June, according a mailing from the Port had written to the handful of folks still living in what is called the "Westside acquisition area".

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 6, No. 1 Winter 2000

IN BRIEF

What Killed The Fish?

Starting on October 31, and continuing into December, dozens of seemingly-healthy adult Coho salmon have died in Miller Creek, before spawning. Stream-side residents have watched (and filmed) Coho struggling to breathe. Preliminary laboratory exams have not revealed any obvious causes of death, although suspicion naturally falls on pollutants that might come from a sewage-treatment plant nearby or from Sea-Tac Airport, at the headwaters of the creek. Shortly before the first kills, the Airport experienced an overflow from its settling ponds upstream. Locals strongly suspect Airport-related pollution as the cause of the unusual fish kill.

This winter's run of returning salmon was one of the strongest in recent memory (bearing out the contention that Miller Creek is indeed an historic salmon stream).

No Floatplanes for Seattle Waterfront

Seattle's downtown waterfront is no long threatened by increased noise from a proposed floatplane base near Pier 54 (Ivar's). Faced with strong opposition, floatplane operator Kenmore Air has withdrawn its application for a City-issued shorelines permit. The Seattle City Council has put a moratorium on applications while it looks at the whole issue.

Kenmore had planned as many as 16,000 sightseeing flight operations during the summer tourist season. Two downtown Seattle residential associations, and the Washington State ferry system, were concerned with impacts of the proposal, and appealed the City-granted permit to the Shorelines Management Hearings Board. Kenmore and Ivar's then withdrew the application, not wishing to "go out and fight the public," as Robert Munro, owner of Kenmore, put it.

CROWD PACKS SEA-TAC WETLANDS HEARING

On November 3, a crowd of more than 500 people overflowed the auditorium at Foster High School in Tukwila for a hearing on the revised application of the Port of Seattle for permission to destroy 18-plus acres of wetlands as part of its third-runway project.

Both the Department of Ecology and the U.S. Army Corps of Engineers must determine that there will be no needless, unmitigated impacts on wetlands and wildlife before they can give permission for the Port to begin construction of the third runway in the headwaters of Miller and Des Moines Creek, west of the existing airport. The hearing was sponsored by the two agencies. The Corps is responsible for clearing the so-called "404" permit, which is needed to fill any wetland. Ecology is responsible for issuing a "401" certificate, which concerns the water quality in State waters, wildlife issues, and impacts on the coastal zone.

The auditorium was too small for the crowd, so the fire marshal turned away many latecomers. Only 59 of those who signed up to speak were called to the podium. Local elected public officials led off the testimony with vigorous complaints about the over-all project, the details of the wetlands damage, and the inadequate process. Aside from some Port-paid "experts", almost all of the speakers pointed out serious deficiencies in the Port's revised application.

RCAA President Larry Corvari said after the hearing, "This huge turn-out shows that opposition to the third runway and its unacceptable

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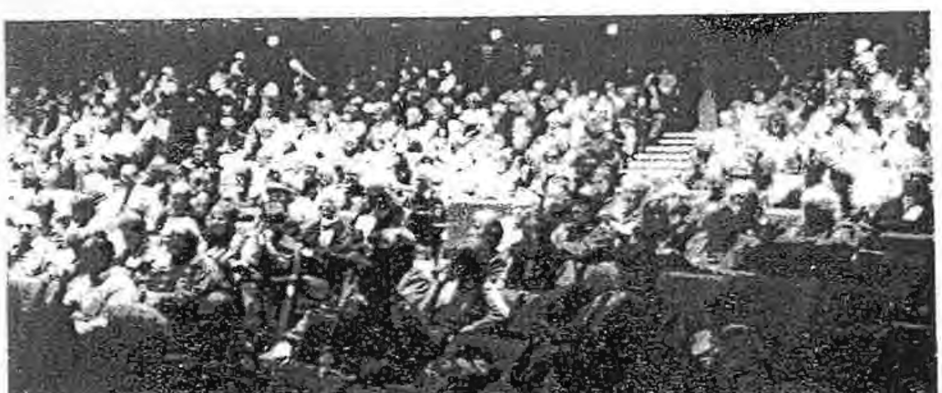

Laschi News

Concerned Highline Residents Sue Water District To Void Backroom Deal with Airport

Citizens Against Sea-Tac Expansion (C.A.S.E.), a citizens' group based in the Highline area, has sued the Highline Water District and the Port of Seattle in King County Superior Court, asking for a declaration voiding the District's attempt to transfer water rights to the Port of Seattle.

According to the complaint, the Water District and the Port of Seattle have secretly made an agreement to transfer one of the District's wells (Well #1) and associated water rights to the Port. The agreement was never discussed by the District Commissioners in open session, only in closed-door meetings. And the agreement's terms were kept secret until after the Commis-

Continued on page 6

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 6, No. 3 *Fall 2000*

IN BRIEF

KIK Organizes Students

Maria Wardian, eighth-grade student at Sylvester Middle School, in the Highline School District, has started a no-third-runway group for students, "KIK" (short for "Kids Involving Kids"). The group's goal is to get "more kids informed about what the Port of Seattle is doing to us and our future", in terms of water pollution, air pollution, and impacts on schools.

Ms Wardian and fellow students recently attended a meeting of C.A.S.E., and came away incensed by video recordings of fish dying in Miller Creek (one of the area streams hard hit by pollution from Sea-Tac Airport). She points out that the same water that flows down the creek also finds its way into local drinking-water aquifers.

Demonstration Planned

Maria is working via e-mail to bring together hundreds of kids later this winter for a demonstration "against the violence of the Port on our environment and health". She is looking for volunteers to act as representatives at every area school. Volunteers are also needed to hang posters, to make phone calls, and to spread the word, as well as telling their own stories on how the Port is affecting their own lives.

How Sea-Tac Hurts Kids

Jet noise disrupts classrooms in many schools in the Highline School District, and also in South-East Seattle. The proposed third runway at Sea-Tac would bring flight corridors closer to several Highline schools. There would also be flights directly over elementary schools in South Park and Georgetown, and over Cleveland High School on Beacon Hill. Recent studies demonstrate that airport noise elevates blood pressure in children living near the airports.

Around big airports everywhere, health data show that more kids have asthma than kids who live in other areas. Two recent studies show that airport noise raises persistent blood pressure levels in children living near airport. Jet exhausts contain compounds that are known to cause cancer. Cancer takes a long time to develop, but every child living near a major airport —like Sea-Tac—is at risk for life-threatening cancer later in life.

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Contact Maria by e-mail at kiktherunway@hotmail.com or by phone at 206.244.4888.

Port Resubmits Permit, Demands Fast-tracking

As most readers know, on 28 September the Port of Seattle formally withdrew its second application to the Department of Ecology and to the U.S. Army Corps of Engineers for official approval to destroy wetlands west of the present Airport, and to relocate part of Miller Creek, for its third-runway project at Sea-Tac Airport.

Under the federal Clean Water Act, the Department of Ecology is charged with determining whether an applicant's plan to build in wetlands provides "reasonable assurance" that State water-quality criteria will not be violated. The Corps of Engineers then determines whether the harm to wetlands is "in the public interest" and otherwise in compliance with the Clean Water Act. Without approval from the two agencies, the Port cannot legally proceed with its third-runway construction work in the wetlands.

The best way to understand what has happened is to review the chronology.

29 September 1999. The Port submitted its second application to the Corps and Ecology, after having to withdraw its 1997 application because of gross under-statement of the amount of wetlands involved. Ecology had 365 days to pass on the application. The Engineers had previously announced that they would not decide till after Ecology had finished its work.

Spring & Summer 2000. Port of Seattle submitted voluminous revised documents, attempting to justify the plan, some as late as late August. Ecology, Engineers, and King County stormwater experts, as well as experts retained by Airport Communities Coalition, RCAA, and C.A.S.E., raised a host of questions, many of which remain unresolved (even in late November).

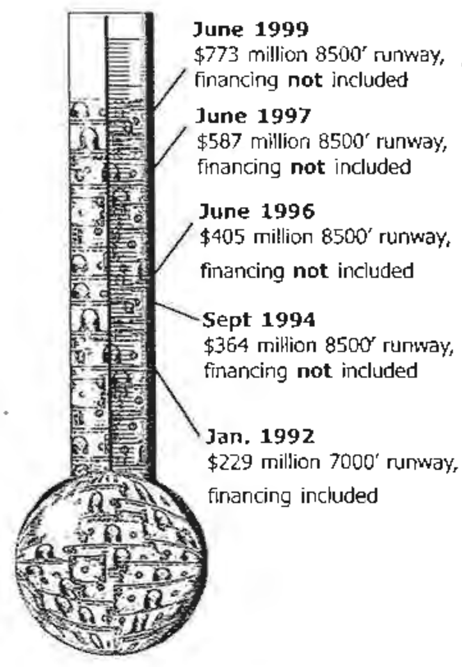
28 September 2000. A meeting—not publicly announced—was held at the office of M.R. ("Mic") Dinsmore, Executive Director of the Port of Seattle. Those present included: Joe Dear, the Governor's Chief of Staff; Mr Dinsmore; Tom Fitzsimmons, the head of the Department of Ecology; Ray Hellwig, head of the regional office of Ecology; and others. Mr Dinsmore was a major fund-raiser for Gov. Gary Locke in the last general election. The Governor and Ecology have denied that there is any political pressure in this affair, though Ecology has been officially warned that there is interest in this project "at the highest levels" of State government.

The Ecology folks brought with them their draft letter of decision on the sec. 401 application, dated that day, and shared it with the others. The letter flatly denied the application, because of multiple shortcomings. "At this time, Ecology does not have reasonable assurance the proposed project will comply with the applicable federal and state water quality requirements … ." The letter referred questions to Ecology staffer Tom Luster. The letter acknowledged that the Port intended to resubmit, and pledged to "work with" the Port, and to "provide guidance to the applicant to help develop documents with the necessary level of detail and information for our review."

What else happened next at that meeting is not known.

However on that same day (28 September), the Port announced that it was withdrawing its applications under sec. 401 and sec. 404 of the federal Clean Water Act. In a letter dated that day

Continued on page 2



Late this summer, the Port of Seattle began publicly using the figure of $5.6 billion for the Sea-Tac Expansion, without mentioning that the entire new Denver Airport cost their taxpayers around $4.2 billion. See our editorial on page 5.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 6, No. 4 *Spring 2001*

IN BRIEF

Runway Safety Challenged

Pilots and aviation experts raised eyebrows at the public hearings commenting on difficult safety problems caused by almost-vertical walls along the west side and by the need to cross two active runways to reach the terminal. See Page 4.

A Highline student speaks:

Hi, I'm Maria W.

I represent KIK, the kids at the Highline School District. When I go to my school and can't hear my teacher, when I walk outside my door and smell jet fuel, I think, we need to move away from this stupid airport. But I love my school. I can't move.

When I swing by Miller Creek and see the dying salmon, when I watch the big dump trucks filling in the headwaters of my creek, I think, we need to move away from this stupid airport. But I love my friends. I can't move.

When I know cancer rates are much higher and I visit my Grandpa in Burien dying of cancer I think, we need to move away from this stupid airport. But I love my family here. I can't move.

Then my Mom says the Port guys are going to build another runway. They're go-

Continued on page 6

Port Out Of Money?? Audit Ordered

On 25 May 1999, the Department of Ecology issued an agreed order under the Model Toxics Control Act, requiring the Port of Seattle to complete a "Phase I" groundwater study and to issue a report on results by 22 December 1999. According to Greg Wingard, Director of Waste Action Project (and consultant to RCAA), the Port has not only has failed to complete the study but has stopped all work on it because they claim there is no more money in the budget (a large part of which was a grant from Ecology). An audit is underway to determine if the Port mis-spent the funds for the study.

Observers wonder if this is the way the Port plans to keep mitigation promises made to DOE and the Corps of Engineers in order to get wetlands permits.

Third Wetlands Hearings Highlight Runway Problems

Not once, not twice, but three times, the Port of Seattle, owner-operator of Sea-Tac Airport, has sought official permission to destroy wetlands with its third-runway construction project west of the existing airport. And three times the community has turned out in great strength to tell the regulating agencies that this is a bad idea—bad for the environment, bad for people—and wasteful. Each of the first two applications had to be withdrawn, re-written, and resubmitted, because of fatal flaws.

On 26 and 27 January, the Army Corps of Engineers and the Department of Ecology held hearings on the latest proposal submitted by the Port. Hundreds of residents in attendance heard nearly one hundred speakers tell the agencies about their concerns with the proposal. Most of the 117 speakers were in opposition, citing numerous issues—airport safety, damage to local streams, concerns with the environmental mitigation plans, lack of community mitigation, and, over and over again, the problems posed by the four vertical embankment walls.

—Against—

In their five-minute comments, a stream of residents and local elected officials carried a few basic messages to the two regulatory agencies.

* The environmental planning is questionable and incomplete in many details, especially as to

Continued on page 2

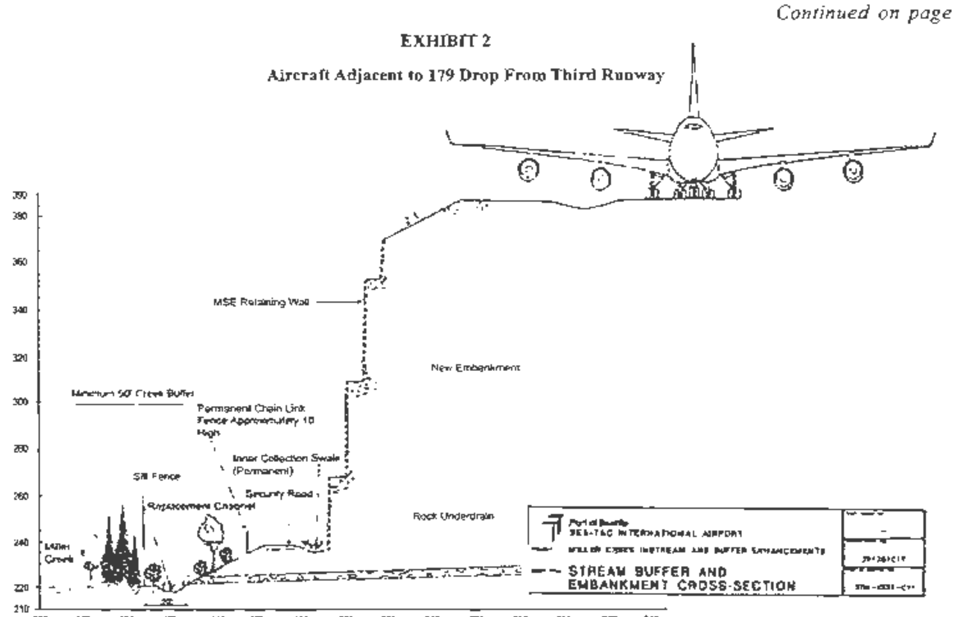


Illustration prepared from from written testimony of Dr. Stephen Hockaday for Airport Communities Coalition showing a large body jet at the edge of the third runway runway safety area, 100 ft from the 153 ft. high "mechanically stabilized wall" over Miller Creek.

Earthquake Raises Airport Seismic Safety Issues

Planners at Seattle-Tacoma International Airport have a grand vision: nearly 30 million tons of third-runway fill placed on 18 acres of wetlands, and held in place by gravity, compaction, wire mesh, and an array of concrete blocks.

People downstream from Sea-Tac Airport have another vision: nearly 30 million tons of fill—and a great amount of runway concrete—cascading toward Puget Sound when the next big near-surface earthquake strikes the Puget Sound Region. The Seattle Fault is runs just North of the Airport.

Western Washington's most recent earthquake, on 28 February, showed dramatically that airport planning and construction techniques are not adequate to withstand the known seismic hazards in the Puget Sound. Boeing Field's main runway (built on fill) broke up in places, so that the airport had to be closed. Sea-Tac Airport's control tower was knocked out of operation by damage. Yet, the quake was the least damaging of the three types of quakes: surface, tectonic-plate movements, and deep "slab" quakes.

Continued on page 3

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 5, No. 3 *Winter 1999*

Conveyor Belt Issue Stirs Crowd

On January 14, an overflow crowd attended the Des Moines City Conncil meeting to express continued opposition to a proposal to construct a five-mile conveyor belt over the Des Moines beach, up through Beach Park to Sea-Tac Airport. The purpose of the conveyor belt would be to haul 18 million cubic yards (27 million tons) of fill for the third runway from Maury Island to the Airport. The proposal was thought a dead issue when the Port's own poll last year showed that Des Moines residents opposed it by nearly two to one.

The idea apparently revived when one Port commissioner opined that the Des Moines City Conncil could be bought off. In December, the Port put out "feelers" to ACC about discnssions of a possible settlement, in hopes that the Port could cut a deal to make a large cash payment to Des Moines or ACC in return for approval of the conveyor and dropping all lawsuits.

Although Des Moines is a member of ACC, the ACC cannot commit the city to any deal nor can it bind citizens groups involved in the runway fight. At the

(Continued on page 6)

Hearing to be Held

The public hearing on the conveyor belt E.I.S. may be held as early as mid-March. Check the RCAA website (www.rcaanews.org) or with the RCAA office by phone (824-3120) for time, date, & place.

Third Runway Still "No Go" As Wetlands Stall Project

Sea-Tac's third-runway project remains at a total standstill, while the Port of Seattle attempts to solve legal problems related to wetlands permits, with no end in sight. As we reported in our Fall issue, the Port of Seattle announced in September that it needs to fill at least 8 more acres of wetlands for the third runway, a significant increase from the 11.42 acres mentioned in filings with the Department of Ecology and the Army Corps of Engineers. The Port has released no figures since its initial report, but wetlands continue to be found hy Port consultants surveying land in the acquisition area west of the airport. Unofficial reports put the present total at 25 to 30 acres. The Port has told Jonathan Freedman of the Corps that it expects to complete the survey in February 1999. This seems optimistic, considering the present pace, in part because some homeowners refuse to let the Port on their properties until acquisition is settled.

The property acquisitiou project is behind schedule as well, although recent increases in Port offers have speeded it up lately. According to the Westside

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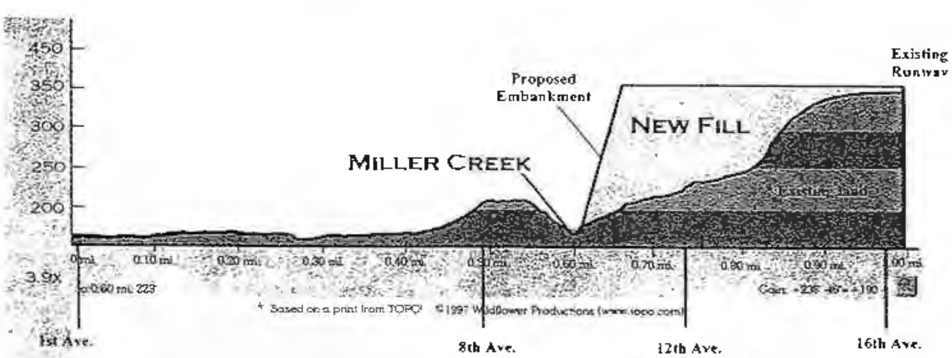

Horizontal scale diminished

IN BRIEF

The Decade In Review

It's been over ten years since the Port first decided to try to expand Sea-Tac, including a third runway. What's the outlook for this huge project?

See article on page 2

Seattle Neighborhood Sues King County

The Georgetown neighborhood in Seattle has sued the County over failure to write an EIS for King County Airport expansion.

See article on page 4

Floatplane Hearing Set

On Wednesday, February 24, at 5:30 p.m. in the City Council Chambers (Municipal Building 4th & Cherry, 9th floor) a Seattle City Council Committee will hold a public hearing on the temporary moratorium on seaplane operations or facilities on the downtown Seattle waterfront. The proposal forbids issuance of permits for seaplane operations on the Downtown harborfront, pending further study. The application of Kenmore Air is unaffected.

CASE Election

The following are the newly elected officers of C.A.S.E. for 1999:

- Larry and Candy Corvari—Co-presidents
- Arlene Brown and Claudio Parazzoli—Co-Vice Presidents
- Wally Meyers—Treasurer.

The post of Secretary remains to be filled. Board Members include: Audrey Richter, Pat Pompeo, Helen Kludt, Peg Springer, Minnie Brasher, Debi Wagner, Rod Blalock, Jim Bartlemay, and Dan Caldwell (a new member).

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol.5, No. 4 Summer 1999

Third Runway Costs Jump Another 31%

On 22 June, the Seattle Port Commission voted, 3-0, to accept a staff plan to add another $186 million to its budget for construction of the third runway proposed at Sea-Tac Airport. This 31% increase brings the official estimated construction cost to $773 million — for the runway alone. Port Commissioners blamed environmental laws and regulations for the increase in costs. However, no new laws or regulations affecting the project have come into force since the last increase in cost estimates, in 1997.

In the public-comment period just before the vote, RCAA President Al Furney, Len Oebser (speaking for C.A.S.E.), and members of the public urged the Commission to abandon the hugely over-budget project. Members of the Commission responded that the project was necessary to increase capacity at the Airport. Previously, the Port, FAA, and Puget Sound Regional Council have consistently stated that the new runway would NOT increase capacity, and that the sole purpose of the runway is to reduce bad-weather delay for arrival of passenger jets.

What About Interest?

Mr. Furney pointed out to the Commissioners that the staff proposal failed to make any allowance for the cost of borrowed money. Most Sea-Tac expansion projects must be paid for with borrowed money, and the Port has already incurred an obligation of an additional $255 million for interest on one third-runway bond issue. No estimate of interest charges was provided to the Commissioners, even after Mr. Furney's remarks. The Port has in hand only $293 million in grants and bond proceeds. Under the latest estimate, the shortfall is $479 million. Port staff attending the Commission meeting suggested that this sum would be made up from revenue, grants, and borrowing, but did not provide any estimate of how much would be forthcoming from any source. Nor did they identify any source that had actually committed to provide an additional funding. No report on negotiations with airlines for higher lease payments was presented.

"Our Clueless Port Commission"

—An editorial view
page 5

Higher Lease Payments? Passengers Pay

One possible source would be an increase in the amounts paid to the Port by the airlines for lease of facilities. The existing leases will expire 31 December 2001, and the Port hopes to impose much higher lease payments in the next agreement. If the airlines agree to higher lease

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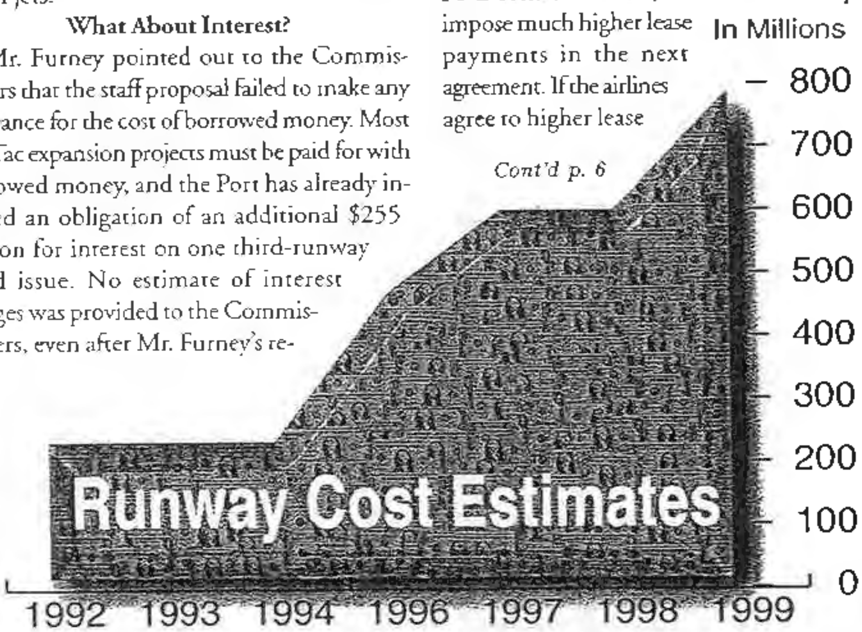


IN BRIEF

Seattle Okays Downtown Float Planes

On 17 June, two Downtown condominium associations and the State ferry system filed appeals against a permit granted on 27 May by the City to Kenmore Air for a float plan base at Pier 54 (Ivar's) on the Downtown Seattle waterfront.

Operations are limited to flights by certain non-piston aircraft, with a temporary ban on sight-seeing flights. Only on Sunday is there a night-time curfew. Day-time take-offs must occur at least 2000 feet off-shore. Evening take-offs must occur 3000 feet off shore. No float-planes may land closer than 1000 feet. The ferry system is concerned about safety hazards, and the condo-owners, about noise.

Boeing Field Choppers

Although it has yet to present its Master Plan to the King County Council, KCIA management proposed in June to sign a 29-year lease with Classic Helicopters to expand their facilities at Boeing Field. "They are doing this backwards," protested Seattle Commission on Airport Affairs President Mike Rees. "They are signing the long-term leases, then making the plan, and finally studying the noise and pollution. This effectively cuts citizen participation ont of the planning process." Nevertheless, the lease was pushed throngh the King Conuty Council's Commerce, Trade and Economic Development Committee by its chair Dwight Pelz and later adopted by the full council. Classic Helicopters is owned by Karen Walling, who also serves on the KCIA Roundtable, an advisory body to airport management. After approval of the lease, Councilman Pelz proposed a reformed process for all subsequent leases.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 5, No. 2 ***Fall 1998***

IN BRIEF

Port Can't Fund Runway

Port has only part of money to build runway. Airlines balk at funding the expansion. Cost of borrowing money likely to drive actual price tag over $1.5 billion.

See article on page 3

Dirt Trucks Roll, But Not to Runway Site

The Port sent out press releases announcing the start of third runway construction and set the trucks a-rolling, but they aren't rolling to the third runway construction site. What's going on?

See article on page 4

Port to Settle with C.A.S.E. On Discharge Permit

Contaminated water from Sea-Tac Airport will be treated in a new $20 million facility, according to sources involved in negotiations between the state Department of Ecology, C.A.S.E., and the Airport. Both C.A.S.E. and the Airport appealed the terms of a waste-water discharge permit issued earlier this year by the Ecology. C.A.S.E. has held out for much more stringent conditions, including a new facility to treat all waste- water. Settlement documents will be signed in early September, with the Port conceding most of what C.A.S.E. demanded. Good news for the people, fish, and birds along Miller and Des Moines Creeks.

Floatplanes May Fly From Seattle Waterfront

Kenmore Air spokesperson Tim Brooks said in late August that in the next few weeks the firm will probably re-activate its application to run 72 floatplane flights per day from Seattle's central waterfront. Brooks expects speedy approval from Seattle's Department of Construction and Land Use.

New Wetlands Discovery Voids DOE OK

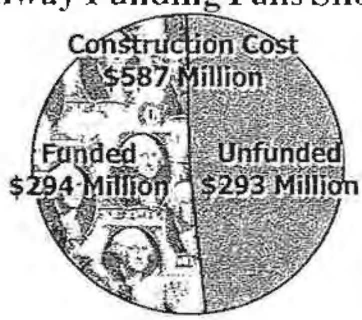
Army Corps of Engineers Delays Permit Decision

Sea-Tac third-runway construction schedules have been set back again, this time because of problems with permits for construction in wetlands in the headwaters of Miller Creek. The Airport's application now pending with the U.S. Army Corps of Engineers must be re-written and re-submitted, owing to serious underestimates of the amount of wetlands to be filled. At least 8 and possibly more acres have been found, with more studies to do. A prior approval issued by the Department of Ecology has been rescinded.

As Sea-Tac expansion plans come under increasingly professional scrutiny, more and more problems emerge. Securing approval to fill in wetlands and to alter the headwaters of local creeks requires the Port of Seattle to obey tightly crafted regulations and specific plans, increasingly difficult to comply with, endangering success of the project.

To grant certification of the Port's compliance with sec. 401 of the federal Clean Water Act, the Department of Ecology has imposed what one observer calls the most stringent rules ever imposed on the Port, with tables of automatic penalties ranging up to $1000 per day for relatively minor water-quality violations, accompanied by continuing requirements for a host of reports and follow-up plans. To the distress of local conservationists, however, Ecology also gave the Port approval for destruction of 11.42 acres of wetlands in the Miller Creek watershed on the promise of replacement wetlands in Auburn, in the watershed of the Green River. This action was rescinded because of the newly discovered wetlands. The Corps has a strong preference for not allowing wetlands to be filled at all and has told the Port to rework its plan so as to locate any replacements in the same drainage system.

Runway Funding Falls Short



See Story Pg. 3

Cancer Rates Higher Near Airport

Unusually high incidences of cancers, including rare brain cancers, have been reported in areas within three miles of Sea-Tac Airport. Area residents Rose Clark and Audrey Richter have been collecting cancer and other health data for years. Their work, summarized in an area map, shows higher than expected levels of cancers among past and present residents in the area, a finding confirmed in early Summer by preliminary work of the State Department of Health as to all cancers and as to the rare brain cancer, glioblastoma.

In a series of meetings chaired by Sen. Julia Patterson (D., 33), the State and County health departments have agreed on a work program for further studies of health concerns around Sea-Tac Airport. The first step will be to analyze data in the state cancer registry, to learn what types of cancers are most prevalent around the Airport, with a report to be issued in November 1998. An effort will be made to locate all cases of glioblastoma in the Sea-Tac area, by using cancer registries, community records, and all available medical records, including the resources of Fred Hutchison Cancer Research Center. Then, discovered glioblastoma cases will be mapped, to determine spatial relationships to the Airport.

Truth in Aviation

The Newsletter of the Regional Commission on Airport Affairs

Vol. 5, No. 1 Spring 1998

IN BRIEF

April 9th Hearing On Wetlands

After a flood of adverse public comments, the U.S. Army Corps of Engineers has announced a public hearing on April 9 on the Port of Seattle's request for Federal permission to destroy wetlands in the site of the proposed third runway. The Port offers to create new wetlands in Auburn, in an unrelated watershed, as compensation. The hearing will be begin at 7 p.m. at the Performing Arts Center, Foster High School, 4242 So. 144th Tukwila. Please phone the RCAA office (206) 824-3120 to reserve seats on the bus.

See article on page 3

Federal Way, Tacoma Seek FAA OK For Flight Changes

Revised flight tracks, to lessen noise over Tacoma and Federal Way, will be discussed in a meeting on April 16 between a citizens' task force from the two cities and FAA. U.S. Rep. Adam Smith is spear-heading efforts to lessen impacts from the four-post plan (implemented in 1990.)

KCIA Management Wants Longer Runway

Plans for an 800-foot extension of King County International Airport's runway, to 10,000 feet, bringing jet traffic even closer to Georgetown's residential area, were unexpectedly announced to the public on February 18 by KCIA Management.

See article on page 2

Fuel Dumping?

Report suspected fuel dumping and unusnal jet exhaust fumes to the Puget Sound Air Pollution Control Agency (PSAPCA), at (206) 343-8800 or 1 (800) 552-3565.

AIRPORT EXPANSION PROGRAM TOO BIG FOR PORT STAFF TO HANDLE

Ambitious expansion projects at Sea-Tac Airport are starting to unravel, thanks to massive underestimates of costs and ever-growing scheduling problems. Trouble came to light on January 13, when a revised cost estimate for the new parking gargage was released to the Port Commission, showing a 24 percent increase from a $52.8 million estimate published only 11 months earlier. Undaunted, the Commission voted, 3-1, Jack Block dissenting, to plunge forward. Commissioner Gary Grant was asked, how much more will the price tag for other expansion projects increase in the next eight years? Grant replied, "That's a legitimate question, and one we'll be asking as well".

On January 23, a memorandum to the Commission reported that the complexity of managing all the 100-plus airport expansion projects was beyond the capability of Port staff. Gina Marie Lindsey, Director of the Aviation Division, and Michael Feldman (who now holds the title of Director of Aviation Professional & Technical Services) suggested a slow-down of projects, new controls over capital outlays, and hiring more consultants to do such work as detailed engineering scheduling, design review, and contract administration. Lindsey and Feldman reported that the Port does not even have enough office space for all the needed staff.

In response, the Commission voted on February 24 to accept the staff proposal to seek consultants for a multi-year contract for program and construction management services for the expansion projects, at a cost of $10.5 million for 1998 alone. During discussion, Mr Feldman commented that the present schedule for completion on various projects would require a tripling or quadrupling of the Port's normal rates of capital expenditure. He added, " ... while there is urgency, certainly, to get on with the improvement program, we want to do it right, we are not interested in doing it fast." His conclusion: "Our current resources, and our delivery system, really are not adequate to deliver a program of this magnitnde."

Continued on page 6

Port Changes Course, Supports Highline Schools Noise Study

Abandoning hope of favorable outcome in negotiations with the Port of Seattle, on February 12 the Highline School District announced an independent study of airport-related noise pollution in the District's schools, and the costs of solving classroom learning interference. The Highline school board has committed $330,000 to the project, half of which comes from a grant by Governor Locke from his discretionary funds.

Announcement of the study was first belittled by the Port, but on March 4, Aviation Director Gina Marie Lindsey announced, "There is no cap at $50 million" on the Port's potential contribution to noise remedies in the Highline Schools. She also retreated from the Port's refusal to consider paying for air conditioning in schools. Highline School Superintendent Joe McGeehan warmly welcomed Lindsey's change of position.

In Spring 1997, the District had proposed to the Port that the two agencies jointly sponsor pilot studies of the noise problem. The negotiations failed: The Port would not commit to any assistance to the District unless the District accepted the third runway without further mitigation. While the Port public-relations machine claimed that the Port had offered $50 million to deal with the problem, in fact, as of February 12, the Port had never made any written offer of cash assistance, in any amount, according to Highline board member Shay Shual-Berke, M.D., and the District's attorney, David Hokit.

The district plan has several steps. First, an opinion survey of residents in the district, followed by direct communication with the residents in public meetings (two were held on March 4 and

Continued on page 5

20 September 2002

Tony Piasecki
City Manager, City of Des Moines
21630 11th Ave.So
Des Moines, Washington
WA 98198-6838

Re: RCAA invoice to City of Des Moines, third-quarter, 2002

Dear Mr Piasecki:

Please find enclosed for staff & council review & action our invoice for services for the third quarter, 2002, per our contract with the City.

I note that no presentation to Council has been requested of us so far this year, though it has been the practice in the past to have such presentations on a quarterly basis.

Also, newspaper accounts of a recent Council meeting quote Mr Wasson as complaining that requests from the City for financial data have not been honored by RCAA. If that is what Mr Wasson said, he was in error. We have had no requests from the City this year until your letter terminating the contract between the City and RCAA. We did receive requests from an individual Councilmember but not from the City: it is our Board's understanding that requests for information (like all other communications) come to RCAA through the Administration. Further, our office has in fact furnished a complete record of RCAA's expenditures and income for all of 2001, mailed to each Councilmember (but never acknowledged) and, more recently, for 2002 through early September, to yourself.

Yours very truly,

Chas. H.W. Talbot
Office Administrator

encl

L02-263-DM

RCAA
Regional Commission on Airport Affairs

19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
FAX (206) 824-3451

<rcaa@earthlink.net>

www.rcaanews.org

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

20 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, third quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: $7,000

INV02-03-DM

File

RCAA
Regional Commission on Airport Affairs

19900 4th Ave SW
Normandy Park, WA 98166
(206) 824-3120
FAX (206) 824-3451

<rcaa@earthlink.net>

www.rcaanews.org

6 September 2002

Tony Piasecki
City Manager, City of Des Moines
21630 11th Ave.So
Des Moines, Washington
WA 98198-6838

Re: RCAA invoice to City of Des Moines, first & second-quarters, 2002

Dear Mr Piasecki:

Please find enclosed for staff & council review & action our invoices for services for the first and second quarters, 2002, per our contract with the City.

The general practice in years past has been for an RCAA representative to be scheduled to make a short presentation to Council from time to time (usually quarterly), at Council's request. We have not received such a request this year, but a presentation can be arranged easily enough; let me know the date.

Also, I am instructed to send you our standard year-to-date report on income & expenditures, which gives some idea of what our activities have been this year. It is current through today.

And may I call your attention to our new electronic newsletter? The first issue was posted on 12 August, focussing in a preliminary way the order of the PCHB on the sec. 401 case. We're rather pleased with it, & see this as replacing the print newsletter of the past. Find the first in the section for newsletter on our website, www.rcaanews.org, In future, there will be a special "button" for the current webletter. We'll have a new one up in a few days.

Yours very truly,

Chas. H.W. Talbot
Office Administrator

encls

L02-249-DM

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

6 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, first quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: $7,000.00

INV02-01-DM

REGIONAL COMMISSION ON AIRPORT AFFAIRS
19900 4th S.W.
Normandy Park, Washington
98166-4043
Telephone: 206.824.3120
FAX: 206.824.3451
E-mail: rcaa@earthlink.net

STATEMENT

6 September 2002

City of Des Moines
21630 11th Ave. So.
Des Moines, Washington 98198-6838

RE: Services, second quarter, 2002
As per contract between RCAA and the City of Des Moines

Amount due: $7,000.00

INV02-02-DM

Itemized Categories Report

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
INCOME							
0001 - Petty cash							
	8/1/02	RCAA2000	2685	Cash			-75.00
TOTAL 0001 - Petty cash							-75.00
6000 - i...							
6002 - Burien							
	1/9/02	Savings	DE...	Burien Qr 01-IV, Public	Qr O1-IV		7,000.00
	6/6/02	Savings	DE...	N Pk, Burien, Qr. 02-01			7,000.00
	8/9/02	Savings	DEP	Burien Qr. 02-I	Dep. 085		7,000.00
TOTAL 6002 - Burien							21,000.00
6003 - Des Moines							
	1/3/02	Savings	DEP	DM Qr 01-IV	078		7,000.00
TOTAL 6003 - Des Moines							7,000.00
6005 - Normandy Park							
	2/15/02	RCAA2000	DEP	Normandy Park Qr 01-IV	Dep 081		8,000.00
	6/6/02	Savings	DE...	N Pk, Burien, Qr. 02-01			8,000.00
TOTAL 6005 - Normandy Park							16,000.00
TOTAL 6000 - income contracts w cities							44,000.00
6700 - ...							
6701 - public - gen'l							
	1/9/02	Savings	DE...	Burien Qr 01-IV, Public	public contributions		65.00
TOTAL 6701 - public - gen'l							65.00
TOTAL 6700 - Contribs rec'd							65.00
6800 - interest income							
	1/7/02	Savings	DEP	Interest Earned	Dec 2001		1.95
	2/6/02	Savings	DEP	Interest Earned	Jan 2002		11.72
	3/6/02	Savings	DEP	Interest Earned	Feb 2002		6.97
	4/4/02	Savings	DEP	Interest Earned	March 02		6.61
	5/6/02	Savings	DEP	Interest Earned	Apr 02		4.09
	6/6/02	Savings	DEP	Interest Earned	May 02		2.69
	7/5/02	Savings	DEP	Interest Earned	Jun 02		9.97
TOTAL 6800 - interest income							44.00
TOTAL INCOME							44,034.00
EXPENSES							
7050 - ...							
7052 - water quality consultant							
	2/14/02	RCAA2000	2614	Greg Wingard	refresh depost, inv rec'd 23 ...		-632.00
	4/4/02	RCAA2000	2644	Greg Wingard	refresh depost, inv rec'd 23 ...		-993.88
	5/10/02	RCAA2000	2659	King County Dept Natural Re...	docs req'd by Greg Wingard		-35.00
	5/22/02	RCAA2000	2661	Greg Wingard	April special billing		-688.00
	7/12/02	RCAA2000	2672	Greg Wingard	Third-qr retainer		-2,560.00
	9/6/02	RCAA2000	2711	Greg Wingard	August arsenic work		-996.00
TOTAL 7052 - water quality consultant							-5,904.88
7055 - video, photo services							
	4/4/02	RCAA2000	2645	Brett Fish	PCHB hearing video-taping		-1,500.00

Itemized Categories Report

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	8/1/02	RCAA2000	2680	Brett Fish	DM HE hearing; copy, video...		-43.52
	8/2/02	RCAA2000	2687	Brett Fish	aerial photo proj - 2002		-750.00
	9/6/02	RCAA2000	2704	Brett Fish	aerial photo proj - 2002 - ov...		-120.59
TOTAL 7055 - video, photo services							**-2,414.11**
7059 - office staffing							
	1/4/02	RCAA2000	2606	Chas. H.W. Talbot	office clerk sevices, inv 01-1...		-350.00
	1/4/02	RCAA2000	2607	Chas H.W. Talbot	Dec. off adm services; GL ...		-1,120.00
	2/14/02	RCAA2000	2618	Chas H.W. Talbot	Inv. 02-01-T; GL 7050-7059		-1,120.00
	2/14/02	RCAA2000	2619	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-360.00
	3/7/02	RCAA2000	2626	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-510.00
	3/7/02	RCAA2000	2627	Chas Talbot	Jan-Feb. office admr servic...		-1,400.00
	4/4/02	RCAA2000	2640	Chas H.W. Talbot	Mar. off adm services; GL ...		-1,120.00
	4/4/02	RCAA2000	2641	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-275.00
	5/2/02	RCAA2000	2655	Chas H.W. Talbot	Inv 02-04-T		-1,120.00
	5/2/02	RCAA2000	2656	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-315.00
	6/6/02	RCAA2000	2667	Chas H.W. Talbot	Inv 02-05-T		-1,400.00
	6/6/02	RCAA2000	2668	Chas H.W. Talbot	Inv 02-04-1-H, 05-H		-586.50
	7/12/02	RCAA2000	2673	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	7/12/02	RCAA2000	2674	Chas Talbot	Jan-Feb. office admr servic...		-1,120.00
	7/12/02	RCAA2000	2676	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-150.00
	8/1/02	RCAA2000	2678	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	8/1/02	RCAA2000	2683	Chas. H.W. Talbot	office clerk sevices, inv 02-0...		-190.00
	8/1/02	RCAA2000	2684	Chas Talbot	June Jly office admr service...		-1,400.00
	9/6/02	RCAA2000	2706	Chas. H.W. Talbot	office clerk sevices, inv 02-1...		-110.00
	9/6/02	RCAA2000	2710	Chas Talbot	Aug office admr services, In...		-1,120.00
	9/6/02	RCAA2000	2714	Chas. H.W. Talbot	office clerk sevices, inv 02-1...		-190.00
TOTAL 7059 - office staffing							**-14,336.50**
TOTAL 7050 - consultants							**-22,655.49**
7120 - ...							
7122 - webmaster							
	9/6/02	RCAA2000	2712	Means Talbot Associates	website maint, June - Aug; ...		-312.50
TOTAL 7122 - webmaster							**-312.50**
TOTAL 7120 - Website maint.							**-312.50**
8150 - Books, publs, subs							
	1/4/02	RCAA2000	2599	South County Journal	13-week sub., acct 6109634...		-35.00
	3/7/02	RCAA2000	2623	South County Journal	13-week sub., acct 6109634...		-35.00
	3/7/02	RCAA2000	2632	Des Moines News	inv dtd 6 March 2002, half-y...		-13.00
	4/18/02	RCAA2000	2647	Aviation Week Newsletters	Aviation & Aerospace Alma...		-106.00
	5/2/02	RCAA2000	2651	Federal Way News	half-year sub		-13.00
	6/6/02	RCAA2000	2664	South County Journal	13-week sub., acct 6109634...		-35.00
	6/6/02	RCAA2000	2670	West Seattle Herald	half-year sub.; GL 8150; in...		-21.00
	9/6/02	RCAA2000	2708	South County Journal	13-week sub., acct 6109634...		-35.00
TOTAL 8150 - Books, publs, subs							**-293.00**
8280 - ...							
8281 copier repairs, maint.							
	2/14/02	RCAA2000	2612	Seattle Photocopy Co.	inv. 32189		-195.24
	4/4/02	RCAA2000	2643	Sea/Tac Copy Systems	inv. 30107; dtd 3 iv 02		-441.72
	9/6/02	RCAA2000	2707	Seattle Photocopy Co.	inv. 32513 dtd 15 viii 02		-375.36
TOTAL 8281 copier repairs, maint.							**-1,012.32**
TOTAL 8280 - Copier expenses							**-1,012.32**
8600 - ...							
8601 - misc.							

Itemized Categories Report

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	3/21/02	Savings	TXFR	From Savings To Checking	#02-03		-2,000.00
	4/8/02	Savings	TXFR	From Savings To Checking	#02-04		-6,000.00
	5/3/02	Savings	TXFR	From Savings To Checking	#02-05		-1,700.00
	5/28/02	Savings	TXFR	From Savings To Checking	#02-06		-700.00
	6/17/02	Savings	TXFR	From Savings To Checking	#02-07		-2,700.00
	7/17/02	Savings	TXFR	From Savings To Checking	#02-08		-4,000.00
	8/5/02	Savings	TXFR	From Savings To Checking	#02-09		-3,000.00
TOTAL TO RCAA2000							**-32,100.00**
Savings							
	1/9/02	RCAA2000	TXFR	From Savings To Checking	#02-01		2,000.00
	1/30/02	RCAA2000	TXFR	From Savings To Checking	#02-02		10,000.00
	3/21/02	RCAA2000	TXFR	From Savings To Checking	#02-03		2,000.00
	4/8/02	RCAA2000	TXFR	From Savings To Checking	#02-04		6,000.00
	5/3/02	RCAA2000	TXFR	From Savings To Checking	#02-05		1,700.00
	5/28/02	RCAA2000	TXFR	From Savings To Checking	#02-06		700.00
	6/17/02	RCAA2000	TXFR	From Savings To Checking	#02-07		2,700.00
	7/17/02	RCAA2000	TXFR	From Savings To Checking	#02-08		4,000.00
	8/5/02	RCAA2000	TXFR	From Savings To Checking	#02-09		3,000.00
TOTAL FROM Savings							**32,100.00**
TOTAL TRANSFERS							**0.00**
OVERALL TOTAL							**-2,983.75**

Itemized Categories Report

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
	3/7/02	RCAA2000	2624	Vilma Signs	inv. dtd 21 Fb 02		-565.76
	3/7/02	RCAA2000	2625	**VOID**Labels & Lists, Inc.	inv. 34127-8, dtd 21 ii 02	R	0.00
	3/7/02	RCAA2000	2628	J. Beth Means	inv 2002-01 -- flier design		-261.25
	3/7/02	RCAA2000	2630	The Copy Company	inv. 39981: #rd RW flier		-576.56
	3/7/02	RCAA2000	2631	The Copy Company	DM insert		-592.58
	3/19/02	RCAA2000	2634	**VOID**Labels & Lists, Inc.	inv. 34373-8, dtd 15 iii 02	R	0.00
	3/21/02	RCAA2000	2635	**VOID**U. S. Postal Service	refresh bulk-mail acc 01875	R	0.00
	4/4/02	RCAA2000	2637	The Copy Company	DM insert		-921.68
	6/6/02	RCAA2000	2665	Labels & Lists, Inc.	inv. 34127-8, replacement ck		-251.80
	6/6/02	RCAA2000	2666	Labels & Lists, Inc.	373		-387.68
	9/6/02	RCAA2000	2703	JR Mailing Services, Inc.	"Let's Be Clear", DM mailing		-1,476.02
TOTAL 8601 - misc.							-5,033.33
8604 - outreach - media adv.							
	1/29/02	RCAA2000	2609	Entertainment Communicatio...		c	-10,000.00
TOTAL 8604 - outreach - media adv.							-10,000.00
TOTAL 8600 - Outreach							-15,033.33
9350 - Office supplies							
	1/4/02	RCAA2000	2602	Office Depot	acct 6011-5666-0001-7572;...		-221.63
	2/14/02	RCAA2000	2613	Office Depot	acct 6011-5666-0001-7572;...		-142.92
	2/14/02	RCAA2000	2615	xpedx -- Stores Division	Acct # 003-2000081; inv dtd...		-74.09
	3/7/02	RCAA2000	2629	Office Depot	acct 6011-5666-0001-7572;...		-58.71
	4/4/02	RCAA2000	2638	Office Depot	acct 6011-5666-0001-7572;...		-84.75
	5/2/02	RCAA2000	2654	Office Depot	acct 6011-5666-0001-7572;...		-136.99
	7/12/02	RCAA2000	2677	xpedx -- Stores Division	Acct # 003-2000081; inv dtd...		-33.83
	8/1/02	RCAA2000	2679	xpedx -- Stores Division	Acct # 003-2000081; purch ...		-53.81
	8/1/02	RCAA2000	2681	Jim Bartlemay	office supplies		-21.69
	9/6/02	RCAA2000	2713	xpedx -- Stores Division	Acct # 003-2000081; inv. dt...		-58.64
TOTAL 9350 - Office supplies							-887.06
9425 - printing, copying ex hous							
	2/14/02	RCAA2000	2611	Port Of Seattle	inv.1148, dtd 10 i 02; cust n...		-8.40
	2/14/02	RCAA2000	2617	Kinko's Inc.	acct 0000130082 inv dtd 3...		-135.68
	2/14/02	RCAA2000	2622	Port Of Seattle	inv.1152, dtd 12 ii 02; cust n...		-1.05
	4/18/02	RCAA2000	2646	Port Of Seattle	3000 pp., 3rd RW project		-450.00
	4/18/02	RCAA2000	2648	Department of Ecology	v.2 Sea-Tac Recv'g Report	R	-126.89
	4/18/02	RCAA2000	2649	Phil Emerson	A/L lease docs		-47.70
	5/10/02	RCAA2000	2658	Port Of Seattle	fiscal documents		-14.25
	5/10/02	RCAA2000	2660	Port Of Seattle	fiscal documents		-51.90
	8/1/02	RCAA2000	2682	Chas H.W. Talbot	DM Creek Plan docs		-39.75
	8/29/02	RCAA2000	2689	Department of Ecology	GW RDPR 6 viii 02		-37.80
TOTAL 9425 - printing, copying ex hous							-913.42
9440 - ...							
9441 - NL - editorial services							
	9/6/02	RCAA2000	2705	Means Talbot Associates	design new webltr; inv dtd 1...		-231.25
	9/6/02	RCAA2000	2709	Means Talbot Associates	editorial & web work, webltr ...		-637.50
TOTAL 9441 - NL - editorial services							-868.75
9443 - NL -- postage							
	6/6/02	RCAA2000	2671	U. S. Postmaster	Permit 01875; std mail; imp...		-125.00
TOTAL 9443 - NL -- postage							-125.00
TOTAL 9440 - Newsletter							-993.75
9450 - Professional fees							
	1/4/02	RCAA2000	2603	Smith & Lowney, PLLC	inv. 10968, dtd 28 xii 2001 (...		-50.00
TOTAL 9450 - Professional fees							-50.00

Itemized Categories Report

1/1/02 Through 9/6/02

Cat/Sub	Date	Acct	Num	Description	Memo	Clr	Amount
9480 - ...							
9483 - AA&M -- postage							
	5/2/02	RCAA2000	265...	JR Mailing Services, Inc.	pstage		-1,440.19
TOTAL 9483 - AA&M -- postage							-1,440.19
TOTAL 9480 - Action Alerts &c							-1,440.19
9484 AAM Mailing Services							
	5/2/02	RCAA2000	265...	JR Mailing Services, Inc.			-638.16
TOTAL 9484 AAM Mailing Services							-638.16
9700 - Telcom							
	1/4/02	RCAA2000	2600	Qwest	acct 206-824-3120 173-37		-154.12
	1/4/02	RCAA2000	2601	Verio, Inc. - 15	Acct 10041778, inv. 563 08...		-60.00
	1/4/02	RCAA2000	2604	Zone Telcom, Inc.	acct #24880; inv dtd 28 Dec...		-25.07
	2/14/02	RCAA2000	2616	Qwest Dex	inv. 000005410535, dtd 27 i...		-29.59
	2/14/02	RCAA2000	2620	Zone Telcom, Inc.	acct #24880; inv dtd 31 Jan ...		-23.98
	2/14/02	RCAA2000	2621	Qwest	acct 206-824-3120 173-37; i...		-151.74
	3/7/02	RCAA2000	2633	Qwest	acct 206-824-3120 173-37; ...		-165.00
	4/4/02	RCAA2000	2636	Qwest	acct 206-824-3120 173-37; ...		-165.00
	4/4/02	RCAA2000	2639	Zone Telcom, Inc.	acct #24880; inv dtd 31 Jan ...		-18.17
	4/4/02	RCAA2000	2642	Earthlink, Inc.	acct 0000-000004457265; ...		-65.85
	5/2/02	RCAA2000	2653	Qwest	acct 206-824-3120 173-37; ...		-147.63
	6/6/02	RCAA2000	2662	Zone Telcom, Inc.	inv rec'd 7 May		-11.57
	6/6/02	RCAA2000	2663	Qwest	acct 206-824-3120 173-37; ...		-149.40
	6/6/02	RCAA2000	2669	Earthlink, Inc.	acct 0000-000004457265; ...		-65.85
	7/12/02	RCAA2000	2675	Qwest	acct 206-824-3120 173-37; ...		-176.92
	8/1/02	RCAA2000	2686	Qwest	acct 206-824-3120 173-37; ...		-165.00
	9/6/02	RCAA2000	2715	Qwest	acct 206-824-3120 173-37; ...		-165.00
TOTAL 9700 - Telcom							-1,739.89
9755 - business taxes & licenses							
	1/30/02	RCAA2000	2610	Department of Revenue	Qr. 01-IV B&O		-465.36
	5/3/02	RCAA2000	2657	Department of Revenue	Qr. 02-0I B&O / 601 413 657		-346.82
	8/6/02	RCAA2000	2688	Department of Revenue	Qr. 02-02 B&O		-236.46
TOTAL 9755 - business taxes & licenses							-1,048.64
9999 - US income tax							
	1/4/02	RCAA2000	2605	U.S. Internal Revenue Service	advance pay't		-2,500.00
	4/8/02	Savings	DEP	US IRS	Yr 99 tax refund?		2,000.00
	7/11/02	Savings	DEP	USIRS	Dep 084 Yr 00 refund?		500.00
TOTAL 9999 - US income tax							0.00
Uncategorized Expenses							
	1/29/02	RCAA2000	2608	**VOID**		R	0.00
TOTAL Uncategorized Expenses							0.00
TOTAL EXPENSES							-47,017.75
TOTAL INCOME - EXPENSES							-2,983.75
TRANSFERS							
RCAA2...							
	1/9/02	Savings	TXFR	From Savings To Checking	#02-01		-2,000.00
	1/30/02	Savings	TXFR	From Savings To Checking	#02-02		-10,000.00

EXCERPT
DES MOINES CITY COUNCIL MINUTES
March 3, 2003

RCAA Final Billing

Councilmember Wasson stated that after reviewing the invoices submitted by the RCAA, he felt that benefits to the City were non-existent and therefore Council should not spend taxpayer dollars for no benefit. He further felt that during the time period covered, activity was mainly confined to legal actions by lawyers of ACC and that citizen involvement played no part in any of the legal arguments. Since there was strictly legal procedures during this time frame this would be his rational for denying payment of the billing.

Councilmember Thomasson advised that this is a contract issue. He noted that for a number of years RCCA has provided various services and the 2002 services were more or less the same as previous years and the City has not requested any change. He voiced the opinion that the idea of not paying RCAA is being led by personality issues. He feels the City should honor the contract in accordance with the termination clause and pay the invoice.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler, to authorize payment of $22,065.22 to the Regional Commission on Airport Affairs as full and final payment for services provided in 2002.

Councilmember Petersen expressed concern that both the 1st and 2nd quarter billings from RCAA were sent on the same date.

Councilmember Sheckler remarked that having observed RCAA activities for several years, he feels they have done a commendable job of keeping citizens informed, which is their purpose. He further advised that RCAA has taken on some of the side issues that ACC did not have the time to take on. He felt RCAA has performed their tasks and should be paid for their past service.

In response to Councilmember Petersen's concern, City Attorney Marousek noted that the contract calls for quarterly payments to be made and therefore it is the City's responsibility to pay.

Larry Corvari, President of RCAA, remarked that cities are typically slow in paying, however when there was an apparent change in City policy direction with the City Manager being fired, RCAA decided the first and second quarter bills should be sent to the City. That is the reason they have the same date. He noted that normally billings are not sent as the cities know their responsibility to pay.

Councilmember Wasson remarked that RCAA members are actively pursuing litigation against Des Moines Councilmembers during the billing time in question. He further noted that RCAA provided written material to citizens during the Council election, publishing information to try to influence the outcome of the Council election, with false statements. He felt the City should not be paying for this type of activity. He advised that he will vote against any payment and encouraged other Councilmembers to vote likewise.

Councilmember White questioned whether Councilmembers involved in the PDC investigation should even be voting on this issue.

City Attorney Marousek responded that this is not a quasi-judicial matter, and generally there is no financial interest involved, therefore no disqualifying factor exists.

Mayor Steenrod remarked that it appears that RCAA is duplicating efforts of other organizations that are doing the same job.

Councilmember Thomasson advised that this was a negotiated contract and that RCAA kept their end of the agreement. Des Moines needs to maintain is reputation and pay the amount due per the contract.

VOTE: Motion failed 4 to 3 with Councilmembers Sheckler, Thomasson and White voting YES.

OLD BUSINESS
Item #1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

passed 4-2

SUBJECT: Des Moines City Council Rules of Procedure

ATTACHMENTS: Draft Resolution No. 03-109

FOR AGENDA OF: September 4, 2003

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 4, 2003

CLEARANCES:
[X] Legal LAM

APPROVED BY CITY MANAGER FOR SUBMITTAL: AP

PURPOSE AND RECOMMENDATION

This item is on the agenda at the request of three Councilmembers for revisions of a number of Council Rules of Procedure. The City Attorney reviewed and redrafted the requested revisions, and provides the attached resolution amending City Council Rules of Procedure Nos. 5, 9, 10, and 20, as requested by the Councilmembers.

This is the second reading of Draft Resolution No. 03-109, as required in DMMC 4.12.030. This proposed amendment to the Council *Rules of Procedure* was discussed by the City Council at the July 10, 2003 meeting. In accordance with DMMC 4.12.030, this amendment was first submitted in resolution form on July 10, 2003, under the order of New Business, and subsequently placed on this calendar for consideration. An affirmative vote of at least a majority of the whole membership of the Council is needed to adopt this resolution.

MOTION: "To adopt Draft Resolution No. 03-109, amending the Des Moines City Council Rules of Procedure by amending Council Rule 5 to limit the power of the Mayor Pro Tempore when acting as Mayor in preparing a meeting agenda or presiding over a meeting; amending Council Rule 9 to change the way a regular meeting agenda is prepared and used at a Council meeting; amending Council Rule 10 to permit a meeting to be designated as a study session only when there are no more than four items of business; and amending Council Rule 20 relating to control of the order of business.

DISCUSSION

Descriptions of the proposed amendments are as follows:

- **Rule 5 - Presiding Officer.** This amendment limits the power of the Mayor Pro Tempore when acting as Mayor in preparing a meeting agenda or presiding over a meeting. The Mayor Pro Tempore would have authority only to approve the Council meeting agenda or study session worksheet as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written.

- **Rule 9 - Council Meeting Agenda.** This amendment changes the way a regular meeting agenda is prepared and used at a Council meeting. The amendment does not change the process of introducing new items to the preliminary agenda: items may be introduced by the Presiding Officer, three Councilmembers, or the City Manager. Under the amendment, the Presiding Officer has authority to delete items from the **preliminary** agenda, except that the Presiding Officer may not delete items proposed by three Councilmembers; and deleted items are to be placed on a future Council agenda to determine whether and when they will be acted upon. Language that appeared to give the Presiding Officer authority to delete items from a prepared agenda is removed from the rule. The rule is changed to require 72 hours advance posting of the meeting agenda, in order to be consistent with DMMC 4.04.030.

- **Rule 10 - Study Sessions.** This amendment permits a meeting to be designated as a study session only when there are no more than four items of business.

- **Rules 20 - Order of Bnsiness.** There are three amendments to this rule. The amendment in the first paragraph provides that any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present. The amendment to subsection 20(f)(2)d. corrects an oversight from a 2000 amendment, which added a third subsection to the section, but failed to change the reference to the number of subsections, for which a majority vote may overturn the Presiding Officer's decisions, from "two" subsections to "three" subsections. The amendment to 20(j)(3) codifies the current practice of addressing items removed from the consent calendar as the next business in order following conclusion of the consent calendar.

CITY ATTORNEY'S REDRAFT 7/07/03

DRAFT RESOLUTION NO. 03-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, amending Des Moines City Council *Rules of Procedure* Rule 5, regarding Mayor Pro Tempore duties; Rule 9, regarding City Council meeting agenda preparation for regular meetings; Rule 10, regarding City Council study session worksheet preparation for study session meetings; and Rule 20, regarding City Council meeting order of business; and amending Rules 5, 9, 10, and 20 of section 1 of Resolution No. 525 as amended by Resolution No. 659 as amended by section 2 of Resolution No. 754.

WHEREAS, the DMMC 4.12.030 expressly provides that "The rules may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the council," and

WHEREAS, DMMC 4.12.030 further provides that "(A)any such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the council agenda under the order of new business," and

WHEREAS, DMMC 4.12.030 also provides that "A vote of the council to adopt such a resolution shall occur at a subsequent regular meeting," and

WHEREAS, the City Council finds that it is in the public interest to amend Rule 5, regarding Mayor Pro Tempore duties; Rule 9, regarding City Council meeting agenda preparation for regular meetings; Rule 10, regarding City Council study session worksheet preparation for study session meetings; and Rule 20, regarding City Council meeting order of business; now therefore,

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

Sec. 1. Rule 5 of the Des Moines City Council *Rules of Procedure* and Rule 5 of section 1 of Resolution No. 525 are hereby amended as follows:

PRESIDING OFFICER

Rule 5. The Mayor shall preside at meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. The Mayor shall have no regular administrative or executive duties. In case of the Mayor's absence or temporary disability the Mayor Pro Tempore shall act as Mayor during the continuance of the absence. When the Mayor Pro Tempore acts as Mayor by participating in preparation of a Council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Mayor Pro Tempore shall have authority only to approve the Council meeting agenda or study session worksheet as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the Council shall act as Mayor during the continuance of the absences or disabilities. The Mayor or Mayor Pro Tempore are referred to as "Presiding Officer" from time to time in these Rules of Procedure.

Sec. 2. Rule 9 of the Des Moines City Council *Rules of Procedure* and Rule 9 of section 1 of Resolution No. 525 are hereby amended as follows:

COUNCIL MEETING AGENDA

Rule 9. This rule specifies the method of preparation of a Council meeting agenda for meetings other than study sessions. The Presiding Officer, three (3) Councilmembers, or the City Manager may introduce a new item to the preliminary agenda. The Presiding Officer shall have the option of deleting any item, other than those items introduced by three (3) Councilmembers, from the preliminary agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda for a subsequent Council meeting. The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare ((~~an~~)) a preliminary agenda for the Council. After the ((~~proposed~~)) preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press ((~~on or before 4:30 PM two working days~~)) seventy-two (72) hours before a regular Council meeting. ((~~The Presiding Officer shall have the option of deleting any item from the agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda for a subsequent Council meeting.~~ ~~The Presiding Officer, three (3) Councilmembers, or the City Manager may introduce a new item to the agenda.~~))

Sec. 3. Rule 10 of the Des Moines City Council *Rules of Procedure* and Rule 10 of section 1 of Resolution No. 525 as amended by Resolution 659 as amended by section 2 of Resolution No. 754. are hereby amended as follows:

STUDY SESSIONS

Rule 10. Regular Council meetings that are held during the first and third week of each month in accordance with Rule 2, may be designated as Study Sessions by the Presiding Officer when there are no more than four (4) items of business. Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. The purpose of Study Session discussions is to allow Councilmembers to be made aware of impending business and allow informal discussion of issues that might be acted on at a future meeting. These conditions will allow the Councilmembers to communicate informally about these impending issues. The City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall, for each item, contain the Discussion Item, the Discussion Item Moderator, and the Discussion Goal. After the proposed Council Study Session worksheet has been approved as to form, only, by the Presiding Officer, a copy of it along with any supporting materials shall be prepared for Councilmembers, the City Manager, and the press on or before 4:30 PM five (5) working days before the Council Study Session. During the Council Study Session the Discussion Item Moderator may: 1) introduce the subject and give background information; 2) identify the discussion goal; 3) act as facilitator to keep the discussion focused to the eventual discussion goal; 4) alert the Presiding Officer when it is appropriate to call for a motion or other official direction of the Council. The Presiding Officer retains the option of assuming the function of the Discussion Item Moderator in order to keep the discussion properly focused.

Sec. 4. Rule 20 of the Des Moines City Council *Rules of Procedure* and Rule 20 of section 1 of Resolution No. 525, as amended by section 1 of Resolution No. 894 are each amended as follows:

ORDER OF BUSINESS

Rule 20. The business of all regular meetings of the Council shall be transacted as follows; provided, however that the Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

(a) Call to order by the Presiding Officer.

(b) Pledge of Allegiance.

(c) Invocation (Presiding Officer's discretion).

(d) Roll call (See Rule 7 for procedure to excuse an absence).

(e) Correspondence not previously received by the Council.

(f) **Comments from the public (non-public hearing topics).** Public comments are encouraged and appreciated. The information and advice received from citizens helps the City Council make the best possible decisions.

(1) Procedure.

a. Citizens are encouraged to supplement verbal comments through written submittals.

b. All citizens desiring to address Council during the Public Comment period shall first fill out a sign-in sheet and submit the form to the City Clerk prior to the start of Public Comments.

(2) Scope of Comments.

a. Subjects not on the current agenda. Any member of the public may request time to address the Council after first stating their name, address, and the subject of their comments. The Presiding Officer may then allow the comments subject to such time limitations as the Presiding Officer deems necessary. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to administration or a Council committee for investigation and report.

b. Subjects on the current agenda. Any member of the public who wishes to address the Council on an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. The Presiding Officer shall rule on the appropriateness of public comments as the agenda items is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (.e.) proponents, opponents, adjacent owners, vested interests, etc.).

c. Subjects of a Public Hearing. Comments made during the Public Comment period on a topic set for a public hearing by the City Council shall be out of order. To ensure a fair hearing to applicants or matters that are subject to a public hearing before the City Council, the presiding officer may rule public comments made outside the scope of a public hearing record to be out of order.

d. Any ruling by the Presiding Officer relative to the preceding ((~~two~~)) <u>three</u> subsections may be overruled by a vote of a majority of members present.

(3) **Rules of Conduct.** A minimum number of basic rules are established to ensure that all individuals wishing to address the City Council are fairly heard.

a. Each person addressing the Council shall step up to the indicated speakers table, give his or her name and address for the record, and shall limit comments to three (3) minutes.

Groups may be allotted five (5) minutes by the presiding officer

b. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated speaking table and addressed to the Council as a body and not to individual members, the audience or the television cameras.

c. The City Clerk shall notify the individual when the allotted time has expired and the speaker shall promptly conclude his or her remarks. All speakers are encouraged to submit supplemental or detailed written remarks for Council consideration.

d. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be ordered to leave the meeting. The presiding officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct and to enforce these rules.

e. The presiding officer may rule "out of order" any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

f. Any person whose comments have been ruled out of order by the presiding officer shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from personal, inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the presiding officer may subject the individual to removal from the Council Chambers.

(Res. 894, §1, 2000)

(g) Committee and board reports.

(h) Presiding Officer's report.

(i) Administration reports.

(j) Consent Calendar.

(1) The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Calendar which have been: (a) previously discussed by the Council, or (b) based on the information delivered to members of the Council by administration that can be reviewed by a Councilmember without further explanation, or (c) are so routine or technical in nature that passage is likely, or (d) as directed by the City Council.

(2) The Clerk shall read the Consent Calendar, including the titles of any ordinances or resolutions contained therein.

(3) The proper Council motion on the Consent Calendar is as follows: "I move adoption of the Consent Calendar". This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent

Calendar. Since adoption of any item on the Consent Calendar implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Calendar. Therefore, prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any Councilmember wishes an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the ((~~Presiding Officer shall place the item at an appropriate place on the agenda for the current or a future meeting~~)) item withdrawn from the consent calendar shall be the next business in order following the conclusion of the consent calendar.

(k) Public Hearings (see Rule 21 for procedural details).

(l) Old Business.

(m) New Business.

(n) Executive Session (as required)

(o) Next meeting date announced by Presiding Officer.

(p) Adjournment. No meeting shall be permitted to continue beyond 10:30 PM without approval of three fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 10:30 PM, the items not acted on shall be deferred to the next regular Council meeting as old business, unless the Council, by a majority vote of members present, determines otherwise. (Res. 525 *S*1, 1988).

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of ________, 2003 and signed in authentication thereof this ____ day of ________, 2003.

____
MAYOR

APPROVED AS TO FORM:

____
City Attorney

ATTEST:

____
City Clerk

DRAFTRES: 03-109 2d draft