AGENDA

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

April 9, 2020 – 5:00 p.m.

NOTE: The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 and Governor Inslee's Stay-at-Home order issues March 23, 2020 in response to the COVID-19 outbreak. Governor Inslee issued Proclamation 20-28, Open Public Meetings Act and Public Records Act, waiving and suspending the portions of RCW 42.30 that require in person meetings or contact.

Public Comment is still encouraged and will only be accepted in writing, either by email to the City Clerk at bwilkins@desmoineswa.gov or by mail; Attn: City Clerk, 21630 11th Avenue S., Des Moines WA 98198. City Council meetings can be viewed live on Comcast Channel 21 or live streamed on the City's website at www.desmoineswa.gov.

All written Public Comment will be entered into the record and be available for review on the City's website.

Telephonic participation will be provided to allow the public to listen to the Council meeting over the phone. The public will not be able to participate verbally in the meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE/WRITTEN PUBLIC COMMENT

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

~~**BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS – 30 minutes**~~

~~**PRESIDING OFFICER'S REPORT**~~

~~**ADMINISTRATION REPORT**~~

CONSENT CALENDAR

Page 3 Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through April 2, 2020 in the attached list and further described as follows:

Total A/P Checks/Vouchers	#160460-160554	$524,803.77
Electronic Wire Transfers	# 1429-1430	$77,551.94
Payroll Checks	# 19373-19377	$466.30
Payroll Direct Deposit	#140001-140184	$372,651.59
	Total Checks and Wires for A/P and Payroll:	$975,473.60

Page 5 Item 2: 24TH AVENUE S & S 208TH STREET INTERSECTION IMPROVEMENTS PROJECT PUBLIC WORKS CONTRACT

Motion is to award the Public Works Contract with Totem Electric of Tacoma, Inc. for the 24th Ave S & S 208th St Intersection Improvements Project, in the amount of $455,252.69, authorize a construction project contingency in the amount of $45,600.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.

Page 43 Item 3: BARNES CREEK TRAIL PROJECT – 16TH AVENUE S (MASSEY CREEK TO KENT DES MOINES ROAD) PUBLIC WORKS CONTRACT

Motion is to award the Public Works Contract with Hcon, Inc. for the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road), in the amount of $442,246.25, authorize a construction project contingency in the amount of $25,000.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.

NEW BUSINESS

Page 89 Item 1: DRAFT ORDINANCE NO. 20-023 SUSPENDING RESTRICTIONS ON USE OF ONE-TIME REVENUE TO ADDRESS COVID-19 PANDEMIC

Staff Presentation: Finance Director Beth Anne Wroe

EXECUTIVE SESSION

NEXT MEETING DATE

May 7, 2020 City Council Regular Meeting

ADJOURNMENT

Consent Calendar Item #1

CITY OF DES MOINES
Voucher Certification Approval
April 9, 2020
Auditing Officer Certification

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

As of April 9, 2020 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through April 2, 2020 and payroll transfers through April 3, 2020 included in the attached list and further described as follows:

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

Beth Anne Wroe

Beth Anne Wroe, Finance Director

	# From		# To	Amounts
Claims Vouchers:				
Total A/P Checks/Vouchers	160460	-	160554	524,803.77
Voided Checks				0.00
Electronic Wire Transfers	1429		1430	77,551.94
Total claims paid				**602,355.71**
Payroll Vouchers				
Payroll Checks	19373		19377	466.30
Direct Deposit	140001		140184	372,651.59
Total Paychecks/Direct Deposits paid				**373,117.89**
Total checks and wires for A/P & Payroll				**975,473.60**

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Consent Calendar Item #2

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: 24th Ave S & S 208th St Intersection Improvements Project Public Works Contract

ATTACHMENTS:
1. Public Works Contract 24th Ave S & S 208th St Intersection Improvements Project
2. Totem Electric Bid Proposal
3. Bid Tabulation
4. 2020 – 2025 CIP Budget Worksheet

FOR AGENDA OF: April 9, 2020

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: April 1, 2020

CLEARANCES:
[ ] Community Development N/A
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Public Works

CHIEF OPERATIONS OFFICER: DSB

[X] Legal /s/ TG
[ ] Courts N/A
[ ] Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

This Agenda Item has been identified as "Routine and Necessary" pursuant to the Governor's Proclamation 20-28 issued on March 24, 2020. The City Public Works Contract for the 24th Ave S & S 208th Intersection Improvements Project utilizes standardized forms for all City public works projects and is in compliance with Washington State rules and regulations for Formal Competitive Public Bidding. The project is also listed as a priority within the City's current Capital Improvement Plan (CIP) and Transportation Improvement Plan (TIP). Both of these plans were previously discussed and adopted by the City Council in an open public meeting. Additionally, items of this type are historically placed on the Council Consent Calendar as they are considered "routine" under City Council Rule of Procedure 20(k)(1).

The approval of the Public Works Contract for the 24th Ave S & S 208th Intersection Improvements Project is necessary to continue multimodal transportation system safety and operational improvements consistent with the CIP and TIP. Additionally, delaying the award would likely result in a negative financial consequence to the City. A significant delay in the contract award could result in the need to re-advertise the project for Formal Competitive Public Bidding due to a typical 45-day Bid Proposal review and award time constraint and/or Bid Proposals being withdrawn after a 30-day post Bid opening period time constraint.

Purpose and Recommendation

The purpose of this agenda item is for City Council to approve a Public Works Contract (Attachment 1) with Totem Electric of Tacoma, Inc. for the 24th Ave S & S 208th Intersection Improvements Project. The following motion will appear on the Consent Agenda:

Suggested Motion

Motion: "I move to award the Public Works Contract with Totem Electric of Tacoma, Inc. for the 24th Ave S & S 208th St Intersection Improvements Project, in the amount of $455,252.69, authorize a construction project contingency in the amount of $45,600.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted."

Background

As identified in the City of Des Moines Comprehensive Transportation Plan (CTP) and Transportation Improvement Plan (TIP), the 24th Ave S & S 208th St Improvements Project furthers the mobility, operational, and safety goals of the City while mitigating the demands of increased traffic growth within the Des Moines Creek Business Park and adjacent SeaTac business park. The project proposes to construct a full signalized intersection with a mast arm system. Curb ramps and pedestrian signals will be installed to meet current ADA and Accessible Pedestrian Signals (APS) standards. Non-motorized operations will see significant improvements with dedicated crosswalks while vehicular traffic will be managed appropriately in agreement with long-range traffic forecasts.

The project is being partially funded through a previously executed Interlocal Agreement in partnership with the City of SeaTac. All improvements will ultimately benefit the residents of both agencies by providing multimodal connectivity to the transportation network. The City of Des Moines will be the project's lead agency and will maintain operational control of the signal system. SeaTac will maintain jurisdictional Right-of-Way control for the North and East approaches of the intersection.

Discussion

The 24th Ave S & S 208th Intersection Improvements Project was publically advertised in the Seattle Times on February 19th and 26th, 2020 in accordance with state law and requirements for competitive bidding of public works contracts. Staff also utilized the Builder's Exchange of Washington (an on-line plan center) for plans & specifications distribution for contractors and to encourage the most competitive bidding atmosphere.

Bid proposals from three (3) contractors were received. Bid proposals were publicly opened and read on March 5, 2020 by the City Clerk and are summarized below and in the bid tabulation (Attachment 3).

BID RESULTS

Total	**Bidder**
$455,252.69	Totem Electric of Tacoma, Inc. (Responsive Low Bidder)
$486,584.15	Transportation Systems Inc.
$493,140.50	Titan Earthwork LLC

Engineer's Estimate: $588,107.80

Totem Electric of Tacoma, Inc.'s bid proposal documentation (Attachment 2) as well as the contractor qualifications and references have been reviewed and City staff finds that they are the responsive low bidder.

Alternatives

The Council could reject all bids and direct staff to re-advertise for construction bids at a later time. However, given the current bidding climate there is no guarantee that more contractors would bid this project and costs could increase as has been the recent trend observed through bid analysis.

Financial Impact

The City's CIP Budget Worksheet includes revenues to achieve full project funding (Attachment 4).

Recommendation or Conclusion

Staff recommends adoption of the suggested Motion.

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Attachment #1

PUBLIC WORKS CONTRACT
between City of Des Moines and

Totem Electric of Tacoma, Inc.

THIS CONTRACT is made and entered into this 10th day of March, 2020, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Totem Electric of Tacoma, Inc. organized under the laws of the State of Washington, located and doing business at 2332 Jefferson Ave, Tacoma WA 98402, 253-722-2842 (hereinafter the "Contractor").

CONTRACT

The parties agree as follows:

I. DESCRIPTION OF WORK.

Contractor shall perform the services for the City as specifically described in Exhibit "A" Scope and Schedule of Work, attached hereto and incorporated herein by reference.

24th Ave S and S 208th St Intersection Improvements

- Installation of a Complete Traffic Signal System
- Sidewalk and Curb Ramp Restoration
- Minor Landscape Restoration
- Minor Property Restoration
- Installing channelization
- Removing channelization

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

Standard Specifications for Road, Bridge and Municipal Construction, 2018 prepared by the Washington State Department of Transportation and the American Public Works Association – Washington State Chapter.

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

Exhibit A: Bid Documents

Exhibit B: Contract Documents

Exhibit C: Amendments to the Standard Specifications

Exhibit D: Special Provisions

Appendix A: WSDOT Standard Plans

Appendix B: Des Moines and King County Standard Details

Appendix C: Prevailing Wage Rates

Appendix D: Geotechnical Report

Appendix E: RCW 19.122

a. Contractor represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time such services are performed.

b. The Contractor shall provide and furnish any and all labor, materials, tools, equipment and utility and transportation services along with all miscellaneous items necessary to perform this Contract except for those items mentioned therein to be furnished by the City.

c. All work shall be accomplished in a workmanlike manner in strict conformity with the attached plans and specifications including any and all Addenda issued by the City, City Regulations and Standards, other Contract Documents hereinafter enumerated.

In addition, the work shall be in conformance with the following documents which are by reference incorporated herein and made part hereof:

(i) the Standard Specifications of the Washington State Department of Transportation (WSDOT) (current edition);

(ii) the American Public Works Association (APWA) (current edition);

(iii) the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (current edition);

(iv) the American Water Works Association Standard (AWWA) (current edition), and;

(v) shall perform any changes in the work in accord with the Contract Documents.

d. Any inconsistency in the parts of the Contract and the documents referenced in section I c above shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Terms and provisions of the Contract
2. Addenda,
3. Proposal Form,
4. Special Provisions, <u>including APWA General Special Provisions, if they are included</u>,
5. Contract Plans,
6. Amendments to the Standard Specifications,
7. <u>WSDOT</u> Standard Specifications <u>for Road, Bridge and Municipal Construction</u>,
8. <u>Contracting Agency's Standard Plans (if any)</u>, and
9. <u>WSDOT</u> Standard Plans <u>for Road, Bridge, and Municipal Construction</u>.

II. TIME OF COMPLETION. The parties agree that work on the tasks described in Section I above and more specifically detailed in Exhibit A attached hereto will begin immediately upon execution of this Contract. Upon the effective date of this Contract, the Contractor shall complete the work described in Section I within **30 working days**. If said work is not completed within the time specified, the Contractor agrees to pay the City the sum specified in Section VI - Liquidated Damages of this contract.

III. COMPENSATION. The City shall pay the Contractor a total amount not to exceed **$455,252.69**, plus any applicable Washington State Sales Tax, for the work and services contemplated in this Contract. If the work and services to be performed as specified in Exhibit A "Scope and Schedule of Work" is for street, place, road, highway, etc. as defined in WAC 458-20-171, then the applicable Washington State Retail Sales Tax on this contract shall be governed by WAC 458-20-171 and its related rules for the work contemplated in this Contract. The Contractor shall invoice the City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount

equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor's request until the work is complete and accepted by the City. The City's payment shall not constitute a waiver of the City's right to final inspection and acceptance of the project.

A. Retainage**.** The City shall hold back a retainage in the amount of five percent (5%) of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.

B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City's payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.

C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

IV. INDEPENDENT CONTRACTOR. The parties understand and agree that Contractor is a firm skilled in matters pertaining to construction and will perform independent functions and responsibilities in the area of its particular field of expertise.

Contractor and its personnel, subcontractors, agents and assigns, shall act as independent contractors and not employees of the City. As such, they have no authority to bind the City or control employees of the City, contractors, or other entities. The City's Planning, Building and Public Works Director or his or her designated representative shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

The Contractor acknowledges that all mandatory deductions, charges and taxes imposed by any and all federal, state, and local laws and regulations shall be the sole responsibility of the Contractor. The Contractor represents and warrants that all such deductions, charges and taxes imposed by law and/or regulations upon the Contractor are, and will remain, current. If the City is assessed, liable or responsible in any manner for those deductions, charges or taxes, the Contractor agrees to indemnify and hold the City harmless from those costs, including attorney's fees.

V. TERMINATION. The City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

A. The Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the Contract work.

B. The Contractor's failure to complete the work within the time specified in this Contract.

C. The Contractor's failure to make full and prompt payment to subcontractors or for material or labor.

D. The Contractor's persistent disregard of federal, state or local laws, rules or regulations.

E. The Contractor's filing for bankruptcy or becoming adjudged bankrupt.

F. The Contractor's breach of any portion of this Contract.

If the City terminates this Contract for good cause, the Contractor shall not receive any further money due under this Contract until the Contract work is completed. After termination, the City may take possession of all records and data within the Contractor's possession pertaining to this project which may be used by the City without restriction.

VI. Liquidated Damages. This section of the Contract shall apply only in the event of a delay in the completion of the work within the timeframe specified in the Contract. This being a Public Works project performed for the benefit of the public, and there being a need for the completion of the project in the time specified in the Contract, City and Contractor agree that damages for delay in the performance or completion of the work are extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide the work for the benefit of the health, safety and welfare of the public, the failure to

complete the work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

Although difficult to quantify and ascertain, City and Contractor agree that the sum listed as liquidated damages represents a fair and reasonable forecast of the actual damage caused by a delay in the performance or completion of the work specified in the Contract. In addition, City and Contractor agree that the liquidated damages set forth below are intended to compensate the City for its loss and damage caused by delay. The liquidated damages are not intended to induce the performance of Contractor.

Contractor declares that it is familiar with liquidated damages provisions, and understands their intent and purpose. By signing this Contract, Contractor further declares that it understands the liquidated damages provision of this contract, that it is a product of negotiation, and that it is a fair estimation of the damage and loss that City will suffer in the event of delay.

City and Contractor further agree that the contractor shall not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes.

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **$2,276.26** shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

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

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

VIII. Hours of Labor. Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

IX. Compliance with Wage, Hour, Safety, and Health Laws. The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 294 U.S.C. 201 et seq, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

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

Monday through Friday: 7:00 a.m. to 7:00 p.m.
Saturday, Sunday and Holidays: 8:00 a.m. to 5:00 p.m.

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

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

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

XII. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within seven (7) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Contractor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Contractor fails to require a change order within the time specified in

this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

The Contractor accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by Contractor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

XIII. CLAIMS. If the Contractor disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Contractor may file a claim as provided in this section. The Contractor shall give written notice to the City of all claims within seven (7) calendar days of the occurrence of the events giving rise to the claims, or within seven (7) calendar days of the date the Contractor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Contractor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
   1. The date of the Contractor's claim;
   2. The nature and circumstances that caused the claim;
   3. The provisions in this Contract that support the claim;
   4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
   5. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.

B. Records. The Contractor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Contractor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

C. Contractor's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.

D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Contractor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Contractor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

XIV. LIMITATION OF ACTIONS. CONTRACTOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

XV. WARRANTY. Upon acceptance of the contract work, Contractor must provide the City a warranty bond for one year in the amount of the contract value specified in Section III above and in a form acceptable to the City. In the event any defects are found within the first year, the warranty bond shall be extended for an additional year. The Contractor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any parts are repaired or replaced, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.

XVI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Contractor, its sub-contractors, or any person acting on behalf of the Contractor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XVII. INDEMNIFICATION. Contractor shall defend, indemnify and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

The indemnification required for the Work is contained in Exhibit D (Special Provisions) Section 1-07.18(6).

The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this Contract.

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

No Limitation. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

The scope of insurance required for the Work is contained in Exhibit D (Special Provisions) Section 1-07.18.

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types described below:

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

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from

premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

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

B. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

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

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

C. Other Insurance Provisions

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

D. Acceptability of Insurers

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

E. Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing insurance of the Contractor before commencement of the work.

F. Subcontractors

The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

E. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

F. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

XIX. WORK PERFORMED AT CONTRACTOR'S RISK. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XX. Bond - Separate Payment and Performance Bond Required. Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish both a performance bond and a payment bond to the City, both in the full amount of the bid with a surety company as surety. The purpose of the bonds is to ensure that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bonds shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company providing such bond shall agree to be bound to the laws of the state of Washington, and subjected to the jurisdiction of the state of Washington and the King County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bond is supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than $150,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bond, elect to have the City retain 10% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

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

XXII. MISCELLANEOUS PROVISIONS.

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

B. Resolution of Disputes and Governing Law.

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

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

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

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

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

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

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

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

I. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

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

K. Severability. If any one or more sections, sub-sections, or sentences of this Contract are held to be unconstitutional or invalid, that decision shall not affect the validity

of the remaining portion of this Contract and the remainder shall remain in full force and effect.

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

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

NOTICES TO BE SENT TO: **CONTRACTOR:** [Insert Contact Name] [Insert Company Name] [Insert Address] [Address - Continued] [Insert Telephone Number] (telephone) [Insert Fax Number] (facsimile)	**NOTICES TO BE SENT TO:** **CITY OF DES MOINES:** Khai Le City of Des Moines 21650 11th Avenue S. Des Moines, WA 98198 (206) 870-6537 (telephone) (206) 870-6596 (facsimile)

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Attachment #2

Proposal

24th Ave S and S 208th St Intersection Improvements

TO: Honorable Mayor and City Council
City of Des Moines
21630 11th Avenue South
Des Moines, WA 98198

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

The undersigned bidder hereby agrees to complete submittal materials within 15 working days after the date stated in the Notice to Proceed and shall suspend the work per Section 1-08.6 Suspension of Work. The total net construction time for the Contractor to complete the contract shall be **30** working days. This period shall be known as the "Contract Time" for the purposes of the project.

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

All schedules on the Bid Proposal must be completed, or the bid shall be considered non-responsive. Basis for award shall be total Bid for all Schedules included in the Proposal.

The Owner will correct obvious mathematical errors in bid proposals.

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

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

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SCHEDULE OF PRICES

Schedule A: 24th Ave S & S 208th St Intersection Improvements Project

ALL ENTRIES SHALL BE WRITTEN IN INK OR TYPED TO VALIDATE BID

(Note: Unit prices for all items, all extensions, and total amount of bid must be shown.

ITEM NO.	APPROX. QUANTITY	ITEM WITH UNIT PRICED BID		UNIT PRICE Dollars Cts.	TOTAL ITEM PRICE Dollars Cts.
Schedule A: 24th Ave S & S 208th St Intersection Improvements Project					
100	1 EQ. ADJ.	Minor Change, per Equity Adjustment	1-04	$5,000.00	$5,000.00
101	1 LS	Roadway Surveying, per Lump Sum	1-05	LUMP SUM	$5,203.00
102	1 LS	Record Drawings (Minimum Bid $500), per Lump Sum	1-05	LUMP SUM	$500.00
103	1 LS	Mobilization, per Lump Sum	1-09	LUMP SUM	$37,580.00
104	1 LS	Project Temporary Traffic Control, per Lump Sum	1-10	LUMP SUM	$26,884.00
105	1 LS	Removal of Structures and Obstructions, per Lump Sum	2-02	LUMP SUM	$8,276.00
106	6 EA	Potholing, per Each	2-02	$826.03	$4,956.18
107	1 LS	Removal and Restoration of Hardscape , per Lump Sum	2-02	LUMP SUM	$40,376.00
108	1 LS	Erosion Control and Water Pollution Prevention, per Lump Sum	8-01	LUMP SUM	$3,980.00
109	1 LS	Removal and Restoration of Softscape , per Lump Sum	8-02	LUMP SUM	$5,945.00
110	1 FA	Resolution of Utility Conflicts, per Force Account	8-05	$5,000.00	$5,000.00
111	2 HUND	Raised Pavement Markers Type 1, per Hundred	8-09	$650.42	$1,300.84
112	1 HUND	Raised Pavement Markers Type 2, per Hundred	8-09	$940.84	$940.84
113	1.00 LS	Installation of Signal System at the Intersection of 24th Ave S and S 208th St, Complete, per Lump Sum	8-20	LUMP SUM	$291,312.00
114	1.00 LS	Fiber Optic ITS System, Complete, per Lump Sum	8-20	LUMP SUM	$7,557.00
115	336 SF	Plastic Crosswalk Line, per Square Foot	8-22	$15.18	$5,100.48
116	893 LF	Plastic Line, 4 in., per Linear Foot	8-22	$2.75	$2,455.75

FIRM NAME Totem Electric

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Bid Proposal Form

ITEM NO.	APPROX. QUANTITY	ITEM WITH UNIT PRICED BID		UNIT PRICE Dollars Cts.	TOTAL ITEM PRICE Dollars Cts.
117	84 LF	Plastic Line, 8 in., per Linear Foot	8-22	$3.60	$302.40
118	88 LF	Plastic Stop Line, 18 in., per Linear Foot	8-22	$19.15	$1,685.20
119	1 EA	Plastic Traffic Arrow, per Each	8-22	$341.00	$341.00
120	1 EA	Plastic Bicycle Symbol, per Each	8-22	$557.00	$557.00
			TOTAL BID=	$455,252.69	

FIRM NAME Totem Electric

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Proposal (Continued)

Schedule A Total $ 455,252.69

Total Bid Price (in figures) $ 455,252.69

Total Bid Price (in words) Four-Hundred and Fifty-Five Thousand,two-hundred and fifty-two Dollars and sixty-nine Cents

Attached hereto is the required Bid Security in the amount of $ 5% of the Total bid, including Sales Tax ( ) payable to the City of Des Moines which is equal to or more than five percent (5%) of the total bid price.

Signed

Title President

Name of Bidder

Registration or license, Division of Professional Licensing:

1. License Number TOTEMET315BS
2. Date 3/5/2020
3. Contractor's Signature
4. Title President

Address of Bidder: 2332 Jefferson Ave. (Street) Tacoma (City) 98402 (Zip)

Telephone Number of Bidder 253-722-2842 (Office) 360-265-8923 (Home)

Email Contacts sstephens@totemelectric.com
rpalfenier@totemelectric.com
tprentiss@totemelectric.com

Date of Bid 3/5/2020

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Receipt is hereby acknowledged for the following Addenda:

Addendum No.	Date Received	Signature
1	3/2/2020	Scott S
2	3/3/2020	Scott S

The bidder acknowledges that bids must be submitted for all Bid Schedules. Partial Bids shall not be considered.

Bid proposal to be submitted in a sealed envelope marked "Bid Enclosed" for 24th Ave S and S 208th St Intersection Improvements.

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Form of a Bid Bond

BID BOND DEPOSIT

Herewith find deposit in the form of a Bid Bond (state whether certified check, cashier's check, bid bond, or postal money order)

for the amount of 5% of the Total bid, including sales tax, which amount is not less than five percent (5%) of the total bid, including sales tax.

Signature V.P.

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Totem Electric of Tacoma, Inc., as Principal, and North American Specialty Insurance Company, as Surety, are held and firmly bound unto the City of Des Moines, as Obligee, in the penal sum of Five Percent (5%) of the Total bid, including sales tax dollars ($5% of Total Bid including sales tax) for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

The Condition of this obligation is such that if the Obligee shall make award to the Principal for the **24th Ave S and S 208th St Intersection Improvements** according to the terms of the proposal or bid made by the Principal therefore and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee; or, if the Principal shall in case of failure so to do, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids; then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS 5th DAY OF March, 2020.

Totem Electric of Tacoma, Inc.
By: V.P.

Principal

North American Specialty Insurance Company
By: Julie A. Craker, Attorney-in-Fact

Surety

Received return of deposit in the sum of _____

Date_____

Signature

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SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, each does hereby make, constitute and appoint:

THOMAS P. HENTSCHELL, BRADLEY A. ROBERTS, JULIE A. CRAKER,
KAREN J. SMITH, and JOANNE REINKENSMEYER

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

FIFTY MILLION ($50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9th of May, 2012:

"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."

NORTH AMERICAN SPECIALTY INSURANCE COMPANY CORPORATE SEAL 1973 NEW HAMPSHIRE

By _____
Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company

By _____
Michael A. Ito, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company

WASHINGTON INTERNATIONAL INSURANCE COMPANY CORPORATE SEAL NEW HAMPSHIRE

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 19 day of JANUARY, 2018.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Cook ss:

On this 19 day of JANUARY, 2018, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Michael A. Ito, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.

OFFICIAL SEAL
M. KENNY
Notary Public - State of Illinois
My Commission Expires
12/04/2021

M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 5th day of March, 2020

Jeffrey Goldberg, Vice President & Assistant Secretary of
Washington International Insurance Company & North American Specialty Insurance Company

Non-collusion Affidavit

City of Des Moines

STATE OF WASHINGTON)

) ss.

County of King)

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

Signature

Subscribed and sworn to before me this 5th day

of March, 2020.

Notary Public in and for the State of Washington

Tacoma, WA

Residing at

My commission expires 06.29.21

JAMIE GORDON
193420
NOTARY
PUBLIC
COMM. EXPIRES 06-29-21
STATE OF WASHINGTON

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Statement of Bidder's Qualifications

Each bidder submitting a proposal on work included in these Plans and Specifications shall prepare and submit as part of this bid the following schedule:

1. Name of bidder: Totem Electric of Tacoma, Inc.

2. Business address and telephone number:

   2332 Jefferson Ave.

   Tacoma, WA 98402-1405

   253-383-5022

3. How many years has said bidder been engaged in the contracting business under present firm name:

   57

4. Contracts now in hand (gross amount):

   $ 30,000,000.00

5. General character of work performed by said company:

   General, Civil and Electrical Construction

6. List of more important projects constructed by said company, including approximate costs and dates:

   I-5/Port of Tacoma Rd Interchange - $3,000,000 - 2020

   I-5 College Way Widening in Mt Vernon - $900,000 - 2020

   Canyon Rd E to 84th St - $1,000,000 - 2020

   Copper Gate Apartments Signals - $950,000 - 2020

7. List of company's major equipment:

   25-Ton Crane truck, Excavators, Backhoes, Auger Trucks

   Bucket Trucks, Utility Trucks

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8. Bank references:

Commencement Bank 1102 commerce St. Tacoma Checking and Line of credit

9. Dept. of Labor and Industries' firm number:

684,418-00

10. Dept. of Revenue registration number:

278-043-550

Name of Bidder Totem Electric of Tacoma, Inc

By Scott Sb

Title President

Date 3/4/2020

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Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address, and Telephone Number	Description of Work
American Surveying & Environmental	Survey
Northwest Traffic Inc	Pavement Marking
Prime Electric	ITS System

Material Suppliers	Material (major items only)
Western Systems	Signal Equipment
Graybar Electric	Signal Poles

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Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (**February 19, 2020**), that the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

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

Totem Electric of Tacoma, Inc.
Contractor

Signature of Authorized Official*

Scott Stephens
Printed Name

President
Title

3/5/2020 Tacoma WA
Date City State

Check one:

☐ Individual ☐ Partnership ☐ Joint Ver ☐ Corporation ☒

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

If a Co-partnership, give firm name under which business is transacted:
N/A

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

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Statement of Bidder Responsibility Criteria

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

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

Contract Title: 24th Ave S & S 208th St. Intersection Improvements

Bidder's Business Name: Totem Electric of Tacoma, Inc.

Bidder's Name: Scott Stephens

Bidder's Signature: Scott St

Bidders Title: President

Date: 3/5/2020

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Job No.	17148W10	24th Ave S & S 208th St Intersection Improvements Project			
Des Moines WA The Waterland City	City of Des Moines	Bid Date:	3/5/2020	Bid Tabulation	KPG Interdisciplinary Design

TOTAL CONSTRUCTION COST ESTIMATE

Item No.	Description	Total Quantity	Unit	Engineer's Estimate Unit Price	Engineer's Estimate Extended	Totem Electric Apparent Low Unit Price	Totem Electric Apparent Low Extended	Transportation Systems Inc. 2nd Bidder Unit Price	Transportation Systems Inc. 2nd Bidder Extended	Titan Earthwork LLC 3rd Bidder Unit Price	Titan Earthwork LLC 3rd Bidder Extended
100	Minor Change	1	EQ. ADJ.	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
101	Roadway Surveying	1	LS	$ 2,500.00	$ 2,500.00	$ 5,203.00	$ 5,203.00	$ 4,500.00	$ 4,500.00	$ 3,000.00	$ 3,000.00
102	Record Drawings (Minimum Bid $500)	1	LS	$ 750.00	$ 750.00	$ 500.00	$ 500.00	$ 500.00	$ 500.00	$ 500.00	$ 500.00
103	Mobilization	1	LS	$ 40,000.00	$ 40,000.00	$ 37,580.00	$ 37,580.00	$ 45,000.00	$ 45,000.00	$ 49,200.00	$ 49,200.00
104	Project Temporary Traffic Control	1	LS	$ 50,000.00	$ 50,000.00	$ 26,884.00	$ 26,884.00	$ 42,265.00	$ 42,265.00	$ 45,000.00	$ 45,000.00
105	Removal of Structures and Obstructions	1	LS	$ 8,500.00	$ 8,500.00	$ 8,276.00	$ 8,276.00	$ 16,631.00	$ 16,631.00	$ 6,800.00	$ 6,800.00
106	Potholing	6	EA	$ 750.00	$ 4,500.00	$ 826.03	$ 4,956.18	$ 1,550.00	$ 9,300.00	$ 1,000.00	$ 6,000.00
107	Removal and Restoration of Hardscape	1	LS	$ 15,000.00	$ 15,000.00	$ 40,376.00	$ 40,376.00	$ 21,500.00	$ 21,500.00	$ 18,000.00	$ 18,000.00
108	Erosion Control and Water Pollution Prevention	1	LS	$ 5,000.00	$ 5,000.00	$ 3,980.00	$ 3,980.00	$ 800.00	$ 800.00	$ 1,500.00	$ 1,500.00
109	Removal and Restoration of Softscape	1	LS	$ 2,500.00	$ 2,500.00	$ 5,945.00	$ 5,945.00	$ 4,390.00	$ 4,390.00	$ 6,300.00	$ 6,300.00
110	Resolution of Utility Conflicts	1	FA	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
111	Raised Pavement Markers Type 1	2	HUND	$ 476.70	$ 953.40	$ 650.42	$ 1,300.84	$ 625.00	$ 1,250.00	$ 600.00	$ 1,200.00
112	Raised Pavement Markers Type 2	1	HUND	$ 252.00	$ 252.00	$ 940.84	$ 940.84	$ 870.00	$ 870.00	$ 900.00	$ 900.00
113	Installation of Signal System at the Intersection of 24th Ave S and S 208th St, Complete	1	LS	$ 420,000.00	$ 420,000.00	$ 291,312.00	$ 291,312.00	$ 314,208.00	$ 314,208.00	$ 295,000.00	$ 295,000.00
114	Fiber Optic ITS System, Complete	1	LS	$ 10,000.00	$ 10,000.00	$ 7,557.00	$ 7,557.00	$ 5,050.00	$ 5,050.00	$ 40,000.00	$ 40,000.00
115	Plastic Crosswalk Line	336	SF	$ 15.00	$ 5,040.00	$ 15.18	$ 5,100.48	$ 15.45	$ 5,191.20	$ 14.50	$ 4,872.00
116	Plastic Line, 4 in.	893	LF	$ 9.99	$ 8,925.00	$ 2.75	$ 2,455.75	$ 2.75	$ 2,455.75	$ 2.50	$ 2,232.50
117	Plastic Line, 8 in.	84	LF	$ 16.00	$ 1,344.00	$ 3.60	$ 302.40	$ 3.00	$ 252.00	$ 3.00	$ 252.00
118	Plastic Stop Line, 18 in.	88	LF	$ 12.03	$ 1,058.40	$ 19.15	$ 1,685.20	$ 18.65	$ 1,641.20	$ 18.00	$ 1,584.00
119	Plastic Traffic Arrow	1	EA	$ 892.50	$ 892.50	$ 341.00	$ 341.00	$ 300.00	$ 300.00	$ 300.00	$ 300.00
120	Plastic Bicycle Symbol	1	EA	$ 892.50	$ 892.50	$ 557.00	$ 557.00	$ 480.00	$ 480.00	$ 500.00	$ 500.00
				Total	$ 588,107.80	Total	$ 455,252.69	Total	$ 486,584.15	Total	$ 493,140.50

Contingency @ 15%	$88,216.17
Schedule A Total =	**$676,323.97**

I reviewed the bid tabs from balanced bids

X

J. Matt North, KPG

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Attachment #3

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

24th Ave/S. 208th St Intersection Improvements	Project #	319.302

Summary Project Description:

Install traffic signal and crosswalk at the intersection of 24th Avenue South & South 208th Street.

CIP Category: Transportation

Managing Department: Plan, Build & PW Admin

Justification/Benefits: Signal improvements at the intersection of 24th Avenue South & South 208th Street will change traffic orientations for vehicles and pedestrians. Given the level of the 24th/208th crossing, Des Moines Creek Business Park, and Seatac's Business Park. This project will be in partenership with Seatac.

PROJECT SCOPE				*ANNUAL ALLOCATION*							
Expenditures	*Current Budget*	*Requested Change*	*Total Budget*	*Project to Date 12/31/18*	*Scheduled Year 2019*	*Plan Year 2020*	*Plan Year 2021*	*Plan Year 2022*	*Plan Year 2023*	*Plan Year 2024*	*Plan Year 2025*
Design	60	-	60	-	60	-	-	-	-	-	-
Land & Right of Way	-	-	-	-	-	-	-	-	-	-	-
Construction	450	170	620	-	-	620	-	-	-	-	-
Contingency	30	-	30	-	-	30	-	-	-	-	-
Total Expenditures	**540**	**170**	**710**	**-**	**60**	**650**	**-**	**-**	**-**	**-**	**-**

Funding Sources	*Current Budget*	*Requested Change*	*Total Budget*	*Project to Date 12/31/18*	*Scheduled Year 2019*	*Plan Year 2020*	*Plan Year 2021*	*Plan Year 2022*	*Plan Year 2023*	*Plan Year 2024*	*Plan Year 2025*
Traffic in-Lieu	200	(200)	-	-	-	-	-	-	-	-	-
Traffic Impact Fees - City Wide	210	-	210	-	10	200	-	-	-	-	-
Private Contributions-SeaTac/Development	130	370	500	200	-	300	-	-	-	-	-
Total Funding	**540**	**170**	**710**	**200**	**10**	**500**	**-**	**-**	**-**	**-**	**-**

OPERATING IMPACT				*ANNUAL OPERATING IMPACT*							
Operating Impact			*6 Year Total*	*12/31/18*	*2019*	*2020*	*2021*	*2022*	*2023*	*2024*	*2025*
Revenue	-	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	-	-	-	-	-	-	-	-	-
Net Impact	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

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Consent Calendar Item #3

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) Public Works Contract

ATTACHMENTS:
1. Public Works Contract Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road),
2. Hcon., Inc. Bid Proposal
3. Bid Tabulation
4. Transportation Improvement Board Complete Streets Award Letter
5. 2020 – 2025 CIP Budget Worksheet

FOR AGENDA OF: April 9, 2020

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: April 1, 2020

CLEARANCES:
[ ] Community Development N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Public Works

CHIEF OPERATIONS OFFICER: DJB

[X] Legal /s/ TG
[X] Finance
[ ] Courts N/A
[ ] Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: _____

This Agenda Item has been identified as "Routine and Necessary" pursuant to the Governor's Proclamation 20-28 issued on March 24, 2020. The City Public Works Contract for the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) Project utilizes standardized forms for all City public works projects and is in compliance with Washington State rules and regulations for Formal Competitive Public Bidding. The project is also listed as a priority within the City's current Capital Improvement Plan (CIP) and Transportation Improvement Plan (TIP). Both of these plans were previously discussed and adopted by the City Council in an open public meeting. Additionally, items of this type are historically placed on the Council Consent Calendar as they are considered "routine" under City Council Rule of Procedure 20(k)(1).

The approval of the Public Works Contract for the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) Project is necessary to continue multimodal transportation system safety and operational improvements consistent with the CIP and TIP. Additionally, delaying the award would likely result in a negative financial consequence to the City. A significant delay in the contract award could result in the need to re-advertise the project for Formal Competitive Public Bidding due to a typical 45-day Bid Proposal review and

award time constraint and/or Bid Proposals being withdrawn after a 30-day post Bid opening period time constraint.

Purpose and Recommendation

The purpose of this agenda item is for City Council to approve a Public Works Contract (Attachment 1) with Hcon, Inc. for the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road). The following motion will appear on the Consent Agenda:

Suggested Motion

Motion 1: "I move to award the Public Works Contract with Hcon, Inc. for the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road), in the amount of $442,246.25, authorize a construction project contingency in the amount of $25,000.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted."

Background

The Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) will consist of constructing approximately 550 Linear Feet of Americans with Disabilities Act (ADA) compliant 12-foot wide multi-use trail to connect Zenith Elementary School's frontage improvements along the west side of 16th Ave S to S Kent- Des Moines Rd. The project will also provide new curb, gutter, ADA curb ramps, landscape strips and associated storm drainage system improvements.

In the fall of 2018, the City prepared a project application for the Transportation Improvement Board (TIB) Complete Streets program. On March 22, 2019, the TIB Board selected to move forward with the Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) in the amount of $300,000 with no required City financial match (Attachment 4). In order to continue to apply for TIB Complete Streets Funding in the future, current projects with funding must be constructed and complete.

This current project is a segment of the overall Barnes Creek Trail Project which will ultimately provide a connection from the Regional Lake to Sound Trail, via the Des Moines Creek Trail, to Highline College. The Barnes Creek Trail Project will develop a multiuse, ADA compliant pedestrian and bike facility from South 216th Street to Highline College consistent with the City's Transportation Improvement Plan (TIP) and Capital Improvement Plan (CIP).

Discussion

The Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road) was publically advertised in the Seattle Times on February 19th and 26th, 2020 in accordance with state law and requirements for competitive bidding of public works contracts. Staff also utilized the Builder's Exchange of Washington (an on-line plan center) for plans & specifications distribution for contractors and to encourage the most competitive bidding atmosphere.

Bid proposals from nine (9) contractors were received. Bid proposals were publicly opened and read on March 5, 2020 by the City Clerk and are summarized below and in the bid tabulation (Attachment 3).

BID RESULTS

Total	Bidder
$442,246.25	Hcon, Inc. (Responsive Low Bidder)
$473,436.00	Northwest Casecade Inc.,
$490,977.50	Reed Trucking & Excavating Inc.,
$491,143.60	Revolution Civil Builders
$494,494.00	Active Construction Inc.,
$504,246.30	Harkness Construction LLC.,
$509,798.25	R. W. Scott Construction Co.,
$552,084.40	Gary Harper Construction Inc.,
$604,942.00	Westwater Construction Company

Engineer's Estimate: $517,226.00

Hcon's bid proposal documentation (Attachment 2) as well as the contractor qualifications and references have been reviewed and City staff finds that the low bidder, Hcon Inc., is responsive.

Alternatives

The Council could reject all bids and direct staff to re-advertise for construction bids at a later time. However, given the current bidding climate there is no guarantee that more contractors would bid this project and costs could increase as has been the recent trend observed through bid analysis. Delay or project incompletion may also jeopardize the City's ability to apply for future TIB Complete Streets funding opportunities.

Financial Impact

The City's CIP Budget Worksheet includes revenues to achieve full project funding (Attachment 5).

Recommendation or Conclusion

Staff recommends adoption of the suggested Motion.

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Attachment #1

PUBLIC WORKS CONTRACT
between City of Des Moines and

Hcon, Inc.

THIS CONTRACT is made and entered into this 9th day of April, 2020, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Hcon, Inc. organized under the laws of the State of Washington, located and doing business at PO Box 731005 Puyallup, WA 98373, 253-576-9984 (hereinafter the "Contractor").

CONTRACT

The parties agree as follows:

I. DESCRIPTION OF WORK.

Contractor shall perform the services for the City as specifically described in Exhibit "A" Scope and Schedule of Work, attached hereto and incorporated herein by reference.

Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road)

• Construction of 550 LF of HMA shared use pathway, installing curb, gutter and planter strip adjacent to 16th Ave S, landscaping and non-structural modular block wall.

• Clearing, grubbing, roadway and structure excavation

• Constructing storm drainage improvements

• Planning bituminous pavement

• Paving with hot mix asphalt

• Adjustment of surface utilities to grade

• Installing channelization

• Property restoration

• And all incidental items necessary to complete the Work as described in the Plans and Specifications

The contractor agrees to furnish all materials, tools, labor, equipment, and other incidentals, and to perform all services and work as described in this Agreement and the

contract documents, which consist of this Agreement and the following items, which are by this reference incorporated herein:

Standard Specifications for Road, Bridge and Municipal Construction, 2018 prepared by the Washington State Department of Transportation and the American Public Works Association – Washington State Chapter.

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

Exhibit B: Contract Documents

Exhibit A: Bid Documents

Exhibit B: Contract Documents

Exhibit C: Amendments to the Standard Specifications

Exhibit D: Special Provisions

Appendix A: Standard Plans

Appendix B: Prevailing Wage Rates

Appendix C: RCW 19.122

Appendix D: PSE Relocation Plans

Appendix E: Right of Entry Agreement

a. Contractor represents that the services furnished under this Contract will be performed in accordance with generally accepted professional practices within the Puget Sound region in effect at the time such services are performed.

b. The Contractor shall provide and furnish any and all labor, materials, tools, equipment and utility and transportation services along with all miscellaneous items necessary to perform this Contract except for those items mentioned therein to be furnished by the City.

c. All work shall be accomplished in a workmanlike manner in strict conformity with the attached plans and specifications including any and all Addenda issued by the City, City Regulations and Standards, other Contract Documents hereinafter enumerated.

In addition, the work shall be in conformance with the following documents which are by reference incorporated herein and made part hereof:

(i) the Standard Specifications of the Washington State Department of Transportation (WSDOT) (current edition);

(ii) the American Public Works Association (APWA) (current edition);

(iii) the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways (current edition);

(iv) the American Water Works Association Standard (AWWA) (current edition), and;

(v) shall perform any changes in the work in accord with the Contract Documents.

d. Any inconsistency in the parts of the Contract and the documents referenced in section I c above shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Terms and provisions of the Contract
2. Addenda,
3. Proposal Form,
4. Special Provisions, <u>including APWA General Special Provisions, if they are included</u>,
5. Contract Plans,
6. Amendments to the Standard Specifications,
7. <u>WSDOT</u> Standard Specifications <u>for Road, Bridge and Municipal Construction</u>,
8. <u>Contracting Agency's Standard Plans (if any)</u>, and
9. <u>WSDOT</u> Standard Plans <u>for Road, Bridge, and Municipal Construction</u>.

II. TIME OF COMPLETION. The parties agree that work on the tasks described in Section I above and more specifically detailed in Exhibit A attached hereto will begin immediately upon execution of this Contract. Upon the effective date of this Contract, the Contractor shall complete the work described in Section I within **35 working days**. If said work is not completed within the time specified, the Contractor agrees to pay the City the sum specified in Section VI - Liquidated Damages of this contract.

III. COMPENSATION. The City shall pay the Contractor a total amount not to exceed **$442,246.25**, plus any applicable Washington State Sales Tax, for the work and services contemplated in this Contract. If the work and services to be performed as specified in Exhibit A "Scope and Schedule of Work" is for street, place, road, highway, etc. as defined in WAC 458-20-171, then the applicable Washington State Retail Sales Tax on this contract shall be governed by WAC 458-20-171 and its related rules for the work contemplated in this Contract. The Contractor shall invoice the City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount

equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor's request until the work is complete and accepted by the City. The City's payment shall not constitute a waiver of the City's right to final inspection and acceptance of the project.

A. Retainage**.** The City shall hold back a retainage in the amount of five percent (5%) of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.

B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City's payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.

C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

IV. INDEPENDENT CONTRACTOR. The parties understand and agree that Contractor is a firm skilled in matters pertaining to construction and will perform independent functions and responsibilities in the area of its particular field of expertise.

Contractor and its personnel, subcontractors, agents and assigns, shall act as independent contractors and not employees of the City. As such, they have no authority to bind the City or control employees of the City, contractors, or other entities. The City's Planning, Building and Public Works Director or his or her designated representative shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

The Contractor acknowledges that all mandatory deductions, charges and taxes imposed by any and all federal, state, and local laws and regulations shall be the sole responsibility of the Contractor. The Contractor represents and warrants that all such deductions, charges and taxes imposed by law and/or regulations upon the Contractor are, and will remain, current. If the City is assessed, liable or responsible in any manner for those deductions, charges or taxes, the Contractor agrees to indemnify and hold the City harmless from those costs, including attorney's fees.

V. TERMINATION. The City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

A. The Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the Contract work.

B. The Contractor's failure to complete the work within the time specified in this Contract.

C. The Contractor's failure to make full and prompt payment to subcontractors or for material or labor.

D. The Contractor's persistent disregard of federal, state or local laws, rules or regulations.

E. The Contractor's filing for bankruptcy or becoming adjudged bankrupt.

F. The Contractor's breach of any portion of this Contract.

If the City terminates this Contract for good cause, the Contractor shall not receive any further money due under this Contract until the Contract work is completed. After termination, the City may take possession of all records and data within the Contractor's possession pertaining to this project which may be used by the City without restriction.

VI. Liquidated Damages. This section of the Contract shall apply only in the event of a delay in the completion of the work within the timeframe specified in the Contract. This being a Public Works project performed for the benefit of the public, and there being a need for the completion of the project in the time specified in the Contract, City and Contractor agree that damages for delay in the performance or completion of the work are extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide the work for the benefit of the health, safety and welfare of the public, the failure to

complete the work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

Although difficult to quantify and ascertain, City and Contractor agree that the sum listed as liquidated damages represents a fair and reasonable forecast of the actual damage caused by a delay in the performance or completion of the work specified in the Contract. In addition, City and Contractor agree that the liquidated damages set forth below are intended to compensate the City for its loss and damage caused by delay. The liquidated damages are not intended to induce the performance of Contractor.

Contractor declares that it is familiar with liquidated damages provisions, and understands their intent and purpose. By signing this Contract, Contractor further declares that it understands the liquidated damages provision of this contract, that it is a product of negotiation, and that it is a fair estimation of the damage and loss that City will suffer in the event of delay.

City and Contractor further agree that the contractor shall not be charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes.

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **$1,895.34** shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

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

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

VIII. Hours of Labor. Contractor shall comply with the "hours of labor" requirements and limitations as set forth in Chapter 49.28 RCW. It shall be the responsibility of Contractor to require all subcontractors to comply with the provisions of Chapter 49.28 RCW and this section of the Contract. The Contractor shall pay all reasonable costs (such as over-time of crews) incurred by the City as a result of work beyond eight (8) hours per day or forty (40) hours per week. Additional hours beyond a forty (40)-hour workweek will be pro-rated against contractual workdays.

IX. Compliance with Wage, Hour, Safety, and Health Laws. The Contractor shall comply with the rules and regulations of the Fair Labor Standards Act, 294 U.S.C. 201 et seq, the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, et seq, the Washington Industrial Safety and Health Act, Chapter 49.17 RCW, and any other state or federal laws applicable to wage, hours, safety, or health standards.

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

Monday through Friday: 7:00 a.m. to 7:00 p.m.
Saturday, Sunday and Holidays: 8:00 a.m. to 5:00 p.m.

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

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

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

XII. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to the person listed in the notice provision section of this Contract, section XXII(C), within seven (7) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Contractor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Contractor fails to require a change order within the time specified in

this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

The Contractor accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by Contractor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

XIII. CLAIMS. If the Contractor disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Contractor may file a claim as provided in this section. The Contractor shall give written notice to the City of all claims within seven (7) calendar days of the occurrence of the events giving rise to the claims, or within seven (7) calendar days of the date the Contractor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Contractor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
   1. The date of the Contractor's claim;
   2. The nature and circumstances that caused the claim;
   3. The provisions in this Contract that support the claim;
   4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
   5. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.

B. Records. The Contractor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Contractor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

C. Contractor's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.

D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Contractor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Contractor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

XIV. LIMITATION OF ACTIONS. CONTRACTOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

XV. WARRANTY. Upon acceptance of the contract work, Contractor must provide the City a warranty bond for one year in the amount of the contract value specified in Section III above and in a form acceptable to the City. In the event any defects are found within the first year, the warranty bond shall be extended for an additional year. The Contractor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any parts are repaired or replaced, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Contractor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Contractor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.

XVI. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any sub-contract, the Contractor, its sub-contractors, or any person acting on behalf of the Contractor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XVII. INDEMNIFICATION. Contractor shall defend, indemnify and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

The indemnification required for the Work is contained in Exhibit D (Special Provisions) Section 1-07.18(6).

The City's inspection or acceptance of any of Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this Contract.

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

No Limitation. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

The scope of insurance required for the Work is contained in Exhibit D (Special Provisions) Section 1-07.18.

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types described below:

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

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from

premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

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

B. Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

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

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

C. Other Insurance Provisions

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

D. Acceptability of Insurers

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

E. Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing insurance of the Contractor before commencement of the work.

F. Subcontractors

The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

E. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

F. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

XIX. WORK PERFORMED AT CONTRACTOR'S RISK. Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XX. Bond - Separate Payment and Performance Bond Required. Pursuant to Chapter 39.08 RCW, the Contractor shall, prior to the execution of the Contract, furnish both a performance bond and a payment bond to the City, both in the full amount of the bid with a surety company as surety. The purpose of the bonds is to ensure that the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such Contractor or subcontractors with provisions and supplies for the carrying on of such work. Such bonds shall provide that any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original Contractor. In addition, the surety company providing such bond shall agree to be bound to the laws of the state of Washington, and subjected to the jurisdiction of the state of Washington and the King County Superior Court in any proceeding to enforce the bond. This Contract shall not become effective until said bond is supplied and approved by the Engineer and filed with the City Clerk.

In the event that the Compensation called for in Section III of this Contract is less than $150,000.00, which sum shall be determined after the addition of applicable Washington State sales tax, the Contractor may, prior to the execution to this contract and in lieu of the above mentioned bond, elect to have the City retain 10% of the contract amount for a period of either thirty (30) days after final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

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

XXII. MISCELLANEOUS PROVISIONS.

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

B. Resolution of Disputes and Governing Law.

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

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

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

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

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

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

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

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

I. Records Retention and Audit. During the progress of the Work and for a period not less than three (3) years from the date of completion of the Work or for the retention period required by law, whichever is greater, records and accounts pertaining to the Work and accounting therefore are to be kept available by the Parties for inspection and audit by representatives of the Parties and copies of all records, accounts, documents, or other data pertaining to the Work shall be furnished upon request. Records and accounts shall be maintained in accordance with applicable state law and regulations.

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

K. Severability. If any one or more sections, sub-sections, or sentences of this Contract are held to be unconstitutional or invalid, that decision shall not affect the validity

of the remaining portion of this Contract and the remainder shall remain in full force and effect.

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

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

NOTICES TO BE SENT TO: **CONTRACTOR:** Joshuah Helm Hcon, Inc. PO BOX 731005 PUYALLUP, WA 98373 253-276-3060 (telephone) [Insert Fax Number] (facsimile)	**NOTICES TO BE SENT TO:** **CITY OF DES MOINES:** Khai Le City of Des Moines 21650 11th Avenue S. Des Moines, WA 98198 (206) 870-6537 (telephone) (206) 870-6596 (facsimile)

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Attachment #2

Proposal

Barnes Creek Trail Project – 16th Ave South (Massey Creek to Kent Des Moines Road)

TO: Honorable Mayor and City Council
City of Des Moines
21630 11th Avenue South
Des Moines, WA 98198

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

The undersigned bidder hereby agrees to start construction within ten (10) days after the date stated in the Notice to Proceed, and to complete the contract within **[35]** working days thereafter. This period shall be known as the "Contract Time" for the purposes of the project.

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

All schedules on the Bid Proposal must be completed, or the bid shall be considered non-responsive. Basis for award shall be total Bid for all Schedules included in the Proposal.

The Owner will correct obvious mathematical errors in bid proposals.

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

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

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com Always Verify Seal

PROPOSAL FORM

City of Des Moines
Barnes Creek Trail - 16th Ave S (Massey Creek to Kent Des Moines Road)

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

Item No.	Spec Sec.	Item Description	Est. Qty.	Unit	Unit Price	Amount
Schedule A - Roadway and Trail Improvements						
100	1-04	Minor Change	1	Eq. Adj.	$25,000.00	$25,000.00
101	1-05	Construction Surveying	1	LS	LUMP SUM	$ 5500.00
102	1-05	ADA Features Surveying	1	LS	LUMP SUM	$ 1800.00
103	1-05	Record Drawings (Min. Bid $1,000)	1	LS	LUMP SUM	$ 1200.00
104	1-05	Resolution of Utility Conflicts	1	FA	$15,000.00	$15,000.00
105	1-07	SPCC Plan	1	LS	LUMP SUM	$ 1000.00
106	1-07	Property Restoration	1	FA	$5,000.00	$5,000.00
107	1-09	Mobilization	1	LS	LUMP SUM	$ 37,500.00
108	1-10	Project Temporary Traffic Control	1	LS	LUMP SUM	$ 40,100.00
109	2-02	Removal of Structures and Obstructions	1	LS	LUMP SUM	$ 9500.00
110	2-02	Removing Asphalt Conc. Pavement	747	SY	$ 9.75	$ 7283.25
111	2-02	Removing Cement Conc. Curb	64	LF	$ 25.00	$ 1600.00
112	2-02	Removing Cement Conc. Sidewalk	7	SY	$ 50.00	$ 350.00
113	2-02	Adjust Existing Utility to Grade	4	EA	$ 500.00	$ 2000.00
114	2-02	Potholing	5	EA	$ 300.00	$ 1500.00
115	2-03	Roadway Excavation Incl. Haul	1	LS	LUMP SUM	$ 19,500.00
116	2-03	Gravel Borrow Incl. Haul	85	CY	$ 18.00	$ 1530.00
117	2-03	Unsuitable Foundation Excavation Incl. Haul	5	CY	$ 100.00	$ 500.00
118	2-09	Shoring or Extra Excavation CL. B	1	LS	LUMP SUM	$ 3500.00
119	4-04	Crushed Surfacing Top Course	336	TN	$ 28.00	$ 9408.00
120	5-04	HMA Cl. 1/2-Inch PG 58H-22	284	TN	$ 165.00	$ 46,860.00
121	5-04	Planing Bituminous Pavement	79	SY	$ 60.00	$ 4740.00
122	7-04	Corrugated Polyethylene Storm Sewer Pipe 12 In. Diam.	542	LF	$ 39.00	$ 21,138.00
123	7-05	Catch Basin Type 1	4	EA	$ 1350.00	$ 5400.00
124	7-05	Catch Basin Type 1L	1	EA	$ 1400.00	$ 1400.00
125	7-05	Catch Basin Type 2 48 In. Diam	2	EA	$ 3750.00	$ 7500.00
126	7-05	Concrete Inlet	2	EA	$ 1400.00	$ 2800.00
127	8-01	Inlet Protection	11	EA	$ 50.00	$ 550.00
128	8-01	Erosion/Water Pollution Control	1	LS	LUMP SUM	$ 5000.00

PROPOSAL FORM

City of Des Moines
Barnes Creek Trail - 16th Ave S (Massey Creek to Kent Des Moines Road)

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

Item No.	Spec Sec.	Item Description	Est. Qty.	Unit	Unit Price	Amount
129	8-01	Silt Fence	515	LF	$ 6.00	$ 3090.00
130	8-02	Topsoil Type A	132	CY	$ 54.00	$ 7128.00
131	8-02	Bark or Wood Chip Mulch	16	CY	$ 55.00	$ 880.00
132	8-02	Root Barrier	144	LF	$ 9.00	$ 1296.00
133	8-02	Seeded Lawn Installation	165	SY	$ 2.00	$ 330.00
134	8-02	PS Nyssa Sylvatica 'Wildfire'/ Wildfire Tupelo; 2.5" cal.,12'-12' ht.	9	EA	$ 550.00	$ 4950.00
135	8-02	PS Lonicera Pileata 'Moss Green'/ Moss Green Privet Honeysuckle; 2 Gal. Cont.	32	EA	$ 25.00	$ 800.00
136	8-02	PS Spiraea betulifolia 'Tor'/ Tor Birchleaf Spirea; 2 Gal. Cont.	25	EA	$ 23.00	$ 575.00
137	8-02	PS Cornus sericea 'Kelseyii'/ Dwarf Red-Twig Dogwood; 1 Gal. Cont.	33	EA	$ 19.00	$ 627.00
138	8-02	PS Rhododendron 'Purple Gem'/ Purple Gem Rhododendron; 1 Gal. Cont.	35	EA	$ 19.00	$ 665.00
139	8-02	PS Berberis thunbergii 'Corcorde'/ Concorde Japanese Barberry; 1 Gal. Cont.	34	EA	$ 17.00	$ 578.00
140	8-02	PS Vaccinium moupinense/ Himalayan Blueberry; 1 Gal. Cont.	27	EA	$ 20.00	$ 540.00
141	8-02	PS Sesleria autumnalis/ Autumn Moor Grass; 1 Gal. Cont.	72	EA	$ 19.00	$ 1368.00
142	8-02	PS Rubus calycinoides 'Emerald Carpet'/ Emerald Carpet Creeping Bramble; 1 Gal. Cont.	396	EA	$ 14.00	$ 5544.00
143	8-02	PS Geum 'Mango Lassi'/ Mango Lassi Avens; 1 Gal. Cont.	65	EA	$ 17.00	$ 1105.00
144	8-02	PS Hemerocallis 'Little Business'/ Little Business Dwarf Daylily; 1 Gal. Cont.	54	EA	$ 17.00	$ 918.00
145	8-02	Plant Establishment - 1 Year (Minimum Bid $5,000)	1	LS	LUMP SUM	$ 5800.00
146	8-03	Automatic Irrigation System, Complete	1	LS	LUMP SUM	$ 15,000.00
147	8-04	Cement Conc. Traffic Curb and Gutter	531	LF	$ 26.00	$ 13,806.00
148	8-04	Cement Conc. Traffic Curb	42	LF	$ 23.00	$ 966.00
149	8-06	Cement Conc. Driveway Entrance	98	SY	$ 90.00	$ 8820.00
150	8-09	Raised Pavement Marker Type 1	9	HUND	$ 176.00	$ 1584.00
151	8-09	Raised Pavement Marker Type 2	2	HUND	$ 485.00	$ 970.00
152	8-12	Black Vinyl Coated Chain Link Fence, 42 In. - Side Mount	160	LF	$ 56.25	$ 9000.00
153	8-12	Temporary Fence	140	LF	$ 8.00	$ 1120.00
154	8-14	Cement Conc. Curb Ramp Type Single Direction	1	EA	$ 2000.00	$ 2000.00
155	8-14	Cement Conc. Curb Ramp Type Perpendicular A	1	EA	$ 1650.00	$ 1650.00
156	8-14	Cement Conc. Wall Cap	155	LF	$ 65.00	$ 10,075.00
157	8-19	Bus Stop Pad	6	SY	$ 90.00	$ 540.00

PROPOSAL FORM

City of Des Moines
Barnes Creek Trail - 16th Ave S (Massey Creek to Kent Des Moines Road)

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

Item No.	Spec Sec.	Item Description	Est. Qty.	Unit	Unit Price	Amount
158	8-20	Conduit Pipe 2 In. Diam. PVC Schedule 40	1845	LF	$ 9.00	$ 16,605.00
159	8-20	Junction Box Type 1	8	EA	$ 350.00	$ 2800.00
160	8-21	Permanent Signing	1	LS	LUMP SUM	$ 3200.00
161	8-22	Paint Line	1820	LF	$ .30	$ 546.00
162	8-22	Plastic Crosswalk Line	32	SY	$ 104.00	$ 3328.00
163	8-22	Plastic Yield Line	13	LF	$ 22.00	$ 286.00
164	8-22	Plastic Traffic Arrow	7	EA	$ 315.00	$ 2205.00
165	8-22	Plastic Traffic Letter	4	EA	$ 560.00	$ 2240.00
166	8-24	Modular Block Wall	499	SF	$ 38.00	$ 18,962.00
167	8-26	Remove and Reinstall Wood Fence	26	LF	$ 65.00	$ 1690.00
168	8-27	Relocate Driveway Luminaire and Columns	1	LS	LUMP SUM	$ 4500.00
					TOTAL SCHEDULE A =	$ 442,246.00

Proposal (Continued)

Schedule A Total $ 442,246.00

Total Bid Price (in figures) $ 442,246.00

Total Bid Price (in words) Four hundred forty two thousand, two hundred forty six dollars.

Attached hereto is the required Bid Security in the amount of $ 5% of Total Bid Amount ( ) payable to the City of Des Moines which is equal to or more than five percent (5%) of the total bid price.

Signed

Title President

Name of Bidder

Registration or license, Division of Professional Licensing:

1. License Number CCHCONII*820DM / 604-225-872
2. Date 3/4/2020
3. Contractor's Signature
4. Title President

Address of Bidder: PO Box 731005 Puyallup 98373

Street City Zip

Telephone Number of Bidder 253-276-3060 253-576-9984

Office Home

Email Contacts jhelm@hconinc.com

Date of Bid 3/5/2020

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com Always Verify Seal

Receipt is hereby acknowledged for the following Addenda:

Addendum No.	Date Received	Signature
1	3/2/2020	
2	3/3/2020	

The bidder acknowledges that bids must be submitted for all Bid Schedules. Partial Bids shall not be considered.

Bid proposal to be submitted in a sealed envelope marked "Bid Enclosed" for **Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road)**

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com Always Verify Seal

Form of a Bid Bond

BID BOND DEPOSIT

Herewith find deposit in the form of a Bid Bond (state whether certified check, cashier's check, bid bond, or postal money order)

for the amount of Five Percent (5%) of the Bid Amount, which amount is not less than five percent (5%) of the total bid, including sales tax.

HCON Inc.

Signature

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, HCON Inc., as Principal, and Lexon Insurance Company, as Surety, are held and firmly bound unto the City of Des Moines, as Obligee, in the penal sum of Five Percent (5%) of the Bid Amount dollars ($ 5% of Bid Amount) for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

The Condition of this obligation is such that if the Obligee shall make award to the Principal for the **Barnes Creek Trail Project – 16th Ave S (Massey Creek to Kent Des Moines Road)**, according to the terms of the proposal or bid made by the Principal therefore and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee; or, if the Principal shall in case of failure so to do, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids; then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS 5th DAY OF March, 2020.

HCON Inc.

Principal

Lexon Insurance Company

Aliceon A. Keltner, Attorney-in-Fact

Surety

Received return of deposit in the sum of

Date

Signature

POWER OF ATTORNEY

3479

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **LEXON INSURANCE COMPANY**, a Texas Corporation, with its statutory home office in Austin, Texas, does hereby constitute and appoint: Aliceon A. Keltner, Cynthia L. Jay, Eric A. Zimmerman, James B. Binder, Brandon K. Bush, Jacob T. Haddock, Diane M. Harding, Karen C. Swanson, Jamie L. Marques, Carley Espiritu, Christopher Kinyon, Brent E. Heilesen, Peter J. Comfort, Annelies M. Richie, Kyle Joseph Howat, Heather L. Allen, Holli Albers, Michael S. Mansfield, Sara Sophie Sellin, Donald Percell Shanklin Jr., Misti M. Webb, Kari Michelle Motley, Bryan Richard Ludwick, Tamara A. Ringeisen, Dana Marie Brinkley, Linda Diane Shaddon,Erica E. Mosley, Ally Rombach, Alyssa J. Lopez its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **LEXON INSURANCE COMPANY** on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed $5,000,000.00, Five Million Dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Assistant Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **LEXON INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 22nd day of June, 2018.

LEXON INSURANCE COMPANY

LEXON INSURANCE COMPANY CORPORATE SEAL MARCH 16, 1984 STATE OF TEXAS

BY _____
Brian Beggs
President

ACKNOWLEDGEMENT

O 18, before me, personally came Brian Beggs to me known, who be duly sworn, did depose and say that he is the President of **LEXON INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

AMY TAYLOR STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

AMY TAYLOR
Notary Public- State of Tennessee
Davidson County
My Commission Expires 5-9-2023

BY _____
Amy Taylor
Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of **LEXON INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the forgoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Seal at Mount Juliet, Tennessee this 5th Day of March, 20 20.

LEXON INSURANCE COMPANY CORPORATE SEAL MARCH 16, 1984 STATE OF TEXAS

BY _____
Andrew Smith
Assistant Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."

Non-collusion Affidavit

City of Des Moines

STATE OF WASHINGTON)

) ss.

County of King)

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

Signature Aimee Brumley

Subscribed and sworn to before me this **5** day

of **March**, 20**20**.

Aimee Brumley

Notary Public in and for the State of Washington

Spanaway, WA

Residing at

My commission expires Feb. 19, 2022

AIMEE BRUMLEY
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
FEBRUARY 19, 2022

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com Always Verify Seal

Statement of Bidder's Qualifications

Each bidder submitting a proposal on work included in these Plans and Specifications shall prepare and submit as part of this bid the following schedule:

1. Name of bidder: Hcon Incorporated

2. Business address and telephone number:

PO BOX 731005, Puyallup WA 98373 (Mailing)

4624 River Road, Tacoma WA 98443 (Yard/Shop)

3. How many years has said bidder been engaged in the contracting business under present firm name:

Bidder = 20 Yrs Firm = 2+ Years

4. Contracts now in hand (gross amount):

$ 2.0 Million

5. General character of work performed by said company:

Excavation, grading, underground utilities,

General Contracting & managing of various trades

6. List of more important projects constructed by said company, including approximate costs and dates:

Jones Estates - 65 Lot Housing Development 4 Mil 2017-18

Ashburn ROW Improvements - Road Widening 450k

Huntington Apartments - Site/utility work/landscape 2.0 mil

Edgewood Heights Apartments - Earthwork/Utilities/Landscape 4.5 mil

7. List of company's major equipment:

Caterpillar 336, Hitachi EX350, Komatsu Backhoe, JD650 Dozer, JD750 Dozer

EX 145 Excavator, Dyanapac roller, Hamm Roller, 2006 KW Tractor

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2004 Peterbuilt Tractor,1996 KW Dumptruck, Sidedump Trailers, EX 245

2019, 2016 Ford F450 crew trucks, 2001 KW Water Truck 4000 Gallon

2008 GMC Water Truck (2500 Gallon) Various small tools and equip.

8. Bank references:

Sherita Harris 253-539-7100 Columbia Bank

9. Dept. of Labor and Industries' firm number:

HCONII**820DM

10. Dept. of Revenue registration number:

604225872/ 82-4390058

Name of Bidder Hcon Incorporated

By Joshuah Helm

Title President

Date 3/4/2020

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Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address, and Telephone Number	Description of Work
CES NW, Sumner Washington 429 29th ave 253-848-4282	Survey
Tilth Landscape, Sumner WA PO Box 7125 253-653-8072	Landscape
Mikey Concrete, Puyallup WA 8806 64th AVE 206-713-5018	Concrete
Sparrow Fence, Enumclaw WA 1424 Maple DR. 253-348-5198	Fencing
NW Traffic, BOX 1915 Milton WA 253-862-4102	Stripe
Becker Blacktop, BOX 2273 Sumner WA 206-940-3912	Asphalt

Material Suppliers	Material (major items only)
HD Fowler, 1417 Thorton Ave Sumner 253-863-8600	Pipe
ICON Materials, Auburn Wa 253-839-2101	Aggregates

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Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date February 19, 2020, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

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

HCON Incorporated

Bidder's Business Name

Signature of Authorized Official*

Joshuah Helm

Printed Name

President

Title

3/4/2020	Puyallup	WA
Date	City	State

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☒

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

Washington

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

_____

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

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Statement of Bidder Responsibility Criteria

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

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

Contract Title: Barnes Creek Trail Project

Bidder's Business Name: HCON Incorporated

Bidder's Name: Joshuah Helm

Bidder's Signature:

Bidders Title: President

Date: 3/4/2020

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com Always Verify Seal

Job No. 15154W5A | **Barnes Creek Trail - 16th Ave S (Massey Creek to Kent Des Moines Road)**

Des Moines WA — The Waterland City | **City of Des Moines** | Bid Date: 3/5/2020 | Bid Tabulation | KPG Interdisciplinary Design

TOTAL CONSTRUCTION COST ESTIMATE

Item No.	Description	Total Quantity	Unit	Engineer's Estimate Unit Price	Engineer's Estimate Extended	HCON Apparent Low Contactor Name Unit Price	HCON Extended	Northwest Cascade 2nd Bidder Contactor Name Unit Price	Northwest Cascade Extended	Reed 3rd Bidder Contactor Name Unit Price	Reed Extended	Revolution Civil Builders 4th Bidder Contactor Name Unit Price	Revolution Civil Builders Extended	ACI 5th Bidder Contactor Name Unit Price	ACI Extended	Harkness Construction 6th Bidder Contactor Name Unit Price	Harkness Construction Extended	RW Scott 7th Bidder Contactor Name Unit Price	RW Scott Extended	Gary Harper Construction 8th Bidder Contactor Name Unit Price	Gary Harper Construction Extended	Westwater 9th Bidder Contactor Name Unit Price	Westwater Extended
100	Minor Change	1	Eq. Adj.	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00
101	Construction Surveying	1	LS	$ 15,000.00	$ 15,000.00	$ 5,500.00	$ 5,500.00	$ 4,450.00	$ 4,450.00	$ 8,000.00	$ 8,000.00	$ 7,500.00	$ 7,500.00	$ 4,500.00	$ 4,500.00	$ 12,000.00	$ 12,000.00	$ 3,800.00	$ 3,800.00	$ 4,900.00	$ 4,900.00	$ 5,000.00	$ 5,000.00
102	ADA Features Surveying	1	LS	$ 2,500.00	$ 2,500.00	$ 1,800.00	$ 1,800.00	$ 2,000.00	$ 2,000.00	$ 2,000.00	$ 2,000.00	$ 920.00	$ 920.00	$ 750.00	$ 750.00	$ 2,500.00	$ 2,500.00	$ 1,500.00	$ 1,500.00	$ 1,600.00	$ 1,600.00	$ 2,500.00	$ 2,500.00
103	Record Drawings (Min. Bid $1,000)	1	LS	$ 1,000.00	$ 1,000.00	$ 1,200.00	$ 1,200.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,200.00	$ 1,200.00	$ 1,000.00	$ 1,000.00	$ 2,500.00	$ 2,500.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00
104	Resolution of Utility Conflicts	1	FA	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00
105	SPCC Plan	1	LS	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 250.00	$ 250.00	$ 500.00	$ 500.00	$ 1,750.00	$ 1,750.00	$ 100.00	$ 100.00	$ 2,000.00	$ 2,000.00	$ 1,000.00	$ 1,000.00	$ 700.00	$ 700.00	$ 500.00	$ 500.00
106	Property Restoration	1	FA	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
107	Mobilization	1	LS	$ 55,000.00	$ 55,000.00	$ 37,500.00	$ 37,500.00	$ 43,000.00	$ 43,000.00	$ 48,000.00	$ 48,000.00	$ 35,000.00	$ 35,000.00	$ 49,099.00	$ 49,099.00	$ 105,000.00	$ 105,000.00	$ 25,000.00	$ 25,000.00	$ 36,900.00	$ 36,900.00	$ 55,000.00	$ 55,000.00
108	Project Temporary Traffic Control	1	LS	$ 35,000.00	$ 35,000.00	$ 40,100.00	$ 40,100.00	$ 35,300.00	$ 35,300.00	$ 40,000.00	$ 40,000.00	$ 49,346.00	$ 49,346.00	$ 45,000.00	$ 45,000.00	$ 15,435.00	$ 15,435.00	$ 55,800.00	$ 55,800.00	$ 45,000.00	$ 45,000.00	$ 60,000.00	$ 60,000.00
109	Removal of Structures and Obstructions	1	LS	$ 15,000.00	$ 15,000.00	$ 9,500.00	$ 9,500.00	$ 22,300.00	$ 22,300.00	$ 13,000.00	$ 13,000.00	$ 15,000.00	$ 15,000.00	$ 20,000.00	$ 20,000.00	$ 1,000.00	$ 1,000.00	$ 21,000.00	$ 21,000.00	$ 21,700.00	$ 21,700.00	$ 25,000.00	$ 25,000.00
110	Removing Asphalt Conc. Pavement	747	SY	$ 23.00	$ 17,181.00	$ 9.75	$ 7,283.25	$ 6.00	$ 4,482.00	$ 10.00	$ 7,470.00	$ 31.50	$ 23,530.50	$ 12.00	$ 8,964.00	$ 8.50	$ 6,349.50	$ 25.00	$ 18,675.00	$ 20.00	$ 14,940.00	$ 25.00	$ 18,675.00
111	Removing Cement Conc. Curb	64	LF	$ 17.00	$ 1,088.00	$ 25.00	$ 1,600.00	$ 9.00	$ 576.00	$ 10.00	$ 640.00	$ 25.00	$ 1,600.00	$ 10.00	$ 640.00	$ 50.00	$ 3,200.00	$ 20.00	$ 1,280.00	$ 23.00	$ 1,472.00	$ 15.00	$ 960.00
112	Removing Cement Conc. Sidewalk	7	SY	$ 35.00	$ 245.00	$ 50.00	$ 350.00	$ 41.00	$ 287.00	$ 10.00	$ 70.00	$ 40.00	$ 280.00	$ 36.50	$ 255.50	$ 100.00	$ 700.00	$ 80.00	$ 560.00	$ 114.00	$ 798.00	$ 50.00	$ 350.00
113	Adjust Existing Utility to Grade	4	EA	$ 900.00	$ 3,600.00	$ 500.00	$ 2,000.00	$ 595.00	$ 2,380.00	$ 400.00	$ 1,600.00	$ 400.00	$ 1,600.00	$ 600.00	$ 2,400.00	$ 2,000.00	$ 8,000.00	$ 1,200.00	$ 4,800.00	$ 500.00	$ 2,000.00	$ 750.00	$ 3,000.00
114	Potholing	5	EA	$ 900.00	$ 4,500.00	$ 300.00	$ 1,500.00	$ 500.00	$ 2,500.00	$ 300.00	$ 1,500.00	$ 500.00	$ 2,500.00	$ 600.00	$ 3,000.00	$ 1,000.00	$ 5,000.00	$ 400.00	$ 2,000.00	$ 600.00	$ 3,000.00	$ 650.00	$ 3,250.00
115	Roadway Excavation Incl. Haul	1	LS	$ 15,000.00	$ 15,000.00	$ 19,500.00	$ 19,500.00	$ 12,560.00	$ 12,560.00	$ 20,000.00	$ 20,000.00	$ 15,000.00	$ 15,000.00	$ 17,000.00	$ 17,000.00	$ 37,200.00	$ 37,200.00	$ 18,000.00	$ 18,000.00	$ 20,700.00	$ 20,700.00	$ 35,000.00	$ 35,000.00
116	Gravel Borrow Incl. Haul	85	CY	$ 45.00	$ 3,825.00	$ 18.00	$ 1,530.00	$ 53.00	$ 4,505.00	$ 40.00	$ 3,400.00	$ 35.00	$ 2,975.00	$ 68.50	$ 5,822.50	$ 25.00	$ 2,125.00	$ 45.00	$ 3,825.00	$ 69.00	$ 5,865.00	$ 60.00	$ 5,100.00
117	Unsuitable Foundation Excavation Incl. Haul	5	CY	$ 110.00	$ 550.00	$ 100.00	$ 500.00	$ 125.00	$ 625.00	$ 50.00	$ 250.00	$ 220.00	$ 1,100.00	$ 195.00	$ 975.00	$ 100.00	$ 500.00	$ 100.00	$ 500.00	$ 30.00	$ 150.00	$ 40.00	$ 200.00
118	Shoring or Extra Excavation CL. B	1	LS	$ 7,500.00	$ 7,500.00	$ 3,500.00	$ 3,500.00	$ 500.00	$ 500.00	$ 100.00	$ 100.00	$ 6,000.00	$ 6,000.00	$ 100.00	$ 100.00	$ 5,000.00	$ 5,000.00	$ 2,500.00	$ 2,500.00	$ 8,300.00	$ 8,300.00	$ 1,500.00	$ 1,500.00
119	Crushed Surfacing Top Course	336	TN	$ 40.00	$ 13,440.00	$ 28.00	$ 9,408.00	$ 31.00	$ 10,416.00	$ 50.00	$ 16,800.00	$ 29.00	$ 9,744.00	$ 50.00	$ 16,800.00	$ 27.00	$ 9,072.00	$ 60.00	$ 20,160.00	$ 50.00	$ 16,800.00	$ 50.00	$ 16,800.00
120	HMA Cl. 1/2-Inch PG 58H-22	284	TN	$ 160.00	$ 45,440.00	$ 165.00	$ 46,860.00	$ 160.00	$ 45,440.00	$ 180.00	$ 51,120.00	$ 160.00	$ 45,440.00	$ 160.00	$ 45,440.00	$ 152.00	$ 43,168.00	$ 148.00	$ 42,032.00	$ 206.00	$ 58,504.00	$ 150.00	$ 42,600.00
121	Planing Bituminous Pavement	79	SY	$ 15.00	$ 1,185.00	$ 60.00	$ 4,740.00	$ 65.00	$ 5,135.00	$ 70.00	$ 5,530.00	$ 50.00	$ 3,950.00	$ 65.00	$ 5,135.00	$ 90.00	$ 7,110.00	$ 56.00	$ 4,424.00	$ 64.00	$ 5,056.00	$ 75.00	$ 5,925.00
122	Corrugated Polyethylene Storm Sewer Pipe 12 In. Diam.	542	LF	$ 85.00	$ 46,070.00	$ 39.00	$ 21,138.00	$ 46.00	$ 24,932.00	$ 40.00	$ 21,680.00	$ 90.00	$ 48,780.00	$ 77.00	$ 41,734.00	$ 29.00	$ 15,718.00	$ 70.00	$ 37,940.00	$ 72.00	$ 39,024.00	$ 115.00	$ 62,330.00
123	Catch Basin Type 1	4	EA	$ 1,750.00	$ 7,000.00	$ 1,350.00	$ 5,400.00	$ 1,670.00	$ 6,680.00	$ 1,400.00	$ 5,600.00	$ 1,150.00	$ 4,600.00	$ 1,325.00	$ 5,300.00	$ 2,500.00	$ 10,000.00	$ 1,500.00	$ 6,000.00	$ 1,760.00	$ 7,040.00	$ 1,000.00	$ 4,000.00
124	Catch Basin Type 1L	1	EA	$ 1,250.00	$ 1,250.00	$ 1,400.00	$ 1,400.00	$ 1,700.00	$ 1,700.00	$ 1,600.00	$ 1,600.00	$ 1,200.00	$ 1,200.00	$ 1,500.00	$ 1,500.00	$ 2,500.00	$ 2,500.00	$ 1,600.00	$ 1,600.00	$ 1,690.00	$ 1,690.00	$ 1,000.00	$ 1,000.00
125	Catch Basin Type 2 48 In. Diam	2	EA	$ 3,500.00	$ 7,000.00	$ 3,750.00	$ 7,500.00	$ 3,100.00	$ 6,200.00	$ 3,000.00	$ 6,000.00	$ 2,000.00	$ 4,000.00	$ 2,800.00	$ 5,600.00	$ 3,500.00	$ 7,000.00	$ 5,000.00	$ 10,000.00	$ 3,640.00	$ 7,280.00	$ 5,000.00	$ 10,000.00
126	Concrete Inlet	2	EA	$ 900.00	$ 1,800.00	$ 1,400.00	$ 2,800.00	$ 1,650.00	$ 3,300.00	$ 1,200.00	$ 2,400.00	$ 750.00	$ 1,500.00	$ 1,500.00	$ 3,000.00	$ 1,000.00	$ 2,000.00	$ 1,200.00	$ 2,400.00	$ 1,550.00	$ 3,100.00	$ 1,000.00	$ 2,000.00
127	Inlet Protection	11	EA	$ 90.00	$ 990.00	$ 50.00	$ 550.00	$ 45.00	$ 495.00	$ 100.00	$ 1,100.00	$ 50.00	$ 550.00	$ 125.00	$ 1,375.00	$ 85.00	$ 935.00	$ 80.00	$ 880.00	$ 80.00	$ 880.00	$ 25.00	$ 275.00
128	Erosion/Water Pollution Control	1	LS	$ 3,500.00	$ 3,500.00	$ 5,000.00	$ 5,000.00	$ 11,750.00	$ 11,750.00	$ 1,500.00	$ 1,500.00	$ 20,000.00	$ 20,000.00	$ 7,500.00	$ 7,500.00	$ 4,000.00	$ 4,000.00	$ 3,000.00	$ 3,000.00	$ 1,500.00	$ 1,500.00	$ 5,000.00	$ 5,000.00
129	Silt Fence	515	LF	$ 5.00	$ 2,575.00	$ 6.00	$ 3,090.00	$ 4.00	$ 2,060.00	$ 6.00	$ 3,090.00	$ 5.00	$ 2,575.00	$ 5.00	$ 2,575.00	$ 1.50	$ 772.50	$ 6.00	$ 3,090.00	$ 5.00	$ 2,575.00	$ 10.00	$ 5,150.00
130	Topsoil Type A	132	CY	$ 61.36	$ 8,100.00	$ 54.00	$ 7,128.00	$ 48.00	$ 6,336.00	$ 50.00	$ 6,600.00	$ 48.00	$ 6,336.00	$ 55.00	$ 7,260.00	$ 49.00	$ 6,468.00	$ 44.00	$ 5,808.00	$ 73.00	$ 9,636.00	$ 100.00	$ 13,200.00
131	Bark or Wood Chip Mulch	16	CY	$ 93.75	$ 1,500.00	$ 55.00	$ 880.00	$ 55.00	$ 880.00	$ 120.00	$ 1,920.00	$ 124.00	$ 1,984.00	$ 56.00	$ 896.00	$ 50.00	$ 800.00	$ 110.00	$ 1,760.00	$ 124.00	$ 1,984.00	$ 100.00	$ 1,600.00
132	Root Barrier	144	LF	$ 12.00	$ 1,728.00	$ 9.00	$ 1,296.00	$ 9.00	$ 1,296.00	$ 4.50	$ 648.00	$ 4.50	$ 648.00	$ 9.00	$ 1,296.00	$ 8.00	$ 1,152.00	$ 5.00	$ 720.00	$ 5.00	$ 720.00	$ 5.00	$ 720.00
133	Seeded Lawn Installation	165	SY	$ 14.85	$ 2,450.00	$ 2.00	$ 330.00	$ 2.00	$ 330.00	$ 3.50	$ 577.50	$ 3.50	$ 577.50	$ 2.00	$ 330.00	$ 1.50	$ 247.50	$ 3.15	$ 519.75	$ 4.00	$ 660.00	$ 15.00	$ 2,475.00
134	PS Nyssa Sylvatica 'Wildfire'/ Wildfire Tupelo; 2.5" cal.,12'-12' ht.	9	EA	$ 500.00	$ 4,500.00	$ 550.00	$ 4,950.00	$ 550.00	$ 4,950.00	$ 600.00	$ 5,400.00	$ 609.00	$ 5,481.00	$ 550.00	$ 4,950.00	$ 492.00	$ 4,428.00	$ 545.00	$ 4,905.00	$ 625.00	$ 5,625.00	$ 750.00	$ 6,750.00
135	PS Lonicera Pileata 'Moss Green'/ Moss Green Privet Honeysuckle; 2 Gal. Cont.	32	EA	$ 28.00	$ 896.00	$ 25.00	$ 800.00	$ 24.00	$ 768.00	$ 25.00	$ 800.00	$ 25.00	$ 800.00	$ 25.00	$ 800.00	$ 22.00	$ 704.00	$ 23.00	$ 736.00	$ 27.00	$ 864.00	$ 20.00	$ 640.00
136	PS Spiraea betulifolia 'Tor'/ Tor Birchleaf Spirea; 2 Gal. Cont.	25	EA	$ 28.00	$ 700.00	$ 23.00	$ 575.00	$ 24.00	$ 600.00	$ 25.00	$ 625.00	$ 25.00	$ 625.00	$ 25.00	$ 625.00	$ 21.00	$ 525.00	$ 23.00	$ 575.00	$ 26.00	$ 650.00	$ 20.00	$ 500.00
137	PS Cornus sericea 'Kelseyii'/ Dwarf Red-Twig Dogwood; 1 Gal. Cont.	33	EA	$ 22.00	$ 726.00	$ 19.00	$ 627.00	$ 17.00	$ 561.00	$ 10.00	$ 330.00	$ 9.20	$ 303.60	$ 16.00	$ 528.00	$ 15.00	$ 495.00	$ 8.50	$ 280.50	$ 10.00	$ 330.00	$ 10.00	$ 330.00
138	PS Rhododendron 'Purple Gem'/ Purple Gem Rhododendron; 1 Gal. Cont.	35	EA	$ 22.00	$ 770.00	$ 19.00	$ 665.00	$ 19.00	$ 665.00	$ 20.00	$ 700.00	$ 19.00	$ 665.00	$ 19.00	$ 665.00	$ 17.00	$ 595.00	$ 17.00	$ 595.00	$ 20.00	$ 700.00	$ 10.00	$ 350.00
139	PS Berberis thunbergii 'Corcorde'/ Concorde Japanese Barberry; 1 Gal. Cont.	34	EA	$ 22.00	$ 748.00	$ 17.00	$ 578.00	$ 17.00	$ 578.00	$ 18.00	$ 612.00	$ 16.00	$ 544.00	$ 16.00	$ 544.00	$ 15.00	$ 510.00	$ 15.00	$ 510.00	$ 17.00	$ 578.00	$ 10.00	$ 340.00
140	PS Vaccinium moupinense/ Himalayan Blueberry; 1 Gal. Cont.	27	EA	$ 22.00	$ 594.00	$ 20.00	$ 540.00	$ 20.00	$ 540.00	$ 23.00	$ 621.00	$ 22.00	$ 594.00	$ 20.00	$ 540.00	$ 18.00	$ 486.00	$ 20.00	$ 540.00	$ 23.00	$ 621.00	$ 10.00	$ 270.00
141	PS Sesleria autumnalis/ Autumn Moor Grass; 1 Gal. Cont.	72	EA	$ 15.00	$ 1,080.00	$ 19.00	$ 1,368.00	$ 17.00	$ 1,224.00	$ 13.00	$ 936.00	$ 12.00	$ 864.00	$ 16.00	$ 1,152.00	$ 16.00	$ 1,152.00	$ 11.00	$ 792.00	$ 13.00	$ 936.00	$ 10.00	$ 720.00
142	PS Rubus calycinoides 'Emerald Carpet'/ Emerald Carpet Creeping Bramble; 1 Gal. Cont.	396	EA	$ 11.97	$ 4,740.00	$ 14.00	$ 5,544.00	$ 14.00	$ 5,544.00	$ 9.00	$ 3,564.00	$ 9.00	$ 3,564.00	$ 14.00	$ 5,544.00	$ 12.00	$ 4,752.00	$ 8.00	$ 3,168.00	$ 9.00	$ 3,564.00	$ 10.00	$ 3,960.00
143	PS Geum 'Mango Lassi'/ Mango Lassi Avens; 1 Gal. Cont.	65	EA	$ 15.00	$ 975.00	$ 17.00	$ 1,105.00	$ 17.00	$ 1,105.00	$ 13.00	$ 845.00	$ 12.00	$ 780.00	$ 16.00	$ 1,040.00	$ 18.00	$ 1,170.00	$ 11.00	$ 715.00	$ 13.00	$ 845.00	$ 10.00	$ 650.00
144	PS Hemerocallis 'Little Business'/ Little Business Dwarf Daylily; 1 Gal. Cont.	54	EA	$ 15.00	$ 810.00	$ 17.00	$ 918.00	$ 17.00	$ 918.00	$ 13.00	$ 702.00	$ 12.00	$ 648.00	$ 16.00	$ 864.00	$ 22.00	$ 1,188.00	$ 11.00	$ 594.00	$ 12.00	$ 648.00	$ 10.00	$ 540.00
145	Plant Establishment - 1 Year (Minimum Bid $5,000)	1	LS	$ 5,000.00	$ 5,000.00	$ 5,800.00	$ 5,800.00	$ 5,000.00	$ 5,000.00	$ 6,000.00	$ 6,000.00	$ 5,750.00	$ 5,750.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,300.00	$ 5,300.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
146	Automatic Irrigation System, Complete	1	LS	$ 17,500.00	$ 17,500.00	$ 15,000.00	$ 15,000.00	$ 13,300.00	$ 13,300.00	$ 15,000.00	$ 15,000.00	$ 15,675.00	$ 15,675.00	$ 12,000.00	$ 12,000.00	$ 10,605.00	$ 10,605.00	$ 14,000.00	$ 14,000.00	$ 16,300.00	$ 16,300.00	$ 15,500.00	$ 15,500.00
147	Cement Conc. Traffic Curb and Gutter	531	LF	$ 40.00	$ 21,240.00	$ 26.00	$ 13,806.00	$ 27.00	$ 14,337.00	$ 32.00	$ 16,992.00	$ 23.00	$ 12,213.00	$ 29.00	$ 15,399.00	$ 24.00	$ 12,744.00	$ 30.00	$ 15,930.00	$ 31.00	$ 16,461.00	$ 40.00	$ 21,240.00
148	Cement Conc. Traffic Curb	42	LF	$ 40.00	$ 1,680.00	$ 23.00	$ 966.00	$ 33.00	$ 1,386.00	$ 50.00	$ 2,100.00	$ 26.00	$ 1,092.00	$ 55.00	$ 2,310.00	$ 18.00	$ 756.00	$ 46.00	$ 1,932.00	$ 31.50	$ 1,323.00	$ 50.00	$ 2,100.00
149	Cement Conc. Driveway Entrance	98	SY	$ 75.00	$ 7,350.00	$ 90.00	$ 8,820.00	$ 71.00	$ 6,958.00	$ 100.00	$ 9,800.00	$ 55.00	$ 5,390.00	$ 115.00	$ 11,270.00	$ 63.00	$ 6,174.00	$ 90.00	$ 8,820.00	$ 110.50	$ 10,829.00	$ 90.00	$ 8,820.00
150	Raised Pavement Marker Type 1	9	HUND	$ 175.00	$ 1,575.00	$ 176.00	$ 1,584.00	$ 180.00	$ 1,620.00	$ 180.00	$ 1,620.00	$ 400.00	$ 3,600.00	$ 180.00	$ 1,620.00	$ 350.00	$ 3,150.00	$ 168.00	$ 1,512.00	$ 192.00	$ 1,728.00	$ 500.00	$ 4,500.00
151	Raised Pavement Marker Type 2	2	HUND	$ 300.00	$ 600.00	$ 485.00	$ 970.00	$ 495.00	$ 990.00	$ 500.00	$ 1,000.00	$ 575.00	$ 1,150.00	$ 500.00	$ 1,000.00	$ 500.00	$ 1,000.00	$ 462.00	$ 924.00	$ 528.00	$ 1,056.00	$ 500.00	$ 1,000.00
152	Black Vinyl Coated Chain Link Fence, 42 In. - Side Mount	160	LF	$ 60.00	$ 9,600.00	$ 56.25	$ 9,000.00	$ 61.00	$ 9,760.00	$ 65.00	$ 10,400.00	$ 63.00	$ 10,080.00	$ 56.00	$ 8,960.00	$ 50.00	$ 8,000.00	$ 59.00	$ 9,440.00	$ 61.00	$ 9,760.00	$ 60.00	$ 9,600.00
153	Temporary Fence	140	LF	$ 5.00	$ 700.00	$ 8.00	$ 1,120.00	$ 10.00	$ 1,400.00	$ 6.00	$ 840.00	$ 10.00	$ 1,400.00	$ 10.00	$ 1,400.00	$ 3.85	$ 539.00	$ 10.00	$ 1,400.00	$ 8.60	$ 1,204.00	$ 15.00	$ 2,100.00
154	Cement Conc. Curb Ramp Type Single Direction	1	EA	$ 4,000.00	$ 4,000.00	$ 2,000.00	$ 2,000.00	$ 2,520.00	$ 2,520.00	$ 3,000.00	$ 3,000.00	$ 1,900.00	$ 1,900.00	$ 3,000.00	$ 3,000.00	$ 4,500.00	$ 4,500.00	$ 2,500.00	$ 2,500.00	$ 2,450.00	$ 2,450.00	$ 3,500.00	$ 3,500.00
155	Cement Conc. Curb Ramp Type Perpendicular A	1	EA	$ 4,000.00	$ 4,000.00	$ 1,650.00	$ 1,650.00	$ 2,290.00	$ 2,290.00	$ 3,000.00	$ 3,000.00	$ 1,700.00	$ 1,700.00	$ 3,000.00	$ 3,000.00	$ 5,000.00	$ 5,000.00	$ 2,500.00	$ 2,500.00	$ 2,000.00	$ 2,000.00	$ 3,500.00	$ 3,500.00
156	Cement Conc. Wall Cap	155	LF	$ 65.00	$ 10,075.00	$ 65.00	$ 10,075.00	$ 48.00	$ 7,440.00	$ 70.00	$ 10,850.00	$ 49.00	$ 7,595.00	$ 65.00	$ 10,075.00	$ 50.00	$ 7,750.00	$ 58.00	$ 8,990.00	$ 70.40	$ 10,912.00	$ 75.00	$ 11,625.00
157	Bus Stop Pad	6	SY	$ 90.00	$ 540.00	$ 90.00	$ 540.00	$ 166.00	$ 996.00	$ 300.00	$ 1,800.00	$ 100.00	$ 600.00	$ 200.00	$ 1,200.00	$ 1,000.00	$ 6,000.00	$ 175.00	$ 1,050.00	$ 126.00	$ 756.00	$ 200.00	$ 1,200.00
158	Conduit Pipe 2 In. Diam. PVC Schedule 40	1845	LF	$ 4.00	$ 7,380.00	$ 9.00	$ 16,605.00	$ 21.00	$ 38,745.00	$ 9.00	$ 16,605.00	$ 5.00	$ 9,225.00	$ 4.00	$ 7,380.00	$ 6.00	$ 11,070.00	$ 15.00	$ 27,675.00	$ 24.00	$ 44,280.00	$ 10.00	$ 18,450.00
159	Junction Box Type 1	8	EA	$ 750.00	$ 6,000.00	$ 350.00	$ 2,800.00	$ 500.00	$ 4,000.00	$ 1,100.00	$ 8,800.00	$ 700.00	$ 5,600.00	$ 700.00	$ 5,600.00	$ 600.00	$ 4,800.00	$ 700.00	$ 5,600.00	$ 900.00	$ 7,200.00	$ 1,000.00	$ 8,000.00
160	Permanent Signing	1	LS	$ 5,000.00	$ 5,000.00	$ 3,200.00	$ 3,200.00	$ 1,100.00	$ 1,100.00	$ 2,000.00	$ 2,000.00	$ 2,500.00	$ 2,500.00	$ 1,500.00	$ 1,500.00	$ 5,500.00	$ 5,500.00	$ 2,000.00	$ 2,000.00	$ 2,500.00	$ 2,500.00	$ 20,000.00	$ 2,000.00
161	Paint Line	1820	LF	$ 1.00	$ 1,820.00	$ 0.30	$ 546.00	$ 0.30	$ 546.00	$ 0.75	$ 1,365.00	$ 1.15	$ 2,093.00	$ 0.30	$ 546.00	$ 1.60	$ 2,912.00	$ 0.30	$ 546.00	$ 0.42	$ 764.40	$ 1.00	$ 1,820.00
162	Plastic Crosswalk Line	32	SY	$ 15.00	$ 480.00	$ 104.00	$ 3,328.00	$ 105.00	$ 3,360.00	$ 105.00	$ 3,360.00	$ 6.00	$ 192.00	$ 105.00	$ 3,360.00	$ 5.00	$ 160.00	$ 99.00	$ 3,168.00	$ 113.00	$ 3,616.00	$ 1.00	$ 32.00
163	Plastic Yield Line	13	LF	$ 25.00	$ 325.00	$ 22.00	$ 286.00	$ 22.00	$ 286.00	$ 35.00	$ 455.00	$ 58.00	$ 754.00	$ 25.00	$ 325.00	$ 50.00	$ 650.00	$ 22.00	$ 286.00	$ 24.00	$ 312.00	$ 20.00	$ 260.00
164	Plastic Traffic Arrow	7	EA	$ 150.00	$ 1,050.00	$ 315.00	$ 2,205.00	$ 320.00	$ 2,240.00	$ 325.00	$ 2,275.00	$ 345.00	$ 2,415.00	$ 325.00	$ 2,275.00	$ 300.00	$ 2,100.00	$ 301.00	$ 2,107.00	$ 345.00	$ 2,415.00	$ 300.00	$ 2,100.00
165	Plastic Traffic Letter	4	EA	$ 125.00	$ 500.00	$ 560.00	$ 2,240.00	$ 140.00	$ 560.00	$ 150.00	$ 600.00	$ 115.00	$ 460.00	$ 150.00	$ 600.00	$ 100.00	$ 400.00	$ 134.00	$ 536.00	$ 152.00	$ 608.00	$ 200.00	$ 800.00
166	Modular Block Wall	499	SF	$ 45.00	$ 22,455.00	$ 38.00	$ 18,962.00	$ 44.00	$ 21,956.00	$ 35.00	$ 17,465.00	$ 37.00	$ 18,463.00	$ 37.00	$ 18,463.00	$ 37.00	$ 18,463.00	$ 40.00	$ 19,960.00	$ 41.00	$ 20,459.00	$ 55.00	$ 27,445.00
167	Remove and Reinstall Wood Fence	26	LF	$ 50.00	$ 1,300.00	$ 65.00	$ 1,690.00	$ 78.00	$ 2,028.00	$ 70.00	$ 1,820.00	$ 67.00	$ 1,742.00	$ 62.00	$ 1,612.00	$ 58.30	$ 1,515.80	$ 63.00	$ 1,638.00	$ 66.00	$ 1,716.00	$ 65.00	$ 1,690.00
168	Relocate Driveway Luminaire and Columns	1	LS	$ 3,500.00	$ 3,500.00	$ 4,500.00	$ 4,500.00	$ 4,500.00	$ 4,500.00	$ 20,000.00	$ 20,000.00	$ 2,500.00	$ 2,500.00	$ 9,000.00	$ 9,000.00	$ 5,000.00	$ 5,000.00	$ 12,000.00	$ 12,000.00	$ 2,600.00	$ 2,600.00	$ 2,500.00	$ 2,500.00
				Total	$ 517,226.00	Total	$ 442,246.25	Total	$ 473,436.00	Total	$ 490,977.50	Total	$ 491,143.60	Total	$ 494,494.00	Total	$ 504,246.30	Total	$ 509,798.25	Total	$ 552,084.40	Total	$ 604,942.00

I reviewed the bid tabs from balanced bids

X

J. Matt Nolin, KPG

Attachment #3

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Attachment #4

City of Des Moines
C-P-110(001)-1
Complete Streets Award

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
CITY OF DES MOINES
GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made and entered into between the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD ("TIB") and the CITY OF DES MOINES, a Washington state municipal corporation ("RECIPIENT").

WHEREAS, the TIB has developed a grant program, Complete Streets, to provide for the retrofit of streets and roads ("Project") for eligible cities, towns, and counties to provide access to all users, including bicyclists, pedestrians, motorists, and public transportation riders, and

WHEREAS, the above-identified RECIPIENT is eligible to receive a Project grant pursuant to ordinance 1533 and that it has the legal authority to receive such grant and to perform the Project pursuant to the terms of this grant

NOW, THEREFORE, pursuant to chapter 47.26 RCW, RCW 47.04.320, and WAC 479-10-500 *et seq*, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, and performances contained herein, and the attached Exhibits, if any, which are made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. GRANT

TIB agrees to grant funds in the amount of THREE HUNDRED THOUSAND AND NO/100 dollars ($300,000) for the Project pursuant to the terms contained herein, and the RECIPIENT agrees to accept such grant funds and agrees to perform and be subject to the terms and conditions of this Agreement.

2. PROJECT AND BUDGET

The Project shall provide for the retrofit of identified streets or roads on the RECIPIENT's approved work plan. In accordance with applicable laws and ordinances, the RECIPIENT agrees to enter into an agreement with an independent contractor and/or material providers, or otherwise provide for the Project work plan to be completed by the RECIPIENT's own forces. The RECIPIENT further agrees that it shall be solely responsible for and shall pay its independent contractor and/or material providers. If RECIPIENT uses its own forces, it shall be solely responsible for paying the costs thereof. Under no circumstances shall the TIB be responsible to any third party for the payment of labor or materials used in completing the Project work plan. The Project work plan may be amended by the Parties, pursuant to Section 7.

3. PROJECT WORK PLAN AND DOCUMENTATION

The RECIPIENT agrees to and shall make reasonable progress and submit timely Project documentation, as applicable, throughout the term of this Agreement and Project.

Required documents include, but are not limited to the following:

a) Project work plan describing eligible items with estimated costs;
b) Documentation to support all costs expended on the Project work plan; and
b) Project work plan Closeout Form.

4. PAYMENT AND RETURN OF GRANT FUNDS

TIB will pay the full grant award to the RECIPIENT after TIB approves the Project work plan and the Parties fully execute this Agreement; provided that there are legislatively appropriated funds available. The RECIPIENT agrees that it shall hold the grant funds in a separate and identifiable account and only use said funds to pay the actual direct and related indirect costs of the approved Project work plan. Grant funds not expended on approved Project work plan items within three years of the date of TIB's Grant approval shall be returned to TIB within ninety (90) days after receipt of TIB's written notification.

5. USE OF COMPLETE STREETS GRANT FUNDS

RECIPIENT agrees that the grant funds shall only be used to complete the approved Project work plan. Otherwise, RECIPIENT is subject to the Default and Termination provisions of Section 9.

6. RECORDS MAINTENANCE

6.1 The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the Project work plan, including but not limited to accounting procedures and practices which sufficiently and properly reflect all actual direct and related indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years after the completion of the Project work plan and TIB's acceptance of the Project work plan Closeout Form. At no cost to TIB, these records shall be provided when requested; including materials generated under the Agreement, and shall be subject at all reasonable times to inspection, review or audit by TIB personnel, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

7. REVISIONS TO THE PROJECT WORK PLAN

RECIPIENT may request revisions to the Project work plan, including the addition or removal of items. Requests must be made in writing, and TIB, in its sole discretion, will determine whether to accept the proposed revisions. Should the TIB approve a Project work plan revision, the Parties shall amend this Agreement pursuant to Section 14. The RECIPIENT shall be solely responsible for all costs incurred in excess of the Agreement grant award.

8. TERM OF AGREEMENT

This Agreement shall be effective upon execution by the Parties and shall continue through closeout of the grant amount, or amendment thereof, or unless terminated as provided herein. In no event shall the Agreement term exceed three years, unless extended by Agreement amendment pursuant to Section 14.

9. NON-COMPLIANCE, DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement and applicable rules under WAC 479-10-500 *et seq*, TIB shall notify the RECIPIENT, in writing, of RECIPIENT's non-compliance.

b) RECIPIENT shall provide a written response within ten (10) business days of receipt of TIB's notice of non-compliance, which shall include either a detailed plan to correct the non-compliance, a request to amend the Project work plan, or a denial accompanied by supporting documentation. An agreement to amend the Project work plan must be pursuant to Section14.

c) RECIPIENT shall have thirty (30) days in which to make reasonable progress toward compliance pursuant to its Project work plan to correct or implement an amendment to the Project work plan.

d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and, in its sole discretion, TIB may require the RECIPIENT to stop incurring additional Project work plan costs during the investigation. Should TIB require the RECIPIENT to stop incurring additional costs to be paid with the grant funds, the RECIPIENT shall be solely obligated for paying any additional costs incurred by such suspension of work, contractor claims, or litigation costs; such costs cannot be paid for with grant funds.

9.2 DEFAULT

RECIPIENT is in default if TIB determines, in its sole discretion, that:

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

9.3 TERMINATION

a) In the event of default as determined pursuant to Section 9, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which may be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop incurring costs chargeable against the grant funds and/or take such actions necessary as may be directed by TIB to protect TIB's grant funds.

b) In the event of termination, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of all grant funds.

c) The rights and remedies of TIB provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

10. DISPUTE RESOLUTION

a) The Parties shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this Agreement. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this Agreement.

b) Informal Resolution. The Parties shall use their best efforts to resolve disputes promptly and at the lowest organizational level.

c) In the event that the Parties are unable to resolve the dispute, the Parties shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The Parties shall share equally in the costs of the mediator.

d) Each Party agrees to participate to the fullest extent possible and in good faith in resolving the dispute in order to avoid delays or additional incurred cost to the Project work plan.

e) The Parties agree that they shall have no right to seek relief in a court of law in accordance with Section 11, until and unless the Dispute Resolution process has been exhausted.

11. GOVERNANCE, VENUE, AND ATTORNEYS FEES

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County. The Parties agree that each Party shall be responsible for its own attorneys' fees and costs.

12. INDEMNIFICATION, HOLD HARMLESS, AND WAIVER

12.1 RECIPIENT, shall protect, defend, indemnify, and save harmless the TIB, its officers, officials, employees, and authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, RECIPIENT'S negligent acts or omissions which may arise in connection with its performance under this Agreement. RECIPIENT shall not be required to indemnify, defend, or save harmless the TIB if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of TIB; provided that, where such claims, suits, or actions result from the concurrent negligence of the Parties, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of RECIPIENT's own negligence

12.2 RECIPIENT agrees that its obligations under this section extends to any claim, demand and/or cause of action brought by, or on behalf of, any of its officers, officials, employees or authorized agents. For this purpose, RECIPIENT, by mutual negotiation, hereby waives, with respect to TIB only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions of Title 51 RCW.

12.3 The obligations of this indemnification and waiver Section shall survive termination of this Agreement.

13. ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights or obligations under this Agreement.

14. AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

15. INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

16. ENTIRE AGREEMENT

This Agreement, together with the Exhibits, if any, the provisions of chapter 47.26 RCW, chapter 479 WAC, and TIB Policies, constitute the entire Agreement between the Parties and supersedes all previous written or oral agreements between the Parties. RECIPIENT agrees to abide by all applicable federal, state and local laws, ordinances, and rules when performing under the terms of this Agreement.

RECIPIENT	Transportation Improvement Board
Chief Executive Officer Date	Date
Print Name	Print Name

Approved as to Form

By: _____
ANN E. SALAY
Senior Assistant Attorney General
NOTE: Any changes to the terms of this Agreement shall require further approval of the Office of the Attorney General

Washington State
Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Commissioner Richard Stevens
Grant County

Amy Asher
RiverCities Transit

Alyssa Ball
Office of Financial Management

Aaron Butters, P.E.
HW Lochner Inc.

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Mike Dahlem P.E.
City of Sumner

Sue Dreier
Pierce Transit

John Klekotka, P.E.
Port of Everett

Commissioner Robert Koch
Franklin County

John Koster
County Road Administration Board

Colleen Kuhn
Human Services Council

Mark Kulaas
Douglas County

Mayor Ron Lucas
Town of Steilacoom

Mick Matheson, P.E.
City of Mukilteo

David Ramsay
Feet First

Steve Roark, P.E.
WSDOT

Councilmember Mike Todd
City of Mill Creek

Jennifer Walker
Thurston County

Ashley Probart
Executive Director

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

March 22, 2019

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

Brandon

Dear Mr. Craver:

Congratulations! The Transportation Improvement Board (TIB) has selected your city for a Complete Streets Award. This recognition award includes a grant not to exceed the amount of $300,000.

How is grant funding received? What is the next step?

- Before funds can be transferred, both of the enclosed Grant Agreements must be signed and returned. One executed agreement will be returned for your files.
- The total grant may be transferred to your city as soon as July 15th, 2019.
- Funds must be tracked in a separate account or with an identifiable accounting code.
- Check with your finance officer to ensure your city is ready to receive funds.

How can funds be used? What is the grant requirement?

- The grant requires **all** items on the enclosed and approved TIB Complete Streets work plan to be completed. (Additional funding from other sources to finish all approved items may be required.)
- Revisions to the work plan may be considered for special circumstances, or for requesting additional work plan items for approval. Contact your TIB project engineer to request a work plan revision.

How do I show the funds were used?

Once the approved work plan items are completed, you must send in backup documentation showing expenditure amounts, dates, and activities related to the funds, and photos or other documentation showing the completed work.

When must funds be used?

Funds must be used by March 31, 2022. Any unused funds must be returned to TIB.

Future eligibility.

All items listed on your approved work plan must be completed before your city will become eligible for future Complete Streets awards.

If you have questions, please contact Greg Armstrong, TIB Project Engineer, at (360) 586-1142 or e-mail GregA@tib.wa.gov. Questions regarding fund transfers should be directed to Vaughn Nelson at (360) 586-1149 or email VaughnN@tib.wa.gov.

Sincerely,

Ashley Probart

Ashley Probart
Executive Director

Enclosures

Transportation Improvement Board
Complete Streets Work Plan

Complete Streets Award

Once approved, all work shown must be completed before agency is eligible for future nominations.

Agency: Des Moines

Agency Contact: Andrew Merges, PE

Phone: 206-870-6568 Email: amerges@desmoineswa.gov

Total Work Plan Complete Streets Funding: $300,000

Proposed Work Item	Description	Complete Streets Funding	Estimated Completion Year
Barnes Creek Trail - Zenith Elementary School Extension	Construct segment of Barnes Creek multi-use trail from Zenith Elementary School development northernmost limits to Kent-Des Moines Road along the west side of 16th Avenue South. Approximately 500-LF of 12-foot wide multiuse trail, pedestrian buffer, curb & gutter, and associated storm drainage will be installed. This segment will complete pedestrian connectivity from Kent-Des Moines Road to the new Zenith Elementary School at the corner of 16th Ave S & S 240th. Highline School District is currently constructing the 12-foot wide multi-use trail along their frontage. Ultimately, multiuse facilities will provide non-motorized access to Highline College and the new Sound Transit Light Rail Station at KDM/SR99.	$ 300,000	2020

Agency Certification

Certification is hearby given that the proposed work plan represents projects that support and reflect our commitment to the Complete Streets ordinance and ethic.

R. B[illegible] 2/5/19

Signature of Authorized Agency Official — Date

CITY OF DES MOINES PUBLIC WORKS DIRECTOR

Agency Official Name & Title

TIB Approval

Project Engineer Review [signature] Date 2/27/2019

Engineering Manager [signature] Date 2/28/19

Executive Director Ashley Probart Date 3-5-19

85

TIB Complete Streets Des Moines Work Plan.xls\$300,000
Revised Jan 14, 2019

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

Barnes Creek Trail	Project #	319.345

CIP Category: Transportation - Capital Project

Managing Department: Plan, Build & PW Admin

Summary Project Description:

A 2 mile multi-use trail connecting to the Des Moines Creek Trail in the north and Highline College at the south end.

Justification/Benefits: The need for extension of roadways, the Barnes Creek Trail, storm water improvements and other public facilities along the Historic SR509 right of way between Kent Des Moines Road and S. 216th Street is identified in the City of Des Moines Comprehensive Transportation Plan, 2009 and the City of Des Moines Highest and Best Use Analysis of the Historic SR 509 Corridor, 2009. The analysis divided the corridor into three segments assessing the City's future needs.

PROJECT SCOPE				*ANNUAL ALLOCATION*							
Expenditures	*Current Budget*	*Requested Change*	*Total Budget*	*Project to Date 12/31/18*	*Scheduled Year 2019*	*Plan Year 2020*	*Plan Year 2021*	*Plan Year 2022*	*Plan Year 2023*	*Plan Year 2024*	*Plan Year 2025*
Design	1,222	(132)	1,090	910	75	15	-	40	-	-	50
Land & Right of Way	600	-	600	-	-	-	180	420	-	-	-
Construction	3,120	136	3,256	-	-	536	-	-	816	1,904	-
Contingency	383	(2)	381	81	-	-	10	20	80	190	-
Total Expenditures	**5,325**	**2**	**5,327**	**991**	**75**	**551**	**190**	**480**	**896**	**2,094**	**50**

Funding Sources	*Current Budget*	*Requested Change*	*Total Budget*	*Project to Date 12/31/18*	*Scheduled Year 2019*	*Plan Year 2020*	*Plan Year 2021*	*Plan Year 2022*	*Plan Year 2023*	*Plan Year 2024*	*Plan Year 2025*
King County Park Levy	288	-	288	288	-	-	-	-	-	-	-
Transportation CIP Fund	68	-	68	68	-	-	-	-	-	-	-
Traffic Impact Fees - City Wide	190	-	190	-	-	-	-	-	96	94	-
King County Conservation Grant (Secured)	44	-	44	44	-	-	-	-	-	-	-
Federal Grants CMAQ-FHWA (Secured)	894	2	896	375	2	-	155	364	-	-	-
TIB Grant (Secured)	300	-	300	-	300	-	-	-	-	-	-
REET 1	1,041	-	1,041	340	50	150	35	116	100	200	50
Federal Grants (Unsecured)	600	-	600	-	-	-	-	-	-	600	-
State Grants (Unsecured) - Sound Transit	1,900	-	1,900	-	-	-	-	-	700	1,200	-
Total Funding	**5,325**	**2**	**5,327**	**1,115**	**352**	**150**	**190**	**480**	**896**	**2,094**	**50**

OPERATING IMPACT				*ANNUAL OPERATING IMPACT*							
Operating Impact			*6 Year Total*	*12/31/18*	*2019*	*2020*	*2021*	*2022*	*2023*	*2024*	*2025*
Revenue	-	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	-	-	-	-	-	-	-	-	-
Net Impact	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

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New Business Item #1

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Draft Ordinance No. 20-023 suspending restrictions on use of one-time revenue to address COVID-19 pandemic.

ATTACHMENTS:
1. Draft Ordinance No. 20-023

FOR AGENDA OF: April 9, 2020

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: April 1, 2020

CLEARANCES:
[ ] Community Development ____
[ ] Marina ____
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: _____

[X] Legal /s/ TG

[X] Finance _____
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: _____

This Agenda Item has been identified as "necessary to respond to the COVID-19 outbreak and current public health emergency" pursuant to the Governor's Proclamation 20-28 issued on March 24, 2020. Approval of this item will allow for additional funding to be available to ensure that City operations and response can continue in an adequate and uninterrupted manner.

Purpose and Recommendation

The purpose of this agenda item is for the Council to consider Draft Ordinance No. 20-023, which would suspend the restriction on the use of one-time revenue for general fund expenditures contained in chapter 3.100 DMMC for the year 2020 in order to address potential revenue shortfalls caused by the worldwide COVID-19 pandemic and the response to the pandemic.

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-023 on first reading."

AND

Motion 2: "I move to enact Draft Ordinance No. 20-023, amending DMMC 3.100.020, and suspending the restriction on the use of one-time revenue in the general fund budget for the year 2020."

Background

Since the budget year 2017, following a long period of financial instability, the Des Moines City Council has adopted strong, solvent, and sustainable budgets using sound budgetary policies. This work has resulted in healthy reserves in excess of the recommended best practice of the Government Financial Officers Association. These reserves provide the City with the ability to weather ordinary economic upturns and downturns that occur without any interruption in essential services.

One cornerstone of these policies is the principal that ongoing expenses are funded by ongoing, structural revenue. The City Council has codified this principle at chapter 3.100 DMMC, forbidding the use of one-time revenue for general fund expenditures. The City Council adopted preliminary budgets for the years 2017 through 2019 using this principle, and the final amended budgets have held to that standard. The 2020 preliminary budget was crafted and adopted in accordance with this principle as well.

In early 2020, an outbreak of the virus SARS-CoV-2 and its associated disease COVID-19 struck the United States. The first "hotspot" for the outbreak in the country occurred in the Seattle area. In response, emergency declarations were issued by the State of Washington, King County, the City of Des Moines, and ultimately the Federal government. On March 23, 2020, Governor Jay Inslee issued Proclamation 20-25 "Stay Home – Stay Healthy", requiring every individual in the State to not leave home except for conducting certain essential functions or to provide certain essential business services until no sooner than April 6, 2020. The "stay home" period is expected to be extended.

The disruption to lives and employment caused by the COVID-19 pandemic is expected to be significant. There will be impacts to the local, state, national, and worldwide economies that cannot be accurately predicted at this time, both from direct effects of the virus on individuals and from the quarantine measures disrupting commerce. It is anticipated that the City budget will require significant adjustments to revenues and expenditures.

Discussion

At this time, it is unclear what the impact from the COVID-19 pandemic will have on the City's 2020 budget. It is likely however that the impacts will be significant. Without the ability to use one-time revenues to account for lost revenue and increased need from this one-time event, the Council may need to cut existing services; fail to provide additional services; lay off staff; incur debt; exhaust reserves; or some combination thereof. The use of one-time revenue may allow the Council to avoid some or all of these measures until the City returns to normal or establishes a "new normal". The policy of sound, sustainable budgeting that requires ongoing revenue fund ongoing expenses in ordinary times supports using one-time revenue to respond to one-time emergency circumstances to keep the budget stable while continuing to provide vital services.

This Draft Ordinance will give the City Council the ability to use one-time revenues for the general fund budget this year. Whether the Council does so, and to what extent, are policy decisions to be made at future Council meetings, based on facts and circumstances that exist at that time. This Draft Ordinance applies only to the year 2020, and the restriction on one-time revenue will return in the year 2021 and going forward without additional action by the Council.

Alternatives

The Council may:

1. Adopt the Draft Ordinance as written
2. Decline to adopt the Draft Ordinance
3. Adopt the Draft Ordinance with amendments

Financial Impact

Adopting the Draft Ordinance will give the City flexibility to make appropriate budget decisions to address the changing situation. These decisions cannot be determined at this time and will be determined in the future. Any use of one-time revenue will be funds that are not available for capital expenditures.

Recommendation

Staff recommends that the City Council adopt Draft Ordinance 20-023 as written.

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Attachment #1

CITY ATTORNEY'S FIRST DRAFT 4/2/2020

DRAFT ORDINANCE NO. 20-023

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the use of one-time revenues, and amending DMMC 3.100.020.

WHEREAS, the City Council of the City of Des Moines has found that using one-time revenues rather than structural ongoing revenue streams to support ongoing expenses in the City general fund was an unsustainable practice, and

WHEREAS, the City Council enacted Ordinance No. 1561 on December 13, 2012, defining one-time revenue, creating phased-in restrictions on the use of one-time revenue in the budget, and codifying a new chapter in Title 3 DMMC, and

WHEREAS, the City Council enacted Ordinance No. 1607 in 2014, amending the new DMMC chapter 3.100 to alter the phase-in schedule for the year 2015 to address budget issues, and

WHEREAS, the City Council enacted Ordinance No. 1637 in 2015 to waive the restriction on the use of one-time revenue for the year 2016 to address the continuing budget issues, and

WHEREAS, the City Council, following the adoption of Ordinance 1637, pursued multiple strategies to correct the structural issues that created the increasing budget crisis that required the continued use of one-time revenue for ongoing expenses, and

WHEREAS, the budgets for the year 2017 and each year thereafter have been strong, solid, and sustainable, and have complied with the City Council’s codified policy decision to have structural expenses completely funded by structural revenue, and

WHEREAS, it is the City Council’s intent to continue to budget responsibly and sustainably, using structural revenue to fund structural expenses, under all ordinary circumstances, and

WHEREAS, in early 2020, an outbreak of the virus SARS-CoV-2 and its associated disease COVID-19 struck the United States, quickly giving rise to emergency declarations by the

federal government, the State of Washington, King County, the City of Des Moines, and countless other jurisdictions, and

WHEREAS, on March 23, 2020, Governor Jay Inslee issued Proclamation 20-25 "Stay Home – Stay Healthy", requiring every individual in the State to not leave home except for conducting certain essential functions or to provide certain essential business services until no sooner than April 6, 2020, and

WHEREAS, the disruption to lives and employment caused by the stay home order and other effects of the COVID-19 pandemic can be expected to be significant and will cause impacts to the local, state, national, and worldwide economies that cannot be accurately predicted at this time, and

WHEREAS, despite the solid state of the City's budget which includes healthy reserves, the effects on projected City revenues may be significant, and

WHEREAS, if the financial effects of the COVID-19 pandemic are significant enough, the City may not be able to provide essential services without the use of one-time revenues, and

WHEREAS, the City Council finds that the flexibility to use one-time revenues to combat the collateral effects of the one-time event that is the COVID-19 pandemic is necessary to be able to continue providing vital City services without interruption in a time of crisis, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

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

Sec. 1. DMMC 3.100.020 and section 1 (part) of Ordinance No. 1561 as amended by section 1 of Ordinance No. 1607 as amended by section 1 of Ordinance No. 1637 are amended to read as follows:

3.100.020. Phased-in expenditure requirements created.

(1) For the calendar year of ~~2014~~2020, the total amount of one-time revenues to be used to fund the ~~2014~~2020 general fund budget shall not ~~exceed 75 percent of the total one-time revenues received by the City~~ be restricted.

(2) For the calendar year of ~~2017~~2021 and beyond, no one-time revenues shall be used to fund the general fund budget.

Sec. 2. 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. 3. 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 this ___ day of April, 2020 and signed in authentication thereof this ___ day of April, 2020.

_____
M A Y O R

APPROVED AS TO FORM:

_____

City Attorney

ATTEST:

_____
City Clerk

Published: _____, 2020

Bonnie Wilkins

From: Matt Pina
Sent: Thursday, March 26, 2020 9:36 PM
To: Celeste Pena
Cc: Bonnie Wilkins
Subject: RE: Bannon late fees

Hi Celeste,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

-----Original Message-----
From: Bonnie Wilkins
Sent: Thursday, March 26, 2020 7:13 PM
To: Celeste Pena <celestebayo@gmail.com>
Cc: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Re: Bannon late fees

Thank you for your email.

Your comment will be read at the next Council meeting and will become part of the permanent record.

Thank you,
Bonnie Wilkins
City Clerk/Communications Director

Sent from my iPhone

> On Mar 26, 2020, at 6:13 PM, Celeste Pena <celestebayo@gmail.com> wrote:
>
> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>
>
> I feel the city council should consider placing a ban on late fees while there's a moratorium on evictions.
>
> Landlords have options for help through their banks and while this is small fee for them it is a large burden for renters.
>
> Thank you,
> Celeste Peña
>
> Sent from my iPhone

Bonnie Wilkins

From: Matt Pina
Sent: Thursday, March 26, 2020 9:33 PM
To: Bill Barther
Cc: Bonnie Wilkins
Subject: RE: NOt okay

Hi Bill,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

From: Bonnie Wilkins
Sent: Thursday, March 26, 2020 7:15 PM
To: Bill Barther <understandablebilly@mail.com>
Cc: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Re: NOt okay

Thank you for your email.

Your comment will be read at the next Council meeting and will become part of the permanent record.

Thank you,
Bonnie Wilkins
City Clerk/Communications Director

Sent from my iPhone

On Mar 26, 2020, at 7:11 PM, Bill Barther <understandablebilly@mail.com> wrote:

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

Press enter too early on email was suppose to end with

""Do better or tell me why its not a conflict

Billy ~""

Sent: Thursday, March 26, 2020 at 7:07 PM
From: "Bill Barther" <understandablebilly@mail.com>
To: citycouncil@desmoineswa.gov
Subject: NOt okay

Council ~

It is a ugly move to not ban late fees in this disasterous times. It is shameful and an ethical violation that Councilman Nutting and Councilwoman Buxton voted NO on this when they are landlords a direct conflict of interest how did not one council person point this out?

Do better or

Bonnie Wilkins

From: Matt Pina
Sent: Thursday, March 26, 2020 9:35 PM
To: Aaryn Schlosser
Cc: Bonnie Wilkins
Subject: RE: Late Fee Ban

Hi Aaryn,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

From: Bonnie Wilkins
Sent: Thursday, March 26, 2020 7:14 PM
To: Aaryn Schlosser <aarynpop@yahoo.com>
Cc: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Re: Late Fee Ban

Thank you for your email.

Your comment will be read at the next Council meeting and will become part of the permanent record.

Thank you,
Bonnie Wilkins
City Clerk/Communications Director

Sent from my iPhone

On Mar 26, 2020, at 6:29 PM, Aaryn Schlosser <aarynpop@yahoo.com> wrote:

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

Hello. I am a Des Moines resident and I am absolutely disgusted at the 5 city council members who voted against the late fee ban while theres a moratorium on evictions. Seattle and Burien where smart about this and we should be too. Please, ENACT THE LATE FEE BAN.

Thanks,
Aaryn Schlosser

Bonnie Wilkins

From: Matt Pina
Sent: Thursday, March 26, 2020 9:30 PM
To: 'Rod Cook'
Cc: Bonnie Wilkins
Subject: RE: Late fee ban

Hi Rod,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

From: Rod Cook [mailto:rwcook56@gmail.com]
Sent: Thursday, March 26, 2020 7:38 PM
To: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Late fee ban

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

Hi, I have lived in this community for the majority of my 63 years, I grew up up here. I'm writing in support of the Des Moines City Council studying the legality of imposing a ban on late fees while in these troubled times that hajve necessitated a moratorium on evictions. Let's not add insult to injury if we can avoid it.
Thank you,
Rod Cook

Bonnie Wilkins

From: Matt Pina
Sent: Thursday, March 26, 2020 9:31 PM
To: Amber
Cc: Bonnie Wilkins
Subject: RE: Late Fees!

Hi Amber,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

From: Bonnie Wilkins
Sent: Thursday, March 26, 2020 7:16 PM
To: Amber
Cc: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Re: Late Fees!

Thank you for your email.

Your comment will be read at the next Council meeting and will become part of the permanent record.

Thank you,
Bonnie Wilkins
City Clerk/Communications Director

Sent from my iPhone

On Mar 26, 2020, at 6:55 PM, Amber> wrote:

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

Hello Council,
Please think about the low income and at risk residents those who are already unsure how they will pay back rent and new rent once this ends adding late fees will add undue stress and hard ship (both are known to compromise immune systems. It is an unfair punishment to those with out work not by their own choosing. Some land lords may choose to be kind but many will not especially corporations. Is the city prepared to face a public health crisis after this pandemic ends due to the many people who will lose their homes? It's a small mercy that will cost the council little but mean so much to so many. What you do durning this time will be some of the most important and city altering choices of your careers in office. And your citizens are paying attention and looking to you for support, comfort and guidance.
Please reconsider!
Best,
Amber

Bonnie Wilkins

From: Mary D Schuster <marydschuster@gmail.com>
Sent: Thursday, March 26, 2020 11:13 PM
To: Matt Pina
Cc: Mary D Schuster; Bonnie Wilkins
Subject: Re: Moratorium on late fees

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Hi Matt,
Thank you for your quick response. I understand that the council is concerned about legal ramifications. That makes sense. Will you be talking to Burien and Seattle to see what research they did since it sounds like they've already issued a ban? I'm worried how this will affect the community and especially businesses in the area. I hope you agree that as a city, we can't afford to lose any more businesses.

How long do the rest of the council members need for an item to be on the agenda? As you know things are changing very fast (who would have thought a month ago that schools and many other places would be closed?) so maybe that's why a motion was declared without following usual protocol.

I appreciate your time.

Thanks again,
Mary

> On Mar 26, 2020, at 9:33 PM, Matt Pina <mpina@desmoineswa.gov> wrote:
>
> Hi Mary,
>
> Thank you for the comments concerning late fees.
>
> I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.
>
> Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.
>
> Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.
>

> Sincerely,
> Matt Pina
> Mayor and Councilmember
> Des Moines, WA
>
> -----Original Message-----
> From: Bonnie Wilkins
> Sent: Thursday, March 26, 2020 7:15 PM
> To: Mary D Schuster <marydschuster@gmail.com>
> Cc: _CityCouncil <CityCouncil@desmoineswa.gov>
> Subject: Re: Moratorium on late fees
>
> Thank you for your email.
>
> Your comment will be read at the next Council meeting and will become part of the permanent record.
>
> Thank you,
> Bonnie Wilkins
> City Clerk/Communications Director
>
> Sent from my iPhone
>
>> On Mar 26, 2020, at 6:38 PM, Mary D Schuster <marydschuster@gmail.com> wrote:
>>
>> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>>
>> To whom it may concern,
>>
>> Please put a moratorium on late fees of late rent during this pandemic. Many banks aren't issuing late fees so there's no reason for landlords to charge their tenants.
>> The economic ramifications are going to be great and every little bit helps. I strongly urge that they pass a motion that protects the renters of Des Moines so people can stay here as we rebuild/ create a booming economy.
>>
>> Sincerely,
>> Mary Schuster

Bonnie Wilkins

From: Matt Pina
Sent: Friday, March 27, 2020 10:24 AM
To: 'Jennifer Ducharme'
Cc: Bonnie Wilkins
Subject: RE: Late fees

Hi Jennifer,

Thank you for the comments concerning late fees.

I don't believe that the council is opposed to considering whether late fees should be suspended during this time of emergency. However, it is unclear that the Council has the authority to make this decision. This issue was raised by a Councilmember during a Council meeting without being on the agenda and with no prior notice to Councilmembers. This is one reason the motion failed. Another issue is that it is unclear if there is a legal mechanism to enforce a ban on late fees. This means that the passage of an issue like this would be for political purposes only.

Please understand that the reason evictions can be put on hold in King County is because they are handled by the King County Sheriff and the Sheriff has prohibited her employees from carrying them out. After that decision by the Sheriff, the state and President Trump followed suit with similar orders. It is my belief that the City Council supports this ban on evictions at this time.

Late fees are a separate issue and have not been addressed by the county, state or at the federal level. This is likely because they are strictly contractual matters that would need to be resolved in a courtroom between the parties to the contract.

Sincerely,
Matt Pina
Mayor and Councilmember
Des Moines, WA

From: Jennifer Ducharme [mailto:jenducharme13@gmail.com]
Sent: Friday, March 27, 2020 8:32 AM
To: _CityCouncil <CityCouncil@desmoineswa.gov>
Subject: Late fees

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There should be a ban on late fees at this time.

Jennifer DuCharme

Bonnie Wilkins

From: A Rogers <rogers.alena@gmail.com>
Sent: Thursday, April 9, 2020 10:20 AM
To: Bonnie Wilkins
Subject: Public comment for 4/9

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"What is the City of Des Moines doing or planning to do to assist it's residents during the pandemic?
Federal Way has paused rental late fees, given 10s of thousands of dollars to their food banks, has set up food bank delivery for high risk residents.
What is the city doing to assist residents who are struggling due to the pandemic and resulting job losses?
You have refused to even look at pausing late fees and have given Council member Martinelli push back when he suggested $10,000 for our food bank - why?
Finally, what is going on with the Emergency Preparedness team?"

Please read these comments/questions during the April 9 2020 council meeting.

Thank you,
Alena Rogers
6th Ave Des Moines

April 9th, 2020

To: The City of Des Moines Mayor, Manager, Director, and City Council Members

From: David Litowitz; djlito@comcast.net; 253-988-8815

Regarding: Covid-19 Crisis; permit # LVA2019-0056

Honorable Mayor and City Council Members,

As you are all aware we are in the midst of an unprecedented emergency crisis due to the Covid-19 pandemic that has undertaken our country. None of us know going forward what the new world will look like coming out of this pandemic, but there are some things I am aware of that have already started to negatively impact construction. Banks are already pulling back financing for all types of construction as they are anticipating thousands if not tens of thousands of bankruptcies and business closures. Carrying costs for projects are stacking up as we have been halted by the Governors "Stay Home Stay Safe" mandate. We are also dealing with vandalism and theft as we are not able to be patrolling all our construction sites daily.

I would like to formally request that the City of Des Moines waive the traffic impact fees for the above mentioned project. The referenced permit is a small office building that will be a positive addition to the City of Des Moines. I have built in the City of Des Moines for nearly forty years and over that time I have worked the City Council who has adjusted fees based on various economic situations over the years.

Please feel free to call me with any questions regarding this project.

Sincerely,

David Litowitz

Landmark Homes Inc.

Bonnie Wilkins

From: A Rogers <rogers.alena@gmail.com>
Sent: Thursday, April 9, 2020 3:23 PM
To: _CityCouncil
Subject: Helping citizens struggling

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

Hello council,

I hope this email finds you well.

I am wondering what the city council is doing to accommodate its citizens that will be in the most desperate need during the COVID-19 health and economic crisis.

How are you connecting with your constituents?

How are you tracking needs around things like shelter and food?

How are you planning for the food bank shortages that are expected in our area soon?

What is the status of the Emergency Preparedness department? Does Shannon Kirchberg have emergency/disaster experience? Will the page be updated?

Why would you not pause rental late fees for at least April when so many other cities are?

Why did two landlords vote on the rental late fee motion?

For CM Bangs: you campaigned heavily around your help for Pacific Ridge. Is there something you are doing to find out how people in that neighborhood are doing, what their needs are, etc.?

Best,
Alena Rogers
Des Moines resident

CITY AWARD FOR EXCELLENCE 2018 – previously received for 2017

Government Finance Officers Association

Certificate of Achievement for Excellence in Financial Reporting

Presented to

City of Des Moines Washington

For its Comprehensive Annual Financial Report for the Fiscal Year Ended

December 31, 2018

Christopher P. Morrill

Executive Director/CEO

FINANCIAL DYNAMIC OF COVID-19 RESPONSE

- The City of Des Moines has experience in addressing financial challenges:
  - Evidenced by the previous financial conditions faced by the City after 2014 that pointed to impending bankruptcy in 2017
  - The City Council and City Administration pulled together and "righted the ship"

- We learned a number of lessons that are applicable to the current challenge of financially surviving the COVID-19 emergency

- As many of you know, we were so successful in resolving these financial challenges, the City received a 3 step bond upgrade from S & P to AA+, saving the City hundreds of thousands of dollars in issuing and refinancing bonds. Moody's also raised our bond rating.

LESSONS LEARNED THAT ARE APPLICABLE NOW

- Structural expenditures and structural revenues
- Appropriate **contingency/reserves** (not a surplus):
  - Comply with Government Finance Officers Association national standards
- Identify one-time costs and fund these with one-time revenues
- Periodic review of actuals and budget to assure accurate estimates
- Accurately project out 5 year budget plan and modify as needed
- Focus on succession planning
- Search and implement revenue diversification

PUBLIC VERSUS PRIVATE FINANCE

- Public finance is very different from private sector finance
- Private sector based on receipts:
  - Highly measurable and specific (for example)
- Public goods are generalized and defined by value, especially non-monetary value to the community:
  - For example, maintenance of infrastructure for emergency response
    - (what's the value of reduced response time in life saving situations?)

CHALLENGES OF ACCOUNTING FOR COVID-19 COSTS

- Response as a public good
- Too early to establish trend
- Not able to predict length of COVID-19 event
- Unable to determine value of federal response:
  - "Income replacement" strategy and impacts on consumer demand
  - Retail sector
  - Sales tax
- Significant lag time before COVID-19 impacts manifest, for example:
- Property tax receipts come in late (Sales Taxes and B&O Taxes extended date for filing tax returns)
- Tax receipts will come in later and impact to businesses will be known when tax returns are filed
- Anticipating receivables and late payments
- Disruption to cash flow

FINANCIAL GOALS AT THIS TIME

- Maintain the financial integrity of the City
  - Solvent
  - Sustainable
  - Strong
- This goal is confirmed by annual “clean bill of health” audits from the Washington State Auditor
- Retain our talented and effective work force
- Utilize this opportunity to review government essential functions going forward and any organizational changes to support the “new normal” when it becomes clearer what that will be.

FINANCIAL STRATEGIES TO ADDRESS IMPACTS OF COVID-19

- Expenditures:
  - Estimate a 10% reduction in revenue resulting in reduced expenditures in 2020
  - Estimate a 20% reduction in revenue resulting in reduced expenditures in 2020
  - From these estimates identify critical city functions that must be maintained
  - Closely monitor expenditures

- Revenue:
  - Estimate a reduction in revenues (starting point is an 8% reduction)
    - Dynamic of Property taxes
    - Sales tax late payment allowed
    - Business & Occupational taxes, deadline for first quarter extended by the City to help businesses at this time – from 4/30 to 7/31
- All this impacts revenue collection and cash flow

FINANCIAL STRATEGIES TO ADDRESS IMPACTS OF COVID-19

- Flexibility
  - Reallocate funding for short term solutions
  - THIS IS THE ITEM UNDER NEW BUSINESS TO ALLOW ONE TIME SALES TAX TO BE LOCATED IN THE GENERAL FUND THROUGH 2020

STRATEGIES TO ADDRESS IMPACTS OF COVID-19

- Staff:
  - Freeze vacancies
    - Attrition
  - Provide incentives for early retirement
  - Reduce City “extra hires”
  - Transfer employee(s) from the General Fund to other funds as appropriate and consistent with their work assignments

STRATEGIES TO ADDRESS IMPACTS FROM COVID-19

- Capital projects
  - Assess feasibility of constructing capital projects based on:
    - Criticality to infrastructure
    - Funding source
    - Time requirement per funding source
    - Manpower requirements
    - Existing contracts

FINANCIAL ACTIONS SPECIFIC TO COVID-19

- Record and document all expenses associated with COVID-19 response
  - New line on timesheets for employee time spent on COVID – 19 response
  - Explore all opportunities for federal/state reimbursement