

AGENDA

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

February 13, 2020 – 6:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

OLD BUSINESS

Page 3 Item 1: APPOINTMENT TO VACANT COUNCIL POSITION #3

 Item 2: POSSIBLE SWEARING IN OF NEW COUNCILMEMBER

PRESIDING OFFICER'S REPORT

 Item 1: FUTURE CITIES PRESENTATION

CORRESPONDENCE

COMMENTS FROM THE PUBLIC – 20 minutes

Please Note: Public comment will be limited to 20 minutes. If time allows, we will resume public comment at the end of our meeting after all official business has been conducted.

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS – 30 minutes

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

CONSENT CALENDAR

Page 5 Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through February 06, 2020 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#159995-160169	\$1,214,539.46
Electronic Wire Transfers	# 1390-1398	\$1,059,965.46
Payroll Checks	# 19348-19356	\$ 1,926.27
Payroll Direct Deposit	# 60001-60189	\$ 376,542.85
Total Checks and Wires for A/P and Payroll:		\$2,653,018.04

Page 7 Item 2: SETTING PUBLIC HEARING TO CONSIDER DRAFT ORDINANCE 19-112 RELATING TO CODE CLEAN-UP ITEMS TO CORRECT OMISSIONS, ERRORS, AND INCONSISTENCIES AND TO CLARIFY CITY COUNCIL INTENT
Motion is to set a public hearing on March 12, 2020, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 19-112 amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, and 18.250 DMMC to correct omissions, errors and inconsistencies and to clarify City Council intent.

Page 27 Item 3: NORTH MARINA PARKING LOT BULKHEAD AND RESTROOM REPLACEMENT – EXELTECH CONSULTING DESIGN CONTRACT; SUPPLEMENTAL AGREEMENT #1
Motion is to approve Supplemental Agreement #1 with Exeltech Consulting for the North Marina Parking Lot Bulkhead and Restroom Replacement project in the amount of \$57,976.08, and further authorize the City Manager to sign said Agreement substantially in the form as submitted.

Page 37 Item 4: WASHINGTON STATE FUTURE CITY REGIONAL COMPETITION
Motion is to approve the Proclamation recognizing the achievements of the Pacific Middle School students in the Washington State Future City Regional Competition.

NEW BUSINESS

Page 41 Item1: DRAFT RESOLUTION 20-006 – 24TH AVE S, KENT-DES MOINES RD (SR 516) TO S. 223RD ST; TIB PROJECT CERTIFICATION OF FULL FUNDING
 Staff Presentation: Public Works Director
 Brandon Carver

EXECUTIVE SESSION

NEXT MEETING DATE

February 27, 2020 City Council Regular Meeting

ADJOURNMENT

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Appointment to Vacant
Council Position #3

AGENDA OF: February 13, 2020

DEPT. OF ORIGIN: City Clerk

DATE SUBMITTED: February 7, 2020

CLEARANCES:

APPROVED BY CITY CLERK
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to discuss and potentially appoint a candidate to fill the vacant seat following the candidate interviews that occurred at the February 6, 2019 Council meeting.

Motion: “I move to nominate _____ to fill the temporary Council position (#3), effective immediately and expiring on 12/31/2021.”

Background:

At the February 6, 2020 meeting, the City Council began the interview process to temporarily fill Council seat number 3 following the January 23, 2020 resignation of Vic Pennington. Former Deputy Mayor Pennington resigned from the Council due to his appointment as Chief of South King Fire and Rescue.

Applications were solicited from the public between January 24 and February 3. The City received eight applications for the vacant position with seven of those applicants attending the meeting. The applicants in attendance were:

1. David Lee Black
2. Luisa Bangs
3. Meiling Sproger
4. Seméré Melake
5. Harry Steinmetz
6. Tad Doviak
7. Dan Harrington

The applications as submitted are available for public view on the City’s website.

Discussion

The Council followed the previous process used in 2003, 2013 and 2015 to interview applicants for Council vacancies and began by allowing each applicant to speak for 3 minutes. Upon conclusion of the introductory statements, the Council conducted approximately two hours of questioning of the applicants. Following this portion of the meeting, the Council took public comment from those community members in attendance.

Given the number of applicants, and the necessity to provide sufficient time for vetting, the Council has scheduled the February 13, 2020 meeting for additional discussion and consideration.

Pursuant to Council Rule 33, the Council is tasked with appointing the most qualified person available to temporarily fill the vacant seat until an election is held, at which point the citizens will elect a candidate to permanently fill the seat.

CITY OF DES MOINES
Voucher Certification Approval

February 13, 2020

Auditing Officer Certification

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

As of **February 13, 2020** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through February 6, 2020 and payroll transfers through February 5, 2020 included in the attached list and further described as follows:

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

Beth Anne Wroe, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Total A/P Checks/Vouchers	159995	- 160169	1,214,583.46
Voided Checks			0.00
Electronic Wire Transfers	1390	1398	1,059,965.46
Total claims paid			2,274,548.92
Payroll Vouchers			
Payroll Checks	19348	19356	1,926.27
Direct Deposit	60001	60189	376,542.85
Total Paychecks/Direct Deposits paid			378,469.12
Total checks and wires for A/P & Payroll			2,653,018.04

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Setting Public Hearing to consider Draft Ordinance 19-112 relating to code clean-up items to correct omissions, errors, and inconsistencies and to clarify City Council intent.

ATTACHMENTS:

1. Draft Ordinance No. 19-112 Amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 DMMC.

FOR AGENDA OF: February 13, 2020

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: February 6, 2020

CLEARANCES:

- [X] Community Development *DEL for Signature*
 [] Marina _____
 [] Parks, Recreation & Senior Services _____
 [X] Public Works *PHC*

CHIEF OPERATIONS OFFICER: _____

- [X] Legal *T6*
 [] Finance _____
 [] Courts _____
 [] Police _____

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

Purpose and Recommendation

The purpose of this Agenda Item is for the City Council to set a public hearing date for the consideration of Draft Ordinance No. 19-112 (Attachment 1) that would amend chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 Des Moines Municipal Code (DMMC) to correct omissions, errors, and inconsistencies and to clarify City Council intent. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to set a public hearing on March 12, 2020, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 19-112 amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 DMMC to correct omissions, errors, and inconsistencies and to clarify City Council intent. "

Background

The Community Development Department keeps an on-going list of small DMMC code maintenance issues and potential changes to Title 18, and periodically brings these to the City Council for consideration. Some of these issues were items that were unintentionally omitted when the development regulations were re-codified by Ordinance 1591 in 2014 or where inconsistencies between code sections were inadvertently created by Ordinance 1591 or when other Title 18 ordinances were passed. In some cases the change would clarify the City Council's intent. In other cases State law has changed necessitating a change in the DMMC.

Discussion

The proposed ordinance amends the Des Moines Municipal Code Chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 DMMC to correct omissions, errors, and inconsistencies, and to clarify City Council intent. These amendments are summarized as follows:

Section 1 adds a definition originally contained in the DMMC before Title 18 was re-codified. It was thought at the time that these definitions had a common and generally understood meaning, but some definitions contained language necessary for application of related code sections.

Section 2 adds Title 16 DMMC to the code sections subject to chapter 18.15 DMMC, Nonconforming Buildings and Uses. This was an inadvertent omission when codes pertaining to environmentally critical areas were moved from Title 18 to Title 16 DMMC.

Section 3 corrects the project approval type classification for modifications of parking provisions, modification of landscaping requirements, environmentally critical area development exceptions and exemptions from shoreline substantial development permits for consistency with previous codes changes.

Section 4 adds language identical to Type II and Type III land use actions clarifying that a notice of application is required. An error in the code citation for the appeal process is corrected.

Section 5 corrects the code citation for the appeal process for a Type V land use action.

Section 6 corrects the code citation for the appeal process for a Type VI land use action.

Section 7 removes the requirement to set the date for the public hearing by motion for textual changes to zoning code or area-wide rezones. This is not required by State law.

Section 8 adds language to DMMC 18.52.010A Residential Use Chart, Footnote [15] pertaining to townhouse development, to direct readers to the applicable design requirement code sections.

Section 9 removes footnote [26] pertaining to mixed use from Offices, business and professional in the Commercial Use Chart in DMMC 18.52.010B.

Section 10 corrects the lot threshold for a subdivision for consistency with chapter 17.10 DMMC.

Section 11 provides additional clarification on the intent to limit fire or parapet walls to the minimum required for compliance with the building code when extending beyond the maximum height limit.

Section 12 provides additional clarification for calculating allowable signage in the Downtown Commercial Zone.

Section 13 adds language to DMMC 18.210.170 regarding driveway surfaces for consistency with the City's adopted drainage standards.

Section 14 corrects the list of zones in which a state-licensed marijuana retailer may operate to reflect changes to the City's zoning map. No changes to the applicable areas are proposed.

Alternatives

The City Council may:

1. Adopt the proposed Draft Resolution.
2. Adopt the proposed Draft Resolution with a different hearing date.
3. Decline to adopt the Draft Resolution and remand the Draft Ordinance 19-112 back to staff for further work.

Financial Impact

There will be no fiscal impact to the City related to setting the public hearing.

Recommendation

Staff recommends that the City Council choose Alternative 1, setting the public hearing date for March 12, 2020, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 19-112 amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 DMMC to correct omissions, errors, and inconsistencies and to clarify City Council intent.

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CITY ATTORNEY'S FIRST DRAFT 03/12/2020**DRAFT ORDINANCE NO. 19-112**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Zoning Code and City land use and development regulations, and amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, 18.210, and 18.250 DMMC to correct omissions, errors, and inconsistencies and to clarify City Council intent.

WHEREAS, by June 30, 2015 and every eight years thereafter, RCW 36.70A.130(1) requires the City of Des Moines to take legislative action to review and, if needed, revise its development regulations. Nothing precludes the City from doing so earlier per RCW 36.70A.130(6), and

WHEREAS, the Chief Strategic Officer, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments result in no substantive changes respecting use or modification of the environment and are therefore categorically exempt from threshold determination and EIS requirements in accordance with WA 197-11-800 (19) (b) and chapter 16.05 DMMC, and

WHEREAS, the City Council set the date for the public hearing by motion on February 13, 2020, fixing the public hearing for March 12, 2020 as required by DMMC 18.30.070, and

WHEREAS, the textual code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on February 26, 2020 in accordance with the DMMC, and

WHEREAS, a public hearing was held on March 12, 2020 where all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the Title 18 DMMC amendments contained in this Ordinance comply with the

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requirements of chapter 36.70A RCW and are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.01.050, *Definitions*, and section 5 of Ordinance No. 1591 as amended by section 1 of Ordinance No. 1628 as amended by section 1 of Ordinance No. 1655 as amended by section 3 of Ordinance No. 1661 as amended by section 3 of Ordinance No. 1669 as amended by section 15 of Ordinance No. 1671 as amended by section 1 of Ordinance No. 1697 as amended by section 3 of Ordinance No. 1714 as amended by section 2 of Ordinance No. 1719, shall be amended to add the following definition:

Garage, private. "Private garage" means an accessory building or an accessory portion of the main building, enclosed on not less than three sides and designed or used only for the shelter or storage of vehicles owned or operated only by the occupants of the main building or buildings.

Sec. 2. DMMC 18.15.020, *Nonconforming Buildings and Uses, Application*, and section 38 of Ordinance No. 1591 as amended by section 3 of Ordinance No. 1655 as amended by section 1 of Ordinance No. 1695, are amended to read as follows:

18.15.020 Application.

(1) The foregoing regulations set forth in this Title and Title 16 DMMC shall be subject to the general provisions, conditions, and exceptions contained in this chapter.

(2) The provisions of this chapter shall apply to buildings, structures, land, and uses which become nonconforming as a result of the application of this Title and Title 16 DMMC to them, from classification or reclassification of the property

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under this Title or any subsequent amendments thereto, or from governmental acquisition of property for right-of-way expansion or essential public facility construction. If a use originally authorized by a variance, conditional use permit, or other valid use permit prior to August 3, 1964, is located within a zone in which such use is not permitted by the terms of this Title, such use shall be a nonconforming use. Uses validly established prior to August 3, 1964, shall not be deemed nonconforming only because of failure to secure a conditional use permit required under this Title.

(3) If a building, structure or land becomes nonconforming solely because of governmental acquisition of a portion of the property for an essential public transportation facility, the property shall be a legal nonconforming lot and the building, structure or use may continue.

Sec. 3. DMMC 18.20.080, and those parts of section 58 of Ordinance No. 1591 as amended by section 2 of Ordinance No. 1628, as amended by section 6 of Ordinance No. 1655 shown below, are each amended to read as follows:

18.20.080 Project review.

(1) Specific types of project approval are categorized as is set forth in 18.20.080A Project Review Chart below.

18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Type I - Administrative land use decisions made without legal requirement for public comment	Planning, Building and Public Works Director	DMMC 18.20.150 and 18.20.160

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18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
<u>Exemptions from shoreline substantial development permit</u>	<u>Planning, Building and Public Works Director</u>	<u>DMMC 16.20.010</u>
<u>Environmentally critical area development exception</u>	<u>Planning, Building and Public Works Director</u>	<u>DMMC 16.10.300</u>
<u>Modification of parking provisions</u>	<u>City Manager</u>	<u>DMMC 18.210.070</u>
Modification of same	Planning, Building and Public Works Director	DMMC 18.195.420
Type II - Administrative land use decisions made after legally required opportunity for public comment	Planning, Building and Public Works Director	DMMC 18.20.170
Exemptions from shoreline substantial development permit	Planning, Building and Public Works Director	DMMC 16.20.010
Environmentally critical area development exception	Planning, Building and Public Works Director	DMMC 16.10.300
<u>Modification of landscaping requirement(s)</u>	<u>Planning, Building and Public Works Director</u>	<u>DMMC 18.195.420</u>
Type III - Quasi-judicial and other decisions by the Hearing Examiner	Hearing Examiner	DMMC 18.20.180

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18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
made after legally required opportunity for public comment		
Modification of parking provisions by Hearing Examiner	Hearing Examiner	DMMC 18.210.070

Sec. 4. DMMC 18.20.190, *Review process for Type IV land use action*, and section 69 of Ordinance No. 1591, shall be amended to read as follows:

18.20.190 Review process for Type IV land use action.

A notice of application is required for a Type IV action.

(1) Upon conclusion of the 15-day comment period and any applicable SEPA appeal period, the City Council may approve, approve with conditions, or deny a Type IV land use action upon compliance with the procedural requirements of chapter 18.240 DMMC, Hearing Examiner.

(2) The City Council's decision regarding a Type IV land use action is appealable to the Superior Court of Washington for King County as specified by DMMC ~~18.20.280~~ 18.20.290 (appeal from decision of the City Council).

Sec. 5. DMMC 18.20.200, *Review process for Type V land use action*, and section 70 of Ordinance No. 1591, shall be amended to read as follows:

18.15.200 Review process for Type V land use action.

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(1) The City Council may approve with conditions, or deny a Type V land use action without public notice other than the notice requirements for public meetings.

(2) The decision of the City Council shall be effective on the date final action is taken during a public meeting. If no other effective date is identified in the City Council action, or as otherwise provided by law.

(3) The City Council's decision regarding a Type V land use action is appealable to the Superior Court of Washington for King County as specified by DMMC ~~18.20.280~~ 18.20.290 (appeal from decision of the City Council).

Sec. 6. DMMC 18.20.210, *Review process for Type VI land use action*, and section 71 of Ordinance No. 1591, shall be amended to read as follows:

18.15.210 Review process for Type VI land use action.

(1) For textual code amendments, the Planning, Building and Public Works Director may schedule a public hearing before the City Council as provided in DMMC 18.30.100.

(2) Upon conclusion of the 15-day comment period, the City Council may approve, approve with conditions, or deny a Type VI land use action upon compliance with the procedural requirements of chapter 18.30 DMMC. Amendments to the Zoning Code, Map and Planned Unit Developments.

(2) Except for matters subject to review by the Central Puget Sound Growth Management Hearings Board as provided by RCW 36.70A.280 as presently constituted or as may be subsequently amended, the

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City Council's decision regarding a Type VI land use action is appealable to the Superior Court of Washington for King County as specified by DMMC ~~18.20.280~~ 18.20.290 (appeal from decision of the City Council).

Sec. 7. DMMC 18.30.100, *Textual changes to zoning code or area-wide rezones*, and section 104 of Ordinance No. 1591, shall be amended to read as follows:

18.30.100 Textual changes to zoning code or area-wide rezones.

Amendments to this Title that constitute a textual change or an area-wide rezone are made in the following manner:

(1) As used in this section, unless the context or subject matter clearly requires otherwise, "textual change" means a change or amendment to this Title except:

(a) Amendments changing the zone of a particular parcel of property (commonly known as a rezone); or

(b) Actions relating to adoption or amendment to the Comprehensive Plan.

(2) No textual change is made without at least one public hearing before the City Council.

(3) ~~The City Council shall set a date for the public hearing by motion.~~ Notice of the public hearing shall generally conform with DMMC 17.45.070, Notice. Continued hearings may be held at the discretion of the City Council but no additional notice is required.

Sec. 8. DMMC 18.52.010A, and those parts of the Residential Use Chart and Limitation 15, and section 132 of

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Ordinance No. 1591 as amended by section 7 of Ordinance No. 1655 as amended by section 2 of Ordinance No. 1697, shall be amended to read as follows:

Use is: P: Permitted	SFR	RA- 3600	RM- 2400	RM- 1800	RM- 900	RM- 900A	RM- 900B	R-SE	R- SR> 3500 0	R-SR< 35000	PR-R
P/L: Permitted but with special limit- ations											
CUP: Condition al use review required											
UUP: Unclassif ied use review required											
Townhouse development		P/L _[15]	P/L _[15]	P/L _[15]	P/L _[15]						

15. Townhouse Development. This regulation applies to all parts of Table 18.52.010A that have a [15].

Townhouse developments shall be permitted in the RA-3,600 Zone and Multifamily Zones as noted in the table above with no more than one townhouse dwelling per lot. Townhouse developments shall comply with DMMC 18.60.070, General site design requirements, and DMMC 18.60.080, General building design requirements.

Sec. 9. DMMC 18.52.010B, and those parts of the Commercial Use Chart, and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance 1618-A as amended by section 2 of Ordinance No. 1644 as amended by section 1 of Ordinance No. 1645 as amended by section

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8 of Ordinance No. 1655 as amended by section 4 of Ordinance No. 1656 as amended by section 2 of Ordinance No. 1661 as amended by section 2 of Ordinance No. 1669 as amended by section 1 of Ordinance No. 1672 as amended by section 3 of Ordinance No. 1697 as amended by section 1 of Ordinance No. 1701 as amended by section 2 of Ordinance No. 1714 as amended by section 1 of Ordinance No. 1719, shall be amended to read as follows:

Use is: P: Permitted	NC	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
P/L: Permitted, but with special limitations									
CUP: Conditional use review required									
UUP: Unclassified use review required									
Offices, business and profession al	P/L _[3]	P/L _[6.1]	P		P/L _[26]	P	P	P	P

Sec. 10. DMMC 18.60.050, *Application and review process for townhouse developments*, and section 152 of Ordinance No. 1591 shall be amended to read as follows:

18.60.050 Application and review process for townhouse developments.

(1) A subdivision or short subdivision shall be required for all townhouse developments so that individual townhouse dwellings are located on separate lots.

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(2) Townhouse developments containing nine or fewer lots shall comply with the applicable provisions of this Title and chapter 17.05 DMMC, Short Subdivisions, or chapter 17.15 DMMC, Modified Subdivisions and Short Subdivisions.

(3) Townhouse developments containing five ten or more lots shall comply with the applicable provisions of this Title and chapter 17.10 DMMC, Subdivisions, or chapter 17.05 DMMC, Short Subdivisions, or chapter 18.230 DMMC, Planned Unit Developments.

(4) In addition to the application materials specified by chapter 17.40 DMMC, Miscellaneous Provisions, applications for townhouse developments shall include the following:

(a) Site plan depicting site and lot boundaries, abutting streets, interior public and private streets, and off-street parking areas, sidewalks, open spaces, recreation facilities, solid waste collection areas, drainage systems, and building locations and setbacks.

(b) Landscaping plan.

(c) Typical building elevations including the exterior architectural design features and materials.

(d) Proposed topography indicated by contours at two-foot intervals. If the proposed townhouse development has slopes that exceed 15 percent, five-foot contour intervals may be used in those areas.

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Sec. 11. DMMC 18.190.070, *Height of structures and roof structures*, and section 387 of Ordinance No. 1591, shall be amended to read as follows:

18.190.070 Height of structures and roof structures.

Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, ~~fire or parapet walls~~ fire walls, parapet walls and guards not taller than the minimum required for compliance with the Washington State Building Code, skylights, flagpoles, chimneys, smokestacks, church steeples and belfries, utility line towers and poles, and similar structures may be erected above the height limits of this Title; provided, however, no penthouse or roof structure or any other space above the height limit prescribed for the zone in which the building or structure is located shall be allowed for the purpose of providing additional floor space; provided further, that rooftop gardens and patios are not classified as additional floor space for the purpose of this section.

Sec. 12. DMMC 18.200.310, *Marina District*, and section 491 of Ordinance No. 1591, shall be amended to read as follows:

18.200.310 Marina District.

The following signs are permitted on commercially zoned properties within the Marina District as established by the Des Moines Comprehensive Plan:

(1) Each public commercial parking lot may have one sign per street frontage not exceeding 24 square feet in sign area.

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(2) Reader board signs and changeable message center signs are permitted as per the requirements established in DMMC 18.200.230.

(3) Projecting signs may not project further than six feet from the surface of the building. A right-of-way use permit shall be required for signs projecting over the public right-of-way.

(4) Freestanding signs may not exceed 15 feet in height as measured from the sidewalk grade, and shall not be located on or above, nor project over the public right-of-way.

(5) No more than one freestanding sign is permitted for properties with less than 300 feet of street frontage. Multiple business properties or multi-building complexes with over 300 feet of street frontage and more than one vehicular access are allowed one additional freestanding sign; provided, that the total allowable sign area is not exceeded and the signs are over 100 feet apart.

(6) Each single business property is permitted a total sign area not to exceed two square feet per lineal foot of street frontage, up to a maximum of 200 square feet. Freestanding signs may not exceed 50 square feet.

(7) Each multiple business property or multi-building complex is permitted one freestanding sign not to exceed one square foot per lineal foot of street frontage up to a maximum of 100 square feet. Each business within shall be permitted a wall sign not to exceed one square foot per lineal foot of tenant street frontage; provided, however, that each business must be guaranteed a minimum of at least 24 square feet regardless of tenant street frontage.

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(8) Gasoline price signs shall not be located in, nor project over, the public right-of-way, and shall not be handwritten. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(9) Temporary signs shall be permitted as provided in DMMC 18.200.070.

Sec. 13. DMMC 18.210.170, *Surface*, and section 521 of Ordinance No. 1591, shall be amended to read as follows:

18.210.170 Surface.

(1) The surface of any required off-street parking or loading facility and accessory accessways (driveways) shall be paved with asphalt or concrete to a standard comparable to the standard for the public street providing access thereto and shall be graded and drained as to dispose of all surface water, but shall not drain across sidewalks. Modifications for wheel strip driveways and permeable pavements pursuant to the City's adopted drainage standards may be considered.

Sec. 14. DMMC 18.250.070, *Recreational marijuana regulations for retailers*, and section 651 of Ordinance No. 1591 as amended by section 18 of Ordinance No. 1601, shall be amended to read as follows:

18.250.070 Recreational marijuana regulations for retailers.

State-licensed marijuana retailers may locate in the City pursuant to the following restrictions:

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(1) Marijuana retailers must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and other applicable Washington laws.

(2) Persons may conduct business within the City as a state-licensed marijuana retailer if located within the Transit Community (T-C), ~~Highway Commercial (H-C) and Community Commercial (C-C)~~ and Woodmont Commercial (W-C) Zones generally located along Pacific Highway South south of Kent-Des Moines Road.

(3) Marijuana retailers shall not locate in a building in which nonconforming retail uses have been established in any location or zone other than those referenced in subsection (2) of this section.

(4) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.

Sec. 15. Severability - Construction.

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

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

Sec. 16. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final approval by the Des Moines City Council in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____ and signed in authentication thereof this _____ day of _____, 2020.

3/12/20
 Draft Ordinance No. 19-112

Ordinance No. _____
Page 15 of 15

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

3/12/20
Draft Ordinance No. 19-112

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

North Marina Parking Lot Bulkhead and Restroom
Replacement – Exeltech Consulting Design
Contract; Supplemental Agreement #1

ATTACHMENTS:

1. Local Agency A&E Professional Services
Supplemental Agreement #1 (Exeltech
Consulting)
2. CIP Worksheet

FOR AGENDA OF: February 13, 2020

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: February 4, 2020

CLEARANCES:

- ☐ Community Development N/A
☐ Marina N/A
☐ Parks, Recreation & Senior Services N/A
☒ Public Works RBC

CHIEF OPERATIONS OFFICER: _____

- ☒ Legal TG
☒ Finance Baw
☐ Courts N/A
☐ Police N/A

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

Purpose and Recommendation

The purpose of this Agenda Item is to seek City Council authorization of the Supplemental Agreement #1 for Exeltech Consulting for design and permitting services for the North Marina Parking Lot Bulkhead and Restroom Replacement project (Attachment 1). The following motion will appear on the consent calendar:

Suggested Motion

Motion: “I move to approve Supplemental Agreement #1 with Exeltech Consulting for the North Marina Parking Lot Bulkhead and Restroom Replacement project in the amount of \$57,976.08, and further authorize the City Manager to sign said Agreement substantially in the form as submitted.

Background

The existing bulkhead was constructed in 1979 and consists of timber lagging supported by timber piling anchored to the shore utilizing a timber waler and deadman anchor system which is fronted by a rock slope for wave/tide protection. In the current condition, these timber elements exhibit noticeable degradation, decomposition, and in some instances failure. Such failure includes situations where the deadman anchor system is no longer constrained by timber walers which is intended to restrain lateral earth pressures. Additionally, situations exist where there are apparent visible voids thru the timbers.

In December 2017, the City entered into contract with Exeltech Consulting for design and permitting services in anticipation of full bulkhead, breakwater, and restroom replacements. This design work is nearly complete and has included survey, geotechnical engineering, coastal engineering, civil engineering, structural engineering, urban design, landscape architecture, and architecture. Additionally, extensive local, state, and federal permitting has been part of this process.

In March 2019, the City began to inquire with the US Army Corps of Engineers (Corps), the federal National Environmental Policy Act (NEPA) permitting lead agency, as to the status of the project and if the federal shut-down has had any effect on project reviews. After substantial correspondence, the City was formally notified in April 2019 that the federal permitting process will not be completed until 2020 at the earliest. While various federal agencies have provided project approval concurrence to the Corps, the US National Marine Fisheries Service (NMFS) stated that they had placed the City's project on hold due to federal furloughs, existing project backlog, staffing shortages, and implementation of an upcoming programmatic review process. Regionally, all projects requiring NMFS review have been impacted. Additionally, NMFS determined that the project will not be considered for informal consultation, which has been the historical standard for this type of project, but will require a more extensive formal consultation process. This determination is a direct response to increased local and federal focus on salmonid species and orca whales under the Endangered Species Act (ESA).

Throughout the spring and summer of 2019, the project team worked with the Corps and NMFS to determine project alternatives, understand project schedule and budget impacts, as well as how the project could move forward without waiting for the anticipated programmatic process to be implemented in 2020. In August of 2019, the City and the Corps re-applied for formal project consultation with NMFS upon their request. At the same time, the project design was placed on hold due to the high likelihood that NMFS would condition some project elements under a formal consultation process prior to permit issuance that could dramatically change what has been proposed to be constructed by the City.

Discussion

From project formal consultation initiation in August 2019 to now, the City and project team have been coordinating with the NMFS and the Corp on various project inquiries. These requests have ranged from developing supplemental project environmental documentation, continuous review of proposed project elements and alternatives, and developing project mitigation strategies to fulfill NMFS conditions. Of most significance, NMFS focused on storm water generated by the north marina floor parking lot and the direct outfalls to Puget Sound as permitted under the City's Environmental Protection Agency (EPA) National Pollution Discharge Elimination System (NPDES) permit. NMFS indicated that they would like to see the City provide storm water treatment and provided the City with three options moving forward; (1) City to conduct 1-2 years water quality sampling of the direct outfalls and then determine what water quality objectives must be met for the project, (2) Wait until NMFS surveys various outfalls throughout Puget Sound to use as a basis for designating project water quality objectives, and (3) City propose water quality enhancements to the project for NMFS review and consideration.

Bearing in mind the project schedule impacts and associated risk to project funding for each option moving forward, the City and Exeltech Consulting began a project analysis for NMFS option (3) above, City proposed water quality enhancements. This work included water quality modeling, surveying, civil engineering, utility coordination, product manufacturer coordination, and ultimately a written report to NMFS with the City's proposal at the end of 2019. In January 2020, the City and project team received verbal confirmation from NMFS that the proposal submitted appeared to meet their water quality objectives and will continue their formal consultation review in anticipation of the upcoming fish work window.

The Supplemental Agreement #1 (Attachment 1) for Exeltech Consulting provides additional resources to complete the project Bid Documents in compliance with the added storm water quality features as conditioned by NMFS. This work entails engineering for the water quality structures and sizing, parking lot changes to accommodate the storm water quality features, associated landscape, urban design, and illumination changes, and continued permitting review, all in effort to complete Bid documents in the 2nd quarter of 2020.

The City is anticipating Corps NEPA permitting and associated NMFS review to conclude by the end of the 2nd quarter of 2020. Once complete, the WA Department of Ecology (WADOE) will be notified by the Corps for project review in anticipation of the remaining, final permit, Section 401 Water Quality Certification. The federal Clean Water Act (CWA) enables the WADOE to approve, condition, or deny projects proposed in the waters of the United States when federal permits are required. It is further anticipated that the WADOE certification will occur swiftly since they have pre-certified many types of projects such as those proposed as part of this project. If the WADOE decides that additional review is necessary, they will have a typical 180-day timeline for a decision to be issued pending City responses to questions that may be asked.

While the Corps, NMFS, and/or WADOE may further condition the project elements further, proceeding with the completion of the project Bid Documents at this time may allow for the City to advertise the project prior to the permitted 2020 fish window for in-water activities. There is approximately 4-months remaining of design activities to complete Bid Documents and if the City waits for all permit approvals, advertisement may not be able to occur until the 4th quarter of 2020. Based on verbal communication with the Corps, NMFS, and WADOE, all stakeholders are aware of the project schedule and funding constraints.

Alternatives

Alternative 1: No Contract Supplement Authorization

The City Council could elect not to approve the Supplemental Agreement #1 with Exeltech Consulting at this time. The project would continue to be placed on hold until the remaining permits are issued and then the project would be reevaluated for needed resources to complete the Bid Documents. It would be unlikely that the project would be able to be advertised in 2020, further placing the Washington State Direct Appropriation funding at risk with the associated June 30th, 2021 expenditure deadline.

Financial Impact

The City's CIP Budget Worksheet includes contingency revenue to achieve funding for this Supplemental Agreement #1 (Attachment 2).

Recommendation

Staff recommends adoption of the motion.

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**Washington State
Department of Transportation**

Supplemental Agreement Number <u>1</u>		Organization and Address Exeltech Consulting, Inc. 8729 Commerce Place Dr. NE Lacey, WA 98516 Phone: 360-357-8289	
Original Agreement Number 17-108			
Project Number 310.405	Execution Date 2/13/2020	Completion Date 12/31/2020	
Project Title CODM N. Marina Pk. Lot & Restroom Replacement		New Maximum Amount Payable \$1,446,209.64	
Description of Work (Original Scope of Work - 12/11/17 Executed Agreement) Engineering, analysis and environmental permitting services for the North Marina Parking Lot Bulkhead and Restroom Replacement Project.			

The Local Agency of Des Moines

desires to supplement the agreement entered in to with Exeltech Consulting, Inc.

and executed on 12/11/17 and identified as Agreement No. 17-108

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

The changes to the agreement are described as follows:

I

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

The Consultant will provide additional engineering and permitting services to complete Bid Documents in compliance with conditions stipulated by the USACE/NMFS, WADOE, and WADFW HPA permits.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: December 31, 2020

III

Section V, PAYMENT, shall be amended as follows:

Contract payment increase by \$57,976.08 per Exhibit A attached.

New Total Maximum Amount Payable of \$1,446,209.64.

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

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

By: _____ By: _____

Consultant Signature

Approving Authority Signature

Date

Exhibit "A"
Summary of Payments

	Basic Agreement	Supplement #1	Total
Direct Salary Cost	\$200,426.90	\$12,539.63	\$212,966.53
Overhead (Including Payroll Additives)	\$340,084.36	\$19,290.98	\$359,375.34
Direct Non-Salary Costs	\$777,572.88	\$21,756.60	\$799,329.48
Fixed Fee	\$70,149.42	\$4,388.87	\$74,538.29
Total	\$1,388,233.56	\$57,976.08	\$1,446,209.64

Exhibit D
City of Des Moines
Marina Bulkhead Replacement
Summary of Cost Per Consultant

Task		Exeltech	KPG	Makers	Total
PROJECT BUDGET (IN SCOPE)					
1. PROJECT MANAGEMENT					
1.1 Monthly Project Management					
1.2 Grant Funding Assistance					
1.3 Coordination and Public Outreach					
2. PRELIMINARY ENGINEERING					
2.1 Surveying					
2.2 Geotechnical					
2.3 Coastal Engineering					
2.4 Landscape/Urban Design Schematic Conceptual Design					
2.5 Architecture for Restroom					
3. BULKHEAD & BREAKWATER ALTERNATIVES ANALYSIS					
3.1 Develop Alternative Concepts	\$5,200.00				\$5,200.00
3.2 Coastal Engineering					
3.3 Structural Engineering	\$12,000.00				\$12,000.00
4. ENVIRONMENTAL SERVICES, CULTURAL RESOURCES AND PERMITTING					
4.1 Coordination and Management					
4.2 Biological Studies and Supporting Documentation					
4.3 Permitting					
4.4 Cultural Resources					
5. PROJECT PS&E (North Bulkhead and Restroom/Urban Amenities)					
5.1 Coastal Engineering					
5.2 Geotechnical Engineering					
5.3 Architecture - KPG	\$10,600.00				\$10,600.00
5.4 Urban Amenities, Utilities & Parking Lot Rehab - Exeltech					
5.4 Bulkheads Design, Breakwater, PS&E and Bid Package Assimilation	\$15,850.00	\$11,000.00			\$26,850.00
5.5 PS&E Review	\$3,169.58				\$3,169.58
6. BID SUPPORT SERVICES					
7. OPTIMIZATION OF SEISMIC DESIGN (TBD)					
8. Engineer of Record Services (TBD)					
9. Construction Management and Inspection Services (TBD)					
Direct Costs	\$156.50	\$0.00	\$0.00	\$0.00	\$156.50
MANAGEMENT RESERVE					
TOTAL BUDGET	\$36,376.08	\$10,600.00	\$11,000.00		\$57,976.08

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CITY OF DES MOINES
2020-2025 CAPITAL IMPROVEMENT PLAN
 (Amount in Thousands)

North Bulkhead

Project #

310-405

CIP Category: Waterfront Facility Project

Managing Department: Marina

Summary Project Description:

Replace the north marina parking lot bulkhead and revetment to also include wider sidewalks and pedestrian amenities supporting multimodal emergency management operations, marina operations, and public land-water access.

Justification/Benefits: Existing north marina bulkheads are experiencing structural deficiencies and have been damaged by storm activities which require periodic spot rebuilding. Replacing the bulkheads will provide long-term protection with lower maintenance costs. Public access to waterfront activities will also be improved from the north parking lot to the marina facilities and Beach Park.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	1,392	(35)	1,357
Land & Right of Way	-	-	-
Construction	6,538	-	6,538
Contingency	500	35	535
Total Expenditures	8,430	-	8,430

Funding Sources	Current Budget	Requested Change	Total Budget
One Time Tax	220	500	720
General Fund Transfer	1,000	(500)	500
Department of Commerce Grant (Secured)	1,950	-	1,950
REET 1	1,960	-	1,960
Debt Proceeds	3,300	-	3,300
Total Funding	8,430	-	8,430

Project to Date 12/31/18	ANNUAL ALLOCATION											
	Scheduled Year	2019	Plan Year	2020	Plan Year	2021	Plan Year	2022	Plan Year	2023	Plan Year	2025
846	385	-	126	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-
8	-	-	2,700	3,838	-	-	-	-	-	-	-	-
854	385	385	3,081	4,110	-	-	-	-	-	-	-	-

Project to Date 12/31/18	ANNUAL ALLOCATION											
	Scheduled Year	2019	Plan Year	2020	Plan Year	2021	Plan Year	2022	Plan Year	2023	Plan Year	2025
-	-	-	720	-	-	-	-	-	-	-	-	-
500	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	1,950	-	-	-	-	-	-	-	-	-
385	-	-	1,575	-	-	-	-	-	-	-	-	-
1,285	2,015	-	-	-	-	-	-	-	-	-	-	-
2,170	2,015	4,245	-	-	-	-	-	-	-	-	-	-

OPERATING IMPACT					
Operating Impact	2019	2020	2021	2022	2025
Revenue	-	-	-	-	-
Expenses	-	-	-	-	-
Net Impact	-	-	-	-	-

ANNUAL OPERATING IMPACT					
12/31/18	2019	2020	2021	2022	2025
-	-	-	-	-	-
-	-	-	-	-	-
-	-	-	-	-	-

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Washington State Future City Regional
Competition

AGENDA OF: February 13, 2020

DEPT. OF ORIGIN: Administration

ATTACHMENTS:
1. Proclamation

DATE SUBMITTED: February 7, 2020

CLEARANCES:

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to recognize and congratulate Pacific Middle School students for demonstrating excellence in the Washington State Future City Regional Competition which was held Saturday, January 18, 2020.

Suggested Motion

MOTION: “I move to approve the Proclamation recognizing the achievements of the Pacific Middle School students in the Washington State Future City Regional Competition.

Background:

Pacific Middle School teams competed in the Washington State Future City Regional Competition on Saturday, January 18, 2020. The competition is a national competition which is part of National Engineering Week held in February of each year. Winners of the regional competition receive a trip to Washington, DC, where they compete for the national title. Team Mirai Toshi won third place, Aquatica places 6th and Crystal Shores places 17th in the regional competition. Pacific Middle School has competed in this competition over the past 13 years, and this is the ninth time they have made it to the finals.

Future City is a national competition where teams of middle school students form teams of three to build cities set in the future. The teams are chosen by the students. There are five distinct phases the students go through resulting in five separate deliverables. This year there were 29 teams competing.

Students begin the competition by using SimCity™5 software to create their futuristic city. Within the program, students have to make choices for their virtual city. They identify basic services and features, zoning and city infrastructures and the city location. Teams are required to complete a Virtual City report on goals set for the city, progress made throughout the time period and reflection on the strengths and weaknesses of their city as well as what went well and what needed more work.

Each team is required to complete a Project Plan, where they identify their goals, create and document a team schedule of tasks accomplished as well as a weekly report identifying what was completed, obstacles and goals for the next week. At the end, they reflect on their progress.

Each team member is required to write two written components; one is a 1,500 word research essay. The teams then take the best components of each individual essay and combine them to create the team essays that are submitted to the competition.

Students then work on their model as teams. These models are constructed at home, using predominantly recycled materials. The physical model should be no larger than 25" x 50" x 20", and must have at least one moving part. The model should be representative of their virtual design they created in SimCity™4. The model is 3-dimensional and should creatively represent their city in a futuristic manner at least 150 years into the future.

The final phase is the actual team presentation. Students create scripts where they incorporate the highlights of their city, its infrastructure, and the alternative energy sources. This is where the research the students did comes into play. Students have 7 minutes to present to a panel of 3 to 5 judges, outlining their city and its energy, transportation and community aspects. Judges then ask students questions for 12 minutes. These questions range from the types of engineering used in the city, to clarifications on how their waste disposal systems work, transportation to and from the city, innovations and futuristic components, to where in the city would you most like to live and why.



Proclamation

WHEREAS, Future City is a national competition, held as part of National Engineering week in February of each year, in which teams of middle school students design and build models of cities set at least 150 years in the future, and

WHEREAS, the City of Des Moines recognizes that this competition introduces students to Science, Technology, Engineering and Math (STEM) concepts, as well as the Career and Technical Education aspect of working successfully in groups, time management and communication skills, that build essential future job skills for our community and our nation, and

WHEREAS, the City of Des Moines is pleased to observe that the students must plan for and model the basic services and features of a city, such as zoning, infrastructure, and city location, thus preparing them for the duties of future citizenship, and

WHEREAS, the City of Des Moines applauds the participating teams from Pacific Middle School, and their instructor, for 3rd place, 6th place and 17th place, out of 29 teams, at the Washington State Future City Regional Competition; now therefore

THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS that the following Pacific Middle School students, along with their Instructor Sandy Gady, have demonstrated excellence in the Washington State Future City Regional Competition, and invites all citizens to join in congratulating them:

Team "MIRAI TOSHI"	Dylan Stefnik, Kai Praven, Sebastian Cruz, Veta Cramer, <i>Students</i>
Team "AQUATICA"	Abi Easterling, Maria Ahmed, Jadara Estrada-Frias, Tara Simmons, <i>Students</i>
Team "CRYSTAL SHORES"	Gael Centeno, Athan Trochalakis, Alfredo Santillan, <i>Students</i>

SIGNED this 13th day of February, 2020.

Matt Pina, Mayor

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Resolution No 20-006 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St; TIB Project Certification of Full Funding

ATTACHMENTS:

1. Draft Resolution No. 20-006
2. Transportation Improvement Board Project Selection Letter, November 22, 2019
3. TIB Fuel Tax Grant Agreement
4. TIB Funding Status Form
5. 2020-2025 CIP Project Budget Worksheets

FOR AGENDA OF: February 13, 2020

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: February 5, 2020

CLEARANCES:

- [X] Community Development *Sme*
 [] Marina N/A
 [] Parks, Recreation & Senior Services N/A
 [X] Public Works *RBC*

CHIEF OPERATIONS OFFICER: _____

- [X] Legal *JS*
 [X] Finance *Baw*
 [] Courts N/A
 [] Police N/A

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

Purpose and Recommendation

The purpose of this agenda item is for City Council to adopt Draft Resolution 20-006 (Attachment 1) formally certifying to the Washington State Transportation Improvement Board (TIB) that the City has secured local and/or private funding by signing the TIB Funding Status Form (Attachment 4) for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project.

Suggested Motion

Motion: “I move to adopt Draft Resolution No 20-006 certifying to the Washington State Transportation Improvement Board (TIB) that full funding is secured for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project, and further authorize the City Manager to sign the TIB Funding Status Form and the Fuel Tax Grant Agreement with TIB.”

Background

Roadway widening and improvement of 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St is an element of the adopted City of Des Moines Comprehensive Transportation Plan (CTP), Transportation Improvement Plan (TIP), and Capital Improvement Plan (CIP). This project is Segment 2 of the 24th Ave S Corridor Improvements, with future Segment 1 improvements designated between S 223rd St and S 216th St.

This project proposes to construct sidewalks, bike lanes, reduced travel lane widths for traffic calming, two-way left turn lane, storm drainage, and illumination. The project will improve non-motorized user safety by the construction of bike lanes and ADA sidewalks on both sides of the roadway and enhanced pedestrian crossings near Midway Elementary and Pacific Middle schools.

Discussion

The City applied for TIB funding for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project on August 8, 2019 requesting in project funding to complete Preliminary Engineering, Right-of-Way Acquisition, and Construction.

On November 22, 2019 the TIB approved \$3,663,432 in project funding and required certification (Attachment 2) and verification of funding as well as approval of a Fuel Tax Grant Distribution Agreement (Attachment 3). The TIB requires that the City certify that funding is in place prior to incurring any reimbursable expenses (Attachment #4).

Design has not commenced for this project. Staff will prepare a Consultant Agreement for Council consideration to proceed with design, permitting, and preliminary ROW tasks.

Alternatives

City Council can elect not to accept the TIB grant for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project. This will delay the project as well as jeopardize any future TIB project funding opportunities.

Financial Impact

The City's CIP Budget Worksheets include TIB revenue in order to achieve full funding (Attachment 5). The budget worksheet shows the local funds of \$933,000 coming from collected Traffic Impact Fees (TIFs), \$328,000 from Automated Speed Enforcement (ASE) transfers, and \$836,000 from Surface Water Utility funds.

Recommendation

Staff recommends adoption of the motion.

CITY ATTORNEY'S FIRST DRAFT 2/13/2020**DRAFT RESOLUTION NO. 20-006**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, certifying funding for the City of Des Moines 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project.

WHEREAS, the City of Des Moines adopted the 2020-2025 Capital Improvement Program budget including full funding for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project, and

WHEREAS, the City of Des Moines was selected for a grant from the Washington State Transportation Improvement Board (hereinafter TIB) and on November 22, 2019 the TIB announced that \$3,663,432.00 in state TIB funds would be available for the project subject to certification full funding for the improvements is available pursuant to RCW 47.26.084, and

WHEREAS, the City of Des Moines adopted the 2020-2039 Transportation Improvement Plan and recommends roadway widening to provide a two-way left turn lane, bike lanes, curb, gutter, sidewalks, storm drainage, and illumination, and

WHEREAS, project Preliminary Engineering, Right-of-Way Acquisition, and Construction phases of work are funded, but not started; now therefore,

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

Sec. 1. Funding for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project is secured and the City Council certifies that the necessary local matching funds will be available for construction.

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of _____, 2020 and signed in authentication thereof this ____ day of _____, 2020.

M A Y O R

Resolution No. ____
Page 2 of ____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

2/4/20 10:16 AM



Washington State Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Commissioner Richard Stevens
Grant County

Amy Asher
RiverCities Transit

Alyssa Ball
Office of Financial Management

Aaron Butters, P.E.
HW Lochner Inc.

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Mike Dahlem P.E.
City of Sumner

Sue Dreier
Pierce Transit

John Klekotka, P.E.
Port of Everett

Commissioner Robert Koch
Franklin County

John Koster
County Road Administration Board

Colleen Kuhn
Human Services Council

Mark Kulaas
Douglas County

Mayor Ron Lucas
Town of Steilacoom

Mick Matheson, P.E.
City of Mukilteo

David Ramsay
Feet First

Steve Roark, P.E.
WSDOT

Councilmember Mike Todd
City of Mill Creek

Jennifer Walker
Thurston County

November 22, 2019

Mr. Brandon Craver, P.E.
Public Works Director
City of Des Moines
21650 11th Avenue South
Des Moines, WA 98198-6317

Dear Mr. Craver:

Congratulations! We are pleased to announce the selection of your project, 24th Avenue S, Kent-Des Moines Rd (SR 516) to S 223rd St, TIB project number 8-1-110(009)-1.

Total TIB funds for this project are \$3,663,432.

Before any work is allowed on this project, you must:

- Verify the information on the Project Funding Status Form, revise if necessary, and sign;
- Submit the section of your adopted Six Year Transportation Improvement Plan listing this project;
- Sign both copies of the Fuel Tax Grant Distribution Agreement; and
- Return the above items to TIB;

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by November 22, 2020 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Greg Armstrong, TIB Project Engineer, at (360) 586-1142 or e-mail GregA@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

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City of Des Moines
8-1-110(009)-1
24th Avenue S
Kent-Des Moines Rd (SR 516) to S 223rd St

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Des Moines
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the 24th Avenue S, Kent-Des Moines Rd (SR 516) to S 223rd St (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Des Moines, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

TIB hereby grants funds in the amount of \$3,663,432 for the project specified above, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for costs incurred in excess of the grant amount. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the original ratio between TIB funds and total project costs.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name

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**Project Funding Status Form**

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Agency Name **DES MOINES**
Project Name: **24th Avenue S**
Kent-Des Moines Rd (SR 516) to S 223rd St

TIB Project Number: **8-1-110(009)-1**

Verify the information below and revise if necessary.

Return to: Transportation Improvement Board • PO Box 40901 • Olympia, WA 98504-0901

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
DES MOINES	1,642,061	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	1,642,061	

Signatures are required from two different agency officials. Return the originally signed form to the TIB office.

Mayor or Public Works Director_____
Signature_____
Date_____
Printed or Typed Name_____
Title**Financial Officer**_____
Signature_____
Date_____
Printed or Typed Name_____
Title

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CITY OF DES MOINES
2020-2025 CAPITAL IMPROVEMENT PLAN
 (Amount in Thousands)

24th Ave S. Improvements Project (Segment 2)

Project #

319,606

CIP Category: Transportation - Capital Project

Managing Department: Plan, Build & PW Admin

Summary Project Description:

Construct 3-lane roadway with bike lanes and sidewalks, two-way left turn lane, illumination, storm drainage, and pedestrian cross-walks from S. 224th Street to Kent-Des Moines Road. This project will be completed in conjunction with SWM's 24th Ave. Pipeline Replacement project extension to South 227th Street.

Justification/Benefits: Provides safer pedestrian and multi-modal mobility especially for school aged children. This project is adjacent to Midway Elementary and Pacific Middle School which has been identified as a top ranking priority project in the HEAL funded Safe Routes to School study/inventory.

PROJECT SCOPE				
Expenditures	Current Budget	Requested Change	Total Budget	
Design	537	(34)	503	
Land & Right of Way	65	-	65	
Construction	4,660	(744)	3,916	
Contingency	450	1	451	
Total Expenditures	5,712	(777)	4,935	

ANNUAL ALLOCATION										
Project to Date 12/31/18	Scheduled Year 2019	Plan Year 2020	Plan Year 2021	Plan Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025			
97	-	406	-	65	-	-	-			
-	-	-	-	-	3,916	-	-			
1	-	30	10	410	-	-	-			
98	-	436	75	4,326	-	-	-			

Funding Sources	Current Budget	Requested Change	Total Budget
ASE (Automated Speed Enforcement) Transfer	358	(150)	208
ASE (Automated Speed Enforcement) Transfer (Unsecured)	-	120	120
Surface Water Utility	808	(808)	-
Traffic Impact Fees - City Wide	947	(14)	933
TIB Grant (Unsecured)	3,599	75	3,674
Total Funding	5,712	(777)	4,935

Project to Date 12/31/18	Scheduled Year 2019	Plan Year 2020	Plan Year 2021	Plan Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025
208	-	-	-	120	-	-	-
-	-	-	-	-	-	-	-
32	-	29	23	849	-	-	-
-	-	407	45	3,222	-	-	-
240	-	436	68	4,191	-	-	-

OPERATING IMPACT						
Operating Impact	2017	2020	2021	2022	2023	2025
Revenue	-	-	-	-	-	-
Expenses	-	-	-	-	-	-
Net Impact	-	-	-	-	-	-

ANNUAL OPERATING IMPACT						
12/31/18	2017	2020	2021	2022	2023	2025
-	-	-	-	-	-	-
-	-	-	-	-	-	-
-	-	-	-	-	-	-

*SWM portion of project detailed on project 451.815.

**CITY OF DES MOINES
2020-2025 CAPITAL IMPROVEMENT PLAN
(Amount in Thousands)**

24th Ave Pipeline Replacement/Upgrade	Project # 451,815	Summary Project Description: Replacement of existing storm drainage system on 24th Avenue from S. 224th to S. 227th Street with approximately 1100 feet of 36-inch pipe and from S. 223rd to S. 224th with approximately 570 feet of 24-inch diameter pipe. This project will coincide with the 24th Avenue S. Improvement Project (Transportation).
CIP Category: Surface Water Mgmt		
Managing Department: Plan, Build & PW Admin		

Justification/Benefits: During major storms the drainage system along the east side of 24th Avenue between S. 226th and S.227th overflows to the pipe system on the west side. These overflows bypass the trunk system which conveys flows to the City Park detention facility and flood properties south of 227th south of Pacific Middle School. This project is recommended in the 1992 Massey Creek Basin Plan and is identified as Projects No. 5 and 23 of the 2015 Surface Water Comprehensive Plan.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	102	(26)	76
Land & Right of Way	-	-	-
Construction	579	1	580
Contingency	180	-	180
Total Expenditures	861	(25)	836

Funding Sources	Current Budget	Requested Change	Total Budget
Surface Water Utility	861	(25)	836
Total Funding	861	(25)	836

ANNUAL ALLOCATION										
Project to Date 12/31/18	Scheduled Year 2019	Plan Year 2020	Plan Year 2021	Plan Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025			
27	-	49	-	-	-	-	-			
-	-	-	-	-	-	-	-			
1	-	-	-	579	-	-	-			
-	-	15	-	165	-	-	-			
28	-	64	-	744	-	-	-			

Project to Date 12/31/18	Scheduled Year 2019	Plan Year 2020	Plan Year 2021	Plan Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025			
28	-	64	-	744	-	-	-			
28	-	64	-	744	-	-	-			

OPERATING IMPACT					
6 Year Total					
Revenue	-	-	-	-	-
Expenses	-	-	-	-	-
Net Impact	-	-	-	-	-

ANNUAL OPERATING IMPACT					
12/31/18	2019	2020	2021	2022	2023
-	-	-	-	-	-
-	-	-	-	-	-
-	-	-	-	-	-

24th Ave South Improvements Kent-Des Moines Rd to S 223rd St



**FEBRUARY 13, 2020
CITY OF DES MOINES**

**PROJECT BRIEFING
TRANSPORTATION IMPROVEMENT BOARD**

Brandon Carver, P.E., P.T.O.E.
Public Works Director

24th Ave South

Kent-Des Moines Rd to S 223rd St



- **PROJECT BACKGROUND**

- 24th Ave S - Capacity and multimodal improvements between S 216th St and KDM
- Two segments to complete corridor
 - ✦ Segment 1 – S 216th St to S 223rd St
 - ✦ Segment 2 – S 223rd St to KDM (Current TIB Award)
- 24th Ave S – Identified in adopted Comprehensive Transportation Plan (CTP), Transportation Improvement Plan (TIP), and Capital Improvement Plan (CIP)

- **PROJECT ELEMENTS**

- ADA Sidewalks and bike lanes – both sides of street
- Two-way left turn lane & reduced travel lane widths for traffic calming
- Enhanced pedestrian crossings – Midway Elementary and Pacific Middle School
- Storm Drainage
- Illumination

24th Ave South

Kent-Des Moines Rd to S 223rd St



- PROJECT FINANCING

- Design, permitting, Right-of-Way acquisition, and construction
 - ✦ Citywide Traffic Impact Fees (TIF)
 - ✦ Automated Speed Enforcement (ASE)
 - ✦ Surface Water Utility Fund – Combining projects for economy of scale
 - ✦ Washington State Transportation Improvement Board (TIB)

- STRATEGIC FUNDING PARTNER – TIB

- Nov 22, 2019 TIB Board Meeting – **\$3,663,432** Award for 24th Ave S Segment 2
- Approximately 65% of total project costs supported by TIB

24th Ave South

Kent-Des Moines Rd to S 223rd St



- TRANSPORTATION IMPROVEMENT BOARD PARTNERSHIP
 - Supported City transportation priorities from 1990 to current
 - ✦ Improvements must be on federally classified routes
 - 15 projects received awards totaling **\$26,015,833**
 - ✦ Total project costs \$63,659,636
 - ✦ TIB almost half of project expenditures
 - Most recent TIB awards
 - ✦ **24th Ave S – Segment 2 (KDM – S 223rd); \$3,663,432 – Current award**
 - ✦ Barnes Creek Trail – Complete Streets; \$300,000 – In design
 - ✦ Redondo Boardwalk; \$402,295
 - ✦ S 216th Street – Segment 3 (11th Ave S to 18th Ave S); \$3,157,245 – Under construction
 - ✦ S 216th Street – Segment 2 (18th Ave S to 24th Ave S); \$3,671,105
 - ✦ S 216th Street – Segment 1-A (24th Ave S to SR99); \$2,093,910
 - ✦ 16th Ave S (S 272nd to S 260th); \$2,986,767

TIB PROJECT PARTNERSHIPS



24th Ave South

Kent-Des Moines Rd to S 223rd St



- COUNCIL MOTION

- TIB Requirements prior to incurring reimbursable expenses
 - ✦ Funding Status Form – certification of project full funding
 - ✦ Fuel Tax Agreement

Motion: “I move to adopt Draft Resolution No 20-006 certifying to the Washington State Transportation Improvement Board (TIB) that full funding is secured for the 24th Ave S, Kent-Des Moines Rd (SR516) to S 223rd St Project, and further authorize the City Manager to sign the TIB Funding Status Form and the Fuel Tax Grant Agreement with TIB.”