

ME

**AGENDA**  
**REGULAR MEETING DES MOINES CITY COUNCIL**  
**March 26, 2009 - 7:30 p.m.**

CALL TO ORDER - Mayor Sheckler

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

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

PRESIDING OFFICER'S REPORT

COUNCILMEMBER COMMENTS

ADMINISTRATION REPORTS

Suburban Cities Update

CONSENT CALENDAR\*

1. Motion is to approve the regular minutes of February 26 and March 5, 2009.
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 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. Draft Ordinance No. 09-020-B - Title: An Ordinance of the City of Des Moines, Washington, relating to the acquisition by eminent domain of certain property in the City of Des Moines; describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directing the City Attorney to prosecute such action in King County Superior Court.

MOTION is to approve Draft Ordinance No. 09-020-B on second reading.

4. Motion is to approve the Consultant Agreement that will provide for civil engineering services on the Transportation Gateway Project with KPG, Inc., in the amount of \$669,780.85, plus a 10% contingency, and authorize the City Manager or his designee to sign the agreement substantially in the form as submitted.
5. Motion is to approve contract Supplement No. 2 in the amount of \$126,623 for the final design and permitting for the Barnes Creek Detention Facility bringing the contract with Tetra

1456  
5000

Tech, Inc. dated 3/18/1008 in the original amount of \$85,648, to a revised contract total of \$212,171, plus a contingency amount of \$12,652.

1457 Scott  
6. Draft Ordinance No. 09-044 - Title: An Ordinance of the City of Des Moines, Washington relating to municipal finance, amending the 2009 budget adopted in Ordinance No. 1452, by authorizing certain expenditures in the amounts specified in this ordinance.

TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 09-044.

7. Motion is to approve the Interlocal Agreement between the City of Des Moines and the Des Moines Transportation Benefit District to support the TBD in its effort to coordinate, provide, maintain, construct, and reconstruct public street infrastructure and to authorize the Assistant City Manager to sign the ILA substantially in the form as attached.

\*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

1458  
Draft Ordinance No. 08-163 Multi-Family Tax Exemption - 1<sup>st</sup> Reading

SUMMARY: The purpose of this agenda item is to facilitate Council's continued consideration of the draft ordinance implementing a multifamily tax exemption program for developments on properties within the Pacific Ridge area.

Staff Presentation: Planning, Building and Public Works Director

### OLD BUSINESS

### NEW BUSINESS

1. Draft Ordinance No. 09-002 Special Events - 1<sup>st</sup> Reading

SUMMARY: The purpose of this agenda item is to request that the Council provide direction for or grant approval of the draft ordinance adding a new chapter to Title 5 of the Municipal Code to provide requirements for Special Events.

Staff Presentation: Assistant City Manager

NEXT MEETING DATE - Study Session April 2, 2009

### ADJOURNMENT



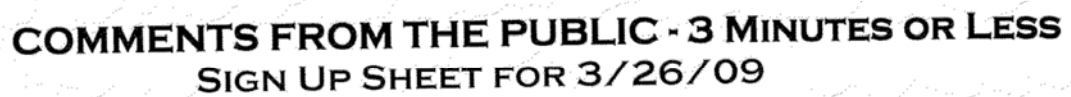




**COMMENTS FROM THE PUBLIC - 3 MINUTES OR LESS**  
SIGN UP SHEET FOR 3/26/09

PLEASE PRINT

[illegible]

[illegible]

**PRELIMINARY**  
**REGULAR MEETING DES MOINES CITY COUNCIL**

MINUTES

February 26, 2009

The regular minutes of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Planning, Building and Public Works Director Grant Fredricks, Police Chief Roger Baker, Harbormaster Joe Dusenbury, and Clerk Kendra Johnson.

COMMENTS FROM THE PUBLIC:

Cheryl Birdsong-Juneau, 19818 3<sup>rd</sup> Pl. S.

Ms. Birdsong-Juneau noted she does not favor the Multi-Family Tax Exemption (MFTE).

Vernnena Staab, 21628 28th Ave. S.

Ms. Staab stated she opposes the MFTE. In addition, she shared her opinion on watercraft fueled by ethanol and discussed park fencing.

Mysty Beal, 22628 16<sup>th</sup> Ave. S.

Ms. Beal requested an independent financial assessment on the impact of the MFTE and requested the Council not proceed on a vote on this issue until they have the opportunity to study the aforementioned assessment.

Nadine Byers, 26241 13<sup>th</sup> Pl. S.

Ms. Byers noted she is representing the Human Services Advisory Committee. She requested the Council support Item #5 on the Consent Calendar and thanked the Council for their continued support.

Florence McMullin, 1018 S. 246<sup>th</sup> Pl.

Ms. McMullin stated she does not favor the MFTE. She would like the City to initiate collaborative discussion before making a final decision on this ordinance.

Dan Caldwell, 19547 2<sup>nd</sup> Ave. S.

Mr. Caldwell does not support the MFTE and referred to emails he had sent to Council regarding this matter.

PRESIDING OFFICER'S REPORT

Mayor Sheckler noted the 2009 federal government budget has passed the House of Representatives. The Bill, which was created and recommended by a Conference Committee, is expected to pass the Senate then on to the President for signature without any changes. In this budget, Congressman Adam Smith requested an appropriation for improvements on the Downtown Water District System on the City's behalf. The City was informed \$500,000 was included in the budget for these improvements. Mayor Sheckler thanked Congressman Smith for

his assistance, along with Councilmembers Pina and White for their lobbying efforts on the City's behalf, lobbyist Dale Learn, City staff for their hard work on the submittal and the Council for their support.

#### BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

##### 2009 State Budget & Tourism, Des Moines 50<sup>th</sup> Birthday and Economic Development

Councilmember Scott reported that she, Mayor Sheckler and City Manager Piasecki met with Representatives last week in Olympia. They were informed that an additional 720 million dollars is being cut from the current year budget that ends on June 30, 2009. It does not include the 8.5 million dollar budget deficit for the next budget year. Councilmember Scott stated she also is working on Historic displays for the 50<sup>th</sup> Birthday Party and coordinating with Ralph Nichols and others on creating items concerning economic development, awareness and tourism.

##### Environment Committee

Councilmember Thomasson noted at this evening's committee meeting that the Midway Sewer District had a presentation concerning their recently approved sewer plan. The Council is the legislative authority and needs to ultimately approve that plan.

##### Passenger Ferry, Economic Development and Multi-Family Tax Exemption

Councilmember White is in support of passenger ferry service and encouraged Ralph Nichols in his public relation role on this matter. She also commented that information was provided by Finance Director Paula Henderson as to the City's financial situation. She noted it was not favorable but felt the City should maintain a focus and move forward. In addition, she stressed that the Council would be extremely diligent in gathering information on the MFTE before any action is undertaken.

##### Human Services

Mayor Pro Tem Sherman voiced his support of the Consent Calendar items Nadine Byers discussed earlier. He encouraged administration to keep Council abreast of the City's financial situation.

#### ADMINISTRATION REPORTS

City Manager Piasecki stated Mayor Sheckler has scheduled a discussion of City finances on the March 12<sup>th</sup> agenda. In addition, he noted that several weeks ago he, Mayor Sheckler, Parks & Recreation Human Services Director Patrice Thorell met with Normandy Park (per Council direction) to discuss the Mt. Rainier pool. The consensus was that each individual Council designates three councilmembers to meet and discuss what could be achieved jointly by way of a ballot measure. Normandy Parks City Manager informed him that they have already designated three councilmembers and are ready to meet with the Des Moines designated councilmembers to move forward on this issue.

CONSENT CALENDAR was read by Clerk Johnson.

1. Motion is to approve the regular minutes of January 22, 2009.
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 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 \$ [ED NOTE: Item pulled by Mayor Sheckler.]~~

3. Draft Resolution No. 09-027 [ASSIGNED NO. 1094] - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Rotary Club of Des Moines to conduct the "Fireworks Over Des Moines" fireworks event on July 4, 2009 at the Des Moines Marina and Fishing Pier and listing conditions under which such permission is granted.

MOTION is to approve Draft Resolution No. 09-09-027.

4. Draft Resolution No. 09-026 [ASSIGNED NO. 1095] - Title: A Resolution of the City Council of the City of Des Moines, Washington, approving Highline Water District's 2008 Comprehensive Water System Plan.

MOTION is to approve Draft Resolution No. 09-09-026.

5.A Motion is to approve the 2009 Human Services allocations shown as Attachment A as recommended by the City of Des Moines Human Services Advisory Committee, and

5.B Motion is to approve the 2009 Interlocal Agreement for the Joint Human Services Funding Program between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Renton, SeaTac and Tukwila and authorize the City Manager to sign the agreement substantially in the form as submitted.

6. Motion is to cancel the March 12, 2009 public hearing regarding the Zoning Code Update, by revoking Draft Resolution No. 07-122.

Mayor Sheckler requested Item #2 be pulled until figures arrive.

City Manager Piasecki read figures for Item #2. Claim checks #118609 – 118307 and electronic fund transfers in the total amount \$510,244.63. Payroll fund transfers in the total amount \$437,974.80.

**MOTION** was made by Mayor Sheckler, seconded and passed unanimously, to approve Item #2.

**MOTION** was made by Mayor Sheckler, seconded and passed unanimously, to approve the remainder of the Consent Calendar as read.

At 8:04 p.m., Mayor Sheckler announced a 10-minute break followed by a 10-minute executive session regarding pending litigation.

#### Executive Session

Mayor Sheckler called the Executive Session to order at 8:04 p.m. in the City Hall Conference Room.

Present: Mayor Sheckler, Mayor Pro Tem Sherman, Councilmembers Kaplan, Pina, Scott, Thomasson, and White. Also in attendance were City Manager Piasecki, City Attorney Pat Bosmans, and Assistant City Manager Lorri Ericson.

At 8:13 p.m., Assistant City Manager Ericson announced a 5-minute extension for the executive session.

At 8:19 p.m., Assistant City Manager Ericson announced an additional 5-minute extension for the executive session.

No formal action was taken.

At 8:24 p.m., regular meeting reconvened.

Agenda revision

Mayor Sheckler announced a change in agenda order and the next item discussed would be New Business Item #1 Draft Ordinance No. 09-202 SCORE Condemnation.

NEW BUSINESS

Draft Ordinance No. 09-020 SCORE Condemnation - 1<sup>st</sup> Reading

**MOTION** was made by Mayor Sheckler, and seconded, to accept Draft Ordinance No. 09-020 SCORE Condemnation for a 2<sup>nd</sup> reading on March 12, 2009. VOTE ON MOTION: Passed 6 to 1 with Councilmember Thomasson opposed.

CONTINUED PUBLIC HEARING

Draft Ordinance No. 08-163 Multi-Family Tax Exemption - 1<sup>st</sup> Reading

Mayor Sheckler invited Councilmember Scott to begin with the Q & A discussion concerning the MFTE. Councilmember Scott advised that PBPW Fredricks had some comments he wished to make and she would follow him with her questions. PBPW Fredricks then distributed a packet to Council of Q & A's that were in response to questions previously emailed from Councilmember Scott to staff. He summarized the information for Council and gave a PowerPoint presentation. Discussion followed. Police Chief Roger Baker responded to questions from Council about the impact this ordinance would have on the police department.

At 10:18 p.m., **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to extend the meeting to 11:00 p.m. Motion failed 3 to 4.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Thomasson and passed unanimously, to extend the hearing to March 26, 2009.

OLD BUSINESS

Draft Resolution No. 09-028 [ASSIGNED NO. 1096] - Adding Seasonal Moorage Rates for 20' and 24' Slips

Harbormaster Dusenbury explained the new rates would apply to new tenants who entered the Marina 20' and 24' moorage after March 31, 2009. The rate reduces to the regular rate after October 31, 2009. Any tenant remaining after that date would pay the regular rate from that point forward. City Manager Piasecki added staff would come to Council in the fall with a new rate resolution because the last adopted resolution expires on December 31, 2009. In addition, Councilmember Thomasson requested a minimum six-month stay requirement be added to the ordinance.

**MOTION** was made by Councilmember Pina, seconded by Councilmember Kaplan, to adopt Draft Resolution 9-028 which would add seasonal rates for the 20 and 24 foot slips to the Marina's rate schedule.



**AMENDED MOTION** add "as established by Council".

**VOTE ON MOTION**: Passed unanimously.

**NEXT MEETING DATE** - Study Session March 5, 2009.

**ADJOURNMENT**

At 10:30 p.m., **MOTION** was made by Mayor Pro Tem Sherman, seconded by Councilmember Kaplan and passed unanimously, to adjourn.

Respectfully submitted,

Autumn Lingle  
Clerk

**PRELIMINARY**  
**REGULAR MEETING DES MOINES CITY COUNCIL**

MINUTES

March 5, 2009

The regular Study Session of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Absent: Mayor Pro Tem Dan Sherman. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Planning, Building and Public Works Director Grant Fredericks, Parks and Recreation Director Patrice Thorell, Planning Manager Denise Lathrop and City Clerk Denis Staab.

MOTION was made by Councilmember White, seconded by Councilmember Kaplan and passed unanimously, to excuse Mayor Pro Tem Sherman.

COMMENTS FROM THE PUBLIC

The following individuals addressed Council in support of the continued operation of the Mt. Rainier Pool citing health benefits, youth swim lessons and use by the Mt. Rainer Swim Team. They thanked Council for their efforts to date and encouraged Council to keep working on long range future plans for the pool:

Faith Calahan, 816 S 216<sup>th</sup>, #T511  
Connie Midget, 816 S 216<sup>th</sup>, #T411  
Margaret Squires, 815 S 216<sup>th</sup>, Cottage #2  
Bill Whisler, 418 SW 185<sup>th</sup> Pl., Normandy Park  
Jack Kniskern, 22602 13<sup>th</sup> Avenue S  
Ken Spencer, Mt. Rainier Pool Manager

Mayor Sheckler noted that the City has worked hard to keep the pool functioning and advised that the School District cannot afford to keep it open alone. He announced that he and Councilmembers Kaplan and Pina will meet with a Normandy Park Councilmember Committee to continue discussions on the future of the Pool.

DISCUSSION ITEMS

Lake to Sound Trail Feasibility Study

Planning, Building and Public Works Director Fredricks noted the purpose of tonight's item is to update the Council on the Lake to Sound Trail Feasibility Study prepared for King County by Parametrix. He introduced Ryan Abbott of Parametrix who identified the vision as a route that connects the southern end of Lake Washington, where the Cedar River flows into the Lake, to Puget Sound which will connect the cities of Renton, Tukwila, SeaTac, Burien and Des Moines. He proceeded to review the Study provided in Council's packet, identifying the preferred alignment and layout. Goals for the trail were:

- Develop a safe, continuous regional trail connecting Lake Washington from Renton to Puget Sound in Des Moines.

- Provide access to the trail for local communities.
- Provide economic and health benefits to communities along the trail.
- Evaluate opportunities to proceed with the development of selected sections of the trail by applying for upcoming federal transportation funding.

The presentation concluded by requesting Council support funding for the trail through King County's and Puget Sound Regional Council's 2009 project selection process this spring for 2009 and 2012 non-motorized projects.

**MOTION** was made by Councilmember White, seconded by Councilmember Kaplan, to authorize the Mayor to sign a letter expressing the City of Des Moines' support for 2009 Federal Transportation Grant Funding for the Lake to Sound Trail.

Upon questioning, Planning, Building and Public Works Director Fredricks advised that the letter for the Mayor's signature would be for just the two segments that are specifically proposed for 2009 Federal Funding.

**VOTE ON MOTION:** Passed unanimously.

**Mt. Rainier Pool Property Transfer and Interlocal Agreement with Highline School District**

Parks and Recreation Director Thorell informed Council that Highline School District will be the new Pool owner as of tomorrow, March 6, 2009. She noted the Agreement will provide for the City of Des Moines to act as the District's operating agent through December 31, 2009. She pointed out that the District will have the responsibility to provide the facility insurance and programs, along with AMG. This will in effect buy some time for the Pools continuation.

**MOTION** was made by Councilmember Thomasson, seconded by Councilmember Pina, to adopt the Interlocal Agreement between the Highline School District No. 401, the City of Des Moines and the City of Normandy Park for the Mt. Rainier Pool for March 6, 2009 through December 31, 2009, and authorize the City Manager to sign the agreement substantially in the form as submitted.

It was noted the Pool operations have been an ongoing issue and concern was expressed what 'fall-back' positions should be addressed.

Mayor Sheckler pointed out that this is one of the reasons for a joint Council committee meeting between Normandy Park and Des Moines to look at the possibilities. He expressed optimism for future public support of the Pool.

**VOTE ON MOTION:** Motion passed unanimously.

**Midway Planning**

Planning Manager Lathrop proceeded to brief Council on the planning activities that have occurred to date on the joint project with the City of Kent for the Midway area and Pacific Highway South corridor. With the use of colored maps she reviewed and listed the pros and cons of:

- Transit oriented centers and corridors
- Light Rail station concepts for SR 99, 30<sup>th</sup> Avenue S or I-5

Discussion ensued regarding the impacts (noise, vibration, visual) of Light Rail whether on Highway 99 or 30<sup>th</sup> Avenue South. Council's consensus was to have Transportation staff arrange for a demonstration of Light Rail (elevated and street level) for Councilmembers to judge potential impacts.

Councilmember Thomasson referenced Scenario 2 map in Council's packet calling attention to the area between South 216<sup>th</sup> and Kent-Des Moines Road noting he does not feel any need to change any of the Pacific Ridge development regulations. He felt the only area that might need to be jointly considered with Kent, would be the zoning between Kent-Des Moines Road and South 240<sup>th</sup> on the west side of the Highway, which he feels the outcome should be adopting the Pacific Ridge Zoning and carrying the same zoning southward.

Planning Manager Lathrop noted some of the input she is looking for is whether Des Moines wants to establish a "transit oriented development overlay zone". This would establish these areas as being the primary focus for some of the initial investments and getting those types of jobs and housing needed around the transit areas.

Councilmember Kaplan felt the area of South 272<sup>nd</sup> would also be important.

Some concern was expressed for any transit hub around Highline College and their need to provide adequate campus parking.

Consensus was expressed to urge Sound Transit to finish all north/south routes before adding new east/west extensions.

At 9:15 p.m. Mayor Sheckler called for a 5 minute break.

#### GMA Revised Growth Targets

Planning Manager Lathrop informed Council that the Suburban Cities Association Public Issues Committee will be meeting on April 8<sup>th</sup> and the Growth Management Planning Council on April 15<sup>th</sup> to address the Growth Targets Process. She noted Des Moines is grouped with the larger suburban cities category which are looking at distributing about 14% of the housing growth and about 10% of the job growth among the cities, contingent upon individual land capacity, critical areas, etc. She advised that Des Moines has ample space to accommodate the growth targets between Pacific Ridge and Downtown Des Moines. She informed Council the next GMA update is scheduled for 2011. She noted that she does not see that Council will need to do any adjustments in our zoning, especially with the potential for the SCORE facility to be built which provides for additional employment opportunity that had not been previously factored into our buildable lands analysis.

Councilmember Thomasson felt that Growth Targets should acknowledge that at some point you do hit build-out and beyond that, growth will not happen. He noted that we have capacity for the next 20 years, but when Pacific Ridge builds out he felt we need to be ensured that they will not ask for even more capacity.

#### NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting will be March 12, 2009.

ADJOURNMENT

At 9:32 p.m. **MOTION** was made by Councilmember White, seconded by Councilmember Kaplan and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab  
City Clerk

**ACTION ITEMS FROM 3/5/09 MEETING**

- Transportation staff to arrange for demonstration of Light Rail (elevated and street level) for Councilmembers to judge potential impacts.

*Scott*

# AGENDA ITEM

## BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Condemnation Ordinance for SCORE Facility

FOR AGENDA OF: March 26, 2009

DEPT. OF ORIGIN: Legal

*PB*

### ATTACHMENTS:

1. Draft Ordinance No. 09-020-B
2. Excerpt from Council Minute from 2/26/09
3. Record of Survey

DATE SUBMITTED: 3/12/09

APPROVED BY CITY MANAGER

FOR SUBMITTAL

*[Signature]*

### PURPOSE AND RECOMMENDATION

The purpose of Draft Ordinance 09-020-B is to seek Council approval to proceed with the condemnation of certain properties owned by the Port of Seattle and the State of Washington for construction of the SCORE Facility, a regional misdemeanor correctional facility to be located in the City of Des Moines. The difference between the Draft Ordinance presented on February 26, 2009 and Draft Ordinance 09-020-B is additional State of Washington property needed for the SCORE Project.

**MOTION:** To adopt Draft Ordinance No. 09-020-B.

### BACKGROUND

On February 26 the Council set over for a second reading the SCORE Draft Ordinance 09-020 in order to allow notice to the owners of the property sought to be condemned. Soon after the Council meeting we were advised that SCORE would need some additional property owned by the State of Washington added to the Condemnation Ordinance, the new legal is provided in Draft Ordinance 09-020-B.

### DISCUSSION

Notice of Draft Ordinance 09-020 was sent to the interested parties on February 19, 2009. Notice of the additional State property needed for the SCORE Facility was provided to the State and the Port by letter on March 10, 2009. Both entities have also been advised of the revised Council date for consideration of Draft Ordinance 09-020-B. In further discussions with both the Port and the State they are aware that the City will be filing a Petition in Condemnation when the Draft Ordinance becomes effective. Both entities have provided the City with individuals who will accept service of process for that Petition. We are providing the entities with the appraisal so that we may enter into discussions regarding value. Upon

filing the Petition we will be seeking a court order allowing the construction to proceed while the parties are negotiating/ trying the issue of value.

RECOMMENDATION

The staff recommends adoption of Draft Ordinance 09-020-B at the March 26, 2009 Council Meeting.

DRAFTORD:

CITY ATTORNEY'S FIRST ORDINANCE, 2/19/2009

DRAFT ORDINANCE NO. 09-020-B

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the acquisition by eminent domain of certain property in the City of Des Moines; describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directing the City Attorney to prosecute such action in King County Superior Court.

WHEREAS, there exists in the City of Des Moines certain properties legally described in section 1 of this ordinance, and

WHEREAS, the City Council of the City of Des Moines intends to acquire by the payment of "fair market value" the following properties because they seek to construct a correctional facility to be known as the SCORE Facility located at the southwest corner of the intersection of South 208<sup>th</sup> Street and 18<sup>th</sup> Avenue South (vacated) in Des Moines, Washington ("Property") as envisioned at the time of the creation of the South Correctional Entity Facility Public Development Authority which includes as Member Cities Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila, Washington, and

WHEREAS, the City Council finds that acquisition of the properties described in section 1 is critical to the construction and maintenance of the SCORE Facility, a south King County regional correctional facility that will provide correctional services to the above described Member Cities, and it is in the public interest to acquire such properties for public health, safety, welfare and transportation needs, and

WHEREAS, the City of Des Moines, Washington is authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare, and

WHEREAS, pursuant to RCW 8.12.030 the City is empowered to condemn land and property for jails, and

WHEREAS the Port of Seattle and the State of Washington currently have no plans for the property needed for the SCORE Facility, and

ATTACHMENT 1



WHEREAS, based on the foregoing, the City Council finds that the only alternative available for acquisition of the following properties or portions thereof may be by eminent domain; now therefore,

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

**Sec. 1. Legal description.** The real properties that are the subject of this ordinance are legally described in Exhibit A attached hereto.

(See also Exhibit B the First American Title Report.)

**Sec. 2. Public use necessity.** The public convenience, use, and necessity demand the acquisition of the real property described in section 1 herein for the SCORE Facility and for use by the public as a regional correctional facility.

**Sec. 3. Condemnation of property.** All lands, rights, privileges, and other property lying within the limits of the real property described in section 1 herein are hereby condemned, appropriated, taken and damaged for the purposes described in section 2 herein, only after just compensation has been made, or paid into the court for the owner thereof in a manner provided by law.

**Sec. 4. Costs of acquisition.** The costs of the acquisition provided for by this ordinance shall be paid by the SCORE Public Development Authority Fund of the City of Des Moines, or such other funds of the City of Des Moines as may be provided by law.

**Sec. 5. Authority of City Attorney.** The City Attorney is hereby authorized and directed to begin and prosecute the actions and proceedings in a manner provided by law to condemn, take, damage, and appropriate the real property necessary to carry out the provisions of this ordinance. In conducting such condemnation proceedings, the City Attorney is hereby authorized to enter into stipulations for the purpose of minimizing damages.

**Sec. 6. 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. 7. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines, Washington this \_\_\_\_th day of \_\_\_\_\_, 2009 and signed in authentication thereof this \_\_\_\_th day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published:

EXHIBIT A  
Draft Ordinance No. 09-020-B  
**SCORE Condemnation:**  
**Legal Description**

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THAT PORTION OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST AND THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 22 NORTH, RANGE 4 EAST AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 4;

THENCE N 00°59'32" E ALONG THE WEST LINE OF SAID SECTION 4 A DISTANCE OF 30 FEET TO THE NORTHERLY MARGIN OF SOUTH 208<sup>TH</sup> STREET AND THE TRUE POINT OF BEGINNING;

THENCE S 88°26'00" E ALONG SAID NORTHERLY MARGIN 783.31 FEET;

THENCE S 1°34'00" W 60.00 FEET;

THENCE S 11°44'38" W 364.86 FEET;

THENCE S 12°17'19" E 36.31 FEET;

THENCE S 10°36'35 E 239.57 FEET;

THENCE N 88°23'25" W 772.38 FEET;

THENCE N 01°05'50" E 30.04 FEET;

THENCE N 86°04'44" W 354.24 FEET;

THENCE N 00°49'57" E 300.82 FEET;

THENCE S 85°47'29" E 192.68 FEET;

THENCE N 01°05'50"E 353.86 FEET TO THE NORTHERLY MARGIN OF SAID 208<sup>TH</sup> STREET;

THENCE S 85°30'23" E ALONG SAID NORTHERLY MARGIN 163.05 FEET;

THENCE N 00°59'32" E 5.96 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: THE BOUNDARIES OF THE ABOVE WRITTEN LEGAL DESCRIPTION ARE DEPICTED ON SURVEY AS RECORDED UNDER KING COUNTY AUDITOR'S FILE NO. 20090210900003.



Issued by

*First American Title Insurance Company*

*818 Stewart St, Ste 800, Seattle, WA 98101*

*Title Officer: Pat Fullerton*

*Phone: (206)728-0400*

*FAX:*

**Exhibit B**



**First American**

*First American Title Insurance Company*  
818 Stewart St, Ste 800  
Seattle, WA 98101  
Phn - (206)728-0400 (800)826-7718  
Fax -

**Title Team One**  
**Fax No. (866) 904-2177**

**Pat Fullerton**  
**(206) 615-3055**  
pfullerton@firstam.com

**Jennifer Salas**  
**(206) 615-3011**  
jsalas@firstam.com

**Tina Kotas**  
**(206) 615-3012**  
tkotas@firstam.com

**SUBDIVISION GUARANTEE**

LIABILITY \$ **1,000.00**

ORDER NO.: **4209-1309697**

FEE \$ **350.00** TAX \$ **31.50**

YOUR REF.:

**First American Title Insurance Company**  
a Corporation, herein called the Company

Subject to the Liability Exclusions and Limitations set forth below and in Schedule A.

**GUARANTEES**

**KPFF Consulting Engineers**

herein called the Assured, against loss not exceeding the liability amount stated above which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

**LIABILITY EXCLUSIONS AND LIMITATIONS**

1. No guarantee is given nor liability assumed with respect to the validity, legal effect or priority of any matter shown therein.
2. The Company's liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company's liability exceed the liability amount set forth above.
3. This Guarantee is restricted to the use of the Assured for the purpose of providing title evidence as may be required when subdividing land pursuant to the provisions of Chapter 58.17, R.C.W., and the local regulations and ordinances adopted pursuant to said statute. It is not to be used as a basis for closing any transaction affecting title to said property.

Dated: November 21, 2008 at 7:30 A.M.

**Amended Subdivision Guarantee  
SCHEDULE A**

The assurances referred to on the face page are:

A. Title is vested in:

Port of Seattle, a Washington municipal corporation, as to Parcels A, B, C, D and F; and State of Washington, as to Parcels E, G and H

B. That according to the Company's title plant records relative to the following described real property (including those records maintained and indexed by name), there are no other documents affecting title to said real property or any portion thereof, other than those shown below under Record Matters.

The following matters are excluded from the coverage of this Guarantee:

1. Unpatented Mining Claims, reservations or exceptions in patents or in acts authorizing the issuance thereof.
2. Water rights, claims or title to water.
3. Tax Deeds to the State of Washington.
4. Documents pertaining to mineral estates.

DESCRIPTION:

Parcel A:

Lots 1 through 4, inclusive, Cordell Tracts, according to the plat thereof filed in Volume 64 of Plats, page 70, records of King County, Washington.

Together with the Southeast quarter of the Northeast quarter of the Northeast quarter of the Northeast quarter of Section 8, Township 22 North, Range 4 East, W.M., in King County, Washington.

Except the South 30 feet herein.

Parcel B:

Lots 1 through 12, inclusive, Block 1, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion of said Lot 10 conveyed to King County by Deed under Recording No. 4554396 for street right of way.

Parcel C:

Lots 1 through 13, inclusive, Block 2, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion of said Lot 10 conveyed to King County by Deed under Recording No. 4579511 for street right of way.

Parcel D:

Lots 1 through 10, inclusive, Block 3, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Parcel E:

Lot 11, Block 3, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion lying within State Route 509.

Parcel F:

Lots 20, 21, 22 and 23, Block 3, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion of said Lot 23 conveyed to the State of Washington by Deed under Recording No. 7108040295 for State Route 509.

Parcel G:

Lot 24, Block 3, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion lying within State Route 509.

Parcel H:

Lot 25, Block 3, Glen Echo Addition, according to the plat thereof filed in Volume 53 of Plats, page 91, records of King County, Washington.

Except that portion lying within State Route 509.

APN: 175300-0010-05, 278240-0005-07, 278240-0065-04, 278240-0130-05, 278240-0180-04, 278240-0225-01, 278240-0245-07 and 278240-0250-09

RECORD MATTERS:

1. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 175300-0010-05, are exempt.  
Affects: Parcel A and other properties

We note Special Charges for the year 2008 in the amount of \$130.65 have been paid in full.

2. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0005-07, are exempt.  
Affects: Parcel B

We note Special Charges for the year 2008 in the amount of \$130.35 have been paid in full.

We note the legal description on the King County Tax Rolls fails to except portion conveyed for street.

3. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0065-04, are exempt.  
Affects: Parcel C

We note Special Charges for the year 2008 in the amount of \$130.50 have been paid in full.

We note the legal description on the King County Tax Rolls fails to except portion conveyed for street.

4. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0130-05, are exempt.  
Affects: Parcel D

We note Special Charges for the year 2008 in the amount of \$130.35 have been paid in full.

5. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0180-04, are exempt.  
Affects: Parcel E

6. DELINQUENT SPECIAL CHARGES regarding Tax Account No. 278240-0180-04 for the years of 1998 through 2008, inclusive, in a total amount of \$1,011.81, plus interest and penalty are owing.  
Affects: Parcel E

7. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0225-01, are exempt.  
Affects: Parcel F

We note Special Charges for the year 2008 in the amount of \$130.19 have been paid in full.

8. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0245-07, are exempt.  
Affects: Parcel G



9. DELINQUENT SPECIAL CHARGES regarding Tax Account No. 278240-0245-07 for the years of 1998 through 2008, inclusive, in a total amount of \$1,011.81, plus interest and penalty are owing.  
Affects: Parcel G
10. Liability, if any, for pro-rata portion of **Real Property** taxes which are carried on the King County Tax Rolls, as tax account no. 278240-0250-09, are exempt.  
Affects: Parcel H
11. DELINQUENT SPECIAL CHARGES regarding Tax Account No. 278240-0250-09 for the years of 1998 through 2008, inclusive, in a total amount of \$1,011.81, plus interest and penalty are owing.  
Affects: Parcel H
12. Taxes which may be assessed and extended on any subsequent roll for the tax year 2008, with respect to new improvements and the first occupancy which may be included on the regular assessment roll and which are an accruing lien not yet due or payable.
13. Reservations and exceptions, including the terms and conditions thereof:  
Reserving: Minerals  
Reserved By: Weyerhaeuser Timber Company  
Recorded: December 3, 1906  
Recording Information: 441681 (V. 548, P. 232)  
  
We note no examination has been made regarding the transfer or taxation of the reserved rights.  
Affects: Parcels B, C, D, E, F, G and H
14. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed by Short Plat or Plat Glen Echo Addition recorded in Volume 53 of Plats, Page(s) 91.  
Affects: Parcels B, C, D, E, F, G and H
15. Any and all offers of dedication, conditions, restrictions, easements, fence line/boundary discrepancies, notes and/or provisions shown or disclosed by Short Plat or Plat Cordell Tracts recorded in Volume 64 of Plats, Page(s) 70.  
Affects: Parcel A

16. Easement, including terms and provisions contained therein:  
Recording Information: 4589316  
For: Drainage  
Affects: Lots 1, 2 and 3, Block 3, within Parcel D
17. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:  
Recording Information: 4589317  
Affects: Parcels B, C, D, E, F, G and H
18. Relinquishment of all existing and future rights to light, view and air, together with the rights of access to and from the State Highway constructed on lands conveyed by instrument:  
Recorded: August 4, 1971  
Recording No.: 7108040295  
In favor of: The State of Washington  
Affects: Lot 23, Block 3, within Parcel F

#### INFORMATIONAL NOTES

- A. Any sketch attached hereto is done so as a courtesy only and is not part of any title commitment or policy. It is furnished solely for the purpose of assisting in locating the premises and First American expressly disclaims any liability which may result from reliance made upon it.

**SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE**

1. Except to the extent that specific assurance are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
  - (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
  - (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
  - (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.
2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
  - (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps, or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
  - (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
  - (c) The identity of any party shown or referred to in Schedule A.
  - (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

**GUARANTEE CONDITIONS AND STIPULATIONS**

**1. Definition of Terms.**

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A) (C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A) (C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

**2. Notice of Claim to be Given by Assured Claimant.**

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

**3. No Duty to Defend or Prosecute.**

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

**4. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.**

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay

any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.

(c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.

(d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

**5. Proof of Loss or Damage.**

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the Loss or Damage. All information designated as confidential by the Assured provided to the Company, pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

**6. Options to Pay or Otherwise Settle Claims: Termination of Liability.**

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim Assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

**7. Determination and Extent of Liability.**

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The Liability of the Company under this Guarantee to the Assured shall not exceed the least of:

(a) the amount of liability stated in Schedule A or in Part 2;

(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage Assured against by this Guarantee occurs, together with interest thereon; or

(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance Assured against by this Guarantee.

**8. Limitation of Liability.**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter Assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

**9. Reduction of Liability or Termination of Liability.**

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

**10. Payment of Loss.**

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

**11. Subrogation Upon Payment or Settlement.**

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies. If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

**12. Arbitration.**

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

**13. Liability Limited to This Guarantee; Guarantee Entire Contract.**

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**14. Notices, Where Sent.**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at 2 First American Way, Bldg. 2, Santa Ana, CA. 92707.

Form No. 1282 (Rev. 12/15/95)

**EXCERPT  
DES MOINES CITY COUNCIL MINUTES  
February 26, 2009**

NEW BUSINESS

Draft Ordinance No. 09-020 SCORE Condemnation - 1<sup>st</sup> Reading

**MOTION** was made by Mayor Sheckler, and seconded, to accept Draft Ordinance No. 09-020 SCORE Condemnation for a 2<sup>nd</sup> reading on March 12, 2009. VOTE ON MOTION: Passed 6 to 1 with Councilmember Thomasson opposed.



## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Consultant Agreement for Civil  
Engineering Services on the  
Transportation Gateway Project

AGENDA OF: March 26, 2009

DEPT. OF ORIGIN: Planning, Building and  
Public Works

DATE SUBMITTED: March 19, 2009

ATTACHMENTS:

1. CIP and Programmed Capital Funds
2. Request for Qualifications Advertisement
3. Consultant Agreement with KPG, Inc
4. Map of S. 216<sup>th</sup> St. /24<sup>th</sup> Avenue S., and Current  
and Future Development
5. Estimated Engineering Cost by Phase

CLEARANCES:

[X] Finance \_\_\_\_\_  
[X] Planning, Building & Public Works HA DSB  
[X] Legal PG

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: [Signature]

#### Purpose and Recommendation:

The purpose of this Agenda Item is to seek City Council approval of a consultant agreement with KPG Inc., ("Consultant") that will provide for civil engineering services on the Transportation Gateway project.

The Transportation Gateway Project consists of three elements which have been adopted as part of the 2009 City Capital Improvement Program:

- South 216<sup>th</sup> Street Improvement – Segment 1 (I-5 to 24<sup>th</sup> Avenue South)
- South 216<sup>th</sup> Street Improvement – Segment 2 (19<sup>th</sup> Avenue South to and including the 24<sup>th</sup> Avenue South intersection)
- 24<sup>th</sup> Avenue South Improvement Project – S. 216<sup>th</sup> St. to S. 208<sup>th</sup> St.

The Consultant will provide engineering support to the City of Des Moines for preliminary design of these improvements. This scope of work provides for the completion the first phase of design, including but not limited to survey, evaluating alternatives, recommending the final alignment and completing engineering sufficient to allow the City to adopt a right-of-way plan for these improvements. Additional work to complete final design and/or initiate construction will be subject to approval of future supplemental agreement(s) by the City Council. This approach was previously requested by the Council, and has been discussed in further detail with the Public Safety and Transportation Committee.



The following motion will appear on the Consent Calendar:

**Suggested Motion:**

"I move to approve the Consultant Agreement that will provide for civil engineering services on the Transportation Gateway Project with KPG, Inc., in the amount of \$669,780.85, plus a 10% contingency, and authorize the City Manager or his designee to sign the agreement substantially in the form as submitted."

**Background:**

An engineering consultant is needed to supplement and expand the capability of City staff and to provide assistance with engineering work to design improvements for the Transportation Gateway in support of the City's Comprehensive Transportation Plan. The work will be supported by capital funds already committed from the Washington State Public Works Trust Fund, in-lieu development fees, and the Transportation Capital Improvement Fund. A copy of the 2009 CIP worksheets is provided as Attachment 1.

RCW 39.80 requires that agencies advertise, conduct interviews if necessary, and ultimately select the most qualified consultant(s) to provide professional services. This selection process may not be based on the cost for those services.

In January, staff placed an advertisement for a Request for Qualifications (RFQ) from civil engineering firms to provide engineering services for the Transportation Gateway improvements, combining these three related Capital Improvements under a single scope of work. A copy of the RFQ is provided as Attachment 2 for reference. Statements of Qualifications (SOQ) were received from five (5) civil engineering firms. A staff selection committee reviewed each of the SOQ's and ranked them based on their response to the criteria identified in the RFQ.

Of the five firms, three were chosen to be interviewed for providing civil engineering services for this work. The staff selection committee invited presentations from each of these three consultant firms in February to assist in determining which firms were most qualified to provide assistance on this project. The staff selection committee selected KPG as the most qualified firm to begin developing a scope of work, and eventually negotiated a Consultant Agreement. The Agreement is included as Attachment 3 in this Council Packet.

On January 15, 2009, the City Council accepted a \$1 million loan from the Public Works Trust Fund (PWTF) to assist in completing design of the Transportation Gateway improvements including preparation of plans, specifications, and cost estimates. One of the conditions of the PWTF loan is that the City completes the design work within 24 months. This means that we have until December 2010 to complete all of the necessary design work.

Given the number of other capital improvements projects currently underway in the Engineering Services Division (North Twin Bridge, Des Moines Creek Trail, S. 216<sup>th</sup> St. Project – Segment 4, CTP update, and the Pavement Management Program), Leonard Madsen, AICP, was retained to provide project management services in assisting the city to coordinate the design process of the Gateway project. This Professional Service Agreement was approved by the City Council on January 8, 2009.



## **Discussion:**

The City of Des Moines Comprehensive Plan (March 23, 2006) guides future growth and development within the City of Des Moines, as required under RCW 36.70A.040. Over the last year, the City has been preparing an update to the Comprehensive Transportation Plan (CTP), an element of the City's Comprehensive Plan. The final draft of the update is now available on the City's Web site for public comment. The CTP is anticipated to be adopted later this spring. Based on the amount of growth and development identified in the CTP for this surrounding area (up to an additional 35,000 vehicles per day), capacity improvements to these three (3) arterial segments are needed so that the City's Level of Service (LOS) standards will be met through the year 2030. Attachment 4 illustrates existing and potential future development activities compatible with the CTP that will require improvements to the transportation infrastructure.

This Consultant Agreement provides for the next step that is necessary for the City to be able to provide for the additional capacity. Since a portion or the entire project might be Federally-funded in the future, the form of the Agreement is based on the Standard Local Agency Agreement as required under the Local Agency Guidelines (LAG) Manual of WSDOT Highways and Local Programs.

The engineering services covered in this agreement are for the preliminary design phase, estimated to cost \$670,000. The Consultant will evaluate alternatives and recommend improvements to solidify the actual roadway alignment and nature of improvements. The Consultant will conduct a survey of the three arterial segments to determine the horizontal and vertical elements of the project to be used in determining the limits of the roadway, utilities, lane markings and turn lanes, walls, sidewalks, drainage, landscape and right of way.

Two alternative alignments, as well as variations thereto, will be developed and evaluated in forming a recommendation for consideration by the community and approval by the City Council before the end of July, 2009. The evaluation criteria are identified in the Scope of Work provided in Attachment 3 (see Exhibit A, Task 7). The final design report will be prepared and approved by the City Council in October, 2009, which will complete the preliminary design process. At that point there will be enough specificity to define a right-of-way plan, utility relocation requirements, and the technical aspects of the projects such as drainage requirements, traffic signal and illumination modifications, as well as preparation of plans, profiles, and cost details.

Opportunities for community involvement are included in the schedule including coordination with policy makers (Council and City Manager levels) with the City of Des Moines, Port of Seattle and the City of SeaTac. A technical review group including City staff, utilities, WSDOT, Sound Transit, Metro, the Port of Seattle, and the City of SeaTac will be involved in the development of design alternatives. At this time, two public open houses are anticipated: one to kick off the project and another to seek feedback on the alternatives. Meetings with private property owners will be held to discuss the project and form recommendations as needed. Staff will maintain a web site and update interested participants on the project status.

This effort will assist the City in advancing engineering to a "shovel ready", or bid procurement stage, as well as be prepared to specify the nature of improvements required to support private development. The

design process will also allow the City to be competitive for State/Federal grants and/or loan assistance to rapidly advance one or more of these segments into construction.

The estimated cost of the total design effort, including administrative, project management and engineering costs, are estimated at \$2.0 to \$2.2 million as illustrated in Attachment 5. Excluded are the costs of negotiating and securing right of way (ROW) which will be estimated for the final design phase depending upon ROW funding availability.

It is anticipated that the construction documents, including environmental work meeting local, Federal and State requirements, will be completed by December, 2010. This will allow any or all of these segments to advance into construction, once the right-of-way and construction funding has been secured.

### **Alternatives:**

The Council could choose to not approve this agreement and decide not to proceed with design of these improvements at this time. The decision may be based upon a judgment that all economic recovery and development of this area will not occur until some time into the future.

Such action would present several challenges to the City. The most significant challenge at this time is not being able to prescribe the actual extent of the new roadway and nature of the right-of-way required to support the City's growth plans as new development occurs. The lack of an approved design places at risk the ability to comprehensively provide the capacity needed to support the City's growth in an area that has become a strategic key to economic development. In addition, the City would need to return the funds from the Washington State Public Works Trust Fund and forego opportunities to seek future low interest loans or state and federal construction grants.

Another option would be to reduce the scope of the project, perhaps delaying the field survey work to the post preliminary design phase and/or proceeding with design without the degree of public involvement sought in the agreement. While such efforts may reduce the initial preliminary design costs, this work is required to complete final design as well as integrate community feedback into the design process. Reducing the scope would delay progress on design by 3-6 months, not provide enough detail to give direction to utilities; lessen opportunities to foresee community issues during the preliminary design process resulting in more costly changes during final design, and possibly risk missing the 24 month deadline set by the Public Works Trust Fund to complete the design effort.

Proceeding with the phased preliminary design process provides a significant milestone for the Council to approve the design concept and decide what elements to include in final design, including, but not limited to, right of way acquisition and utility relocation.

### **Financial Impact:**

This is a capital funded project. The Washington State Public Works Trust Fund loan provides resources to cover this phase of the work. It is anticipated that subsequent phases will use remaining funds from Public Works Trust Fund loan, as well as the Prologis in lieu fee and the Transportation Capital Improvement Fund to complete the design.

Full right of way acquisition and construction is not anticipated to begin until additional local, state and/or federal funds are secured for the project.

**Recommendation/Conclusion:**

Staff recommends that Council approve the proposed Consultant agreement by adopting the recommended motion.

**Concurrence:**

The Finance and Legal Departments concur with the recommendation.

**ATTACHMENT 1**

**2009-2014 CAPITAL IMPROVEMENT PLAN**

**South 216<sup>th</sup> Street Improvement Segment 1**

**South 216<sup>th</sup> Street Improvement Segment 2**

**24<sup>th</sup> Avenue S. Improvement Project**



## 2009 - 2014 CAPITAL IMPROVEMENT PLAN Arterial Street Fund and Transportation CIP

### CAPITAL IMPROVEMENT PLAN REQUEST FORM

|                     |                                                              |                                |            |
|---------------------|--------------------------------------------------------------|--------------------------------|------------|
| <b>CATEGORY</b>     | Arterial Street                                              | <b>PROJECT NO.</b>             | 102.107-01 |
| <b>PROJECT</b>      | South 216th Street Improvement - Segment 1 (I5 to 24th)      | <b>Project Type:</b>           | Improve    |
|                     |                                                              | <b>Council Goals met:</b>      | 1, 2, 3    |
|                     |                                                              | <b>Council Objectives met:</b> |            |
| <b>LOCATION</b>     | Interstate 5 (City Limits) to 24th Avenue South              | <b>Project Status</b>          | Adopted    |
| <b>DESCRIPTION:</b> | Widen roadway to provide additional turn lanes where needed. |                                |            |

| EXPENDITURE SCHEDULE |                      |              |             |                   |                     |                     |                     |             |             |
|----------------------|----------------------|--------------|-------------|-------------------|---------------------|---------------------|---------------------|-------------|-------------|
| COST ELEMENTS        | TOTAL                | FY 07 Actual | FY 08 Est   | FY 09             | FY 10               | FY 11               | FY 12               | FY 13       | FY 14       |
| ADMIN (CITY STAFF)   | \$ 342,000           | \$ -         | \$ -        | \$ 62,000         | \$ 60,000           | \$ 100,000          | \$ 120,000          |             |             |
| CIP PROJ MANAGEMENT  | 26,000               | -            | -           | 7,500             | 7,500               | 8,000               | 3,000               |             |             |
| DESIGN / ENGINEERING | 820,000              | -            | -           | 300,000           | 365,000             | 120,000             | 35,000              |             |             |
| LAND                 | 1,950,000            | -            |             |                   | 650,000             | 1,310,000           |                     |             |             |
| BUILDINGS            | -                    |              |             |                   |                     |                     |                     |             |             |
| IMPROVEMENTS         | 5,484,000            |              |             |                   |                     | 1,028,000           | 3,656,000           |             |             |
| INSPECTION           | 635,000              |              |             |                   |                     | 210,000             | 425,000             |             |             |
| CONTINGENCY          | 1,116,600            |              |             | -                 | 97,500              | 470,700             | 548,400             |             |             |
| <b>TOTAL</b>         | <b>\$ 10,383,600</b> | <b>\$ -</b>  | <b>\$ -</b> | <b>\$ 369,500</b> | <b>\$ 1,180,000</b> | <b>\$ 4,046,700</b> | <b>\$ 4,787,400</b> | <b>\$ -</b> | <b>\$ -</b> |

| FUNDING SOURCES            | TOTAL                | FY 07 Actual | FY 08 Est   | FY 09             | FY 10               | FY 11               | FY 12               | FY 13       | FY 14       |
|----------------------------|----------------------|--------------|-------------|-------------------|---------------------|---------------------|---------------------|-------------|-------------|
| PWTF Loan (confirmed)      | \$325,000            |              | \$ -        | \$ 325,000        |                     |                     |                     |             |             |
| Federal STP (Unconfirmed)  | \$2,000,000          |              |             | -                 | 432,500             | 1,567,500           |                     |             |             |
| TRAFFIC IMPACT FEES        | \$0                  |              |             |                   |                     |                     |                     |             |             |
| IN-LIEU FEES (unconfirmed) | \$5,000,000          |              |             |                   | 747,500             | 1,752,500           | 2,500,000           |             |             |
| TIB (Unconfirmed)          | \$2,000,000          |              |             |                   |                     |                     | 2,000,000           |             |             |
| ARTERIAL STREETS           | \$1,058,600          |              |             | 44,500            | -                   | 726,700             | 287,400             |             |             |
| <b>TOTAL</b>               | <b>\$ 10,383,600</b> |              | <b>\$ -</b> | <b>\$ 369,500</b> | <b>\$ 1,180,000</b> | <b>\$ 4,046,700</b> | <b>\$ 4,787,400</b> | <b>\$ -</b> | <b>\$ -</b> |



## 2009 - 2014 CAPITAL IMPROVEMENT PLAN

### Arterial Street Fund and Transportation CIP

#### CAPITAL IMPROVEMENT PLAN REQUEST FORM

|              |                                                                                                                                    |                         |         |
|--------------|------------------------------------------------------------------------------------------------------------------------------------|-------------------------|---------|
| CATEGORY     | Arterial Street                                                                                                                    | PROJECT NO.             | 107-02  |
|              |                                                                                                                                    | Project Type:           | Improve |
| PROJECT      | South 216th Street Improvement - Segment 2                                                                                         | Council Goals met:      | 1, 2, 3 |
|              |                                                                                                                                    | Council Objectives met: |         |
|              |                                                                                                                                    | Project Status          | Adopted |
| LOCATION     | 19th Avenue South to 24th Avenue South                                                                                             |                         |         |
| DESCRIPTION: | Widen roadway to provide a continuous center turn lane, bike lanes, curb, gutter, and sidewalks, and other improvements by others. |                         |         |

| EXPENDITURE SCHEDULE |                     |              |                 |                     |                   |                     |                     |       |       |
|----------------------|---------------------|--------------|-----------------|---------------------|-------------------|---------------------|---------------------|-------|-------|
| COST ELEMENTS        | TOTAL               | FY 07 Actual | FY 08 Est       | FY 09               | FY 10             | FY 11               | FY 12               | FY 13 | FY 14 |
| ADMIN (CITY STAFF)   | \$ 183,000          | \$ -         | \$ 1,500        | \$ 41,500           | \$ 30,000         | \$ 50,000           | \$ 60,000           |       |       |
| CIP PROJ MANAGEMENT  | 65,000              | -            | -               | 5,000               | 5,000             | 10,000              | 45,000              |       |       |
| DESIGN / ENGINEERING | 571,000             | -            | 6,000           | 475,000             | 20,000            | 60,000              | 10,000              |       |       |
| LAND                 | 1,440,000           |              |                 | 840,000             | 600,000           |                     |                     |       |       |
| BUILDINGS            |                     |              |                 |                     |                   |                     |                     |       |       |
| IMPROVEMENTS         | 3,630,500           |              |                 |                     |                   | 2,400,000           | 1,230,500           |       |       |
| INSPECTION           | 435,660             |              |                 |                     |                   | 300,000             | 135,660             |       |       |
| CONTINGENCY          | 760,575             |              |                 | 126,000             | 90,000            | 360,000             | 184,575             |       |       |
| OTHER                |                     |              |                 |                     |                   |                     |                     |       |       |
| <b>TOTAL</b>         | <b>\$ 7,085,735</b> | <b>\$ -</b>  | <b>\$ 7,500</b> | <b>\$ 1,487,500</b> | <b>\$ 745,000</b> | <b>\$ 3,180,000</b> | <b>\$ 1,665,735</b> |       |       |

| FUNDING SOURCES            | TOTAL               | FY 07 Actual | FY 08 Est       | FY 09               | FY 10             | FY 11               | FY 12               | FY 13 | FY 14       |
|----------------------------|---------------------|--------------|-----------------|---------------------|-------------------|---------------------|---------------------|-------|-------------|
| PWTF Loan (confirmed)      | \$ 345,000          |              |                 | \$ 345,000          |                   |                     |                     |       |             |
| TRAFFIC IMPACT FEES        | \$ -                |              |                 | \$ -                | \$ -              |                     |                     |       |             |
| IN-LIEU FEES (Unconfirmed) | 3,516,000           |              |                 | 966,000             | 690,000           | 1,060,000           | 800,000             |       |             |
| TIB (Unconfirmed)          | 1,953,870           |              |                 |                     |                   | 1,400,000           | 553,870             |       |             |
| ARTERIAL STREETS           | 1,270,865           | -            | 7,500           | 176,500             | 55,000            | 720,000             | 311,865             |       |             |
| <b>TOTAL</b>               | <b>\$ 7,085,735</b> | <b>\$ -</b>  | <b>\$ 7,500</b> | <b>\$ 1,487,500</b> | <b>\$ 745,000</b> | <b>\$ 3,180,000</b> | <b>\$ 1,665,735</b> |       | <b>\$ -</b> |



CAPITAL IMPROVEMENT PLAN  
REQUEST FORM

|              |                                                              |                         |            |
|--------------|--------------------------------------------------------------|-------------------------|------------|
| CATEGORY     | Arterial Street                                              | PROJECT NO.             | 102.131.XX |
| PROJECT      | 24th Avenue South Improvement Project                        | Project Type:           | Improve    |
|              |                                                              | Council Goals met:      | 2          |
|              |                                                              | Council Objectives met: |            |
|              |                                                              | Project Status          | Adopted    |
| LOCATION     | 24th Avenue South - South 216th Street to South 208th Street |                         |            |
| DESCRIPTION: | Reconstruct roadway to five-lane cross section.              |                         |            |

| EXPENDITURE SCHEDULE |              |              |           |              |            |              |              |            |       |
|----------------------|--------------|--------------|-----------|--------------|------------|--------------|--------------|------------|-------|
| COST ELEMENTS        | TOTAL        | FY 07 Actual | FY 08 Est | FY 09        | FY 10      | FY 11        | FY 12        | FY 13      | FY 14 |
| ADMIN (CITY STAFF)   | \$ 320,000   |              |           | \$ 50,000    | \$ 50,000  | \$ 120,000   | \$ 60,000    | \$ 40,000  |       |
| CIP PROJ MANAGEMENT  | 27,000       |              |           | 4,000        | 5,000      | 10,000       | 5,000        | 3,000      |       |
| DESIGN / ENGINEERING | 700,000      |              |           | 400,000      | 160,000    | 80,000       | 40,000       | 20,000     |       |
| LAND                 | 1,890,000    |              |           | 1,500,000    | 390,000    |              |              |            |       |
| BUILDINGS            | -            |              |           |              |            |              |              |            |       |
| IMPROVEMENTS         | 4,655,250    |              |           |              |            | 3,000,000    | 1,055,250    | 600,000    |       |
| INSPECTION           | 560,000      |              |           |              |            | 365,000      | 120,000      | 75,000     |       |
| CONTINGENCY          | 756,788      |              |           |              | 58,500     | 450,000      | 158,288      | 90,000     |       |
| TOTAL                | \$ 8,909,038 | \$ -         | \$ -      | \$ 1,954,000 | \$ 663,500 | \$ 4,025,000 | \$ 1,438,538 | \$ 828,000 | \$ -  |

| FUNDING SOURCES            | TOTAL        | FY 07 Actual | FY 08 Est | FY 09        | FY 10      | FY 11        | FY 12        | FY 13      | FY 14 |
|----------------------------|--------------|--------------|-----------|--------------|------------|--------------|--------------|------------|-------|
| PWTF Loan (Unconfirmed)    | \$ 330,000   |              |           | \$ 330,000   |            |              |              |            |       |
| TRAFFIC IMPACT FEES        | -            |              |           |              |            |              |              |            |       |
| IN-LIEU FEES (Unconfirmed) | 4,278,500    |              |           | 1,500,000    | 448,500    | 1,519,000    | 411,000      | 400,000    |       |
| IN-LIEU FEES (Confirmed)   | 820,000      |              |           | 124,000      | 215,000    | 481,000      |              |            |       |
| TIB (Unconfirmed)          | 2,000,000    |              |           | -            |            | 1,500,000    | 500,000      |            |       |
| ARTERIAL STREETS           | 1,480,538    |              |           | -            | -          | 525,000      | 527,538      | 428,000    |       |
| TOTAL                      | \$ 8,909,038 | \$ -         | \$ -      | \$ 1,954,000 | \$ 663,500 | \$ 4,025,000 | \$ 1,438,538 | \$ 828,000 | \$ -  |

**CITY OF DES MOINES  
ENGINEERING SERVICES DIVISION  
REQUEST FOR QUALIFICATIONS: CIVIL ENGINEERING SERVICES  
TRANSPORTATION GATEWAY PROJECT  
Submittal Date: February 12, 2009**

The City of Des Moines, Washington is requesting statements of qualifications (SOQ) from firms interested in providing Professional Civil Engineering Services for the above project to expand roadway capacity on S. 216<sup>th</sup> St. between I-5 and 19<sup>th</sup> Avenue S and 24<sup>th</sup> Avenue S. between S 216<sup>th</sup> St. and S. 208<sup>th</sup> St. The selected consultant(s) shall be responsible for preparing design reports, traffic engineering studies, preparing and/or reviewing civil engineering surveys, plans, specifications, and estimates (PS&E), associated environmental documentation and permits, right-of-way plans, property negotiations, and other reports and permits. Engineering work will be phased depending upon the outcome of design report recommendations. It is anticipated that design work will be completed within 18 months of NTP. The consultant(s) may be considered for construction administration and inspection services upon satisfactory performance on prior work.

Detail regarding this RFQ, including the submittal requirements and evaluation criteria, along with other supportive project information is available on the city's Gateway Project web site located at [http://www.desmoineswa.gov/dept/pub\\_works/projectgateway.html](http://www.desmoineswa.gov/dept/pub_works/projectgateway.html).

In accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, the City of Des Moines hereby notifies all interested parties that it will affirmatively ensure that in any contract or agreement entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Oral interviews may be conducted if deemed necessary by the City. Six (6) copies of the response to this RFQ must be delivered to the City of Des Moines, 21650 11<sup>th</sup> Avenue South, Des Moines, WA 98198, attention: Dan Brewer, PE, by **4:00 PM on February 12, 2009**.

Questions regarding this project and request for SOQ's must be in writing via **e-mail only**, subject "Gateway Project RFQ", to Leonard Madsen, Project Manager, at [lmadsen@desmoineswa.gov](mailto:lmadsen@desmoineswa.gov) not later than 4:00 PM on February 3, 2009. Questions and responses will be shared via e-mail with all firms who express written interest. Unauthorized contact regarding this RFQ with any other City employees will affect the proposal score and may result in disqualification.

Published in the Seattle Daily Journal of Commerce: January 20, 2009 and January 27, 2009



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                         |                                |                 |                                                          |                   |                           |            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------|----------------------------------------------------------|-------------------|---------------------------|------------|
| <b>Local Agency<br/>Standard Consultant<br/>Agreement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Consultant/Address/Telephone<br>KPG<br>753 9th Avenue N<br>Seattle, WA 98109<br><br>(206) 286-1640                                                                                                      |                                |                 |                                                          |                   |                           |            |
| <input checked="" type="checkbox"/> Architectural/Engineering Agreement<br><input type="checkbox"/> Personal Services Agreement<br>Agreement Number _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Project Title And Work Description<br>City of Des Moines<br>Transportation Gateway Project<br><br>Preliminary Engineering and Environmental<br>Services for South 216th Street and<br>24th Avenue South |                                |                 |                                                          |                   |                           |            |
| Federal Aid Number _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                         |                                |                 |                                                          |                   |                           |            |
| Agreement Type (Choose one)<br><input type="checkbox"/> <b>Lump Sum</b><br>Lump Sum Amount \$ _____<br><input checked="" type="checkbox"/> <b>Cost Plus Fixed Fee</b><br>Overhead Progress Payment Rate <u>163.63</u> %<br>Overhead Cost Method<br><input type="checkbox"/> Actual Cost<br><input type="checkbox"/> Actual Cost Not To Exceed _____ %<br><input checked="" type="checkbox"/> Fixed Overhead Rate <u>163.63</u> %<br>Fixed Fee \$ <u>52,212.35</u><br><input type="checkbox"/> <b>Specific Rates Of Pay</b><br><input type="checkbox"/> Negotiated Hourly Rate<br><input type="checkbox"/> Provisional Hourly Rate<br><input type="checkbox"/> <b>Cost Per Unit of Work</b> |                                                                                                                                                                                                         |                                |                 |                                                          |                   |                           |            |
| DBE Participation<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %<br>Federal ID Number or Social Security Number _____<br><table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Do you require a 1099 for IRS?</td> <td style="width: 50%;">Completion Date</td> </tr> <tr> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td>December 31, 2010</td> </tr> </table>                                                                                                                                                                                                                           |                                                                                                                                                                                                         | Do you require a 1099 for IRS? | Completion Date | <input type="checkbox"/> Yes <input type="checkbox"/> No | December 31, 2010 |                           |            |
| Do you require a 1099 for IRS?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Completion Date                                                                                                                                                                                         |                                |                 |                                                          |                   |                           |            |
| <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | December 31, 2010                                                                                                                                                                                       |                                |                 |                                                          |                   |                           |            |
| <table style="width: 100%;"> <tr> <td style="width: 50%;">Total Amount Authorized \$</td> <td style="width: 50%; text-align: right;">669,780.85</td> </tr> <tr> <td>Management Reserve Fund \$</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Maximum Amount Payable \$</td> <td style="text-align: right;">669,780.85</td> </tr> </table>                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                         | Total Amount Authorized \$     | 669,780.85      | Management Reserve Fund \$                               | _____             | Maximum Amount Payable \$ | 669,780.85 |
| Total Amount Authorized \$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 669,780.85                                                                                                                                                                                              |                                |                 |                                                          |                   |                           |            |
| Management Reserve Fund \$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | _____                                                                                                                                                                                                   |                                |                 |                                                          |                   |                           |            |
| Maximum Amount Payable \$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 669,780.85                                                                                                                                                                                              |                                |                 |                                                          |                   |                           |            |

**Index of Exhibits (Check all that apply):**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work<br><input type="checkbox"/> Exhibit A-2 Task Order Agreement<br><input checked="" type="checkbox"/> Exhibit B-1 DBE Utilization Certification<br><input checked="" type="checkbox"/> Exhibit C Electronic Exchange of Data<br><input type="checkbox"/> Exhibit D-1 Payment - Lump Sum<br><input checked="" type="checkbox"/> Exhibit D-2 Payment - Cost Plus<br><input type="checkbox"/> Exhibit D-3 Payment - Hourly Rate<br><input type="checkbox"/> Exhibit D-4 Payment - Provisional<br><input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit<br><input type="checkbox"/> Exhibit E-2 Fee - Specific Rates<br><input checked="" type="checkbox"/> Exhibit F Overhead Cost<br><input checked="" type="checkbox"/> Exhibit G Subcontracted Work<br><input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input checked="" type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates<br><input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost<br><input checked="" type="checkbox"/> Exhibit H Title VI Assurances<br><input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement<br><input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures<br><input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures<br><input type="checkbox"/> Exhibit L Liability Insurance Increase<br><input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification<br><input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification<br><input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary<br><input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification<br><input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification<br><input type="checkbox"/> App. 31.910 Supplemental Signature Page |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
 between the Local Agency of \_\_\_\_\_, Washington, hereinafter called the "AGENCY",  
 and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

### **I General Description of Work**

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

### **II Scope of Work**

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

### **III General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

#### **IV Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

#### **V Payment Provisions**

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

#### **VI Sub-Contracting**

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

#### **VII Employment**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

### **VIII Nondiscrimination**

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964

(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973

(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973

(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975

(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987

(Public Law 100-259)

American with Disabilities Act of 1990

(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

### **IX Termination of Agreement**

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or it's employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

### **X Changes of Work**

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

### **XI Disputes**

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

### **XII Venue, Applicable Law, and Personal Jurisdiction**

In the event that either 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 shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

### XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

#### Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.



The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

#### **XIV Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

#### **XV Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

#### **XVI Federal and State Review**

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

#### **XVII Certification of the Consultant and the Agency**

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

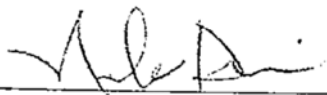
#### **XVIII Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

#### **XIX Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By  By \_\_\_\_\_

Consultant Nelson Davis, KPG Agency \_\_\_\_\_



## EXHIBIT A-1

### City of Des Moines Transportation Gateway Project Preparation of 30% Plans and Design Report

KPG  
Scope of Work  
March 17, 2009

#### Purpose

The City of Des Moines plans to provide arterial improvements to South 216<sup>th</sup> Street and 24<sup>th</sup> Avenue South. The purpose of these improvements is to provide infrastructure capacity for planned growth and development in the project area through 2030. Growth projections and infrastructure needs are based on the recent update to the Comprehensive Transportation Plan. The goal of this initial design phase is to define the improvements, right of way requirements, and appropriate phasing for implementation of the 3 segments listed below under 'Project Limits'.

#### Project Limits

1. South 216<sup>th</sup> Street widening will be considered for phased implementation in the following segments:

- ♦ 18<sup>th</sup> Avenue South to 24<sup>th</sup> Avenue South with appropriate transitions
- ♦ 24<sup>th</sup> Avenue South to the I-5 overpass with appropriate transitions

2. 24<sup>th</sup> Avenue South widening will extend from South 208<sup>th</sup> Street to South 216<sup>th</sup> Street with appropriate transition south of South 216<sup>th</sup> Street.

#### Proposed Improvements

- ♦ Roadway widening on S 216<sup>th</sup> Street and 24<sup>th</sup> Avenue South to a 5 lane section, including 2 through lanes in each direction and a two way left turn lane / center median within the project limits, including appropriate transitions.
- ♦ Additional widening as may be required by traffic projections at key intersections.
- ♦ Context sensitive street design including business access, low maintenance landscaping, & visual signature for Gateway Development
- ♦ Providing bicycle facilities on both roadways.
- ♦ Install new curb, gutter and sidewalk. Install landscaped/irrigated planters wherever possible.
- ♦ Signal and/or intersection control modifications at 20<sup>th</sup> Avenue South, 24<sup>th</sup> Avenue South, Pacific Highway South, and 30<sup>th</sup> Avenue South.
- ♦ New signal or roundabout at 20<sup>th</sup> Avenue South and 30<sup>th</sup> Avenue South
- ♦ New illumination system.
- ♦ Modify / install new storm drainage collection and treatment systems
- ♦ Franchise utility upgrades and relocations
- ♦ Property restoration

### **Task 1 Project Management/Coordination/Administration.**

The estimated project duration for completion of the 30% Plans and Design Report is 7 months. No design work will proceed after completion of the Design Report without supplemental authorization from the City.

#### **1.1 Provide project management administrative services including:**

- ◆ Project set-up and execute agreement
- ◆ Execution of subconsultant agreements
- ◆ Preparation of monthly progress reports and invoices
- ◆ Record keeping and project closeout

#### **1.2 Provide overall project management including:**

- ◆ Project staff management and coordination
- ◆ Subconsultant management and coordination
- ◆ Prepare and update project schedule
- ◆ Schedule and budget monitoring

#### **1.3 Coordinate with City staff, including preparation and attendance of up to 14 bi-monthly coordination meetings throughout the duration of the project. Level of effort for this task is based on an average of 2 Consultant staff at each of the following meetings:**

- ◆ One formal kickoff meeting at project start
- ◆ Bi-Monthly meetings at the City throughout the project duration (estimate 14).

#### **1.4 Provide QA / QC reviews by senior staff of all major deliverables prior to submittal to the City.**

#### **1.5 *Not included in this current authorization are management and administration beyond the 30% Plan / Design Report. These services will be authorized under a future contract supplement.***

#### **Deliverables**

- ◆ Project Schedule and necessary updates
- ◆ Monthly progress reports and invoicing
- ◆ Meeting agendas and minutes including a summary of decisions made / needed resulting from design coordination meetings.

### **Task 2 Funding Assistance**

#### **2.1 The Consultant shall assist the City in securing additional funding for the proposed improvements. Examples of funding programs include the Public Works Trust Fund, STP and other Federal funding, and TIB and other State funding. Examples of funding assistance to be considered include preparing grant applications, preparing and giving presentations, and preparing materials for presentations and meetings. An estimated level of effort for funding support is included in the proposal.**

### Task 3      Survey and Base Mapping.

- 3.1 Provide control and coordination of aerial mapping efforts. Controlled aerial planimetric mapping will be used for design efforts up to the 30% level. Mapping will include aerial image, right of way lines based on assessor records, and planimetric features for the area bounded by Pacific Highway South and 24th Avenue South between S 208th Street and S 216th Street as well as a 500' width along S 216th Street between I-5 and 18th Avenue South. Aerial topographic surface will be developed for a 200' width along S 216th Street and 24th Avenue South within the above limits.
- 3.2 Establish horizontal and vertical control points along the corridor for field topographic survey. Field topographic survey shall be 125' in width or to the face of buildings along S 216<sup>th</sup> Street (18<sup>th</sup> Avenue S to I-5 overpass) and 24<sup>th</sup> Avenue S (S 208<sup>th</sup> Street to S 218<sup>th</sup> Street). Basis of control will be City of Des Moines Datum. (Horizontal NAVD 83/91, Vertical NAVD 88) . Approximately 12 control points will be established and will be made available for the construction Consultant's use during construction. The CONSULTANT will locate, field survey, and calculate positions for all monuments and control points throughout the project limits, using the Washington State plane coordinate system. Conventional or GPS surveying methods will be used on this project. Monuments or corners to be located and field surveyed include the following:
- Section Corners
  - Side street monuments
  - Monuments on S 216<sup>th</sup> Street and 24<sup>th</sup> Avenue S centerline, construction and any monument shown or found as indicated on survey records.
- 3.3 Field Survey and Note Reduction. Perform note reduction of the field survey data.
- 3.4 Mapping work to prepare 1"=20' topographic base map and digital terrain model (DTM) in AutoCAD format of the project within the limits described above.
- 3.5 Field survey work to perform cross-sections at critical areas along the corridor. Cross-sections of the existing ground will be taken at 25-ft intervals along the roadway edge and where necessary up to the face of existing buildings.
- 3.6 The Consultant will retain the services of a firm to field locate and paint all utility locations within the project corridor so that they can be surveyed and incorporated into the base maps. Service line locations and gravity storm and sewer will not be field located.
- 3.7 Field survey to locate paint marks in task 3.6 at 50-ft intervals, including surface features (valves, manholes, catch basins, junction boxes, vaults, etc). Irrigation systems will not be included.
- 3.8 Perform observation and measure-downs of existing storm drain catch basins and manholes. The approximate size, type (brick, concrete), and general condition of the structures to confirm suitability for continued use, and approximate size and location

of storm drainage pipes will be documented. These observations will be made from the surface.

3.9 *Not included in this current authorization are the following survey elements which may be required for final design:*

- *Supplemental surveying for key locations identified in the 30% design, stormwater treatment, detention facilities and storm drainage connections.*
- *Survey utility potholes performed by utility owners.*

*These services will be authorized under a future contract supplement if necessary.*

#### Deliverables

- ♦ Electronic copies of the completed aerial photo and base map will be available to the City upon request.
- ♦ Electronic copies of the completed field topographic base map will be available to the City upon request.

#### **Task 4      Public Involvement**

- 4.1 Prepare for and attend two (2) coordination meetings with major public stakeholders. These meetings will likely include representatives from the Cities of Des Moines and Seatac, the Port of Seattle, and other agencies involved in potential funding agreements as appropriate.
- 4.2 Prepare for and attend two (2) coordination meetings with technical stakeholders; including, but not necessarily limited to; King County Metro, Sound Transit, WSDOT, utility owners, City of Des Moines, Port of Seattle, and other agencies that have an technical infrastructure interest in future development of the area.
- 4.3 Prepare for and attend two (2) community open house meeting. Meeting location and mailings will be performed by the City.
- 4.4 Attend one on one property owner meetings with major property owners along the corridor and prepare and update a log of specific concerns (estimate 10 meetings).
- 4.5 Prepare up to four (4) City Council or PST committee meetings to provide updates on project progress and receive input.
- 4.6 Prepare up to two (2) newsletters to inform citizens/businesses of design progress. Preparation of distribution lists and mailings will be by the City.
- 4.7 Prepare graphics to support up to (2) update reports for posting on the City's project web page. This information will also be used for publication in the City Currents publication.

- 4.8 Not included in this current authorization are public involvement tasks beyond the 30% Plan / Design Report. These services will be authorized under a future contract supplement if necessary.

Deliverables

- ♦ Newsletters
- ♦ Community meeting graphics
- ♦ Council meeting graphics
- ♦ Coordination meeting graphics and agendas
- ♦ Summary Notes and sketches from property owner, technical/utility coordination and open house meetings

**Task 5 Traffic Analysis Report.**

- 5.1 Fehr & Peers/Mirai will provide traffic analysis and fine-tuning of conceptual design for S 216th Street and 24th Avenue South Gateway projects based on traffic study performed as part of the Des Moines Comprehensive Transportation Plan update and design alternatives developed in the preliminary design of Gateway improvements. An allowance of \$20,000 has been included in the proposal to update and refine the model as needed.
- 5.2 The Consultant will document alternatives and recommendations for traffic model updates in a traffic analysis report. The traffic analysis report will support the Gateway Design Report that describes the needed street and intersection lane configurations to support the planned development in the vicinity. Anticipated areas of consideration and model refinement may include:

5.2.1 Intersections configuration and operational considerations for:

- ♦ S 216th Street at Pacific Highway South
- ♦ S 216th Street at 24th Avenue South
- ♦ S 216th Street at 30th Avenue South
- ♦ S 216th Street at 20th Avenue South (Post Office intersection and access to DMCBP)
- ♦ S 216th Street at 31st Avenue South (or other intersection near I-5 overcrossing)
- ♦ 24th Avenue South at two proposed access driveways/intersections for new development
- ♦ 24th Avenue South at South 208th Street

### 5.2.2 Traffic analysis for design alternatives:

- ◆ Consolidated driveway access to Bartell's/Condos/Safeway/Ohno Nursery development
- ◆ Barnes Creek Trail crossing (west of 20th)
- ◆ Potential phasing of the design – recommendations for lane configurations, intersection control and access considerations for short term improvements
- ◆ Turn lane storage lengths needed
- ◆ Recommended transition between 3 lane and 5 lane street sections on S 216th Street, at I-5 bridge and to the west of 20th Avenue South access to the planned Des Moines Creek Business Park development
- ◆ Recommended connections to City of SeaTac streets – S 208th Street, S 212th Street and future connection to 26th/28th Avenue S at S 200th Street

#### Deliverables:

- ◆ Draft Traffic Report
- ◆ Final Traffic Report (to be included in design report)

### **Task 6 Geotechnical Report**

6.1 Geotechnical exploration plan. The Consultant will prepare a geotechnical exploration plan that identifies the location and type (boring, test pit) of investigation to be performed at each exploration location along the project. The exploration plan will include 1"=40' plan views showing these locations. A written description for the type of analysis to be performed will be prepared. The Consultant will obtain and review existing information, coordinate and plan access and restoration for test holes, and identify features that affect other geotechnical design work elements. No field investigation will proceed until the geotechnical exploration plan has been approved by the City.

6.2 Field Explorations: The field exploration program will consist of borings to characterize soil and groundwater conditions to support design of retaining walls, stormwater vaults, stormwater conveyance pipelines, and signal pole foundations.

#### 6.2.1 Borings

Complete a series of 12 borings to depths of about 15 to 20 ft below existing road grades to characterize subsurface soil and groundwater conditions for the proposed stormwater conveyance pipeline, detention vaults, retaining walls, and signal pole foundations. A boring will be located at each proposed vault location (2 total), at proposed retaining wall locations (4 total), and 6 additional borings at about 500 to 700 ft spacing along roadway corridor to fill in gaps. The borings will be completed by a reputable drilling contractor under subcontract to the Consultant with a truck-mounted drill rig advancing hollow-stem augers. The Consultant will mark the boring locations in the field and arrange for underground utility location ("call before you dig") prior to drilling.

#### 6.2.2 Geotechnical Laboratory Testing

Complete a limited geotechnical laboratory testing program consisting of natural moisture content determinations and grain size analyses (course-grain soil) and/or Atterberg limit determinations (fine-grain soil) on selected soil samples from the borings to aid in classifying site soils and determining pertinent engineering properties of the soil. We have budgeted for 30 moisture content determinations and 20 grain size analyses/Atterberg limit determinations. In addition, four modified proctor density determinations and four California Bearing Ratio (CBR) tests will be performed on samples of the roadbed soil (two on South 216<sup>th</sup> Street and two on 24<sup>th</sup> Avenue South). The subgrade resilient modulus ( $M_R$ ) for pavement design will be determined based on correlation to the results of the CBR tests. The modified proctor density determinations and CBR tests will be completed by Analytical Resources, Inc. (ARI) under subcontract to Landau Associates.

##### Assumptions

- ♦ All subcontractors, equipment subcontractors, laboratories, traffic control personnel and other related subcontractor personnel will be selected, hired and paid by the Consultant.
- ♦ Appropriate traffic control, consisting of flaggers and warning signs, will be provided during the FWD survey, pavement coring, and drilling of borings. We will submit a traffic control plan to the City for approval prior to commencing field explorations.
- ♦ The City will provide a no-cost street use permit.
- ♦ For this project, we have budgeted for a total of 240 ft of drilling.
- ♦ Soil sampling will be in accordance with ASTM D1586 (Standard Penetration Test procedure), ASTM D3550 (Ring-lined Barrel Sampling of Soil), and ASTM 1587 (Thin-Walled Tube Sampling of Soil).
- ♦ Pavement cores and borings located in streets and/or driveways will be patched with fast-setting concrete.
- ♦ Piezometers will not be installed in the borings. Groundwater levels at the time of drilling (if encountered) will be recorded.
- ♦ Field exploration will be performed during the daylight hours.
- ♦ Soil samples will be disposed of 30 days after the date of the final report.

##### Deliverables

- ♦ Traffic Control Plan.

#### 6.3 Geotechnical Engineering Analyses

The Consultant will develop geotechnical engineering conclusions and recommendations in accordance with WSDOT Standard Specifications for design and construction of the proposed roadway improvements, including:



- ◆ CIP/Cantilevered Retaining Walls: foundation support requirements, design static and dynamic lateral earth pressures, and wall backfill and drainage recommendations.
- ◆ MSE Retaining Walls: reinforcing type, length and vertical spacing, foundation support requirements, and wall backfill and drainage recommendations.
- ◆ Earthwork: temporary and permanent slope configurations, suitability of onsite soil for reuse as structural fill, import fill criteria, fill placement criteria, and pavement subgrade preparation.
- ◆ Stormwater Facilities: construction dewatering considerations; excavation and retention; soil parameters for contractor design of temporary shoring; pipe foundation support, pipe bedding and initial backfill materials; suitability of excavated soil for use as trench backfill; backfill compaction criteria; foundation support and lateral earth pressure for design of below-grade vaults; vertical loads on pipe and buried structures; uplift resistance; passive soil resistance and ultimate soil/pipe friction for resistance to lateral loads.
- ◆ Signal pole foundations based on WSDOT standard design procedures.
- ◆ Pavement: Overlay and new pavement thickness per AASHTO 1993 design procedures.

#### Assumptions

- ◆ City will provide traffic data (design life, ADT, growth factor) for pavement design.

#### 6.4 Geotechnical Report

The results of our field explorations, engineering analyses, and geotechnical engineering conclusions and recommendations, will be summarized in a draft geotechnical report for review by KPG and the City. The draft report will be provided for review by the project team. Upon receipt of review comments, we will address the comments and submit a signed and sealed geotechnical report.

#### Deliverables

- ◆ An electronic copy (in pdf format) and two bound copies of the Draft Geotechnical Report.
- ◆ An electronic copy (in pdf format) and two bound and one unbound copies of the Final Geotechnical Report.

#### **Task 7 Prepare 30% Plans and Design Report**

Prepare a design report to compile the results of design efforts, memorandums, and approach for the preferred alternative. The report will include the 30% plans and cost opinions for the preferred alternative.

#### 7.1 Compile and review data and records from the City, other agencies, and utilities.



Document the design criteria that will be used to develop and evaluate alternatives. Prepare photo log of existing conditions along corridor.

- 7.2 Evaluate property access alternatives considering driveway consolidation/shared access, driveway relocations, and parking impacts/remedies as appropriate to achieve the City's access goals. This may include alternatives for median openings and U-turns. Address concerns raised during community open house meetings and one on one property owner meetings.

- 7.3 Develop alignment alternatives analysis (plan and typical section) and comparative level opinion of cost. It is anticipated that two (2) alignment alternatives will be evaluated. Evaluate relative impacts to:

- ♦ The City of Des Moines Comprehensive Transportation Plan: Ability to meet planned future growth including multi modal (pedestrian, bicycle, transit and vehicular capacity) requirements
- ♦ Disruptions and relocations for businesses and residences
- ♦ Thru traffic impacts on local neighborhood(s)
- ♦ Utility and development coordination
- ♦ Environmental impacts during and after construction
- ♦ Context sensitive street design: business accesses, landscaping maintenance, & visual signature for Gateway development
- ♦ Right of way and utility relocation costs
- ♦ Stormwater facilities quality & quantity analysis.
- ♦ Walls, including impacts analysis of overhead/underground utilities.
- ♦ Construction costs and schedule
- ♦ Ongoing O/M Costs

The alternative alignments will be developed in collaboration with the City and a recommendation on the preferred alignment will be presented to City Council for consideration and direction. The preferred alignment alternative will be determined prior to August 1, 2009 and will serve as the basis for preparation of the 30% Plans and Design Report.

- 7.4 Document the existing storm water facilities within the limits of the project and document applicable stormwater regulations, standards, hydrology and hydraulic design criteria. Document approach to detention and treatment in a brief memorandum for City review and approval.

- 7.5 Prepare a type size and location analysis for stormwater treatment and detention facilities. It is assumed that two (2) detention facilities and two (2) water quality facilities will be required along the corridor. Prepare a draft Hydraulic Report for the preferred alternative in accordance with Highway Runoff Manual guidelines. The draft hydraulic report will be developed to support the 30% Plans; however, additional work will be required to finalize the hydraulic report during final design.
- 7.6 Coordinate with Puget Sound Energy, Qwest and Comcast Cable to develop a preliminary undergrounding of overhead utilities plan. Each utility company will provide a schematic design of their proposed undergrounding facilities, including vaults, number and size of conduits, temporary pole relocations, and terminal pole locations. The Consultant shall incorporate anticipated undergrounding costs into the preliminary plans. Utility plans will be incorporated into the 30% design only if provided by the utility owners.
- 7.7 Analyze illumination to provide levels consistent with the current City illumination standards. Prepare a preliminary layout of the street illumination system and include supporting calculations as an appendix to the design report. The Consultant will use light fixtures available from Intulight for modeling.
- 7.8 Estimate preliminary quantities and prepare preliminary opinions of probable cost for construction.
- 7.9 Prepare an analysis of preliminary right-of-way requirements based on existing property lines, estimated required takes, easements and changes to current access. The City will provide the required width of right-of-way.
- 7.10 Compile and prepare the Draft and Final Design Report. The design report will include a summary of existing conditions, design criteria used, proposed improvements, and the following appendices prepared in support of the preferred alternative:
- ◆ Key turn movement analysis
  - ◆ Any traffic analysis completed
  - ◆ Draft Hydraulic Report
  - ◆ Opinion of Probable Cost
  - ◆ Illumination calculations
  - ◆ Preliminary cross sections
- 7.11 30% Plans showing the following information will be included with the design report submittal:
- ◆ Centerline control information
  - ◆ Alignment layout
  - ◆ Typical sections
  - ◆ Channelization
  - ◆ Paving limits
  - ◆ Extent of private driveway impacts

- ♦ Curb and sidewalk layout
- ♦ Retaining wall type/size/location
- ♦ Identification of proposed landscape areas with proposed planting list
- ♦ Illumination pole / equipment layout
- ♦ Signal pole / equipment layout with phasing diagram
- ♦ Storm drainage system plan view layout
- ♦ Storm drainage system plan view layout
- ♦ Pipe size / type and structure size / type callouts
- ♦ Conflict points with franchise utilities
- ♦ Preliminary right of way plans

7.12 *Not included in this current authorization is Value Engineering support. The final design report will serve as the basis for the VE study and will be authorized under a future contract supplement if necessary.*

#### Deliverables

- ♦ Draft design report, 30% Plans (½ size) & estimate, 5 bound, 1 unbound copy
- ♦ Final design report, 30% Plans (½ size) & estimate, 5 bound, 1 unbound copy  
electronic AutoCAD files

#### **Task 8      Environmental.**

8.1 Cultural Resources Investigation. The Consultant will conduct the required cultural resources assessment in compliance with Section 106 of the National Historic Preservation Act (1966 as amended) Section 106 (NHPA 36 CFR 800). Work would consist of the following tasks:

- ♦ Landau Associates archaeologists will conduct background research at the Washington State Department of Archaeology and Historic Preservation (DAHP) to identify known cultural resources within the project Area of Potential Effects (APE) and assess the potential for the APE to contain cultural resources. Landau Associates will draft an APE letter for the City of Des Moines and WSDOT to address the 30-day review period and concurrence by DAHP and the affected tribes
- ♦ Landau Associates archaeologists will conduct a pedestrian field survey to complete the assessment of the potential for the APE to contain cultural resources.
- ♦ Four Landau Associates archaeologists will excavate no more than 60 shovel probes to a maximum depth of 80 centimeters (cm) (approx. 32 inches) below ground surface (BGS) or to the upper contact of weathered glacial sediments, whichever comes first, in areas proposed for construction, which are not currently paved. Each probe will measure 40 cm in diameter. Excavated matrix will be screened through ¼-inch mesh and examined for prehistoric and historic-period artifacts.

- ♦ A Landau Associates archaeologist will conduct monitoring of 12 geotechnical borings within the project area.
- ♦ A preliminary review of the King County Assessor's webpage indicates twenty-eight historical structures (older than 50 years) on parcels directly adjacent to the project area. Section 106 requires that these historic structures be inventoried and evaluated on their eligibility for inclusion in the National Register of Historic Places (NRHP) as part of the process for assessing direct and indirect impacts posed by the proposed undertaking. Landau Associates will photograph and write architectural descriptions of each of the 28 historical buildings. The photographs and descriptions will be of the exterior of each structure; no access to the interiors of houses or outbuildings will be required. Landau Associates will research the historical association of owners of the properties at the University of Washington libraries and conduct chain-of-title searches on the properties at the Washington State Archives. The City of Des Moines will notify all adjoining property owners that the archeologist may be photographing properties in excess of 50 years old. KPG will notify the City of properties requiring on-site access and draft a letter for the city to send requesting permission for said access in advance of the site visit. Verification of such permission will be provided to field personnel. Landau Associates will prepare a technical report of findings with recommendations for additional field work and/or archaeological monitoring during construction. The report will include recommendations regarding the eligibility of cultural resources identified in the project area for listing in the NRHP. The report also will include an assessment of the potential effects of the proposed project on each significant cultural resource and recommendations for mitigation. If the significance of an archaeological site found in the project area cannot be determined from the site survey, formal subsurface investigations or other documentation may be required. Such methods, however, are not included in this scope. The report will be finalized after one combined review by KPG and the City of Des Moines.

#### Assumptions:

- ♦ The City (through WSDOT) will submit the APE letter to DAHP and the affected tribes for their respective 30 day reviews and concurrence.
- ♦ Landau Archeologists will not need to participate in any meetings with KPG, the City, agency, and/or affected tribes.
- ♦ Site access will be reasonable and unrestricted.
- ♦ The City will inform Landau Associates Archeologists of any potential hazardous materials that may exist within the project area.
- ♦ The Landau Associates Archaeologist will be required by KPG to monitor no more than 12 geotechnical borings within the project area.
- ♦ No more than 60 shovel probes excavated to a maximum depth of 80 cm (approximately 32") BGS will be required in the project area. If depths to the

upper contact of weathered, underlying glacial deposits exceeds this depth, additional formal subsurface investigations will be required. Such methods, however, are not included in this scope.

- ♦ Landau Associates Archaeologist will evaluate and prepare Historic Inventory Forms for no more than 28 historic properties within the APE.
- ♦ If required, the City of Des Moines will obtain authorization from property owners to access the properties in advance and Landau will prepare a draft letter from the City to be presented to homeowners by the archaeologists who will be conducting Historic Property Inventories. The City shall be notified in advance of those sites requiring shovel probing in the judgment of the archeologist.
- ♦ No human skeletal remains or archaeological sites will be identified during the survey.
- ♦ If the significance of an archaeological site found in the project area or its subsurface boundaries cannot be determined from the site survey, additional formal subsurface investigations or other documentation may be required. Such methods, however, are not included in this scope.

Deliverables:

- ♦ An electronic and paper copy of the draft Cultural Resources report in Adobe PDF.
- ♦ An electronic copy with CD and six (6) paper copies of the final Cultural Resources report in Adobe PDF.

8.2 SEPA Checklist

The Consultant will prepare a SEPA checklist for inclusion with the final design report.

8.3 *Not included in this current authorization are environmental permitting for construction or the following studies which may be required to satisfy federal funding requirements for NEPA approval:*

- *Preparation of the Environmental Classification Summary (ECS).*
- *Preparation of a Biological Assessment (BA) and Essential Fish Habitat (EFH) reports.*
- *Air Quality and Noise Studies*
- *4(f) evaluation*
- *Other environmental permits that may be required for construction.*

*These services will be authorized under a future contract supplement if necessary.*

## **Task 9      Property Transfer Site Assessments**

### **9.1    Corridor-Wide Alignment Screening**

The Consultant will conduct a corridor-wide alignment screening to evaluate the presence or likely presence of potential hazardous substances that could have an effect on right-of-way acquisition and/or roadway work. The corridor-wide alignment screening will be completed in general accordance with American Society for Testing and Materials (ASTM) E1528-00 Standard Practice for Environmental Site Assessment: Transaction Screen Process, modified as appropriate for this project. It is important to understand that the corridor-wide alignment screening is not a means of finding "everything there is to know about a property." Rather, it is an attempt to determine potential environmental liabilities of properties along the roadway corridor based on reasonably available documentation (both oral and written). Our scope of services will include:

- ◆ Review the results of a federal, state and local environmental database search provided by an outside environmental data service for listing of information on confirmed and suspected contaminated sites or nearby structures specified by ASTM. Subject to the availability, the Consultant will review the following environmental records and related information:
  - Federal National Priority (NPL) Site List,
  - Federal CERCLIS List,
  - Federal RCRA CORRACTS TSD Facilities List,
  - Federal RCRA non-CORRACTS TSD Facilities List,
  - Federal RCRA Generators List,
  - Federal ERNS List,
  - Washington States' Lists of Hazardous Waste Sites Identified for Investigation or Remediation (State Confirmed and Suspected Contaminated Sites List (CSCL),
  - Washington States' Landfill or Solid Waste Sites Lists,
  - Washington States' Leaking UST Lists, and
  - Washington States' Registered UST Lists

The evaluation will focus on sites that are within ¼ mile from the alignment. Local geology and hydrogeology will be considered. The database search will also be evaluated to identify Department of Ecology (Ecology) files that may need to be reviewed during the Alignment Screening.

- ◆ Review Historical Code city directories for the alignment. These historical directories will be researched on 5-year intervals from the present back to initial development along the alignment or to the earliest-dated Cole directory available. Review historical aerial photographs from the WSDOT for the alignment to identify past development history on parcels relative to the possible use, generation, release or disposal, of hazardous substances. These photographs will be reviewed on 10-year intervals from the present back to 1940 or the earliest available photographs from WSDOT.

- ◆ Conduct a visual reconnaissance from public access areas and from the public right-of-way of the parcels and adjacent parcels along the roadway corridor. A project standard field observations checklist for the alignment screening will be used to record information regarding each site. Sites within two blocks of the alignment will be inspected and recorded and features of environmental concern on each site will be mapped on current versions of ROW drawings, if available.
- ◆ The information gathered from the above sub-elements will be reviewed, evaluated and compared to the most current design and ROW drawings.

- A technical memorandum report will be prepared with will include the following: Maps of potentially contaminated and hazardous material/waste sites;

- Summary of the information collected in the alignment screening;

- Identification of potential impacts to the alignment, design and/or construction and an assessment and evaluation of risk and exposure of the contaminated sites or potentially highly contaminated areas; and
- Recommendations described as an environmental management plan which will include methods to address the high risk and/or liability sites in design, ROW acquisition and construction, Recommendations for how to resolve investigation and cleanup issues, associated with these sites, with the Ecology.

### Assumptions

- ◆ City will provide basic information on each property along the roadway corridor (owner name, address, and tax parcel number).
- ◆ ASTM considerations (e.g., identification, sampling and analysis for radon, lead in drinking water, lead-based paint, polychlorinated biphenals (PCB) in light ballast, asbestos-containing building materials or urea formaldehyde in onsite structures, and/or wetlands, regulatory compliance, indoor air quality including the potential presence of mold, industrial hygiene, and health and safety) are not included in this scope of work.
- ◆ Soil, surface water, or groundwater sampling and chemical analyses are not included in this scope of work.

### Deliverables

- ◆ An electronic copy (in pdf format) and two bound copies of the draft corridor-wide screening report.
- ◆ An electronic copy (in pdf format) and one bound and one unbound copy of the final corridor-wide screening report.

9.2 *Not included in this current authorization are Phase I and Phase II Environmental Site Assessments that may be recommended in the screening report for performance prior to right of way acquisition. These services will be authorized under a future contract supplement if necessary.*

### **Additional Services**

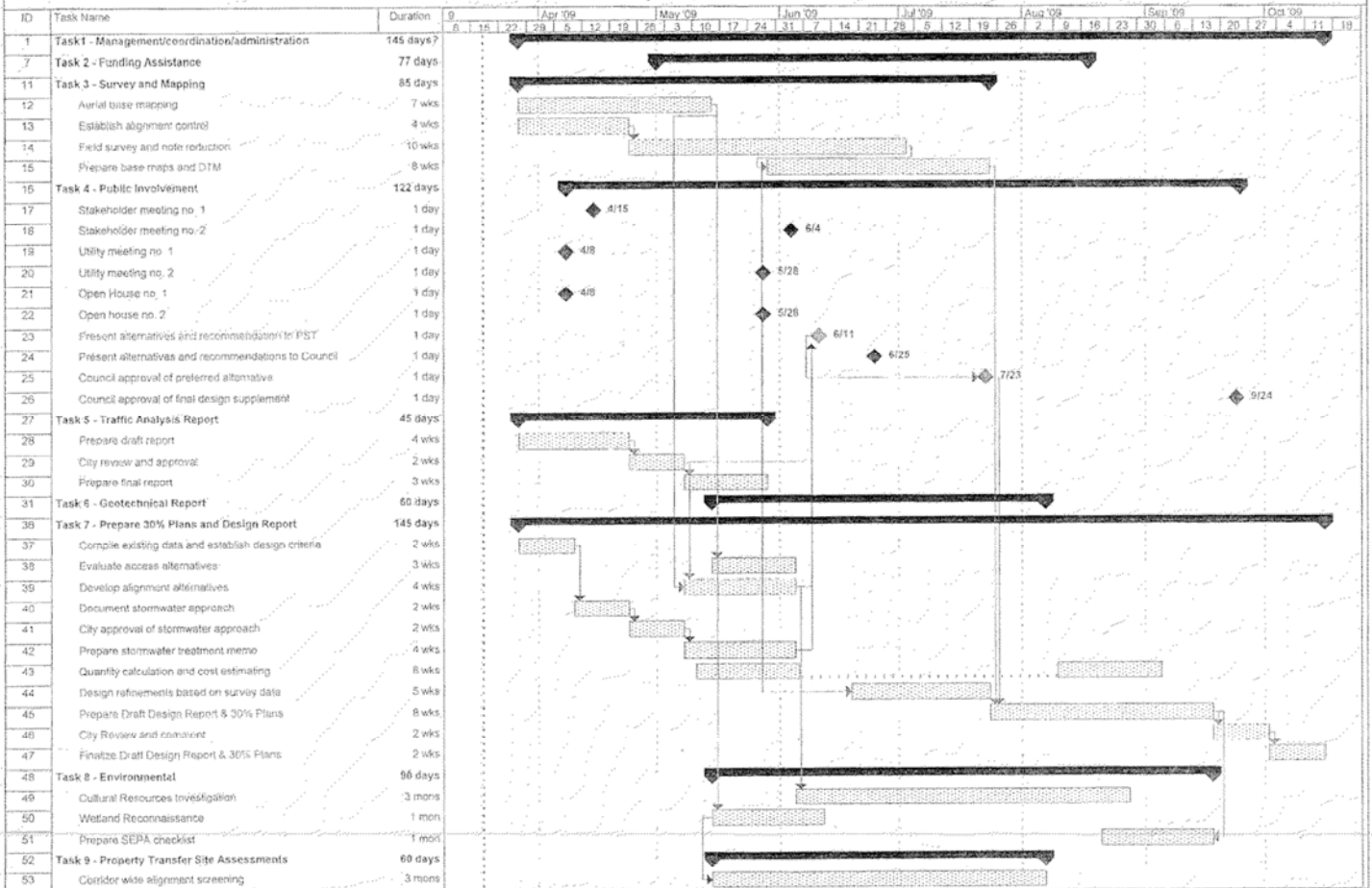
The City may require additional services of the Consultant in order to advance all or portions of the project corridor through final design and construction. The scope of these services will be determined based on the preferred alternative development of 30% Plans and Design Report, available funding, phasing, or other considerations at the sole discretion of the City. This work may include items identified in the current task authorizations as well other items, which may include, but are not necessarily limited to the following:

- ◆ Preparation of Final Plans, Specifications, and Estimate
- ◆ Obtaining title reports and providing final right of way calculations
- ◆ Preparation of right of way / easement legal descriptions and exhibits
- ◆ Providing property appraisals and negotiations
- ◆ Providing bid period assistance
- ◆ Providing construction

These services will be authorized under a future contract supplement if necessary. At the time these services are required, the Consultant shall provide a detailed scope of work and an estimate of costs. The Consultant shall not proceed with the work until the City has authorized the work and issued a notice to proceed.



**City of Des Moines  
Transportation Gateway Project  
Preliminary Project Schedule**



KPG  
March 10, 2009



## Disadvantaged Business Enterprise Utilization Certification

(Optional - Use only when DBE Consultant is Utilized)

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract. If the bidder is relying on the good faith effort method to meet the DBE assigned contract goal, documentation in addition to the certificate must be submitted with the bid proposal as support for such efforts. The successful bidder's DBE Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMWBE, telephone 360-753-9693.

KPG

Name of Bidder

certifies that the Disadvantaged Business Enterprise

(DBE) Firms listed below have been contacted regarding participation on this project. If this bidder is successful on this project and is awarded the contract, it shall assure that subcontracts or supply agreements are executed with those firms where an "Amount to be Applied Towards Goal" is listed. (If necessary, use additional sheet.)

| Name of DBE<br>Certificate Number | Project Role *<br>(Prime, Joint Venture,<br>Subcontractor,<br>Manufacturer, Regular<br>Dealer, Service Provider) | Description of Work | Amount to<br>be Applied<br>Towards Goal ** |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------|---------------------|--------------------------------------------|
| 1. <u>NONE</u>                    |                                                                                                                  |                     |                                            |
| 2.                                |                                                                                                                  |                     |                                            |
| 3.                                |                                                                                                                  |                     |                                            |
| 4.                                |                                                                                                                  |                     |                                            |
| 5.                                |                                                                                                                  |                     |                                            |
| 6.                                |                                                                                                                  |                     |                                            |
| 7.                                |                                                                                                                  |                     |                                            |
| 8.                                |                                                                                                                  |                     |                                            |
| 9.                                |                                                                                                                  |                     |                                            |
| 10.                               |                                                                                                                  |                     |                                            |

Disadvantaged Business Enterprise Subcontracting Goal: 0 DBE Total \$ 0 \*\*\*

\* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.

\*\* See the section "Counting DBE Participation Toward Meeting the Goal" in the Contract Document.

\*\*\* The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly.

## EXHIBIT "C"

### Electronic Exchange of Engineering and Other Data

Electronic Deliverables include digital photos (jpg), scanned or electronic documents (pdf, doc, xls, etc.), Contractor baseline and progress schedules (if provided by the Contractor in mpp). Data is to be transferred by e-mail, CD, or FTP site(s).

Agency OS is Windows XP Professional, Agency e-mail software is Microsoft Outlook 2007, Software Suite is MS Office 2003.

## Exhibit D-2

### Payment (Cost Plus a Fixed Fee)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.

2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:

- a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
- b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
  - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost
  - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
  - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
  - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

- D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

HOURLY AND FEE ESTIMATE

EXHIBIT E-1

Project: City of Des Moines

Transportation Gateway Project



| Task                                                   | Description                                        | Labor Hour Estimate |                  |                   |                  |                 |              |               | Total Fee     |                      |
|--------------------------------------------------------|----------------------------------------------------|---------------------|------------------|-------------------|------------------|-----------------|--------------|---------------|---------------|----------------------|
|                                                        |                                                    | *Project Manager    | *Senior Engineer | *Project Engineer | *Design Engineer | *CAD Technician | *Survey Crew | *Senior Admin | *Office Admin | Fee                  |
|                                                        |                                                    | \$ 183.52           | \$ 135.95        | \$ 117.83         | \$ 101.65        | \$ 80.04        | \$ 136.68    | \$ 98.81      | \$ 58.11      |                      |
| <b>Task 1 - Management/coordination/administration</b> |                                                    |                     |                  |                   |                  |                 |              |               |               |                      |
| 1.1                                                    | Project administration (estimate 7 months)         | 12                  | 0                | 0                 | 0                | 0               | 0            | 8             | 14            | \$ 3,806.22          |
| 1.2                                                    | Project management and coordination                | 28                  | 14               | 0                 | 0                | 0               | 0            | 8             | 14            | \$ 8,645.83          |
| 1.3                                                    | City staff design coordination meetings            | 40                  | 18               | 40                | 0                | 0               | 0            | 0             | 24            | \$ 15,895.85         |
| 1.4                                                    | QA/QC reviews                                      | 8                   | 8                | 0                 | 0                | 0               | 0            | 0             | 4             | \$ 2,788.20          |
|                                                        | Reimbursable expenses - see breakdown for details  |                     |                  |                   |                  |                 |              |               |               | \$ 5,400.00          |
|                                                        | <b>Task Totals</b>                                 | <b>88</b>           | <b>40</b>        | <b>40</b>         | <b>0</b>         | <b>0</b>        | <b>0</b>     | <b>16</b>     | <b>56</b>     | <b>\$ 36,536.09</b>  |
| <b>Task 2 - Funding Assistance</b>                     |                                                    |                     |                  |                   |                  |                 |              |               |               |                      |
| 2.1                                                    | Allowance for funding support                      | 24                  | 0                | 24                | 0                | 40              | 0            | 0             | 40            | \$ 12,758.60         |
|                                                        | Reimbursable expenses - see breakdown for details  |                     |                  |                   |                  |                 |              |               |               | \$ 600.00            |
|                                                        | <b>Task Totals</b>                                 | <b>24</b>           | <b>0</b>         | <b>24</b>         | <b>0</b>         | <b>40</b>       | <b>0</b>     | <b>0</b>      | <b>40</b>     | <b>\$ 13,358.60</b>  |
| <b>Task 3 - Survey and Mapping</b>                     |                                                    |                     |                  |                   |                  |                 |              |               |               |                      |
| 3.1                                                    | Set control and coordinate aerial mapping services | 0                   | 4                | 40                | 0                | 0               | 40           | 0             | 0             | \$ 10,724.54         |
| 3.2                                                    | Establish alignment control                        | 0                   | 4                | 0                 | 0                | 0               | 40           | 0             | 0             | \$ 6,011.19          |
| 3.3                                                    | Field survey and note reduction                    | 0                   | 4                | 40                | 0                | 0               | 275          | 0             | 0             | \$ 42,845.46         |
| 3.4                                                    | Prepare base maps and DTM                          | 0                   | 4                | 275               | 0                | 0               | 0            | 0             | 0             | \$ 32,948.08         |
| 3.5                                                    | Coordinate utility locate services                 | 0                   | 0                | 8                 | 0                | 0               | 0            | 0             | 0             | \$ 942.67            |
| 3.6                                                    | Field survey utility locates                       | 0                   | 4                | 50                | 0                | 0               | 50           | 0             | 0             | \$ 13,269.73         |
| 3.7                                                    | Storm measuredowns                                 | 0                   | 4                | 50                | 0                | 0               | 50           | 0             | 0             | \$ 13,269.73         |
| 3.8                                                    | Right of way research and calculations             | 0                   | 28               | 176               | 0                | 0               | 40           | 0             | 0             | \$ 30,012.74         |
|                                                        | Reimbursable expenses - see breakdown for details  |                     |                  |                   |                  |                 |              |               |               | \$ 35,200.00         |
|                                                        | <b>Task Totals</b>                                 | <b>0</b>            | <b>52</b>        | <b>639</b>        | <b>0</b>         | <b>0</b>        | <b>495</b>   | <b>0</b>      | <b>0</b>      | <b>\$ 185,224.14</b> |
| <b>Task 4 - Public Involvement</b>                     |                                                    |                     |                  |                   |                  |                 |              |               |               |                      |
| 4.1                                                    | Major public stakeholder coordination meetings     | 8                   | 8                | 0                 | 0                | 16              | 0            | 0             | 16            | \$ 4,766.21          |
| 4.2                                                    | Technical stakeholder coordination meetings        | 8                   | 8                | 16                | 0                | 16              | 0            | 0             | 8             | \$ 6,186.67          |
| 4.3                                                    | Community open houses                              | 8                   | 8                | 16                | 24               | 40              | 0            | 0             | 24            | \$ 11,477.19         |
| 4.4                                                    | Attend property owner meetings and maintain log    | 10                  | 20               | 0                 | 0                | 0               | 0            | 0             | 4             | \$ 4,786.64          |
| 4.5                                                    | Council / PST committee meetings                   | 24                  | 16               | 16                | 16               | 40              | 0            | 0             | 40            | \$ 15,617.62         |
| 4.6                                                    | Prepare newsletters                                | 4                   | 0                | 0                 | 0                | 16              | 0            | 0             | 16            | \$ 2,944.53          |
| 4.7                                                    | Graphic support for web site updates               | 4                   | 4                | 0                 | 0                | 0               | 0            | 0             | 16            | \$ 2,207.64          |
|                                                        | Reimbursable expenses - see breakdown for details  |                     |                  |                   |                  |                 |              |               |               | \$ 16,200.00         |
|                                                        | <b>Task Total</b>                                  | <b>66</b>           | <b>64</b>        | <b>48</b>         | <b>40</b>        | <b>128</b>      | <b>0</b>     | <b>0</b>      | <b>124</b>    | <b>\$ 64,186.50</b>  |

HOURLY AND FEE ESTIMATE

EXHIBIT E-1

Project: City of Des Moines

Transportation Gateway Project



| Task                                                | Description                                         | Labor Hour Estimate |                  |                   |                  |                 |              |               | Total Fee     |                      |
|-----------------------------------------------------|-----------------------------------------------------|---------------------|------------------|-------------------|------------------|-----------------|--------------|---------------|---------------|----------------------|
|                                                     |                                                     | *Project Manager    | *Senior Engineer | *Project Engineer | *Design Engineer | *CAD Technician | *Survey Crew | *Senior Admin | *Office Admin | Fee                  |
|                                                     |                                                     | \$ 183.52           | \$ 135.95        | \$ 117.83         | \$ 101.65        | \$ 80.04        | \$ 136.68    | \$ 98.81      | \$ 58.11      |                      |
| <b>Task 5 - Traffic Analysis Report</b>             |                                                     |                     |                  |                   |                  |                 |              |               |               |                      |
| 5.1                                                 | Coordination for traffic analysis                   | 4                   | 8                | 0                 | 0                | 8               | 0            | 0             | 4             | \$ 2,694.47          |
| 5.2                                                 | Prepare draft and final traffic report              | 0                   | 0                | 0                 | 0                | 0               | 0            | 0             | 0             | \$ -                 |
|                                                     | Reimbursable expenses - see breakdown for details   |                     |                  |                   |                  |                 |              |               |               | \$ 20,000.00         |
|                                                     | <b>Task Total</b>                                   | <b>4</b>            | <b>8</b>         | <b>0</b>          | <b>0</b>         | <b>8</b>        | <b>0</b>     | <b>0</b>      | <b>4</b>      | <b>\$ 22,694.47</b>  |
| <b>Task 6 - Geotechnical Report</b>                 |                                                     |                     |                  |                   |                  |                 |              |               |               |                      |
| 6.1                                                 | Geotechnical exploration plan                       | 2                   | 0                | 4                 | 0                | 0               | 0            | 0             | 2             | \$ 954.59            |
| 6.2                                                 | Field explorations                                  | 0                   | 0                | 0                 | 0                | 0               | 0            | 0             | 0             | \$ -                 |
| 6.3                                                 | Geotechnical engineering analysis                   | 0                   | 0                | 0                 | 0                | 0               | 0            | 0             | 0             | \$ -                 |
| 6.4                                                 | Geotechnical report                                 | 0                   | 0                | 4                 | 0                | 0               | 0            | 0             | 0             | \$ 471.33            |
|                                                     | Reimbursable expenses - see breakdown for details   |                     |                  |                   |                  |                 |              |               |               | \$ 33,550.00         |
|                                                     | <b>Task Total</b>                                   | <b>2</b>            | <b>0</b>         | <b>8</b>          | <b>0</b>         | <b>0</b>        | <b>0</b>     | <b>0</b>      | <b>2</b>      | <b>\$ 34,975.93</b>  |
| <b>Task 7 - Prepare 30% Plans and Design Report</b> |                                                     |                     |                  |                   |                  |                 |              |               |               |                      |
| 7.1                                                 | Compile existing data and establish design criteria | 4                   | 8                | 8                 | 16               | 0               | 0            | 0             | 0             | \$ 4,390.83          |
| 7.2                                                 | Evaluate access alternatives                        | 4                   | 8                | 16                | 0                | 40              | 0            | 0             | 0             | \$ 6,908.76          |
| 7.3                                                 | Develop alignment alternatives                      | 8                   | 16               | 24                | 48               | 60              | 0            | 0             | 0             | \$ 16,153.41         |
| 7.4                                                 | Document stormwater approach                        | 4                   | 8                | 40                | 0                | 24              | 0            | 0             | 4             | \$ 8,688.51          |
| 7.5                                                 | Prepare draft Hydraulic Report                      | 2                   | 4                | 24                | 0                | 40              | 0            | 0             | 4             | \$ 7,173.03          |
| 7.6                                                 | Coordinate with aerial utility designers            | 8                   | 0                | 8                 | 0                | 8               | 0            | 0             | 4             | \$ 3,283.61          |
| 7.7                                                 | Analyze and layout illumination system              | 0                   | 16               | 40                | 0                | 40              | 0            | 0             | 0             | \$ 10,090.30         |
| 7.8                                                 | Quantity calculation and cost estimating            | 16                  | 16               | 24                | 48               | 48              | 0            | 0             | 8             | \$ 17,125.92         |
| 7.9                                                 | Prepare 30% Plans                                   | 80                  | 120              | 240               | 400              | 600             | 0            | 0             | 8             | \$ 148,428.56        |
| 7.10                                                | Prepare Draft Design Report                         | 8                   | 16               | 24                | 24               | 40              | 0            | 0             | 16            | \$ 13,042.58         |
| 7.11                                                | Prepare Final Design Report                         | 8                   | 8                | 16                | 16               | 40              | 0            | 0             | 16            | \$ 10,199.07         |
|                                                     | Reimbursable expenses - see breakdown for details   |                     |                  |                   |                  |                 |              |               |               | \$ 5,200.00          |
|                                                     | <b>Task Total</b>                                   | <b>142</b>          | <b>220</b>       | <b>464</b>        | <b>552</b>       | <b>940</b>      | <b>0</b>     | <b>0</b>      | <b>60</b>     | <b>\$ 250,684.58</b> |
| <b>Task 8 - Environmental</b>                       |                                                     |                     |                  |                   |                  |                 |              |               |               |                      |
| 8.1                                                 | Cultural Resources Investigation                    | 2                   | 2                | 0                 | 0                | 2               | 0            | 0             | 2             | \$ 915.25            |
| 8.2                                                 | Wetland Reconnaissance                              | 2                   | 0                | 4                 | 0                | 4               | 0            | 0             | 2             | \$ 1,274.77          |
| 8.3                                                 | Prepare SEPA checklist                              | 4                   | 16               | 24                | 8                | 8               | 0            | 0             | 8             | \$ 7,655.76          |
|                                                     | Reimbursable expenses - see breakdown for details   |                     |                  |                   |                  |                 |              |               |               | \$ 37,500.00         |
|                                                     | <b>Task Total</b>                                   | <b>8</b>            | <b>18</b>        | <b>28</b>         | <b>8</b>         | <b>14</b>       | <b>0</b>     | <b>0</b>      | <b>12</b>     | <b>\$ 47,345.77</b>  |



HOURLY AND FEE ESTIMATE

EXHIBIT E-1

Project: City of Des Moines

Transportation Gateway Project



| Task                                               | Description                                       | Labor Hour Estimate |                  |                   |                  |                 |              |               |               | Total Fee           |
|----------------------------------------------------|---------------------------------------------------|---------------------|------------------|-------------------|------------------|-----------------|--------------|---------------|---------------|---------------------|
|                                                    |                                                   | *Project Manager    | *Senior Engineer | *Project Engineer | *Design Engineer | *CAD Technician | *Survey Crew | *Senior Admin | *Office Admin | Fee                 |
|                                                    |                                                   | \$ 183.52           | \$ 135.95        | \$ 117.83         | \$ 101.65        | \$ 80.04        | \$ 136.68    | \$ 98.81      | \$ 58.11      |                     |
| <b>Task 9 - Property Transfer Site Assessments</b> |                                                   |                     |                  |                   |                  |                 |              |               |               |                     |
| 9.1                                                | Corridor wide alignment screening                 | 2                   | 0                | 4                 | 0                | 4               | 0            | 0             | 2             | \$ 1,274.77         |
|                                                    | Reimbursable expenses - see breakdown for details |                     |                  |                   |                  |                 |              |               |               | \$ 13,500.00        |
|                                                    | <b>Task Total</b>                                 | <b>2</b>            | <b>0</b>         | <b>4</b>          | <b>0</b>         | <b>4</b>        | <b>0</b>     | <b>0</b>      | <b>2</b>      | <b>\$ 14,774.77</b> |

Total Estimated Fee: \$ 669,780.85

Management Reserve: \_\_\_\_\_

Total Contract Amount: \$ 669,780.85

Hourly rates are based on the following:

|                     | Totals   |          |          |          |          |          |          |          |               |
|---------------------|----------|----------|----------|----------|----------|----------|----------|----------|---------------|
| Direct Salary Costs | \$ 62.50 | \$ 46.30 | \$ 40.13 | \$ 34.62 | \$ 27.26 | \$ 46.55 | \$ 33.65 | \$ 20.58 | \$ 174,041.15 |
| Overhead Rate       | 163.63%  |          |          |          |          |          |          |          | \$ 284,783.54 |
| Fixed Fee           | 30%      |          |          |          |          |          |          |          | \$ 52,212.35  |



Project: City of Des Moines

Transportation Gateway Project

| Reimbursable Breakdown                                 |           | Cost             |
|--------------------------------------------------------|-----------|------------------|
| <b>Task 1 - Management/coordination/administration</b> |           |                  |
| Mileage                                                | \$        | 200.00           |
| Reproduction                                           | \$        | 200.00           |
| Fehr & Peers                                           | \$        | 5,000.00         |
| <b>Task 1 - Total</b>                                  | <b>\$</b> | <b>5,400.00</b>  |
| <b>Task 2 - Funding Assistance</b>                     |           |                  |
| Mileage                                                | \$        | 100.00           |
| Reproduction                                           | \$        | 500.00           |
| <b>Task 2 - Total</b>                                  | <b>\$</b> | <b>600.00</b>    |
| <b>Task 3 - Survey and Mapping</b>                     |           |                  |
| Mileage                                                |           |                  |
| Reproduction                                           | \$        | 200.00           |
| Utility locates                                        | \$        | 10,000.00        |
| Aerial flight and mapping                              | \$        | 25,000.00        |
| <b>Task 3 - Total</b>                                  | <b>\$</b> | <b>35,200.00</b> |
| <b>Task 4 - Public Involvement</b>                     |           |                  |
| Mileage                                                | \$        | 200.00           |
| Reproduction                                           | \$        | 1,000.00         |
| Fehr & Peers                                           | \$        | 15,000.00        |
| <b>Task 4 - Total</b>                                  | <b>\$</b> | <b>16,200.00</b> |
| <b>Task 5 - Traffic Analysis Report</b>                |           |                  |
| Mileage                                                | \$        | -                |
| Reproduction                                           | \$        | -                |
| Fehr & Peers                                           | \$        | 20,000.00        |
| <b>Task 5 - Total</b>                                  | <b>\$</b> | <b>20,000.00</b> |
| <b>Task 6 - Geotechnical Report</b>                    |           |                  |
| Mileage                                                | \$        | -                |
| Reproduction                                           | \$        | 50.00            |
| Landau Associates                                      | \$        | 33,500.00        |
| <b>Task 6 - Total</b>                                  | <b>\$</b> | <b>33,550.00</b> |
| <b>Task 7 - Prepare 30% Plans and Design Report</b>    |           |                  |
| Mileage                                                | \$        | 200.00           |
| Reproduction                                           | \$        | 5,000.00         |
| <b>Task 7 - Total</b>                                  | <b>\$</b> | <b>5,200.00</b>  |



Project: City of Des Moines

Transportation Gateway Project

| Reimbursable Breakdown                      | Cost         |
|---------------------------------------------|--------------|
| Task 8 - Environmental                      |              |
| Mileage                                     | \$ -         |
| Reproduction                                | \$ -         |
| Landau Associates - Wetland Reconnaissance  | \$ 5,500.00  |
| Landau Associates - Cultural Resources      | \$ 32,000.00 |
| Task 8 - Total                              | \$ 37,500.00 |
| Task 9 - Property Transfer Site Assessments |              |
| Mileage                                     | \$ -         |
| Reproduction                                | \$ -         |
| Landau Associates                           | \$ 13,500.00 |
| Task 9 - Total                              | \$ 13,500.00 |

Total Reimbursable Costs: \$ 167,150.00



Washington State  
Department of Transportation  
Paula J. Hammond, P.E.  
Secretary of Transportation

EXHIBIT F  
Breakdown of Overhead Cost

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300

360-705-7000  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

January 27, 2009

Ms. Suzy Rowe  
KPG, Inc.  
753 9<sup>th</sup> Ave. N  
Seattle, WA 98109-4309

Re: KPG, Inc. Overhead Schedule  
FYB December 31, 2007

Dear Ms. Rowe:

On January 27, 2009 as a WSDOT representative, Nicole Mitchell reviewed your proposed 2007 Overhead Schedule. Nicole also completed an analytical review of the schedule by comparing it to data that WSDOT had collected in our permanent files. KPG provided a copy of their In-House compiled overhead and 2007 Income Statement.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of KPG's accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing KPG's overhead rate for 2007, at 163.63% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of KPG have any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

Martha S. Roach  
Agreement Compliance Audit Manager

MR:ds  
Enclosures

cc: Steve McKerney  
Meg Blau, MS NB82-112  
File

Marilyn Bowman, MS 47323  
Rick Griffith, MS 47323

|                                         |
|-----------------------------------------|
| EXHIBIT F<br>Breakdown of Overhead Cost |
|-----------------------------------------|

KPG, Inc. P.S.  
Overhead Schedule  
Fiscal Year December 31, 2007

| Description                          | Financial<br>Statement<br>Amount | KPG Adj.   | WSDOT<br>Adj. | Ref.    | Accepted<br>Amount | %             |
|--------------------------------------|----------------------------------|------------|---------------|---------|--------------------|---------------|
| Direct Labor Base                    | <u>\$2,402,013</u>               |            |               |         | <u>\$2,402,013</u> | 100.00%       |
| Fringe Benefits                      |                                  |            |               |         |                    |               |
| Payroll Taxes                        | \$264,562                        |            |               |         | \$264,562          | 11.01%        |
| Insurance- Medical/Dental/Disability | \$321,268                        |            |               |         | \$321,268          | 13.37%        |
| Paid Leave- Vacation/Holiday/Sick    | \$355,211                        |            |               |         | \$355,211          | 14.79%        |
| 401(K)                               | \$110,504                        |            |               |         | \$110,504          | 4.60%         |
| Employee Bonus                       | \$238,682                        |            |               |         | \$238,682          | 9.94%         |
| Total Fringe Benefits                | <u>\$1,290,227</u>               | <u>\$0</u> | <u>\$0</u>    |         | <u>\$1,290,227</u> | <u>53.71%</u> |
| General Overhead                     |                                  |            |               |         |                    |               |
| Indirect Labor                       | \$871,035                        |            |               |         | \$871,035          | 36.26%        |
| Legal & Accounting Services          | \$18,262                         |            |               |         | \$18,262           | 0.76%         |
| Automotive & Travel Expenses         | \$73,374                         |            | (\$703)       | E       | \$72,671           | 3.03%         |
| Bank Fees & Payroll Admin. Fees      | \$3,819                          |            |               |         | \$3,819            | 0.16%         |
| Organizations                        | \$11,155                         |            |               |         | \$11,155           | 0.46%         |
| Training/Education                   | \$19,388                         |            |               |         | \$19,388           | 0.81%         |
| Conferences                          | \$16,189                         |            | (\$2,240)     | J       | \$13,949           | 0.58%         |
| Publications                         | \$2,078                          |            |               |         | \$2,078            | 0.09%         |
| Employee Services                    | \$44,182                         |            | (\$27,723)    | G,H,B,I | \$16,459           | 0.69%         |
| Finance Charges                      | \$940                            | (\$940)    |               | A       | \$0                | 0.00%         |
| Professional Licensing               | \$2,048                          |            |               |         | \$2,048            | 0.09%         |
| Meals                                | \$38,878                         | (\$19,439) | (\$19,439)    | B,F     | \$0                | 0.00%         |
| Donations                            | \$400                            | (\$400)    |               | C       | \$0                | 0.00%         |
| Office Supplies                      | \$294,963                        |            |               |         | \$294,963          | 12.28%        |
| Equipment Support                    | \$321,092                        |            |               |         | \$321,092          | 13.37%        |
| Postage/Shipping                     | \$4,773                          |            |               |         | \$4,773            | 0.20%         |
| Printing/Reprographics               | \$12,710                         |            |               |         | \$12,710           | 0.53%         |
| Rent                                 | \$253,333                        |            |               |         | \$253,333          | 10.55%        |
| Repairs & Maintenance                | \$214,309                        |            |               |         | \$214,309          | 8.92%         |
| Communications                       | \$45,820                         |            |               |         | \$45,820           | 1.91%         |
| Utilities                            | \$12,102                         |            |               |         | \$12,102           | 0.50%         |
| Business Taxes & Insurance           | \$220,441                        | (\$5,610)  |               | D       | \$214,831          | 8.94%         |
| Depreciation                         | \$29,677                         |            |               |         | \$29,677           | 1.24%         |
| Cost of Money                        | \$51,813                         |            |               |         | \$51,813           | 2.16%         |
| Self Insurance                       | \$50,000                         |            |               |         | \$50,000           | 2.08%         |
| Survey                               | \$47,129                         |            |               |         | \$47,129           | 1.96%         |
| Fuel for Survey Vehicles             | \$10,295                         |            | (\$1,030)     | K       | \$9,266            | 0.39%         |
| Interest                             | \$940                            |            | (\$940)       | L       | \$0                | 0.00%         |
| Recruiting Costs (Craigslist ads)    | \$763                            |            |               |         | \$763              | 0.03%         |

|                                         |
|-----------------------------------------|
| EXHIBIT F<br>Breakdown of Overhead Cost |
|-----------------------------------------|

KPG, Inc. P.S.  
Overhead Schedule  
Fiscal Year December 31, 2007

| Description                     | Financial<br>Statement<br>Amount | KPG Adj.   | WSDOT<br>Adj. | Ref. | Accepted<br>Amount | %       |
|---------------------------------|----------------------------------|------------|---------------|------|--------------------|---------|
| Commuter Passes                 | \$246                            |            |               |      | \$246              | 0.01%   |
| Survey Equipment                | \$46,472                         |            |               |      | \$46,472           | 1.93%   |
| Total General Overhead          | \$2,718,626                      | (\$26,389) | (\$52,075)    |      | \$2,640,162        | 109.91% |
| Total Fringe & General Overhead | \$4,008,853                      | (\$26,389) | (\$52,075)    |      | \$3,930,389        | 163.63% |
| Overhead Rate                   | 166.90%                          |            |               |      | 163.63%            |         |

*KPG, Inc. P.S. - Reviewed & Accepted on 1/27/09 NM  
"Overhead Rate still subject to WSDOT Audit"*

References

KPG Adjustments:

*KPG, Inc. P.S. Overhead compiled in-house by Suzy Rowe*

- A Finance Charges unallowable per 48 CFR 31.205-20.
- B Entertainment unallowable per 48 CFR 31.205-14.
- C Donations unallowable per 48 CFR 31.205-8.
- D Key Person Insurance unallowable per 48 CFR 31.205-19(e)(2)(v).

WSDOT Adjustments:

- E Personal Use portion of auto insurance for 2 vehicles unallowable per 48 CFR 31.205-6(m)(2) & WSDOT Accounting Manual Ch. 10 Travel.
- F Local Meals unallowable per 48 CFR 31.205-14 & WSDOT Accounting Manual M13-82, Ch. 10, Local Meals.
- G Logo Embroidered Clothing unallowable per 48 CFR 31.205-1(f)(6).
- H Christmas party expenses in excess of \$25 per ee' and Picnic expenses in excess of \$10 per ee' totaling unallowable per 48 CFR 31.205-14 & WSDOT Policy.
- I Gifts unallowable per 48 CFR 31.205-13(b).
- J Excess Lodging and Per Diem unallowable per 48 CFR
- K Personal Use of 2 survey vehicles unallowable per 48 CFR 31.205-6(m)(2) & WSDOT Accounting Manual M13-82, Ch. 10 Travel.
- L Interest unallowable per 48 CFR 31.205-20.

## Exhibit G Subcontracted Work

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

Landau Associates - Geotechnical & Environmental Services

Fehr & Peers - Traffic Modeling and Public Involvement

Exhibit G1 / G2  
**Transportation Gateway Project**  
**Preliminary Design and Design Report**  
**Estimated Person-hours/Costs Summary**

**Fehr & Peers**

|    | Classification              | Hrs. | x | Rate     | = | Cost    |
|----|-----------------------------|------|---|----------|---|---------|
| 1  | Project Manager Casseday    | 70   |   | \$ 63.17 |   | \$4,422 |
| 2  | Principal in Charge Samdahl | 6    |   | \$ 72.93 |   | \$438   |
| 3  | Senior Traffic Engineer     | 90   |   | \$ 39.04 |   | \$3,514 |
| 4  | Associate Davies            | 24   |   | \$ 48.27 |   | \$1,158 |
| 9  | Planner/Engineer            | 60   |   | \$ 32.02 |   | \$1,921 |
| 13 | Support                     | 56   |   | \$ 27.40 |   | \$1,534 |

Total Hrs. 306

|                                          |    |           |     |           |               |
|------------------------------------------|----|-----------|-----|-----------|---------------|
| Salary Cost                              |    |           |     | \$        | 12,987        |
| Salary Escalation Cost (estimated)       |    |           |     |           |               |
| (Fehr & Peers wage adjustment on July 1) |    |           |     |           |               |
| Escalation - 4% of Labor Cost            | 4% | per year> | 20% |           | \$104         |
| Total Salary Cost                        |    |           |     | \$        | 13,091        |
| Overhead at 161.41%                      |    |           |     | \$        | 21,132        |
| Fee at 30%                               |    |           |     | \$        | 3,927         |
| <b>Total Cost</b>                        |    |           |     | <b>\$</b> | <b>38,150</b> |

| Direct Expenses               | No. | Unit  | Each          | Cost      |               |
|-------------------------------|-----|-------|---------------|-----------|---------------|
| Reproduction Costs            |     |       |               |           |               |
| Copies                        | 500 |       | \$0.06        | \$        | 30.00         |
| Reports                       | 10  |       | \$25          | \$        | 250.00        |
| Plans                         | 50  |       | \$2           | \$        | 100.00        |
| Traffic Counts                | 0   |       |               | \$        | -             |
| Mail/Deliveries/Fed Ex        |     |       | \$30          | \$        | -             |
| Mileage                       | 400 | Mi. @ | \$0.550 /Mile | \$        | 220.00        |
| <b>Subtotal</b>               |     |       |               | <b>\$</b> | <b>600</b>    |
| <b>Fehr &amp; Peers Total</b> |     |       |               | <b>\$</b> | <b>38,750</b> |



TABLE 1  
BUDGET BREAKDOWN  
Transportation Gateway Project  
Des Moines, WA

Exhibit G-1 / G-2

Landau Associates  
So. 216th Street/24th Avenue So.

|                                                            |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            | Cost of Labor by Task |                 |                                              |                       |                         |           |
|------------------------------------------------------------|-------------------------------|-------------------------------------|---------------------------------|--------------------------|-----------------------|-------------------------------|--------------------------|---------------------------------------|-------------------------------|-----------------------------------|---------------------------|--------------------------------------|------------------------|----------------------------|---------------------|--------------------------------------------|-----------------------|-----------------|----------------------------------------------|-----------------------|-------------------------|-----------|
|                                                            | Edward<br>Hawley<br>Principal | Tim Spurgeon<br>Senior<br>Associate | Anthony<br>Katzman<br>Associate | Linda Olofs<br>Associate | Rolf Hyseth<br>Senior | Jennifer<br>Wynkoop<br>Senior | Theresa<br>Torgin Bender | Brian<br>Bennett<br>Senior<br>Project | Jessica Stone<br>Senior Staff | Onag<br>Tingwall<br>Project Staff | Kara Karaby<br>Staff Arch | Yvonne<br>Bayer Bender<br>Technician | Kristin<br>Hoyes Staff | Brian Taylor<br>Senior CAD | Heather Bush<br>CAD | Jockey<br>Slakey<br>Project<br>Coordinator | Totals                | Direct<br>Labor | Indirect<br>Costs<br>(Overhead<br>@ 216.51%) | Profit<br>30%<br>(DL) | Total<br>Labor<br>Costs |           |
| Scope Items                                                |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| 6.0 Geotechnical                                           |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| 6.1 Exploration Plan and Data Gathering                    |                               |                                     |                                 |                          |                       |                               |                          | 2                                     |                               |                                   |                           |                                      |                        |                            | 2                   | 3                                          | 7                     | \$189           | \$409                                        | \$97                  | \$695                   |           |
| 6.2 Field Observations and Geotechnical Laboratory Testing |                               | 2                                   |                                 |                          | 2                     |                               |                          | 18                                    |                               |                                   |                           |                                      | 40                     |                            |                     |                                            | 2                     | 82              | \$1,274                                      | \$3,407               | \$472                   | \$5,153   |
| 6.3 Geotechnical Engineering Analysis                      |                               |                                     |                                 |                          | 12                    |                               |                          | 30                                    |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       | 48              | \$1,684                                      | \$3,603               | \$489                   | \$5,786   |
| 6.4 Geotechnical Report (Draft & Final)                    |                               | 4                                   |                                 |                          | 16                    |                               |                          | 20                                    |                               |                                   |                           |                                      | 6                      | 2                          | 4                   | 12                                         |                       | 64              | \$2,061                                      | \$4,482               | \$618                   | \$7,141   |
| 8.0 Environmental & Cultural Resources                     |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| 8.1 Section 106 Archaeology Investigation                  |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   | 90                        | 130                                  | 27                     |                            | 5                   | 7                                          | 26                    | 343             | \$9,039                                      | \$19,869              | \$2,712                 | \$31,319  |
| 8.2 Wetland/Biology Reconnaissance                         |                               |                                     |                                 | 3                        | 88                    |                               | 8                        | 10                                    |                               | 22                                |                           |                                      |                        |                            | 4                   |                                            | 5                     | 49              | \$1,439                                      | \$3,116               | \$432                   | \$4,988   |
| 9.0 Property Transfer Site Assessment/Corridor Study       |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| 9.1 Corridor Wide Alignment Screening                      |                               | 6                                   |                                 |                          |                       | 22                            |                          |                                       | 50                            |                                   |                           |                                      |                        | 10                         | 4                   |                                            | 8                     | 102             | \$2,849                                      | \$6,166               | \$855                   | \$9,871   |
|                                                            | 10                            | 8                                   | 2                               | 58                       | 30                    | 28                            | 10                       | 88                                    | 72                            | 90                                | 139                       | 27                                   | 50                     | 15                         | 13                  | 56                                         | 673                   | \$18,614        | \$40,734                                     | \$5,644               | \$65,192                |           |
| Rate by Position                                           | \$52.84                       | \$47.84                             | \$42.07                         | \$40.87                  | \$40.87               | \$34.23                       | \$39.23                  | \$32.07                               | \$24.82                       | \$26.44                           | \$21.63                   | \$21.90                              | \$20.83                | \$29.28                    | \$32.07             | \$20.20                                    |                       |                 |                                              |                       |                         |           |
| Direct Labor Cost                                          | \$526                         | \$383                               | \$64                            | \$2,370                  | \$1,228               | \$955                         | \$392                    | \$2,101                               | \$1,705                       | \$2,350                           | \$2,812                   | \$581                                | \$1,166                | \$439                      | \$417               | \$1,131                                    | \$15,814              |                 |                                              |                       |                         |           |
| Indirect Costs (Overhead @ 216.51%)                        | \$1,144                       | \$839                               | \$182                           | \$5,132                  | \$2,655               | \$2,075                       | \$849                    | \$4,722                               | \$3,872                       | \$5,152                           | \$6,088                   | \$1,287                              | \$2,524                | \$951                      | \$903               | \$2,449                                    | \$45,734              |                 |                                              |                       |                         |           |
| Profit 30% (DL)                                            | \$159                         | \$115                               | \$25                            | \$711                    | \$368                 | \$288                         | \$118                    | \$654                                 | \$530                         | \$714                             | \$844                     | \$174                                | \$350                  | \$132                      | \$125               | \$339                                      | \$5,644               |                 |                                              |                       |                         |           |
| Total - Labor Cost                                         | \$1,831                       | \$1,337                             | \$269                           | \$8,214                  | \$4,249               | \$3,321                       | \$1,359                  | \$7,557                               | \$6,117                       | \$8,246                           | \$9,744                   | \$2,011                              | \$4,040                | \$1,522                    | \$1,445             | \$3,920                                    | \$65,192              |                 |                                              |                       |                         |           |
| OTHER DIRECT COSTS                                         |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| Reproduction                                               |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 800    |
| Field Equipment                                            |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 100    |
| Mileage and Vehicle Rate                                   |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 375    |
| PHS Data (WDPW)                                            |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 120    |
| Geotechnical Laboratory Testing                            |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 2,060  |
| Aerial Photographs                                         |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 800    |
| EDR Report                                                 |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 900    |
| Total - Direct Costs                                       |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 5,155  |
| SUBCONTRACTED SERVICES                                     |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         |           |
| Drilling Subcontractor                                     |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 9,336  |
| Traffic Control Services                                   |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 754    |
| Outside Geotechnical Laboratory Testing                    |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 3,400  |
| Total - Subcontracted Services                             |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 12,490 |
| Total                                                      |                               |                                     |                                 |                          |                       |                               |                          |                                       |                               |                                   |                           |                                      |                        |                            |                     |                                            |                       |                 |                                              |                       |                         | \$ 77,682 |



Washington State  
Department of Transportation  
Paula J. Hammond, P.E.  
Secretary of Transportation

EXHIBIT G-3  
Breakdown of  
Subconsultant's  
Overhead Cost

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300

360-705-7000  
TTY: 1-800-233-6388  
www.wsdot.wa.gov

September 8, 2007

Ms. Marion Donnelly  
Fehr & Peers  
100 Pringle Avenue, Suite 600  
Walnut Creek, CA 94596-3582

Re: Fehr & Peers Overhead Schedule  
FYE December 31, 2007

Dear Ms. Donnelly:

On September 8, 2007 as a WSDOT representative, Nicole Mitchell reviewed your proposed 2007 Overhead Schedule. Nicole also completed an analytical review of the schedule by comparing it to data that WSDOT had collected in our permanent files. Fehr & Peers provided a copy of their 2007 overhead that was audited by Delagnes, Mitchell and Linder, LLP.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Fehr & Peers' accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing Fehr & Peers' overhead rate for 2007, at 161.41% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of Fehr & Peers have any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

Martha S. Roach  
Agreement Compliance Audit Manager

MR:ds  
Enclosures

cc: Steve McKerney  
Meg Blau, MS NB82-112  
File

Marilyn Bowman, MS 47323  
Rick Griffith, MS 47323

**Fehr & Peers**  
**Overhead Schedule**  
**Fiscal Year December 31, 2007**

|                                                                                             |
|---------------------------------------------------------------------------------------------|
| <b>EXHIBIT G-3</b><br><b>Breakdown of</b><br><b>Subconsultant's</b><br><b>Overhead Cost</b> |
|---------------------------------------------------------------------------------------------|

| Description                         | Financial<br>Statement<br>Amount | F & P Adj.         | WSDOT<br>Adj. | Ref. | Accepted<br>Amount  | %              |
|-------------------------------------|----------------------------------|--------------------|---------------|------|---------------------|----------------|
| <b>Direct Costs</b>                 |                                  |                    |               |      |                     |                |
| Labor - Principal/Owner             | \$1,125,332                      |                    | (\$11,717)    | J    | \$1,113,615         |                |
| Labor - Principal/Non-Owner         | \$801,522                        |                    | \$250,000     | K    | \$1,051,522         |                |
| Labor - Other                       | \$7,856,018                      |                    |               |      | \$7,856,018         |                |
| <b>Total Direct Labor</b>           | <b>\$9,782,872</b>               |                    |               |      | <b>\$10,021,155</b> | <b>100.00%</b> |
| <b>Fringe Benefits</b>              |                                  |                    |               |      |                     |                |
| P/R Tax Exp/FICA/FUTA/SUI           | \$1,218,541                      |                    |               |      | \$1,218,541         | 12.16%         |
| INS: Principals' Med/Life/Disb.     | \$230,578                        | (\$230,578)        |               | A,B  | \$0                 | 0.00%          |
| INS: Principals' Keyman             | \$16,573                         | (\$16,573)         |               | A,B  | \$0                 | 0.00%          |
| INS: Non-Owner Principals' Med/Life | \$53,609                         |                    |               |      | \$53,609            | 0.53%          |
| INS: MED/LIFE/DISB                  | \$927,047                        |                    |               |      | \$927,047           | 9.25%          |
| Vacation/Holiday/Sick               | \$1,508,663                      |                    |               |      | \$1,508,663         | 15.05%         |
| Employee Bonus                      | \$781,833                        |                    |               |      | \$781,833           | 7.80%          |
| <b>Total Fringe Benefits</b>        | <b>\$4,736,844</b>               | <b>(\$247,151)</b> | <b>\$0</b>    |      | <b>\$4,489,693</b>  | <b>44.80%</b>  |
| <b>General Overhead</b>             |                                  |                    |               |      |                     |                |
| Labor- Principal/Owner              | \$399,758                        |                    | (\$21,652)    | J    | \$378,106           | 3.77%          |
| Labor - Principal/Non-Owner         | \$100,906                        |                    |               |      | \$100,906           | 1.01%          |
| Labor - Other                       | \$780,072                        |                    | (\$250,000)   | K    | \$530,072           | 5.29%          |
| Advertising/Promotion               | \$36,271                         | (\$36,271)         |               | C    | \$0                 | 0.00%          |
| Printing/Material/Courier           | \$17,558                         |                    |               |      | \$17,558            | 0.18%          |
| Client Relations                    | \$59,684                         | (\$59,684)         |               | D    | \$0                 | 0.00%          |
| Other Client Development            | \$58,270                         | (\$58,270)         |               | D    | \$0                 | 0.00%          |
| Temporary Personnel                 | \$15,555                         |                    |               |      | \$15,555            | 0.16%          |
| Travel/Subsistence                  | \$107,956                        |                    |               |      | \$107,956           | 1.08%          |
| Labor - Principal Owner             | \$1,085,039                      |                    |               |      | \$1,085,039         | 10.83%         |
| Labor - Principal/Non-Owner         | \$79,980                         |                    |               |      | \$79,980            | 0.80%          |
| Labor - Other                       | \$2,225,476                      |                    | (\$192,216)   | M    | \$2,033,260         | 20.29%         |
| Profit Sharing Plan Funding/401K    | \$1,077,585                      |                    |               |      | \$1,077,585         | 10.75%         |
| Office Relocation                   | \$4,185                          |                    |               |      | \$4,185             | 0.04%          |
| Admin/Meetings                      | \$242,818                        |                    |               |      | \$242,818           | 2.42%          |
| Travel/Subsistence                  | \$206,661                        |                    |               |      | \$206,661           | 2.06%          |
| Computer Expense                    | \$58,298                         |                    |               |      | \$58,298            | 0.58%          |
| Conferences/Prof. Meetings          | \$125,774                        |                    |               |      | \$125,774           | 1.26%          |
| Contributions                       | \$13,103                         | (\$13,103)         |               | E    | \$0                 | 0.00%          |
| Dues/Subscriptions                  | \$95,698                         |                    |               |      | \$95,698            | 0.95%          |
| Education/Training                  | \$342,434                        |                    |               |      | \$342,434           | 3.42%          |
| Employee Relations                  | \$367,549                        | (\$183,774)        |               | F    | \$183,775           | 1.83%          |
| Employee Recruiting                 | \$739,623                        |                    |               |      | \$739,623           | 7.38%          |
| Moving Expenses                     | \$150,133                        |                    |               |      | \$150,133           | 1.50%          |
| Equipment < \$1000                  | \$92,755                         |                    |               |      | \$92,755            | 0.93%          |

**Fehr & Peers**  
**Overhead Schedule**  
**Fiscal Year December 31, 2007**

|                                                                                             |
|---------------------------------------------------------------------------------------------|
| <b>EXHIBIT G-3</b><br><b>Breakdown of</b><br><b>Subconsultant's</b><br><b>Overhead Cost</b> |
|---------------------------------------------------------------------------------------------|

| Description                    | Financial<br>Statement<br>Amount | F & P Adj.         | WSDOT<br>Adj.      | Ref. | Accepted<br>Amount  | %              |
|--------------------------------|----------------------------------|--------------------|--------------------|------|---------------------|----------------|
| Office Supplies                | \$152,995                        |                    |                    |      | \$152,995           | 1.53%          |
| Stationary                     | \$28,654                         |                    |                    |      | \$28,654            | 0.29%          |
| Reference Library              | \$8,844                          |                    |                    |      | \$8,844             | 0.09%          |
| Professional Fees              | \$149,149                        |                    |                    |      | \$149,149           | 1.49%          |
| Telephone/Mailing              | \$111,668                        |                    |                    |      | \$111,668           | 1.11%          |
| Temporary Personnel            | \$185,314                        |                    |                    |      | \$185,314           | 1.85%          |
| Bank Charges                   | \$238                            |                    |                    |      | \$238               | 0.00%          |
| Insurance/General Liability    | \$8,409                          |                    |                    |      | \$8,409             | 0.08%          |
| Insurance/E&O                  | \$85,135                         |                    |                    |      | \$85,135            | 0.85%          |
| Insurance/Workers' Comp        | \$131,834                        |                    |                    |      | \$131,834           | 1.32%          |
| Legal/Accounting/Projects      | \$80,852                         |                    | (\$13,250)         | L    | \$67,602            | 0.67%          |
| Profit Sharing Admin./401K     | \$17,575                         |                    |                    |      | \$17,575            | 0.18%          |
| Rent                           | \$1,981,093                      |                    |                    |      | \$1,981,093         | 19.77%         |
| Equip.Rental/Maintenance       | \$125,974                        |                    |                    |      | \$125,974           | 1.26%          |
| Taxes & Licenses               | \$39,766                         |                    |                    |      | \$39,766            | 0.40%          |
| Depreciation & Amortization    | \$295,441                        |                    |                    |      | \$295,441           | 2.95%          |
| Amortization                   | \$13,334                         | (\$13,334)         |                    | G    | \$0                 | 0.00%          |
| Interest Expense               | \$15,317                         | (\$15,317)         |                    | H    | \$0                 | 0.00%          |
| NonDeductible Expense          | \$3,356                          | (\$3,356)          |                    | I    | \$0                 | 0.00%          |
| State Income Tax               | \$108                            |                    |                    |      | \$108               | 0.00%          |
| Principal Bonus                | \$627,200                        |                    |                    |      | \$627,200           | 6.26%          |
| <b>Total General Overhead</b>  | <b>\$12,545,397</b>              | <b>(\$383,109)</b> | <b>(\$477,118)</b> |      | <b>\$11,685,170</b> | <b>116.61%</b> |
| <b>Total Overhead Expenses</b> | <b>\$17,282,241</b>              | <b>(\$630,260)</b> | <b>(\$477,118)</b> |      | <b>\$16,174,863</b> | <b>161.41%</b> |
| <b>Overhead Rate</b>           | <b>176.66%</b>                   |                    |                    |      | <b>161.41%</b>      |                |

*Fehr & Peers - Reviewed & Accepted on 9/8/07 NM*  
*Fehr & Peers Overhead Audited by Delagnes, Mitchell & Linder, LLP.*  
"Overhead Rate subject to Audit"

*Please note that Fehr & Peers does not track their uncompensated overtime as required by 48 CFR 37.115*  
*DCAA 5-910, 5-910.2 and 6-410.*

**References**

**Fehr & Peer Adjustments:**

- A Insurance for owners spouses unallowable per 48 CFR 31.201-4. *Unallocable.*
- B Key Person Life Insurance unallowable per 48 CFR 31.205-19(e)(2)(v).
- C Advertising unallowable per 48 CFR 31.205-1(b).
- D Entertainment unallowable per 48 CFR 31.205-14.
- E Contributions unallowable per 48 CFR 31.205-8.
- F Gifts unallowable per 48 CFR 31.205-13(b).
- G Amortization unallowable per 48 CFR 31.205-27(a).
- H Interest unallowable per 48 CFR 31.205-20.
- I Fines and Penalties unallowable per 48 CFR 31.205-15(a).

Fehr & Peers  
Overhead Schedule  
Fiscal Year December 31, 2007

|                                                                 |
|-----------------------------------------------------------------|
| EXHIBIT G-3<br>Breakdown of<br>Subconsultant's<br>Overhead Cost |
|-----------------------------------------------------------------|

| Description | Financial<br>Statement<br>Amount | F & P Adj. | WSDOT<br>Adj. | Ref. | Accepted<br>Amount | % |
|-------------|----------------------------------|------------|---------------|------|--------------------|---|
|-------------|----------------------------------|------------|---------------|------|--------------------|---|

WSDOT Adjustments:

- J Overtime Premium unallowable per 48 CFR 22.103-1, 22.103-4(g) & WSDOT O/H Policy.
- K Adjustment for Uncompensated Overtime per 48 CFR 37.115, DCAA 5-910, 5-910.2 & 6-410.  
*Since Fehr & Peers does not track their uncompensated overtime we made the adjustment for them this year only. Next year they will be required to track this expense.*
- L Federal Income Tax Prep Fees in excess of \$250 unallowable per 48 CFR 31.205-41(b)(1), 31.201-6(a) & WSDOT O/H Policy.
- M Marketing Labor unallowable per 48 CFR 31.205-1(f).

EXHIBIT G-3  
Breakdown of  
Subconsultant's  
Overhead Cost



Washington State  
Department of Transportation  
Douglas B. MacDonald  
Secretary of Transportation

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300

360-705-7000  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

October 18, 2007

Mr. Dennis Hobbs  
Landau Associates, Inc.  
130 2<sup>nd</sup> Avenue South  
Edmonds, WA 98020-3512

Re: Landau Associates, Inc. Overhead Schedule  
FYE June 30, 2007

Dear Mr. Hobbs:

On October 18, 2007, as a WSDOT representative, Cal Granbois reviewed your proposed 2007 Overhead Schedule. The financial statements were compiled by Finney, Neill & Company, P.S. Cal also completed an analytical review of the schedule by comparing it to the reviewed & accepted 2006 overhead schedule, and reviewed data that WSDOT had collected in our permanent files.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Landau's accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing Landau's overhead rate for 2007, at 216.51% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of Landau Associates, Inc. has any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach  
External Audit Manager

MR:ds  
Enclosures

cc: Steve McKerney  
Mike Kane, MS 47323  
Rick Griffith, MS 47323

**Landau Associates, Inc.**  
**Overhead Schedule**  
**Fiscal Year Ended June 30, 2007**

|                                                                 |
|-----------------------------------------------------------------|
| EXHIBIT G-3<br>Breakdown of<br>Subconsultant's<br>Overhead Cost |
|-----------------------------------------------------------------|

| Description                   | Income<br>Statement | Landau<br>Adj.     | WSDOT<br>Adj. | Ref. | Accepted<br>Amount | % of<br>Direct<br>Labor |
|-------------------------------|---------------------|--------------------|---------------|------|--------------------|-------------------------|
| Direct Labor                  | <u>\$2,740,431</u>  | <u>(\$7,846)</u>   |               | A    | <u>\$2,732,585</u> |                         |
| Fringe                        |                     |                    |               |      |                    |                         |
| Overhead Labor                | \$1,875,092         | (\$4,151)          |               | A    | \$1,870,941        | 68.47%                  |
| Vacation/Sick Leave/Holidays  | 585,443             |                    |               |      | 585,443            | 21.42%                  |
| Payroll Taxes                 | 467,324             |                    |               |      | 467,324            | 17.10%                  |
| Medical Insurances            | 375,196             |                    |               |      | 375,196            | 13.73%                  |
| Bonus/Severance               | 424,613             | (4,650)            |               | B    | 419,963            | 15.37%                  |
| Profit Sharing/BSOP           | 250,525             |                    |               |      | 250,525            | 9.17%                   |
| Total Fringe                  | <u>\$3,978,193</u>  | <u>(\$8,801)</u>   |               |      | <u>\$3,969,392</u> | 145.26%                 |
| General Overhead              |                     |                    |               |      |                    |                         |
| Field/Laboratory              | \$84,485            | (\$84,485)         |               | C    | \$0                | 0.00%                   |
| Temporary Help                | 34,024              |                    |               |      | 34,024             | 1.25%                   |
| Health & Safety               | 11,479              |                    |               |      | 11,479             | 0.42%                   |
| Mileage & Vehicle             | 69,433              | (65,969)           |               | D    | 3,464              | 0.13%                   |
| Travel & Lodging              | 50,859              | (7,292)            |               | E    | 43,567             | 1.59%                   |
| Office Supplies/Equipment     | 136,333             | (23,177)           |               | F    | 113,156            | 4.14%                   |
| Computer Supplies/Maintenance | 41,816              |                    |               |      | 41,816             | 1.53%                   |
| Postage                       | 17,272              |                    |               |      | 17,272             | 0.63%                   |
| Telecommunications            | 78,969              |                    |               |      | 78,969             | 2.89%                   |
| Tax & License                 | 197,239             |                    |               |      | 197,239            | 7.22%                   |
| Professional License & Dues   | 39,928              |                    | (2,672)       | O    | 37,256             | 1.36%                   |
| Building Expense              | 571,159             |                    |               |      | 571,159            | 20.90%                  |
| Insurance                     | 103,041             |                    |               |      | 103,041            | 3.77%                   |
| Depreciation                  | 208,470             | (69,109)           |               | G    | 139,361            | 5.10%                   |
| Imputed Cost of Money         | 27,510              |                    | 3,526         | P    | 31,036             | 1.14%                   |
| Technical References          | 9,018               |                    |               |      | 9,018              | 0.33%                   |
| Recruiting                    | 14,387              | (2,707)            |               | H    | 11,680             | 0.43%                   |
| Education Cost                | 100,077             |                    |               |      | 100,077            | 3.66%                   |
| Personnel Relations           | 46,058              | (10,246)           |               | I    | 35,812             | 1.31%                   |
| Professional Services         | 206,666             | (1,921)            |               | J    | 204,745            | 7.49%                   |
| Marketing Expenses            | 186,982             | (24,258)           |               | K    | 162,724            | 5.95%                   |
| Service Charges & Interest    | 39,815              | (39,815)           |               | L    | 0                  | 0.00%                   |
| Donations                     | 13,284              | (13,284)           |               | M    | 0                  | 0.00%                   |
| Miscellaneous Expense         | 7,214               | (7,214)            |               | N    | 0                  | 0.00%                   |
| Total General Overhead        | <u>\$2,295,518</u>  | <u>(\$349,477)</u> | <u>\$854</u>  |      | <u>\$1,946,895</u> | 71.25%                  |
| Overhead                      | <u>\$6,273,711</u>  | <u>(\$358,278)</u> | <u>\$854</u>  |      | <u>\$5,916,287</u> | 216.51%                 |
| Overhead Rate                 | 228.93%             |                    |               |      | <u>216.51%</u>     |                         |

**Landau Associates, Inc.**  
**Overhead Schedule**  
**Fiscal Year Ended June 30, 2007**

|                                                                 |
|-----------------------------------------------------------------|
| EXHIBIT G-3<br>Breakdown of<br>Subconsultant's<br>Overhead Cost |
|-----------------------------------------------------------------|

| Description | Income<br>Statement | Landau<br>Adj. | WSDOT<br>Adj. | Ref. | Accepted<br>Amount | % of<br>Direct<br>Labor |
|-------------|---------------------|----------------|---------------|------|--------------------|-------------------------|
|-------------|---------------------|----------------|---------------|------|--------------------|-------------------------|

*Landau Associates - Reviewed & Accepted - 10/18/07 CG*  
*Financial Statements compiled by Finney, Neill & Company, P.S.*

**Landau Associates References**

- A. Direct and indirect labor overtime premiums unallowable per 48 CFR 22.103-2.
- B. Signing bonuses and moving bonuses in excess of \$1,000 per person unallowable per 48 CFR 31.205-35 and 48 CFR 31.201-4. Bonuses in excess of 15% of allowable overhead also excluded per WSDOT policy.
- C. Field supplies inventory, eventually charged to projects, related to job chargeable activity.
- D. Vehicle gas, repairs & maintenance - most related to rental revenue.
- E. Local meals, employee business meals unallowable per 48 CFR 31.205-14 and WSDOT Accounting Manual, M13-82, Chapter 10 Travel.
- F. Estimated cost of direct photocopies - related to job chargeable activity.
- G. Depreciation on lab & field equipment, field vehicles & CAD equipment - related to job chargeable activity.
- H. Local meals - recruiting unallowable per 48 CFR 31.205-14 and WSDOT Accounting Manual, M13-82, Chapter 10 Travel.
- I. Mariner tickets; liquor; Christmas party expenses in excess of \$25 per employee unallowable per 48 CFR 31.205-14.
- J. Federal income tax preparation fees over \$250 unallowable per 48 CFR 31.205-41(b)(1), 48 CFR 201-6(d), and WSDOT policy.
- K. Advertising; client entertainment, campaign contributions; and other costs unallowable per 48 CFR 31.205-1(d), 48 CFR 31.205-8, 48 CFR 31.205-14, and 48 CFR 31.205-38.
- L. Service charges and interest unallowable per 48 CFR 31.205-20.
- M. Donations unallowable per 48 CFR 31.205-8.
- N. Miscellaneous undocumented costs removed.

**WSDOT References**

- O. Lobbying unallowable per 48 CFR 31.205-22.
- P. Imputed cost of money calculation used the wrong rate for July through December 2006.



## Exhibit H

### Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations: The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. Non-discrimination: The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. Solicitations for Sub-consultants, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. Information and Reports: The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Non-compliance: In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

**Exhibit I**  
**Payment Upon Termination of Agreement**  
**By the Agency Other Than for**  
**Fault of the Consultant**

(Refer to Agreement, Section IX)

**Lump Sum Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Cost Plus Fixed Fee Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Specific Rates of Pay Contracts**

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

**Cost Per Unit of Work Contracts**

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

## Exhibit J

### Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

#### Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

#### Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

#### Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

#### Step 4 – Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

#### Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

## Exhibit K

### Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

#### Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

#### Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### Step 3 -- Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### Step 4 -- Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### Step 5 -- Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### Step 6 -- Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

**Exhibit M-1(a)**  
**Certification Of Consultant**

Project No. \_\_\_\_\_

Local Agency \_\_\_\_\_

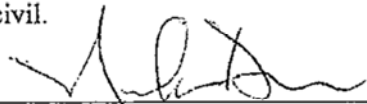
I hereby certify that I am A PRINCIPAL and duly authorized representative of the firm of KPG whose address is 753 9th Avenue N, Seattle WA 98109 and that neither I nor the above firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

3/17/2009

Date



Signature



**Exhibit M-1(b)**  
**Certification Of Agency Official**

I hereby certify that I am the AGENCY Official of the Local Agency of \_\_\_\_\_,  
Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an  
express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or  
consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of  
Transportation and the Federal Highway Administration, U.S. Department of Transportation, in  
connection with this AGREEMENT involving participation of Federal-aid highway funds, and is  
subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Date

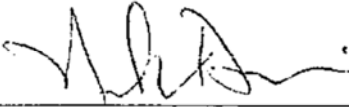
\_\_\_\_\_  
Signature

**Exhibit M-2**  
**Certification Regarding Debarment, Suspension, and Other Responsibility**  
**Matters-Primary Covered Transactions**

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I) (B). of this certification; and
  - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): KPG

3/17/2009  
(Date)

  
(Signature) President or Authorized Official of Consultant

**Exhibit M-3**  
**Certification Regarding The Restrictions**  
**of The use of Federal Funds for Lobbying**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm): KPG

3/17/2009

(Date)



(Signature) President or Authorized Official of Consultant

**Exhibit M-4**  
**Certificate of Current Cost or Pricing Data**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of THE TRANSPORTATION GATEWAY PROJECT are accurate, complete, and current as of March 17 2009 \*\*. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm KPG

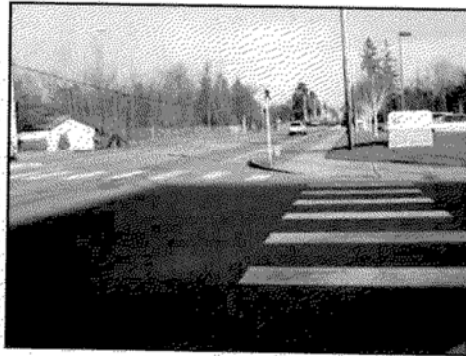
Name Nelson David

Title PRINCIPAL

Date of Execution\*\*\* March 17 2009

- \* Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).
- \*\* Insert the day, month, and year when price negotiations were concluded and price agreement was reached.
- \*\*\* Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

S. 216th Street: 20th Avenue S. to 24th Avenue S.



### South 216th Street Phase Description:

Construct a five lane urban arterial; including 4 travel lanes, 1 two-way turn lane, bike lanes, curb, gutter, sidewalks, and landscaping strips.

24th Avenue S.: S. 216th Street to S. 208th Street



### 24th Avenue South Phase Description:

Construct a five lane urban arterial; including 4 travel lanes, 1 two-way turn lane, bike lanes, curb, gutter, sidewalks, and landscaping strips. Modify signal at 216th to widen approaches including two southbound left-turn lanes.

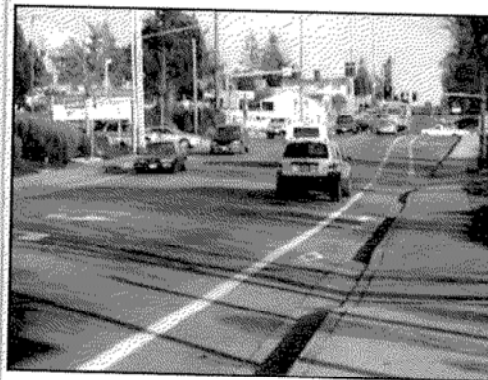
S. 216th Street at 20th Avenue S. Signal



### South 216th Street Phase Description:

Construct traffic signal.

S 216th Street: 24th Avenue to Pacific Highway



### South 216th Street Phase Description:

Widen roadway to six travel lanes plus reconstruct bicycle lanes, curb, gutter, sidewalks, and landscaping strip.

## City of Des Moines



### South 216th Street, 24th Avenue South, and Pacific Highway Proposed Road Improvements

#### Gateway Road Improvements

-  Segment 1: South 216th Street Improvements
-  Segment 2: South 216th Street Improvements
-  24th Avenue Segment

#### Road Improvements

-  Proposed 24th Avenue - 28th Avenue Connector

### Proposed and Existing Land Use

#### Commerical

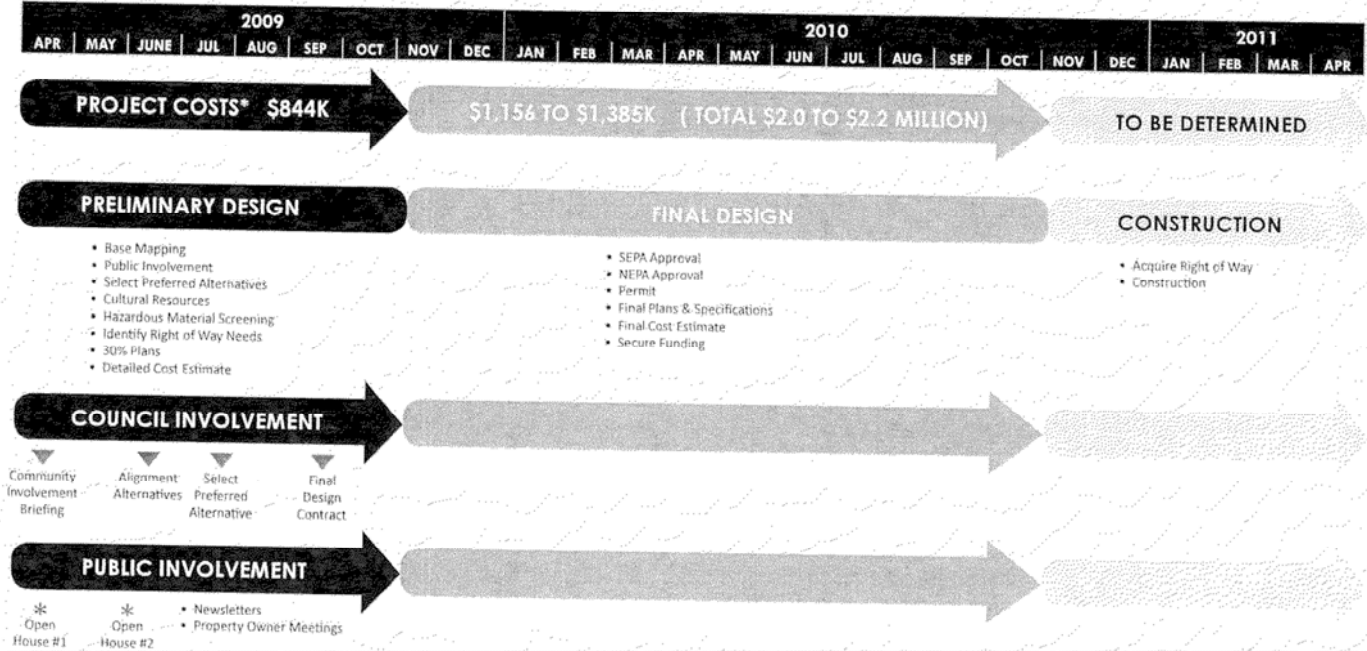
-  Destination Retail (57 Acres)
-  Business Park (17 Acres)
-  Light Industrial (9 Acres)
-  Detention Facilities (33 Acres)
-  Aviation Business (84 Acres)
-  Airport Logistic/Office (143 Acres)

#### Residential

-  Regional Park (102 Acres)
-  Des Moines Creek Trail
-  Midrise Residential (4 Acres)
-  Highrise Residential (11 Acres)



City of Des Moines  
Transportation Gateway Project



## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Barnes Creek Regional Detention  
Facility – Design Contract  
Supplement

AGENDA OF: March 26, 2009

DEPT. OF ORIGIN: Planning, Building & Public  
Works

ATTACHMENTS:

DATE SUBMITTED: March 18, 2009

1. Professional Services Contract Supplement  
No. 2
2. 2009 SWM CIP

CLEARANCES:

[ X ] Finance \_\_\_\_\_  
[ X ] Planning, Building & Public Works MA  
[ X ] Legal PB

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: MA

**Purpose and Recommendation:**

The purpose of this agenda item is to approve the attached consulting contract supplement for the Barnes Creek Detention Facility. The contract supplement includes design and permitting services for preparing the final project design as well as assistance during bidding.

**Suggested Motion:**

"I move to approve contract Supplement No.2 in the amount of \$126,523 for the final design and permitting for the Barnes Creek Detention Facility bringing the contract with Tetra Tech, Inc. dated 3/18/2008 in the original amount of \$85,648, to a revised contract total of \$212,171, plus a contingency amount of \$12,652."

**Background and Discussion:**

The proposed project is a 3.0 acre-foot detention facility located near the headwaters of Barnes Creek between 222<sup>nd</sup> Street and 223<sup>rd</sup> Street and between 12<sup>th</sup> Avenue South and 14<sup>th</sup> Avenue South. This facility is designed to reduce peak storm flows in Barnes Creek thereby minimizing local flooding as well as reducing peak flows in the lower sections of Massey Creek. The reduction of peak flows will alleviate some of the flooding and erosion of Barnes Creek and provide better flood protection of the lower reaches of Massey Creek. The project will also enhance a badly degraded wetland as well as add new wetland areas in the vicinity of the facility.

Because, under the new Corps of Engineers regulations, impacts to wetlands exceeding 0.5 acres in size must undergo a very lengthy and difficult individual permit process, the City Council during adoption of

the SWM capital budget, approved a staff proposal to significantly reduce the project from its original 1999 footprint to keep wetland impacts to less than 0.5 acres. The design team has met several times with the Corps and a conceptual design that can achieve a general nationwide permit has been reviewed and determined approvable by the Corps. Using the concept design, the project is ready to proceed to design with permits to be obtained in time for construction during the summer of 2010.

A significant element of the design will be the wetland permitting and wetland mitigation design. Also included in the permitting is the application for a Water Quality permit from Ecology and a Hydraulic permit from Washington Fish and Wildlife. The design will provide for a minimum of 3.0 acre feet of storage as well as replacement of the culvert below S. 223<sup>rd</sup> Street. The contract supplement is based on a 15-month duration allowing for the design to be completed early next year and for construction to begin during the summer fish window of 2010.

#### **Alternatives:**

Council may decide to not supplement the contract resulting in project delay until an supplement that can be approved is submitted.

#### **Financial Impact:**

The 2009 SWM CIP has budgeted \$100,000 for finalizing the design and permitting. This budget was not based on the conceptual design and made before the design team had met with the Corps to further explore wetland mitigation options. Staff proposes to deduct the remaining \$26,523 from the 2010 project contingency anticipating that about 20% of the work will be carried over to 2010. Once a design estimate is prepared, staff will be able to refine the cost elements for the 2010 SWM CIP.

#### **Recommendation/Conclusion:**

Staff recommends approval of the contract supplement with Tetra Tech/KCM.



|                                                                             |                                             |                                                                                                |  |
|-----------------------------------------------------------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------|--|
| <b>Supplemental Agreement<br/>Number 2</b>                                  |                                             | Organization and Address<br>Tetra Tech, Inc.<br>1420 Fifth Ave, Suite 600<br>Seattle, WA 98101 |  |
| Original Agreement Number<br>n/a                                            |                                             | Phone: 206-883-9300                                                                            |  |
| Project Number<br>135-21581-08-092                                          | Execution Date<br>3/18/2009                 | Completion Date<br>12/31/2009                                                                  |  |
| Project Title<br>Barnes Ck Regional Detention Facility                      | New Maximum Amount Payable<br>\$ 212,171.00 |                                                                                                |  |
| Description of Work<br>Preparation of PS&E, see the attached scope of work. |                                             |                                                                                                |  |

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

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

The changes to the agreement are described as follows:

I

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

See the attached scope of work.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: n/a

III

Section V, PAYMENT, shall be amended as follows:

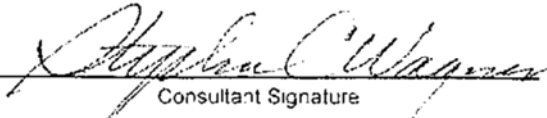
The contract is supplemented by \$126,523 for a new total contract amount of \$212,171.

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 Stephen Wagner

By \_\_\_\_\_

  
Consultant Signature

\_\_\_\_\_  
Approving Authority Signature

\_\_\_\_\_  
Date

**EXHIBIT B**  
**CITY OF DES MOINES**  
**SCOPE OF WORK**  
  
**BARNES CREEK FLOOD ATTENUATION FACILITY**  
**PS&E FINALIZATION**

The objective of this Agreement is to provide professional services necessary for the completion of Plans, Specifications, and Estimates (PS&E) for the Barnes Creek Flood Attenuation Facility. Based upon permitting agency comments and permit requirements, the original facility concept developed in 1999 has been substantially altered and reduced in size. Previous direction from permitting agencies has resulted in the need to significantly alter the previously developed project and meet permitting requirements that have significantly changed since the original project concept. This scope of work represents producing a new plan set and to finalize permitting activities, which includes interaction with WDFW for the culvert replacement across S 223<sup>rd</sup> St.

This scope and fee estimate represents an amendment to the current contract with the City.

**DURATION**

The project budgeting and fee estimate are based upon about a fifteen (15) month duration starting April 1, 2009 and completing June 30, 2010.

**SERVICES**

The CONSULTANT shall perform services and furnish materials necessary to accomplish the following work items.

1. **Project Administration:** This task includes administration of the contract between the CONSULTANT and the CITY, preparation of monthly progress reports and quality control. The task includes administrative efforts needed to coordinate with the subconsultants and to complete the project on time and within budget. Subtasks include the following:

- 1.1 Prepare monthly progress reports for inclusion with the invoice and invoice review.
- 1.2 Prepare Subconsultant Agreements (1).
- 1.3 Provide ongoing project management.
- 1.4 Prepare project plan, design schedule, and design criteria summary.
- 1.5 Conduct internal startup meeting project team at CONSULTANT'S Seattle Office.
- 1.6 Conduct QA/QC Review of the updated 90% submittal by a senior engineer.
  - 1.6.1 Quality Control Review by discipline leads.
  - 1.6.2 Quality Assurance Review for contract compliance and meeting project goals.

2. **-Not Used-**

3. **Special Services:** Under this task, the following special services will be provided to support final design efforts and produce contract documents. A geotechnical evaluation is not budgeted. The previous geotechnical evaluation will be used unless required revisions to the detention facility or appurtenances

are not addressed in the original report. If this occurs, a supplemental agreement will be negotiated with the City. Permit assistance and planting plans are budgeted through the project's subconsultant Springwood Associates, Inc. Potholing of any utilities has not been budgeted. The Special Services include the following:

- 3.1 **Permit Assistance:** Permits are expected to be required from WDFW, the Corps of Engineers (associated with wetland impacts) and the City of Des Moines. This task is to provide support to the City to attempt to obtain these permits. The primary effort to obtain the permits will be from the project's subconsultant, Springwood Associates. See Exhibit B-6 for their scope of work. Tetra Tech time associated with this effort is to provide available data to Springwood, respond to questions, prepare up to 3 mitigation presentation boards mocked-up by Springwood, and attend up to two meetings with regulatory agencies. Also, producing 5 copies of the final mitigation report developed by Springwood occurs under this task.

4. **-Not Used-**

5. **Final Design and Contract Documents:** The PS&E will be prepared under this task representing the modified 1999 facility based upon the direction received from permitting agencies as evolved during the first phase of this project. The final contract documents to construct the project will be prepared using accepted engineering practices, comments from the CITY, and the standards set forth in Exhibits B-1 and B-2. Deliverable documents are described in Exhibit B-4. The preliminary drawing list is described in Exhibit B-5. Plan-set scales have been set based on using full size drawing for construction. Tetra Tech will prepare the special provisions required for project construction. The City will prepare the complete specification package which will include the Tetra Tech prepared special provisions. No traffic control plan will be prepared. No curb and gutter or driveway profiling will be prepared. Subtasks will include the following:

- 5.1 **Prepare Sixty-percent (60%) PS&E:** Significantly modify the 1999 90% PS&E to incorporate the current requirements from the regulatory agencies as has been discussed during the first phase of this project. Also, CITY comments will be incorporated and a 60-percent PS&E will be prepared for CITY review reflecting this changed design. Tasks include the following:
  - 5.1.1 Prepare 60% plans using the 1999 plans as the starting point. The plans will reflect the reduced facility footprint and drainage features, but including the replacement of the culvert under S 223<sup>rd</sup> St.
  - 5.1.2 Prepare an outline of the special provisions for items of work not covered by the WSDOT/APWA Standard Specifications.
  - 5.1.3 Prepare bid items, quantities and a construction cost estimate.
  - 5.1.4 Submit 60% plans to CITY for comment.
- 5.2 **Prepare Ninety-percent (90%) PS&E:** Modify the 60% PS&E to incorporate CITY comments. A 90-percent PS&E will be prepared for CITY review. Tasks include the following:
  - 5.2.1 Participate in a meeting with CITY staff for a review of comments from the 60% submittal.
  - 5.2.2 Expand the special provision outline to prepare specifications of the special provisions for items of work not covered by the WSDOT/APWA Standard Specifications.
  - 5.2.3 Prepare 90% design plans incorporating review comments received from the CITY.
  - 5.2.4 Prepare bid items, quantities and a construction cost estimate.

5.2.5 Submit 90% plans to CITY for comment.

5.3 **Final Contract Documents:** Through the following subtasks, using the 90-percent PS&E and associated materials from the previous tasks, the final camera-ready bid documents will be prepared:

5.3.1 Participate in a meeting with CITY staff for design coordination review of comments on the 90% submittal.

5.3.2 Complete final special provision specifications and submit to the CITY.

5.3.3 Prepare final plans and submit a check copy for CITY staff final approval.

5.3.4 Submit bid items, quantities and a construction cost estimate including copies of the quantity and design computations.

5.3.5 Incorporate final CITY comments and submit final stamped and signed plan originals for copying and distribution by the CITY.

6. **Assistance During Bidding:** The purpose of this task is to provide assistance during bidding. Limited effort and budget is allocated to this task. The City will print and distribute the bid documents for bidding purposes and place the necessary advertisements. Subtasks include the following:

6.1 Answer questions during bidding. Respond to questions from the City that originated from bidders whose questions the City cannot answer directly. Responses will be returned to the City who will distribute to registered bidders. The City shall be the primary contact with the bidders.

6.2 Prepare up to two addendums for the City to copy and distribute to prospective bidders.

## **BARNES CREEK FLOOD ATTENUATION FACILITY**

### **EXHIBIT B-1**

### **GRAPHIC STANDARDS**

All plans shall be prepared in accordance with standard practices of the CITY. Sample plans will be provided by the CITY as a guide. All plan units will be English. Plans shall be prepared as follows:

1. The horizontal scale for site plans shall be 1"=20' and the vertical scale for profiles shall be 1"=5'.
2. The plans shall be completed in AutoCAD 2008, the cost estimate shall be done in Excel.
3. Line types and layers shall be consistent with the APWA CAD standard.
4. Full-size plan sheets shall be 22"x34" on standard CITY title and border.
5. Plan sheets utilizing topographic base mapping shall utilize reference files so that the base map will remain as a single computer file.

## **BARNES CREEK FLOOD ATTENUATION FACILITY**

### **EXHIBIT B-2**

### **DESIGN CRITERIA**

The CITY will designate the basic premises and criteria for the design. Reports, specifications, and plans, to the extent feasible, shall be developed in accordance with the project design criteria. The latest edition and amendments of the following documents and input from the CITY will be utilized to develop the project design criteria:

1. Washington State Department of Transportation/American Public Works Association (WSDOT/APWA), *Standard Specifications for Road, Bridge, and Municipal Construction* (2008 English Edition).
2. WSDOT/APWA, *Standard Plans for Road, Bridge, and Municipal Construction* (2008 English Edition).
3. U.S. Department of Transportation, Federal Highway Administration (FHWA), *Manual on Uniform Traffic Control Devices for Streets and Highways*.
4. Washington Department of Fish and Wildlife (WDFW), *Design of Road Culverts for Fish Passage* (2003 Edition).
5. Standard drawings and sample documents prepared by the CITY and furnished to the CONSULTANT shall be used as a guide in all cases where applicable.

**BARNES CREEK FLOOD ATTENUATION FACILITY****EXHIBIT B-3****ITEMS TO BE FURNISHED TO THE CONSULTANT BY THE CITY**

The CITY will furnish for the CONSULTANT copies of documents which are available to the CITY that will facilitate the preparation of the plans, specifications, estimates and reports. These include the following:

1. Access to CITY records for CONSULTANT research and copies of applicable "as-built" plans, as available.
2. Example plans and specifications.
3. Bid tabulations of previous projects as available.
4. CITY'S current AutoCAD title and border drawings (including title sheet, plan sheet, and plan/profile sheet).
5. All other necessary right-of-way acquisition efforts including additional title reports, appraisals, right-of-entry for fieldwork, negotiations, right-of-way cost estimates, deed preparation, etc.
6. Printing and distribution of plans and specifications for bidding.
7. Any revised hydrology and hydraulic data defining flows in the project area.

# **BARNES CREEK FLOOD ATTENUATION FACILITY**

## **EXHIBIT B-4**

### **DOCUMENTS TO BE FURNISHED BY THE CONSULTANT**

The following documents, exhibits, or other presentations for the work covered by this Agreement shall be furnished by the CONSULTANT to the CITY upon completion of the various phases of the work.

1. Administration

- 1.1 Monthly invoice and brief progress report.

2. -Not Used-

3. Special Services

3.1 Permit Assistance

- Copy of WDFW permit information.

4. -Not Used-

5. Final Design and Contract Documents

5.1 Sixty percent (60%) PS&E:

- 5.1.1 One (1) copy of the special provision specification outline.
- 5.1.2 One (1) copy of the construction cost estimate.
- 5.1.3 One (1) copy of the half-size plans.

5.2 Ninety percent (90%) PS&E:

- 5.2.1 One (1) copy of meeting minutes.
- 5.2.2 One (1) copy of the special provisions to the specifications.
- 5.2.3 One (1) copy of the construction cost estimate.
- 5.2.4 One (1) half-size copy of the plans.

5.3 Final Contract Documents

- 5.3.1 One (1) copy of meeting minutes.
- 5.3.2 One (1) copy of the check set of the special provisions to the specifications.
- 5.3.3 One (1) copy of the final special provisions to the specifications.
- 5.3.4 One (1) full size check set copy of plans.
- 5.3.5 One (1) copy of final stamped and signed full-size white opaque mylar plans.
- 5.3.6 One (1) copy of the quantity, cost estimate, and design computations.
- 5.3.7 Electronic copy of the CAD files, special provision specifications and cost estimate files on CD format.

6. Assistance During Bidding

6.1 Up to two addendums clarifying a project design feature.



## BARNES CREEK FLOOD ATTENUATION FACILITY

### EXHIBIT B-5

### PRELIMINARY DRAWING LIST

The following is a list of budgeted drawings for the project:

| Drawing Title                         | Responsible Firm |
|---------------------------------------|------------------|
| Title Sheet / Drawing Index (1)       | Tetra Tech       |
| Legend and Abbreviations (1)          | Tetra Tech       |
| Grading and Drainage Plan (1)         | Tetra Tech       |
| Control Point Locations (1)           | Tetra Tech       |
| Culvert Plan/Profile (1)              | Tetra Tech       |
| Erosion and Sediment Control Plan (1) | Tetra Tech       |
| Structural Notes (1)                  | Tetra Tech       |
| Control Structure Details (1)         | Tetra Tech       |
| Miscellaneous Details (2)             | Tetra Tech       |
| Planting Plan (1)                     | Springwood       |
| Planting Details (1)                  | Springwood       |
| <b>Total Number of Drawings = 12</b>  |                  |

**BARNES CREEK FLOOD ATTENUATION FACILITY**  
**EXHIBIT B-6**  
**SPRINGWOOD SCOPE OF WORK AND FEE ESTIMATE**

Scope of work and fee estimate from Springwood Associates for permit assistance and planting plans on the project follows.

*springwood associates, inc.*

1726 NE 58th Street  
Seattle, WA 98105  
Ph: (206) 545-1117  
Fax: (206) 545-1107

**CITY OF DES MOINES BARNES CREEK FLOODWATER ATTENUATION  
WETLAND PERMITTING and MITIGATION DESIGN  
SCOPE OF WORK**

March 18, 2009

**PROJECT DESCRIPTION**

Tetra Tech, Inc. has requested wetland permitting, and design assistance for a proposed floodwater attenuation basin in the City of Des Moines (City). The proposed project is located in the Barnes Creek drainage on a property south of S. 222nd St., between 12th Ave. S. and 14th Ave. S. This proposal details a scope of services to be provided by **Springwood Associates, Inc.** (Springwood) with regard to permitting and mitigation design for the proposed basin. The work is organized into the task areas described below.

**1.0 PROJECT ORGANIZATION**

These tasks include reviewing background documentation and meeting with Tetra Tech.

**1.1 Project Administration**

Project documentation, communications, billings, and procedures for changes to the scope of services. Maintain the project files in an organized, accessible manner for efficient project management. Provide budget review.

**1.2 Project Organization**

Coordinate with the City and Tetra Tech, for project orientation and to clarify project goals, products, and develop a project schedule for tasks assigned to Springwood.

**1.3 Meetings**

Meet with Tetra Tech as needed regarding project goals, schedule and deliverables.

*Task 1.0 Deliverables:* 1) Work plan and Schedule

**2.0 PERMITTING ASSISTANCE**

This scope assumes the project will require a U.S. Corps of Engineers (Corps) Nationwide permit, a State of Washington (State) 401 Water Quality Certification, and a Hydraulic Project Approval from the Washington Department of Fish and Wildlife. This scope includes assistance with the City required SEPA checklist and Clearing and Grading Permit.

**2.1 Joint Aquatic Resources Permit Application (JARPA) Preparation**

Prepare the JARPA (preliminary and final) required for the Individual Permit and 401 Water Quality Certification.

Springwood Associates, Inc.  
Barnes Creek Flood Attenuation and Wetland Mitigation  
March 18, 2009

**2.2 SEPA Checklist**

Prepare the SEPA checklist required by the City.

**2.3 Clearing and Grading Permit Application**

Prepare the Clearing and Grading Permit application required by the City.

**2.4 Coordination**

Coordinate with the City, TetraTech/KCM, and agency personnel regarding site visits.  
Coordinate with TetraTech/KCM regarding information required for the SEPA checklist and the Clearing and Grading Permit application.

**Task 2.0 Deliverables:** 1) Preliminary and Final JARPA  
2) SEPA Checklist  
3) Clearing and Grading Permit application

**3.0 IMPACT ASSESSMENT**

**3.1 Review Hydrologic Data**

Review hydrologic analyses prepared by TetraTech/KCM to determine the expected depth and duration of flows in the facility. Research available surface and groundwater information associated with wetland hydrology.

**3.2 Impact Assessment**

Determine wetland impacts.

**3.3 Technical Memorandum**

Describe wetland hydrology and impacts from the proposed project.

**3.4 Coordination**

Coordinate with TetraTech/KCM to obtain hydrology modeling data, surface and groundwater information.

**Task 3.0 Deliverable:** 1) Technical memorandum

**4.0 MITIGATION DEVELOPMENT AND REVIEW**

**4.1 Team Meetings**

Attend one meeting with the City and TetraTech/KCM to review the mitigation design prior to agency meetings.

**4.2 Mitigation Presentation Boards**

Provide technical information and draft layouts to TetraTech/KCM, who will prepare boards for use during presentations to regulatory agencies. This scope assumes up to three boards will be produced.

**4.3 Agency Meetings**

Corps review meetings: Conduct one meeting with the Corps to review mitigation proposal and discuss any potential issues.

Ecology Site Visit: Conduct one on-site meeting with Wash. Dept. of Ecology (Ecology) and Wash. Dept. of Fish and Wildlife to discuss preliminary mitigation requirements and identify issues.

Springwood Associates, Inc.  
Barnes Creek Flood Attenuation and Wetland Mitigation  
March 18, 2009

**Task 4.0 Deliverables:** 1) Meeting documentation (3 meetings)

#### **5.0 MITIGATION REPORT**

Springwood will prepare Draft and Final Wetland Mitigation Plan and Report identifying existing conditions, permitting requirements, and mitigation plan for submittal to State and Federal permitting agencies. A separate report will be prepared for submittal to the City of Des Moines. This includes discussion of the culvert replacement mitigation and the use of the City's mitigation fee-in-lieu program.

##### **5.1 Draft Mitigation Report**

Prepare draft wetland mitigation report for submittal to TetraTech/KCM and the City.

##### **5.2 Final Mitigation Report**

Based on review comments, revise and prepare and submit one electronic copy of the final mitigation report to TetraTech/KCM for production of paper copies. Submit the final wetland mitigation report to the City and reviewing agencies.

##### **5.3 City Mitigation Report**

Prepare and submit one electronic copy of draft and final mitigation reports to TetraTech/KCM for production of paper copies. This report will describe the impacts and mitigation under the City of Des Moines regulations. Submit the final wetland mitigation report to the City and reviewing agencies.

**Task 5.0 Deliverables:** 1) Draft wetland mitigation report; 1 electronic copy  
2) Final wetland mitigation report; 1 electronic copy  
3) Draft and final City mitigation reports (1 electronic copy)

#### **6.0 MITIGATION DESIGN 60%**

Task 6.0 includes developing 60% wetland design to incorporate the results of the wetland assessment and address current City, state, and federal mitigation requirements.

##### **6.1 60% Grading Plan/Elevations**

Review anticipated hydrology and redline 60% grading plans prepared by TetraTech/KCM to best meet wetland mitigation goals.

##### **6.2 60% Planting Plan**

Develop 60% planting zones and plant lists.

##### **6.3 60% Planting Plan Details and Notes**

Prepare 60% planting details and notes.

##### **6.4 60% Specifications**

Prepare 60% landscaping specifications.

##### **6.5 60% Cost estimate**

Prepare 60% landscape cost estimate.

##### **6.6 Coordination**

Design Team: Coordinate with the City and TetraTech/KCM.

Agency: Coordinate with agency staff regarding mitigation ratios for proposed mitigation.

**Task 6.0 Deliverables:** 1) 60% Grading plan and elevations: redlines over paper base (2 sheets)

Springwood Associates, Inc.  
Barnes Creek Flood Attenuation and Wetland Mitigation  
March 18, 2009

- 2) 60% Planting plan hand drawn over paper base (1 sheet)
- 3) 60% Planting Details and Notes (1 sheet)
- 4) Specifications outline
- 5) Preliminary Cost Estimate
- 6) Communications documentation

**7.0 MITIGATION DESIGN 90%**

Task 7.0 includes 90% design of the wetland mitigation plan.

**7.1 90% Grading Plan/Elevations**

Review and revise 90% grading plans (including anticipated hydrology) prepared by TetraTech/KCM.

**7.2 90% Planting Plan**

Review and revise 90% plant communities.

**7.3 90% Planting Plan Details and Notes**

Review and revise 90% planting details and notes.

**7.4 90% Specifications**

Review and revise 90% specifications.

**7.5 90% Cost estimate**

Review and revise 90% cost estimate.

**7.6 Coordination**

Design Team: Coordinate with the City and TetraTech/KCM.

Agency: Coordinate with agency staff regarding mitigation ratios for proposed mitigation.

- Task 7.0 Deliverables:**
- 1) 90% Grading plan and elevations: redlines over paper base (2 sheets)
  - 2) 90% Planting plan hand drawn over paper base (1 sheet)
  - 3) 90% Planting Details and Notes (1 sheet)
  - 4) 90% Specifications
  - 5) 90% Cost Estimate
  - 6) Communications documentation

**8.0 FINAL DESIGN & BID DOCUMENTS (100%)**

Task 8.0 includes final design of the wetland mitigation plan.

**8.1 Final Grading Plan**

Review and prepare redlines for Final Grading Plan.

**8.2 Final Planting Plan**

Review and prepare redlines for final planting plans.

**8.3 Final Planting Details**

Review and prepare redlines for final details.

**8.4 Final Specifications**

Review and prepare final specifications.

Springwood Associates, Inc.  
Barnes Creek Flood Attenuation and Wetland Mitigation  
March 18, 2009

**8.5 Final Cost Estimate**

Review and prepare final cost estimate.

**8.6 Coordination**

Coordinate with Tetra Tech for final design. Document all communications.

**Task 8.0 Deliverables:** 1) Final Grading Plan (1 redline copy)  
2) Final Planting Plan (1 redline copy)  
3) Final Notes and Details (1 redline copy)  
4) Final Specifications (1 electronic copy)  
5) Final Cost Estimate (1 electronic copy)  
6) Communications documentation

**9.0 ADDITIONAL SERVICES**

Additional services not described in this scope will be provided on a time and materials basis. Such services may include but are not limited to the following:

Additional Meetings: Attend meetings in addition to the ones identified in this scope of work.

Landscape Bid Administration: Provide bid administration including prebid, responses to questions and addenda, and bid selection.

Springwood  
Barnes Creek Wetland Permitting/Design

F:\98105\costest 2007.xls  
May 7, 2007

| TASK                                       | Hours      | Total           |
|--------------------------------------------|------------|-----------------|
| <b>Project Organization</b>                | <b>40</b>  | <b>\$4,660</b>  |
| Project Administration                     | 24         | \$2,698         |
| Project Organization                       | 12         | \$1,384         |
| Meetings                                   | 4          | \$578           |
| <b>Permitting Assistance</b>               | <b>62</b>  | <b>\$8,322</b>  |
| JARPA Preparation (NWP, 401, HPA)          | 37         | \$4,965         |
| SEPA Checklist                             | 7          | \$959           |
| Clearing and Grading Permit Application    | 7          | \$959           |
| Coordination, Meetings & Documentation     | 11         | \$1,439         |
| <b>Impact Assessment</b>                   | <b>34</b>  | <b>\$4,633</b>  |
| Review Hydrologic Data                     | 8          | \$1,163         |
| Impact Assessment                          | 9          | \$1,227         |
| Technical Memorandum                       | 14         | \$1,820         |
| Coordination                               | 3          | \$423           |
| <b>Mitigation Development &amp; Review</b> | <b>40</b>  | <b>\$5,584</b>  |
| Design Team Meetings                       | 10         | \$1,396         |
| Mitigation Presentation Boards             | 12         | \$1,692         |
| Agency Meetings                            | 18         | \$2,496         |
| <b>Mitigation Report</b>                   | <b>81</b>  | <b>\$10,833</b> |
| Draft Mitigation Report                    | 45         | \$6,037         |
| Final Mitigation Report                    | 17         | \$2,285         |
| City Mitigation Report                     | 19         | \$2,511         |
| <b>Mitigation Design 60%</b>               | <b>48</b>  | <b>\$6,229</b>  |
| 60% Grading Plan/Elevations                | 11         | \$1,614         |
| 60% Planting Plan                          | 18         | \$2,209         |
| 60% Planting Details and Notes             | 2          | \$240           |
| 60% Specifications                         | 6          | \$790           |
| 60% Cost Estimate                          | 5          | \$635           |
| Coordination                               | 6          | \$741           |
| <b>Mitigation Design 90%</b>               | <b>60</b>  | <b>\$8,082</b>  |
| 90% Grading Plan/Elevations                | 3          | \$430           |
| 90% Planting Plan                          | 10         | \$1,249         |
| 90% Planting Details and Notes             | 6          | \$790           |
| 90% Specifications                         | 20         | \$2,974         |
| 90% Cost Estimate                          | 7          | \$875           |
| Coordination                               | 14         | \$1,764         |
| <b>Final Design/Bid Documents (100%)</b>   | <b>30</b>  | <b>\$3,691</b>  |
| Final Grading Plan                         | 1          | \$120           |
| Final Planting Plan                        | 4          | \$480           |
| Final Planting Details                     | 4          | \$480           |
| Final Specifications                       | 8          | \$1,170         |
| Final Cost Estimate                        | 5          | \$635           |
| Coordination                               | 8          | \$806           |
| <b>Additional Services</b>                 | <b>0</b>   | <b>\$0</b>      |
| <b>TOTAL HOURS</b>                         | <b>395</b> | <b>\$52,034</b> |



**BARNES CREEK FLOOD ATTENUATION FACILITY  
EXHIBIT C  
ESTIMATE OF PROFESSIONAL SERVICES**

The estimate of professional services is attached.



Infrastructure Group  
1425 Fifth Avenue, Suite 600  
Seattle WA 98101  
(206) 883-9300  
(206) 883-9301 (FAX)

CLIENT: City of Des Moines

PROJECT : Barnes Creek Flood Attenuation Facility PS&E Finalization

P.D. No.: 135-21581-08-092

Proj. No.: 135-21581-08-092

Date: 03/17/2009

# EXHIBIT C: Estimate of Professional Services

| Phase Description                            | TETRA TECH / ACM   |                 |          |                  |              |       | EXPENSES @ 1.10 |                    |                |       |                | SUBCONSULTANTS @ 1.10 |  |             | PHASE TOTALS |
|----------------------------------------------|--------------------|-----------------|----------|------------------|--------------|-------|-----------------|--------------------|----------------|-------|----------------|-----------------------|--|-------------|--------------|
|                                              | Principal Engineer | Senior Engineer | Engineer | Technical Editor | CAD Drafting | Admin | Travel / Meals  | Printing / Reports | Computer / CAD | Misc. | Total Expenses | Springwood Associates |  | Total Subs. |              |
| 1 Project Administration                     |                    | 8               |          |                  |              |       |                 |                    | \$24           |       | \$26           |                       |  |             | \$1,277      |
| 1.1 Monthly progress reports (15 mo)         |                    |                 |          |                  |              |       |                 |                    | \$6            |       | \$7            |                       |  |             | \$319        |
| 1.2 Subconsultant agreements                 |                    | 2               |          |                  |              |       |                 |                    | \$114          |       | \$125          |                       |  |             | \$5,042      |
| 1.3 Project management (15 months)           | 4                  | 30              |          |                  |              | 4     |                 |                    | \$6            |       | \$319          |                       |  |             | \$319        |
| 1.4 Prepare project plan                     |                    | 2               |          |                  |              |       |                 |                    | \$20           |       | \$22           |                       |  |             | \$469        |
| 1.5 Start-up meeting                         | 1                  | 1               |          |                  | 1            |       |                 |                    | \$39           |       | \$43           |                       |  |             | \$2,344      |
| 1.6 QA/QC review                             | 8                  | 4               |          |                  |              | 1     |                 |                    |                |       |                |                       |  |             |              |
| 2 -Not Used-                                 |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             |              |
| 3 Special Services                           |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             |              |
| 3.1 Permit Assistance/Landscape Design       |                    | 24              | 8        | 16               | 4            | 2     |                 | \$150              | \$206          |       | \$392          | \$52,034              |  | \$57,237    | \$64,463     |
| 4 -Not Used-                                 |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             |              |
| 5 Final Design & Contract Documents          |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             |              |
| 5.1 Prepare 60% PS&E                         |                    |                 |          |                  | 82           |       |                 |                    | \$1,400        |       | \$1,540        |                       |  |             | \$22,380     |
| 5.1.1 Prepare 60% plans                      | 4                  | 80              |          |                  |              |       |                 |                    | \$12           |       | \$13           |                       |  |             | \$504        |
| 5.1.2 Prepare special provisions outline     |                    |                 | 4        |                  |              |       |                 |                    | \$36           |       | \$40           |                       |  |             | \$1,915      |
| 5.1.3 Prepare bid items, cost estimate       |                    | 12              |          |                  |              |       |                 |                    | \$15           |       | \$17           |                       |  |             | \$724        |
| 5.1.4 Submit 60% PS&E                        |                    | 4               |          |                  |              | 1     |                 |                    |                |       |                |                       |  |             | \$693        |
| 5.2 Prepare 90% PS&E                         |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             | \$2,898      |
| 5.2.1 City meeting/60% review                |                    | 4               |          |                  |              |       | \$50            |                    | \$12           |       | \$68           |                       |  |             | \$7,417      |
| 5.2.2 Develop full special provisions        |                    | 16              |          |                  |              | 4     |                 |                    | \$60           |       | \$66           |                       |  |             | \$1,142      |
| 5.2.3 Prepare 90% plans                      | 4                  | 20              |          |                  | 32           |       |                 |                    | \$520          |       | \$572          |                       |  |             | \$724        |
| 5.2.4 Update bid items, cost estimate        |                    | 4               | 4        |                  |              |       |                 |                    | \$24           |       | \$26           |                       |  |             | \$693        |
| 5.2.5 Submit 90% PS&E                        |                    | 4               |          |                  |              | 1     |                 |                    | \$15           |       | \$17           |                       |  |             | \$1,621      |
| 5.3 Final Contract Plans                     |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             | \$5,093      |
| 5.3.1 City meeting/90% review                |                    | 4               |          |                  |              |       | \$50            |                    | \$12           |       | \$68           |                       |  |             | \$657        |
| 5.3.2 Complete special provisions            |                    | 8               |          |                  |              | 4     |                 |                    | \$36           |       | \$40           |                       |  |             | \$1,848      |
| 5.3.3 Prepare final plans/submit check-421   |                    | 12              |          |                  | 28           | 2     |                 |                    | \$434          |       | \$477          |                       |  |             |              |
| 5.3.4 Submit bid items, etc.                 |                    | 2               | 2        |                  |              | 1     |                 |                    | \$15           |       | \$17           |                       |  |             |              |
| 5.3.5 Incorporate final City comments/submit | 2                  | 4               | 4        |                  | 2            | 1     |                 |                    | \$61           |       | \$67           |                       |  |             |              |
| 6 Assistance During Bidding                  |                    |                 |          |                  |              |       |                 |                    |                |       |                |                       |  |             |              |
| 6.1 Answer questions during bidding          |                    | 4               |          |                  |              | 2     |                 |                    |                |       |                |                       |  |             | \$791        |
| 6.2 Prepare up to two addendums              | 4                  | 8               |          |                  |              | 2     |                 |                    |                |       | \$55           |                       |  |             | \$2,268      |

| Phase Description       | TETRA TECH / KCM   |                 |          |                  |              |          | EXPENSES @ 1.10 |                    |                |       |                | SUBCONSULTANTS @ 1.10 |             | PHASE TOTALS |           |
|-------------------------|--------------------|-----------------|----------|------------------|--------------|----------|-----------------|--------------------|----------------|-------|----------------|-----------------------|-------------|--------------|-----------|
|                         | Principal Engineer | Senior Engineer | Engineer | Technical Editor | CAD Drafting | Admin.   | Travel / Meals  | Printing / Reports | Computer / CAD | Misc. | Total Expenses | Springwood Associates | Total Subs. |              |           |
| TOTAL HOURS             | 27                 | 257             | 22       | 16               | 149          | 25       | 496             | \$65,582           | \$150          | \$150 | \$3,067        | \$3,704               | \$52,034    | \$57,237     | \$126,523 |
| DIRECT JOB WAGES (DJW)  | \$65.00            | \$51.00         | \$40.00  | \$32.00          | \$30.00      | \$27.00  |                 |                    |                |       |                |                       |             |              |           |
| SUBTOTALS               | \$1,755            | \$13,107        | \$880    | \$512            | \$4,470      | \$675    |                 |                    |                |       |                |                       |             |              |           |
| TOTAL ESTIMATED WAGES   |                    |                 |          |                  |              | \$21,399 |                 |                    |                |       |                |                       |             |              |           |
| WAGE OVERHEAD @ 1.7547  |                    |                 |          |                  |              | \$37,549 |                 |                    |                |       |                |                       |             |              |           |
| PROFESSIONAL FEE @ 0.31 |                    |                 |          |                  |              | \$6,634  |                 |                    |                |       |                |                       |             |              |           |

Notes:

1. Direct Job Wages and number of hours are for estimating purposes only. Invoices will be based on actual wages and hours of staff

**TOTAL COMPENSATION: \$126,523**

**Notes:**

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

**Tetra Tech DEFINITIONS**

"Reimbursable Expenses" include but are not limited to:

- Air Fare Expenses — Cost of ticket and travel to and from airport by public conveyances.
- Auto Lease Expenses — Basic charge, gas, oil, repairs, and insurance.
- Tetra Tech Auto Expenses — Cost of using Tetra Tech-owned vehicles at the current IRS mileage rate.
- Boat Expenses — Cost of using rental or leased boats at a fair commercial rate/hour.
- Meal Expenses — "Out-of-pocket" cost to employees while away from office on business.
- Lodging Expenses — "Out-of-pocket" cost to employees while away from office on business.
- Equipment Expenses — Cost of rental or lease of special equipment required to perform work.
- Lab Fee Expenses — Cost of consumable laboratory supplies and lab use.
- Computer Expenses — Cost for Tetra Tech and outside computers as follows:
  - Tetra Tech computers
    - CADD and technical computers — \$14.00/hour
    - All Other PC's — \$ 3.00/hour
  - Outside computer hardware and software invoiced at cost to Tetra Tech.
- Production Expenses — Commercial and "in-office" printing, binding, and reproduction of reports and contract documents at invoice amount or a fair commercial rate.
- Miscellaneous Expenses — Direct job expenses and costs not defined in above categories, such as special licenses, additional "out of pocket" employee traveling costs, etc.

"Subconsultant Expenses" represent the cost of outside subconsultant technical services and expenses.

"Reimbursable Expense Factor" is an amount which takes into account Tetra Tech activities related to specific reimbursable expenses, e.g., excise tax, liability insurance, and special added administrative costs and fees not related to Tetra Tech wages, and as indicated in the Professional Services Agreement and/or Estimate of Professional Services.



*(Proposed)*  
**2009-2014 CAPITAL IMPROVEMENT PLAN**  
**Surface Water Management**

**CAPITAL IMPROVEMENT PLAN  
REQUEST FORM**

|                     |                                                                                                                            |                    |             |
|---------------------|----------------------------------------------------------------------------------------------------------------------------|--------------------|-------------|
| <b>CATEGORY</b>     | Surface Water Management                                                                                                   | City Project #     | 451.804-01  |
|                     |                                                                                                                            | SWM Project #      | SWM-06      |
| <b>PROJECT</b>      | Barnes Creek Detention Facility/223rd Culvert Replacement (Alternative)                                                    | Project Type       | New/Replace |
|                     |                                                                                                                            | Council Goals Met: | 4           |
| <b>LOCATION</b>     | Barnes Creek between S. 222nd Street and S. 223rd Street                                                                   | PROJECT STATUS:    |             |
| <b>DESCRIPTION:</b> | Construction of a 2.9 acre-foot stormwater detention facility and replacement of the Barnes Creek culvert at 223rd Street. |                    |             |
|                     |                                                                                                                            | Conceptual design  |             |

| EXPENDITURE SCHEDULE |                     |               |                  |                   |                   |             |             |             |             |
|----------------------|---------------------|---------------|------------------|-------------------|-------------------|-------------|-------------|-------------|-------------|
| COST ELEMENTS        | TOTAL               | FY 07 Actual  | FY 08 Est        | FY 09             | FY 10             | FY 11       | FY 12       | FY 13       | FY 14       |
| ADMINISTRATION       | \$ 35,123           | \$ 123        | \$ 5,000         | \$ 10,000         | \$ 20,000         |             |             |             |             |
| CIP PROJ MANAGEMENT  | -                   |               |                  |                   |                   |             |             |             |             |
| City permits         | -                   |               |                  |                   |                   |             |             |             |             |
| DESIGN / ENGINEERING | 209,023             |               | 82,500           | 100,000           | 26,523            |             |             |             |             |
| LAND                 | -                   |               |                  |                   |                   |             |             |             |             |
| BUILDINGS            | -                   |               |                  |                   |                   |             |             |             |             |
| IMPROVEMENTS         | 500,000             |               |                  |                   | 500,000           |             |             |             |             |
| INSPECTION           | 75,000              |               |                  |                   | 75,000            |             |             |             |             |
| CONTINGENCY          | 191,777             |               | 8,300            | 10,000            | 173,477           |             |             |             |             |
| SALES TAX            | 9,000               |               |                  |                   | 9,000             |             |             |             |             |
|                      | -                   |               |                  |                   |                   |             |             |             |             |
| <b>TOTAL</b>         | <b>\$ 1,019,923</b> | <b>\$ 123</b> | <b>\$ 95,800</b> | <b>\$ 120,000</b> | <b>\$ 804,000</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

| FUNDING SOURCES | TOTAL               | FY 07 Actual  | FY 08 Est        | FY 09             | FY 10             | FY 11       | FY 12       | FY 13       | FY 14       |
|-----------------|---------------------|---------------|------------------|-------------------|-------------------|-------------|-------------|-------------|-------------|
| SWM CIP         | \$ 1,019,923        | \$ 123        | \$ 95,800        | \$ 120,000        | \$ 804,000        |             |             |             |             |
| Grants/Other    | -                   |               |                  |                   |                   |             |             |             |             |
|                 |                     |               |                  |                   |                   |             |             |             |             |
| <b>TOTAL</b>    | <b>\$ 1,019,923</b> | <b>\$ 123</b> | <b>\$ 95,800</b> | <b>\$ 120,000</b> | <b>\$ 804,000</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

| OPERATING COSTS | TOTAL | FY 07 Actual | FY 08 Est | FY 09 | FY 10        | FY 11        | FY 12        | FY 13        | FY 14        |
|-----------------|-------|--------------|-----------|-------|--------------|--------------|--------------|--------------|--------------|
| PERSONNEL       |       |              |           |       | 4,000        | 4,000        | 4,000        | 4,000        | 4,000        |
| SUPPLIES        |       |              |           |       |              |              |              |              |              |
| UTILITIES       |       |              |           |       |              |              |              |              |              |
| CAPITAL         |       |              |           |       |              |              |              |              |              |
| EQUIPMENT       |       |              |           |       |              |              |              |              |              |
| <b>TOTAL</b>    |       |              |           |       | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> |



*(Current)*  
**2009-2014 CAPITAL IMPROVEMENT PLAN**  
**Surface Water Management**

**CAPITAL IMPROVEMENT PLAN  
REQUEST FORM**

|                     |                                                                                                                            |                    |             |
|---------------------|----------------------------------------------------------------------------------------------------------------------------|--------------------|-------------|
| <b>CATEGORY</b>     | Surface Water Management                                                                                                   | City Project #     | 451.804-01  |
|                     |                                                                                                                            | SWM Project #      | SWM-06      |
|                     |                                                                                                                            | Project Type       | New/Replace |
| <b>PROJECT</b>      | Barnes Creek Detention Facility/223rd Culvert Replacement (Alternative)                                                    | Council Goals Met: | 4           |
|                     |                                                                                                                            | PROJECT STATUS:    |             |
|                     |                                                                                                                            | 90% design         |             |
| <b>LOCATION</b>     | Barnes Creek between S. 222nd Street and S. 223rd Street                                                                   |                    |             |
| <b>DESCRIPTION:</b> | Construction of a 2.9 acre-foot stormwater detention facility and replacement of the Barnes Creek culvert at 223rd Street. |                    |             |

**EXPENDITURE SCHEDULE**

| COST ELEMENTS        | TOTAL               | FY 07 Actual  | FY 08 Est        | FY 09             | FY 10             | FY 11       | FY 12       | FY 13       | FY 14       |
|----------------------|---------------------|---------------|------------------|-------------------|-------------------|-------------|-------------|-------------|-------------|
| ADMINISTRATION       | \$ 35,123           | \$ 123        | \$ 5,000         | \$ 10,000         | \$ 20,000         |             |             |             |             |
| CIP PROJ MANAGEMENT  | -                   |               |                  |                   |                   |             |             |             |             |
| FACILITY PLAN        | -                   |               |                  |                   |                   |             |             |             |             |
| DESIGN / ENGINEERING | 182,500             |               | 82,500           | 100,000           |                   |             |             |             |             |
| LAND                 | -                   |               |                  |                   |                   |             |             |             |             |
| BUILDINGS            | -                   |               |                  |                   |                   |             |             |             |             |
| IMPROVEMENTS         | 500,000             |               |                  |                   | 500,000           |             |             |             |             |
| INSPECTION           | 75,000              |               |                  |                   | 75,000            |             |             |             |             |
| CONTINGENCY          | 218,300             |               | 8,300            | 10,000            | 200,000           |             |             |             |             |
| SALES TAX            | 9,000               |               |                  |                   | 9,000             |             |             |             |             |
|                      | -                   |               |                  |                   |                   |             |             |             |             |
| <b>TOTAL</b>         | <b>\$ 1,019,923</b> | <b>\$ 123</b> | <b>\$ 95,800</b> | <b>\$ 120,000</b> | <b>\$ 804,000</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

| FUNDING SOURCES | TOTAL               | FY 07 Actual  | FY 08 Est        | FY 09             | FY 10             | FY 11       | FY 12       | FY 13       | FY 14       |
|-----------------|---------------------|---------------|------------------|-------------------|-------------------|-------------|-------------|-------------|-------------|
| SWM CIP         | \$ 1,019,923        | \$ 123        | \$ 95,800        | \$ 120,000        | \$ 804,000        |             |             |             |             |
| Grants/Other    |                     |               |                  |                   |                   |             |             |             |             |
|                 |                     |               |                  |                   |                   |             |             |             |             |
| <b>TOTAL</b>    | <b>\$ 1,019,923</b> | <b>\$ 123</b> | <b>\$ 95,800</b> | <b>\$ 120,000</b> | <b>\$ 804,000</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

| OPERATING COSTS | TOTAL | FY 07 Actual | FY 08 Est | FY 09 | FY 10        | FY 11        | FY 12        | FY 13        | FY 14        |
|-----------------|-------|--------------|-----------|-------|--------------|--------------|--------------|--------------|--------------|
| PERSONNEL       |       |              |           |       | 4,000        | 4,000        | 4,000        | 4,000        | 4,000        |
| SUPPLIES        |       |              |           |       |              |              |              |              |              |
| UTILITIES       |       |              |           |       |              |              |              |              |              |
| CAPITAL         |       |              |           |       |              |              |              |              |              |
| EQUIPMENT       |       |              |           |       |              |              |              |              |              |
| <b>TOTAL</b>    |       |              |           |       | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> | <b>4,000</b> |

## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: 2009 Budget Amendments

FOR AGENDA OF: March 26, 2009

ATTACHMENTS:

Draft Ordinance No. 09-044

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: March 20, 2009

CLEARANCES:

☒ Finance ph

☐ Legal \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: AT

#### Purpose and Recommendation

The purpose of this agenda item is to request City Council's approval of Draft Ordinance No. 09-044 amending the 2009 adopted budget by authorizing appropriations to transfer funds from the Revenue Stabilization Fund to the General Fund, and to transfer funds from the General Fund to the Revenue Stabilization Fund.

#### Suggested Motions:

1. "I move to suspend Council Rule 26(b) to consider Draft Ordinance No. 09-044 on first reading."
2. "I move to adopt Draft Ordinance No. 09-044 relating to municipal finance, amending the 2009 budget adopted in Ordinance No. 1452."

#### Background

The 2009 budget was adopted by Ordinance No. 1452. Budget amendments are required only when the appropriation level in a fund is being changed. Staff also recommends that a budget amendment be required when the source for a proposed expenditure is from a fund's ending fund balance.

#### Discussion

The City Council was briefed at the March 12, 2009 meeting on the status of the General and Street Funds' ending fund balance as of December 31, 2008 and General Fund's cash reserves as of February 2009. Preliminary results for year end 2008 show a net negative ending fund balance of \$36,939 for the General and Street Funds. Preliminary results for February 2009 show a negative cash balance of approximately \$600,000 for the General Fund. The year end estimates for 2008 provided for ending fund balances of \$405,500 for the General and Street Funds. The difference is primarily related to the lower than expected revenues in the fourth quarter 2008.

Staff is requesting that up to \$800,000 of the Revenue Stabilization Fund's ending fund balance be transferred to the General Fund to shore up the cash position. The Revenue Stabilization Fund's ending fund balance as of the end of February 2009 totals \$805,174.61. When sufficient revenues are received in the General Fund, staff can transfer back the \$800,000 to the Revenue Stabilization Fund.

**Recommendation**

Staff recommends that the City Council approve Draft Ordinance No. 09-044. Budget amendments are required only when the appropriation level in a fund is being changed. Per RCW 35A.33.120, adoption of a budget amendment ordinance requires an affirmative vote of one more than the majority of all members of the City Council (5 votes): 1) if an emergency is declared and the City Council approved expenditures incident to the emergency event, and 2) if appropriations are being decreased in any fund.

CITY ATTORNEY'S FIRST DRAFT 03/14/2009

DRAFT ORDINANCE NO. 09-044

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to municipal finance, amending the 2009 budget adopted in Ordinance No. 1452, by authorizing certain expenditures in the amounts specified in this ordinance.

WHEREAS, the City Council finds that current revenue and expenditure reports for the City differ from forecasts used to create the 2009 budget, enacted by Ordinance No. 1452, and further finds that such differences justify certain adjustments regarding obligations incurred and expenditures of proceeds for fiscal year 2009, all as described as follows:

| Fund                           | Description                                  | Expenditure Adjustments | Revenue Adjustments |
|--------------------------------|----------------------------------------------|-------------------------|---------------------|
| 001-General Fund               | Transfer from the Revenue Stabilization Fund | \$ -                    | \$ 800,000          |
| 001-General Fund               | Transfer to the Revenue Stabilization Fund   | 800,000                 |                     |
| 104-Revenue Stabilization Fund | Transfer to the General Fund                 | 800,000                 |                     |
| 104-Revenue Stabilization Fund | Transfer from the General Fund               |                         | 800,000             |
| TOTAL ADJUSTMENTS              |                                              | \$ 1,600,000            | \$ 1,600,000        |

WHEREAS, the City Council finds that the 2009 budget amendments to the City's budget are in the public interest; now therefore,

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

**Sec. 1. Findings.** Each and every of the findings expressed in the recitals to this ordinance are hereby adopted and incorporated by reference.

**Sec. 2. Amendment to 2009 Budget.** The 2009 budget, originally approved as Ordinance No. 1452, enacted on December 22, 2008 is amended as reflected in Appendix "A", which is incorporated herein by this reference.

**Sec. 3. Ratification and Confirmation.** All acts taken by City officers and staff prior to the enactment of this ordinance that are consistent with and in furtherance of the purpose or intent of this ordinance are hereby ratified and confirmed by the City Council.

**Sec. 4. 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 or 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 deems control.

**Sec 5. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication according to law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_\_ day of \_\_\_\_\_, 2009 and signed in authentication thereof this 22nd day of December, 2009.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published: \_\_\_\_\_

DRAFT ORDINANCE NO.09-044  
APPENDIX A 2009 BUDGET

| FINAL                                                 | Expenditure | Ending Fund<br>Balance | Total      | Revenue    | Beginning<br>Fund Balance | Total      |
|-------------------------------------------------------|-------------|------------------------|------------|------------|---------------------------|------------|
| <b>ANNUAL APPROPRIATION FUNDS:</b>                    |             |                        |            |            |                           |            |
| 001 General Fund                                      | 17,895,054  | 128,383                | 18,023,437 | 17,755,064 | 268,373                   | 18,023,437 |
| 101 Street Fund                                       | 988,141     | 285,086                | 1,273,227  | 1,136,100  | 137,127                   | 1,273,227  |
| 104 Revenue Stabilization Fund                        | 800,000     | 810,475                | 1,610,475  | 805,250    | 805,225                   | 1,610,475  |
| 106 Facility Repair and Replacement Fund              | 206,000     | 78,243                 | 284,243    | 78,321     | 205,922                   | 284,243    |
| 107 Police Drug Seizure Fund                          | 20,000      | 18,190                 | 38,190     | 15,360     | 22,830                    | 38,190     |
| 110 Mt. Rainier Pool Contributors Fund                | 108,538     | 125,506                | 234,044    | 100,803    | 133,241                   | 234,044    |
| 111 Hotel/Motel Tax Fund                              | 23,000      | 5,789                  | 28,789     | 23,000     | 5,789                     | 28,789     |
| 112 Police Services Restoration Fund                  | 1,704,265   | 207,503                | 1,911,768  | 1,628,800  | 282,968                   | 1,911,768  |
| 210 LID Guarantee Fund                                | -           | -                      | -          | -          | -                         | -          |
| 211 1995 GO Bond - Police Facility                    | -           | 39,340                 | 39,340     | 8,610      | 30,730                    | 39,340     |
| 212 LID Fund                                          | 6,702       | 11,065                 | 17,767     | 7,016      | 10,751                    | 17,767     |
| 216 1997 GO Bond - City Hall Remodel                  | -           | -                      | -          | -          | -                         | -          |
| 218 1998 GO Bond Park Land Acquisition                | 97,489      | 354                    | 97,843     | 97,495     | 348                       | 97,843     |
| 219 2008 GO & Ref Bond - Transportation Capital Imprv | 319,713     | 21,025                 | 340,738    | 320,075    | 20,663                    | 340,738    |
| 220 Miscellaneous Debt Service Fund                   | 37,705      | 2                      | 37,707     | 37,705     | 2                         | 37,707     |
| 401 Marina Revenue Fund                               | 4,041,906   | 1,285,520              | 5,327,426  | 4,141,275  | 1,186,151                 | 5,327,426  |
| 403 Marina Repair and Replacement Fund                | 20,000      | 300,264                | 320,264    | 20,252     | 300,012                   | 320,264    |
| 450 Surface Water Operations Fund                     | 2,416,277   | 918,034                | 3,334,311  | 2,466,288  | 868,023                   | 3,334,311  |
| 500 Equip Rental Operations Fund                      | 648,483     | 133,060                | 781,543    | 677,589    | 103,954                   | 781,543    |
| 501 Equip Rental Replacement Fund                     | 47,559      | 1,137,766              | 1,185,325  | 203,908    | 981,417                   | 1,185,325  |
| 510 Computer Equipment Operations Fund                | 528,287     | 47,455                 | 575,742    | 509,551    | 66,191                    | 575,742    |
| 511 Computer Equipment Capital Fund                   | 63,465      | 212,856                | 276,321    | 80,005     | 196,316                   | 276,321    |
| 520 Self-Insurance Fund                               | 751,541     | 77,871                 | 829,412    | 672,286    | 157,126                   | 829,412    |
| 530 Unemployment Insurance Fund                       | 20,000      | 390,322                | 410,322    | 36,530     | 373,792                   | 410,322    |
| SUB-TOTAL                                             | 30,744,125  | 6,234,109              | 36,978,234 | 30,821,283 | 6,156,951                 | 36,978,234 |
| <b>CONTINUING APPROPRIATION FUNDS (MEMO ONLY):</b>    |             |                        |            |            |                           |            |
| 102 Arterial Street Fund                              | 66,008      | 1,188,719              | 1,254,727  | 680,951    | 573,776                   | 1,254,727  |
| 109 Transportation Impact Fee Fund                    | 366,249     | 4,568                  | 370,817    | 366,351    | 4,466                     | 370,817    |
| 310 Municipal Capital Improvements Fund               | 4,742,139   | 89,637                 | 4,831,776  | 3,450,143  | 1,381,633                 | 4,831,776  |
| 319 Transportation Capital Improvement Fund, 2008B    | 7,759,369   | 343,059                | 8,102,428  | 5,773,745  | 2,328,683                 | 8,102,428  |
| 404 Marina Depreciation & Improvement Fund            | 1,984,833   | 106,467                | 2,091,300  | 348,378    | 1,742,922                 | 2,091,300  |
| 406 Marina Depreciation & Improvement Fund, 2008A     | 4,675,510   | 2,070,241              | 6,745,751  | 634,866    | 6,110,885                 | 6,745,751  |
| 451 Surface Water Capital Fund                        | 665,051     | 1,314,976              | 1,980,027  | 1,068,051  | 911,976                   | 1,980,027  |
| SUB-TOTAL                                             | 20,259,159  | 5,117,667              | 25,376,826 | 12,322,485 | 13,054,341                | 25,376,826 |
| TOTAL APPROPRIATION                                   | 51,003,284  | 11,351,776             | 62,355,060 | 43,143,768 | 19,211,292                | 62,355,060 |

## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Approval to authorize the City of Des Moines to enter into an Inter-Local agreement with the Des Moines Transportation Benefit District

AGENDA OF: March 26, 2009

DEPT. OF ORIGIN: PB&PW

DATE SUBMITTED: March 17, 2009

**ATTACHMENTS:**

1. Interlocal Agreement between the City of Des Moines and the Des Moines Transportation Benefit District

**CLEARANCES:**

[X] PB&PW

[X] Legal

APPROVED BY THE CITY MANAGER  
FOR SUBMITTAL:

**Purpose:**

The purpose of this agenda item is to seek City Council authorization to enter into an Interlocal agreement with the Des Moines Transportation Benefit District. The TBD will provide to the City of Des Moines all funding received from any and all lawful sources which the TBD in its sole discretion may levy for the purpose of preserving and maintaining Des Moines arterial streets and related infrastructure.

**Suggested Motion:**

"I move to approve the Interlocal Agreement between the City of Des Moines and the Des Moines Transportation Benefit District to support the TBD in its effort to coordinate, provide, maintain, construct, and reconstruct public street infrastructure and to authorize the Assistant City Manager to sign the ILA substantially in the form as attached."

**Background:**

The Des Moines Transportation Benefit District has been constituted in accordance with state law to provide a source of funding for the maintenance and preservation of streets and related infrastructure within the City limits of the City of Des Moines. The TBD has no employees and its officers are either City Council Members serving in an ex officio capacity or are City employees designated to serve under the provisions of state law and therefore needs to enter into an Interlocal agreement with the City. As a part of the agreement, the City will provide all staff necessary related support to the TBD.

**Recommendation:**

Approve suggested motion.

**AN INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF DES MOINES, WASHINGTON, AND  
THE DES MOINES TRANSPORTATION BENEFIT DISTRICT**

This agreement between the City of Des Moines, Washington ("Des Moines"), and the Des Moines Transportation Benefit District ("TBD"), each of whom is organized as a Municipal Corporation under the laws of the state of Washington, is dated this \_\_\_\_ day of March, 2009.

WHEREAS, Chapter 39.34 RCW (Interlocal Cooperation Act) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage;

WHEREAS, Des Moines is empowered to operate, maintain, construct, and reconstruct, public street infrastructure within its city limits in accordance with the powers granted pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW;

WHEREAS, pursuant to Ordinance No. 1447, the TBD was created to provide adequate funding for ongoing transportation improvements that preserve, maintain and, as appropriate, construct or reconstruct the existing transportation infrastructure of the City of Des Moines consistent with Chapter 36.73 RCW;

WHEREAS, Des Moines and the TBD desire to better coordinate their efforts in order to pursue their individual, joint and mutual rights and obligations to maintain and preserve streets and related transportation infrastructure within the City of Des Moines; NOW, THEREFORE,

The parties have entered into this agreement in consideration of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act.

1. Purpose and Interpretation. The City of Des Moines is empowered by Title 35A to construct, reconstruct, maintain and preserve City streets and other related public infrastructure either by contract or through the use of City forces. The TBD has been constituted in accordance with state law to provide a source of funding for the maintenance and preservation of streets and related infrastructure within the City limits of the City of Des Moines. The TBD has no employees and its officers are either City Council Members serving in an ex officio capacity or are City employees designated to serve under the provisions of state law. In order to make the most efficient use of public monies, to avoid duplication of effort and to coordinate their efforts, the parties have entered into this agreement. In the event of ambiguity or the need for guidance arises, this agreement shall be interpreted in accordance with the provisions of Des Moines City Ordinance No. 1447, Chapter 36.73 RCW, and the provisions of the Governmental Accounting Act and RCW 43.09.210 as the same exists or shall hereafter be amended. In the event that any provision of this agreement is held to be in conflict with existing state statute or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this agreement shall remain in full force and effect.

2. Obligations of the TBD. In accordance with the requirements of Chapter 36.73 RCW, Ordinance No. 1447, the Transportation Benefit District agrees to:

2.1 Provide to the City of Des Moines all funding received from any and all lawful sources, net administrative expenses, which the TBD in its sole discretion may levy for the purpose of preserving and maintaining Des Moines streets and related infrastructure.

2.2 Continue the annual provision of funding for street preservation and maintenance so long as the TBD remains in existence. Such funding shall be in accordance with and limited by the provisions of Ordinance No. 1447 and Chapter 36.73 RCW. By way of illustration and not limitation:

2.2.1 The TBD shall hold public hearings prior to levying any charge, tax or fee and shall levy any charge, tax or fee only in accordance with law and ordinance.

2.2.2 Develop an annual work plan and designate projected street maintenance and preservation projects within Des Moines for funding.

2.2.3 Pursuant to a material change policy adopted pursuant to the requirements of RCW 36.73.160(1), the TBD shall consider at a minimum the impacts and appropriate remedies if transportation improvements contained in its annual plan exceed its original cost by more than 20%. The TBD shall consider the input from public hearings and other sources at it determines how such cost changes should be resolved. The obligations of this agreement shall be interpreted and applied in a manner consistent with this adopted policy.

3. Undertakings of Des Moines. Des Moines shall:

3.1 Provide all staff and necessary related support to the TBD. The costs of such support shall be accounted for as a part of the City's annual report to the District. TBD funding shall first be applied to the reasonable charges incurred in establishing and staffing the TBD. Annual services provided may include the services provided by the City Attorney, the City Clerk when serving as the Clerk of the TBD, the City's Finance Director when serving as its Treasurer, and any associated costs, including but not limited to the preparation of an annual work plan, reporting, advertising, design, contracting, construction management, accounting, and any and all other actual charges associated with the proper application of TBD funding to the preservation and maintenance of City streets and infrastructure in accordance with law and ordinance. In consideration of the benefits derived by Des Moines, overhead charges such as utilities, information technology, office supplies, and equipment shall be a contribution of Des Moines to the parties joint goals and objectives and need not be directly charged to the TBD.

3.2 Maintain for the period established by the State Archivist retention schedule, financial records, kept in accordance with generally accepted accounting practice and governmental accounting requirements, as necessary to document that any and all funding received through the TBD is used only for the maintenance and preservation of City streets and infrastructure in accordance with law and ordinance.

3.3 Utilize all funding provided for street maintenance and preservation projects shown and prioritized on the TBD's annual work plan in accordance with the TBD's material charge policy law and ordinance.

4. Ownership. Streets and related transportation infrastructure preserved and maintained with TBD funds are and shall remain the property of the City of Des Moines. No joint property ownership is contemplated under the terms of this agreement.

5. No Joint Board. No provision is made for a joint board. The TBD shall exercise its function in accordance with the applicable statute, using staff as provided by the City of Des Moines, pursuant to this agreement.

6. No Indemnity. No indemnification is provided by this agreement. The parties agree to bear their respective liability for any acts or omissions resulting under this agreement as the same shall be determined under the laws of the state of Washington or any mutually approved settlement agreement.

7. Termination. This agreement shall terminate or expire as follows:

7.1 This agreement may be terminated by either party upon the provision of three hundred and sixty-five (365) calendar days notice. A final reconciliation of costs, payment, and a current report of completed activities shall be completed by Des Moines within such period following the notice by either party.

7.2 Unless sooner terminated by either party, this agreement shall expire on the date when the District is automatically dissolved with accordance with provisions of Ordinance No. 1447, as the same exists or is hereafter amended.

8. Effective Date. This agreement shall be effective when listed by subject on the City of Des Moines' website or other electronically retrievable public source.

IN WITNESS WHEREOF, the parties have executed this agreement on the date first written above.

CITY OF DES MOINES

DES MOINES  
TRANSPORTATION  
BENEFIT DISTRICT

Lorri Ericson, Asst. City Manager  
As Directed by the Des Moines City  
Council in Open Public Meeting this  
26<sup>th</sup> day of March, 2009

Anthony A. Piasecki, Executive Director  
As Directed by the TBD Board in Open  
in Open Public Meeting this 12<sup>th</sup> Day of  
March, 2009

ATTEST:

\_\_\_\_\_  
Vicki Sheckler, Acting City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Susan Mahoney  
Assistant City Attorney

ATTEST:

\_\_\_\_\_  
Denis Staab, TBD Board Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Pat Bosmans  
TBD Counsel

## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Multifamily Tax Exemption  
Ordinance

FOR AGENDA OF: March 26, 2009

DEPT. OF ORIGIN: Planning, Building, &  
Public Works

ATTACHMENTS:

1. Draft Ordinance 08-163 4th Version
2. Possible Amendments to 4<sup>th</sup> Version of  
Draft Ordinance 08-163
3. Waterview Crossing Development  
Impacts to Parks, Recreation & Senior  
Services, 3/19/09 Memo
4. 2/12/09 Letter from South King Fire &  
Rescue Chief
5. 3/13/09 Email from Highline School  
District Superintendent
6. Revenue Estimates for the Entire  
Waterview Crossing and 2 Prototypical  
Projects

DATE SUBMITTED: March 20, 2009

CLEARANCES:

[X] Planning, Building & Public Works HA  
[X] Legal DS

APPROVED BY CITY MANAGER FOR  
SUBMITTAL: HA

#### **Purpose and Recommendation:**

The purpose of this agenda item is to facilitate City Council's consideration of Draft Ordinance 08-163 implementing a Multifamily Tax Exemption Program (hereinafter "MFTE") for developments on properties within the Pacific Ridge . The City Council may either adopt Draft Ordinance 08-163 on first reading or pass it to a second reading by passing one or more of the following motions:

#### **Suggested Motions:**

**Motion 1A:** "I move to pass Draft Ordinance 08-163, creating a new chapter in Title 3 of the Des Moines Municipal Code implementing a Multifamily Tax Exemption program for developments on properties within the Pacific Ridge area, to a second reading on \_\_\_\_\_."

**Motion 2B:** "I move to suspend City Council Rule 26b to consider Draft Ordinance 08-163 on first reading."



**Motion 2B:** "I move to adopt Draft Ordinance 08-163 creating a new chapter in Title 3 of the Des Moines Municipal Code implementing a Multifamily Tax Exemption Program for developments on properties within the Pacific Ridge area."

**Background:**

On July 13, 2000, the City Council adopted Ordinance No. 1267, establishing the Pacific Ridge Zone, chapter 18.31 DMMC. On August 28, 2008 the City Council received a briefing on the advantages of developing a Multifamily Tax Exemption (MFTE) program to further facilitate the redevelopment of the Pacific Ridge Neighborhood. At the conclusion of the briefing the City Council directed staff to prepare a draft Multifamily Tax Exemption Ordinance for the Pacific Ridge Area.

On October 9, 2008, staff presented proposed Draft Ordinance 08-163 which created an 8 year exemption period without the affordable housing element. On October 30, 2008, based on the City Council discussion on October 9, 2008, the staff presented a revised version of Draft Ordinance 08-163. The revision focused the exemption only on the Pacific Ridge Neighborhood and created criteria to ensure that the exemption would not create a significant tax burden on the City of Des Moines. Additionally, the definition section was modified.

On January 15, 2009, based on the City Council discussion on October 30, 2008, the staff presented the second revised version of Draft Ordinance 08-163. The revision focused the exemption on a smaller subarea of the Pacific Ridge Neighborhood and refined the criteria to ensure that the exemption would not create a tax burden on the City of Des Moines. The City Council also opened the public hearing and took public comment. The City Council continued the public hearing to February 26, 2009.

On February 26, 2009, the staff presented 13 amendments to the 3<sup>rd</sup> Version of Draft Ordinance 08-163 prepared at the request of individual Council members or to clarify points of confusion in the draft ordinance. The amendments primarily focused on clarifying that the City Council approve any application under the MFTE program and the elements and requirements of the financial analysis that would be completed to ensure that the exemption would not create a tax burden on City residents. The City Council also reopened the public hearing and took additional public comment. The City Council continued the question and answer phase of the public hearing to March 26, 2009.

**SEPA**

Draft Ordinance 08-163 is considered a "Fiscal Activity of an Agency" since it only relates to how the City collects and assess taxes; therefore, it is categorically exempt from SEPA pursuant to RCW § 197-11-800(14).

**Discussion:**

During the City Council's January 15, 2009 discussion regarding Draft Ordinance 08-163 and subsequent to the initial hearing, some Council members requested additional amendments to the proposed ordinance. Of the 13 Amendments that were contained in Attachment 2 of the

February 26, 2009 Agenda Item and the Supplemental Amendments provided to the City Council on February 26, 2009, Amendments 1 – 3, 5 – 10 and a portion of 11 have been incorporated into the fourth version of Draft Ordinance 08-163 to facilitate Council discussion of the ordinance because, in staff's opinion, there seems to be general agreement within Administration and/or consensus among Council on the changes. The draft amendments not incorporated into Version 4 are included as Attachment 2 with their original numbers retained for ease of tracking.

Below is a list of the City Council's additional concerns/questions and comments which staff has attempted to address:

1. If the State Legislature makes the Crime Free Housing program optional instead of mandatory, how will that affect this program?

If the State makes the program optional by enacting ESSB 5742, the City Council could amend the MFTE criteria to make participation in mandatory for any project that requests an exemption under the MFTE program. The staff would be able to have that amendment in front of the Council the next regular meeting following the Governor's signature of the legislation, if approved by the State Legislature.

The City Council-adopted Pacific Ridge Design Guidelines require that all new projects complete a Crime Prevention Through Environmental Design (CPTED) review during the City's design review process. The Police Department (PD) Crime Free Program Community Service Officer would be asked to help that coordinate that design review within the PD.

2. Can the Council require that the tax waivers apply only to owner occupied buildings and or units and not apartments?

According to the findings adopted by the State Legislature in support of the Chapter 84.14 RCW, the chapter was established to provide a mechanism by which local governments could stimulate the construction of housing which includes both apartments and condominiums in order to achieve the planning goals mandated by the Growth Management Act (GMA). One of the goals of the GMA established by RCW 36.70A.020 is the creation of regulations that will encourage the creation of housing affordable to all economic segments of the population and promote a variety of housing types.

Limiting the MFTE to condominiums may not facilitate the goals of the MFTE and GMA as intended by the MFTE statute. Therefore, the City may not be able to adopt the mandatory findings of fact required by RCW 84.14.040 that the Ordinance achieves those MFTE and GMA goals.

Exclusion of the apartments from the Draft Ordinance may also be inconsistent with Policies in the "Housing Element and Pacific Ridge Element" of the *Des Moines Comprehensive Plan* which state that the City "should encourage housing opportunities for all economic segments of the population and encourage new construction to mitigate adverse impacts relating to displacement of existing housing."

3. How many cities with MFTE programs require a detailed financial analysis as part of their application review and approval process?

Based a review of the municipal codes of the surround jurisdictions with MFTE programs, staff was unable to locate a city that requires a financial analysis as part of the review of an MFTE application.

4. How will construction of the Waterview Crossing development impact Police Department services?

Police Department staff are comparing this project with similar projects in Kent and Seattle and evaluating the impact of the project on police services during each development and occupancy life cycle phase based on full buildout. Staff will be prepared to answer specific questions by Councilmembers on the results of their analysis during the March 26<sup>th</sup> hearing.

5. How will construction of the Waterview Crossing development impact Parks, Recreation and Senior Services?

The Parks, Recreation and Senior Services Director's evaluation of the service implications of the Waterview Crossing project on the Parks Department is included as Attachment 3.

Four points from the memo should be emphasized:

- The project meets the minimum mitigation requirements through development of privately owned and maintained recreation areas that will be open to the public.
- The developer will be required to provide in-lieu payments for pre-adolescent children recreation space.
- REET will be needed to acquire and develop park space if the City wants to meet its adopted level of parks service of 8.5 acres of park land per 1,000 population.
- There is an overall net 2009 cost per capita (\$84.66 per capita expenditures in excess of \$32.99 per capita revenues) of \$51.67 per Des Moines resident. Extending this per capita net cost to the additional 2,650 Waterview Crossing residents will increase the overall City parks costs by \$136,926 per year. Note from Attachment 6-1, however, that revenues from the 230 people and businesses currently residing on the 11 acre Waterview Crossing site provide only \$50,966 in annual revenues to the City and that City tax revenues over the 8-year tax exemption period will be over \$8.7 million. The Parks Department share of this revenue is \$19.20 per person in 2009.

6. What is South King Fire & Rescue's (SKFR) position on the MFTE?

The SKFR Board of Fire Commissioners has considered the proposed eight-year tax exemption proposal and has agreed to maintain the current stance that the Board "will not oppose, nor will they support, the City's tax exemption incentive in the Pacific Ridge area." (Attachment 4).

7. What is Highline School District's (HSD) position on the MFTE?

Staff has been in contact by email with the HSD Superintendent about the draft ordinance, the proposed Waterview Crossing project, and the impact it would have on HSD tax revenues. The Superintendent's email (Attachment 5) includes some illustrative HSD tax calculations. Most notable in the Superintendent's email is his explanation that the School District's property tax revenues are not affected by a property tax exemption given to a development under the authority of this ordinance. His exact words were from a reminder he provided the School Board regarding School District property taxes:

*An important point to remember is that the city collects its property tax revenue – a certain rate per \$1,000 of assessed value. So if there is a portion of the valuation that is exempt they are faced with taxes they can't collect. Fire districts work the same way. However, schools do not. You will recall that we go out to the voters asking for a certain dollar amount (doesn't matter whether it is a bond or a levy). That amount then gets spread over all of the taxpayers in the district. If in fact there is a portion of the assessed valuation that is exempt from paying taxes it doesn't mean we don't collect what the voters approved it means that the rest of the property tax payers pick up a bigger share.*

In addition to establishing the minimum number of units, the City Council may also establish other guidelines within Section 4 of the proposed ordinance. These additional guidelines can tailor the incentive to encourage projects that more closely align with the City's adopted vision for Pacific Ridge. These guidelines may include height, density, public benefit features, number and size of proposed development, or other adopted requirements indicated necessary by the City pursuant to RCW § 84.14.030.

**Alternatives:**

The City Council has four alternatives:

- (1) The City Council may move Draft Ordinance 08-163 to a second reading.
- (2) The City Council may approve Draft Ordinance 08-163 on first reading.
- (3) The City Council may make additional changes to the ordinance.
- (4) The City Council may decline to act on the ordinance.

**Financial Impact:**

New development would add additional construction sales tax revenue, utility tax, B&O tax, real estate excise tax and property tax on increased land value, property tax on the construction of new commercial areas of new mixed use buildings, and full property taxes on pure commercial projects as summarized below and further detailed in Attachment 6.

### Summary of City Revenues for Waterview Crossing Project

|                             | Current Annual Revenues | Development Fees | Other Pre-Occupancy Revenues | 1st 8 Years City Revenue (During MFTE) | Next 8 years revenues (Post-MFTE) |
|-----------------------------|-------------------------|------------------|------------------------------|----------------------------------------|-----------------------------------|
| Entire Project              | \$50,966                | \$11,782,861     | \$4,507,675                  | \$8,728,897                            | \$11,047,398                      |
| Mixed Use Prototype         |                         | \$1,764,565      | \$661,493                    | \$1,480,339                            | \$1,770,089                       |
| Residential Tower Prototype |                         | \$2,679,996      | \$847,301                    | \$1,332,680                            | \$1,601,632                       |

Adoption of the exemption ordinance does not necessarily reduce the amount of property tax currently paid to the City since the building may not be built without the exemption. The primary advantage of the exemption is that it reduces the carrying cost of constructed buildings during the initial leasing period of the buildings and helps to offset upfront development costs.

#### **Recommendation/Conclusion:**

The Multi-Family Tax Exemption Ordinance only establishes a program and does not guarantee any tax exemptions. Projects must individually apply for such exemptions and under the Draft Ordinance, each application will be independently evaluated by a City-paid consultant to determine that (1) revenues are sufficient to cover all City service costs and (2) that Council-adopted policies in the City's Comprehensive Land Use Plan and Pacific Ridge Neighborhood Plans are being advanced by the projects. The City Council will then consider whether this 2-part goal has been met and either approve or not approve tax exemptions for the individual project.

Four separately owned underdeveloped properties are likely to be candidates for redevelopment over the next decade. It is unlikely that existing multi-family housing will be redeveloped until after 2020,

#### **Concurrence:**

Planning, Building & Public Works and Legal Departments concur.

DRAFT ORDINANCE NO. 08-163  
Development Services Fourth Draft  
March 19, 2009

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON creating a new Chapter in Title 3 of the DMMC providing a tax exemption as an incentive to facilitate the development of market rate multiple-unit dwellings in the City of Des Moines.

WHEREAS, the State Legislature amended Chapter 84.14 RCW to provide incentives for cities with a population of 15,000 or more to promote construction of multiple-unit dwellings to provide housing; and

WHEREAS, the goal of Chapter 84.14 RCW is to stimulate new multifamily housing in targeted "residentially deficient" areas in order to meet the goals established by the Growth Management Act; and

WHEREAS, as the purpose the Multifamily Tax Exemption as established by RCW 84.14.007 is to encourage and stimulate the construction of new multifamily housing opportunities in cities that are required to plan under the Growth Management Act where the governing authority of the affected city has found there is insufficient housing opportunities.

WHEREAS, the City seeks to accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the City's Comprehensive Plan;

WHEREAS, the City has identified the Pacific Ridge Neighborhood, as established in the Des Moines Comprehensive Plan, as the area to provide the majority of the new housing necessary to achieve the City's mandated 2020 growth targets; and

WHEREAS, the City seeks to encourage and promote new multifamily developments; and,

WHEREAS, the City seeks to stimulate the construction of new multifamily housing; and

WHEREAS, the City seeks to increase the supply of multifamily housing opportunities within the City; and



**WHEREAS**, Strategy 2-04-08 of Land Use Element of the Des Moines Comprehensive Plan states that the City should "[E]ncourage improvement of the ... Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan"; and

**WHEREAS**, Policy 7-03-06 of Housing Element of the Des Moines Comprehensive Plan states that the City should, "[P]romote compatible residential development that is affordable to all economic segments of the Des Moines community"; and

**WHEREAS**, the intent of the Pacific Ridge Neighborhood as established by Goal 11-01-01 of the Pacific Ridge Element, of the Des Moines Comprehensive Plan is "to transform Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, stable soils, and view potential. The transformation of Pacific Ridge will include replacement of lower-scale, existing buildings with new structures that will dramatically enhance the appearance, character, economics, and safety of the area. Pacific Ridge will contain buildings and open spaces designed for pedestrians as well as the motorist. Pacific Ridge will be an area of businesses and residences. New buildings may be five to eight stories in height along Pacific Highway emphasizing retail and office uses. Between the development along Pacific Highway and Interstate 5, buildings may be eight (8) or more stories in height emphasizing residential high-rise home ownership with green open spaces and view corridors. This new community will exhibit superior design features that make Pacific Ridge inviting to residents and businesses, complement other areas of Des Moines, and foster community pride;" and

**WHEREAS**, Policy 11-03-07 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge,," and

**WHEREAS**, Strategy 11-04-02 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "[E]ncourage land assemblage ... so that larger-scale development proposals can be considered ...", and

**WHEREAS**, Strategy 11-04-04 of the Pacific Ridge Element of the Des Moines Comprehensive Plan states that the City should "Encourage new residential development to offer owner-occupied dwellings;" and

**WHEREAS**, DMMC 18.31.010, et seq. was enacted by the City to implement the Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, and other adopted policies for the commercial and residential areas of Pacific Ridge, and

**WHEREAS**, other objectives and purposes of DMMC 18.31.010, et. seq., are to, *inter alia*, provide development regulations to promote redevelopment of properties within Pacific Ridge to create attractive, safe, and desirable areas to work and reside; to establish higher density development to meet or exceed the City's population and employment growth targets specified by the countywide planning policies for King County; and to reduce the social problems caused by the existing structures and land uses such as high crime rates (especially major felony crimes), declining property values, unsafe and undesirable housing conditions, insufficient building and property maintenance, absentee property ownership/management, violation of zoning, construction, and health codes, transient residency, and marginal businesses; and

**WHEREAS**, the SEPA Planned Action evaluated a build out scenario for Pacific Ridge which assumed the development of 5,541 residential units and was adopted by Des Moines Ordinance 1298 as required by WAC 197-11-168; and

**WHEREAS**, Pacific Highway South (SR-99) is considered a regional transit corridor by King County METRO and Sound Transit; and

**WHEREAS**, both agencies have plans to expand service into and through the Pacific Ridge Neighborhood i.e., King County Executive's 'Rapid Ride' program will bring high speed bus transit through the Pacific Ridge along Pacific Highway South and Phase II Sound Transit would extend light rail from SeaTac Airport through the Pacific Ridge Neighborhood; and

**WHEREAS**, the City supports the development of high density multifamily housing that will complement and support high intensity mass transit; and



**WHEREAS,** the area identified as the Pacific Ridge Neighborhood meets the standard of a blighted area as defined in RCW 35.81.015, and

**WHEREAS,** the City Council finds that this ordinance is appropriate and necessary; now therefore,

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

**Section 1. Findings of fact.** This Chapter shall be known as the Multi Family Tax Exemption Ordinance [hereinafter MFTE]. The findings of fact set forth in Exhibit 1, attached hereto and incorporated by this reference, are adopted in full by the City Council in support of its decision to designated areas of the Pacific Ridge Neighborhood as illustrated in Exhibit 2 to this Ordinance as a residential target area as required by Chapter 84.14 RCW.

**Section 2. Purpose.**

The purpose of this chapter is to establish the criteria for allowing a MFTE and to achieve the following purposes:

(1) To achieve the purposes and goals established by RCW 84.14.007;

(2) To accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by Des Moines' Comprehensive Plan;

(3) To encourage additional housing in certain areas to support investment in public transit projects.

**Section 3. Definitions.**

In construing the provisions of this Chapter, the definitions set forth in RCW 84.14.010, now or hereafter amended, shall apply, unless modified by this Section. The following definitions shall also apply:

(1) "Assessor" means the King County Assessor.

(2) The Multi Family Tax Exemption (hereinafter "MFTE") shall refer to the tax exemption allowed pursuant to this Chapter.

(3) Project is the development that will occur on property where the MFTE is sought.

(4) Residential Target Area (hereinafter "RTA") means the area within the identified urban center that has been designated by the City Council as targeted area in accordance with Chapter 84.14 RCW

**Section 4. Project Eligibility.** To be eligible for the MFTE the property sought to be exempted shall satisfy all of the following requirements:

(1) The property shall be located within the RTA area which is the area within the Pacific Ridge Neighborhood South of South 216<sup>th</sup> Street and North of South 221<sup>st</sup> Street as extended westerly to Pacific Highway South, east of Pacific Highway and west of Interstate 5. The RTA is illustrated on Exhibit 2 to Draft Ordinance 08-163:

(a) The RTA consists of two subareas identified as Zone 1 and Zone 2 on Exhibit 2.

(b) If there is a conflict between the above narrative description of the boundaries and Exhibit 2, Exhibit 2 controls.

(c) If a part of any legal lot is within the RTA as shown on Exhibit 2 then the entire lot shall be deemed to lie within the RTA.

(d) The MFTE shall only be available for a maximum of <sup>200</sup> ~~3,000~~ residential units <sup>per year up to</sup> ~~10~~ years after the approval date of Draft Ordinance 08-163, whichever occurs first.

(2) The property sought to be exempted shall be developed in a manner that furthers the City's goals and objectives for the Pacific Ridge Neighborhood in the Des Moines Comprehensive Plan, the Pacific Ridge Neighborhood Improvement Plan and Integrated Draft Environmental Impact Statement, and DMMC 18.31.010 as adopted or subsequently amended.

(3) The project sought to be exempted must be multifamily housing within a residential structure or as part of a mixed use development consistent with the following requirements:

(a) Zone 1 Standards:

(i) Buildings shall be a minimum of \_\_\_\_ feet in height as calculated by DMMC 18.31.090 (7) (b).

(ii) Building shall contain a minimum of \_\_\_\_ residential units.

(iii) A minimum of ~~eighty five~~ (85) percent of the space within such residential structure or mixed use building shall be for permanent residential occupancy.

(b) Zone 2 Standards:

(i) Buildings shall be a minimum of \_\_\_\_ feet in height as calculated by DMMC 18.31.090 (7) (a).

(ii) Building shall contain a minimum of \_\_\_\_ residential units.

(iii) A minimum of ~~eighty five~~ (85) percent of the space within such residential structure or mixed use building shall be for permanent residential occupancy.

(4) The property sought to be exempted shall be developed in a manner that increases or preserves property valuation, and the development of the property must represent an increased investment in the property that results in an increase in the over-all property values in the area.

(5) The taxes collected during the MFTE period shall be sufficient to cover the City's costs required to provide necessary services to the residents of the property sought to be exempted. If taxes collected do not cover the City's costs required to provide necessary services to the residents of the property sought to be exempted, the ~~applicant~~ shall make an annual payment in-lieu of taxes to cover the estimated difference.

*property owner(s)*

(6) The project shall comply with all applicable Des Moines Zoning Code, land use regulations, and other requirements, including those contained in Titles 12, 14, 16, 17, and 18 of the Des Moines Municipal Code.

(7) Construction of any project approved with a MFTE shall be completed within three years from the date of approval of the MFTE by City Council as provided in Section 6 of this Ordinance.

#### **Section 5. Application Procedure.**

(1) The owner of property seeking a MFTE under this chapter shall submit an application to the City, on a form provided by the City Manager. The property owner shall verify the information contained in the application by oath or affirmation. The application shall contain such information as the City Manager may deem necessary or useful, and shall include:

(a) A brief written description of the project and preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located.

(b) A statement from the property owner acknowledging the potential tax liability for the property when the MFTE ends.

(c) The property owner shall also provide the City with a declaration as to the owners interest in the property and identify any other parties with an ownership interest. If someone other than the property owner is developing the property then the owner shall declare that the developer has authority to speak on behalf of the property owner and to bind the property owner by any representations made by that developer.

(2) At the time of application, the applicant shall pay to the City an initial application fee as established by the City Manager to cover the cost of the City's review of the application and the cost to hire an independent consultant to complete a financial analysis of the economic impacts if the application is approved by the City Council. In addition, at the time of application, the applicant shall pay to the City the fee required to cover the County Assessor's administrative

costs. If the City Council approves the application pursuant to Section 9, the City shall forward the fee for the County Assessor's administrative costs to the County Assessor. If the City Council denies the application pursuant to Section 9, the City shall refund the fee for the Assessor's administrative costs to the applicant.

(3) The City Manager or designee shall notify the applicant within twenty-eight days of the application being filed if the application is not complete and shall identify what additional information is required before the application will be deemed complete. Within fourteen days of receiving additional information, the City Manager or designee shall notify the applicant in writing if the application is incomplete, and what additional information is necessary. An application shall be deemed to be complete if the City Manager or designee does not notify the applicant in writing by the deadlines in this section that the application is incomplete; however, a determination of completeness does not preclude the City Manager or designee from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter. Failure to complete the application will be deemed to be an abandonment of the application.

(4) The application shall be approved before, but no later than, the date the building or other construction permit is issued under Title 14 DMMC.

#### **Section 6. Application Review - Issuance of Conditional Certificate - Denial - Appeal.**

(1) The City Council shall approve or deny an application under this chapter. If the application is approved, the applicant shall enter into a MFTE Agreement with the City, subject to approval by resolution of the City Council, regarding the terms and conditions of the project and eligibility for the MFTE. The City Council's resolution to approve the applicant's contract with the City shall take place within ninety days of the City Manager's or designee's receipt of the completed application. Upon City Council approval of the contract, the City Manager or designee shall execute the contract as approved by the City Council, and shall issue a conditional certificate

of acceptance of tax exemption. The conditional certificate shall expire three years from the date of approval unless an extension is granted as provided in Section 8.

(2) If the application is denied, the City Council shall state in writing the reasons for the denial and send notice of denial to the applicant's last known address within ten days of the denial.

(3) An applicant may ask for reconsideration if the City Council denies the application by filing a request for reconsideration with the City Clerk along with the fee as established by City Manager within thirty calendar days of the date of the denial. The reconsideration before the City Council shall be based upon the existing record developed during the consideration of the application; provided that the person requesting reconsideration may enter previously unavailable information that is more likely than not to effect the outcome of the decision. Except as provided in this chapter, the request for reconsideration shall otherwise be processed in conformance with Chapter 4.12 DMMC. The City Council's decision on the reconsideration is final.

#### Section 7. Amendment of the MFTE Agreement.

*AN OWNER*

(1) Any applicant seeking amendment(s) to the MFTE Agreement approved by the City Council may do so by submitting a request in writing to the City Manager at any time within three years of the date of the City Council's approval of the MFTE Agreement.

(2) Amendments to the approved MFTE Agreement shall be submitted to the City Council for approval by resolution.

(3) Any applicant seeking amendments to the approved MFTE Agreement shall pay to the City an amendment application fee as established by the City Manager.

(4) The date for expiration of the Conditional Certificate shall not be extended unless all the conditions for extension set forth in Section 8(1) and (2) are met and the City Council specifically approves the extension.

**Section 8. Extension of Conditional Certificate.** The conditional certificate may be extended for a period not to exceed twenty-four consecutive months. The applicant shall submit a written request stating the grounds for the extension together with a fee as established by the City Manager. The City may grant an extension if the City Council determines that:

(1) The anticipated failure to complete construction within the required time period is due to circumstances beyond the control of the applicant;

(2) The applicant has been acting and could reasonably be expected to continue to act in good faith and with due diligence;

(3) All the conditions of the MFTE Agreement between the applicant and the City will be satisfied upon completion of the project; and

(4) Construction of the building(s) that received the exemption is significantly underway.

**Section 9. Final Certificate - Application - Issuance - Denial - Appeal.**

(1) Upon completion of the construction as provided in the contract between the applicant and the City, and upon issuance of a Certificate of Occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant shall file with the City Manager or designee such information as the City Manager or designee may deem necessary or useful to evaluate eligibility for the Final Certificate, and shall include:

(a) A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property.

(b) A description of the completed work and a statement of qualification for the MFTE.

(c) A statement that the work was completed within the required three-year period or any approved extension.

(2) Within thirty days of receipt of all materials required for the Final Certificate, the City Manager or designee shall determine whether the work completed is consistent with the application and MFTE Agreement approved by the City Council and is qualified for the MFTE pursuant to Chapter 84.14 RCW, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060.

(3) If the City Manager determines that the project has been completed in accordance with subsection (1) of this section, the City shall file a Final Certificate of Tax Exemption with the King County Assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The City Manager or designee is authorized to cause to be recorded, or to require the applicant or owner to record, in the real property records of the King County Department of Records and Elections, the MFTE Agreement which the City required under Section 6(1), and such other document(s) as will identify such terms and conditions of eligibility for the MFTE as the City Manager or designee deems appropriate.

(5) The City Manager or designee shall notify the applicant in writing that the City will not file a Final Certificate if the City Manager determines that the project was not completed within the required time limitations as set for in this Chapter; or if the City Manager determines that the owner's property is not otherwise qualified under this chapter or if the owner and the City Manager cannot agree on the allocation of the value of the improvements allocated to the exempt portion of the new construction in mixed use new construction.

(6) Within thirty days of the date of notice of denial of Final Certificate, the applicant may file a notice of appeal with the City Clerk along with the appeal fee as established by the City Manager specifying the factual and legal basis for the appeal. The appeal shall be heard by the City's Hearing Examiner pursuant to Section 12.

#### **Section 10. Exemption - Duration - Limitations.**

(1) The value of new housing construction qualifying under this chapter shall be exempt from ad valorem property



taxation for eight successive years as provided in RCW 84.14.020(1)(a)(ii)(A).

(2) The exemption established in subsection 1 of this Section does not apply to:

(a) The value of land and non-housing related improvements constructed as part of a mixed use structure.

(b) To increases in assessed valuation of land and non-qualifying improvements.

(c) To increases made by lawful order of the King County Board of Equalization, the Washington State Department of Revenue, the State Board of Tax Appeals, or King County, to a class of property throughout King County or a specific area of King County to achieve uniformity of assessment or appraisal as required by law.

**Section 11. Annual Certification - Cancellation of Exemption.**

(1) A property that receives the MFTE under this chapter is obligation to continue to comply with the MFTE Agreement and the requirements of this chapter in order to retain its MFTE.

(2) Within thirty days after the first anniversary of the date the City filed the Final Certificate of Tax Exemption and each year thereafter, for a period of eight years, the property owner shall file a certification with the City Manager, verified upon oath or affirmation, which shall contain such information as the City Manager may deem necessary or useful, and shall include the following information:

(a) A statement of occupancy and vacancy of the multifamily units during the previous year.

(b) A certification that the property has not changed use and that the property has been in compliance with the requirements set forth in Chapter 84.14 RCW since the date of filing of the final certificate of tax exemption, and continues to be in compliance with the contract with the city and the requirements of this chapter.

(c) A description of any improvements or changes to the property made after the filing of the Final Certificate or last declaration, as applicable.

(d) Any additional information requested by the City Manager or designee in regards to the units receiving the MFTE.

(3) Failure to submit the annual declaration may result in cancellation of the MFTE.

(4) For the duration of the MFTE, the property shall have no violation of applicable DM Zoning Codes, land use regulations, and other requirements contained in Titles 14 and 18 DMMC for which the designated City Department shall have issued a notice of violation or notice of civil infraction that is not resolved by a certificate of compliance, certificate of release, or withdrawal within the time period for compliance provided in such notice of violation or notice of civil infraction and any extension of the time period for compliance granted by the City Manager or designee.

(5) If the owner intends to convert the multifamily housing to another use, the owner shall notify the City Manager or designee and the County Assessor within sixty days of the change in use or noncompliance with this Chapter. Upon such change in use, the MFTE shall be canceled and additional taxes, interest and penalty imposed pursuant to state law.

(6) The City Manager shall cancel the MFTE for any property that no longer complies with the terms of the MFTE Agreement or with the requirements of this chapter. Upon cancellation, additional taxes, interest and penalties may be imposed pursuant to State Law. Upon determining that a MFTE shall be canceled, the City Manager shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the City Clerk along with the appeal fee established by the City Manager within thirty days of the date of notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the City's Hearing Examiner pursuant to Section 12.

**Section 12. Appeals to the Hearing Examiner.**

(1) The City's Hearing Examiner is provided jurisdiction to hear appeals of the decisions of the City Manager on the Final Certificate of tax exemption and cancellation thereof.

(2) The Hearing Examiner procedures established by Chapter 18.94 DMMC shall apply to hearings under this chapter to the extent they are consistent with the requirement of this chapter and Chapter 84.14 RCW. The Hearing Examiner shall give substantial weight to the City Manager's decision, and the burden of proof shall be on the appellant to demonstrate that the City Manager abused his/her discretion in denying the Final Certificate. The decision of the Hearing Examiner shall constitute the final decision of the City. An aggrieved party may appeal the decision to King County Superior Court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within thirty days of the date of the notification by the City to the appellant of that decision.

**Section 13. Annual Reporting.**

(1) Annually by December 31st of each year the City shall report to the Department of Community, Trade, and Economic Development information required pursuant to RCW 84.14.100(2)

(2) The City Manager or designee shall review the program established by this chapter and provide a report to the City Council outlining development activity, types and numbers of units produced and their locations, rent and sales prices, and other appropriate factors. These reports may include recommendations on whether any neighborhoods should be added or removed and will analyze any issues related to the use of the program for homeownership units. The annual report shall be submitted to the City Council no later than March 30th of each year the program is in effect, starting in 2010; each report shall include information for the previous year

**Sec. 14. Codification.** Sections 2 through 13 of this ordinance shall constitute a new chapter 3.92 DMMC entitled "Multifamily Tax Exemption."

**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 be in full force and effect thirty (30) days after its passage and approval in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_\_ day of \_\_\_\_\_, 2009 and signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: \_\_\_\_\_

Published: \_\_\_\_\_

# EXHIBIT 1

## FINDINGS OF FACT

RESOLUTION NO.08-163,

October 21, 2008

The Des Moines City Council, in support of its decision to designate areas of the Pacific Ridge Neighborhood as geographically illustrated in Exhibit 2 of this Ordinance as a residential target area as required by Chapter 84.14 RCW and in consideration of information communicated during a public hearing hereby finds:

1. Strategy 2-04-08 of Land Use Element of the Des Moines Comprehensive Plan states that the City should "[E]ncourage improvement of the ... Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan
2. Policy 7-03-06 of Housing Element of the Des Moines Comprehensive Plan states that the City should, "[P]romote compatible residential development that is affordable to all economic segments of the Des Moines community"
3. The intent of the Pacific Ridge Neighborhood as established by Goal 11-01-01 of Pacific Ridge Element, of the Des Moines Comprehensive Plan is "to transform Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, stable soils, and view potential. The transformation of Pacific Ridge will include replacement of lower-scale, existing buildings with new structures that will dramatically enhance the appearance, character, economics, and safety of the area. Pacific Ridge will contain buildings and open spaces designed for pedestrians as well as the motorist. Pacific Ridge will be an area of businesses and residences. New buildings may be five to eight stories in height along Pacific Highway emphasizing retail and office uses. Between the development along Pacific Highway and Interstate 5, buildings may be eight (8) or more stories in height emphasizing residential high-rise home ownership with green open spaces and view corridors. This new community will exhibit superior design features that make Pacific Ridge inviting to residents and businesses, complement other areas of Des Moines, and foster community pride."

4. Policy 11-03-07 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge."
5. Strategy 11-04-02 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "[E]ncourage land assemblage ... so that larger-scale development proposals can be considered ...".
6. Strategy 11-04-04 of the Pacific Ridge Element of the Des Moines Comprehensive Plan states that the City should "Encourage new residential development to offer owner-occupied dwellings."
7. DMMC 18.31.010, et seq. was enacted by the City to implement the Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, and other adopted policies for the commercial and residential areas of Pacific Ridge, including, *inter alia*, the transformation of Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, and view potential; the replacement of lower-scale, existing buildings with new larger scale and higher structures that will dramatically enhance the appearance, character, economics, and safety of the area; and exhibit superior design features that makes Pacific Ridge inviting to residents and businesses, complements other areas of Des Moines, and fosters community pride.
8. Other objectives and purposes of DMMC 18.31.010, et. seq., are to, *inter alia*, provide development regulations to promote redevelopment of properties within Pacific Ridge to create attractive, safe, and desirable areas to work and reside; to establish higher density development to meet or exceed the City's population and employment growth targets specified by the countywide planning policies for King County; and to reduce the social problems caused by the existing structures and land uses such as high crime rates (especially major felony crimes), declining property values, unsafe and undesirable housing conditions, insufficient building and property maintenance, absentee property ownership/management, violation of zoning,

construction, and health codes, transient residency, and marginal businesses; and

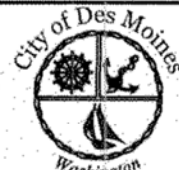
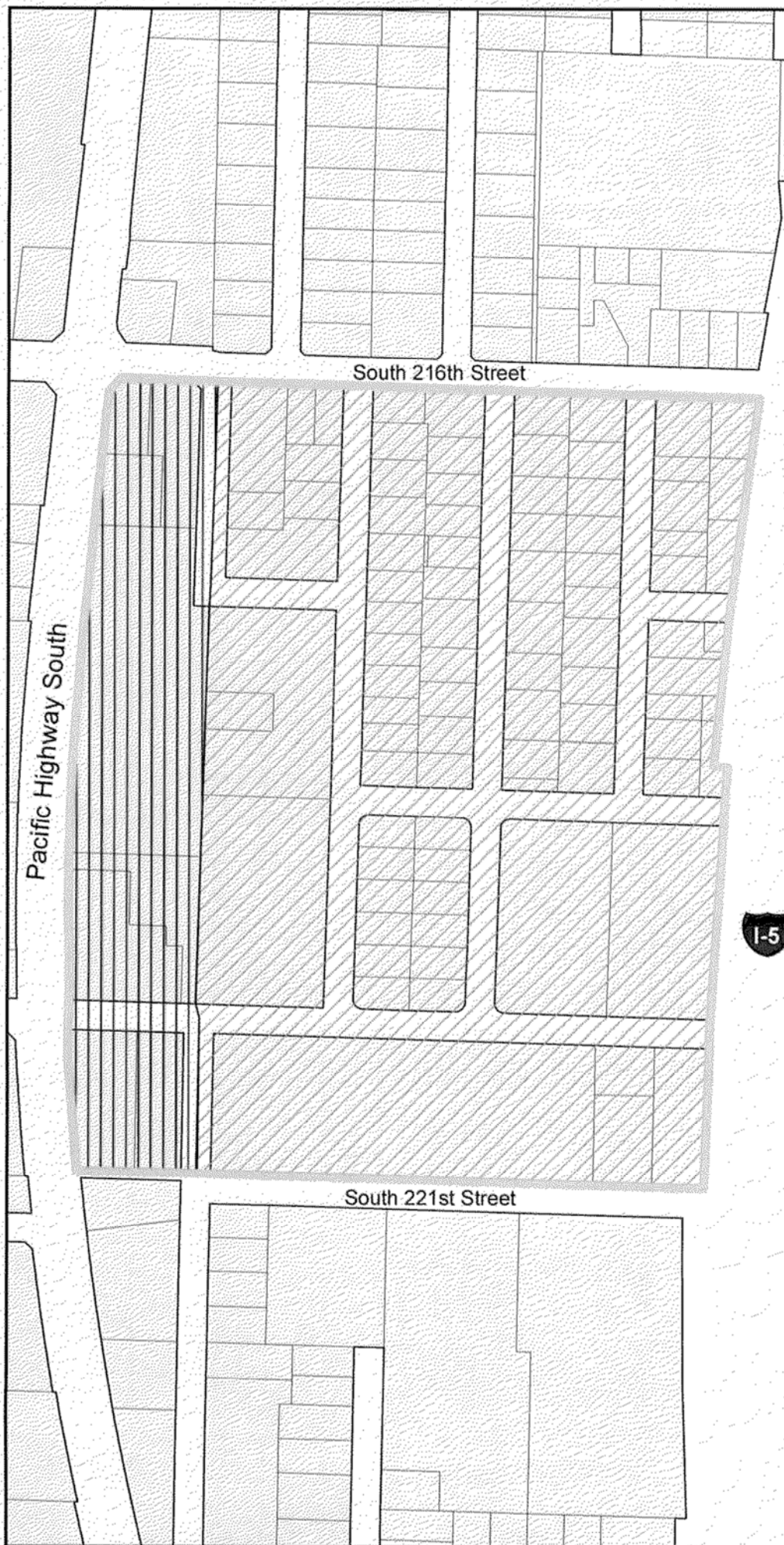
9. The Pacific Ridge Neighborhoods is within an urban center as defined by RCW 84.14.010(16).
10. RCW 84.14.010(16) defines "Urban center" as a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain: (a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies (b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and (c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.
11. The City has identified the Pacific Ridge Neighborhood as established in the Des Moines Comprehensive Plan as the area to provide the majority of the new housing necessary to achieve the City's mandated 2020 growth targets
12. The Pacific Ridge Neighborhood lacks sufficient available, desirable and convenient residential housing to meet the needs of the public who would be likely to live in the area if, desirable, attractive and livable residences were available.
13. Providing additional housing opportunity in the Pacific Ridge Neighborhood will assist in achieving the following purposes:
  - a. Encourage increased residential opportunities within the city.
  - b. Stimulate the construction of new multifamily housing.
14. Additional housing in the Pacific Ridge Neighborhood will attract and maintain an increase in the number of permanent residents.

15. Increasing permanent residential population in the Pacific Ridge Neighborhood is critical to achieving the planning goals mandated by the Growth Management Act under Chapter 36.70A RCW, as implemented through the City's Comprehensive Plan.
16. Encouraging additional housing in the Pacific Ridge Neighborhood supports plans for significant public investment provided for in Sound Transit's ST2 plan and Metro Transit's Bus Rapid Transit (BRT) program.
17. Encouraging additional housing in the Pacific Ridge Neighborhood supports the City's goal of achieving a better jobs and housing balance.
18. The area identified as the Pacific Ridge Neighborhood meets the standard of a blighted area as defined RCW 35.81.015(2).
19. RCW 35.81.015(2) defines "Blighted area" as an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate uses of land or buildings; existence of overcrowding of buildings or structures; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; existence of hazardous soils, substances, or materials; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of persistent and high levels of unemployment or poverty within the area; or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime; substantially impairs or arrests the sound growth of the municipality or its environs, or retards the provision of housing accommodations; constitutes an economic or social



liability; and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, or morals in its present condition and use.

20. The tax exemption is necessary to facilitate and encourage re-development within a blighted area.
21. The tax exemption is necessary to facilitate the transforming the Pacific Ridge Neighborhood into a new urban community taking advantage of its geographic location, local and regional transportation linkages, and view potential.
22. The tax exemption is necessary to replace lower-scale, existing buildings with new larger scale and higher structures that will dramatically enhance the appearance, character, economics, and safety of the area; and exhibit superior design features making Pacific Ridge inviting to residents and businesses.
23. The existing pattern of land use and building size represents low-scale, suburban, automobile-oriented activities that do not contribute to realization of the City Council's vision for Pacific Ridge.
24. Many of the properties and buildings within Pacific Ridge, by reason of substantial physical dilapidation, age, obsolescence of buildings or improvements, unsanitary or unsafe conditions, absentee ownership, high rates of transience, or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, juvenile delinquency, and criminal activity including gang violence, drug possession and distribution, domestic violence, prostitution, assault, battery, and theft
25. The conditions within Pacific Ridge substantially impair the sound growth of the City, retard the provision of safe and desirable housing conditions, decrease property values, discourage financial investment, and are detrimental to the public health, safety, welfare, and morals, and



# **Exhibit 2** **Draft Ord. 08-163**

Multifamily Tax  
 Exemption Boundaries  
 Pacific Ridge Neighborhood

## **Legend**

- Exemption Boundaries
- Zone 1
- Zone 2

0



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 Des Moines, WA 98198-6398  
 PHONE: (206) 870-4595 | FAX: (206) 870-7628  
 WEB: <http://www.desmoineswa.gov>

# Memorandum

To: City Council

From: PB&PW Department

Date: 03/20/2009

Re: Draft Ordinance 08-163 4<sup>th</sup> Version  
– Supplement Amendments



Draft Ordinance 08-163 would create a multifamily tax exemption for a specific area within the City of Des Moines. The 4<sup>th</sup> Draft of the proposed ordinance was provided to the City Council in the 3/26/09 Council Packet. A number of the amendments that Councilmembers proposed to the 3<sup>rd</sup> Version of the ordinance have been incorporated into the 4<sup>th</sup> Version of the ordinance. The following amendments are the remaining requested changes that were not incorporated into the 4<sup>th</sup> Version of the ordinance:

## **AMENDMENT 4:**

Draft Ordinance 08-163 adding a new Section 5(1)(d) on Page 7:

A financial report containing the following information:

i. Statistical Data:

Necessary facts including acreage, number of existing and future residential units, business, estimated population, assessed valuations, existing utility services, existing and proposed parks, open space and playgrounds.

(ii) Maps:

Maps shall illustrate the project boundaries and other key geographical information.

(iii) Existing Public Service Levels:

Public services to the area's residents shall be evaluated. The methods of providing such services shall be described, and cost determined. These would include: police protection, fire protection, street maintenance, street lighting, storm sewers, animal control, school services, recreation, and library services.

## **ATTACHMENT 2**

(iv) Service Requirement Cost:

The cost of providing services for the future residents shall be determined. Consideration of service cost shall include: police protection, fire protection, emergency medical services, street maintenance, street lighting, storm sewer, animal control, school services recreation, and library services.

(v) Estimate of Revenues:

A complete estimate of potential revenues that would be collected by the City or Special Purpose District shall be evaluated. This would include but is not limited to property taxes, state share revenues, sales taxes, business and occupation taxes, utility taxes, crime free housing program fees, and inspection and license fees.

(vi) Cost/Revenue Analysis:

The present value of anticipated expenditures determined in New Section 5(1)(d)(v) shall be contrasted with present value of anticipated revenues that would be derived from the area determined in New Section 5(1)(d)(v).

(vii) Feasibility Analysis:

The economic feasibility to construct the project with and without the benefits of the MFTE shall be evaluated. The evaluation shall include: Internal Rate of Return, Return on Investment, Construction Cost vs. Revenue, Building Efficiency, and Financial Valuation.

(viii) Timeframe:

The timeframe for the analysis will be the time from the date that a complete Land Use Application is submitted to the City and will end 5 years after the completion of the exemption period.

Recommended Motion:

"I move Amendment 4 as provided on the Memorandum entitled Draft Ordinance 08-163 4<sup>th</sup> Version – Supplement Amendments dated March 20, 2009 and that Amendment 4 be inserted after Section 5(1)(c) of Draft Ordinance 08-163."

**AMENDMENT 11:**

Draft Ordinance 08-163 New Section entitled "Independent Financial Analysis Elements":

The Independent Financial Analysis shall contain the following information:

(1) Statistical Data:

Necessary facts including acreage, number of existing and future residential units, business, estimated population, assessed valuations, existing utility services, existing and proposed parks, open space and playgrounds.

(2) Maps:

Maps shall illustrate the project boundaries and other key geographical information.

(3) Existing Public Service Levels:

Public services to the area's residents shall be evaluated. The methods of providing such services shall be described, and cost determined. These would include: police protection, fire protection, street maintenance, street lighting, storm sewers, animal control, school services, recreation, and library services.

(4) Service Requirement Cost:

The cost of providing services for the future residents shall be determined. Consideration of service cost shall include: police protection, fire protection, emergency medical services, street maintenance, street lighting, storm sewer, animal control, school services, recreation, and library services.

(5) Estimate of Revenues:

A complete estimate of potential revenues that would be collected by the City or Special Purpose District shall be evaluated. This would include but is not limited to property taxes, state share revenues, sales taxes, business and occupation taxes, utility taxes, crime free housing program fees, and inspection and license fees.

(6) Cost/Revenue Analysis:

The present value of anticipated expenditures determined in New Section x(5) shall be contrasted with present value of anticipated revenues that would be derived from the area determined in New Section x(5).

(7) Feasibility Analysis:

The economic feasibility to construct the project with and without the benefits of the MFTE shall be evaluated. The evaluation shall include: Internal Rate of Return, Return on Investment, Construction Cost vs. Revenue, Building Efficiency, and Financial Valuation.

(8) Timeframe:

The timeframe for the analysis will be the time from the date that a complete Land Use Application is submitted to the City and will end 5 years after the completion of the exemption period.

Recommended Motion:

"I move Amendment 11 as provided on the Memorandum entitled Draft Ordinance 08-163 4<sup>th</sup> Version – Supplement Amendments dated March 20, 2009 and that the new section be inserted between Section 5 and Section 6 of Draft Ordinance 08-163."

Staff Recommendation:

Amendment 11 and Amendment 4 in the Council Packet are mutually exclusive and cannot be enacted together.

**AMENDMENT 12:**

Draft Ordinance 08-163 Section 4(2)(a) on page 6:

Zone 1 Standards:

- (i) Buildings shall be a minimum of 50 feet in height as calculated by DMMC 18.31.090(7)(b).
- (ii) Building shall contain a minimum of 80 residential units.
- (iii) A minimum of fifty percent of the space within such residential structure or mixed use building shall be for permanent residential occupancy.

Recommended Motion:

"I move Amendment 12 as provided on the Memorandum entitled Draft Ordinance 08-163 – Supplemental Amendments dated February 25, 2009."

**AMENDMENT 13:**

Draft Ordinance 08-163 Section 4(2)(b) on page 6:

Zone 2 Standards:

- (i) Buildings shall be a minimum of 100 feet in height as calculated by DMMC 18.31.090(7)(a).
- (ii) Building shall contain a minimum of 160 residential units.
- (iii) A minimum of fifty percent of the space within such residential structure or mixed use building shall be for permanent residential occupancy.

iv. *Conds for ownership*



Recommended Motion:

"I move Amendment 12 as provided on the Memorandum entitled Draft Ordinance 08-163 4<sup>th</sup> Version – Supplement Amendments dated March 20, 2009."

## Memorandum

To: Grant Fredricks, Planning, Building & Public Works Director  
From: Patrice Thorell, Parks, Recreation and Senior Services Director  
Date: March 19, 2009

RE: Waterview Crossing Development Impacts to Parks, Recreation and Senior Services

The following projected impacts to parks, recreation and open space are assumed based on the proposed Waterview Crossing project development.

Recreation needs within the City of Des Moines as identified in the 2003 Parks, Recreation and Senior Services Master Plan are measured based on the following: 1) ratio of park land in terms of acres per 1,000 population (the standard of 8.5 acres per 1000 population is established in the Park and Recreation Element of the City's Comprehensive Plan), 2) recreation demand compared to recreation categories and age groups, as described through public input and participation rates, and 3) classification of parks and their related facility development standards, and allocation or distribution of sites throughout the City.

The proposed development anticipates that 20% of its residents will be single (10% 25-54 and 10% 55-85), 20% couples without children, 25% empty nesters and 15% retirees. It does not identify the remaining 20%. The current age and gender mix of the Pacific Ridge neighborhood's 2,932 population based on 2000 Census data is: 1448- male, 1484- female; 278- under 5 (9.5%), 591- 15 years to 17 years (20%), 1664- 18 years to 54 years (57%) and 399- 55 years and older (13.5%).

Waterview Crossing projects a total of 1,600 new residential units and 130,000 square ft. commercial development representing an estimated increase of 2,650 area residents resulting in a 90% population increase over the life of the project raising the Pacific Ridge area population to 5,582.

Currently, there exists only one 1.6 acre developed park in the densely populated Pacific Ridge Neighborhood to serve the 2,932 population resulting in an area deficiency of 23.33 acres of park land. Based on the City's Level of Services (LOS) standard of 8.5 acres park land per 1,000 population an additional 23 acres park land would be required to serve the anticipated population growth.

DMMC 18.31.080 (1) (d) (iii) and 2 (b) require 50 sq. ft. of common recreation space per dwelling unit of which 50% is to be designated as play space for pre-adolescent children and 18.45.050 provides for In-lieu cash contribution where the site is insufficient to provide a quality common recreation area, or the improvement of facilities in the vicinity will be of greater benefit to the residents of the proposed dwellings.

Based on 1,600 dwellings the required common recreation space is 80,000 sq. ft. /1.84 acres of which 50% or 40,000 sq. ft/.92 acres would be required for play area.

With its close proximity to Midway Park, Steven J. Underwood Memorial Park and the Des Moines Activity Center and Des Moines Creek Trail, an acceptable alternative could be some or all of the following:



- provision of connective trails, pathways and/or sidewalks with protected roadway crossings linking the development with existing recreation facilities;
- integration of on-site park elements that meets the intent of a Neighborhood Park (such as the attached prototypical neighborhood park design); and
- In lieu cash contributions to be used for improvements to nearby recreation resources

A typical Neighborhood Park is defined as follows:

1. Definition Summary: A neighborhood park by size, program and location provides space and recreation activities for the immediate neighborhood in which it is located. It is considered an extension of a neighborhood resident's "out-of-yard" and outdoor use area.
2. Size Objectives: Minimum of Two (2) acres and up to 15 acres.
3. Service Area Objectives: Generally a one (1) mile radius, but actually defined by collector street patterns which form the limits of neighborhood service area. Population served may range from 2,000 and up to 10,000.
4. Location Objectives: Centrally located for equitable pedestrian access within a definable neighborhood service area. Adjoining or adjacent to an elementary, middle school or high school, if possible.
5. Program Objectives: Element compatible with the neighborhood setting and park site constraints. Generally including the following, which are determined with public input as to use and activities:
  - a. Parking for ten (10) to twenty (20) spaces.
    - 1) On street is acceptable if negative impact to residential units can be mitigated. On-site parking is preferable as a planning objective.
    - 2) Bike racks with Class II trail connections where possible.
  - b. Restrooms
    - 1) Men's restroom with one (1) water closet, one (1) urinal and one (1) lavatory.
    - 2) Women's restroom with two (2) water closets and one (1) lavatory.
    - 3) Utility and minimum park janitorial storage space.
  - c. Play Lot/Children's Play Area
  - d. Family Event Group Picnic Facility
  - e. Informal Family Picnic Area with Benches and Tables
  - f. Unstructured Turf Grass Play Area/Play or Practice Field for Children, Young Adults and Families.
  - g. Sport Facilities - Compatible with Neighborhood Setting and Park Site Constraints.
    - 1) Basketball: half court, full court or tri-court configuration
    - 2) Volleyball area
    - 3) Softball field/soccer practice or game overlay
    - 4) Other features as desirable site conditions allow

The per capita cost of providing parks, recreation and senior services increases or decreases based on economic factors, population, park and recreation facility inventory and the level of program services provided.

Based on the adopted 2009 Budget, the per capita cost of parks, recreation and senior services (including recreation, senior services, parks maintenance, arts commission, human services and Mt. Rainier Pool) is \$84.66 expenditure less \$32.99 revenue at a net cost of \$51.67 for 29,200 population.

In 2009 dollars and assuming parks, recreation and senior services programs expansion keeps pace with Waterview Crossing's projected 9% (full build out) population growth, system expenditures are estimated at \$224,349 less \$87,423 revenue for a net annual cost of \$136,926.

## Pacific Ridge Park (Prototypical Project)

Address:

Pacific Ridge Area (TBD)

Size:

2 Acres (Proposed)

Zoning:

Residential; Suburban Estates

Park Classification:

Neighborhood Park

Description:

Two acre park for use by neighborhood in densely populated area of Des Moines.

Goal:

Neighborhood recreation

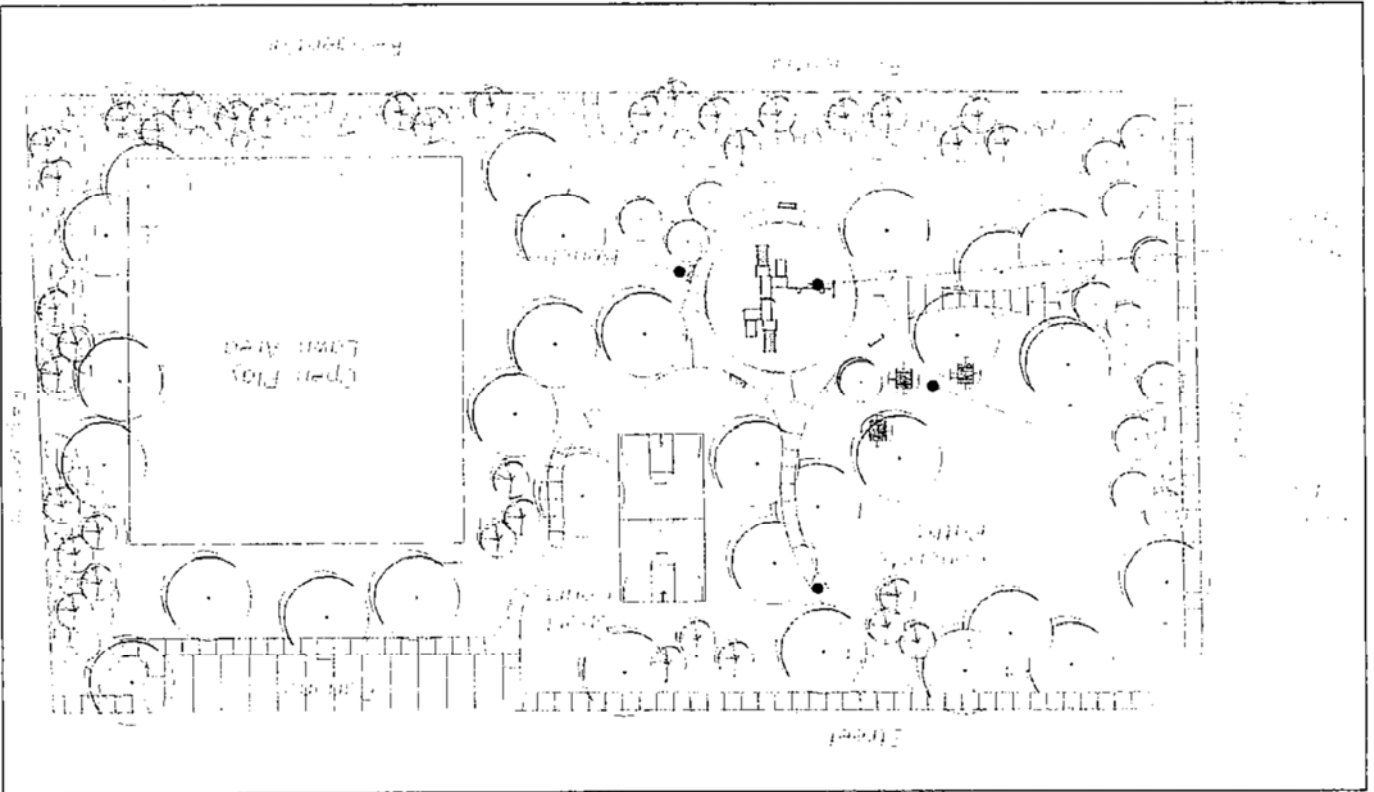
Proposed Improvements:

Park Improvements: Land Acquisition: 17.A. Park Improvements: 17.B. Play

equipment, picnic tables, benches, drinking fountain, lighting, shelter, BBQ, s,

open lawn area, pathways, off street parking, & irrigation. Park amenities can be

revised based on the site and/or the nature of the development.



Land Acquisition:

17(a) \$200,000-450,000

Design & Construction Cost:

17(b) \$229,500

Maintenance Level:

1

Existing Annual Maintenance Cost:

\$0

Annual Maintenance Cost for Proposed Improvements: \$14,000



February 12<sup>th</sup>, 2009

City Manager Tony Piasecki  
City of Des Moines  
21630 – 11<sup>th</sup> Ave. South, Suite A  
Des Moines, WA. 98198

Dear City Manager Piasecki:

I am writing, to address the recently discussed eight (8) year property tax exemption as proposed for the Pacific Ridge area in Des Moines. I hope to clarify any confusion that may exist related to the stance of the Board of Fire Commissioners for South King Fire & Rescue on this issue.

Obviously, any proposed tax exemption is a long term planning issue for our entire Board due to the fact that we receive the vast majority of our funding through property taxes. We do not receive sales tax, utility tax, or any other forms of self imposed taxation, therefore any limitation on our ability to collect up to the full \$1.50 per \$1,000 of assessed value for all property contained within our service area as statutorily allowed is something we have to monitor very carefully.

The South King Fire & Rescue Board of Fire Commissioners understands the need for economic development within the City of Des Moines, and specifically in the proposed Pacific Ridge area. Growth in this area of our city will greatly improve our community for many years to come, and will ultimately result in additional revenues to the fire district via property taxes. We support this planned for growth, and look forward to working with the city to enhance the economic vitality of our community.

We also hope you will support our efforts to receive impact or mitigation fees (one time capital dollars) to help us maintain our infrastructure related to these developments. We currently do not have the statutory ability to mandate these one-time contributions via the SEPA process. However, with your support, we can seek voluntary contributions and will work towards a legislative remedy to this situation long term (please see House Bill 1080, as this could be the vehicle to finally allow fire districts access to these impact fees by statute).

As to the tax exemption itself, the Board of Fire Commissioner's Policy and Procedure Committee (a sub-committee of the Board of Fire Commissioners) met last evening to discuss the proposed eight-year tax exemption issue in the Pacific Ridge area. In consideration of all alternatives, the Committee agreed to maintain the current stance that the Board of Fire

Commissioners will not oppose, nor will they support, the City of Des Moines' efforts to move forward with the tax exemption incentive in the Pacific Ridge area. The Board of Fire Commissioners will maintain a "neutral stand" on this issue.

Please note that this does not preclude any Fire Commissioner, acting alone as a citizen, from speaking in opposition to (or in support of) the tax exemption. Any Fire Commissioner who speaks as a citizen does so as an individual, and does not represent the Board of Fire Commissioners and their position as an elected official in any manner thereof. The Board of Fire Commissioners official stance is one of "neutrality" on this issue.

In closing, we look forward to continuing to work with you on issues of fire and life safety, such as strengthening the codes related to sprinkler systems and building construction, impact and mitigation fees, and other issues to help us in assisting our citizens and the community we serve. We will take advantage of the opportunity to have our Fire Prevention personnel work with city staff in order to address areas of mutual concern in order to make Des Moines the safest city around in which to operate a business or to set up a residence.

On behalf of the South King Fire & Rescue Board of Fire Commissioners,

Allen D. Church  
Fire Chief/Administrator  
South King Fire & Rescue

Cc: Board of Fire Commissioners, South King Fire & Rescue  
File

## Grant Fredricks

---

**From:** Tony Piasecki  
**Sent:** Wednesday, March 18, 2009 9:07 AM  
**To:** \_Council; Scott Thomasson  
**Cc:** Grant Fredricks; Pat Bosmans; Lorri Ericson; Roger Baker; Patrice Thorell; Robert Ruth; Jason Sullivan  
**Subject:** FW: Waterview Crossing Values

FYI. I spoke to Superintendent Welch a few times about the Multi-family Tax Exemption ordinance and the impact it would have on School District tax revenue. Below is his response, using the estimated values of the Waterview Crossing project.

Tony

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**From:** Welch, John P [mailto:welchjp@HSD401.org]  
**Sent:** Friday, March 13, 2009 11:58 AM  
**To:** Tony Piasecki  
**Subject:** RE: Waterview Crossing Values

Tony here is my follow up to the two items we discussed. First is what I shared with the board when reminding them how we collect our taxes and how it is different then a city of fire district.

*An important point to remember is that the city collects its property tax revenue – a certain rate per \$1,000 of assessed value. So if there is a portion of the valuation that is exempt they are faced with taxes they can't collect. Fire districts work the same way. However, schools do not. You will recall that we go out to the voters asking for a certain dollar amount (doesn't matter whether it is a bond or a levy). That amount then gets spread over all of the taxpayers in the district. If in fact there is a portion of the assessed valuation that is exempt from paying taxes it doesn't mean we don't collect what the voters approved it means that the rest of the property tax payers pick up a bigger share.*

Second, is the response to the impact on the tax rate for a property owner for the portion of the project that would be exempt. I hope you can follow my math.

### Before Exemption

|                                                                   |                                                   |
|-------------------------------------------------------------------|---------------------------------------------------|
| Assessed Valuation as of February 2009                            | 15,842,931,235                                    |
| 2009 Voter Approved Maintenance & Operations Levy assessed value. | $\$34,250,833 / 15,842,931 = \$2.16$ per 1,000 of |
| Total Bonds assessed value.                                       | $\$27,180,133 / 15,842,931 = \$1.71$ per 1,000 of |
| Total Tax Rate assessed value.                                    | $\$3.87$ per 1,000 of                             |

For someone with a \$400,000 home valuation (land and structure) their annual tax bill for schools is  $400 * 3.87 = \$1,548$

### After Exemption

Now, assume that I had to subtract the value of this exempt residential property from the above total assessed valuation. That would look like  
 he following:  $15,842,931,235 - 285,326,886 = 15,557,604,349$

|                                                   |                                                   |
|---------------------------------------------------|---------------------------------------------------|
| 2009 Voter Approved Maintenance & Operations Levy | $\$34,250,833 / 15,557,604 = \$2.20$ per 1,000 of |
|---------------------------------------------------|---------------------------------------------------|

3/18/2009

**ATTACHMENT 5**

assessed value.  
 Total Bonds  $\$27,180,133 / 15,557,604 = \$1.75$  per 1,000 of  
 assessed value.  
 Total Tax Rate  $\$3.95$  per 1,000 of  
 assessed value.

For someone with a \$400,000 home valuation (land and structure) their annual tax bill for schools is  $400 * 3.95 = \$1,580$ .

$\$1580 - \$1548 =$  This is an annual increase of \$32 or \$2.67 a month.

Now – if I add the commercial construction value assuming this is a 100% increase over what is currently there and I leave the land value alone assuming it doesn't increase (in theory it likely does, but since the land has value now I will leave it out of the equation) then the rate looks like this:

$15,842,931,235 - 285,326,886 + 35,925,432 = 15,593,529,781$

2009 Voter Approved Maintenance & Operations Levy  $\$34,250,833 / 15,593,529 = \$2.20$  per 1,000 of  
 assessed value.  
 Total Bonds  $\$27,180,133 / 15,593,529 = \$1.74$  per 1,000 of  
 assessed value.  
 Total Tax Rate  $\$3.94$  per 1,000 of  
 assessed value.

For someone with a \$400,000 home valuation (land and structure) their annual tax bill for schools is  $400 * 3.94 = \$1,576$ .

If I did all of my math correctly exempting the residential value and treating the commercial value as an increase and leaving the land value as would costs a \$400k homeowner in the district about \$2.33 a month ( a 12 oz. latte) or \$28 bucks a year more. Not quite as small as I thought it might be.

Hope this helps.  
 Have a great weekend.

**John P. Welch**  
**Superintendent - Highline Public Schools**

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**From:** Tony Piasecki [mailto:TPiasecki@desmoineswa.gov]  
**Sent:** Tuesday, March 10, 2009 11:44 AM  
**To:** Welch, John P  
**Subject:** FW: Waterview Crossing Values

John,

Here are the values for the proposed development in the Pacific Ridge area that would be eligible for the Multi-family Tax Exemption that the City Council is considering. Thanks.

Tony

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**From:** Jason Sullivan  
**Sent:** Tuesday, March 10, 2009 9:52 AM  
**To:** Tony Piasecki  
**Cc:** Grant Fredricks; Robert Ruth  
**Subject:** Waterview Crossing Values

Tony,

3/18/2009

Below are the values that you requested regarding the Waterview Crossing Project:

Current Land Value: \$8,227,500

Proposed Residential Construction Value: \$285,326,886

Proposed Commercial Construction Value: \$35,925,432

Sincerely,

**Jason Sullivan**

Development Services

Land Use Planner II

Direct: (206) 870-6551 Fax: (206) 870-6544

21630 11th Avenue South

Suite D

Des Moines, WA 98198

[www.desmoineswa.gov](http://www.desmoineswa.gov)

# Entire Waterview Crossing Project

| Revenues for the following projects:                                                                                                                       | Assumptions | Current (Undeveloped)<br>Condition | Development Fees | Other Pre-Occupancy<br>Revenues | 1st 8 Years City<br>Revenue (During<br>MFTE) | Next 8 years revenues<br>(Post-MFTE) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------------------------|------------------|---------------------------------|----------------------------------------------|--------------------------------------|
| <b>Waterview Crossing Project (1613 units with structured parking - (1,729,301 SF garage ) and 155276 SF commercial, SF 576,617 SF commercial garage )</b> |             | \$50,966                           | \$11,782,861     | \$4,507,675                     | \$8,728,897                                  | \$11,047,398                         |
| <b>Assumes that entire Waterview Crossing development is built over 3 years as a single project</b>                                                        |             |                                    |                  |                                 |                                              |                                      |
| <b>Net Increase in population - 2650</b>                                                                                                                   |             |                                    |                  |                                 |                                              |                                      |
| <b>Property Tax of:</b>                                                                                                                                    |             |                                    |                  |                                 |                                              |                                      |
| Land                                                                                                                                                       | 1           | \$11,683                           |                  | \$53,959                        | \$94,538                                     | \$97,741                             |
| Non-Residential Improvements                                                                                                                               | 2           | \$0                                |                  | \$0                             | \$394,846                                    | \$3,603,562                          |
| Residential Improvements                                                                                                                                   | 2           | \$363                              |                  | \$246,847                       | \$0                                          |                                      |
| <b>Development Fees</b>                                                                                                                                    | 3           |                                    |                  |                                 |                                              |                                      |
| Design Review                                                                                                                                              |             |                                    | \$774,365        |                                 |                                              |                                      |
| Plan Check                                                                                                                                                 |             |                                    | \$2,915,601      |                                 |                                              |                                      |
| Building Permits                                                                                                                                           |             |                                    | \$4,485,540      |                                 |                                              |                                      |
| Plumbing, Mechanical Permits                                                                                                                               |             |                                    | \$2,037,415      |                                 |                                              |                                      |
| Transportation Plan Review                                                                                                                                 |             |                                    | \$1,098,957      |                                 |                                              |                                      |
| Surface Water Plan Review                                                                                                                                  |             |                                    | \$470,982        |                                 |                                              |                                      |
| Construction Sales Tax                                                                                                                                     | 4           |                                    |                  | \$3,383,358                     |                                              |                                      |
| B&O Taxes on Construction                                                                                                                                  | 5           |                                    |                  | \$814,866                       |                                              |                                      |
| B&O Taxes (Post-Construction)                                                                                                                              | 6           |                                    |                  |                                 | \$420,034                                    | \$515,722                            |
| Utility Taxes                                                                                                                                              | 7           | \$23,250                           |                  | \$0                             | \$3,959,536                                  | \$4,485,267                          |
| REET                                                                                                                                                       | 8           |                                    |                  | \$0                             | \$2,353,812                                  | \$588,453                            |
| Crime Free Housing Program                                                                                                                                 | 9           | \$7,640                            |                  | \$0                             | \$373,335                                    | \$373,335                            |
| <b>Per Capita State Distributions (Gas Tax, Liquor Board, Liquor Tax, Criminal Justice)</b>                                                                | 10          | \$8,030                            |                  | \$8,645                         | \$1,132,796                                  | \$1,383,319                          |

## Assumptions

1. The assessed value of the redeveloped properties within the Residential Target Area (RTA) was assumed to grow by 3.5% over the course of the analysis.
2. Building makeup was based on the conceptual buildout of the Waterview Crossing Project: 1613 residential units with structured parking and 155,276 SF commercial space with associated structured parking.
3. Permits and fees based on current fee schedule with 20% Pac Ridge incentive for projects over 50,000 SF
4. Sales taxes was based on an assumed construction cost of \$407 million.
5. B&O Tax based on the \$407 million value of the construction
6. Commercial space is divided into storefront retail (12%) and professional offices (88%). Assumptions about B&O taxes were based on 2008 City-reported comparable business revenues from a mix of established storefront retail and new professional services businesses.
7. Based on 6% of \$350 total taxable utility cost per residential unit per month (\$2009) and inflated over time at 1.5% per year. For commercial space, based on 6% (= \$0.45) of \$7.00 per square foot per year based on 2008 City costs for 90,000 SF of City facilities. Utilities subject to utility tax include electricity, natural gas, garbage, surface water, phone and cable. Water and sewer are not subject to this tax at this time.
8. REET was based on an average sales value of \$348,000 and that 25% of the units would be resold in the second 8 year period. No sale of commercial space was assumed.
9. Assumes developer enters into voluntary Crime Free Housing Program (CFHP) agreement at 2009. CFHP fees (\$82.16 per unit per year). This figure does not assume rental of any condominiums. Any such rentals
10. Population is based on the per unit population density as determined by the Washington State Department of Financial Management. The per capita amount is also based on the information provided by MRSC.

ATTACHMENT 6



# Prototypical Waterview Crossing Mixed Use Project on Pacific Highway South

| Revenues for the following projects:                                                                                                                                                           | Assumptions | Development Fees | Other Pre-Occupancy Revenues | 1st 8 Years City Revenue (During MFTE) | Next 8 years revenues (Post-MFTE) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------|------------------------------|----------------------------------------|-----------------------------------|
| <b>1st Waterview Crossing Mixed Use Project (Buildings 5 &amp; 6 with structured parking - 194 units (48,669 SF residential garage), 128,778 SF commercial, 131,527 SF commercial garage )</b> |             | \$1,764,565      | \$661,493                    | \$1,480,339                            | \$1,770,089                       |
| <b>Population - 382</b>                                                                                                                                                                        |             |                  |                              |                                        |                                   |
| <b>Property Tax of:</b>                                                                                                                                                                        |             |                  |                              |                                        |                                   |
| Land                                                                                                                                                                                           | 1           |                  | \$33,530                     | \$57,028                               | \$63,206                          |
| Non-Residential Improvements                                                                                                                                                                   | 2           |                  | \$0                          | \$118,079                              |                                   |
| Residential Improvements                                                                                                                                                                       | 2           |                  | \$5                          | \$0                                    | \$397,984                         |
| <b>Development Fees</b>                                                                                                                                                                        | 3           |                  |                              |                                        |                                   |
| Design Review                                                                                                                                                                                  |             | \$132,739        |                              |                                        |                                   |
| Plan Check                                                                                                                                                                                     |             | \$432,209        |                              |                                        |                                   |
| Building Permits                                                                                                                                                                               |             | \$664,938        |                              |                                        |                                   |
| Plumbing, Mechanical Permits                                                                                                                                                                   |             | \$301,951        |                              |                                        |                                   |
| Transportation Plan Review                                                                                                                                                                     |             | \$162,910        |                              |                                        |                                   |
| Surface Water Plan Review                                                                                                                                                                      |             | \$69,818         |                              |                                        |                                   |
| <b>Construction Sales Tax</b>                                                                                                                                                                  | 4           |                  | \$507,278                    |                                        |                                   |
| <b>B&amp;O Taxes on Construction</b>                                                                                                                                                           | 5           |                  | \$120,680                    |                                        |                                   |
| <b>B&amp;O Taxes (Post-Construction)</b>                                                                                                                                                       | 6           |                  |                              |                                        |                                   |
| Utility Taxes                                                                                                                                                                                  | 7           |                  | \$0                          | \$1,006,504                            | \$1,010,515                       |
| REET                                                                                                                                                                                           | 8           |                  | \$0                          |                                        |                                   |
| <b>Crime Free Housing Program</b>                                                                                                                                                              | 9           |                  | \$0                          | \$143,451                              | \$127,512                         |
| <b>Per Capita State Distributions (Gas Tax, Liquor Board, Liquor Tax, Criminal Justice)</b>                                                                                                    | 10          |                  | \$0                          | \$155,277                              | \$170,872                         |

## Assumptions:

1. The assessed value of the redeveloped properties within the Residential Target Area (RTA) was assumed to grow by 3.5% over the course of the analysis.
2. Building makeup was based on the conceptual buildout of the Waterview Crossing Project: 194 residential units with structured parking and 128,778 SF commercial space with associated structured
3. Permits and fees based on current fee schedule with 20% Pac Ridge incentive for projects over 50,000 SF
4. Sales taxes was based on an assumed construction cost of \$55 million.
5. B&O Tax based on the \$55 million value of the construction
6. Commercial space is divided into storefront retail (4%) and professional offices (96%). Assumptions about B&O taxes were based on 2008 City-reported comparable business revenues from a mix of established storefront retail and new professional services businesses.
7. Based on 6% of \$350 total taxable utility cost per residential unit per month (\$2009) and inflated over time at 1.5% per year. For commercial space, based on 6% (= \$0.45) of \$7.00 per square foot per
8. REET was based on an average sales value of \$348,000 and that 25% of the units would be resold in the second 8 year period. No sale of commercial space was assumed.
9. Assumes developer enters into voluntary Crime Free Housing Program (CFHP) agreement at 2009 CFHP fees (\$82.16 per unit per year). This figure does not assume rental of any condominiums. Any
10. Population is based on the per unit population density as determined by the Washington State Department of Financial Management. The per capita amount is also based on the information provided.

# Prototypical Waterview Crossing Residential Tower

| Revenues for the following projects:                                                                                                                                                           | Assumptions | Development Fees | Other Pre-Occupancy Revenues | 1st 8 Years City Revenue (During MFTE) | Next 8 years revenues (Post-MFTE) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------|------------------------------|----------------------------------------|-----------------------------------|
| <b>1st Waterview Crossing Residential Tower Project (Buildings 1 &amp; 1A with structured parking - 263 units (173,798 SF garage ) and 13,878 SF commercial, 15,322 SF commercial garage )</b> |             | \$2,679,996      | \$847,301                    | \$1,332,680                            | \$1,601,632                       |
| <b>Population - 518</b>                                                                                                                                                                        |             |                  |                              |                                        |                                   |
| <b>Property Tax of:</b>                                                                                                                                                                        |             |                  |                              |                                        |                                   |
| Land                                                                                                                                                                                           | 1           |                  | \$45,003                     | \$43,551                               | \$55,697                          |
| Non-Residential Improvements                                                                                                                                                                   | 2           |                  | \$0                          | \$27,386                               | \$462,903                         |
| Residential Improvements                                                                                                                                                                       | 2           |                  | \$5                          | \$0                                    |                                   |
| <b>Development Fees</b>                                                                                                                                                                        | 3           |                  |                              |                                        |                                   |
| Design Review                                                                                                                                                                                  |             | \$172,962        |                              |                                        |                                   |
| Plan Check                                                                                                                                                                                     |             | \$663,977        |                              |                                        |                                   |
| Building Permits                                                                                                                                                                               |             | \$1,021,504      |                              |                                        |                                   |
| Plumbing, Mechanical Permits                                                                                                                                                                   |             | \$464,026        |                              |                                        |                                   |
| Transportation Plan Review                                                                                                                                                                     |             | \$250,268        |                              |                                        |                                   |
| Surface Water Plan Review                                                                                                                                                                      |             | \$107,258        |                              |                                        |                                   |
| <b>Construction Sales Tax</b>                                                                                                                                                                  | 4           |                  | \$517,059                    |                                        |                                   |
| <b>B&amp;O Taxes on Construction</b>                                                                                                                                                           | 5           |                  | \$285,234                    |                                        |                                   |
| <b>B&amp;O Taxes (Post-Construction)</b>                                                                                                                                                       | 6           |                  |                              | \$8,178                                | \$10,769                          |
| <b>Utility Taxes</b>                                                                                                                                                                           | 7           |                  | \$0                          | \$701,977                              | \$783,371                         |
| <b>REET</b>                                                                                                                                                                                    | 8           |                  | \$0                          | \$415,288                              | \$103,822                         |
| <b>Crime Free Housing Program</b>                                                                                                                                                              | 9           |                  | \$0                          | \$0                                    | \$0                               |
| <b>Per Capita State Distributions (Gas Tax, Liquor Board, Liquor Tax, Criminal Justice)</b>                                                                                                    | 10          |                  | \$0                          | \$136,301                              | \$185,070                         |

## Assumptions

1. The assessed value of the redeveloped properties within the Residential Target Area (RTA) was assumed to grow by 3.5% over the course of the analysis.
2. Building makeup was based on the conceptual buildout of the Waterview Crossing Project: 263 residential units with structured parking and 15,322 SF commercial space with associated
3. Permits and fees based on current fee schedule with 20% Pac Ridge Incentive for projects over 50,000 SF
4. Sales taxes was based on an assumed construction cost of \$51 million.
5. B&O Tax based on the \$51 million value of the construction
6. Commercial space is storefront retail. Assumptions about B&O taxes were based on 2008 City-reported comparable business revenues from a mix of established storefront retail.
7. Based on 6% of \$350 total taxable utility cost per residential unit per month (\$2009) and inflated over time at 1.5% per year. For commercial space, based on 6% (= \$0.45) of \$7.00 per square
8. REET was based on an average sales value of \$348,000 and that 25% of the units would be resold in the second 8 year period. No sale of commercial space was assumed.
9. Assumes developer enters into voluntary Crime Free Housing Program (CFHP) agreement at 2009 CFHP fees (\$82.16 per unit per year). This figure does not assume rental of any
10. Population is based on the per unit population density as determined by the Washington State Department of Financial Management. The per capita amount is also based on the information

# DES MOINES POLICE DEPARTMENT

"PLACING THE NEEDS OF THE COMMUNITY FIRST"

## MEMORANDUM

**DATE:** March 25 2009

**TO:** Roger A. Baker  
Chief of Police

**FROM:** Kevin Tucker  
Commander

**SUBJECT:** Waterview Crossing Impact on Police Department Services

We have been posed with the question, "*How will construction of the Waterview Crossing development impact police department services*".

I have approached this by trying to find developments in the South King County area where density of population, vehicle traffic, alternative transportation, land values, and police services would be comparable. Of the cities I have visited and reviewed, I have found one city that would be most comparable to the mixture of multi-family and commercial proposed with this development. The city with the most comparable data would be the City of Renton. The developments in Renton which would be comparable would be:

- Harrington Square which is a 217 apartment unit mixed use with underground parking and 3,000 sq ft of commercial space, and
- Metropolitan Place which is a 90 unit apartment complex above a 2-story parking garage with 240 parking stalls and 4,000 sq ft of retail space.
- The Landing which is an 880 unit apartment complex on a 46 acre site with 600,000 sq ft of retail space and in itself is a \$300 million urban development.
- Southport is a mixed use development with 17.5 acres with a proposed 750,000 sq ft of Class A office space in three 9-story towers and 395 residential units.

There are several other properties in Renton such as Liberty Square which is a mixed use downtown apartment community, 95 Burnett which is another mixed use downtown apartment community and Merrill Gardens which is another multi-level, mixed use apartment style community.

Within these mixed use buildings are transit hubs which are key movement corridors between South Seattle and Tacoma which include a major Metro Transit hub and state routes.

In conversation with Renton Police Chief Kevin Milosevich, he indicated that commercial and multi-family mixed use developments for Renton held the same call volume per resident as there were prior to the build outs. Meaning a commercial and multi-family mixed use development of 545 residents increased the annual call volume of the police department by an average of 545 calls.

Chief Milosevich's crime analysis staff provided a call for service formula they use to determine approximately how many calls for service may be generated from a mixed land uses and

developments. This formula, of course, is based upon CFS history and growth experienced in the City of Renton."

**Formula for calculating residential CFS: Units / CFS:**

Single family home: 0.94 (per unit annual CFS)

Multi family: 0.83 (per unit annual CFS)

**Formula for calculating commercial CFS:**

1,995 square feet of commercial business space equals one call for service annually.

Chief Milosevich indicated this formula has been very accurate whether the growth has been development or annexation.

One of the key components of mixed land use developments whether they were in the City of Kent or the City of Renton was the mitigation agreements associated with the build outs. Chief Milosevich stated these were key to proper management, resident and patron safety, and helped to reduce a burden on city services. Mitigation agreements help ensure properties do not exceeding standard call volumes. Some of these mitigations were:

- Mandatory management private security (**See proposed draft ordinance amendment**)
- Parking garages restricted to resident and patron use only (metro leased some underground parking for commuter use in larger units in Renton which brought in crime and call volume when these garages were left open for commuter use) (**to be addressed in the PUD/project review process**)
- Use of technology, specifically video cameras with monitoring and mandatory vacant conduit and power build outs. (**See proposed draft ordinance amendment**)
- Mandatory CPTED with outside consultant if necessary due to the size and complexity of the development. (**See Pacific Ridge Improvement Plan Section K. Site Design for Safety (p. 4-2-21) for the CPTED and DMMC 18.31.110(1)(j)**)
- Mandatory management staff 24/7 on the larger apartment buildings (awake) (**See proposed draft ordinance amendment**)

Additional recommended mitigations;

- Designed space for public safety use (equipped) (**See proposed draft ordinance amendment**)
- Their fair share of costs for police services (**See Draft Ordinance 08-163 , Section 4(5)**)

Another common issue between these cities and developments were the Metro Transit Hubs. These hubs are key for residents and patrons of the developments but they were and are a conduit for criminal enterprise. These hubs become destinations points for the criminal element that are looking for crimes of opportunity. If a metro transit hub was to be part of this development they strongly encourage an agreement of sorts with the Metro Authority on security presence either full time or during specific hours.

**Summary**

Based on the information received by these agencies, especially the information from Renton, I have reviewed the projected calls for service (police incidents) for the Waterview Crossing Development and how it would impact the Des Moines Police Department.

## **Comparisons of impact between Renton Police Department and Des Moines Police Department on calculations per CFS per person vs. CFS per living unit.**

By Renton standards each multi-family living unit generates .83 CFS each year and every 1,995 square feet of commercial space would generate 1 CFS. Using these calculations the Waterview Crossing Development would generate 1,328 CFS from the living units and 65.16 CFS from the commercial space for a total of 1,393 annual CFS for Des Moines. Based on 2009 budget numbers each call for service would be \$398.56, an additional 1,393 calls for service at full build out and based on 2009 budget figures would equate to \$555,194 per year

Using the current Des Moines PD method of calculating CFS based on the calculation CFS - vs. - population the Police incident per resident of .79 is determined. Using this calculation the Waterview Crossing Development would generate 2,054 annual CFS from the living units and the commercial space. Based on 2009 budget numbers each call for service would be \$398.56 an additional 2054 calls for service at full build out and based on 2009 budget figures would equate to \$802,806 per year

Putting this in perspective of the Waterview Crossing development;

**Phase I** 570 residential units with 130,000 square feet of commercial development  
**Projected additional call volume to the Police Department – 538.2 to 729.6 police incidents per year. (\$214,528 to \$290,789 in 2009 dollars) (Low is Renton Police Department comparison numbers and high is the Des Moines Police Department comparison numbers)**

**Phase II** 1030 residential units  
**Projected additional call volume to the Police Department – 854.9 to 1,318.4 police incidents per year. (\$340,728 to \$512,037 in 2009 dollars) (Low is Renton Police Department comparison numbers and high is the Des Moines Police Department comparison numbers)**

The proposed Waterview Crossing 11 acre site currently consists of 96 living units. In 2008 the total police incidents for this site were 99 calls for service. Of these 99 calls for service, 95 were initiated by residents, 4 were officer initiated and 2 were deemed Part 1 crimes.

The net increase for this development would require the subtraction of the 99 calls for service this site already experience from the CFS projections listed above. This would lower the Phase 1 and Phase II projection by \$39,457 based on 2009 budget figures.



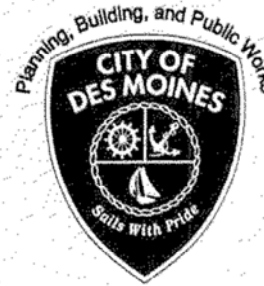
# Memorandum

To: City Council

From: PB&PW Department

Date: 03/26/2009

Re: Draft Ordinance 08-163 4<sup>th</sup> Version  
—  
2<sup>nd</sup> Supplement Amendments



Draft Ordinance 08-163 would create a multifamily tax exemption for a specific area within the City of Des Moines. The 4<sup>th</sup> Draft of the proposed ordinance was provided to the City Council in the 3/26/09 Council Packet. The following additional amendments have been requested to the 4<sup>th</sup> Version of the ordinance:

## **AMENDMENT 14:**

Draft Ordinance 08-163 Section 4 on Page 5:

The developer shall be required to have 24 hour a day/7 days a week onsite property management by a professional management company with a minimum of 5 years of experience in providing property management for large scale residential projects. The developer shall also be required to provided 24 hour a day/7 days a week private security onsite to include onsite security offices, office space for public safety use, and video camera monitoring.

## Recommended Motion:

"I move Amendment 14 as provided on the Memorandum entitled Draft Ordinance 08-163 4<sup>th</sup> Version – 2<sup>nd</sup> Supplement Amendments dated March 26, 2009 and that Amendment 14 be inserted between Section 4(3) and Section 4(4) of Draft Ordinance 08-163."

*Not Discussed!*

NEW BUSINESS  
Item #1

## AGENDA ITEM

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Special Event

FOR AGENDA OF: March 26, 2009

ATTACHMENTS:

1. Proposed Special Events Ordinance
2. Draft Special Event Application
3. Special Event Ordinance City of Sequim
4. Special Event Ordinance City of Oak Harbor
5. Special Event Ordinance City of Normandy Park
6. Presentation Slides

DEPT. OF ORIGIN: Administration

DATE SUBMITTED:

CLEARANCES:

- [X] Legal *JB*  
[X] Finance *9/1/09*  
[X] Marina *JB*  
[X] Parks, Recreation & Senior Services *JB*  
[X] Planning, Building & PW *MA*  
[X] Police *JB*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *MA*

#### Purpose and Recommendation

The purpose of this agenda item is to request that the City Council provide direction for or grant approval of Draft Ordinance no. 09-002 adding a new chapter to Title 5 of the Des Moines Municipal Code to provide requirements for Special Events. The goals for this ordinance are to formalize the Special Event process, identify actual city costs, if any for an event and provide a mechanism for cost recovery. In addition, this ordinance would create an opportunity for the public to request assistance for their events as well as formalize an insurance waiver process for the 1<sup>st</sup> and 14<sup>th</sup> amendments.

#### Suggested Motion

**Motion 1A:** "I move to suspend City Council Rule 26b in order to consider Draft Ordinance 09-002 on First Reading."

**Motion 1B:** "I move to adopt Draft Ordinance No. 09-002, authorizing the addition of a new chapter "Special Events" to Title 5 of the Des Moines Municipal Code."

OR

**Motion 2:** "I move to approve 1<sup>st</sup> Reading of Draft Ordinance No. 09-002 and schedule it for a 2<sup>nd</sup> reading at a future meeting to be determined by the Mayor."

### **Background**

Currently, the special event process is neither centralized nor codified. Nor, is there a clear way to capture the actual cost to the city to accommodate these events. In addition, during the budget process it came to light that some tasks performed by city staff were not normal city duties, but rather services to community groups and citizens some of which, such as hanging banners, were associated with special events.

### **Discussion**

In an attempt to improve the business process and operations associated with special events, we gathered example ordinances and special event applications from several other cities and convened a focus group consisting of representatives from the following areas: police department, building division, street division, city clerk's office, parks and recreation, marina, and city manager. During the course of this discussion, we also discovered in some instances where a permit was issued, not all city departments or divisions affected by that event were aware of it in advance. There were also cases where no special event application was completed.

For the purpose of this draft ordinance, special events are defined as: Athletic Events, Parades, Street Dances, Block parties, Fireworks, Field Days, Carnivals, Bicycle Races, Demonstrations, Fairs, Auctions, Boat & Car shows, Concerts, Live Performances, Fun Run/Walks or "Anything that affects standard or ordinary use by the public of public venues."

To begin the process, we divided special events in two parts – the application process and the permit itself. In an effort to encourage city awareness of events and activities, we propose there be no fee assessed for a special event application. Based on the impact review provided by each relevant department/division a determination can be made whether an actual permit is required. If a permit is required, the cost of the permit will be based on the actual cost of the city services required to assure the public safety and welfare associated with the event as well as provide any optional services or assistance requested by the sponsoring organization.

All applications will be reviewed by affected departments and the various divisions within those departments. Based on the information provided in the application, staff will identify potential impacts and determine mitigation, set conditions or identify requirements associated with those impacts. If there is a cost to the city in either supplies or staff that will be noted on the application as well. Examples of conditions that could be applied are: date/time, route, location and noticing; a limit to specific activities; accommodations for traffic and/or pedestrians; first aid and sanitary facilities; traffic control and parking plans; sound or noise restrictions; a clean up deposit, etc.

One area where staff itself felt the need for clarification and consistency was a clear definition of when council approval was required to issue a special event permit. In an effort to begin that discussion, we suggest that that under the following conditions, council approval is required before a permit may be issued: events lasting longer than 24 hours; events on public property that charge an admission fee;



events that impact public property and have more than 100 participants; events costing more than \$5000 in city services; and commercial events.

Staff also drafted criteria for permit denial as well as reasons for revocation and an appeal process through a hearing board.

Included for comparison purposes are Special Event Ordinances from three Washington Cities. The City of Sequim ordinance was included as an example of a fairly lenient ordinance. The City of Oak Harbor was included as an example of a more restrictive ordinance and the City of Normandy Park ordinance was included as an example of what one of our nearest neighbors is doing.

### **Alternatives**

#### **Adopt the Ordinance**

Council could choose to modify and adopt the ordinance this evening.

#### **Move to 2<sup>nd</sup> Reading**

Council could choose to modify the ordinance, approve 1<sup>st</sup> reading and move the ordinance to a 2<sup>nd</sup> reading at a later date.

#### **Place Adoption of Special Event Ordinance on a future council agenda**

Suggest changes, additions and deletions to the ordinance as written and request staff to bring the ordinance back to council for consideration after incorporating the suggested modifications.

#### **Do Nothing**

Council could choose to not enact a Special Event Ordinance and continue with the code and procedure as it currently exists.

### **Financial Impact**

Other than codifying it, there is no cost to the City of Des Moines for this ordinance; however, we hope to better track costs to the city for community special events and provide a mechanism to recover some of the costs associated with supporting special events.

### **Recommendation**

Approve Draft Ordinance No. 09-002 and add a chapter to Title 5 of the Des Moines Municipal Code.

### **Concurrence**

Legal  
Finance  
Marina  
Parks, Recreation & Senior Services  
Planning, Building & Public Works  
Police

ADMINISTRATION'S FIRST DRAFT 2/26/09

DRAFT ORDINANCE NO.09-002

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to business licenses and special event permits, adding a new chapter to Title 5 of the Des Moines Municipal Code to provide requirements for events held in the City of Des Moines, prescribing penalties, and codifying a new chapter in Title 5 DMMC entitled *Special Events*.

WHEREAS, the City Council of the City of Des Moines finds that there is a need for regulations related to special events to assure adequate protection of public health and safety within the City, and

WHEREAS, the City Council wishes to minimize the burden on City services associated with special events, and

WHEREAS, it is the desire of the City Council to cooperate with individuals desiring to hold activities and events in Des Moines, and

WHEREAS, procedures need to be established to provide guidance for staff and event coordinators; now therefore,

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

Sec. 1. A new chapter is adopted and added to Title 5 DMMC entitled *Special Events* to read as follows:

(1) Definitions.

(a) Use of words and phrases. As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(b) "Applicant" means any person or organization who seeks a special event permit from the City to conduct or sponsor an event governed by this section. An applicant must be eighteen years of age or older and possess valid, picture identification.

(c) "Athletic event" means an occasion in which a group of persons collectively engage in a sport or some form of physical exercise.

(d) "Public venue" means a publically held place that is open and accessible to the public.

(e) "Refundable deposit" means the amount of money required of an applicant by the City in order to assure adequate clean-up of the special event site. The deposit shall be returned to the applicant upon the completion of the event and approval of the Planning, Building and Public Works Director or his/her designee.

(f) "Rush fee" is a fee to assure special handling of an application submitted more than 60 days but less than 90 days prior to the event date that allows for completion of processing prior to the event date.

(g) "Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

(h) "Special event" means any event, whether conducted on public or private property, organized by a person which will generate or invite public participation and/or spectators for a particular and limited purpose and time; or any event that would significantly impact public streets or rights-of-way; or which would significantly impact the need for emergency services.

(i) "Special event venue" means that area for which a special event permit has been issued.

(j) "Sponsor" means any person or organization who has been issued a special event permit by the City. The Sponsor shall have the authority, subject approval by the City to determine participation in commercial activities during a special event.

(k) "Street" means any place that is publicly maintained and open to use by the public for purposes of vehicular travel, including highways.

(l) "Street dance" means any dance of six or more people on or within any publicly owned parking lot or other

publicly owned property, or any public street, alley, sidewalk, or other public right-of-way.

(m) "Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue.

(2) Permit required.

(a) Except as provided elsewhere in this ordinance, any person or entity who conducts, promotes, or manages a special event shall first obtain a special event permit from the City. Special events include, but are not limited to:

- (i) Athletic events
- (ii) Parades
- (iii) Street dances
- (iv) Block parties
- (v) Fireworks
- (vi) Field days
- (vii) Carnivals
- (viii) Fun run/walks and bike races
- (ix) Demonstrations
- (x) Fairs
- (xi) Auctions
- (xii) Car/boat shows
- (xiii) Cruises
- (xiv) Concerts/Live Performances
- (xv) Anything that affects standard or ordinary use by the public of public venues.

(b) No person(s) or organization(s) shall conduct a special event that affects the standard and ordinary use of public streets, rights-of-way and/or sidewalks without first having obtained a special event permit from the City. Such special event permit shall be in addition to any right-of-way, street use, or park use or other regular permits as may be required by City code or Department Policy.

(3) **Exemptions.** The following activities are exempt from having to obtain a special event permit under this ordinance:

(a) Funeral processions; by a licensed mortuary;

(b) City-sponsored events;

(c) Gatherings of less than thirty (30) people in a City park if nothing is offered for sale unless the Park & Recreation Director determines the proposed activities are outside the scope of the park's design or pose a significant risk to public safety;

(d) Temporary business related sales (i.e. sidewalk sales, grand opening, etc.); and

(e) Garage sales, car washes, lemonade stands, rummage sales, and bazaars are exempt. Garage sales are limited to one (1) sale every six (6) months for not more than three (3) consecutive days;

(f) Lawful picketing on sidewalks.

(4) **Application.** Any person desiring to sponsor a special event shall apply for a special event permit by filing an application with the City Clerk's office on the form supplied by the City Clerk and present the City Clerk's office with valid identification at the time of application. Because permits must be reviewed by many individual departments and/or divisions, the following time frames and application fees apply:

(a) Ninety (90) calendar days prior to event - application processing will be complete prior to event date with no fee.

(b) Sixty (60) calendar days prior to event - application processing will receive special handling with a Rush Fee in an effort to complete processing prior to the date of the event.

(c) Less than sixty (60) calendar days - application will be accepted and processing attempted, but the city does not guarantee that the permit process will be completed prior to the date of the event.

Upon receipt of a completed Special Event Permit Application, the City Clerk shall refer the same to the appropriate departments/divisions for their investigation and review concerning whether or not a special event permit is needed, compliance of the proposed special event with the criteria for issuance. The departments shall forward the results of their investigation and/or review to the City Clerk.

**(5) Permit conditions.**

(a) The City Manager may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety of persons and property and the control of traffic; provided such conditions shall not unreasonably restrict the right of free speech. Such restrictions may include, but are not limited to:

(i) Alteration of the date, time, route, location or manner of the event proposed on the event application.

(ii) Elimination of an activity which cannot be mitigated to a point as to ensure public safety and welfare or which causes liability to the City.

(iii) Conditions concerning the area of assembly or disbanding of an event occurring along a route.

(iv) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of the street or right-of-way.

(v) Requirements for the use of traffic control devices.

(vi) Requirements for the provision of first aid or sanitary facilities.

(vii) Requirements for the use of event monitors and providing notice of permit conditions to event participants.

(viii) Restrictions on the number and type of vehicles, animals or structures at the event and inspection and approval of floats, structures, and decorated vehicles for safety.

(ix) Compliance with animal protection ordinances and laws.

(x) Requirements for the use of garbage containers, cleanup, and restoration of City property.

(xi) Restrictions on the use of amplified sound and compliance with noise ordinances, regulations, and laws.

(xii) Notice to residents and/or businesses regarding any activity which would require a street closure.

(xiii) Restrictions on the sale and/or consumption of alcohol.

(xiv) Requirements regarding the use of City personnel and equipment.

(xv) Compliance with applicable federal, state and local laws or regulations including obtaining any legally required permits or licenses.

(xvi) Requirement for a "Refundable deposit."

(xvii) Any other restriction or requirement deemed necessary to ensure public safety and well-being.

(b) Events meeting any one of the following criteria require approval by the City Council and/or a formal resolution prior to issuance of a permit:

- (i) Events lasting longer than 24 hours;
- (ii) Events that charge an admission fee;
- (iii) Commercial events or events with retail sales;
- (iv) Events anticipated to draw more than one hundred (100) people in attendance; or
- (v) Events anticipated to cost more than five thousand dollars (\$5,000) in City services.

**(6) Indemnification and insurance.**

(a) The permit applicant and authorized officer of the sponsoring organization must agree to defend, indemnify and hold harmless the City, its officers, employees and agents, from and against all loss or expense including, but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the City, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting there from, sustained by any person or persons on and on account of damage to property including loss of use there from, arising out of any activity under or in connection with this special event where such claim arises in whole or in part out of the activities for which such permit is issued.

(b) The applicant/sponsor of a special event must possess or obtain public liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. A certificate of insurance shall be filed with the City Clerk 30 days prior to the event and shall name the City, its officials, employees and agents as additional insured. Insurance coverage must be maintained for the duration of the event.

(c) Coverage shall be a commercial general liability policy. Minimum limits required are one million dollars each occurrence combined single limit bodily injury and property damage; two million dollars aggregate. If alcoholic beverages are sold or served at the event, the policy must also include endorsement for liquor liability. If the event involves athletic or other types of active participants, the policy must



include participant coverage. The City Manager may require additional endorsements depending upon the proposed activity.

(d) Waiver or Reduction of Required Limits. The City Manager may waive or reduce the insurance requirements of this chapter under the following conditions:

(i) The applicant or an officer of the sponsoring organization signs a verified statement that he believes the event's purpose is First Amendment expression, and that the cost of obtaining insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment Expression. The statement shall include the name and address of two insurance agents or other source of insurance coverage contacted to determine insurance premium rates for insurance coverage.

(ii) To claim that it is objectively impossible to obtain insurance coverage, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the market place.. Even though insurance is waived, the City may require the event organizer of a special event to defend, indemnify, and hold harmless the City from any claim or liability arising from the special event.

(iii) The City Manager determines that the insurance limits are in excess of the reasonable risk presented by the proposed special event.

**(7) Fees.**

(a) If an application for a special event is received less than ninety (90) days, but more than sixty (60) days prior to the scheduled event, the applicant may pay a twenty-five dollar (\$25) "Rush Fee." The City Clerk will walk the application through the process in order to complete the process prior to the date of the event. (Applications received less than sixty (60) days in advance of the event will be accepted, but cannot be guaranteed to be completed prior to the date of the event.)

(b) Upon approval of an application for a permit for a special event not protected under the First and

Fourteenth Amendments of the U.S. Constitution, the City Manager should provide the applicant with a statement of the estimated cost of providing City personnel, materials and equipment. The applicant/sponsor of the event should be required to repay these estimated costs for City services, materials and equipment 10 days prior to the special event. City services, materials, and equipment may include the use of police officer and public employees for traffic and crowd control, pickup and delivery of traffic control devices, picnic tables, extraordinary street sweeping, and any other needed, requested or required City services and the cost of operating the equipment to provide such services.

(c) If the actual cost for City services and equipment on the date(s) of the event is less than the estimated cost, the applicant/sponsor will be refunded the difference by the City in a timely manner. If the actual cost for City services and equipment on the date(s) of the event is greater than the estimated cost, the applicant/sponsor will be billed for the difference.

**(8) Cleanup deposit.**

(a) The applicant/sponsor of a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution involving the sale of food or beverages for immediate consumption, erection of structures, horses or other large animals, water aid stations or any other event likely to create a substantial need for cleanup, may be required to provide a cleanup deposit prior to the issuance of a special event permit. The amount of cleanup deposit shall be determined by the City Manager.

(b) The cleanup deposit may be returned after the special event if the area used for the permitted special event has been cleaned and restored to the same condition as existed prior to the event.

(c) If the property used for the special event has not been properly cleaned or restored, the applicant/sponsor shall be billed for the actual cost by the City for cleanup and restoration. The cleanup deposit shall be applied toward the payment of the bill.

**(9) Permit denial.** The City may deny an application for a special event permit if:

(a) The applicant provides false, misleading information; the applicant fails to complete the application or to supply other required information or documents; or the applicant declares or shows an unwillingness or inability to comply with the reasonable terms or conditions contained in the proposed permit; or

(b) The proposed event would interfere with construction or maintenance work in the immediate vicinity or unreasonably infringe upon the rights of abutting property as determined by the City Manager; or

(c) The location, size, time, route or features of the event would seriously endanger public safety or health; or

(d) The event would seriously inconvenience the general public's use of public property, services, or facilities as determined by the City Manager; or

(e) There are not sufficient public safety personnel or other necessary City staff to accommodate the event as determined by the City Manager; or

(f) The event will create unusual wear and tear on public facilities or infrastructure as determined by the City Manager; or

(g) The applicant has previous record of violation of permit restrictions or conditions.

**(10) Appeals.**

(a) All decisions of the City Manager with respect to the issuance, denial, revocation or suspension of any permit under this ordinance shall be final unless appealed by the aggrieved party within five (5) days of the date the decision is issued and actual or constructive notice has been received. An aggrieved party may file a written Notice of Appeal with the City Clerk and shall set forth the specific grounds for the appeal and attach any relevant documents for consideration.

(b) A hearing before a hearing examiner shall be scheduled no later than thirty (30) days after receipt of a timely and proper notice.

(c) The decision of the hearing <sup>*Ullmann*</sup> board shall be final.

**(11) Permit revocation.**

(a) Any permit issued under this ordinance may be summarily revoked by the City Manager at any time when, by reason of disaster, public calamity, riot or other emergency or exigent circumstances, the City Manager determines the safety of the public or property requires such immediate revocation.

(b) The City Manager may summarily revoke any permit issued pursuant to this ordinance if the City Manager finds that the permit has been issued based upon false information or when the Sponsor exceeds the scope of the permit or fails to comply with any condition of the permit. Notice of such action revoking a permit shall be delivered in writing to the Sponsor.

(c) If any Special Event for which the permit has been revoked is not immediately discontinued, the City may remove any structure or obstruction or cause to be made without obligation to do so such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, or order the discontinuation of any Special Event. The cost and expense of such removal, repair or discontinuation shall be assessed against the Sponsor, including all professional and expert fees associated with enforcement of the collection of the same.

**(12) Violation and penalty.**

(a) It is unlawful for any person to sponsor or conduct a special event requiring a special event permit pursuant to this ordinance unless a valid permit has been issued for the event. It is unlawful for any person to participate in such an event with the knowledge that the sponsor of the event has not been issued a required, valid permit.

(b) The special event permit authorizes the Sponsor to conduct only such an event as is described in the permit, and in accordance with the terms and conditions of the

permit. It is unlawful for the Sponsor to willfully violate the terms and conditions of the permit, or for any event participant with knowledge thereof to willfully violate the terms and conditions of the permit.

(c) In addition to any other penalties provided in this ordinance, any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished in accordance with state law which sets the maximum penalties for misdemeanors. In addition, each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by any person constitutes a separate offense.

**Sec. 2. Codification.** Section 1 of this ordinance shall be codified as a new chapter in Title 5 DMMC, entitled *Special Events*.

**Sec. 3. 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. 4. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_\_, 2009 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2009.

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M A Y O R

APPROVED AS TO FORM:

Ordinance No. \_\_\_\_\_  
Page 13 of 13

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Published: \_\_\_\_\_



For Office Use Only

Permit No. \_\_\_\_\_

*City of Des Moines***SPECIAL EVENT PERMIT APPLICATION**

Return to: City Clerk  
City of Des Moines  
21630 11th Avenue S  
Des Moines WA 98198

Phone: (206) 878-4595  
Fax: (206) 870-6540

This application must be completed, signed and forwarded to the City of Des Moines at least ninety (90) days prior to the first day of the event (unless authorized by the City Manager). Any misrepresentation in this application or deviation from the final agreed upon route and/or method of operation described herein, may result in the immediate revocation of the permit. Submittal of this application in no way constitutes City of Des Moines approval of the event. Permits are issued at the discretion of the City of Des Moines upon thorough application review. The City of Des Moines reserves the right to reject any Special Event Permit application request for any reason. Please type or print information clearly and attach additional sheets as necessary.

**EVENT INFORMATION****Refer to DMMC Chapter 5****Event Name:** \_\_\_\_\_**Event Type (check as many as apply)**

|                                         |                                     |                                      |                                   |
|-----------------------------------------|-------------------------------------|--------------------------------------|-----------------------------------|
| Demonstration <input type="checkbox"/>  | Exhibition <input type="checkbox"/> | Bike Ride <input type="checkbox"/>   | Carnival <input type="checkbox"/> |
| Dance <input type="checkbox"/>          | Festival <input type="checkbox"/>   | Food Fair <input type="checkbox"/>   | Other <input type="checkbox"/>    |
| Car/Boat Show <input type="checkbox"/>  | Parade <input type="checkbox"/>     | Run/Walk <input type="checkbox"/>    | Specify: _____                    |
| In-Water Event <input type="checkbox"/> | Concert <input type="checkbox"/>    | Block Party <input type="checkbox"/> |                                   |

**Event Date(s):** \_\_\_\_\_ **Day(s) of the Week:** \_\_\_\_\_ **Time(s):** \_\_\_\_\_**Event Location:** \_\_\_\_\_**Facilities to be used: (check one)**

|                                 |                                        |                                           |
|---------------------------------|----------------------------------------|-------------------------------------------|
| Park <input type="checkbox"/>   | City Building <input type="checkbox"/> | Private Property <input type="checkbox"/> |
| Marina <input type="checkbox"/> | Sidewalk <input type="checkbox"/>      | Street <input type="checkbox"/>           |
|                                 |                                        | Other <input type="checkbox"/> _____      |

**Address Of Location:** \_\_\_\_\_**Day of Event :**

|                                 |                                   |                                    |                                   |
|---------------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| Monday <input type="checkbox"/> | Tuesday <input type="checkbox"/>  | Wednesday <input type="checkbox"/> | Thursday <input type="checkbox"/> |
| Friday <input type="checkbox"/> | Saturday <input type="checkbox"/> | Sunday <input type="checkbox"/>    |                                   |

**Set-Up Date/Times:** Begin Date: \_\_\_\_\_ Time: \_\_\_\_\_ am/pm**Take-Down Date/Times:** Dismantle Date: \_\_\_\_\_ Time: \_\_\_\_\_ am/pm**Purpose of Event:** \_\_\_\_\_**Event Crowd Size:** Participants: \_\_\_\_\_ Spectators: \_\_\_\_\_ Volunteers/Personnel: \_\_\_\_\_  
Vendors: \_\_\_\_\_**Has event been produced previously?** Yes ☐ No ☐ If yes, what were the dates of the event? \_\_\_\_\_**Any change from previous events:** Yes ☐ No ☐**If yes, please list changes for this year's request:** \_\_\_\_\_**APPLICANT INFORMATION** Valid ID Required for Permit**Organization Name:** \_\_\_\_\_**Mailing Address and Zip Code:** \_\_\_\_\_**Applicant's Name:** \_\_\_\_\_**Title:** \_\_\_\_\_**Telephone Numbers:** Home: \_\_\_\_\_ Work: \_\_\_\_\_

Pager: \_\_\_\_\_ Cellular: \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Contact Person:** \_\_\_\_\_**Telephone Numbers:** Home: \_\_\_\_\_ Work: \_\_\_\_\_

Pager: \_\_\_\_\_ Cellular: \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Event Name:

Page 2

**EXEMPTION REQUEST**

Are you requesting exemption from the Special Events Permit fee?

Yes ☐No ☐If Yes, state the reason for the exemption (i.e., constitutionally protected free speech, religious and political expression are accepted reasons for an exemption; non-profit status by itself is not sufficient for an exemption):  
\_\_\_\_\_  
\_\_\_\_\_**FEES AND PROCEEDS**

Admission Fee:

No ☐Yes ☐

If yes, how much? \_\_\_\_\_

Any Vending Sales:

No ☐Yes ☐If yes, provide detailed description of all items:  
\_\_\_\_\_  
\_\_\_\_\_**ENTERTAINMENT AND PROMOTIONS**

Sound System:

Acoustic ☐Amplified ☐Entertainers or Bands performing at this event:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Describe entertainment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check type of promotion you plan to use to attract participants:

Television ☐Radio ☐Newspaper ☐Flyers ☐Billboards ☐Posters ☐Other ☐ (please specify): \_\_\_\_\_

Have local neighborhood groups/businesses approved your event concept?

Yes ☐No ☐

If No, what steps will be taken to notify them of your event? \_\_\_\_\_

List community contacts and phone numbers (for verification) or attach an approval letter:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

**SPECIAL SET-UPS REQUESTED**

Check appropriate category below and fill in details or numbers, size and type. Leave blank, if not applicable.

Alcohol:

Yes ☐No ☐

Will alcohol be sold?

Yes ☐No ☐Beer/Wine garden hours (by day):  
If Yes, by whom? \_\_\_\_\_

Amplified Sound:

Yes ☐No ☐

Noise Variance required for amplified

Basis for request and hours of variance:  
Noise Variance: Yes ☐ No ☐ sound after 10:00pm

Animals:

Yes ☐No ☐

How Many?

Species:  
Booths/Vendors: Yes ☐ No ☐ How Many Booths? Vendors? Where:

Commercial Signs:

Yes ☐No ☐

How Many?

Size:  
Electricity Source: Yes ☐ No ☐ Generators? Yes ☐ No ☐ How Many? Size:

Fireworks/Fire

Ground ☐ Aerial ☐Pyrotechnic Company:  
Performance: Yes ☐ No ☐

Inflatables:

Yes ☐No ☐

How many?

Size:

Type:  
Portable Restrooms: Yes ☐ No ☐ How many? Handicapped Accessible:

Rides:

Yes ☐No ☐

How many?

Type:  
Staging/Scaffolding: Yes ☐ No ☐ How many? Height:

Bleachers/

How many? Height:

Grandstands:

Yes ☐No ☐

How many?

Size:  
Tents/Canopies: Yes ☐ No ☐ How many? Size:

Vehicles:

Yes ☐No ☐

How many?

Size and Gross Weight  
Water: Yes ☐ No ☐ Potable? Yes ☐ No ☐ Non Potable? Yes ☐ No ☐



Event Name:

Page 3

**PUBLIC SAFETY**

Describe your plans for on-site security/monitors/route control:

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Describe your First aid, restroom & sanitary station plan:

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List any potential environmental impacts from your event?

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Describe accommodations for people with special needs:

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Describe parking plans for participants & spectators

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List any additional information you believe will be helpful:

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**EVENT PERMITS (May be required by other agencies)**

Depending on the nature of your event, King County or Washington State permits may be required. The applicant is responsible for all other agency permits. The City of Des Moines, in no way, assumes responsibility for application or issuance of permits by other agencies such as, but not limited to, those agencies listed below.

South King County Fire & Rescue  
Washington State Liquor Control Board  
Washington Department of Transportation

King County Health Department  
Washington State Gambling Commission  
King County METRO Transit

**INSURANCE INFORMATION**

Evidence of insurance shall be provided no less than 14 days prior to event. City of Des Moines at 21630 11th Avenue S, Des Moines WA 98198 must be named as "additional insured". Minimum Limits as applicable: \$2,000,000 General Aggregate, \$1,000,000 Products/Completed Operations Aggregate (Food Products Only), \$1,000,000 Personal and Advertising Injury, \$1,000,000 Each Occurrence, \$50,000 Fire Damage, \$5,000 Medical Expense. All aggregates apply separately to each event. **Special Event Permit will not be issued until insurance has been approved.**

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

Phone: (206) 878-4595  
Fax: (206) 870-6540

Event Name:

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**CITY OR PUBLIC SERVICES REQUESTED**

Police Department - Crowd Control, Security or Traffic Control

City Staff Presence

Barricades, Street Closures or Detours

Special Park Maintenance or set up

Street Sweeping/Clean Up

Assistance with Banner or Sign Placement

First Aid Onsite

Electrical Hookup to City venue power source

**RECYCLING INFORMATION**

Are you providing recycling containers?

Yes ☐

No ☐

If Yes, please describe:

**TRAFFIC CONTROL PLAN**

Attach a clear/legible site or route map with the following indicated:

- \* North, indicated by directional arrow 
- \* Names of surrounding streets, with one way streets marked
- \* Number and placement of barricades
- \* Any streets that are closed and detour routes
- \* Locations you believe police services will be necessary
- \* Placement of restrooms and garbage receptacles
- \* Any other details you think are helpful

Police officers may be required at signalized intersections. Flaggers may be required at non-signalized intersections.

Monitors may be required at driveway entrances and other pedestrian and vehicle access points.

Depending on the size of the event, a Traffic Control Plan prepared by a professional engineer may be required.

Please attach map/sketch of Traffic Control Plan to this Application. (Minimum size 8 1/2"X11")

|    | Traffic Control                       | Location | Duties |
|----|---------------------------------------|----------|--------|
|    | List monitor, flagger, police officer |          |        |
| 1. |                                       |          |        |
| 2. |                                       |          |        |
| 3. |                                       |          |        |
| 4. |                                       |          |        |
| 5. |                                       |          |        |

Event Name:

Page 5

**For City Use Only:**

**CITY CLEARANCES & SPECIAL CONDITIONS**

Police Department Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Building Division Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Transportation Engineering Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Marina Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Parks & Recreation Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Street Superintendent Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

Surge Water Management Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

SKC Fire & Rescue Approval Yes ☐ No ☐

Special Conditions Yes ☐ No ☐

Contact: \_\_\_\_\_

Conditions or Comments: \_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_

**City Manager/Administration Approval**

Administration Contact: \_\_\_\_\_

This Event Requires a City Council Resolution: Yes ☐ No ☐

This Event Requires a City ROW Permit: Yes ☐ No ☐

This Event Requires a City Business License: Yes ☐ No ☐

This Event Requires a City Building Permit: Yes ☐ No ☐

This Event Requires a City Sign Permit: Yes ☐ No ☐

Yes ☐ No ☐

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Resolution No. \_\_\_\_\_

Permit No. \_\_\_\_\_

License No. \_\_\_\_\_

Permit No. \_\_\_\_\_

Permit No. \_\_\_\_\_

Total City Cost: \$ \_\_\_\_\_

Permit Fee \$ \_\_\_\_\_

**Total Charge** \$ \_\_\_\_\_

Print Applicant's Name \_\_\_\_\_

Date \_\_\_\_\_

Applicant's Signature \_\_\_\_\_

**Chapter 18.68**  
**TEMPORARY ACTIVITIES STRUCTURES AND SPECIAL EVENTS**

**Sections**

- 18.68.010 Purpose.
- 18.68.020 Application.
- 18.68.030 Effectiveness of Permit.
- 18.68.040 Permit location and general standards.

**18.68.010 Temporary Activity Definition:**

Temporary activities are those structures, facilities, or uses that occur on a seasonal or sporadic basis and involve the processing and/or sale of commodities, and the provision of temporary structures to facilitate construction and operation of new development. The intent of this section is to facilitate the seasonal sale of goods, such as produce, firewood, fireworks, and Christmas trees; and to facilitate project-specific, construction-related activities. (Ord. 97-019 § 4, Exh. B)

**18.68.011 Special Event Definition:**

A Special Event includes but is not limited to a parade, festival, exposition, show, sale, party or other similar activity conducted wholly on public property or partly on public property.

**18.68.020 Temporary Activity Application.**

All persons who wish to initiate a temporary activity or structure within all zoning districts of the City must first apply to the Planning Department for a permit granting approval, using an application form supplied by the Planning Department. Temporary activities and structures shall be reviewed and approved or denied administratively by the Planning Director. (Ord. 97-019 § 4, Exh. B.)

**18.68.021 Special Event Application – Appeals.**

- A. All persons who wish to initiate a Special Event within all zoning districts of the City must first **apply to City Hall** for a permit granting approval, using an application form supplied by the Special Event Coordinator. Special Events shall be reviewed and approved or denied administratively **by the City Manager**.
- B. Applications will be deemed incomplete and will be denied if details about the event are insufficient for staff to properly analyze and determine the impacts on City services, or if not submitted enough in advance of the date of the event to allow for City staff to evaluate

the impacts and coordinate any City services required to insure a successful event. (Typically, this could range from 30 days to 6 months.)

- C. Applications must include evidence of compliance with any required permits from outside agencies (e.g., Health department, liquor license, etc.), proof of required insurance, hold harmless agreements and any other documents identified in the application procedure.
- D. All fees required for the event must be paid prior to issuance of a permit.

18.68.022 Approval/Denial of Special Event Permit

- A. The completed application will be reviewed by a panel consisting of the City Manager, City Clerk, Planning Director, Public Works Director, Police Chief and any outside agency whose services may be needed or impacted by the event. Once the review is completed, the applicant will be notified whether the application has been approved or denied.
- B. If approved, the Special Events Coordinator will collect the appropriate fee and issue the permit for the Special Event in the form of a Letter of Understanding between the City and the event sponsor(s).
- C. If denied, the Special Events Coordinator will notify the applicant and give the reason for denial. If time permits, the applicant may correct the reasons for denial and resubmit the application for approval.
- D. Any event subject to the provisions of this article that is staged without complying with all conditions of this article shall be subject to closure by the City Police Department.
- E. Appeal: An applicant denied a permit may appeal the denial, in writing, within fourteen (14) days of the date of the written denial by filing a written Notice of Appeal with the City Clerk. The appeal shall be heard at a regular City Council meeting which is more than seven (7) days later than the date upon which the appeal is filed. The appeal shall be decided after a properly noticed public hearing. The applicant/appellant shall first deposit with the City Clerk an amount sufficient to pay for the cost of publishing a public notice of the hearing on the appeal. The City Council decision on the appeal is final.

18.68.030 Effectiveness of Temporary Activity or Structure Permit.

Following administrative approval, the temporary activity or structure or Special Event shall be permitted for a period of ninety (90) days. No later than ten (10) working days prior to the termination of the initial ninety (90) day period, the applicant may file a written notice with the Planning Department, requesting that the temporary activity or structure be allowed to continue for an additional ninety (90) days. Under no circumstances shall a temporary activity or structure or Special Event be permitted to continue for more than 180 days, excepting project-specific, construction-related temporary uses, which may be permitted for longer periods. (Ord. 97-019 § 4, Exh. B.)

18.68.032 Effectiveness of Special Event Permit

Following administrative approval, a Special Event shall be approved for only the specified days and at the specified locations assigned to the event.

18.68.040 Permit location and general standards.

Temporary activities and structures may be located within all zones when consistent with the standards set forth herein below.

- A. Structure. All temporary structures shall be removed within five (5) days of the termination of authorized operation, leaving the site in the same condition as it was prior to the placement of the temporary use.
- B. Access and Circulation. Provisions for access and circulation shall be reviewed and approved by the Public Works Department and/or the Washington State Department of Transportation (as applicable.)
- C. Setbacks. Temporary activities and structures shall be setback consistent with the zoning district in which the activity or structure is located so as not to create a traffic hazard.
- D. Parking. Temporary activities and structures shall only be located where adequate provisions for off-street parking can be accommodated.
- E. Noise. Noise levels generated shall not be in excess of levels allowable in the zone that the temporary use is located consistent with Chapter 173-60 WAC, as may be amended, which is incorporated by reference herein.
- F. Hours of Operation. Temporary activities or structures used for the processing and/or sale of commodities shall maintain business hours that are not disruptive to the normal use of adjacent residential properties. Typically, this would occur during daylight hours, and on weekdays.

- G. Fumes, Odors and Dust. Temporary activities that create noxious fumes, offensive odors, or excessive amounts of airborne dust shall not be permitted or shall be required to meet applicable state standards regarding the control of such nuisances.
- H. Traffic. Traffic resulting from temporary activities shall not adversely affect surrounding properties or adjoining rights-of-way. (Ord. 97-019 § 4, Exh. B)
- I. Hazardous Activities.
  - a. The use of any pyrotechnic devices as defined in RCW 70.74.010 shall be prohibited on or in all City-owned property unless specifically approved in writing by the City Fire Marshal with seven (7) days notice to the City Council and written approval by the City Council.
  - b. No black powder or smokeless powder shall be sold in or during a Special Event on or in City property. No loose ammunition may be displayed or sold. Boxed ammunition may be sold if permitted by the applicant.
  - c. Gun shows at which gun sales are to occur shall have all firearms, including antique firearms made inoperable through the use of locks, "zip ties" or other devices to prevent the firearm from being loaded or discharged at the gun show. Sales by licensed firearms dealers may be permitted if permitted by the applicant. Sales by persons who have not been issued a valid Federal Firearms License may not be permitted on City property.
- J. Other Permit Requirements. The City may require proper insurance, indemnification and hold harmless agreements, proof of possession of any Federal, State, County or local required permits or licenses, damage deposits, deposits for payment for cleanup, traffic control, security and other similar requirements, including any applicable provisions for business licenses and collection and reporting of sales tax, which shall be identified in the permit.

ORDINANCE NO. 1490

AN ORDINANCE OF THE CITY OF OAK HARBOR ADDING A NEW CHAPTER 5.50 ENTITLED "PARADES, ATHLETIC EVENTS AND OTHER SPECIAL EVENTS" TO THE OAK HARBOR MUNICIPAL CODE AND AMENDING OAK HARBOR MUNICIPAL CODE SECTION 6.14.100 RELATING TO MEETINGS IN CITY PARKS AND AMENDING OAK HARBOR MUNICIPAL CODE SECTION 6.14.080 RELATING TO SOLICITING AND SOUND TRUCKS

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One.** There is hereby added a new Chapter 5.50 entitled "Parades, Athletic Events and Other Special Events" to the Oak Harbor Municipal Code which shall have the following Sections:

**Sections:**

|          |                                                                |
|----------|----------------------------------------------------------------|
| 5.50.010 | Definitions.                                                   |
| 5.50.020 | Permits Required.                                              |
| 5.50.030 | Grounds for Denial.                                            |
| 5.50.040 | Permit Conditions.                                             |
| 5.50.050 | Appeal Procedures.                                             |
| 5.50.060 | Exemptions from Fees, Indemnification Agreement and Insurance. |
| 5.50.070 | Indemnification Agreement.                                     |
| 5.50.080 | Insurance.                                                     |
| 5.50.090 | Fees for City Services.                                        |
| 5.50.100 | Cleanup Deposits.                                              |
| 5.50.110 | Revocation of Permits.                                         |
| 5.50.120 | Violation - Penalty.                                           |
| 5.50.130 | Savings Clause.                                                |

**Section Two.** There is hereby added a new Section 5.50.010 entitled "Definitions" to the Oak Harbor Municipal Code to read as follows:

**5.50.010      Definitions.**

- (1) "Special Events" include any event which is to be conducted on public property or on a public right-of-way; and, also, any event held on private property which would have a direct significant impact on traffic congestion; or traffic flow to and from the event over public streets or rights-of-way; or which would significantly impact public streets or rights-of-way near the event; or which would significantly impact the need for City-provided emergency services, such as police, fire or medical aid. It is presumed that any event on private property which involves an open invitation to the public to attend or events where the attendance is by private invitation of 100 or more people are each presumed to be an event that will have a direct significant impact on the public streets, rights-of-way or emergency services. Special events might include, but are not limited



to, fun runs, roadway foot races, fund raising walks, auctions, bike-a-thons, parades, carnivals, shows, or inhabitations, filming/movie events, circuses, block parties and fairs.

- (2) "Special Events protected under the First and Fourteenth Amendments" include any event involving political or religious activity intended primarily for the communication or expression of ideas.
- (3) "Use" shall mean to construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the City, including a use related to special events.

**Section Three.** There is hereby added a new Section 5.50.020 entitled "Permits Required" to the Oak Harbor Municipal Code to read as follows:

**5.50.020 Permits Required.**

- (1) In order to preserve the general health, welfare and safety of all the public, a special event permit or authorization from the City is required for any event in a park, public place or on private property where it will significantly impact public sidewalks or roadways. Such special event permit shall be in addition to any street or park use, or other regular permits as may be required by ordinance.
- (2) When such an event will be an exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution, the application shall be processed promptly, without charging a fee for political or religious activities or imposing terms or conditions that infringe constitutional freedoms, and in a manner that respects the liberty of applicants and the public.
- (3) Except as specified in subsection (9) below, a special event permit is **not** required for the following:
  - (a) Parades, athletic events or other special events that occur exclusively on City property and are sponsored or conducted in full by the City of Oak Harbor.
  - (b) Funeral and wedding processions.
  - (c) Groups required by law to be so assembled.
  - (d) Gatherings of 50 or fewer people in a City park, unless merchandise or services are offered for sale or trade.
  - (e) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales.

- (f) Garage sales and rummage sales.
  - (g) The exhibition of films or motion pictures.
  - (h) Other similar events and activities which do not directly affect or use City services or property.
- (4) Any person desiring to sponsor a parade, athletic event or special event shall be encouraged to apply for a special event permit by filing an application with the City Clerk at least sixty (60) days prior to the date on which the event is to occur.
  - (5) The City Clerk shall transmit copies of the application to the City Administrator or her/his designated permit coordinator, Director of Public Works, Police Chief, City Engineer and the Fire Chief for review.
  - (6) The City Administrator or her/his designee shall coordinate review of the special events permit application and approve, deny or approve the same subject to conditions.
  - (7) Fees required to be paid under this ordinance shall be paid to the Finance Department and proof of payment shall be provided to the City Administrator.
  - (8) Waiver of Application Deadline: Upon a showing of good cause or at the discretion of the City, the City shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other City services for the event. Good cause can be demonstrated by the applicant showing that the circumstance that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and the event is for the purpose of exercising rights under the First and/or Fourteenth Amendments of the United States Constitution.
  - (9) It is unlawful as part of or related to any special event to construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place, any building, structure, sign, equipment or scaffolding, to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the City, without obtaining prior to such special event a permit under this ordinance and then only if the specific identified act in this has been so authorized and all other necessary permits have been obtained.

**Section Four.** There is hereby added a new Section 5.50.030 entitled "Grounds for Denial"

**5.50.030      Grounds for Denial.**

- (1) The City may deny an application for a special event permit if:
  - (a) The applicant provides false or misleading information; the applicant fails to complete the application or to supply other required information or documents; or the applicant declares or shows an unwillingness or inability to comply with the reasonable terms or conditions contained in the proposed permit;
  - (b) The proposed event would conflict with another proximate event, interfere with construction or maintenance work in the immediate vicinity, or unreasonably infringe upon the rights of abutting property; or
  - (c) The proposed event would unreasonably disrupt the orderly or safe circulation of traffic as would present an unreasonable risk of injury or damage to the public.
- (2) In the event subsection (b) or (c) above applies, the City shall offer the applicant the opportunity to submit an alternative date or place for the proposed event before denying the application.

**Section Five.** There is hereby added a new Section 5.50.040 entitled "Permit Conditions" to the Oak Harbor Municipal Code to read as follows:

**5.50.040      Permit Conditions.**

- (1) The City may condition the issuance of a special events permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic.
- (2) The following conditions apply to all special events permits:
  - (a) Alteration of the time, place and manner of the event proposed on the event application.
  - (b) Conditions concerning the area of assembly and disbanding of an event occurring along a route.
  - (c) Conditions concerning accommodation of pedestrians or vehicular traffic, including restricting the event to only a portion of the street or rights-of-way.
- (3) Conditions on special events permits not protected under the First and Fourteenth Amendments of the U.S. Constitution include, but are not limited to:

- (a) Requirements for the use of traffic cones or barricades.
- (b) Requirements for the provision of first aid or sanitary facilities.
- (c) Requirements for use of event monitors and providing notice of permit conditions to event participants.
- (d) Restrictions on the number and type of vehicles, animals or structures at the event, and inspection and approval of floats, structures, and decorated vehicles for fire safety.
- (e) Compliance with animal protection ordinances and laws.
- (f) Requirements for use of garbage containers, cleanup, and restoration of City property.
- (g) Restrictions on the use of amplified sound and compliance with noise ordinance, regulations and laws.
- (h) Notice to residents and/or businesses regarding any activity which would require a street closure.
- (i) Restrictions on the sale and/or consumption of alcohol.
- (j) Elimination of an activity which cannot be mitigated to a point as to ensure public safety and welfare, or which causes undue liability to the City.
- (k) Requirements regarding the use of City personnel and equipment.
- (l) Compliance with any other applicable federal, state or local law or regulation.

**Section Six.** There is hereby added a new Section 5.50.050 entitled "Appeal Procedures" to the Oak Harbor Municipal Code to read as follows:

**5.50.050      Appeal Procedures.**

- (1) The applicant shall have the right to appeal the denial of a permit or a permit condition. The applicant shall also have the right to appeal the amount of fees or cleanup deposits imposed pursuant to OHMC Section 5.50.100, or a determination by the City that the applicant's Certificate of Insurance does not comply with the requirements specified in OHMC Section 5.50.080. A written Notice of Appeal shall be filed within three (3) business days after receipt or personal delivery of a notice of denial or permit conditions from the City. The written Notice of Appeal shall set forth the specific grounds for the appeal and attach any relevant documents for consideration. The City Council shall hear the appeal on the record provided from the designated City official and upon public comment given at the scheduled hearing before the Council. The hearing shall be

scheduled no later than thirty (30) days after receipt of a timely and proper Notice of Appeal. Public comment at the appeal hearing shall be limited to three (3) minutes per individual and fifteen (15) minutes each for appellant and City respondent. The decision of the City Council is final.

- (2) If there is insufficient time for a timely appeal to be heard by the City Council prior to the date on which the event is scheduled, the applicant may, at its own option, request that the designated City official schedule the appeal before the City Administrator. City Administrator or designee shall hold a hearing no later than five (5) business days after the filing of the appeal and will render a decision no later than one (1) business day after hearing the appeal. If the appeal is requested and heard before the City Administrator, the City Administrator's decision is final. There is no further appeal to the City Council.

**Section Seven.** There is hereby added a new Section 5.50.060 entitled "Exemptions from Fees, Indemnification Agreement and Insurance" to the Oak Harbor Municipal Code to read as follows:

**5.50.060 Exemptions from Fees, Indemnification Agreement and Insurance.** No fee, indemnification agreement or insurance requirement shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised; if part of any annual tradition or series, previous events in the sequence; and the public perception of the event.

**Section Eight.** There is hereby added a new Section 5.50.070 entitled "Indemnification Agreement" to the Oak Harbor Municipal Code to read as follows:

**5.50.070 Indemnification Agreement.** Prior to the issuance of a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the permit applicant and authorized officer of the sponsoring organization must agree to reimburse the City for any costs incurred by it in repairing damage to City property and indemnify and defend the City, its officers, employees, and agents from all causes of action, claims or liabilities occurring in connection with the permitted event, except those which occur due to the City's sole negligence.

**Section Nine.** There is hereby added a new Section 5.50.080 entitled "Insurance" to the Oak Harbor Municipal Code to read as follows:

**5.50.080 Insurance.** The following insurance shall be required in connection with the issuance of a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution.

\$1,000,000 commercial general liability insurance per occurrence combined single limits,  
\$2,000,000 aggregate unless waived by the City.

The City Administrator is authorized and directed to require written proof of such insurance prior to permit issuance. The insurance policy shall be written on an occurrence basis, shall name the City as an additional insured, shall be written for a period not less than twenty-four (24) hours prior to the event and extending for a period not less than twenty-four (24) hours following the completion of the event, and shall contain a provision prohibiting cancellation of the policy, except upon thirty (30) days written notice to the City.

**Section Ten.** There is hereby added a new Section 5.50.090 entitled "Fees for City Services" to the Oak Harbor Municipal Code to read as follows:

**5.50.090 Fees for City Services.**

- (1) Upon approval of an application for a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the City Administrator should provide the applicant with a statement of the estimated cost of providing City personnel and equipment. The applicant/sponsor of the event should be required to prepay these estimated costs for City services and equipment ten (10) days prior to the special event. City services and equipment may include the use of police officers and public employees for traffic and crowd control, pickup and delivery of traffic control devices, picnic tables, extraordinary street sweeping, and any other needed, requested or required City service and the cost of operating the equipment to provide such services.
- (2) If the actual cost for City services and equipment on the date(s) of the event is less than the estimated cost, the applicant/sponsor will be refunded the difference by the City in a timely manner. If the actual cost for City services and equipment on the date(s) of the event is greater than the estimated cost, the applicant/sponsor will be billed for the difference.
- (3) Permit fees and fees for the use of City services and equipment may be waived in part or in full by the City if in review of the application it is found that the event is of sufficient public benefit to warrant the expenditure of City funds without reimbursement by the applicant/sponsor and would not result in the private financial gain of any individual or "for profit" entity.

**Section Eleven.** There is hereby added a new Section 5.50.100 entitled "Cleanup Deposit" to the Oak Harbor Municipal Code to read as follows:

**5.50.100 Cleanup Deposit.**

- (1) The applicant/sponsor of an event not protected under the First and Fourteenth Amendments of the U.S. Constitution involving the sale of food or beverages for immediate consumption, erection of structures, horses or other large animals, water aid

stations or any other event likely to create a substantial need for a cleanup, may be required to provide a cleanup deposit prior to the issuance of a special event permit.

- (2) The cleanup deposit may be returned after the event if the area used for the permitted event has been cleaned and restored to the same condition as existed prior to the event.
- (3) If the property used for the event has not been properly cleaned or restored, the applicant/sponsor shall be billed for the actual cost by the City for cleanup and restoration. The cleanup deposit shall be applied toward the payment of the bill.

**Section Twelve.** There is hereby added a new Section 5.50.110 entitled "Revocation of Permits" to the Oak Harbor Municipal Code to read as follows:

**5.50.110 Revocation of Permits.** Any permit issued under this ordinance may be summarily revoked by the City at any time when, by reason of disaster, public calamity, riot or other emergency or exigent circumstances, the City determines the safety of the public or property requires such immediate revocation. The City may also summarily revoke any permit issued pursuant to this ordinance if the committee finds that the permit has been issued based upon false information or when the permittee exceeds the scope of the permit or fails to comply with any condition of the permit. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail at the address specified by the permittee in the application.

**Section Thirteen.** There is hereby added a new Section 5.50.120 entitled "Violation - Penalty" to the Oak Harbor Municipal Code to read as follows:

**5.50.120 Violation - Penalty.**

- (1) It shall be unlawful for any person to sponsor or conduct a special event requiring a special event permit pursuant to this ordinance unless a valid permit has been issued and remains in effect for the event. It is unlawful for any person to participate in such an event with the knowledge that the sponsor of the event has not been issued a required, valid permit or with knowledge that a once valid permit has expired or been revoked.
- (2) The special event permit authorizes the permittee/sponsor to conduct only such an event as is described in the permit, and in accordance with the terms and conditions of the permit. It is unlawful for the permittee/sponsor to willfully violate the terms and conditions of the permit, or for any event participant with knowledge thereof to willfully violate the terms and conditions of the permit or to continue with the event if the permit is revoked or expired.
- (3) Any person or organization violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of a fine not more than Five Hundred Dollars (\$500.00) or by imprisonment of not more than ninety (90) days, or both such fine and imprisonment.



**Section Fourteen.** There is hereby added a new Section 5.50.130 entitled "Savings Clause" to the Oak Harbor Municipal Code to read as follows:

**5.50.130 Savings Clause.** If any section, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section Fifteen.** Section 6.14.100 entitled "Unlawful assemblies or meetings" of the Oak Harbor Municipal Code is hereby amended to read as follows:

**6.14.100 Special Events Permit.** It is unlawful to hold a meeting of more than thirty (30) people in an Oak Harbor park without obtaining a special events permit from the City.

**Section Sixteen.** Section 6.14.080 entitled "Soliciting and sound trucks" of the Oak Harbor Municipal Code is hereby amended to read as follows:

**6.14.080 Soliciting and sound trucks.** It is unlawful to take up collections, or to act as or ply the vocation of solicitor, agent, peddler, faker, mendicant, beggar, strolling musician, organ grinder, exhorter, barker, showman or bootblack, or to operate or use any loudspeaker without written permission of the council; provided sound amplification may be authorized for use subject to conditions of special events permit.

**Section Seventeen.** **Effective Date.** This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council and approved by its Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

THE CITY OF OAK HARBOR

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

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Parades, Athletic Events and  
Other Special Events Ordinance - 9



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING PERMIT REQUIREMENTS FOR SPECIAL EVENTS  
TO BE HELD IN THE CITY OF ANACORTES, CREATING TITLE 7 OF THE  
ANACORTES MUNICIPAL CODE.**

**WHEREAS**, it is in the best interest of the City of Anacortes to adopt permit procedures for use of public streets and public parks;

**WHEREAS**, the City of Anacortes wishes to decrease any liability risk or risk to public safety; and

**WHEREAS**, in order that adequate arrangements may be made for the proper protection of the special event, the people in attendance, and the general public, an application is the best requirement.

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANACORTES** that Attachment A hereto be and is hereby adopted.

**EFFECTIVE DATE.** This ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

**PASSED AND APPROVED** this 21<sup>st</sup> day of August 2006.

**CITY OF ANACORTES:**

BY: \_\_\_\_\_  
H. Dean Maxwell, Mayor

**ATTEST:**

\_\_\_\_\_  
Wanda Phillips, City Clerk Treasurer

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ian S. Munce, City Attorney

## **Chapter 4.12**

### **SPECIAL EVENT AND STREET USE PERMITS**

#### **Sections:**

4.12.010 Definitions.

4.12.020 Permit required – Exemption.

4.12.030 Application – Form – Contents.

4.12.040 Review of application.

4.12.050 City manager to issue permit – Criteria for issuance.

4.12.060 Revocation or suspension of permit.

4.12.070 Appeals.

4.12.080 Violations – Penalties.

#### **4.12.010 Definitions.**

As used in this chapter, the following terms shall have the meanings set forth below:

(1) "Special event" means an event or happening organized by any person, persons or organization which will generate or invite public participation and/or spectators, for a particular and limited purpose and time including, but not limited to, fun runs, roadway foot races, fund raising walks, bikeathons, parades, carnivals, shows, exhibitions, circuses and fairs. "Special events" are not limited to those events conducted on the public streets but may occur entirely on private property.

(2) "Use" means to construct, erect or maintain in, on, over or under any street, right-of-way or other public place; any building, structure, sign, equipment or scaffolding; to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the public use of any public street, right-of-way or other public place within the city, including any use related to special events. (Ord. 465 § 1, 1986).

#### **4.12.020 Permit required – Exemption.**

(1) It is unlawful for any person to hold or conduct any special event in the city or to use any street right-of-way or other public place in the city for any purpose unless such person has obtained and has in full force and effect a permit to do so issued by the city.

(2) The following events, when conducted entirely upon private property, shall be exempt from the requirement to obtain a permit under this chapter:

- (a) Dances and other special events conducted by schools or churches;
- (b) Temporary sales conducted by businesses, such as holiday sales, grand opening sales or anniversary sales;
- (c) Garage and rummage sales;
- (d) The exhibition of films or motion pictures; and
- (e) Other similar events and activities which do not directly affect or use city services. (Ord. 465 §2, 1986).

#### **4.12.030 Application – Form – Contents.**

Normandy Park Municipal Code

Printed from Folio Views on 8/6/2007 Title 4: Page 10

(1) Any person desiring to apply for a special event or street use permit shall do so by filing a written application with the city manager at city hall. The application shall be made on forms provided by the city and shall include, at a minimum, the following information:

- (a) The name, address, telephone number and date of birth of the applicant;
- (b) A full and complete description of the special event sought to be held and the duration of such special event;
- (c) The proposed location of the special event and the dimensions and plans for any structure to be erected or constructed in connection with the special event;
- (d) Whether the special event will require the use of any city street or right-of-way and, if so, the location and dimensions of the proposed use, together with a statement as to the dimensions of remaining unobstructed street or right-of-way;
- (e) An estimate of the number of persons who will or who are expected to attend the special event;
- (f) If the permit sought is for the use of a city street; a full and complete description of the use sought to be made of the street by the applicant and the duration of such use; and
- (g) Such other further information as the city manager may reasonably require to determine whether the application and proposed use meet all of the requirements for permit issuance established by this chapter.

(2) All applications shall be accompanied by a nonrefundable application fee as set by the city's current fee ordinance provided that the city manager may waive such fee if the applicant is a nonprofit or community service organization. (Ord. 465 § 3, 1986).

#### **4.12.040 Review of application.**

Upon receipt of a completed special event or street use permit application, the city manager shall refer same to the director of public safety and the city engineer for their investigation and review concerning compliance of the proposed event or use with the criteria for issuance set forth in NPMC 4.12.050. (Ord. 465 § 4, 1986).

#### **4.12.050 City manager to issue permit – Criteria for issuance.**

(1) All permits issued under this chapter shall be issued by the city manager or designee. Upon receipt of the comments of the director of public safety and the city engineer regarding the application, the city manager shall determine whether or not the permit will be issued. A permit may be issued to the applicant only if all of the following criteria and conditions for issuance are met:

- (a) The proposed special event will not unreasonably endanger the participants, spectators or the public;
- (b) The proposed special event will not unreasonably interfere with vehicular or pedestrian traffic flow at its proposed location;
- (c) Adequate plans for parking exist to meet the need generated by the proposed special event;
- (d) The proposed special event or proposed use of the street will not intrude onto or over any portion of a public right-of-way open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering vehicles or pedestrians. Additionally, in the event the requested permit involves encroachment or partial obstruction of a sidewalk or other

walkway open to the public, a minimum of three feet of unobstructed sidewalk or other walkway shall be maintained at all times;

(e) If the special event or use of the street involves an obstruction of a portion of a public sidewalk or other walkway, the city manager shall establish the specific period of the permit;

(f) If the special events such as fun runs, marathons, etc., or in the case of any street use which Normandy Park Municipal Code requires the closure of any public street or walkway, the proposed event or use will not require closure for a period longer than that established by the city manager;

(g) Whenever the requested permit is for an action which will require the use of any city street or other property, whether or not such use is connected with a special event, the applicant must agree to indemnify, defend and hold the city harmless from any and all claims for bodily injury or property damage that may arise out of or in connection with the applicant's permitted special event or use;

(h) Whenever the requested permit is for an action which will require the use of any city street or other city property, whether or not such use is connected with a special event, the applicant must secure and maintain in full force and effect throughout the duration of the permit comprehensive general liability insurance for bodily injury and property damage in such amounts as the city manager deems necessary and shall have the city named as an additionally named insured on the policy of insurance which shall include a provision prohibiting cancellation of such policy except upon 30 days' prior written notice to the city;

(i) Whenever any special event or other use requires the provision of additional city services including, but not limited to, the employment of police officers to direct or block pedestrian or vehicular traffic or the provisions of standby aid car or fire protection services, the applicant shall agree to reimburse the city for the same;

(j) Such other and further conditions as the city manager deems necessary to reasonably ensure that the proposed special event does not in any way create a likelihood of endangering those who may participate or who may be spectators; and

(k) Applicant must agree to remove any structure or obstruction upon expiration of permit and restore the public property to a condition that existed prior to usage. If not, this will be done by the city with costs assessed to the permit holder.

(2) If any of the criteria in this section are not met by the proposal, the city manager shall deny the permit or may issue the permit with such conditions as the city manager deems necessary for the application to meet all of the criteria set forth in this section.

(3) All conditions of the permit shall be subscribed on or attached to the permit. (Ord. 465 § 5, 1986).

#### **4.12.060 Revocation or suspension of permit.**

All permits issued pursuant to this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be revoked by the city manager as follows:

(1) The permit may be immediately revoked by the city manager or designee in the event of a violation of any of the terms or conditions of the permit.

(2) The permit may be immediately revoked by the city manager or designee in the event the permitted special event or street use becomes, for any reason, dangerous to persons or

property or if any structure or obstruction permitted becomes insecure or unsafe or any other condition that could have an adverse impact to public health and safety.

(3) If any event, use or occupancy for which the permit has been revoked is not immediately discontinued, the city manager or designee may remove any structure or obstruction or cause to be made, without obligation to do so, such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, or adjourn any special event. The cost and expense of such removal, repair or adjournment shall be assessed against the permit holder, including all professional fees associated with enforcement of the collection of same. (Ord. 465 § 6, 1986).

#### **4.12.070 Appeals.**

All decisions of the city manager with respect to the issuance, denial, revocation or suspension or any permit under this chapter shall be final unless appealed by any aggrieved party in writing to the city council within 10 days of the denial. (Ord. 465 § 7, 1986).

#### **4.12.080 Violations – Penalties.**

Any person who violates any of the provisions of this chapter shall be guilty of an infraction and shall, upon conviction, be subject to a civil penalty in a sum not to exceed \$500.00. In addition, each day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any person constitutes a separate infraction. (Ord. 725 § 2, 2004; Ord. 465 § 8, 1986).

## **Goals**

- ✿ **Formalize the Special Event process**
- ✿ **Identify real costs to support events**
- ✿ **Provide a mechanism for cost recovery**
- ✿ **Create a vehicle for sponsoring organizations to request city assistance**
- ✿ **Formalize the process for 1<sup>st</sup> & 14<sup>th</sup> Amendment Events**

Special Events Presentation

February 12, 2009/lac

## **Examples of Special Events**

- |                          |                               |
|--------------------------|-------------------------------|
| ✿ <b>Athletic Events</b> | ✿ <b>Bicycle Races</b>        |
| ✿ <b>Parades</b>         | ✿ <b>Demonstrations</b>       |
| ✿ <b>Street Dances</b>   | ✿ <b>Fairs</b>                |
| ✿ <b>Block Parties</b>   | ✿ <b>Auctions</b>             |
| ✿ <b>Fireworks</b>       | ✿ <b>Boat &amp; Car Shows</b> |
| ✿ <b>Field Days</b>      | ✿ <b>Concerts</b>             |
| ✿ <b>Carnivals</b>       | ✿ <b>Live Performances</b>    |
|                          | ✿ <b>Fun Run/Walks</b>        |

“Anything that affects standard or ordinary use by the public of public venues.”

Special Events Presentation

February 12, 2009/lac

## **Listed Exemptions**

- ❖ **Funerals**
- ❖ **Garage Sales, Rummage Sales & Bazaars**
- ❖ **City Sponsored Events**
- ❖ **Gatherings of less than 30 in a public park**
- ❖ **Temporary business related sales**
- ❖ **Car Washes**
- ❖ **Lemonade Stands**

Special Events Presentation

February 12, 2009/lac

## **Application Time Frame**

- ❖ **90 Days prior to the event date**
  - **Normal processing**
- ❖ **60 Days prior to the event date**
  - **Will attempt to complete processing w/Rush Fee**
- ❖ **Less than 60 Days prior to the event date**
  - **Will accept and process, but cannot assure the permit will be complete prior to the date of the event**

Special Events Presentation

February 12, 2009/lac



## **Example Conditions**

- ❖ **Date, Time, Route, Location & Noticing**
- ❖ **Limit specific activities**
- ❖ **Accommodations for traffic and/or pedestrians**
- ❖ **First Aid & Sanitary Facilities**
- ❖ **Traffic Control & Parking Plans**
- ❖ **Sound/Noise Restrictions**
- ❖ **Clean Up Deposit**

Special Events Presentation

February 12, 2009/lac

## **Criteria for Council Approval**

- ❖ **Events lasting longer than 24 hours**
- ❖ **Events on public property that charge an admission fee**
- ❖ **Events with more than 100 participants**
- ❖ **Events costing more than \$5000 in city services**
- ❖ **Commercial Events (or events with retail sales)**

Special Events Presentation

February 12, 2009/lac



## **Fees**

- ❖ **Timely Application – none**
- ❖ **Application less than 90 days prior to the event - \$25 Fee**
- ❖ **Permit Fee – Determined by the City Manager based on required or requested City services**
- ❖ **Clean Up Deposit**

Special Events Presentation

February 12, 2009/lac

## **Permit Denial**

- ❖ **False, misleading or incomplete applications**
- ❖ **Interference with maintenance work**
- ❖ **Infringe upon neighboring property rights**
- ❖ **Event endangers public health or safety**
- ❖ **Seriously inconvenience public use of public property**
- ❖ **City staff cannot accommodate the event**
- ❖ **Unusual wear and tear on city infrastructure**
- ❖ **Previous record of violations**

Special Events Presentation

February 12, 2009/lac

## **Appeal Process**

- ✿ **Requires written notice within 5 days of denial**
- ✿ **Hearing examiner will schedule a hearing within 30 days of the appeal**
- ✿ **Council**

Special Events Presentation

February 12, 2009/lac

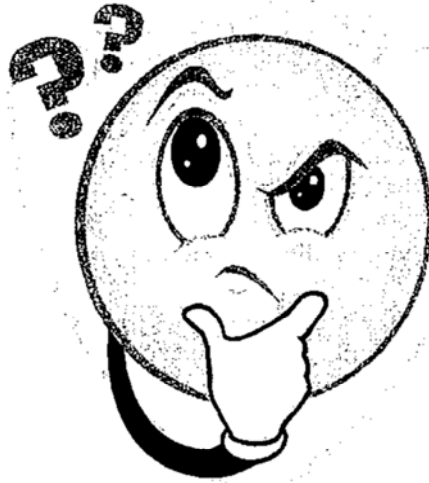
## **Reasons for Revocation**

- ✿ **Emergency or exigent circumstances**
- ✿ **If issued based upon false information**
- ✿ **Sponsor exceeds scope of the permit**
- ✿ **Sponsor fails to comply with conditions**

Special Events Presentation

February 12, 2009/lac

# Questions



Special Events Presentation

February 12, 2009/lac

## Committees of the Board of Directors

### Finance Committee – Ken Hearing, **North Bend**, Chair

Jay Covington, **Renton**; Katrina Asay, **Milton**; Neal Beets, **Federal Way**; Lisa Jensen, **Newcastle**; Tami Schackman, **Bothell**.

#### Accomplishments:

Proposed amendments to the Board Policies for Regional Associate membership dues structure. Revised membership dues structure. Reviewed proposals for a FY 2007 audit, selecting Paulsen Megaard. Reviewed and accepted the audit reports.

### Education Committee – Jean Garber, **Newcastle** Chair

Jim Pearman, **Mercer Island**; Steve Anderson, **Bothell**; Margaret Harto, **Covington**; Mary-Alyce Burleigh, **Kirkland**; and Terry Anderson, **SeaTac**; Suzette Cooke, **Kent**; Michelle Petitti, **Sammamish**; Matt Larson, **Snoqualmie**; Tony Piasecki, **Des Moines**

#### Accomplishments:

Chose SCA's networking dinner speakers. (January – Tay Yoshitani, Port of Seattle; March – Governor Christine Gregoire; May – Gene Seiber on the Lewis County Floods; July – A transportation panel featuring Joni Earl, David Moseley and David Dye; September – Ron Sims on the 2009 County budget crisis.) Kermet Apio was chosen as the speaker for the SCA Annual Meeting. The average attendance at the dinners was 84.

Developed and produced the March 20, 2008 conference "Connecting with the Youth of Our Cities". Joining SCA in the sponsorship of this event were CH2M Hill, AWC and the City of Mercer Island. More than 90 people attended the full-day conference. Thirteen speakers discussed public safety and justice, embracing cultural and economic diversity and approaches that worked.

### King County Budget Group – Suzette Cooke, **Kent**, Chair; Steve Anderson, **Bothell**, Vice-Chair

Will Ibershof, **Duvall**; Dave Hill, **Algona**; Jeff Wagner, **Covington**; Denis Law, **Renton**; Cindy Ryu, **Shoreline**; Neal Beets, **Federal Way**; Marilynne Beard, **Kirkland**; Richard Cole, **Redmond**; Sonny Putter, **Newcastle**, and Mike Martin, **Burien**.

#### Accomplishments:

The Budget Group was tasked with developing a strategy that addressed opportunities and proposals to impact budget decisions throughout the County's budget building process. SCA Leadership met with Executive Sims and County budget staff met with the Group. The Group developed a list of positions and strategies. Together with the SCA Board of Directors, members of the group visited with all the County Councilmembers to discuss SCA's position.

### Public Issues Committee (PIC) – Mary-Alyce Burleigh, **Kirkland**, Chair and Linda Kochmar, **Federal Way**, Vice-Chair

Members: **Algona**- Dave Hill, Lynda Osborn; **Auburn**- Pete Lewis, Sue Singer; **Black Diamond**- Howard Botts; **Bothell**- Tris Samberg, Patrick Ewing; **Burien**- Sue Blazak, Kathy Keene; **Carnation**- Lee Grumann; **Clyde Hill**- Barre Seibert; **Covington**- Jeff Wagner; **Des Moines**- Ed Pina; **Duvall**- Will Ibershof; **Enumclaw**- John Wise; **Federal Way**- Linda Kochmar, Jeanne Burbidge; **Issaquah**- Ava Frisinger, Eileen Barber; **Kenmore**- David Baker; **Kent**- Suzette Cooke, Debbie Raplee; **Kirkland**- Dave Asher, Mary-Alyce Burleigh; **Lake Forest Park**- Sandy Koppenol, Dave Hutchinson; **Maple Valley**- Glenn Smith, Layne Barnes; **Mercer Island**- Mike Cero, Jim Pearman; **Milton**- Katrina Asay; **Newcastle**- Sonny Putter, Lisa Jensen; **Normandy Park**- Clark Brandt; George Hadley **North Bend**- Ross Loudanback, Ken Hearing; **Pacific**- Nicole Hagestad; **Redmond**- John Marchione, Richard Cole; **Renton**- Denis Law, King Parker; **Sammamish**- Nancy Whitten; Don Gerend; **SeaTac**- Mia Gregerson; **Shoreline**- Cindy Ryu; **Skykomish**- Henry Sladek; **Snoqualmie**- Matt Larson; **Tukwila**- Jim Haggerton; **Woodinville**- Bob Vogt.

#### Public Issues Committee Accomplishments

33 Member Cities attended monthly meetings with an average attendance of 26 cities. SCA representatives on regional boards and committees provided reports and recommendations. Member cities also brought forth issues for consideration for an SCA policy position. Some issues are ongoing while some were informational with direction being given to the SCA representatives through discussion. As a subcommittee of the Board of Directors, the following was recommended for Board adoption:

- That SCA support recommendations regarding volunteer health care worker liability in emergency situations by asking AWC for assistance in amending RCW 4.24.300 and HB 17073.
- That SCA pursue additional seats for other cities and towns in King County on both the PSRC Transportation and the PSRC Growth Management Policy Boards.
- That SCA support the proposed two-year County Sewer Rate of \$31.90, an 8% increase over the current rate
- That SCA support the proposed 2009 increase in King County Capacity Charge Rate for new hook-ups of \$47.64, a 3% increase over the current rate.
- That SCA support an amendment to the Countywide Planning Policies that would allow for annexation of overlapping Potential Annexation Areas in the North Highline urban unincorporated area, provided such an amendment is 1) limited in effect to the North Highline and the cities of Seattle, Burien, SeaTac and Tukwila and 2) approved by all affected SCA member cities. SCA does not support any amendment to the CPPs that alters current countywide policy prohibiting PAA overlaps elsewhere in the county.
- That SCA oppose Initiative I-985.
- That SCA support explicit policy language regarding urban centers and corridor connections in the PSRC Federal Funds Regional Competition. The practice in the last funding cycle treated projects equally that connect to two urban centers, and projects that connect to only one center. The policy language needs to be updated to specifically state this since getting to an urban center is as critical as moving between urban centers.

(More accomplishments on the next page)

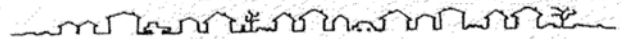
## Public Issues Committee (PIC Accomplishments Continued)

- That SCA, as an effort to improve the prospects for annexation and collaborative management of the Urban Growth Area boundary, support policy statements that a) addressed irregular UGA boundaries; b) recommended implementation of Transfer of Development rights along the UGA line; c) recommended specific financing deficit urban infrastructure in annexation areas; and, added considerations for King County in the area of urban subsidy.
- That SCA support adding new criteria for non-motorized projects such as trail projects where priority will be given to projects connecting regional trail routes or connecting to regional trail routes, and for sidewalk projects, where priority will be given to pedestrian routes providing access to school bus stops, schools and parks.
- That SCA work with AWC to promote legislation that would allow two or more cities or towns located in a county with a population greater than one million that have entered into an inter-local agreement, to select one of the cities or towns to be the legislative authority for the purpose of establishing a tourism promotion area (TPA).
- That SCA support more explicit policy language in the PSRC Federal Funds Regional Competition that gives equal treatment to projects that connect two urban centers and to projects that connect to only one center. This acknowledges that getting to an urban center is just as critical as connecting two urban centers.
- That SCA support adding new criteria for non-motorized projects such as trail projects where priority will be given to projects connecting regional trail routes or connecting to regional trail routes, and for sidewalk projects, where priority will be given to pedestrian routes providing access to school bus stops, schools and parks.
- That SCA work with AWC to promote legislation that would allow two or more cities or towns located in a county with a population greater than one million that have entered into an inter-local agreement, to select one of the cities or towns to be the legislative authority for the purpose of establishing a tourism promotion area.
- That SCA revise its current annexation policy to include several revisions.
- That SCA support a fifty cent fare increase to help close a serious shortfall in Metro Transit's current 2008-2009 biennial budget.
- Regarding King County Proposed Legislation in Olympia:
  - That SCA support flexibility in the use of REET
  - That SCA remain neutral on the expansion of the unincorporated area property tax to allow for funding of other local services
  - That SCA support policy changes for the number of elections conducted in the county.
  - That SCA support flexibility to recover costs on existing fees.
  - That while criminal justice and public health programs are core services, they should be funded with current revenues. SCA should oppose new taxes for criminal justice and/or public health programs without a public vote
  - That SCA not oppose a utility tax on unincorporated King County, but SCA opposes a county-wide utility tax.
- The PIC also recommended individuals for appointment to 121 seats on 27 regional committees and boards for 2009.

## 2008 Financial Report

SCA is expected to end fiscal year on December 31, 2008 with revenues of \$473,490 and expenses of \$479,154, with funding from unallocated cash making up the difference per the 2008 budget adopted by the SCA Membership.

A copy of the current financial statements are available from SCA upon request.



## Long Range Goals ~2012

| Regional Organization & Governance                                                                                                                                     | Education                                                                         | Public Policy Leadership                                                                                                                                                  | Public Benefit                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To be a Puget Sound regional organization that successfully promotes the SCA vision throughout the region.                                                             | To be a center for professional development of local electeds on regional issues. | To provide leadership in the development of a cohesive model for citizens and business to thrive in any jurisdiction through growth management, transportation, and jobs. | To implement a plan to raise community awareness and respect for local government by providing analysis and solutions on regional issues while educating the public on issues that affect their quality of life. |
| To operate under a governance structure that effectively recognizes the special interests of small cities, rural cities, and urban cities within a regional framework. |                                                                                   | To provide leadership in restructuring regional governance.                                                                                                               |                                                                                                                                                                                                                  |

## The 2008 Board of Directors

### President

Ava Frisinger, Issaquah

### Vice President

Pete Lewis, Auburn

### Treasurer

Ken Hearing, North Bend

### Secretary

Karen Goroski

### Immediate Past President

John Wise, Enumclaw

Member-at-large, Executive Comm.

Jean Garber, Newcastle

CM/CA Ex-Officio

Jay Covington, Renton

### PIC Chair

Mary-Alyce Burleigh, Kirkland

### Boardmember

Katrina Asay, Milton

### Boardmember

Margaret Harto, Covington

### Boardmember

Lucy Krakowiak, Burien

### Boardmember

Mike Park, Federal Way

### Boardmember

Jim Pearman, Mercer Island

### Boardmember

David Baker, Kenmore

## 2008 Regional Appointments

SCA appointed or recommended for appointment, 121 individuals to 27 regional boards and committees in 2008. These individuals worked hard to carry the message of the Association and have earned its gratitude.

(Key: M = Members A = Alternates)

### METROPOLITAN KING COUNTY REGIONAL COMMITTEES

**Regional Policy Committee:** Sonny Putter, Pete Lewis, John Wise, Ava Frisinger, Richard Cole, Ralph Shape. (4M, 2A with staff support from Nina Rivkin, Redmond)

**Regional Transit Committee:** Kathy Huckabay, Fred Butler, Noel Gerken, Ralph Shape, Jeanne Burbidge, Joan McGilton, Ed Sterner, Conrad Lee, David Baker, Chuck Price, Doug Osterman, Marcie Palmer (8M, 4A with staff support from Monica Whitman, Kent)

**Regional Water Quality Committee:** King Parker, Bill Peloza, Ron Hansen, Don Davidson, Donovan Tracy, Jim Haggerton. (4M, 2A with staff support from Dave Christensen, Renton)

### PUGET SOUND REGIONAL COUNCIL BOARDS

**PSRC Executive Board:** Sonny Putter, Sue Singer, Sally Nelson, Mary-Alyce Burleigh, Ron Hansen, Michele Petitti, Richard Cole, Dwight Thompson, Katrina Asay, Will Ibershof. (5M, 5A with staff support from Lisa Clausen, Burien)

**PSRC Growth Management Policy Board:** Jean Garber, Tim Clark, Lynn Norman, Nancy Whitten (2M, 2A with staff support from Michael Hubner, SCA)

**PSRC Transportation Policy Board:** Pat Ewing, Jeanne Burbidge, Don Gerend, Sue Blazak (2M, 2A with staff support from Lisa Clausen, Burien)

**PSRC Economic Development District Policy Board:** Pete Lewis, Jim Pearman, Jack Dovey, John Marchione (2M, 2A)

**PSRC Regional Project Evaluation Committee:** Gregg Zimmerman, Kirk McKinley, Don Cairns, Gary Costa, Larry Blanchard, Ray Steiger (3M, 3A)

### OTHER KING COUNTY COMMITTEES

**Growth Management Planning Council:** Lucy Krakowiak, Robert Sternoff, Jean Garber, Terri Briere, Eric Faison, Kimberly Allen, Randy Eastwood, Mark Cross, Layne Barnes, Ron Harmon (6M, 4A with staff support from Michael Hubner, SCA)

**Regional Law Safety & Justice:** Dave Asher, Suzette Cooke, Michael Park, Gene Fisher, Gerard Cattin, Ed Sterner (6M)

**King County Consortium Joint Recommendations Committee for CDBG:** Ava Frisinger, Howard Botts, Terry Anderson, David Baker (4M)

**Local Hazardous Waste Management Plan:** Ron Hansen (1M)

(More on the next page.)

## Vision ~ Values ~ Mission

### Vision

To be the most dynamic, respected, influential, and effective organization representing the interest of the suburban cities of King County.

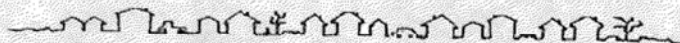
### Values

SCA aspires to create an environment that fosters respect, trust, fairness and integrity.

SCA operates in a consistent, inclusive, and transparent manner that respects the diversity of our members and encourages open discussion and risk-taking.

### Mission

To provide leadership through advocacy, education, mutual support and networking to suburban cities in King County as they act locally and partner regionally to create livable vital communities.





## OTHER KING COUNTY COMMITTEES (CONTINUED)

**Committee to End Homelessness Governing Board:** Keith McGlashan, John Wise (2M)

**King County Disability Board LEOFF I:** Howard Botts (1M)

**Interagency Advisory Council to End Homelessness:** David Ramsay, Rhonda Berry, Karen Bergsvik (3M)

**King County EMS Advisory Task Force** (4M)

## COUNTY EXECUTIVE, STATE OR OTHER APPOINTMENTS

**Mental Illness & Drug Dependency Oversight Comm (MIDD):** Pete Lewis (1M)

**Radio Executive Policy Committee:** George Hadley, Allan Van Ness (2M)

**Board of Health:** David Hutchinson, Ava Frisinger, Dan Sherman (2M, 1A)

**Solid Waste Advisory Committee:** David Baker, Joan McGilton (2M)

**Emergency Management Advisory Committee:** George Hadley, Gail Marsh, Brian Felczak (3M with staff support from Sarah Miller, Auburn)

**Regional Water Supply Planning Process Coordinating Comm:** Tim Clark (1M)

**King County Flood Control Zone District Advisory Committee:** Ron Hansen, Joan McBride, Mike Park, Laure Iddings, Eileen Barber, David Baker, Nicole Hagestad, Geoff Bowrie (4M, 4A)

**King Conservation District Advisory Council:** Elizabeth Walker, Joan McBride, Glenn Smith, Dave Hill (4M)

**King County Regional AFIS Advisory Committee:** David Cline (1M)

## REPRESENTATIVES

**Jail Agreement Administration Group:** Marilyn Beard, Penny Bartley, Steve Cozart, Jim Kelly, Dennis Peterson, Julie Modrzyewski, Jennifer Henson (3M, 3A)

**EnterpriseSeattle:** Bob Sternoff, Suzette Cooke, Michele Pettit, Jack Dovey, Cindy Ryu, Denis Law, (6M)

"We may have all come on different ships, but we're in the same boat now."

Martin Luther King Jr.

Suburban Cities Association  
6300 Southcenter Blvd #206, Tukwila 98188  
206-433-7168  
www.suburbancities.org  
sca@suburbancities.org

# Suburban Cities Association

## 2008

## Annual Report

"Great things are not done by impulse, but by a series of small things brought together."

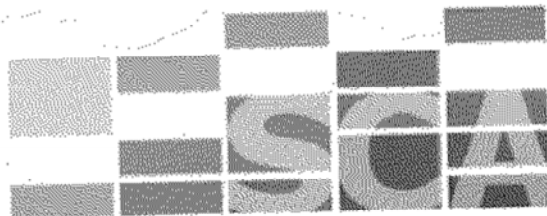
Vincent Van Gogh



Staff:  
Karen Goroski, Executive Director  
Alice Neiffer, Administrative Services Manager  
Michael Hubner, Buildable Lands Manager  
Sabrina Kang, Public Policy Analyst

# SCA 2009 EVENT SCHEDULE

## SUBURBAN CITIES ASSOCIATION



## CONTACT INFORMATION

[WWW.SUBURBANCITIES.ORG](http://WWW.SUBURBANCITIES.ORG)

For agendas and information

206-433-7168

SUBURBAN CITIES ASSOCIATION  
6300 SOUTHCENTER BLVD # 206  
TUKWILA, WA 98188

PIC Second Wednesday

Holidays/Observances

Feb 18-19 AWC City Leg Action

March 16-18 NLC Conf of Cities

June 23-26 AWC Annual Conf

October 21 - 23 Seattle Chamber Leadership in  
Suncadia

Nov 10-14 NLC

Networking Dinners

Board Meetings

**\*October 14 is both Board and PIC**

**\*December 9 is both Board and PIC**

Other Events—

US Conference of Mayors - January [usmayors.org](http://usmayors.org)

PSRC General Assembly - Apr [psrc.org](http://psrc.org)



# SUBURBAN CITIES ASSOCIATION

| January 2009 |    |    |    |    |    |    |
|--------------|----|----|----|----|----|----|
| S            | M  | T  | W  | T  | F  | S  |
|              |    |    |    | 1  | 2  | 3  |
| 4            | 5  | 6  | 7  | 8  | 9  | 10 |
| 11           | 12 | 13 | 14 | 15 | 16 | 17 |
| 18           | 19 | 20 | 21 | 22 | 23 | 24 |
| 25           | 26 | 27 | 28 | 29 | 30 | 31 |

| February 2009 |    |    |    |    |    |    |
|---------------|----|----|----|----|----|----|
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| 8             | 9  | 10 | 11 | 12 | 13 | 14 |
| 15            | 16 | 17 | 18 | 19 | 20 | 21 |
| 22            | 23 | 24 | 25 | 26 | 27 | 28 |

| March 2009 |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|
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| 8          | 9  | 10 | 11 | 12 | 13 | 14 |
| 15         | 16 | 17 | 18 | 19 | 20 | 21 |
| 22         | 23 | 24 | 25 | 26 | 27 | 28 |
| 29         | 30 | 31 |    |    |    |    |

| April 2009 |    |    |    |    |    |    |
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| 12         | 13 | 14 | 15 | 16 | 17 | 18 |
| 19         | 20 | 21 | 22 | 23 | 24 | 25 |
| 26         | 27 | 28 | 29 | 30 |    |    |

| May 2009 |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
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| 3        | 4  | 5  | 6  | 7  | 8  | 9  |
| 10       | 11 | 12 | 13 | 14 | 15 | 16 |
| 17       | 18 | 19 | 20 | 21 | 22 | 23 |
| 24       | 25 | 26 | 27 | 28 | 29 | 30 |
| 31       |    |    |    |    |    |    |

| June 2009 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
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| 12        | 13 | 14 | 15 | 16 | 17 | 18 |
| 19        | 20 | 21 | 22 | 23 | 24 | 25 |
| 26        | 27 | 28 | 29 | 30 |    |    |

| July 2009 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
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| 5         | 6  | 7  | 8  | 9  | 10 | 11 |
| 12        | 13 | 14 | 15 | 16 | 17 | 18 |
| 19        | 20 | 21 | 22 | 23 | 24 | 25 |
| 26        | 27 | 28 | 29 | 30 | 31 |    |

| August 2009 |    |    |    |    |    |    |
|-------------|----|----|----|----|----|----|
| S           | M  | T  | W  | T  | F  | S  |
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| 2           | 3  | 4  | 5  | 6  | 7  | 8  |
| 9           | 10 | 11 | 12 | 13 | 14 | 15 |
| 16          | 17 | 18 | 19 | 20 | 21 | 22 |
| 23          | 24 | 25 | 26 | 27 | 28 | 29 |
| 30          | 31 |    |    |    |    |    |

| September 2009 |    |    |    |    |    |    |
|----------------|----|----|----|----|----|----|
| S              | M  | T  | W  | T  | F  | S  |
|                |    |    | 1  | 2  | 3  | 4  |
| 5              | 6  | 7  | 8  | 9  | 10 | 11 |
| 12             | 13 | 14 | 15 | 16 | 17 | 18 |
| 19             | 20 | 21 | 22 | 23 | 24 | 25 |
| 26             | 27 | 28 | 29 | 30 |    |    |

| October 2009 |    |    |    |    |    |    |
|--------------|----|----|----|----|----|----|
| S            | M  | T  | W  | T  | F  | S  |
|              |    |    | 1  | 2  | 3  |    |
| 4            | 5  | 6  | 7  | 8  | 9  | 10 |
| 11           | 12 | 13 | 14 | 15 | 16 | 17 |
| 18           | 19 | 20 | 21 | 22 | 23 | 24 |
| 25           | 26 | 27 | 28 | 29 | 30 | 31 |

| November 2009 |    |    |    |    |    |    |
|---------------|----|----|----|----|----|----|
| S             | M  | T  | W  | T  | F  | S  |
| 1             | 2  | 3  | 4  | 5  | 6  | 7  |
| 8             | 9  | 10 | 11 | 12 | 13 | 14 |
| 15            | 16 | 17 | 18 | 19 | 20 | 21 |
| 22            | 23 | 24 | 25 | 26 | 27 | 28 |
| 29            | 30 |    |    |    |    |    |

| December 2009 |    |    |    |    |    |    |
|---------------|----|----|----|----|----|----|
| S             | M  | T  | W  | T  | F  | S  |
|               |    |    | 1  | 2  | 3  | 4  |
| 5             | 6  | 7  | 8  | 9  | 10 | 11 |
| 12            | 13 | 14 | 15 | 16 | 17 | 18 |
| 19            | 20 | 21 | 22 | 23 | 24 | 25 |
| 26            | 27 | 28 | 29 | 30 | 31 |    |

2009 AT A GLANCE

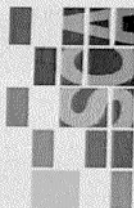


## SCA Networking Dinners Suggestions for Presentations

| Speaker | Content | Contact Information or Organization |
|---------|---------|-------------------------------------|
| _____   | _____   | _____                               |
| _____   | _____   | _____                               |
| _____   | _____   | _____                               |
| _____   | _____   | _____                               |

Submitted by: \_\_\_\_\_ Phone or Email: \_\_\_\_\_

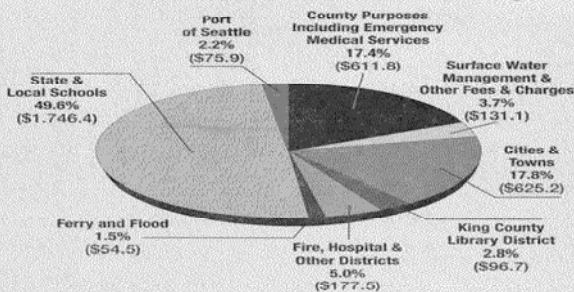
You may also email suggestions to [Karen@suburbancities.org](mailto:Karen@suburbancities.org)



## SCA Long Range Goals through 2013

|                                                                                                                  |                                                                                         |                                                                                                                                          |                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <b>Regional<br/>Organization and<br/>Governance</b>                                                              | <b>Education</b>                                                                        | <b>Public Policy<br/>Leadership</b>                                                                                                      | <b>Public Benefit</b>                                                                                                              |
| <p>To be a Puget Sound regional organization that successfully promotes the SCA vision throughout the region</p> | <p>To be a center for professional development of local electeds on regional issues</p> | <p>To provide leadership for citizens and business to thrive in any jurisdiction through growth management, transportation, and jobs</p> | <p>To provide analysis and solutions on regional issues while educating the public on issues that affect their quality of life</p> |

### Where do your property tax dollars go?



Distribution of Property Taxes, Fees and Charges Levied in King County—2009  
(Dollars in Millions as of 1-21-09)

### Pay online if paying on time.



Use the following link to pay your **non-delinquent** King County property taxes online:

<http://www.kingcounty.gov/propertytax>

You may pay online by echeck (\$.95 fee) or VISA, MasterCard, Discover, and American Express credit cards (2.5% fee). Washington State law, RCW 36.29.190, requires that the payer, not the county, bear the cost of processing online tax payments. King County does not receive any part of this fee. To learn about the performance of King County programs, go to <http://your.kingcounty.gov/AimsHigh>

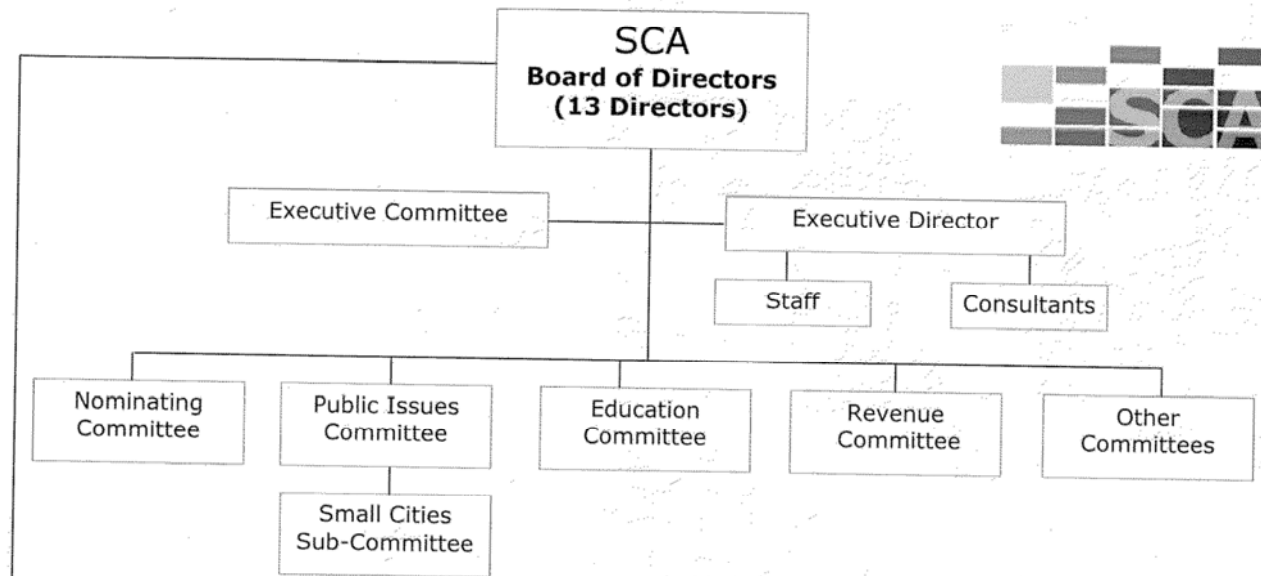


Finance and Business Operations Division  
**Treasury Operations**  
King County Administration Building  
500 Fourth Avenue, Room 600  
Seattle, WA 98104-3277

60030.indd  
updated 1/09

1/20/09

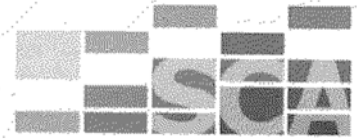
# 2009 Organizational Chart for Suburban Cities Association of King County



## Appointments—27 Committees and 121 Representatives

|                                                      |                                                     |
|------------------------------------------------------|-----------------------------------------------------|
| Regional Policy Committee – 4M, 2A                   | Board of Health – 2M, 1A                            |
| Regional Transit Committee – 8M, 4A                  | Solid Waste Advisory Committee 2M                   |
| Regional Water Quality Committee – 4M, 2A            | Emergency Management Advisory Committee – 3M        |
| PSRC Executive Board – 5M, 5A                        | KC Disability Board LEOFF 1 – 1M                    |
| PSRC Growth Management Policy Board – 2M, 2A         | Reg. Water Supply Planning Process Coord. Com – 1M  |
| PSRC Transportation Policy Board – 2M, 2A            | PSRC Regional Project Evaluation Committee – 3M, 3A |
| PSRC Regional Economic Development District – 2M, 2A | KC Regional AFIS Advisory Committee – 5M            |
| Growth Management Planning Council – 6M, 4A          | Interagency Council to End Homelessness – 3M        |
| Regional Law, Safety, & Justice – 6M                 | enterpriseSeattle – 6M                              |
| Joint Recommendations Committee – 4M                 | King Conservation District Advisory Council – 4M    |
| Local Hazardous Waste Management Plan – 1M           | Jail Administration Group 3M, 3A                    |
| Committee to End Homelessness – 2M                   | King Co Flood Control Zone Advisory Comm 4M, 4A     |
| King County EMS Advisory Task Force 4M               | Radio Executive Policy Committee 2M                 |
|                                                      | Mental Health & Drug Dependency Oversight Comm 1M   |





## The Creation of Suburban Cities Association Public Policy Positions

