

AMENDED AGENDA

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

August 23, 2018 – 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

- Item 1: RCO GRANT UPDATE
- Item 2: STAFFING
- Item 3: AVIATION ADVISORY COMMITTEE UPDATE
- Item 4: PLAYGROUND UPDATE

CONSENT CALENDAR

Page 1 Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through August 15, 2018 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#154784-155063	\$1,563,901.44
Electronic Wire Transfers	#1078-1093	\$ 655,616.13
Payroll Checks	#19076-19081	\$ 4,978.17
Payroll Direct Deposit	#310001-310190	\$ 371,535.63
Total Checks and Wires for A/P and Payroll:		\$2,596,031.37

Page 3 Item 2: APPROVAL OF MINUTES
Motion is to approve the minutes from the City Council Regular Meetings July 12, July 19, and July 26, 2018 and from the August 2, 2018 City Council Budget Retreat.

Page 17 Item 3: TRANSPORTATION GATEWAY PROJECT: S. 216TH STREET
SEGMENT 3 IMPROVEMENTS RIGHT-OF-WAY ACQUISITION
Motion 1 is to approve and accept a Utility Easement (59 SF) on Parcel Number #200800-0600, owned by Delane K. Hatfield and provide compensation to the owner of \$418.90 for the Utility Easement, and \$115.00 for property damage, totaling \$614.00 (rounded), plus reasonable closing costs, and authorize the City Manager to sign the Easement and Real Property Voucher Agreement substantially in the form submitted.

Motion 2 is to approve and accept a Permanent Sidewalk Easement (59 SF) on Parcel Number #200820-0010, owned by Terry A. Leffard, and provide compensation to the owner totaling \$412.00 (rounded) for the Permanent Sidewalk Easement, plus reasonable closing costs, and authorize the City Manager to sign the Easement and Real Property Voucher Agreement substantially in the form submitted.

Motion 3 is to approve and accept a Temporary Construction Easement on Parcel Number #082204-9163, owned by Cheryl Laws-Brown, and provide compensation to the owner of \$415.12 for the Temporary Construction Easement, \$165.00 for property damage, plus \$750.00 as a statutory allowance totaling \$1,331 (rounded), plus reasonable closing costs, and authorize the City Manager to sign the, Temporary Construction Easement and Real Property Voucher Agreement substantially in the form submitted.

Motion 4 is to approve and accept a Statutory Warranty Deed (25 SF) on Parcel Number #082204-9122, owned by Iolanda Deruiter, and provide compensation to the owner of \$102.50 for the Statutory Warranty Deed, \$846.26 for a Temporary Construction Easement, \$1,415.00 for property damage, plus \$1,000 in administrative settlement costs totaling \$3,364 (rounded), plus reasonable closing costs, and authorize the City Manager to sign the Statuary Warranty Deed, Temporary Construction Easement and Real Property Voucher Agreement substantially in the form submitted.

Page 59 Item 4: BEACH PARK & MARINA PEDESTRIAN CONNECTIVITY
IMPROVEMENT: REMOVAL OF NON-CONFORMING RESIDENT
STRUCTURE (WASSON)
Motion is to direct administration to demolish the existing non-conforming structure and make interim landscaping improvements as necessary to facilitate public access and connectivity between the Marina and the Beach Park, and to bring forward a 2018 budget amendment to the amount of \$70,000.00 to cover the associated costs.

Page 111 Item 5: NATIONAL RECOVERY MONTH PROCLAMATION
Motion is to approve the Proclamation supporting September 2018 as National Recovery Month.

Page 115 Item 6: AGREEMENT BETWEEN THE CITIES OF BURIEN, DES MOINES, NORMANDY PARK, FEDERAL WAY, TUKWILA AND SEATAC TO PROVIDE LOCAL MATCHING FUNDS FOR THE SEA-TAC AIRPORT IMPACT STUDY
Motion is to approve the Agreement between the Cities of Burien, Des Moines, Normandy Park, Federal Way, Tukwila and SeaTac to provide local matching funds for the Sea-Tac Airport Impact Study and authorize the City Manager to sign the Agreement substantially in the form as attached.

Page 123 Item 7: PROPERTY ACQUISITION FROM MARCUS WHITMAN CHURCH FOR PARKSIDE WETLANDS
Motion is to approve and accept the purchase of approximately 3.53 acres of property (Parcel Number #212204-9175) owned by the Presbytery of Seattle (Marcus Whitman Church) for \$10,000.00, plus closing costs, and authorize the city manager to sign the Purchase and Sales Agreement substantially in the form submitted, and all other documents necessary for purchase of this property.

Page 151 Item 8: CONSULTANT SERVICES CONTRACT ADDENDUM – ENVIRONMENTAL SCIENCE ASSOCIATES
Motion is to approve Contract Addendum No.1 with Environmental Science Associates for the additional emergency permitting work on the Van Gasken Property in the amount of \$38,007.00, bringing the total contract amount to \$61,090.00, and further authorize the City Manager to sign said contract addendum substantially in the form as submitted.

Page 177 Item 9: GRANT FOR THE 2018 KING COUNTY SENIOR CENTER REQUEST FOR QUALIFICATIONS – VETERANS, SENIORS, AND HUMAN SERVICES LEVY
Motion is to accept King County grant funds for capital improvements, facility repairs and enhanced services at the City's Activity Center, and authorize the City Manager to sign the necessary contracts, substantially in the form as attached.

PUBLIC HEARING/CONTINUED PUBLIC HEARING

Page 185 Item 1: PUBLIC HEARING TO CONSIDER DRAFT ORDINANCE NO. 18-074 REGARDING CHANGES IN PERMITTED USES AND ASSOCIATED REGULATIONS IN THE INSTITUTIONAL CAMPUS (I-C) ZONE
Staff Presentation: Chief Strategic Officer Susan Cezar

NEW BUSINESS

Page 213 Item 1: EMINENT DOMAIN: TRANSPORTATION GATEWAY PROJECT S.
216TH STREET, SEGMENT 3 IMPROVEMENTS
Staff Presentation: City Attorney Tim George

EXECUTIVE SESSION**NEXT MEETING DATE**

September 6, 2018 City Council Study Session

ADJOURNMENT

CITY OF DES MOINES
Voucher Certification Approval

23-Aug-18

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 **Aug 23, 2018** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers through August 15, 2018 included in the attached list and further described as follows:

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


 Beth Anne Wroe, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Total A/P Checks/Vouchers	154784	- 155063	1,563,901.44
Electronic Wire Transfers	1078	- 1093	655,616.13
Total claims paid			2,219,517.57
Payroll Vouchers			
Payroll Checks	19076	- 19081	4,978.17
Direct Deposit	310001	- 310190	371,535.63
Total Paychecks/Direct Deposits paid			376,513.80
Total checks and wires for A/P & Payroll			2,596,031.37

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MINUTES

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

July 12, 2018 – 7:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Bangs.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Luisa Bangs, Robert Back and Matt Mahoney.

Councilmember Jeremy Nutting was absent.

Direction/Action

Motion made by Deputy Mayor Pennington to excuse Councilmember Nutting; seconded by Councilmember Bangs.

The Motion passed 6-0

Staff present: City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Acting Harbormaster Scott Wilkins; Police Chief Ken Thomas; Finance Director Beth Anne Wroe; Director of Emergency Management George Delgado; Public Works Director Brandon Carver; Court Administrator Jennefer Johnson; City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane.

COMMENTS FROM THE PUBLIC

- Jim Langston, Beach Park Parking and Van Gasken House
- Tad Doviak, Fireworks
- Rick Johnson, Paid Parking and New Des Moines Elementary School
- JC Harris, Airport Impact
- Kim Allen, Wireless Ordinance

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Bangs

- Senior Center Ice Cream and Churro Social
- Police Department Advisory Committee Meeting
- Des Moines Arts Commission Meeting
- Concert in the Park
- Community Barbeque
- King 5 Interview

Councilmember Buxton

- Senior Center Ice Cream and Churro Social
- Huntington Park Community Happy Hour
- Farmers Market
- Park Run
- Smoke on the Water Barbeque
- Reception for new Highline College President Dr. Mosby
- Transportation Committee Meeting
- Senior Services Advisory Committee Meeting

Deputy Mayor Vic Pennington

- Community Barbeque
- Concert in the Park
- Waterland Parade

Councilmember Mahoney

- Senior Center Ice Cream and Churro Social
- 4th of the July
- Camp Khaos
- Farmers Market
- Attended SeaTac City Council Meeting
- Waterland Parade Meeting
- King 5 Interview
- Executive Meeting Gateway Project
- Smoke on the Water Barbeque
- Bids for Kids Auction
- Reception for new Highline College President Dr. Mosby
- Transportation Committee Meeting

Councilmember Back

- No Report

PRESIDING OFFICER'S REPORT

- Acknowledged Destination Des Moines for 4th of July Event
- Farmers Market
- Waterland Parade Meeting
- Retreat Meeting
- Huntington Park Community Happy Hour
- King 5 Interview
- Reception for new Highline College President Dr. Mosby

ADMINISTRATION REPORT

- Reception for new Highline College President Dr. Mosby
- Managers Monthly Report
 - Staff presented their Monthly Report to Council.
- Police Chief Thomas reported on Washington State Fusion Center Intelligence Survey

Mayor Pina acknowledged the ongoing sound issue from the old Comcast equipment. He urged staff to take the action necessary to get the outdated piece of equipment installed as soon as possible.

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES
Motion is to approve the minutes from the June 28, 2018 City Council Regular meeting.

Item 2: APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers and payroll transfers through July 5, 2018 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#154476-154595	\$354,565.48
Electronic Wire Transfers	#1067-1072	\$232,341.63
Payroll Checks	#19056-19068	\$ 8,117.70
Payroll Direct Deposit	#270001-270184	\$388,071.58
Total Checks and Wires for A/P and Payroll:		\$983,096.39

Direction/Action

Motion made by Deputy Mayor Pennington to approve the Consent Calendar; seconded by Councilmember Mahoney.
The Motion passed 6-0.

NEW BUSINESS

Item 1: AMENDING TITLE 20 DMMC, TELECOMMUNICATIONS, CREATING STANDARDS AND REGULATIONS FOR SMALL CELL WIRELESS FACILITIES
Staff Presentation: Chief Operations Officer Dan Brewer

City Attorney George introduced Scott Snyder, Attorney with Law Office of Ogden Murphy Wallace to present PowerPoint

Direction/Action

Motion 1 made by Councilmember Back to suspend Rule 26(a) in order to enact Draft Ordinance No. 18-027 on first reading; seconded by Councilmember Bangs.
The Motion passed 6-0.

Motion 2 made by Councilmember Back enact Draft Ordinance No. 18-027, adding new definitions regarding small cell deployment, amending and adding new sections to chapter 20.07 DMMC regarding standards and regulations relating to small cell facilities, and repealing and reenacting chapter 20.10 DMMC relating to appeals; seconded by Councilmember Bangs.
The Motion passed 5-1.

For: Mayor Pina, Deputy Mayor Pennington, Councilmembers Buxton, Bangs, and Mahoney

Against: Councilmember Mahoney

OLD BUSINESS

Item 1: INTERLOCAL AGREEMENT WITH HIGHLINE COLLEGE FOR THE
COLLEGE WAY CONNECTION PROJECT
Staff Presentation: Chief Operations Officer Brewer

As this item was not ready for Council action the item is moved to July 19, 2018.

NEXT MEETING DATE:

July 19, 2018 City Council Regular Meeting

ADJOURNMENT**Direction/Action**

Motion made by Deputy Mayor Pennington to adjourn; seconded by
Councilmember Bangs.
The motion passed 6-0.

The meeting was adjourned at 9:49 p.m.

Respectfully Submitted,
Taria Keane
Deputy City Clerk

MINUTES

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

July 19, 2018 – 7:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 7:02 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Buxton.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Luisa Bangs, Robert Back and Matt Mahoney.

Councilmember Jeremy Nutting was absent.

Direction/Action

Motion made by Deputy Mayor Pennington to excuse Councilmember Nutting; seconded by Councilmember Buxton.

The Motion passed 6-0

Staff present: City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Acting Harbormaster Scott Wilkins; Police Chief Ken Thomas; Finance Director Beth Anne Wroe; Public Works Director Brandon Carver; Staff Accountant Eric Mandelas; Senior Services Manager Kathy Burrows; Master Sergeant Patti Richards; Police Officer Mike Boehmer; Court City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane.

ADMINISTRATION REPORT 1

- Comcast Channel 21
- Bonnie Wilkins 20 years of service to the City

COMMENTS FROM THE PUBLIC

- Bill Linscott, Wooden Boat Show
- JC Harris, Des Moines
- Keith Danielsen, Police

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Buxton

- Wesley Homes Annual Barbeque
- Human Services Advisory Meeting

Deputy Mayor Vic Pennington

- Wesley Homes Annual Barbeque
- Farmers Market
- Waterland Festival
- Attending Sound Transit: Federal Way Link Extension Mayors meeting

Councilmember Mahoney

- ParkRun
- Farmers Market
- Washington's Strongest Apple
- SR509 SCATBd Meeting
- Waterland Parade Meeting
- Concerts in the Park
- Wesley Homes Annual Barbeque

Councilmember Back

- Acknowledged what would have been his dad's 100 birthday
- Des Moines Iowa Tornado

Councilmember Bangs

- Wesley's Homes Annual Barbeque
- Acknowledged Police Chief and department for participating in many community events programs.
- Waterland Parade

PRESIDING OFFICER'S REPORT

- Wesley's Homes Annual Barbeque
- Mayors Roundtable
- Waterland Festival

ADMINISTRATION REPORT 2

- Attended Planning, Building, and Public Works All Staff Meeting and Luncheon
- Wesley's Homes Annual Barbeque
- Senior Services Center Update
 - Naniofa Poulivaati-Mounga, Director of Resident Engagement
 - Kathy Burrows, Senior Services Manager
- Budget Proviso

OLD BUSINESS

Item 1:

INTERLOCAL AGREEMENT WITH HIGHLINE COLLEGE FOR THE COLLEGE WAY CONNECTION PROJECT

Staff Presentation: Chief Operations Officer Dan Brewer

City Manager Matthias asked for Council's indulgence to move this item to a futures Council meeting as details of the agreement are still being worked out.

- Item 2: BOND ORDINANCE FOR THE LIMITED TAX GENERAL OBLIGATION
IMPROVEMENT AND REFUNDING BONDS, 2018, SECOND READING
Staff Presentation: Finance Director Beth Anne Wroe

Finance Director Wroe introduced Caitlin Caldwell Vice President, Key Banc Capital Market Public Finance Group, who gave a presentation to Council.

Direction/Action

Motion made by Councilmember Back to approve to Pass Draft Ordinance No. 18-044 providing for the sale and issuance of Limited Tax Federal Improvement and Refunding Obligation Bonds in an amount not to exceed \$10,000,000, to provide for the design, construction, improvements, renovation and/or replacement of the Marina bulkhead and other related public amenities and capital improvements and the refunding of the outstanding Limited Tax General Obligation Bonds, 2008A and Limited Tax General Obligation Bonds, 2008B and to pay for the cost and issuance of the bonds; seconded by Councilmember Mahoney.

The motion passed 6-0.

NEW BUSINESS

- Item 1: DISCUSSION OF 2019-2024 CAPITAL IMPROVEMENT PLAN
Staff Presentation: Finance Director Beth Anne Wroe

Finance Director Wroe and Public Works Director Carver gave presentation to Council.

City Manager Matthias suggested that this item be moved to the next Council Meeting to allow staff to research and get answers to Council questions.

- Item 2: INTERLOCAL AGREEMENT WITH THE PORT OF SEATTLE FOR SOUTH
216TH STREET IMPROVEMENTS FRONTING PORT OF SEATTLE AND
WSDOT PROPERTY, REFERRED TO AS DES MOINES CREEK – WEST
Staff Presentation: Chief Operations Officer Dan Brewer

Chief Operations Officer Brewer gave a PowerPoint presentation to Council.

Direction/Action

Motion made by Councilmember Back to approve the Interlocal Agreement between City of Des Moines and Port of Seattle for the South 216th Street improvements fronting Port of Seattle and WSDOT Property, referred to as Des Moines Creek – West, and to authorize the City Manager to sign said Agreement substantially in the form as submitted; seconded by Councilmember Bangs. The motion passed 6-0.

EXECUTIVE SESSION

At 9:16 Council went into Executive Session. The purpose of the Executive Session was to discuss the Potential Litigation under RCW 42.30.110(1)(i). Those in attendance: Mayor Pina; Deputy Mayor Pennington; Councilmembers Buxton, Bangs, Back, Mahoney; City Manager Matthias; Chief Operations Officer Brewer; Chief Strategic Officer Cezar; City Attorney George; City Clerk/Communications Director Wilkins. The Executive Session was expected to last 30 minutes.

At 9:46 p.m. Mayor Pina extended the Executive Session an additional 14 minutes.

The Executive Session lasted 44 minutes.

No formal action was taken

NEXT MEETING DATE:

July 26, 2018 City Council Regular Meeting

ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,
Taria Keane
Deputy City Clerk

MINUTES

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

July 26, 2018 – 7:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 7:04 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Nutting.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Jeremy Nutting, Robert Back and Matt Mahoney.

Councilmember Luisa Bangs was absent.

Direction/Action

Motion made by Councilmember Nutting to excuse Councilmember Bangs; seconded by Councilmember Back.

The Motion passed 6-0

Staff present:

City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Acting Harbormaster Scott Wilkins; Police Chief Ken Thomas; Finance Director Beth Anne Wroe; Public Works Director Brandon Carver; Transportation & Engineering Services Manager Andrew Merges; Capital Improvement Project Manager Scott Romano; Community Development Manager Denise Lathrop; Land Use Planner Jason Woycke; Court City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane.

Mayor Pina, Council and City Staff wanted to reach out with our thoughts and prayers to the families who suffered the tragic events the past weekend regarding the Kent Police Department.

COMMENTS FROM THE PUBLIC

- JC Harris, Airport

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Nutting

- Municipal Facilities Committee Meeting
- Economic Development Committee Meeting
- Waterland Parade
- Summer Concert Series

Councilmember Buxton

- Waterland Festival
- Farmers Market
- ParkRun

Deputy Mayor Vic Pennington

- Economic Development Committee Meeting
- Waterland Festival
- Sound Transit Meeting

Councilmember Mahoney

- Presentation by Steve Edmiston
- Wooden Boat Welcome Barbeque
- Waterland Festival
- Summer Concert Series
- Economic Development Committee Meeting

Councilmember Back

- No Committee Report
- Officer Diego Moreno

PRESIDING OFFICER'S REPORT

- Wooden Boat Welcome Barbeque
- Waterland Festival
- Summer Concert Series
- Thanked the Staff of City, Marina Staff, Destination Des Moines, Law Enforcement Team, Market Team, Volunteers, Art Commission, Tony Hettler, and Anna & BJ Bjorneby for their efforts and coordination of Waterland Weekend.

ADMINISTRATION REPORT

- Item 1 Chief Ken Thomas commented on several issues
- Kent Incident
 - Diego Moreno Memorial Service
 - Youth Gun Violence
 - Des Moines Police Department Communications Plan

- Item 2 S. 223rd Street Paving Update
Transportation & Engineering Services Manager Merges gave a PowerPoint presentation to council.

Direction/Action

Motion made by Councilmember Nutting to approve an additional \$185,000 in construction contingency for the South 223rd Street – Pavement Rehabilitation Project, to cover change orders and unforeseen conditions, bringing the total construction contingency amount to \$335,000; seconded by Mayor Pina. The motion passed 6-0

- Item 3 **SHORELINE MASTER PLAN**
Land Use Planner Woycke gave a PowerPoint presentation to council.

- Item 4 **VANGASKEN UPDATE**
Chief Operations Officer Brewer gave an update on the VanGasken property

CONSENT CALENDAR

Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through July 20, 2018 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#154596-154783	\$ 499,251.35
Electronic Wire Transfers	#1073-1077	\$ 306,326.03
Payroll Checks	#19069-19075	\$ 7,688.55
Payroll Direct Deposit	#290001-290185	\$ 362,208.81
Total Checks and Wires for A/P and Payroll:		\$1,175,474.74

Item 2: 2018-2019 ON-CALL GENERAL CIVIL ENGINEERING SERVICES TASK ASSIGNMENT: BARNES CREEK TRAIL NEPA PERMITTING WETLAND SURVEY UPDATE

Motion to approve 2018-2019 On-Call General Engineering Services Task Assignment 2018-03 with KPG Inc. to provide NEPA wetland delineation update services for the Barnes Creek Trail project in the amount of \$40,000.00, and further authorize the City Manager to sign said Task Assignment substantially in the form as submitted.

Item 3: ECOLOGY'S SHORELINE MASTER PROGRAM PERIODIC REVIEW GRANT

Motion is to authorize the City Manager to sign the Shoreline Master Program Periodic Review Grant Agreement No. SEASMP-1719-DeMDSD-00034 between the City of Des Moines and the Washington State Department of Ecology, substantially in the form as attached.

Direction/Action

Motion made by Councilmember Nutting to approve the consent calendar; seconded by Councilmember Buxton.
The motion passed 6-0.

PUBLIC HEARING/CONTINUED PUBLIC HEARING

Item 1: DRAFT ORDINANCE APPROVING FEDERAL WAY LINK EXTENSION (FWLE) TRANSIT WAY AGREEMENT (TWA), AND DRAFT RESOLUTION APPROVING FWLE DEVELOPMENT AGREEMENT (DA)

Staff Presentation: Chief Operations Officer Dan Brewer

Mayor Matt Pina opened the Public Hearing at 7:56pm

Chief Operations Officer Brewer requested that we continued the Public Hearing to a date to be set by the Mayor.

Direction/Action

Motion made by Councilmember Mahoney to continue the public hearing to consider the Federal Way Link Extension Transit Way and Development Agreement to a date to be set by the Mayor; seconded by Deputy Mayor Pennington.
The motion passed 6-0.

OLD BUSINESS

Item 1: DISCUSSION OF 2019-2024 CAPITAL IMPROVEMENT PLAN
Staff Presentation: Finance Director Beth Anne Wroe

Finance Director Wroe gave a PowerPoint presentation to the council.

Direction/Action

Motion 1 made by Councilmember Nutting to amend the Proposed City of Des Moines 2019-2024 Capital Improvements Plan to include Staff Amendments 1, 2, 3, and 4; seconded by Councilmember Back.
The motion passed 6-0.

Motion 2 made by Councilmember Nutting adopt Draft Resolution No. 18-085 approving the City of Des Moines 2019-2024 Capital Improvements Plan, as Amended; seconded by Deputy Mayor Pennington.
The motion passed 6-0

EXECUTIVE SESSION

At 8:16 p.m. Council went into Executive Session. The purpose of the Executive Session was the Potential Litigation. The Executive session was expected to last 20 minutes.

In attendance: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Buxton, Nutting, Back, and Mahoney.

Staff in Attendance: City Manager Matthias, Chief Operations Officer Brewer, Chief Strategic Officer Cezar, City Attorney George, City Clerk/Communications Director Wilkins.

At 8:40 p.m. Mayor Pina extended the meeting an additional 10 minutes.

At 8:50 p.m. Mayor Pina extended the meeting an additional 10 minutes.

At 9:00 p.m. Mayor Pina extended the meeting an additional 5 minutes.

The Executive Session ended at 9:05 p.m. and the regular meeting resumed.

The Executive Session lasted 49 minutes.

No formal action was taken.

NEXT MEETING DATE:

August 2, 2018 City Council Budget Retreat

ADJOURNMENT**Direction/Action**

Motion made by Councilmember Robert Back to adjourn; seconded by Councilmember Nutting.
The motion passes 6-0.

The meeting was adjourned at 9:10 p.m.

Respectfully Submitted,
Taria Keane
Deputy City Clerk

MINUTES

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

August 2, 2018 – 7:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 5:00 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Mayor Pina.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Jeremy Nutting, Luisa Bangs, Robert Back and Matt Mahoney.

Staff present: City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Acting Harbormaster Scott Wilkins; Police Chief Ken Thomas; Finance Director Beth Anne Wroe; Public Works Director Brandon Carver; Commander Doug Jenkins; Commander Mike Graddon; Director of Emergency Management George Delgado; Human Resource Director Adrienne Johnson-Newton; Probation Officer Melissa Patrick; Municipal Judge Lisa Leone; Court Administrator Jennefer Johnson; Staff Accountant Eric Mandelas; Budget Manager Cecilia Pollock; Information System Administrator Chris Pauk; City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane.

Mayor Pina asked Council to hold their question until the end of the presentation.

City Manager Matthias opened the meeting with a PowerPoint presentation on Bond Rating, Succession Planning, City Committees and Commissions, Proposed Neighborhood Engagement Program, Budget Dynamics, Proposed 2019 Budget and Sustainability.

At 6:35 p.m. Council took a 20 minute break and resumed the Budget Retreat at 6:49 p.m.

NEXT MEETING DATE:

August 23, 2018 City Council Regular Meeting

ADJOURNMENT

Direction/Action

Motion made by Deputy Mayor Pennington to adjourn; seconded by Councilmember Bangs.
The motion passes 7-0.

The meeting was adjourned at 7:34 p.m.

Respectfully Submitted,
Taria Keane
Deputy City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Transportation Gateway Project:
S. 216th Street Segment 3 Improvements
Right-of-Way Acquisition
Parcel #200800-0600 – Hatfield
Parcel #200820-0010 – Leffard
Parcel #082204-9163 - Laws-Brown
Parcel #082204-9122 – Deruiter

ATTACHMENTS:

1. Delane K Hatfield (Plan #8) Utility Easement & Voucher
2. Terry A. Leffard (Plan #10) Sidewalk Easement & Voucher
3. Cheryl Laws-Brown (Plan #24) Temporary Construction Easement & Voucher
4. Iolanda Deruiter (Plan #27) Warranty Deed, Temporary Construction Easement & Voucher
5. Status ROW Acquisition - Graphic
6. CIP Budget S. 216th St Segment 3

AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: August 13, 2018

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: DJB

- [X] Legal TG
 [X] Finance SAW
 [] Courts N/A
 [] Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation:

The purpose of this agenda item is to seek City Council approval to acquire property and easements necessary to construct S. 216th Street Improvements consistent with the Right of Way Plan for properties fronting the street. The following motions will appear on the Consent Calendar:

Suggested Motions:

1. "I move to approve and accept a Utility Easement (59 SF) on Parcel Number #200800-0600, owned by Delane K. Hatfield and provide compensation to the owner of \$418.90 for the Utility Easement, and \$115.00 for property damage, totaling **\$614.00** (rounded), plus reasonable closing costs, and authorize the City Manager to sign the Easement and Real Property Voucher Agreement substantially in the form submitted."
2. "I move to approve and accept a Permanent Sidewalk Easement (59 SF) on Parcel Number #200820-0010, owned by Terry A. Leffard, and provide compensation to the owner totaling **\$412.00** (rounded) for the Permanent Sidewalk Easement, plus reasonable closing costs, and authorize the City Manager to sign the Easement and Real Property Voucher Agreement substantially in the form submitted."
3. "I move to approve and accept a Temporary Construction Easement on Parcel Number #082204-9163, owned by Cheryl Laws-Brown , and provide compensation to the owner of \$415.12 for the Temporary Construction Easement, \$165.00 for property damage, plus \$750.00 as a statutory allowance totaling **\$1,331** (rounded), plus reasonable closing costs, and authorize the City Manager to sign the, Temporary Construction Easement and Real Property Voucher Agreement substantially in the form submitted."
4. "I move to approve and accept a Statutory Warranty Deed (25 SF) on Parcel Number #082204-9122, owned by Iolanda Deruiter, and provide compensation to the owner of \$102.50 for the Statutory Warranty Deed, \$846.26 for a Temporary Construction Easement, \$1,415.00 for property damage, plus \$1,000 in administrative settlement costs totaling **\$3,364** (rounded), plus reasonable closing costs, and authorize the City Manager to sign the Statuary Warranty Deed, Temporary Construction Easement and Real Property Voucher Agreement substantially in the form submitted."

Background:

In order to facilitate the widening of the S. 216th Street, Segment #3 of the Transportation Gateway Project, CIP Project #319.334, right of way and easements are necessary to secure property for placement of underground utilities, walls, slopes and sidewalks. The requested action is consistent with the Council motion of January 16, 2018 approving the ROW plan, with allowance for minor modifications, and the start of the right of way acquisition phase for the improvements. Segment 3 is the last link for the S. 216th Street improvements west of State Route 99, collectively known as the City of Des Moines Transportation Gateway Project.

Discussion:

Design of this project is nearly complete including the SEPA Declaration of Non-Significance (DNS) issued on November 8, 2017. KPG's licensed surveyor has prepared legal descriptions and the right of way plan, with minor modifications, is consistent with that endorsed by the City Council on January 11, 2018. The requested deed and easements are included in Attachment 1. The deed and easement permit the City, and its assigns, to access the properties, install and maintain utilities, sidewalks, and a bus stop. The easements as authorize the owner to make use of the property where there are no conflicts (i.e. landscaping, access, etc.). Property owner compensation associated with this City Council request totals **\$5,721**

Individual meetings have been held with the owner including discussions of how best to coordinate plans and construction, presentation of offers, and making settlements.

Notwithstanding minor design changes, there are 27 properties adjoining the project. Three of these properties are city owned, eight require only construction licenses to enter properties and match the improvements. Sixteen (16) properties require easements or fee simple acquisitions that are subject to compensation and acceptance by the City Council. Including the easement herein, permanent property rights have fully been acquired on 13 of the 16 properties referenced above. The other settlements will be subsequently forwarded to the Council as offers are accepted by the owners.

Attachment 4 illustrates the status of ROW acquisition. Time is of the essence as these acquisitions and/or property possession is required prior to bidding the project in the 4th quarter of 2018, followed by construction in the first quarter of 2019.

The City will match said improvements to all adjacent properties. The City will also agree to maintain access to these properties during construction and will restore the properties as close to the “before” condition as possible. Consistent with other Gateway Project improvements, City’s contract will underground all overhead electrical and communication lines along the corridor, including some secondary service connections where needed to avoid construction delays and cost increases.

Alternatives:

The final design and alignment for the roadway requires these easements. An effort was made to only acquire property and easements where there was inadequate right of way to accommodate the improvements. Other alternatives are currently unavailable.

Financial Impact:

Funds for acquisition of this easement were approved as part of the City of Des Moines 2018 budget (Attachment 5). These acquisitions are funded, in part, by a grant from the Washington State Transportation Improvement Board.

Recommendation/Conclusion:

Staff recommends the Council approve the proposed motions.

Concurrence:

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

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After Recording, Return to:
CITY OF DES MOINES
ATTN: CITY ATTORNEY
 21630 11th Avenue South, Suite C
 Des Moines, WA 98198

UTILITY EASEMENT

Parcel Plan Number	8
Grantors:	Delane K. Hatfield
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Abbreviated Legal Description:	LOT 60, DES MOINES TERRACE ADD. VOL. 63, P. 45, KING COUNTY
Additional Legal(s)	Exhibit A and A-1, attached hereto and made part of
Assessor's Tax Parcel ID#:	200800-0600

Transportation Gateway Project **South 216th Street Improvement, Segment 3** **11th Ave S. to 20th Ave S.**

THIS EASEMENT AGREEMENT made this _____ day of _____, 2018, by and between DELANE K. HATFIELD, as her sole and separate property, ("Grantor" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein),

WITNESSETH:

1. **Grant of Easement.** The Grantors, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors, franchisors and assigns, (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for the placement, operation, and maintenance of public and private utility equipment ("Easement" herein) over, under, along, across, and through the

following described real property ("Easement Area" herein) in King County, Washington.

2. Property Subject to Easement

a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit "A-1" attached hereto and incorporated by reference.

b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the property legally described in Exhibit "A" and Exhibit "A-1" ("Easement Areas" herein) attached hereto and incorporated by reference.

3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and enlarge utility structures and associated features within the Easement Areas for the purpose of constructing and maintaining utilities. Such utilities may include, but is not limited to:

4. **Utility Features.**

Above and below ground handholes, conduits, vaults, switches, pedestals, transformers, fire hydrant connection, water meters, valves, and all other facilities and/or appurtenances necessary and/or convenient to any and/or all of the forgoing.

Following the initial construction of all and/or portion of its utility features, Grantee may, from time to time, construct such additional facilities as it may require for such utility features.

4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Area Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Areas. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, tree or other vegetation in the Easement Area.
6. **Grantor's Use of Easement Area.** Grantors reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the Easement rights herein granted. Grantors may install groundcover and shrub landscaping plantings within the Easement Area with Grantee's prior written consent. Grantors shall not alter the ground surface and subsurface with the Easement Area by excavation, placement of fill material, or installation of any wall or rockery, without Grantee's Public Works Director, or authorized designee, prior written consent. Grantee's prior written consent, where

required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Areas.

7. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.
8. **Covenant Running with the Land.** This Easement shall be covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.
9. **Assignment.** Grantee shall have the right to assign this Easement to franchised utilities in the event that Grantee need to request underground of overhead lines; provided, however just compensation and have waived said rights.

DATED this 27th day of June, 2018.

GRANTOR(S):


Delane K. Hatfield

GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Michael Matthias, City Manager

Date: _____

*At the direction of the Des Moines City Council during open public meeting on the
___ day of _____, 2018.*

APPROVED as to form only:

Tim George, City Attorney

Date

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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



Dated: 6/27/2018
 Signature: [Signature]
 Notary Public in and for the WA
 Notary (print name): Sonja Y Davis
 Residing at: Kirkland
 My appointment expires: 12/20/2019

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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

Dated: _____
 Signature: _____
 Notary Public in and for the State of Washington
 Notary (print name): _____
 Residing at: _____
 My appointment expires: _____

EXHIBIT A
PARCEL NO. 200800-0600
UTILITY EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING ON THE NORTH MARGIN OF SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID NORTH MARGIN, 64.39 FEET TO A POINT OF TANGENCY AND THE TRUE POINT OF BEGINNING;

THENCE WESTERLY, NORTHWESTERLY, AND NORTHERLY ALONG SAID MARGIN ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 02° 08' 30" EAST, 20.00 FEET, AN ARC DISTANCE OF 15.91 FEET;

THENCE SOUTH 87° 51' 30" EAST, 14.28 FEET;

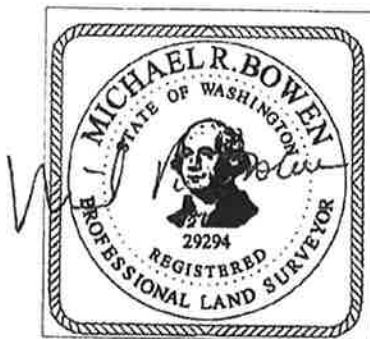
THENCE SOUTH 02° 08' 30" WEST, 6.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 59 SQUARE FEET, MORE OR LESS.

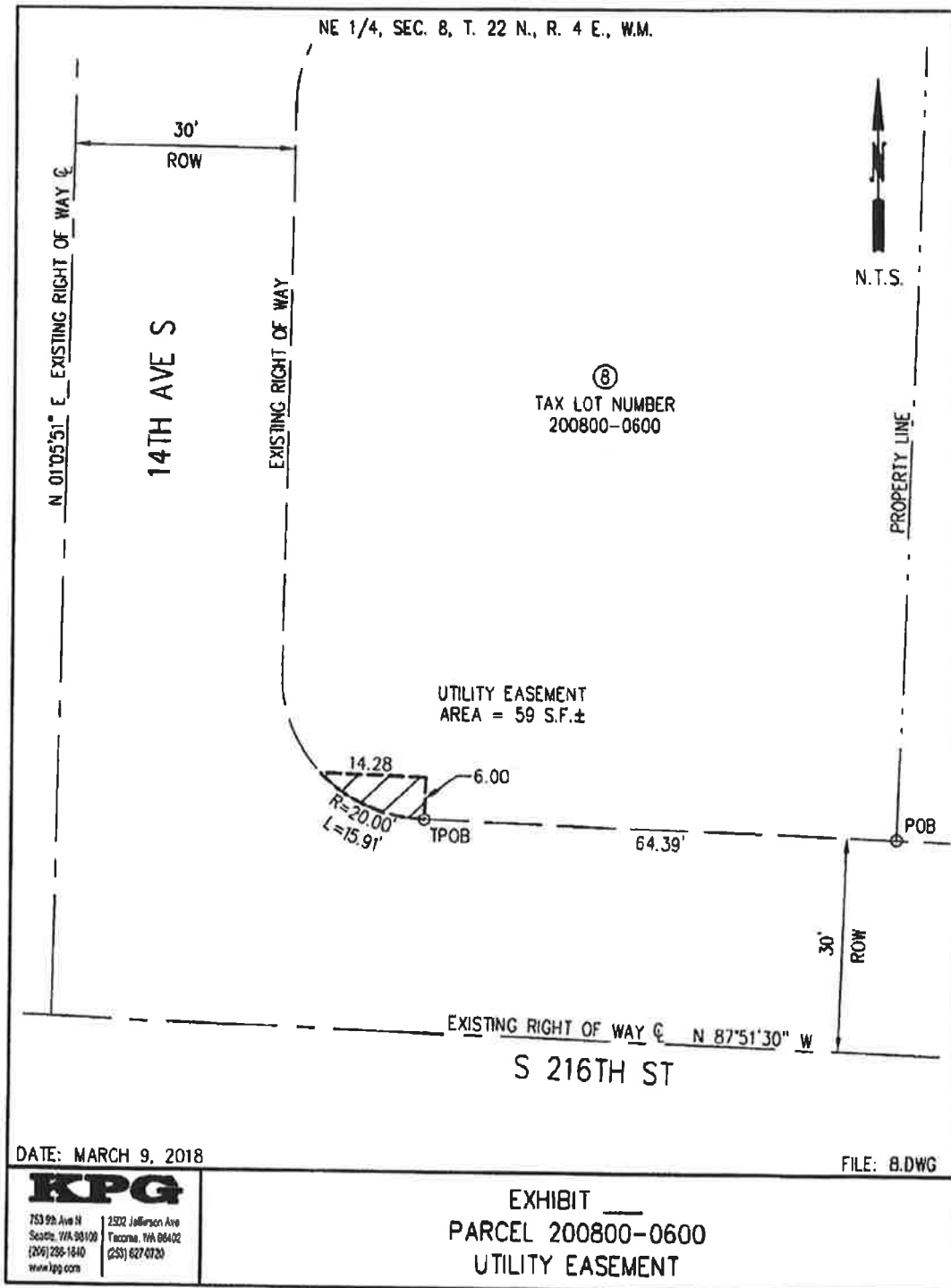
PARCEL "A":

(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2724719, DATED DECEMBER 11, 2017)

LOT 60, DES MOINES TERRACE ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 63 OF PLATS, PAGE 45, IN KING COUNTY, WASHINGTON.



3/16/2018

EXHIBIT A-1

REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Department 21630 11 th AVE South, Suite C Des Moines, WA 98198 Phone: (206) 870-6522		I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: (Sign in Ink) By: <u><i>Delane K. Hatfield</i></u> Owner/Authorized Representative Date: <u>6/27/18</u>	
GRANTOR or CLAIMANT Delane K. Hatfield 21506 14th Ave S <u>25233 124th AVE SE</u> Des Moines, WA 98198 <u>Kent WA 98030</u>		Re: Transportation Gateway Project, South 216 th Street, Segment 3 – (11 th Ave S. to 20 th Ave S.) TAX PARCEL NUMBER: 200800-0600 PROJECT PARCEL NUMBER: 8	
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Utility Easement Date: <u>6/22/18</u>			AMOUNT
For All Lands Convey: Permanent Utility Easement: 59 SF @ \$14.20/SF @ 50% For All Improvements: For All Damages: shrubs Less Special Benefits: Statutory Evaluation Allowance			+ \$ + \$418.90 + \$ + \$115.00 + \$ + \$
JUST COMPENSATION			\$614.00 (r)
Legal / Administrative: Other Items: Deductions:			+ \$
FINAL SETTLEMENT			\$614.00 (r)
SUBTOTAL			\$
TOTAL AMOUNT TO BE PAID:			\$614.00 (r)
Right-of-Way Agent: Sonja Davis By: <u><i>Sonja Davis</i></u> Date: <u>6/22/18</u>			
The City of Des Moines agrees to the terms and conditions listed above. By: _____ Date: _____			

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After Recording, Return to:

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

PERMANENT SIDEWALK EASEMENT

Parcel Plan Number	10
Grantors:	Terry A. Leffard
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Abbreviated Legal Description:	A portion of Section 08, Township 22 N; Range 4 E in King County, WA
Additional Legal(s)	Exhibit A and A-1, attached hereto and made part of
Assessor's Tax Parcel ID#:	200820-0010

Transportation Gateway Project
South 216th Street Improvement, Segment 3
11th Ave S to 20th Ave S

THIS EASEMENT AGREEMENT, made this _____ day of _____, 2018, by and between Terry A. Leffard, ("Grantor" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein),

WITNESSETH:

- Grant of Easement.** The Grantors, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors, franchisors and assigns, (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for the placement, operation, and maintenance of a permanent sidewalk and bus shelter footing ("Easement" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.

Parcel # 20820-0010

2. Property Subject to Easement

a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit "A-1" attached hereto and incorporated by reference.

b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the property legally described in Exhibit "A" and Exhibit "A-1" ("Easement Areas" herein) attached hereto and incorporated by reference.

3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and enlarge a bus shelter footing and sidewalk the Easement Areas for the purpose of constructing and maintaining a bus stop.
4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Grantor's Use of Easement Area.** Grantors reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the Easement rights herein granted. Grantors shall not alter the ground surface and subsurface with the Easement Area by excavation, placement of fill material, or installation of any wall or rockery, without Grantee's Public Works Director, or authorized designee, prior written consent. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Areas.
6. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.
7. **Covenant Running with the Land.** This Easement shall be covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.

Dated: _____

Aug 7, 2018

Parcel # 20820-0010

GRANTOR:**Terry A. Leffard****GRANTEE:****CITY OF DES MOINES,**
a Washington municipal corporation_____
By: Michael Matthias, City Manager_____
Date

At the direction of the Des Moines City Council during open public meeting on the
___ day of _____, 2018.

APPROVED as to form only:

Timothy A. George, City Attorney_____
Date

Parcel # 20820-0010

STATE OF WASHINGTON

}

} ss.

COUNTY OF KING

}

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



Dated: 8/7/2018
 Signature: [Signature]
 Notary Public in and for the WA
 Notary (print name): Sonja Y. Davis
 Residing at: Kirkland
 My appointment expires: 12/20/2019

STATE OF WASHINGTON

}

} ss.

COUNTY OF KING

}

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

Dated: _____
 Signature: _____
 Notary Public in and for the State of Washington
 Notary (print name): _____
 Residing at: _____
 My appointment expires: _____

Parcel # 20820-0010

EXHIBIT A
PARCEL NO. 200820-0010
SIDEWALK EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING ON THE NORTH MARGIN OF SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID NORTH MARGIN, 39.76 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 87° 51' 30" WEST, 29.50 FEET;

THENCE NORTH 02° 08' 30" EAST, 1.00 FEET TO A LINE THAT IS 31.00 FEET NORTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID PARALLEL LINE, 29.50 FEET;

THENCE SOUTH 02° 08' 30" WEST, 1.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 29 SQUARE FEET, MORE OR LESS.

PARCEL "A":

(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2724894, DATED DECEMBER 11, 2017)

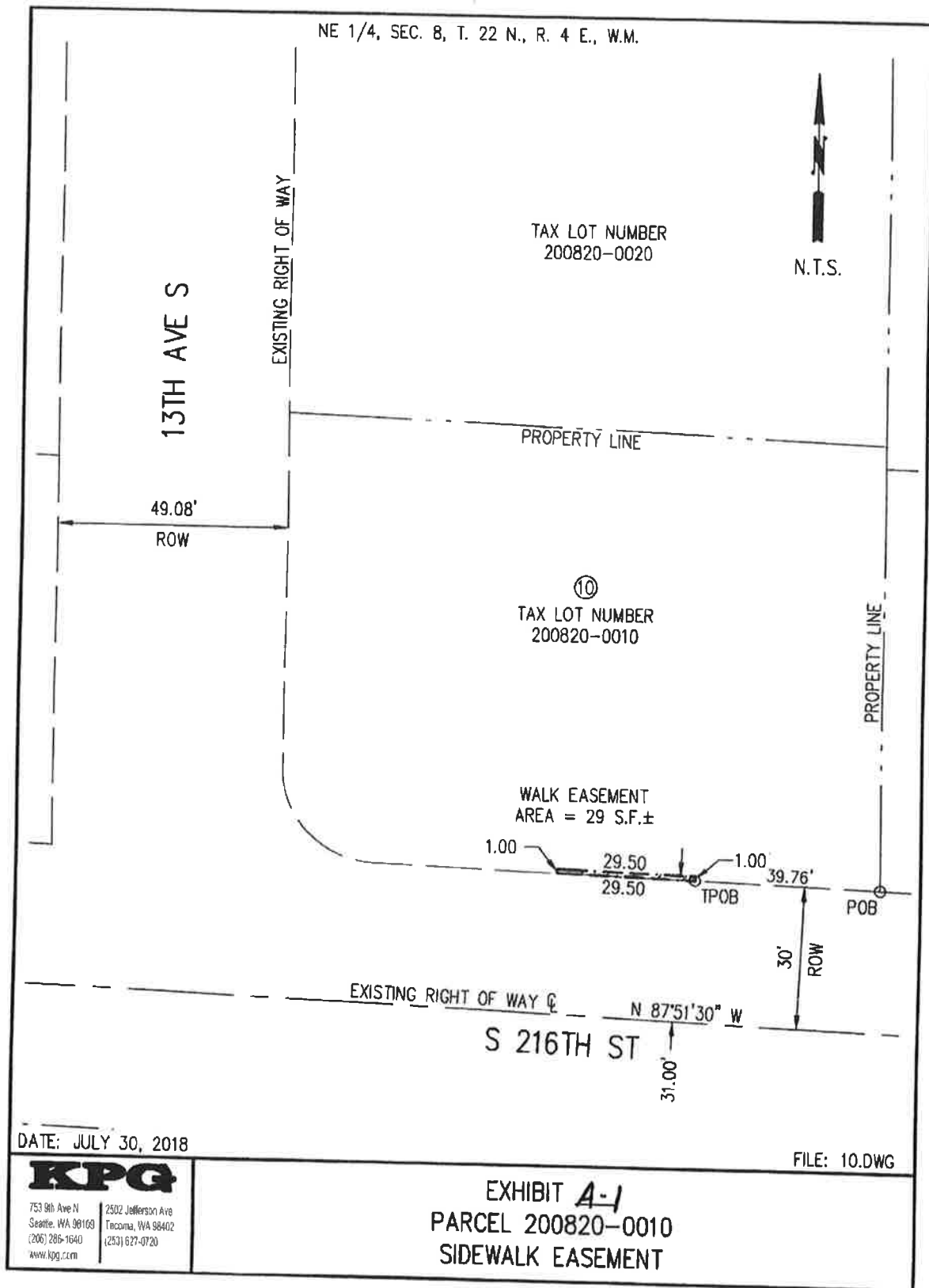
LOT 1, DES MOINES TERRACE NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 69 OF PLATS, PAGE(S) 83 INCLUSIVE, RECORDS OF KING COUNTY, WASHINGTON.



10-WALK.DOCX

Page 1 of 1

KPG
 TACOMA • SEATTLE



REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Department 21630 11 th AVE South, Suite C Des Moines, WA 98198 Phone: (206) 870-6522		I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: <i>(Sign in Ink)</i>	
GRANTOR or CLAIMANT Terry A. Leffard 21524 13 th Ave S Des Moines, WA 98198		By: <u><i>Terry Leffard</i></u> Owner/Authorized Representative Date: <u>8/7/2018</u>	
Re: Transportation Gateway Project, South 216 th Street, Segment 3 – (11 th Ave S. to 20 th Ave S.)		TAX PARCEL NUMBER: 200820-0010 PROJECT PARCEL NUMBER: 10	
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Sidewalk Easement Date: <u>8/7/18</u>			AMOUNT
For All Lands Convey: Permanent Sidewalk Easement: 29 SF @ \$14.20/SF @ 100% For All Improvements: For All Damages: Less Special Benefits: Statutory Evaluation Allowance			+ \$ + \$411.80 + \$ + \$ + \$ + \$
JUST COMPENSATION			\$412.00 (r)
Legal / Administrative: Other Items: Deductions:			+ \$
FINAL SETTLEMENT			\$412.00 (r)
SUBTOTAL			\$
TOTAL AMOUNT TO BE PAID:			\$412.00 (r)
Right-of-Way Agent: Sonja Davis <u><i>Sonja Davis</i></u> By: <u>Aug 7, 2018</u> Date:			
The City of Des Moines agrees to the terms and conditions listed above.			
By: _____ Date: _____			

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

TEMPORARY CONSTRUCTION EASEMENT/RIGHT OF ENTRY

Grantor:	Cheryl Laws Brown
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Abbreviated Legal Description:	PTN SEC 8 TWP 22N RGE 4E NW QTR NE QTR, KING COUNTY (ALSO KNOWN AS LOT 2, CITY OF DES MOINES LLA NO. LUA07-018, REC. 20070718900009
Additional Legal(s)	Exhibit A
Assessor's Tax Parcel ID#:	082204-9163-06

Transportation Gateway Project
South 216th Street Improvement, Segment 3
11th Ave S. to 20th Ave S.

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT made this _____ day of _____, 2018, by and between **Cheryl Laws Brown, an individual, as her separate estate** ("Grantor" herein), and the **CITY OF DES MOINES, a municipal corporation of the State of Washington**, ("Grantee" herein),

In consideration of the transportation, sidewalk, utility and general improvements planned to occur adjacent to property that is subject to this easement as a result of the above-referenced South 216th Street Improvement, the Grantor hereby grants to the Grantee, its contractors, employees, agents, successors and assigns the temporary, non-exclusive right to enter upon a portion of the land known as King County Assessor's Parcel Number 082204-9013 and legally described on the attached Exhibit A (the "Grantor's Property") located adjacent to S. 216th St, Des Moines, WA 98198 that is further described as the Easement Area below, as required for the purpose of placing personnel and equipment on said Easement Area to re-construct driveway access, restore fences, utility services, mailboxes, plantings, walls and/or walkways to match newly constructed roadway

Parcel No. 082204-9163-06

and sidewalk grades within right of way as shown in the plans and specifications found on file with the City Engineer of the Grantee. As used herein the term "Easement Area" means that portion of Grantor's Property described the attached Exhibit A, measuring not more than 375 square feet of surface area. Improvements are illustrated on Exhibit B.

SPECIAL STIPULATIONS

1. This easement shall remain in force until the date set forth in Section 7 below. Specific details concerning the public street improvements may be found on maps, plans, and specifications on file with Grantee's City Engineer.
2. Grantee, its agents and assigns, will notify Grantor, her agents, successors, and assigns, of its construction schedule, and will, to the greatest extent practicable, schedule the construction activity so as to minimize any inconvenience to the Grantor's Property and business operations. The Grantee agrees to require that the Contractor implement a City approved traffic control plan that maintains 24 hour access to S. 216th Street.
3. The Grantee agrees, to the extent practicable, to leave the Grantor's Property in as good condition as existed on the day construction commenced. This shall include the timely removal of any and all debris, rubbish or combustible material resulting from construction activities.
4. Compensation: Grantor acknowledges that the rights conveyed herein are in consideration for benefits to be derived by matching the roadway improvements with the Grantor's Property and payment separately negotiated with Grantee. The Grantor agrees to maintain a wood fence constructed on the Grantors property by the Grantee as requested by the Grantor to maintain privacy.
5. The Grantor has chosen not to authorize the Grantee to underground secondary electrical and communication connections to the residence on this property at this time. The Grantor has applied for a rezone of this property from single family to multi-family development. Future secondary connections and related improvements may be subject to negotiation pending outcome of the rezone action and shall not cause delay to the Grantee's project.
6. The rights herein granted shall include all incidental rights, including but not limited to, rights of ingress and egress to the Easement Area as necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the Easement Area. Grantee hereby agrees to indemnify, defend, and hold harmless Grantor and its agents, successors, and assigns against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.
7. The termination date for this easement shall be by the physical completion date of the project or not later than June 1, 2020, whichever occurs first.

8. The Temporary Construction License Agreement between Grantor and Grantee, dated December 8, 2017, is hereby terminated in all respects and shall have no further force or effect.

DATED this _____ day of _____, 2018.

GRANTOR(S):

Cheryl Laws Brown

By: Cheryl Laws Brown
Its: _____

GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Michael Matthias, City Manager

Date: _____

*At the direction of the Des Moines City Council during open public meeting on the
___ day of _____, 2018.*

APPROVED as to form only:

Tim George, City Attorney

Date _____

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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



Dated: July 27, 2018
 Signature: [Signature]
 Notary Public in and for the Seattle WA
 Notary (print name): Melissa L. Summers
 Residing at: Seattle, WA
 My appointment expires: 03/03/22

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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

Dated: _____
 Signature: _____
 Notary Public in and for the State of Washington
 Notary (print name): _____
 Residing at: _____
 My appointment expires: _____

EXHIBIT A

**PARCEL NO. 082204-9163
TEMPORARY CONSTRUCTION EASEMENT**

THE NORTH 5.00 FEET OF THE HEREINAFTER DESCRIBED PARCEL "A",
CONTAINING 375 SQUARE FEET, MORE OR LESS.

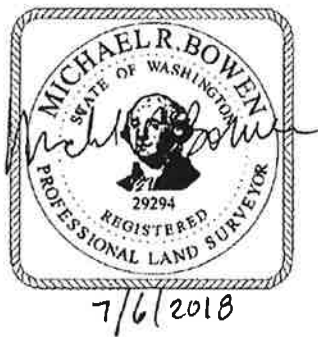
PARCEL "A":

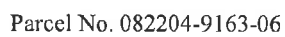
(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2727026, DATED DECEMBER 12, 2017)

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

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER;
THENCE SOUTH 87°51'35" EAST, ALONG THE NORTH LINE THEREOF, A DISTANCE OF 329.35 FEET TO THE NORTHEAST CORNER OF THE WEST 5 ACRES OF SAID NORTHWEST QUARTER;
THENCE SOUTH 00°17'05" WEST, ALONG THE EAST LINE OF SAID WEST 5 ACRES, A DISTANCE OF 30.02 FEET TO THE SOUTH LINE OF THE NORTH 30.00 FEET OF SAID NORTHWEST QUARTER AND THE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 00°17'05" WEST A DISTANCE OF 189.98 FEET;
THENCE SOUTH 87°51'35" EAST A DISTANCE OF 52.00 FEET;
THENCE NORTH 00°17'05" EAST A DISTANCE OF 45.00 FEET;
THENCE SOUTH 87°51'35" EAST A DISTANCE OF 23.00 FEET;
THENCE NORTH 00°17'05" EAST A DISTANCE OF 144.98 FEET TO THE SOUTH LINE OF SAID NORTH 30.00 FEET;
THENCE NORTH 87°51'35" WEST A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING;

(ALSO KNOWN AS LOT 2 OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA07-018 RECORDED UNDER RECORDING NO. 20070718900009).





REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Department 21630 11 th AVE South, Suite C Des Moines, WA 98198 Phone: (206) 870-6522		I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: <i>(Sign in Ink)</i>	
GRANTOR or CLAIMANT Cheryl Laws Brown 1015 165 th PINE Bellevue, WA 98008		By: <u>Cheryl Ann Laws Brown</u> Owner/Authorized Representative Date: <u>08/08/2018</u>	
Re: Transportation Gateway Project, South 216 th Street, Segment 3 – (11 th Ave S. to 20 th Ave S.)		TAX PARCEL NUMBER: 082204-9163 PROJECT PARCEL NUMBER: 24	
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Temporary Construction Easement Date: _____			AMOUNT
For All Lands Convey:			+ \$
Permanent Wall Easement:			+ \$
Permanent Utility Easement:			+ \$
Temporary Construction Easement: 375SF @ 11.07/SF @ 10%			+ \$ 415.12
For All Improvements:			+ \$
For All Damages: Laurel Hedges larges \$165 ea.			+ \$ 165.00
Less Special Benefits:			+ \$
Statutory Evaluation Allowance: Attorney Fees			\$ 750.00
JUST COMPENSATION			
Legal / Administrative:			+ \$
Other Items:			
Deductions:			
FINAL SETTLEMENT			\$1,331.00
SUBTOTAL			\$
TOTAL AMOUNT TO BE PAID:			\$1,331.00
Right-of-Way Agent: Sonja Davis By: _____ Date: _____ The City of Des Moines agrees to the terms and conditions listed above. By: _____ Date: _____			

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Attachment #4

After Recording, Return to:
 CITY OF DES MOINES
 ATTN: CITY ATTORNEY
 21630 11th Avenue South, Suite C
 Des Moines, WA 98198

STATUTORY WARRANTY DEED

Grantors:	Iolanda Deruiter
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Abbreviated Legal Description:	PTN SEC 8 TWP 22N RGE 4E NE QTR SE QTRRRRR, KING COUNTY, ALSO KNOWN AS LOT B, CITY OF DES MOINES LLA REC. 8108110675
Additional Legal(s)	Exhibit A
Assessor's Tax Parcel ID#:	082204-9122-06

Transportation Gateway Project South 216th Street Improvement, Segment 3 11th Ave S. to 20th Ave S.

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

Also, the Grantor requests the Assessor and Treasurer of said County to set over to the remainder of Tax Parcel No.082204-9132-04, the lien of all unpaid taxes, if any, affecting the real estate herein conveyed, as provided by RCW 84.60.070

DATED this 4th day of AUGUST, 2018.

GRANTOR(S):

Iolanda Deruiter



GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Michael Matthias, City Manager

Date: _____

*At the direction of the Des Moines City Council during open public meeting on the
___ day of _____, 2018.*

APPROVED as to form only:

Tim George, City Attorney

Date

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

I hereby certify that I know or have satisfactory evidence that Tolanda Deruiter, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it to be her free and voluntary, act for the uses and purposes mentioned in this instrument.



Dated: Aug. 4, 2018
 Signature: [Signature]
 Notary Public in and for the WA
 Notary (print name): Sonja Y. Davis
 Residing at: Kirkland
 My appointment expires: 12/30/2019

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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

Dated: _____
 Signature: _____
 Notary Public in and for the State of Washington
 Notary (print name): _____
 Residing at: _____
 My appointment expires: _____

EXHIBIT A
PARCEL NO. 082204-9122
RIGHT OF WAY ACQUISITION

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING THE INTERSECTION OF THE SOUTH MARGIN OF SOUTH 216TH STREET AND THE WEST MARGIN OF 14TH AVENUE SOUTH;

THENCE NORTH 87° 51' 30" WEST ALONG SAID SOUTH MARGIN, 5.00 FEET;

THENCE SOUTH 24° 55' 13" EAST, 11.23 FEET TO SAID WEST MARGIN;

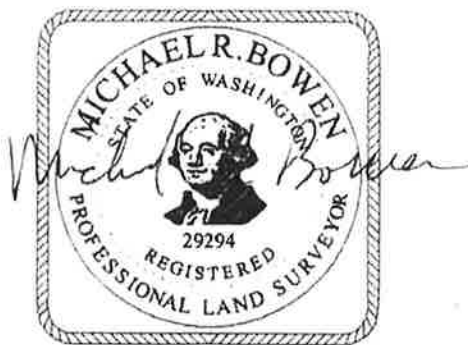
THENCE NORTH 01° 31' 05" EAST ALONG SAID WEST MARGIN, 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 25 SQUARE FEET, MORE OR LESS.

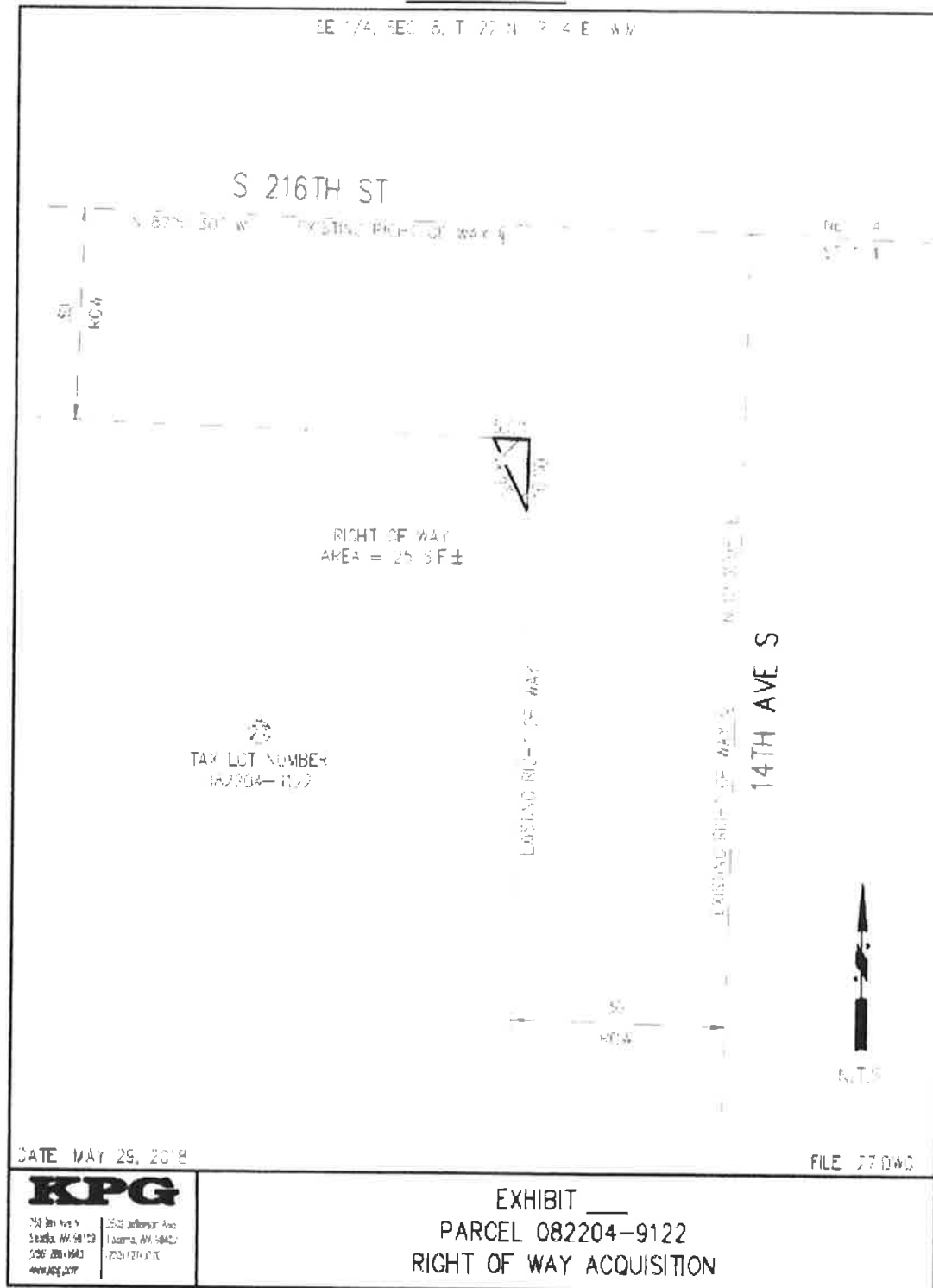
PARCEL "A":

(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2727167, DATED DECEMBER 12, 2017)

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, EXCEPT THE EAST 572.6 FEET AND THE SOUTH 312 FEET;
 EXCEPT THE NORTH 30 FEET THEREOF FOR SOUTH 216TH STREET;
 TOGETHER WITH THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 8;
 EXCEPT THE WEST 264 FEET AND THE SOUTH 312 FEET;
 EXCEPT THE NORTH 30 FEET THEREOF FOR SOUTH 216TH STREET,
 (ALSO KNOWN AS LOT "B", CITY OF DES MOINES LOT LINE ADJUSTMENT, APPROVED AUGUST 11, 1981, AND RECORDED UNDER RECORDING NO. 8108110675.)



5/30/2013

EXHIBIT A-1

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

TEMPORARY CONSTRUCTION EASEMENT/RIGHT OF ENTRY

Grantors:	Iolanda Deruiter
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Abbreviated Legal Description:	PTN SEC 8 TWP 22N RGE 4E NE QTR SE QTRRRRR, KING COUNTY, ALSO KNOWN AS LOT B, CITY OF DES MOINES LLA REC. 8108110675
Additional Legal(s)	Exhibit A
Assessor's Tax Parcel ID#:	082204-9122-06

Transportation Gateway Project
South 216th Street Improvement, Segment 3
11th Ave S. to 20th Ave S.

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT, made this _____ day of _____, 2018, by and between **IOLANDA DERUITER, as her sole and separate property** ("Grantor" herein), and the **CITY OF DES MOINES, a municipal corporation of the State of Washington**, ("Grantee" herein),

In consideration of the transportation, sidewalk, utility and general improvements planned to occur immediately on or adjacent to property that is subject to this easement as a result of the above South 216th Street Improvement, the Grantor(s) hereby grants to the Grantee, its contractors, employees, agents, successors and assigns the right to enter upon land known as King County Assessor's Parcel Number 082204-9122-06 located adjacent to S. 216th St, Des Moines, WA 98198, as required for the purpose of placing personnel and equipment on said premises to re-construct driveway access, restore fences, utility services, mailboxes, plantings, walls and/or walkways to match newly constructed roadway and sidewalk grades within right of way as shown in the plans and specifications found on file with the City Engineer of the Grantee.

SPECIAL STIPULATIONS

1. This easement shall remain in force until such time as the construction of street improvements has been accepted for operation and maintenance by the Grantee. Specific details concerning the public street improvements may be found on maps, plans, and specifications on file with Grantee's City Engineer.
2. Grantee, its agents and assigns, will notify Grantor their agents, successors, and assigns, of its construction schedule, and will, to the greatest extent practicable, schedule the construction activity so as to minimize any inconvenience to the property and business operations. The Grantee agrees to require that the Contractor implement a City approved traffic control plan that maintains 24 hour access to S. 216th Street.
3. The Grantee agrees, to the extent practicable, to leave the property in as good condition as existed on the day construction commenced. This shall include the timely removal of any and all debris, rubbish or combustible material resulting from construction activities.
4. The Grantee plans to underground overhead electrical and communication lines adjacent to the Grantor's property as part of the Grantee's construction contract. Secondary conversions to connect overhead utilities to the Grantor's property may be required. According to RCW 35.96, and DMMC 12.48, the Grantor is responsible for all costs associated with said secondary conversions of undergrounding utilities on private property. In consideration of the disruption associated with this license, and the need for timely execution of a construction contract, if and when awarded by the Grantee, the Grantees agrees to require its contractor to schedule and coordinate with the Grantor to underground secondary overhead utilities on the Grantor's property via digging a utility trench and installing said communications and electrical wiring in a direct and mutually agreeable manner between the point of primary connection to the existing secondary exterior terminal connections owned by the utility servicing the property.
5. Compensation: Grantor acknowledges that the property and/or property rights conveyed herein are in consideration for benefits to be derived by matching the roadway improvements with the Grantor's property.
6. Grantor authorizes and appoints Grantee as its agent and attorney-in-fact to make application for any and all permits required to complete the project.
7. The rights herein granted shall include all incidental rights, including but not limited to, rights of ingress and egress necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the property. Grantee hereby agrees to indemnify and hold harmless Grantor against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.

8. The termination date for this easement shall be by the physical completion date of the project or not later than December 31, 2021 whichever occurs first.

DATED this 24th day of August, 2018.

GRANTOR(S):


Tolanda Deruiter

GRANTEE:

CITY OF DES MOINES,
a Washington municipal corporation

By: Michael Matthias, City Manager

Date: _____

*At the direction of the Des Moines City Council during open public meeting on the
___ day of _____, 2018.*

APPROVED as to form only:

Tim George, City Attorney

Date

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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



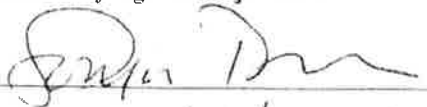
Dated: Aug 4, 2018
 Signature: [Signature]
 Notary Public in and for the WA
 Notary (print name): Sonja Y. Davis
 Residing at: Kirkland, WA
 My appointment expires: 12/20/2019

STATE OF WASHINGTON }
 } SS.
 COUNTY OF KING }

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

Dated: _____
 Signature: _____
 Notary Public in and for the State of Washington
 Notary (print name): _____
 Residing at: _____
 My appointment expires: _____

REAL PROPERTY VOUCHER AGREEMENT

AGENCY NAME City of Des Moines Public Works Department 21630 11 th AVE South, Suite C Des Moines, WA 98198 Phone: (206) 870-6522		I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: <i>(Sign in ink)</i>	
GRANTOR or CLAIMANT Iolanda Deruiter 1255 S 216 th St Des Moines, WA 98198		By:  Owner/Authorized Representative Date: <u>Aug 4, 2018</u>	
Re: Transportation Gateway Project, South 216 th Street. Segment 3 – (11 th Ave S. to 20 th Ave S.)		TAX PARCEL NUMBER: 082204-9122-06 PROJECT PARCEL NUMBER: 27	
In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents: Warranty Deed Date: <u>8/4/2018</u> Temporary Construction Easement Date: <u>8/4/2018</u>			AMOUNT
For All Lands Convey: Fee Acquisition: 25 SF @ \$4.20/SF Temporary Construction Easement: 2,064SF @ 4.10/SF @ 10% For All Improvements: For All Damages: 3 large laurel hedges \$165 ea., 8 trees @ \$115 ea. Less Special Benefits: Statutory Evaluation Allowance			+ \$ + \$ 102.50 + \$ 846.26 + \$ + \$1,415.00 + \$ + \$
JUST COMPENSATION			\$2,364.00(r)
Legal / Administrative: <i>Additional compensation for the trees within the acquisition area</i> Other Items: Deductions:			+ \$1,000.00
FINAL SETTLEMENT			\$3,364.00
SUBTOTAL			\$
TOTAL AMOUNT TO BE PAID:			\$3,364.00
Right-of-Way Agent: Sonja Davis  By: <u>8/4/2018</u> Date:			
The City of Des Moines agrees to the terms and conditions listed above.			
By: _____ Date: _____			



City of Des Moines

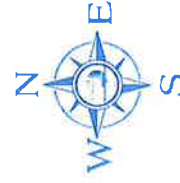
Geographic Information System

South 216th Street Segment 3 Improvements

11th Avenue S to 20th Avenue S
ROW Acquisition Status
8/14/2018

55

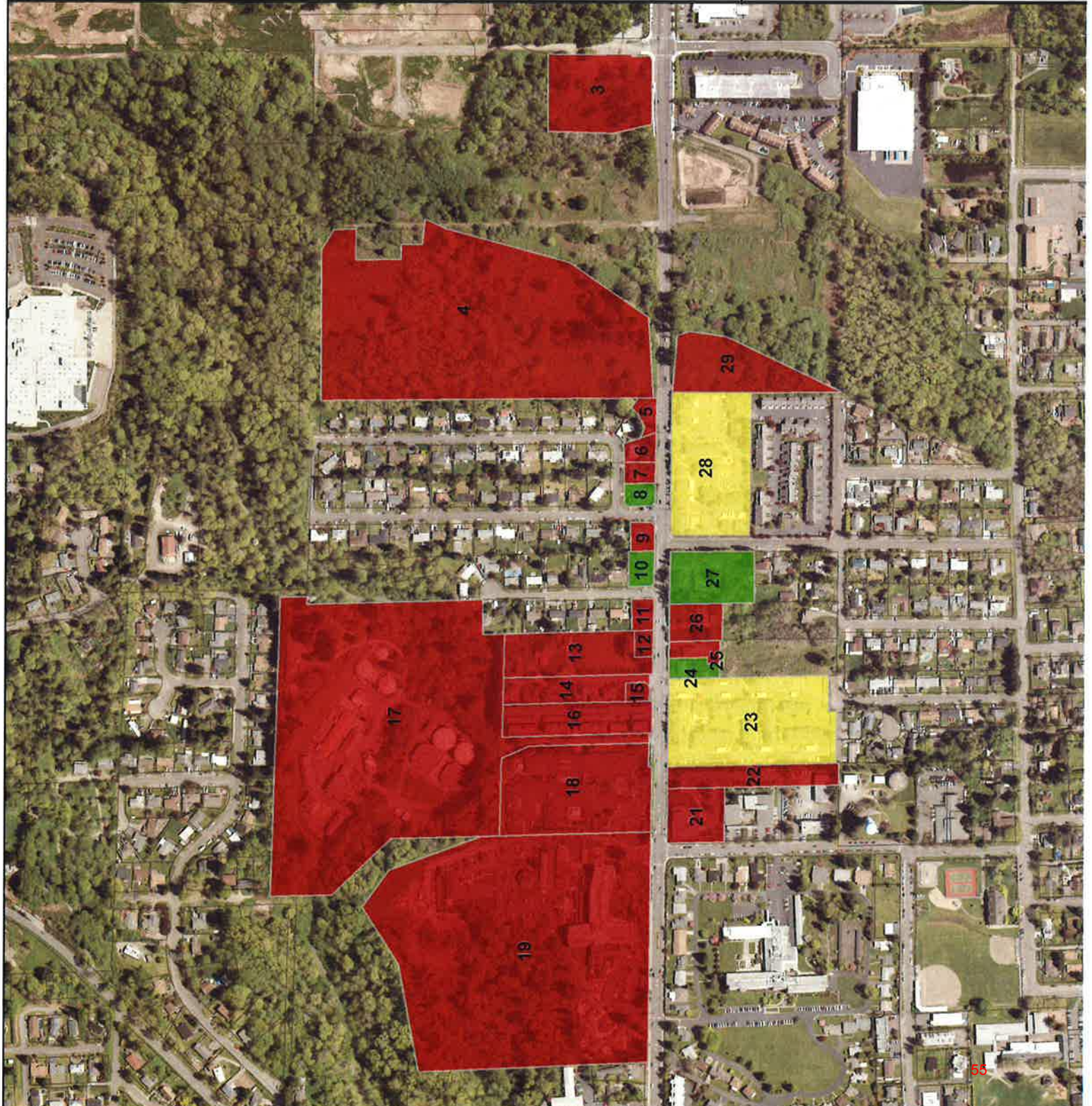
-  Complete
-  Pending
-  Planned



Attachment #5

Des Moines Transportation

21650 11th Ave S
Des Moines, WA 98198-6398
PHONE: (206) 870-7576 * FAX: (206) 870-6544
WEB: <http://www.desmoineswa.gov>
Map Generated: 8 August, 2018
©2018 City of Des Moines GIS
All rights reserved. All other rights reserved.



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Summary Project Description:

TOTAL PROJECT SCOPE				PROJECT BUDGET ALLOCATIONS BY YEAR						ACTUAL EXPENDITURES
Expenditures	1/1/18 Current CIP Budget	2018 CIP Supplemental Request	2018 Revised CIP Budget Estimate	Estimated Year End 2018	Planned Year 2019	Planned Year 2020	Planned Year 2021	Planned Year 2022	Project to Date 12/31/17	
Design										
External Engineering	540,000	-	540,000	64,982					475,018	
Internal Engineering/Project Mgmt	10,000	-	10,000	6,931					3,069	
Other Professional Services - Len Madsen	80,000	-	80,000	42,307					37,693	
Other Misc (Advertise, Postage, Etc.)		-	-	(1,800)					1,800	
Proprietary Easements										
External Engineering	130,000	-	130,000	130,000					-	
Internal Engineering		-	-	-					-	
Other Professional Services - Len Madsen	30,000	-	30,000	30,000					-	
Land		-	-	-					-	
Other Miscellaneous		-	-	-					-	
Construction										
External Engineering	560,000	-	560,000	-	560,000				-	
Internal Engr- Proj Mgmt/ Inspect	30,000	-	30,000	-	30,000				-	
Construction Contract 1	4,081,000	-	4,081,000	-	4,081,000				-	
Construction Contract Contingency		-	-	-					-	
Other Miscellaneous		-	-	-					-	
Other										
Interfund Financial Services	58,210	-	58,210	1,824	51,210				5,176	
Contingencies	410,000	-	410,000	-	410,000				-	
Total Project Expense Budget:	5,929,210	-	5,929,210	274,244	5,132,210	-	-	-	522,756	-

Funding Sources				PROJECT BUDGET ALLOCATIONS BY YEAR						ACTUAL EXPENDITURES
Funding Sources	1/1/18 Current CIP Budget	2018 CIP Supplemental Request	2018 Revised CIP Budget Estimate	Estimated Year 2018	Scheduled Year 2019	Scheduled Year 2020	Scheduled Year 2021	Scheduled Year 2022	Project to Date 12/31/17	
Traffic Impact Fees - City Wide	2,771,965	-	2,771,965	153,515	2,376,117				242,333	
TIE Grant	3,157,245	-	3,157,245	120,729	2,756,093				280,423	
Total Project Revenue Budget:	5,929,210	-	5,929,210	274,244	5,132,210	-	-	-	522,756	-

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Beach Park & Marina Pedestrian Connectivity Improvement: Removal of non-conforming residential structure (Wasson)

ATTACHMENTS:

1. 2019-2024 CIP Worksheet
2. April 13, 2017 Council Packet

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: August 13, 2018

CLEARANCES:

- ☒ Community Development SMC
☒ Marina SMC
☒ Parks, Recreation & Senior Services SMC
☒ Public Works RK

CHIEF OPERATIONS OFFICER: DJB

- ☒ Legal VS
☒ Finance Law
☐ Courts _____
☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

On July 26, 2018 the Council adopted the 2019-2024 Capital Improvement Plan (CIP). The CIP includes the “Beach Park Bulkhead, Promenade, and Playground Project” (Attachment 1). That project includes funding in 2018 for the removal of the non-conforming residential structure (commonly referred to as the Wasson house) in order to repurpose the property and facilitate greater public access and connectivity between the Marina and the Beach Park. However, 2018 budget authority from the Council is needed to facilitate this work in 2018.

The purpose of this agenda item is to confirm Council direction related to the property; to authorize administration to remove the structure and make interim landscaping improvements, and to direct administration to bring forward a budget amendment to include this capital work in 2018. The following motion will appear on the consent calendar:

Suggested Motion:

Motion 1: “I move to direct administration to demolish the existing non-conforming structure and make interim landscaping improvements as necessary to facilitate public access and connectivity between the Marina and the Beach Park, and to bring forward a 2018 budget amendment in the amount of \$70,000.00 to cover the associated costs.”

Background

The Wasson Property is currently in an area designated as Urban Conservancy (upland of the ordinary high water mark) and Aquatic (below the ordinary high water mark) by the Des Moines Shoreline Master Program (SMP). This is the same designation as relevant areas of the Beach Park. While the SMP is administered by the City, any revisions to the SMP must be approved by the Washington State Department of Ecology. In addition, any applications for proposed uses of land regulated by the SMP, while processed through the City, must be reviewed and approved by the Washington State Department of Ecology. Under the current SMP, the City is not allowed to use the Wasson Property for any form of commercial use; not even on a temporary basis. There are no variance or administrative remedy processes available to the City under the current SMP.

At the May 25, 2017 Council meeting (continued from April 13, 2017), staff provided a continued discussion of the Wasson property. A copy of that Council packet is provided as Attachment 2. Based on information available at that time the City Council directed staff to:

- Pursue a limited amendment to the Shoreline Master Program to include Water Dependent and Water Enjoyment commercial use to the Shoreline Conservancy Zone, and to bring forward a budget amendment in the amount of \$20,000 to reflect this 2017 work program item.
- Leave the existing house in place until a permanent use is identified and permitted for this property.
- Consider repurposing portions of the existing house to temporary use as recreational support uses (water-dependent recreation or water-enjoyment recreation), and to bring back proposals and cost estimates for such uses.

In mid-2017, staff contracted with Teresa Dusek to work on the limited amendment. Shortly after starting work, our consultant became seriously ill and work on the limited amendment was delayed. In late 2017, staff received notice from the State Department of Ecology that an update to the Des Moines Shoreline Master Program (SMP) would be due by 2019. Staff began efforts to start the SMP update in 2018, and the decision was made to include the limited amendment as part of the SMP update efforts. Staff recently provided a briefing to the City Council on the SMP update at the July 26, 2018 Council meeting.

Discussion

Staff has worked diligently with the Department of Ecology to include water-dependent and water-enjoyment/water-related commercial uses under the Urban Conservancy designation. While water-enjoyment/water-related commercial uses might be permitted on the property (concession stands, kayak rentals, etc), it has become clear that use of the non-conforming structure for these commercial uses will not be financially feasible.

Disposition of the structure was discussed with the Economic Development Committee on July 26, 2018, and the committee recommended unanimously to move forward with removal of the structure.

Alternatives

The Council could decide to postpone the decision to remove the existing structure.

Financial Impact

The existing structure is currently costing the city about \$1,000 per month in maintenance and operations expenses (utilities, security, vandalism, insurance, etc.).

It is cost prohibitive to repurpose the structure for any commercial use, even if the SMP is amended to include such uses.

There are adequate funds (one-time funds) available to cover the cost of removal.

Recommendation

Staff recommends that the Council approve the suggested motion.

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CITY OF DES MOINES
2019-2024 CAPITAL IMPROVEMENT PLAN
 (Amount in Thousands)

Beach Park Bulkhead, Promenade, & Play Equip/Water Feature	310
--	-----

CIP Category: Park Facility Projects

Managing Department: Parks, Recr & Sr Services

Summary Project Description:	
Replace/repair existing bulkhead from the Marina North bulkhead terminus to the pedestrian bridge, including potential habitat restoration work associated with Des Moines Creek outfall and the associated marine interface. Continue pedestrian promenade improvements from the Marina to the pedestrian bridge, providing connectivity from the Marina to the Beach Park and Des Moines Creek Trail. Construct play equipment or water feature at the Beach Park. Project also includes demolition of the Wasson House.	

Justification/Benefits: The Beach Park serves the region as 1 of 6 waterfront parks located on Puget Sound between Tacoma and Seattle. The park is visited by hundreds of thousands of visitors annually. This project accomplishes several improvements: 1) the continuation of the Marina bulkhead and pedestrian promenade improvements to the pedestrian bridge; 2) provides potential habitat restoration work associated with the existing Beach Park bulkhead; 3) and either the installation of new play equipment (which was removed from the Beach Park in the 2000's due to multiple flooding events), or construction of a new water feature. Removal of the Wasson House is also part of this project, which is necessary in order to create seamless access and connectivity from the Marina through the Beach Park, to the Des Moines Creek Trail.

PROJECT SCOPE	
Expenditures	Total Budget
Design	300
Land & Right of Way	40
Construction	2,615
Contingency	90
Total Expenditures	3,045

Funding Sources	
	Total Budget
REET 1	100
Park in-Lieu	380
One Time Tax	70
State of Washington Grants (Unconfirmed)	2,480
Private Contributions	15
Total Funding	3,045

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

ANNUAL ALLOCATION									
Project to Date	Scheduled Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year
12/31/17	2018	2019	2020	2021	2022	2023	2024		
-	10	100	190						
-	40								
-	10			2,605					
-	10			80					
-	70	100	190	2,685	-	-	-	-	-

Project to Date	Scheduled Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year	Plan Year
12/31/17	2018	2019	2020	2021	2022	2023	2024		
-		100	90	290					
-	70								
-			100	2,380					
-				15					
-	70	100	190	2,685	-	-	-	-	-

ANNUAL OPERATING IMPACT					
	2018	2019	2020	2021	2022
-	-	-	-	-	-
-	-	-	-	-	-
-	-	-	-	-	-

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Wasson Property – Continued
Discussion

ATTACHMENTS:

1. March 2, 2017 Council Packet
2. March 2, 2017 Council Presentation
3. Scope of Fee for SMP Limited Amendment

FOR AGENDA OF: April 13, 2017

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: April 6, 2017

CLEARANCES:

- ☒ Community Development DEL
☒ Marina _____
☒ Parks, Recreation & Senior Services _____
☐ Public Works _____

CHIEF OPERATIONS OFFICER: DIS

- ☒ Legal 6
☒ Finance DM
☐ Courts _____
☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is to confirm Council direction provided at the March 2, 2017 meeting, and to facilitate continued discussion on the disposition, potential reuse, and redevelopment options for the City-owned property located at 22047 Cliff Avenue South (also referred to as the “Wasson Property”).

Suggested Motions:

(Motions 1a, 2a, and 3a are recommended by staff).

Permitting

Motion 1a: “I move to direct administration to pursue a limited amendment to the Shoreline Master Program to include Water Dependant and Water Enjoyment commercial use to the Shoreline Conservancy Zone, and to bring forward a budget amendment in the amount of \$20,000.00 to reflect this 2017 work program item.”

Or,

Motion 1b: “I move to direct administration to pursue an amendment to the Shoreline Master Program that would change the Shoreline designation of the Wasson Property from Urban Conservancy to High Intensity, and to bring forward a budget amendment in the amount of \$50,000.00 to reflect this work program item 2017, and to include this as a budget item in the 2018 budget.”

And,

Immediate Disposition of the non-conforming Structure

Motion 2a: “I move to direct administration to leave the existing house in place until a permanent use is identified and permitted for this property.”

Or,

Motion 2b: “I move to direct administration to demolish the existing non-conforming structure and grade the site as necessary to facilitate interim use as a public plaza with grass, and to bring forward a 2017 budget amendment in the amount of \$50,000.00 to cover the associated costs.”

And,

Interim Use

Motion 3a: “I move to direct administration to consider repurposing portions of the existing house for temporary use as recreational support uses (water-dependent recreation or water-enjoyment recreation), and to bring back proposals and cost estimates at an upcoming council meeting for the Council’s consideration.”

Or,

Motion 3b: “I move to direct administration to pursue temporary use of the existing nonconforming structure as a residence in 2017 and to bring forward a budget amendment in the amount of \$50,000.00 to cover necessary safety and building upgrades.”

Background

On March 2, 2017, staff provided a discussion of the Wasson property at the Council Study Session. A copy of that Council packet is provided as Attachment 1, and the presentation provided as the meeting is provided as Attachment 2, for background.

Discussion

The City is evaluating the feasibility of different uses for the upland portion of the subject property. The upland portion of the site that does not contain Cliff Avenue South is roughly 80 feet by 50 feet (4,000 square feet). Potential uses that have been suggested can generally be categorized as follows:

1. Maintain the current use (residential).
2. Convert the existing use and house to a commercial use, such as a restaurant or retail sales (such as a general store).
3. Remove of the existing house to facilitate a public plaza and/or promenade along the existing bulkhead which would enhance the connection between the Marina located south of the site and the portion of Beach Park north of the site.
4. Add some commercial use associated with the public plaza, either within the existing house, or within a new structure located in the same general vicinity (Beach Park Promenade).

The Wasson Property is currently in an area designated as Urban Conservancy (upland of the ordinary high water mark) and Aquatic (below the ordinary high water mark) by the Des Moines Shoreline Master Program (SMP). This is the same designation as relevant areas of the Beach Park. While the SMP is administered by the City, any revisions to the SMP must be approved by the Washington State Department of Ecology. In addition, any applications for proposed uses of land regulated by the SMP, while processed through the City, must be reviewed and approved by the Washington State Department of Ecology. Under the current SMP, the City is not allowed to use the Wasson Property for any form of commercial use; not even on a temporary basis. There are no variance or administrative remedy processes available to the City under the current SMP.

At the March 2, 2017 Council meeting, staff derived the following from the discussion with the Council:

- 1) Continued use of the Wasson Property as a residential use (renting to one individual family as a home) is not in the best interest of the City.

Note: If this is not the will of the Council, please direct staff otherwise. At this point staff does not intend to pursue leasing this property as a residence, even on a temporary basis. The non-conforming residential use of the property will expire in June 2017 unless occupied as a residence.

- 2) That the Council decided not to pursue a change to the SMP designation from Urban Conservancy to High Intensity, given the cost and probable “unapproved” outcome by the Washington State Department of Ecology.

Note: Department of Ecology staff stated that such an amendment would likely not be accepted or approved by the Washington Department of Ecology since the site does not meet the definition for High Intensity and due to past analysis for the SMP.

- 3) That Council would like staff to pursue the possibility of a limited amendment to the SMP that would modify the uses of lands designated as Urban Conservancy, to include water dependant and water enjoyment commercial uses.

Note: Staff would work diligently with the Department of Ecology to be as liberal as possible on the definitions of water dependant and water enjoyment commercial uses, so that the City can have the maximum flexibility of commercial uses to the extent possible under Urban Conservancy designation.

- 4) Until such time that a new use is proposed for the general area, the existing house is not to be removed. At that time, the Council can decide whether to remove the existing house, or repurpose the existing house to fit the proposed commercial use.

Our consultant has provided a scope and fee for pursuing the limited amendment to the SMP with the Department of Ecology. This is provided as Attachment 3.

The property also has a Comprehensive Plan designation of PARK, and is zoned Residential Suburban Estates (R-SE). The parcel is shown and described as a part of Des Moines Beach Park which is a Special Use Park in the Des Moines Comprehensive Plan. In addition the limited amendment work on the SMP, the City will need to make other revisions to the Comprehensive Plan, the Zoning Code, and the Parks Master Plan, in order to facilitate water dependant and water enjoyment commercial uses.

While staff is working on these modifications to the regulations, the Council could seek temporary use of the existing nonconforming structure by repurposing portions of it for recreational support uses. As long as the structure is not enlarged, it could be used for water-dependent recreation or water-enjoyment recreation (non-commercial) uses. Examples include use of the residence for public restrooms, storage of park programmatic equipment (canoes, kayaks, etc.), and park classes and programs. A shoreline permit would not be required.

Alternatives

Moving forward, there are a couple of critical decisions that the City Council needs to make regarding the existing house:

- 1) If the Council intends to rent the house for residential purposes, on a short term basis or permanent, the City Council will need to ensure the house is rented by June 2017 in order for the existing non-conforming use to remain valid. Significant and costly renovations and upgrading of the existing building would be required.
- 2) If the Council intends to repurpose the house for recreational uses on a permanent basis, the City Council will need repurpose it for some recreational uses by June 2017. Using the existing house as a permanent structure for recreational uses would require significant and costly renovations and upgrading. However, the existing structure could be used for recreational uses on a temporary basis while other alternatives are being evaluated and permitted.
- 3) If the Council intends to remove the existing home, a lot of possibilities are available related to shoreline access, open space, public spaces, and potential revenue generators. Council could pursue the possibility of a limited amendment to allow water-related and water-enjoyment

commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park), and to eventually remove the existing structure.

Financial Impact

Pursuing the limited amendment to the SMP (Motion 1 a) is estimated to cost \$20,000.00 (including staff and consultant time), and will take the remainder of the year to complete. This work is not included in the adopted 2017 budget and a budget amendment will be needed to complete this work. This would utilize tax revenues and reduce the General Fund's ending Fund Balance by \$20,000.

Pursuing an amendment to the SMP that would change the designation from urban Conservancy to High Intensity will be very expensive and time consuming. It is estimated that the cost in 2017 would be at least \$50,000.00, and work would continue throughout all of 2018. Total costs for this options are unknown at this time.

If the Council would like staff to pursue temporary use of the existing nonconforming structure by repurposing portions of it for recreational support uses (water-dependent recreation or water-enjoyment recreation), staff can develop costs estimates for such uses and bring those back to the Council for further consideration as necessary. This work is not included in the adopted 2017 budget and a budget amendment will be needed to complete this capital work.

If the Council would like staff to pursue temporary use of the existing nonconforming structure as a residence (Motion 3 b), a budget amendment will be needed for necessary capital improvements to the existing home to make it safe and marketable to rent. Enhancements would include replacement of the deck, updating the interior including new carpeting, paint, plumbing fixtures, and appliances. This work will cost at least \$50,000. This would utilize tax revenues and reduce the General Fund's ending Fund Balance by \$50,000.

Recommendation

Staff recommends that the Council approve motions 1a, 2a, and 3a.

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Wasson Property

FOR AGENDA OF: March 2, 2017

DEPT. OF ORIGIN: Community Development

ATTACHMENTS:

1. Aerial View - 22047 Cliff Avenue South
(parcel 2009003245)
2. Wasson Property Feasibility Review

DATE SUBMITTED: February 21, 2017

CLEARANCES:

- ☒ Community Development ✓
☒ Marina ✓
☒ Parks, Recreation & Senior Services ✓
☐ Public Works

CHIEF OPERATIONS OFFICER: ✓

- ☐ Legal
☒ Finance ✓
☐ Courts
☐ Police

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is for Staff to present information and the City Council to discuss the disposition, potential reuse, and redevelopment options for the City-owned property located at 22047 Cliff Avenue South (parcel 2009003245) in Des Moines, WA (also referred to as the "Wasson property").

No motion is provided, however staff will be seeking direction from the Council on next steps related to the future use of this property.

Background

Attachment 1 depicts the subject parcel (referred to as the Wasson property). The 0.31-acre parcel is developed with a single-family residence located along the shoreline of Puget Sound. Up until June 2016, the property had been rented as a single family residence. Since that time, City Council members have toured the building with staff and discussed potential options for reuse and redevelopment of the building and/or property.

The property is in an area designated as Urban Conservancy upland of the ordinary high water mark and Aquatic below the ordinary high water mark by the Des Moines Shoreline Master Program (SMP). The property has a Comprehensive Plan designation of PARK and is zoned Residential Suburban Estates (R-SE). The parcel is shown and described as a part of Des Moines Beach Park which is a Special Use Park in the Des Moines Comprehensive Plan.

The 2016 Parks, Recreation and Senior Services Master Plan capital program for Des Moines Beach Park includes: park land acquisition, facility renovation and repair; new facility development and interlocal projects development. Recent update of the 2016 Parks, Recreation and Senior Services Master Plan included significant community outreach that included a survey to identify the recreation needs of the city's residents, businesses, employees, and visitors. Citizens placed the highest importance on waterfront resources such as the Des Moines Beach Park, Marina and Fishing Pier, and Des Moines Creek Trail.

Discussion

The City is evaluating the feasibility of different uses for the upland portion of the subject property. The upland portion of the site that does not contain Cliff Avenue South is roughly 80 feet by 50 feet (4,000 square feet). Potential uses that have been suggested include:

1. The current use (residential).
2. Conversion of the existing structure to a commercial use, such as a restaurant.
3. A public plaza and/or promenade along the existing bulkhead which would enhance the connection between the marina located south of the site and the portion of Beach Park north of the site.
4. Adding some commercial use associated with the public plaza.

The City hired environmental consultant Theresa Dusek, who is a recognized expert in environmental and shoreline permitting and has extensive experience working with the Department of Ecology, to research and evaluate the permitting requirements as it relates to the SMP for these various options. The report is provided as Attachment 2. The following is a summary of the conclusions of the report:

1. Leave the existing nonconforming structure and use it for residential purposes. It is important to note that if the residence remains vacant for 12-months, the nonconforming rights to use the house as a residence will expire and any subsequent use will need to be conforming to the current regulations. The non-conforming use will expire in June 2017, unless occupied as a residence.
2. Leave the existing nonconforming structure but repurpose it for recreational uses. As long as the structure is not enlarged, it could be used for water-dependent recreation or water-enjoyment recreation (non-commercial uses). Examples include use of the residence for public restrooms, storage of park programmatic equipment (canoes, kayaks, etc.), and park classes and programs. A shoreline permit would not be required.
3. The SMP specifically prohibits commercial uses such as restaurants in the Urban Conservancy designation associated with the site and the use is not eligible for a variance or conditional use permit.

4. Ecology staff stated that a limited amendment to change the environmental designation of the Wasson property from Urban Conservancy to High Intensity (to match the designation of the adjacent Marina) would likely not be accepted or approved by the Washington Department of Ecology since the site does not meet the definition for High Intensity and due to past analysis for the SMP.
5. Removal of the residence and construction of a public plaza and/or promenade would require a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit for fills associated with the modification, and a Shoreline Variance for alteration to the 115-foot marine buffer. The SMP specifically prohibits commercial uses in the Urban Conservancy designation associated with the site and commercial uses are not eligible for a variance or conditional use permit. However, construction of the public plaza with the ability to have temporary booths or food trucks use the plaza during events may be possible.
6. A limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park) may be possible per Washington State Department of Ecology staff. Full review of the SMP and Comprehensive Plan will be required to make sure there are not conflicts with this proposal. If this change were to occur a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit for fills associated with the modification, and Shoreline Variance for alteration of the 115-foot marine buffer would be required.

Alternatives

Moving forward, there are a couple of critical decisions that the City Council needs to make regarding the existing house:

- 1) If the Council intends to rent the house for residential purposes, on a short term basis or permanent, the City Council will need to ensure the house is rented by June 2017 in order for the existing non-conforming use to remain valid. Significant and costly renovations and upgrading of the existing building would be required.
- 2) If the Council intends to repurpose the house for recreational uses on a permanent basis, the City Council will need repurpose it for some recreational uses by June 2017. Using the existing house as a permanent structure for recreational uses would require significant and costly renovations and upgrading. However, the existing structure could be used for recreational uses on a temporary basis while other alternatives are being evaluated and permitted.
- 3) If the Council intends to remove the existing home, a lot of possibilities are available related to shoreline access, open space, public spaces, and potential revenue generators. Council could pursue the possibility of a limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park), and to eventually remove the existing structure.

At the Council meeting staff will present further details related to these alternative, and seek Council direction is regarding future actions or options to be considered moving forward.

Financial Impact

There are both negative and positive financial implications depending on the chosen path forward. While not fully analyzed, the following can be assumed:

1. Maintaining the existing structure as a single family residence or for recreational purposes would require extensive and costly renovations and upgrades (easily over \$50,000) plus cost for insurance and ongoing maintenance. It would likely take several years or more to recoup the initial investment through property rentals and/or reuse of the facility for recreational purposes.
2. Removing the residence and redevelopment of the site for recreational and/or commercial uses would also require initial cost for demolition of the property, permitting and capital improvements associated with redevelopment of the site. Demolition of the structure is expected to cost around \$40,000 while permitting could range from around \$3,000 to upwards of \$15,000, not including the necessary staff time and consultant support.
3. Future revenues associated with ongoing use of the redeveloped site and adjacent area would likely be in the form of pay parking revenues, and lease revenues from any commercial space that might be developed in accordance with the limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park).

Recommendation

Staff recommends that the Council pursue the possibility of a limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park), and to eventually remove the existing structure. While pursuing this, staff recommends that the existing non-conforming structure be used for recreational uses (including options like storage of park programmatic equipment (canoes, kayaks, etc.), and perhaps park classes and programs).

Attachment #1



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Attachment #2

THERESA R. DUSEK*Assessment, Management and Regulatory Permitting*

128 Rainbow Lane
 Packwood, WA, 98361
 (253) 861-3355

February 3, 2017

Attn: Denise Lathrop, Community Development Director
 City of Des Moines
 21630 11th Avenue South, Suite D
 Des Moines, Washington 98198-6398

RE: Wasson Property Regulatory Feasibility Review

Dear Denise,

We understand that the City of Des Moines (City) owns the property located at 22047 Cliff Avenue South (parcel 2009003245) located in Des Moines, Washington (Sec 8, T22N, R4E, W. M.). Figure 1 depicts the subject parcel (also referred to as the Wasson property). The 0.31-acre parcel is developed with a single-family residence located along the shoreline of Puget Sound. The property is in an area designated as Urban Conservancy upland of the ordinary high water mark and Aquatic below the ordinary high water mark by the Des Moines Shoreline Master Program (DMSMP). The upland area currently has an underlying zone of Residential Suburban Estates (R-SE). The parcel is shown and described as a part of Des Moines Beach Park which is a Special Use Park in the Des Moines Comprehensive Plan. The City is evaluating the feasibility of different uses for the upland portion of the site. The upland portion of the site that does not contain Cliff Avenue South is roughly 80 feet by 50 feet (4,000 sf). Potential uses suggested by the City include: (1) the current use, (2) potential commercial use as a restaurant, (3) public plaza and/or promenade along the existing bulkhead which would enhance the connection between the marina located south of the site and the portion of Beach Park north of the site, and (4) some commercial use associated with the public plaza. Since the DMSMP currently does not allow commercial uses we also provide information regarding the potential to complete a limited amendment to the DMSMP to allow water-related and water-enjoyment commercial uses in areas designated as Urban Conservancy which includes Des Moines Beach Park and Salt Water State Park.



Current Use and Shoreline Master Program

The site is currently developed with a 2,740 sf single family residence which contains a concrete bulkhead along the 50-foot shoreline frontage and a concrete boat launch (Figures 2 and 3). The residence was legally constructed in 1967.



Figure 2: Current use of the site with a residence, concrete boat launch and bulkhead.



Figure 3: view of west side of residence.

The Shoreline Master Program Urban Conservancy designation associated with the site allows for the following uses to be permitted as shown in Table 1 below: (a) parking (accessory), (b) water-dependent¹ recreational, (c) water-enjoyment² recreational, (d) transportation and (e) utilities (primary). All other uses are prohibited and not eligible for a shoreline variance or shoreline conditional use permit. Clearing and grading may be permitted but placement of fill would require a shoreline conditional use permit. Residential structures are not allowed in the Urban Conservancy designation. This means that the existing residential use and structure on the site are nonconforming with regard to the DMSMP regulations.

In accordance with DMSMP 6.3.2, uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. In accordance with WAC 173-27-080(9) and DMSMP 6.3.2, if a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming use rights shall expire and any subsequent use shall be conforming. We understand that the residence has been vacant since June 2016. On June 2017, if the residence is still vacant the nonconforming rights will expire and any subsequent use will need to be conforming to the current regulations. Future use of the land or structures must conform to the DMSMP policies and regulations.

In accordance with DMSMP 6.23.2 (6)

"A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Conditional Use Permit. A Conditional Use Permit may be approved only upon a finding that:

- a. No reasonable alternative conforming use is practical; and*
- b. The proposed use will be at least as consistent with the policies and provisions of the SMP and as compatible with the uses in the area as the preexisting use.*
- c. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the SMA and to assure that the use will not become a nuisance or a hazard."*

Per the DMSMP other uses in the Urban Conservancy Designation are prohibited and not eligible for a shoreline variance or shoreline conditional use permit. Therefore, this portion of the code would not apply on this site since non-conforming uses are currently not eligible for shoreline conditional use permits.

If the non-conforming residential structure is not enlarged, it could be modified to have a conforming use such as a recreational water-dependent or recreational water-enjoyment use which is allowed by the DMSMP. Examples include use of the residence for public restrooms, storage of park programmatic equipment (canoes, kayaks, etc.), and park classes and programs. This would not require a shoreline permit.

¹ **"Water-dependent use"** means a use that requires direct access to the water to accomplish its primary function. In other words, a use or portion of a use, which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

² **"Water-enjoyment use"** means a use that does not require access to the water, but is enhanced by a waterfront location. This includes uses that facilitate public access to the shoreline as a primary characteristic of the use; or uses that provide for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people. The use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Table 6-1 Shoreline Master Program Permitted Use Table				
SHORELINE USE	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic
Agriculture	X	X	X	X
Commercial Aquaculture	X	X	X	X
Boating facilities				
Public marinas and launch ramps	P	X	X	P*
Private marinas and launch ramps	C	X	X	P*
Commercial:				
Water-dependent	P	X	X	C*
Water-related, water-enjoyment	P	X	X	X
Non-water-oriented	C	X	X	X
Parking (accessory)	P	P	P	X
Parking (primary, including paid)	X	X	X	X
Recreation:				
Water-dependent	P	P	P	P
Water-enjoyment	P	P	P	P
Non-water-oriented	C	X	P	X
Single-family residential	X	X	P	X
Multifamily residential	X	X	P	X
Outdoor Advertising and Signs	P	X	X	X
Solid Waste Disposal	X	X	X	X
Transportation	P	P	P	C
Utilities (primary)	P	P	P	C
P = May be permitted C = May be permitted as a conditional use only X = Prohibited; the use is not eligible for a variance or conditional use permit				

Table 1: Permitted Use Table from the Des Moines Shoreline Master Program

Restaurant Commercial Use

The DMSMP specifically prohibits commercial uses such as restaurants in the Urban Conservancy designation associated with the site and the use is currently not eligible for a variance or conditional use permit.

Public Plaza and/or Promenade Along Existing Bulkhead

Removing the existing residence from the site and providing a recreational public plaza with or without a promenade along the existing bulkhead would be an allowable use in accordance with DMSMP. The promenade would provide a public link between the park and marina to the south. Per a Park Recreation and Senior Master Plan for Des Moines Beach Park the public plaza may contain a water feature, seating, play area, and waterfront access for pedestrians and non-motorized boats. In accordance with DMSMP 6.1.1(2) a minimum marine buffer of 115 feet from the marine ordinary high water mark shall be maintained in areas designated as Urban Conservancy.

Shoreline modifications to construct a public plaza and/or promenade would require the following.

- Shoreline Substantial Development Permit.
- Shoreline Conditional Use Permit for fills associated with the modification. Fills are allowed in areas designated as Urban Conservancy in accordance with DMSMP 6.2.6.
- Shoreline Variance since development would occur in the 115-foot marine buffer.

In accordance with DMSMP 6.3.7 recreational development is permitted in all shoreline environments, except aquatic, when the following standards are met:

1. Parking areas shall be located inland away from the immediate water's edge and recreational beaches. Access shall be provided by walkways or other non-motorized methods.
2. Recreational developments shall not create significant adverse effects on residential uses of private property, the environmental quality or natural resources of the shoreline area.
3. Valuable shoreline resources and fragile or unique areas such as estuaries and accretion beaches shall be used only for non-intensive and nonstructural recreation activities.
4. All permanent recreational structures and facilities shall be located outside the one hundred- year (100-year) flood plain, although the City may grant exceptions for non-intensive accessory uses (e.g., picnic tables, play areas, etc.).
5. Accessory use facilities such as restrooms, recreation halls and gymnasiums, commercial services, access roads and parking areas shall be located inland from shoreline areas unless it can be shown that such facilities are shoreline dependent. These areas shall be linked to the shoreline by walkways.
6. In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance or restore desirable shoreline features, including unique and fragile areas, scenic views and aesthetic values. To this end, the City of Des Moines may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, parking requirements and setbacks as deemed appropriate to achieve the intent of this program.
7. Proposals for recreational development shall include a landscape plan in which native, self- sustaining vegetation is preferred.
8. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of picnic areas, selected view or other permitted structures or facilities.

Some Commercial Use associated with the Public Plaza

The DMSMP specifically prohibits commercial uses in the Urban Conservancy designation associated with the site and the use is not eligible for a variance or conditional use permit. However, construction of the public plaza with the ability to have temporary booths or food trucks use the plaza during events may be possible.

Shoreline Master Program Limited Amendment to Change the Environmental Designation from Urban Conservancy to High Intensity

The current Des Moines Shoreline Master Program defined High-Intensity environments as “*shoreline areas that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water- oriented uses.*” The Wasson property did not meet this definition and was analyzed and placed in the Urban Conservancy designation. In the previous Shoreline Master Program, it was analyzed and designated as Conservancy.

Based on Table 6-1 of the current Des Moines Shoreline Master Program Permitted Use Table modifying the Wasson property to a High-Intensity designation would gain the ability of the property to be used for public marinas and launch ramps, commercial water dependent and water-related, water enjoyment uses, and with a conditional use permit private marinas and launch ramps and commercial non-water oriented uses, and non-water oriented recreation.

The City of Des Moines Shoreline Master Program was comprehensively updated with an effective date of November 1, 2010. The Des Moines Shoreline Master Program is required by RCW 90.58.080 to be update again on or before June 30, 2019. Local governments, such as Des Moines, may periodically amend their shoreline programs with a limited amendment when there is a change in law, zoning, or other local conditions (WAC 173-26-090).

All proposals for changes in environment designation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan. Given that this was completed with the 2010 Des Moines Shoreline Master Program update and that there have been no specific changes in law, zoning or other local conditions since the comprehensive update it is unlikely that a limited amendment to change the environmental designation of the Wasson property to High Intensity would be accepted or approved by the Washington Department of Ecology.

If the City of Des Moines choses to submit a limited amendment to modify the Shoreline designation of the Wasson property from Urban Conservancy to the High-Intensity designation the process and timelines are described in WAC 173-26. Note the process and timelines are under review and anticipated to be modified in June of 2017 (<http://www.ecy.wa.gov/programs/sea/rules/1506docs.html>).

Overall, in accordance with WAC 173-26 the local agency must implement a public participation plan that shall provide for early and continuous public and agency participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments. The degree of public and agency involvement sought by local government should be gauged according to the level of complexity, anticipated controversy, and range of issues covered in the draft proposal. A master program limited amendment proposed by local government shall be submitted to the department for its review and formal action after implementing the public participation plan. The submittal shall be in the form of a signed ordinance or resolution and must meet the requirements of WAC 173-26-110. Based upon limited amendments to shoreline codes approved by Ecology in the last 3 years this process could take at least one year to complete if accepted by Ecology.

According to Misty Blair at is unlikely that a limited amendment to change the environmental designation of the Wasson property would be accepted or approved by the Washington Department of Ecology since it does not meet the High-Intensity definition and analysis.

Shoreline Master Program Limited Amendment to Allow Recreational Commercial Use

A limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation, which includes Des Moines Beach Park and Salt Water State Park, may be possible per Misty Blair at the Washington State Department of Ecology. Water-related and water enjoyment commercial uses may include food and beverage facilities at public beaches, and rentals of equipment for kayaking, paddle boarding, wind surfing, biking, skin diving, snorkeling, fishing, etcetera. Full review of the SMP and Comprehensive Plan will be required to make sure there are not conflicts with this proposal.

The City of Des Moines Shoreline Master Program was comprehensively updated with an effective date of November 1, 2010. The Des Moines Shoreline Master Program is required by RCW 90.58.080 to be update again on or before June 30, 2019. Local governments, such as Des Moines, may periodically amend their shoreline programs with a limited amendment when there is a change in law, zoning, or other local conditions (WAC 173-26-090).

All proposals for changes in environment designation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan. Given that this was completed with the 2010 Des Moines Shoreline Master Program update and that there have been no specific changes in law, zoning or other local conditions since the comprehensive update it is unlikely that a limited amendment to change the environmental designation of the Wasson property to High Intensity, to allow commercial use, would be accepted or approved by the Washington Department of Ecology.

If the City of Des Moines choses to submit a limited amendment to allow water oriented commercial uses in the Urban Conservancy designation the process and timelines are described in WAC 173-26. Note the process and timelines are under review and anticipated to be modified in June of 2017 (<http://www.ecy.wa.gov/programs/sca/rules/1506docs.html>).

Overall, in accordance with WAC 173-26 the local agency must implement a public participation plan that shall provide for early and continuous public and agency participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments. The degree of public and agency involvement sought by local government should be gauged per the level of complexity, anticipated controversy, and range of issues covered in the draft proposal. A master program limited amendment proposed by local government shall be submitted to the department for its review and formal action after implementing the public participation plan. The submittal shall be in the form of a signed ordinance or resolution and must meet the requirements of WAC 173-26-110. Based upon limited amendments to shoreline codes approved by Ecology in the last 3 years this process could take at least one year to complete if accepted by Ecology.

In summary, the Wasson could feasibly have the following uses.

1. Leave the existing nonconforming structure and use it for recreational purposes. If the structure is not enlarged, it could be used for water-dependent recreation or water-enjoyment recreation. A shoreline permit would not be required.
2. If the residence remains vacant for 12-months, the nonconforming rights to use the house as a residence will expire and any subsequent use will need to be conforming to the current regulations.
3. If the non-conforming residential structure is not enlarged, it could be modified to have a conforming use such as a recreational water-dependent or water-enjoyment use. Examples include use of the

residence for public restrooms, storage of park programmatic equipment (canoes, kayaks, etc.), and park classes and programs. This would not require a shoreline permit.

4. The DMSMP specifically prohibits commercial uses such as restaurants in the Urban Conservancy designation associated with the site and the use is not eligible for a variance or conditional use permit.
5. Removal of the residence and construction of a public plaza and/or promenade would require a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit for fills associated with the modification, and a Shoreline Variance for alteration to the 115-foot marine buffer. The DMSMP specifically prohibits commercial uses in the Urban Conservancy designation associated with the site and the use is not eligible for a variance or conditional use permit. However, construction of the public plaza with the ability to have temporary booths or food trucks use the plaza during events may be possible.
6. Misty Blair at Ecology stated that a limited amendment to change the environmental designation of the Wasson property from Urban Conservancy to High Intensity would likely not be accepted or approved by the Washington Department of Ecology since the site does not meet the definition for High Intensity and due to past analysis for the DMSMP.
7. A limited amendment to allow water-related and water-enjoyment commercial uses in the Urban Conservancy designation (Des Moines Beach Park and Salt Water State Park) may be possible per Misty Blair at the Washington State Department of Ecology. Full review of the SMP and Comprehensive Plan will be required to make sure there are not conflicts with this proposal. If this change were to occur a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit for fills associated with the modification, and Shoreline Variance for alteration of the 115-foot marine buffer would be required.

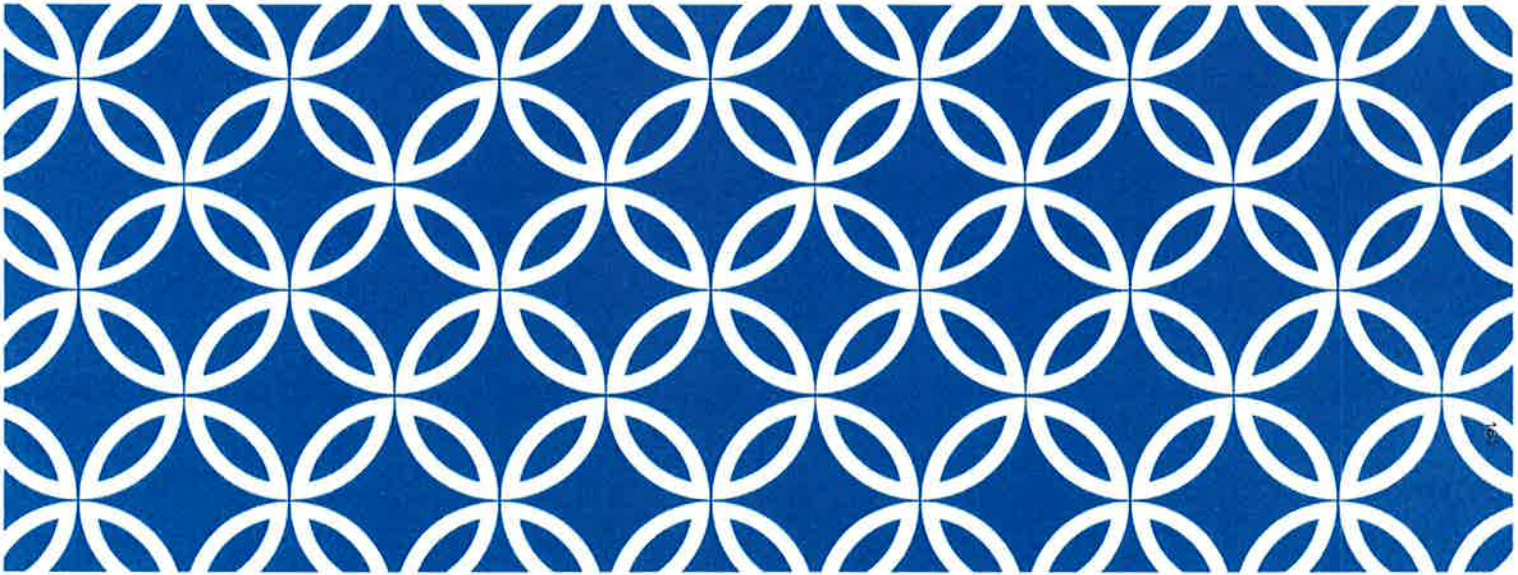
If you have further questions my cell number is 1-253-861-3355.

Sincerely,

THERESA R. DUSEK



Theresa R. Dusek
Natural Resource Ecologist



**WASSON PROPERTY
REUSE/REDEVELOPMENT**

Michael Matthias, City Manager
Dan Brewer, Chief Operations Officer
Denise Lathrop, Community Development Mgr.

Attachment #2

-



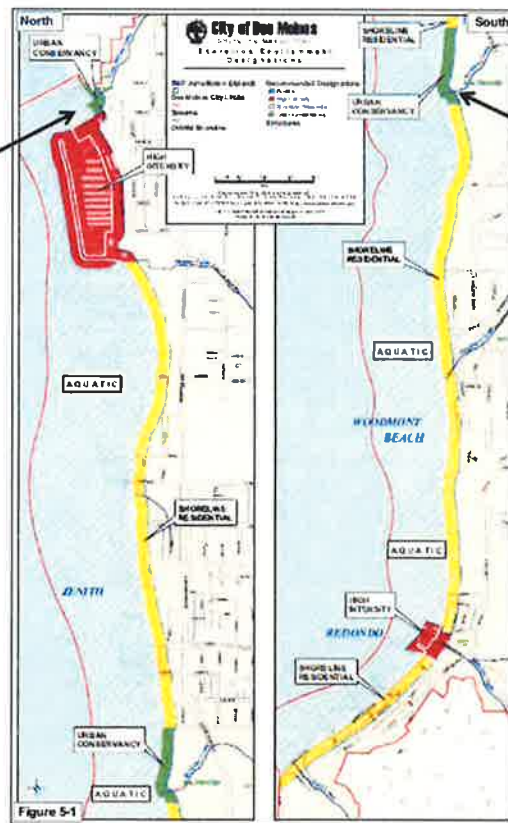
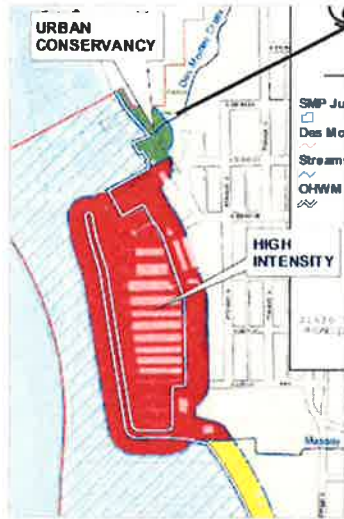
BACKGROUND



- ❑ 22047 Cliff Avenue South
 - 0.31-acre and developed with a SFR
 - upland portion approx. 80 ft x 50 ft/4,000 (excluding Cliff Ave S)
- ❑ Residential Suburban Estates (R-SE) Zone
- ❑ Des Moines Shoreline Master Program (SMP)
 - Aquatic below the ordinary high water mark (OHWM)
 - Urban Conservancy upland of OHWM
- ❑ The parcel is shown and described as a part of Des Moines Beach Park which is a Special Use Park in the Des Moines Comprehensive Plan.



SHORELINE DESIGNATIONS



SHORELINE PERMITTED USES

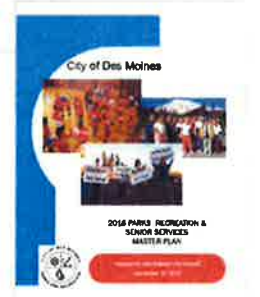
P = May be permitted
C = May be permitted as a conditional use only
X = Prohibited, the use is not eligible for a variance or conditional use permit

Table 6-1 Shoreline Master Program
Permitted Use Table

SHORELINE USE	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic
Agriculture	X	X	X	X
Commercial Aquaculture	X	X	X	X
Boating facilities				
Public marinas and launch ramps	P	X	X	P ⁺
Private marinas and launch ramps	C	X	X	P ⁺
Commercial:				
Water-dependent	P	X	X	C ⁺
Water-related, water-enjoyment	P	X	X	X
Non-water-oriented	C	X	X	X
Parking (accessory)	P	P	P	X
Parking (primary, including paid)	X	X	X	X
Recreation:				
Water-dependent	P	P	P	P
Water-enjoyment	P	P	P	P
Non-water-oriented	C	X	P	X
Single-family residential	X	X	P	X
Multifamily residential	X	X	P	X
Outdoor Advertising and Signs	P	X	X	X
Solid Waste Disposal	X	X	X	X
Transportation	P	P	P	C
Utilities (primary)	P	P	P	C

ADOPTED VISION & POLICY FRAMEWORK

- ❑ Past Council actions have defined future use of the property through policies and development regulations:
 - Comprehensive Plan
 - Parks, Recreation & Senior Services Master Plan
 - Shoreline Master Program
 - Zoning/Development Regulations
- ❑ Key policies focus on identifying and increase opportunities for public access to the public shoreline of Puget Sound and the number and variety of recreational and cultural opportunities provided at waterfront parks and the Marina.

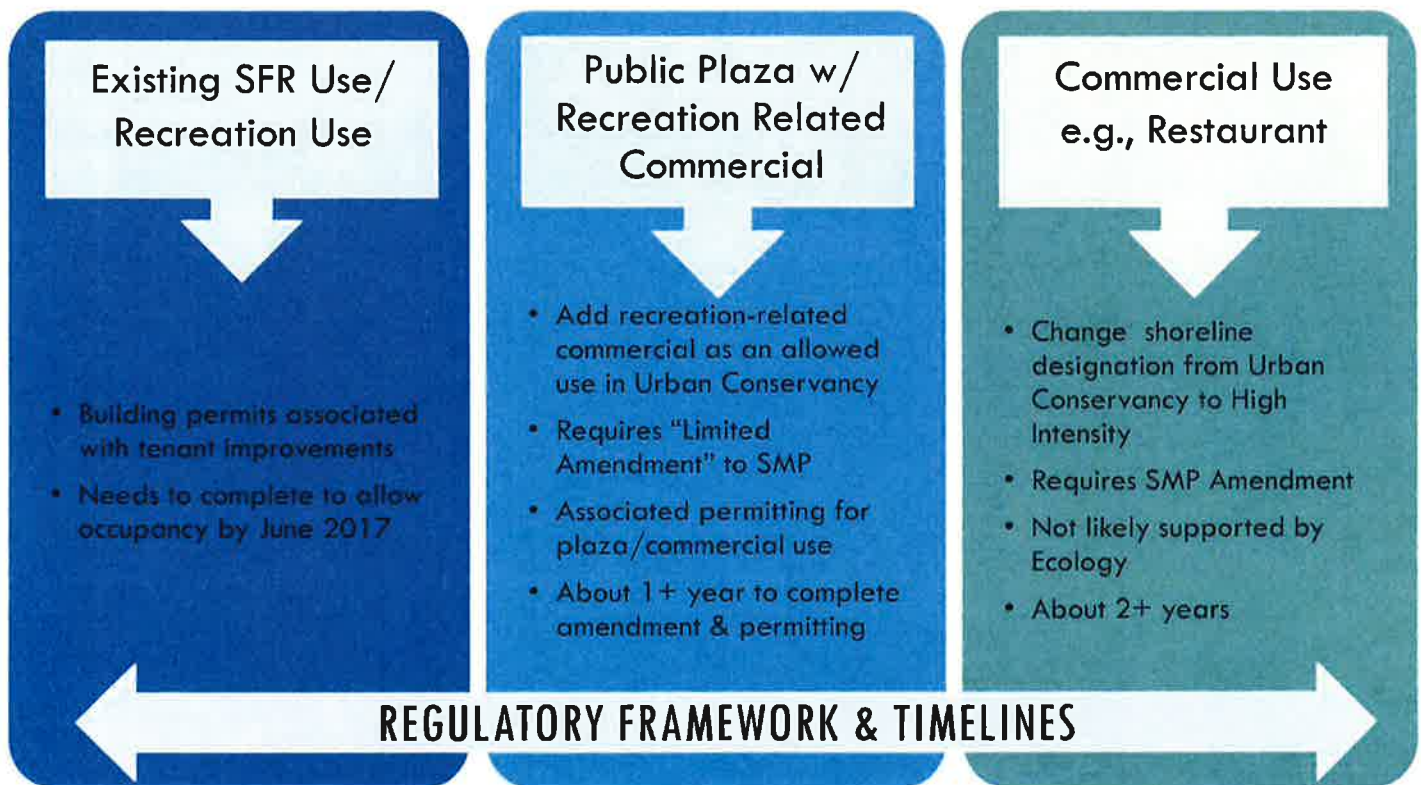


AMENDMENTS AND CHANGES

- ☐ Preferred Land Use and Zoning
- ☐ Parks Master Plan
- ☐ Comprehensive Plan
 - ✓ All Adopted under Council Authority
 - ✓ Can be amended with Appropriate Public Comment and Process
- ☐ Shoreline Master Program – not so much
 - Must be approved by Department of Ecology

DISPOSITION/REUSE/REDEVELOPMENT OPTIONS

1. The current use.
2. Potential commercial use as a restaurant.
3. Public plaza and/or promenade along the existing bulkhead which would enhance the connection between the marina located south of the site and the portion of Beach Park north of the site.
4. Some commercial use associated with the public plaza.



FINDING THE SWEET SPOT...COST/BENEFIT

- ❑ **Maintaining existing structure:**
 - \$50K building & site improvements to meet building code
 - Ongoing maintenance costs + insurance
 - Potential loss of opportunity costs
 - Revenues from monthly rent
 - 8-10 year return on investment (ROI)
- ❑ **Plaza with Recreation-related Commercial**
 - \$25K Staff/Consultant costs for SMP Amendment & Permitting
 - \$25K to demo house
 - \$?? Design/construction costs associated with Plaza
 - Indirect revenues from pay parking/rentals by more people using plaza area/Marina/Beach Park and associated shoreline
- ❑ **Commercial Use**
 - \$100K + in staff/consultant costs associated with SMP Amendment
 - Higher Risk given that Ecology will not likely support
 - Direct revenues from commercial lease but longer ROI

170

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SPATIAL PERSPECTIVE

Wasson Property & Adjacent Parkland



SPATIAL PERSPECTIVE

Wasson ~4,700 SF developable area overlaid on
Marina plaza/open space area







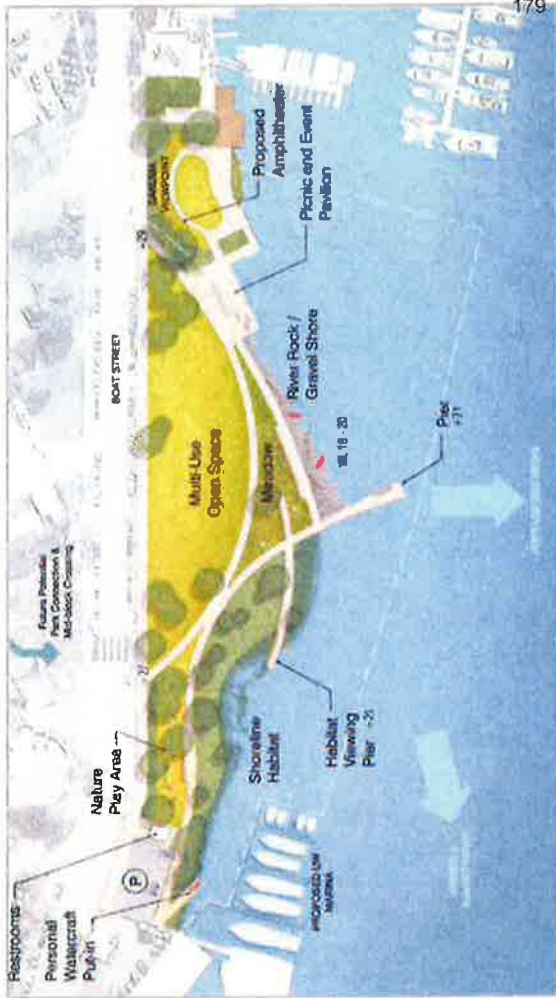








IMAGINING THE POSSIBILITIES...



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STOREFRONT STUDIO PERSPECTIVES

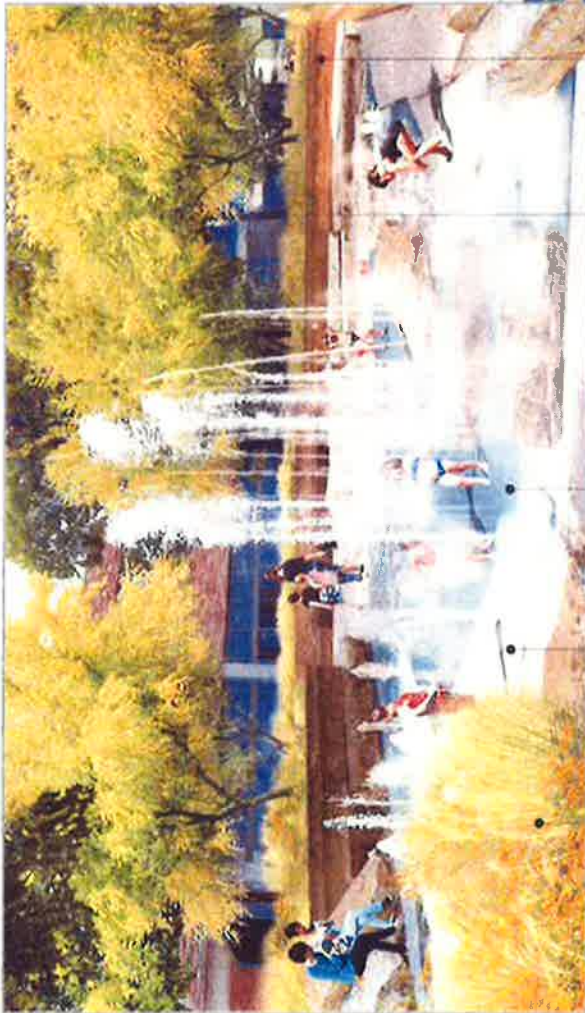


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CREATING PEOPLE PLACES AND SPACES



IMPROVING PUBLIC ACCESS TO THE SHORELINE



NEXT STEPS

- ❑ **Council Direction:**
 - Property Disposition
 - Options to Carry Forward

- ❑ **Refine options and report back via future Administrative Reports/Study Sessions**

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Authorization For Services

To: Ms. Denise Lathrop
City of Des Moines
21630 11th Avenue South, Suite D
Des Moines, WA 98198-6398
1-206-870-6563
DLathrop@desmoineswa.gov

Date: March 30, 2017
Project Number: H-2015-13
Project Name: Shoreline Limited Amendment

From: Theresa R. Dusek
128 Rainbow Lane
Packwood, WA. 98361
1-253-861-3355
theresadusekconsulting@hotmail.com

RE: Shoreline Limited Amendment

Thank you for the opportunity to submit this scope and fee for the above referenced project. This project will be a task under the Community Development On-call Services Contract. The City is proposing to complete a limited amendment to allow water-related and water-enjoyment commercial uses in the Shoreline Urban Conservancy designation, which includes Des Moines Beach Park and Salt Water State Park. Water-related and water enjoyment commercial uses may include food and beverage facilities at public beaches, and rentals of equipment for kayaking, paddle boarding, wind surfing, biking, skin diving, snorkeling, fishing, etcetera.

Full review of the SMP and Comprehensive Plan will be required to make sure there are not conflicts with this proposed change to the Des Moines Shoreline Master Program. Local governments, such as Des Moines, may periodically amend their shoreline programs with a limited amendment when there is a change in law, zoning, or other local conditions (WAC 173-26-090). All proposals for changes in environment designation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan. The process and timelines are described in WAC 173-26. Note the process and timelines are under review and anticipated to be modified in June of 2017 (<http://www.ecy.wa.gov/programs/sea/rules/1506docs.html>). Overall, in accordance with WAC 173-26 the local agency must implement a public participation plan that shall provide for early and continuous public and agency participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments. The degree of public and agency involvement sought by local government should be gauged per the level of complexity, anticipated controversy, and range of issues covered in the draft proposal. A master program limited amendment proposed by local government shall be submitted to Ecology for its review and formal action after implementing the public participation plan. The submittal shall be in the form of a signed ordinance or resolution and must meet the requirements of WAC 173-26-110.

Our scope of services and fee are listed below:

Task 1: SMP Limited Amendment Preparation

We propose to assist you with the shoreline limited amendment through full review of the SMP and Comprehensive Plan to make sure there are not conflicts with this proposed change to the Des Moines Shoreline Master Program. We propose, with your assistance, to complete a packet for presentation by you to the City Council and preparation of the packet to be provided to Ecology. **The fee will be on a time and expense basis, not to exceed \$8,000. We have estimated 80 hours for this task.**

Task 2: Project Coordination

This task includes answering any questions, attending up to two meetings which will include City Council meetings and a public hearing, and responding to comments from Ecology, if any. We anticipate time during the preparation process to coordinate with Ecology to streamline the project and process. **The fee will be on a time and expense basis, not to exceed \$2,500. We have estimated 25 hours for this task.**

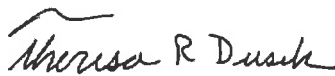
We agree to retain all nonpublic information obtained from you, as the client, as confidential. We agree not to release or discuss any of such information unless we obtain the prior written consent from you, as the client, or are otherwise forced, compelled, or required to disclose this information by operation of law or applicable government authority.

If you have any questions or would like to discuss this scope and fee in further detail, please feel free to contact me. We appreciate the opportunity to provide our services to you and look forward to working with you on this project.

If you have further questions my cell number is 1-253-861-3355.

Sincerely,

THERESA R. DUSEK



Theresa R. Dusek
Natural Resource Ecologist

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: NATIONAL RECOVERY MONTH

AGENDA OF: August 23, 2018

ATTACHMENTS:

1. Proclamation

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 13, 2018

CLEARANCES:

[] Legal VB

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The Mental Health, Chemical Abuse and Dependency Services Division of the King County Department of Community and Human Services has requested a proclamation from the Des Moines City Council declaring September, 2018 as National Recovery Month. The purpose of Recovery Month is to promote recovery, celebrate those in treatment, and continue to educate our community about how to overcome the barriers of stigma and discrimination associated with mental health issues and/or substance use disorders.

Recovery Month spreads the message that behavioral health is essential to health and overall wellness, and that prevention works, treatment is effective and people with substance use and mental health issues can and do recover. People in recovery lead healthier lifestyles and contribute in positive ways to their communities.

Suggested Motion

MOTION: “I move to approve the Proclamation supporting September 2018 as National Recovery Month”

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Proclamation

WHEREAS, behavioral health is an essential part of health and one's overall wellness;
and

WHEREAS, prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

WHEREAS, preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyles, both physically and emotionally; and

WHEREAS, we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem, and guide those in need to appropriate treatment and recovery support services;

WHEREAS, an estimated 400,000 people in King County are affected by these conditions; and

WHEREAS, to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), and the City of Des Moines invites all residents to participate and proclaim the month of September as

NATIONAL RECOVERY MONTH

SIGNED this 23rd day of August 2018.



Matt Pina, Mayor

The Waterland City

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Agreement between the Cities of Burien, Des Moines, Normandy Park, Federal Way, Tukwila and SeaTac to provide local matching funds for the Sea-Tac Airport Impact Study.

ATTACHMENTS:

1. Agreement

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 14, 2018

CLEARANCES:

- ☐ Community Development _____
- ☐ Marina _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Public Works _____

CHIEF OPERATIONS OFFICER: DSB

- ☒ Legal TS
- ☒ Finance Bau
- ☐ Courts _____
- ☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for City Council to consider an agreement between the Cities of Burien, Des Moines, Normandy Park, Federal Way, Tukwila and SeaTac to provide local matching funds for the Sea-Tac Airport Impact Study.

Suggested Motion

Motion 1: "I move to approve the Agreement between the Cities of Burien, Des Moines, Normandy Park, Federal Way, Tukwila and SeaTac to provide local matching funds for the Sea-Tac Airport Impact Study and authorize the City Manager to sign the Agreement substantially in the form as attached."

Background

The Washington State Legislature enacted Engrossed Substitute Senate Bill 6032 during the 2018 regular session. Section 127(63) (hereinafter referred to as "the Proviso") provides in part that, "\$300,000 of the general fund-state appropriations for fiscal year 2019 and \$300,000 of the general fund-

local appropriation are provided solely for the department to contract with a consultant to study the current and ongoing impacts of the Sea-Tac International Airport. The general fund-state funding provided in this subsection serves as a state match and may not be spent unless \$300,000 of local matching funds is transferred to the department.” This Agreement determines a method to equitably provide the local matching fund obligation of \$300,000 so that the Study may proceed.

Discussion

The Agreement provides that SeaTac will serve as the contracting and fiscal agent for the local matching contributions to the Study from the other jurisdictions and has the sole responsibility to collect any such funds. SeaTac commits to transfer funds to Commerce at such dates and in such amounts as required and will collect contributions from other jurisdictions either prior to or after such transfers occur.

The contribution amounts are as follows:

City	2017 OFM population estimate	Per Capita Share 0.7348 (5.1993 SeaTac)
Burien	50,680	\$37,238.24
Des Moines	30,860	\$22,675.06
Federal Way	96,350	\$70,795.27
Normandy Park	6,595	\$4,845.82
Tukwila	19,660	\$14,445.61
Other Cities Subtotal		\$150,000
SeaTac	28,850	\$150,000
Total Population Represented	232,995	
Total Local Match Funds for Study		\$300,000

Des Moines is committed to making the \$22,675.06 contribution by July 1, 2019.

Alternatives

Do not approve the agreement (not recommended).

Financial Impact

The City of Des Moines would commit to \$22,675.06 to fund this study. That number is based on a per capita share of \$0.7348 per resident. The City has adequate funds in the 2019 budget to make this contribution.

Recommendation

The City’s Aviation Advisory Committee recommends approval.

**AGREEMENT BETWEEN THE CITIES OF BURIEN,
DES MOINES, NORMANDY PARK, FEDERAL WAY,
TUKWILA, AND SEATAC TO PROVIDE LOCAL
MATCHING FUNDS FOR THE SEA-TAC AIRPORT
IMPACT STUDY**

This Agreement is entered into between the City of Burien, a municipal corporation, hereinafter referred to as “Burien;” the City of Des Moines, a municipal corporation hereinafter referred to as “Des Moines;” the City of Federal Way, a municipal corporation hereinafter referred to as “Federal Way;” the City of Normandy Park, a municipal corporation hereinafter referred to as “Normandy Park;” the City of Tukwila, a municipal corporation hereinafter referred to as “Tukwila;” and the City of SeaTac, a municipal corporation hereinafter referred to as “SeaTac;” and all six cities collectively referred to as the “Parties” or “Cities”, for the purpose of providing local matching funds to the Washington State Department of Commerce, a state agency hereinafter referred to as “Commerce,” for the “Sea-Tac International Airport Impacts Study,” hereinafter referred to as “the Study.”

1. **Background.** The Washington State Legislature enacted Engrossed Substitute Senate Bill 6032 during the 2018 regular session. Section 127(63) (hereinafter referred to as “the Proviso”) provides in part that, “\$300,000 of the general fund-state appropriations for fiscal year 2019 and \$300,000 of the general fund-local appropriation are provided solely for the department to contract with a consultant to study the current and ongoing impacts of the Sea-Tac International Airport. The general fund-state funding provided in this subsection serves as a state match and may not be spent unless \$300,000 of local matching funds is transferred to the department.” The Parties have determined a method to equitably provide the local matching fund obligation of \$300,000 so that the Study may proceed.
2. **Purpose.** The purpose of this Agreement is for the Parties to define each Party’s funding obligation, which Party will enter into a contract with Commerce, and to establish a process for participating in and responding to the study as it is prepared by Commerce.
3. **Contract Administration.** The Parties agree that SeaTac will serve as the contracting and fiscal agent for the local matching contributions to the Study from the other jurisdictions and has the sole responsibility to collect any such funds. SeaTac commits to transfer funds to Commerce at such dates and in such amounts as required and will collect contributions from other jurisdictions either prior to or after such transfers occur.
4. **Joint Roles and Responsibilities.** Each Party shall be responsible for the following:
 - a. Each Party shall assign a representative(s) (“Party Representative(s)”) to help prepare and participate in review of draft work products as provided by Commerce. The Party Representative for SeaTac will communicate any changes to schedules and other pertinent information in a timely manner so as to keep each Party apprised of the status of the Commerce’s work.
 - b. Time is of the essence for this Study. The Parties shall work expeditiously and in

good faith to achieve the smooth progress of review and commenting. This includes allocating adequate staff time and providing all necessary data and other information or materials needed by Commerce to facilitate preparation of the Study.

5. **Contract Management.** The agreement with Commerce shall be solely administered by the City of SeaTac on behalf of all Parties. These responsibilities include arrangement of meetings with Commerce as needed to address the comments of the Parties and coordinating communications with Commerce.
6. **Fiscal Management.** By entering into this Agreement, the Parties commit to providing their defined share of the \$300,000 local matching funds. Management of fiscal matters associated with this Agreement shall be administered by the City of SeaTac. Parties shall transfer their defined share of local matching funds to SeaTac in accordance with the schedule identified in Exhibit A. While SeaTac may elect to transfer funds to Commerce in advance of receiving payments from all or some of the other Parties, the Parties affirm their share will be remitted to SeaTac on or before their established payment dates.
7. **Duration.** This Agreement shall be effective upon execution by each party and shall remain in full force and effect through completion of the Study process or full payment by all Parties per Exhibit A, whichever comes last. This Agreement may be extended upon mutual agreement of all Parties.
8. **Termination.** Any party may withdraw from this Agreement, effective upon thirty (30) days written notice to the other Parties and upon payment of the balance of their full defined share to the City of SeaTac. If the State Legislature or Commerce terminate the Study, SeaTac will remit any payments received but not sent to Commerce, plus any refund for payments received from Commerce to the Parties in accordance with defined local share as outlined in Exhibit A. The remittance by SeaTac to all Parties may be pro-rated equally if necessary to maintain the balance of contributions and refunds from Commerce.
9. **Modification.** This Agreement may be modified by further written agreement upon mutual acceptance by all parties.
10. **Alternative Dispute Resolution.** If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation 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.
11. **Written Notice.** All communications regarding this Agreement shall be sent to the Parties at the addresses listed in Exhibit B, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of transmittal, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

12. **Hold Harmless.** Each party to this Agreement shall defend, indemnify and hold the other party, its appointed and elected officers and employees, harmless from claims, actions, injuries, damages, losses or suits including attorney fees, arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement to the extent caused by the fault or negligence of the indemnitor, its appointed or elected officials, employees, officers, agents, assigns, volunteers or representatives.

13. **Non-Discrimination.** The Parties shall not discriminate in any manner related to this Agreement on the basis of race, color, national origin, sex, sexual orientation, religion, age, marital status or disability in employment or the provision of services. Use Commerce language.

14. **Severability.** If any provision of the Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties. Any modifications or amendments to this Agreement shall be in writing and shall be signed by each party.

CITY OF BURIEN

 Brian J. Wilson, City Manager
 DATE: _____

APPROVED AS TO FORM:

 Lisa Marshall, City Attorney

CITY OF DES MOINES

 Michael Matthias, City Manager
 DATE: _____

APPROVED AS TO FORM:

 Tim George, City Attorney

CITY OF TUKWILA

 Allan Ekberg, Mayor
 DATE: _____

APPROVED AS TO FORM:

 Rachel Turpin, City Attorney

CITY OF NORMANDY PARK

 Mark E. Hoppen, City Manager
 DATE: _____

APPROVED AS TO FORM:

 James Haney, City Attorney

CITY OF FEDERAL WAY

 Jim Ferrell, Mayor
 DATE: _____

APPROVED AS TO FORM:

 J. Ryan Call, City Attorney

CITY OF SEATAC

 Joseph Scorcio, City Manager
 DATE: _____

APPROVED AS TO FORM:

 Mary E. Mirante Bartolo, City Attorney

EXHIBIT A

City	2017 OFM population estimate	Per Capita Share 0.7348 (5.1993 SeaTac)
Burien	50,680	\$37,238.24
Des Moines	30,860	\$22,675.06
Federal Way	96,350	\$70,795.27
Normandy Park	6,595	\$4,845.82
Tukwila	19,660	\$14,445.61
Other Cities Subtotal		\$150,000
SeaTac	28,850	\$150,000
Total Population Represented	232,995	
Total Local Match Funds for Study		\$300,000

PAYMENT SCHEDULE

The Cities identified below agree to make payment to the City of SeaTac in the amount and on the dates indicated below. Payments shall be delivered to: City of SeaTac, Attn: Finance Department, 4800 South 188th Street, SeaTac, WA 98188, and should reference “Sea-Tac Impact Study Local Match.”

Burien: \$37,238.24 no later than September 30, 2018.

Des Moines: \$22,675.06 no later than July 1, 2019.

Federal Way: \$35,397.64 no later than January 31, 2019 and \$35,397.63 no later than January 31, 2020.

Normandy Park: \$4,845.82 no later than September 1, 2018.

Tukwila: \$14,445.61 no later than December 31, 2018.

EXHIBIT B

1. Brian J. Wilson, City Manager,
Burien City Hall, 400 SW 152nd St., Suite 300, Burien, WA 98166
2. Lisa Marshall, City Attorney,
Burien City Hall, 400 SW 152nd St., Suite 300, Burien, WA 98166
3. Michael Matthias, City Manager,
City of Des Moines, 21630 11th Ave. S., Suite A, Des Moines, WA 98198
4. Tim George, City Attorney, City of Des Moines,
21630 11th Ave. S., Suite D, Des Moines, WA 98198
5. Allan Ekberg, Mayor, City of Tukwila,
6200 Southcenter Boulevard, Tukwila, WA 98188
6. Rachel Turpin, City Attorney, City of Tukwila,
Kenyon Disend, PLLC, 11 Front St. S., Issaquah, WA 98027
7. Mark E. Hoppen, City Manager,
Normandy Park City Hall, 801 SW 174th Street, Normandy Park, WA 98166
8. Jim Haney, City Attorney, City of Normandy Park,
Ogden Murphy Wallace, P.L.L.C., 901 5th Ave., Ste. 3500, Seattle, WA 98164
9. Jim Ferrell, Mayor,
Federal Way City Hall, 33325 8th Ave. S., Federal Way, WA 98003
10. Ryan Call, City Attorney,
Federal Way City Hall, 33325 8th Ave. S., Federal Way, WA 98003
11. Joseph Scorcio, City Manager,
SeaTac City Hall, 4800 South 188th Street, SeaTac, WA 98188
12. Mary E. Mirante Bartolo,
SeaTac City Hall, 4800 South 188th Street, SeaTac, WA 98188

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Property Acquisition from Marcus
Whitman Church for Parkside Wetlands:
Parcel Number: 212204-9175

ATTACHMENTS:

1. Purchase and Sale Agreement
2. 12-27-2017 letter
3. Site Plan
4. Excerpts from Parks Master Plan

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: August 13, 2018

CLEARANCES:

- [X] Community Development Sme
 [] Marina _____
 [X] Parks, Recreation & Senior Services Sme
 [X] Public Works PKC

CHIEF OPERATIONS OFFICER: DJB

- [X] Legal tb
 [X] Finance Law
 [] Courts _____
 [] Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider the purchase of real property (Attachment 1). The following motion will appear on the consent calendar:

Suggested Motion:

Motion 1: "I move to approve and accept the purchase of approximately 3.53 acres of property (Parcel Number #212204-9175) owned by the Presbytery of Seattle (Marcus Whitman Church) for \$10,000.00, plus closing costs, and authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form submitted, and all other documents necessary for the purchase of this property."

Background

The Marcus Whitman Church approached the City in 2017 to see if the City was interested in purchasing the property located just east of their church building. At the time, the church was in the process of working with the City's Code Enforcement Officer related to the clean-up of an abandoned homeless encampment on the property; the second time in a year that clean-up of an encampment was necessary. Those clean-up efforts were very expensive due to various hazardous materials.

After working with the church on the clean-up efforts and discussing the potential for the City to purchase the property, staff issued a letter outlining an initial proposal to purchase the property (Attachment 2). A map showing the location of the subject property is provided as Attachment 3.

This property is identified in the Parks Master Plan as a potential acquisition for the expansion of the Park Side Wetlands (excerpts provided as Attachment 4). With the acquisition of this property, there is only one small land locked parcel remaining in order to complete the assembly of the Parkside Wetlands (this parcel is outlined in yellow on Attachment 3). The City will reach out to this property owner to see if that property can be purchased as well.

Discussion

Once the property transaction takes place, the City will be responsible for any maintenance issues on the site. These efforts are anticipated to be minimal, as the City is in a better position to manage the property both from a wetland preservation perspective, and unauthorized use of the site.

The property is currently zoned RS 7,200. However, the Preferred Land Use in the City's Comprehensive Plan is Park. All of the existing adjoining City property is zoned Park. Once under City ownership, staff will prepare a zoning change for this property to bring it into compliance with the City's Comprehensive Plan.

Alternatives

The Council could decide not to purchase the property.

Financial Impact

There are adequate funds in the 2018 adopted Parks budget to cover the cost of this acquisition.

Recommendation

Staff recommends that the Council approve the suggested motion.

VACANT LAND PURCHASE AND SALE AGREEMENT SPECIFIC TERMS

1. **Date:** August 09, 2018 **MLS No.:** _____ **Offer Expiration Date:** 8/13/2018
2. **Buyer:** City Of Des Moines **A corporation**
Buyer Status
3. **Seller:** Presbytery Of Seattle
Seller
4. **Property:** Legal Description attached as Exhibit A. Tax Parcel No(s): 212204-9175, _____, _____
XXXXXX S 248th St Des Moines King WA 98198
Address City County State Zip
5. **Purchase Price:** \$ 10,000.00 Ten Thousand Dollars
6. **Earnest Money:** \$ 1,000.00 ☐ Check; ☒ Note; ☐ Other _____ (held by ☐ Selling Firm; ☒ Closing Agent)
7. **Default:** (check only one) ☒ Forfeiture of Earnest Money; ☐ Seller's Election of Remedies
8. **Title Insurance Company:** Ticor Title
9. **Closing Agent:** Ticor Title
Company Individual (optional)
10. **Closing Date:** _____; **Possession Date:** ☒ on Closing; ☐ Other _____
11. **Services of Closing Agent for Payment of Utilities:** ☐ Requested (attach NWMLS Form 22K); ☒ Waived
12. **Charges/Assessments Levied Before but Due After Closing:** ☐ assumed by Buyer; ☒ prepaid in full by Seller at Closing
13. **Seller Citizenship (FIRPTA):** Seller ☐ is; ☒ is not a foreign person for purposes of U.S. income taxation
14. **Subdivision:** The Property: ☐ must be subdivided before _____; ☒ is not required to be subdivided
15. **Feasibility Contingency Expiration Date:** ☐ _____ days after mutual acceptance; ☐ Other _____
16. **Agency Disclosure:** Selling Broker represents: ☒ Buyer; ☐ Seller; ☐ both parties; ☐ neither party
Listing Broker represents: ☐ Seller; ☐ both parties
17. **Addenda:** _____

Buyer's Signature _____ Date _____

Buyer's Signature _____ Date _____

Buyer's Address _____

City, State, Zip _____

Phone No. _____ Fax No. _____

Buyer's E-mail Address _____

John L. Scott Des Moines **1203**
Selling Firm MLS Office No.

Tony Hettler **50769**
Selling Broker (Print) MLS LAG No.

(206) 870-8800 **(206) 650-6730** **(206) 870-7665**
Firm Phone No. Broker Phone No. Firm Fax No.

notices.desmoines@johnlscott.com
Selling Firm Document E-mail Address

tonyh@johnlscott.com
Selling Broker's E-mail Address

2590 **9018**
Selling Broker DOL License No. Selling Firm DOL License No.

Seller's Signature _____ Date _____

Seller's Signature _____ Date _____

Seller's Address _____

Des Moines **WA**
City, State, Zip

Phone No. _____ Fax No. _____

Seller's E-mail Address _____

Listing Firm _____ MLS Office No. _____

Listing Broker (Print) _____ MLS LAG No. _____

Firm Phone No. _____ Broker Phone No. _____ Firm Fax No. _____

Listing Firm Document E-mail Address _____

Listing Broker's E-mail Address _____

Listing Broker DOL License No. _____ Listing Firm DOL License No. _____

**VACANT LAND PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

a. **Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement.

b. **Earnest Money.** Buyer shall deliver the Earnest Money within 2 days after mutual acceptance to Selling Broker or to Closing Agent. If Buyer delivers the Earnest Money to Selling Broker, Selling Broker will deposit any check to be held by Selling Firm, or deliver any Earnest Money to be held by Closing Agent, within 3 days of receipt or mutual acceptance, whichever occurs later. If the Earnest Money is held by Selling Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Selling Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Selling Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Selling Firm is over \$10,000.00 Buyer has the option to require Selling Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If the Buyer does not complete an IRS Form W-9 before Selling Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Selling Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Selling Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein.

Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, a party may make a written demand to the Closing Agent for the Earnest Money. Pursuant to RCW 64.04, Closing Agent shall deliver notice of the demand to the other party within 15 days. If the other party does not object to the demand within 20 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand within 10 days of the expiration of the 20 day period. If Closing Agent timely receives an objection or an inconsistent demand from the other party, Closing Agent shall commence an interpleader action within 60 days of such objection or inconsistent demand, unless the parties provide subsequent consistent instructions to Closing Agent to disburse the earnest money or refrain from commencing an interpleader action for a specified period of time. Pursuant to RCW 4.28.080, the parties consent to service of the summons and complaint for an interpleader action by first class mail, postage prepaid at the party's usual mailing address or the address identified in this Agreement. If the Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. For the purposes of this section, the term Closing Agent includes a Selling Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$500.00 for the costs thereof.

c. **Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title. If the Property has been short platted, the Short Plat number is in the Legal Description.

d. **Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then-current ALTA form of standard form owner's policy of title insurance from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. The Title Insurance Company shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Selling Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in said standard form and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall, unless Buyer elects to waive such defects or encumbrances, be refunded to the Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.

e. **Closing and Possession.** This sale shall be closed by the Closing Agent on the Closing Date. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the

**VACANT LAND PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

county recording office is closed. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until the Buyer is entitled to possession. Buyer reserves the right to walk through the Property within 5 days of Closing to verify that Seller has maintained the Property as required by this paragraph. Seller shall not enter into or modify existing leases or rental agreements, service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld.

f. Section 1031 Like-Kind Exchange. If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

g. Closing Costs and Prorations and Charges and Assessments. Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement from the supplier as to the quantity and current price and provides such statement to the Closing Agent. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 11, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No.12.

h. Sale Information. Listing Broker and Selling Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Selling Broker, on request, any and all information and copies of documents concerning this sale.

i. Seller Citizenship and FIRPTA. Seller warrants that the identification of Seller's citizenship status for purposes of U.S. income taxation in Specific Term No. 13 is correct. Seller shall execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment In Real Property Tax Act ("FIRPTA") at Closing and provide the certification to the Closing Agent. If Seller is a foreign person for purposes of U.S. income taxation, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

j. Notices and Delivery of Documents. Any notice related to this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and shall be deemed delivered only when the notice is received by Seller, by Listing Broker, or at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed delivered only when the notice is received by Buyer, by Selling Broker, or at the licensed office of Selling Broker. Documents related to this Agreement, such as NWMLS Form 17C, Information on Lead-Based Paint and Lead-Based Paint Hazards, Public Offering Statement or Resale Certificate, and all other documents shall be delivered pursuant to this paragraph. Buyer and Seller must keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice.

Facsimile transmission of any notice or document shall constitute delivery. E-mail transmission of any notice or document (or a direct link to such notice or document) shall constitute delivery when: (i) the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses specified on page one of this Agreement; or (ii) Selling Broker or Listing Broker provide written acknowledgment of receipt of the e-mail (an automatic e-mail reply does not constitute written acknowledgment). At the request of either party, or the Closing Agent, the parties will confirm facsimile or e-mail transmitted signatures by signing an original document.

k. Computation of Time. Unless otherwise specified in this Agreement, any period of time measured in days and stated in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of 5 days or less, except for any time period relating to the

**VACANT LAND PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

Possession Date, shall not include Saturdays, Sundays or legal holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached. Time is of the essence of this Agreement.

- i. Integration and Electronic Signatures.** This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in electronic form has the same legal effect and validity as a handwritten signature.
- m. Assignment.** Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the Buyer on the first page of this Agreement.
- n. Default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following provision, as identified in Specific Term No. 7, shall apply:
- i. Forfeiture of Earnest Money.** That portion of the Earnest Money that does not exceed five percent (5%) of the Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.
- ii. Seller's Election of Remedies.** Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- o. Professional Advice and Attorneys' Fees.** Buyer and Seller are advised to seek the counsel of an attorney and a certified public accountant to review the terms of this Agreement. Buyer and Seller shall pay their own fees incurred for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement the prevailing party is entitled to reasonable attorneys' fees and expenses.
- p. Offer.** Buyer shall purchase the Property under the terms and conditions of this Agreement. Seller shall have until 9:00 p.m. on the Offer Expiration Date to accept this offer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by Buyer, by Selling Broker or at the licensed office of Selling Broker. If this offer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer.
- q. Counteroffer.** Any change in the terms presented in an offer or counteroffer, other than the insertion of or change to Seller's name and Seller's warranty of citizenship status, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, the other party's broker, or at the licensed office of the other party's broker. If the counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer.
- r. Offer and Counteroffer Expiration Date.** If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn.
- s. Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."
- t. Commission.** Seller and Buyer shall pay a commission in accordance with any listing or commission agreement to which they are a party. The Listing Firm's commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing. Seller and Buyer hereby consent to Listing Firm or Selling Firm receiving compensation from more than one party. Seller and Buyer hereby assign to Listing Firm and Selling Firm, as applicable, a portion of their funds in escrow equal to such commission(s) and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing or Selling Firm to enforce this paragraph, the prevailing party is entitled to

**VACANT LAND PURCHASE AND SALE AGREEMENT
GENERAL TERMS**

Continued

court costs and reasonable attorneys' fees. Seller and Buyer agree that the Firms are intended third party beneficiaries under this Agreement. 174 175

u. Feasibility Contingency. It is the Buyer's responsibility to verify before the Feasibility Contingency Expiration Date identified in Specific Term No.15 whether or not the Property can be platted, developed and/or built on (now or in the future) and what it will cost to do this. Buyer should not rely on any oral statements concerning this made by the Seller, Listing Broker or Selling Broker. Buyer should inquire at the city or county, and water, sewer or other special districts in which the Property is located. Buyer's inquiry should include, but not be limited to: building or development moratoriums applicable to or being considered for the Property; any special building requirements, including setbacks, height limits or restrictions on where buildings may be constructed on the Property; whether the Property is affected by a flood zone, wetlands, shorelands or other environmentally sensitive area; road, school, fire and any other growth mitigation or impact fees that must be paid; the procedure and length of time necessary to obtain plat approval and/or a building permit; sufficient water, sewer and utility and any service connection charges; and all other charges that must be paid. Buyer and Buyer's agents, representatives, consultants, architects and engineers shall have the right, from time to time during and after the feasibility contingency, to enter onto the Property and to conduct any tests or studies that Buyer may need to ascertain the condition and suitability of the Property for Buyer's intended purpose. Buyer shall restore the Property and all improvements on the Property to the same condition they were in prior to the inspection. Buyer shall be responsible for all damages resulting from any inspection of the Property performed on Buyer's behalf. If the Buyer does not give notice to the contrary on or before the Feasibility Contingency Expiration Date identified in Specific Term No. 15, it shall be conclusively deemed that Buyer is satisfied as to development and/or construction feasibility and cost. If Buyer gives notice this Agreement shall terminate and the Earnest Money shall be refunded to Buyer, less any unpaid costs. 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194

Seller shall cooperate with Buyer in obtaining permits or other approvals Buyer may reasonably require for Buyer's intended use of the Property; provided that Seller shall not be required to incur any liability or expenses in doing so. 195 196

v. Subdivision. If the Property must be subdivided, Seller represents that there has been preliminary plat approval for the Property and this Agreement is conditioned on the recording of the final plat containing the Property on or before the date specified in Specific Term No. 14. If the final plat is not recorded by such date, this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 197 198 199 200

w. Information Verification Period. Buyer shall have 10 days after mutual acceptance to verify all information provided from Seller or Listing Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the materially inaccurate information within 10 days of mutual acceptance. If Buyer gives timely notice under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 201 202 203 204

x. Property Condition Disclaimer. Buyer and Seller agree, that except as provided in this Agreement, all representations and information regarding the Property and the transaction are solely from the Seller or Buyer, and not from any Broker. The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other defects arising after construction, such as drainage, leakage, pest, rot and mold problems. Brokers do not have the expertise to identify or assess defective products, materials, or conditions. Buyer is urged to use due diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of defective materials and evaluate the condition of the Property as there may be defects that may only be revealed by careful inspection. Buyer is advised to investigate whether there is a sufficient water supply to meet Buyer's needs. Buyer is advised to investigate the cost of insurance for the Property, including, but not limited to homeowner's, flood, earthquake, landslide, and other available coverage. Brokers may assist the parties with locating and selecting third party service providers, such as inspectors or contractors, but Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties shall exercise their own judgment and due diligence regarding third-party service providers. 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222

LAND AND ACREAGE ADDENDUM

The following is part of the Purchase and Sale Agreement dated August 09, 2018 1
between City Of Des Moines ("Buyer") 2
Buyer Buyer
and Presbytery Of Seattle ("Seller") 3
Seller Seller
concerning XXXXX S 248th St Des Moines WA 98198 (the "Property"). 4
Address City State Zip

- 1. BUYER ACKNOWLEDGMENTS:** If Buyer has any questions regarding the Property, Buyer is advised to make 5
the Agreement subject to relevant inspections, tests, surveys, and/or reports. BUYER ACKNOWLEDGES: 6
- a. Buyer has observed and investigated the Property and has reached Buyer's own conclusions as to the 7
adequacy, acceptability, and suitability of the Property and surrounding area, and the feasibility and 8
desirability of acquiring the Property for Buyer's intended use, based solely on Buyer's examination of the 9
Property. 10
 - b. A generally accepted method for identifying boundary lines and verifying the size of the Property is to have 11
the Property surveyed, and corners identified and marked. A survey will confirm that the legal description is 12
accurate and that any presumed fences or other boundary markings are correctly located. Neither the Listing 13
Broker nor the Selling Broker shall be responsible for any discrepancies in boundary lines, information 14
regarding the size of the Property, identification of easements or encroachment problems. 15
 - c. A generally accepted method for determining whether on-site sewage disposal systems may be installed on 16
the Property is to have tests performed, such as "perc" tests, which are approved by the county for limited 17
time periods. Except as otherwise provided in the Agreement, Buyer assumes the risk that the Property is 18
suitable for any needed on-site sewage disposal system and related equipment. 19
 - d. A generally accepted method for determining water quality from any well or other water delivery system is to 20
have tests conducted by professionals certified by the Department of Ecology for items such as bacteria and 21
nitrates, and a generally accepted method for determining water quantity produced by a well is to have a test 22
conducted by experts to determine gallons per minute. Buyer understands that the results of such tests only 23
provide information regarding water quality or quantity at the time of the test(s) and provide no representation 24
or guarantee that results will not change or vary at other times. 25
 - e. If the Property is currently taxed at a reduced rate because a special classification such as open space, 26
agricultural, or forest land, and Buyer is to continue that use, Buyer understands approval from the county will 27
need to be obtained and that significant increased taxes, back taxes, penalties and interest may be required 28
to be paid if the use classification is changed or withdrawn at Closing or in the future. 29
 - f. A generally accepted method for determining the value of timber growing on the Property is to have a 30
qualified forester or forest products expert "cruise" the Property and give a written valuation. 31
 - g. If there is an on-site sewage system on the Property and the system has not been recently used, Buyer 32
should consider conducting a purge test and other inspections to determine whether there are any defects in 33
the system. 34
 - h. Additional tests or inspections of the Property may be required by local or state governmental agencies before 35
title to the Property is transferred. 36

LAND AND ACREAGE ADDENDUM

Continued

2. CONTINGENCIES:

- a. General Contingency Provisions.** This Agreement is conditioned on the applicable contingencies below. The work to be performed shall be timely ordered by the party responsible for payment, except for the Feasibility Study (if applicable), and shall be performed by qualified professionals. If Seller is responsible for ordering the work and fails to timely do so, Seller will be in breach of the Agreement.
- b. Contingency Periods.** The applicable contingency periods shall commence on mutual acceptance of the Agreement. If Buyer gives notice of disapproval and termination of the Agreement within the applicable contingency period, the Earnest Money shall be refunded to Buyer. If Buyer fails to give timely notice within the applicable contingency period, then the respective contingency shall be deemed waived.
- c. Contingencies.** Items checked below are to be paid by Buyer or Seller as indicated below and are contingencies to the Agreement. Notwithstanding the payment allocation provided for herein, if the Agreement fails to close as a consequence of a Seller's breach, the costs of the following shall be borne by the Seller:

Paid by Buyer	Paid by Seller		Contingency period (10 days if not filled in)	
☐	☐	i. Survey. Completion of survey to verify information regarding the Property as listed in 1(b).	_____ days	
☐	☐	ii. Perc Test. Perc or similar test indicating that the Property is suitable for installation of conventional septic system and drainfield. If the sale fails to close, the party who paid for the perc test shall fill in holes at their expense within two weeks of the date the transaction is terminated. Earnest Money shall not be refunded to Buyer until perc holes are filled in if this is Buyer's responsibility.	_____ days	
☐	☐	iii. On-Site Sewage System. The system to be pumped and inspected by a qualified professional to determine that the system is readily accepting effluent and the system has no apparent defects. (If VA Financing is used, Lender may require certification of system.)	_____ days	
☐	☐	iv. Water Quality. Water quality and/or purity tests showing water meets the approval standards of the Department of Ecology and the standards of the governing county. Water quality tests to be performed by a qualified professional.	_____ days	
☐	☐	v. Water Quantity. Water quantity tests (4 hour draw down test or other test selected by Buyer) showing a sustained flow of _____ g. p. m., which Buyer agrees will be adequate to reasonably meet Buyer's needs. Water quantity test to be performed by a qualified professional.	_____ days	
☐	☐	vi. Timber. Timber cruise conducted by a qualified forest products expert of Buyer's choice, with results of the cruise to be satisfactory to Buyer in Buyer's sole discretion.	_____ days	

Buyer's Initials

Date

Buyer's Initials

Date

Seller's Initials

Date

Seller's Initials

131 Date

LAND AND ACREAGE ADDENDUM

Continued

3. ADDITIONAL PROVISIONS (check as applicable)

☐ **Feasibility Study.** If this box is checked, this paragraph supersedes and replaces the Feasibility Contingency set forth in Specific Term 15 and General Term "u" of Form 25 (Vacant Land Purchase and Sale Agreement). Completion of a feasibility study and determination, in Buyer's sole discretion, that the Property and any matters affecting the Property including, without limitation, the condition of any improvements to the Property, the condition and capacity of irrigation pumps, system and wells, the adequacy of water rights for the Property, the licensure of wells, permitted or certificated water rights for the Property, the location and size of any critical area on the Property, the number and location of approved road approaches from public roads, and the presence of recorded access easements to the Property, are suitable for Buyer's intended use(s), and that it is feasible and advantageous for Buyer to acquire the Property in accordance with the Agreement. In performing any investigations, Buyer shall not interfere with any existing tenants' operations on the Property.

This feasibility study contingency shall conclusively be deemed waived unless within _____ (10 days if not filled in) after mutual acceptance, Buyer gives notice disapproving the feasibility study. If Buyer timely disapproves the feasibility study and terminates the Agreement, the Earnest Money shall be refunded to Buyer.

☐ **Irrigation and Water** Seller warrants that there are _____ shares of _____ irrigation water rights and _____ shares of _____ frost water rights applicable to the Property, all of which will be transferred to Buyer at Closing.

☐ **Assignment and Assumption.** At Closing, Seller will assign, transfer, and convey all of its right, title and interest in, to and under any lease of the Property and will represent and warrant to Buyer that, as of the Closing Date, there are no defaults under the leases and no condition exists or event has occurred or failed to occur that with or without notice and the passage of time could ripen into such a default. At Closing, Buyer will agree to defend, indemnify and hold Seller harmless from and against any obligation under the leases to the extent delegated to and assumed by Buyer hereunder.

☐ **Attorney Review.** This Agreement is conditioned on review and approval by the parties' attorneys on or before _____. A party shall conclusively be deemed to have waived this contingency unless notice in conformance with this Agreement is provided to the other party by the foregoing date.

☐ **Crops.** Unless otherwise agreed in writing Seller has the right to harvest all growing crops in the ordinary course of business until the possession date.

☐ **Accessories.** The indicated accessories are items included in addition to those stated in Specific Term 5 of the Agreement: ☐ portable buildings; ☐ sheds and other outbuildings; ☐ game feeders; ☐ livestock feeders and troughs; ☐ irrigation equipment; ☐ fuel tanks; ☐ submersible pumps; ☐ pressure tanks; ☐ corrals and pens; ☐ gates and fences; ☐ chutes; ☐ other: _____.

The value assigned to the personal property included in the sale shall be \$ _____. Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

☐ **CRP Program.** Buyer must assume all Conservation Reserve Program contracts and agree to continue them through the expiration date of each such contract. All documentation for the assumption will be completed at closing and must be approved by Farm Service Agency of the USDA prior to Closing. Any Conservation Reserve Program payments shall be prorated as of Closing.

Buyer's Initials

Date

Buyer's Initials

Date

Seller's Initials

Date

Seller's Initials

132 Date

LAND AND ACREAGE ADDENDUM

Continued

- ☐ **4. DOCUMENT REVIEW PERIOD.** If this box is checked, Seller shall deliver to Buyer a copy of the following documents within _____ (20 days if not filled in) of mutual acceptance:

_____. 121
122

If Buyer, in Buyer's sole discretion, does not give notice of disapproval within _____ days (15 days if not filled in) of receipt of the above documents or the date that the above documents are due, then this document review period shall conclusively be deemed satisfied (waived). If Buyer gives timely notice of disapproval, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 123
124
125
126

- ☐ **5. ADDITIONAL INSPECTIONS.** If this box is checked and if a qualified professional performing any inspection of the Property recommends further evaluation of the Property, Buyer shall have an additional _____ (10 days if not filled in) to obtain the additional inspection at Buyer's option and expense. On or before the end of the applicable contingency period, Buyer shall provide a copy of the qualified professional's recommendation and notice that Buyer will seek additional inspections. If Buyer gives timely notice of additional inspections, the applicable contingency period shall be replaced by the additional period specified above. The time for conducting the additional inspections shall commence on the day after Buyer gives notices under this paragraph, and shall be determined as set forth in the Computation of Time paragraph of the Agreement. 127
128
129
130
131
132
133
134
135

6. TAX DESIGNATION. 136

- a. Classification of Property.** Seller represents that the Property is classified as ☐ open space ☐ farm and agricultural ☐ timberland under Chapter 84.34 RCW. 137
138

- ☐ **b. Removal from Classification.** Buyer shall not file a notice of classification continuance at the time of Closing and the Property shall be removed from its classification. All additional taxes, applicable interest, and penalties assessed by the county assessor when the Property is removed from its classification shall be paid by ☐ Seller ☐ Buyer ☐ both Seller and Buyer in equal shares (Seller if no box is checked). 139
140
141
142

- ☐ **c. Notice of Classification Continuance.** In order to retain this classification, Buyer shall execute a notice of classification continuance at or before the time of Closing. The notice of classification continuance shall be attached to the real estate excise tax affidavit. Buyer acknowledges that if Buyer fails to execute a notice of classification continuance, the county assessor must reassess the Property's taxable value and retroactively impose additional taxes, applicable interest, and penalties, which Buyer shall pay. 143
144
145
146
147

- 7. ON-SITE SEWAGE SYSTEM – MAINTENANCE RECORDS.** If there is an on-site sewage system on the Property, Seller shall deliver to Buyer the maintenance records, if available, of the on-site sewage system serving the Property within _____ days (10 days if not filled in) of mutual acceptance. 148
149
150

Buyer's Initials

Date

Buyer's Initials

Date

Seller's Initials

Date

Seller's Initials

133 Date

**TITLE CONTINGENCY ADDENDUM TO
PURCHASE & SALE AGREEMENT**

The following is part of the Purchase and Sale Agreement dated August 09, 2018 1
between City Of Des Moines ("Buyer") 2
Buyer Buyer
and Presbytery Of Seattle ("Seller") 3
Seller Seller
concerning XXXXX S 248th St Des Moines WA 98198 (the "Property"). 4
Address City State Zip

1. **Title Contingency.** This Agreement is subject to Buyer's review of a preliminary commitment for title insurance, 5
together with any easements, covenants, conditions and restrictions of record. Buyer shall have 5 6
days (5 days if not filled in) from ☒ the date of Buyer's receipt of the preliminary commitment for title insurance; 7
or ☐ mutual acceptance (from the date of Buyer's receipt, if neither box checked) to give notice of Buyer's 8
disapproval of exceptions contained in the preliminary commitment. 9

Seller shall have 5 days (5 days if not filled in) after Buyer's notice of disapproval to give Buyer 10
notice that Seller will clear all disapproved exceptions. Seller shall have until the Closing Date to clear all 11
disapproved exceptions. 12

If Seller does not give timely notice that Seller will clear all disapproved exceptions, Buyer may terminate this 13
Agreement within 3 days after the deadline for Seller's notice. In the event Buyer elects to terminate the 14
Agreement, the Earnest Money shall be returned to Buyer. If Buyer does not timely terminate the Agreement, 15
Buyer shall be deemed to have waived all objections to title, which Seller did not agree to clear. 16

2. **Supplemental Title Reports.** If supplemental title reports disclose new exception(s) to the title commitment, 17
then the above time periods and procedures for notice, correction, and termination for those new exceptions 18
shall apply to the date of Buyer's receipt of the supplemental title report. The Closing date shall be extended as 19
necessary to accommodate the foregoing times for notices. 20

3. **Marketable Title.** This Addendum does not relieve Seller of the obligation to provide marketable title at Closing 21
as provided for in the Agreement. 22

**OPEN SPACE, FARM AND AGRICULTURAL OR
TIMBERLAND CLASSIFICATION ADDENDUM**

The following is part of the Purchase and Sale Agreement dated August 09, 2018 1
between City Of Des Moines ("Buyer") 2
Buyer Buyer
and Presbytery Of Seattle ("Seller") 3
Seller Seller
concerning XXXXX S 248th St Des Moines WA 98198 (the "Property"). 4
Address City State Zip

1. **Classification of Property.** Seller represents that the Property is classified as ☒ open space 5
☐ farm and agricultural ☐ timberland under RCW Chapter 84.34. 6
2. ☐ **Removal from Classification.** Buyer shall not file a notice of classification continuance at 7
the time of Closing and the Property shall be removed from its classification. All additional 8
taxes, applicable interest, and penalties assessed by the county assessor when the Property 9
is removed from its classification shall be paid ☐ by Seller ☐ by Buyer ☐ by both Seller and 10
Buyer in equal shares (Seller if no box checked). 11
3. ☐ **Notice of Classification Continuance.** In order to retain this classification, Buyer shall 12
execute a notice of classification continuance at or before the time of Closing. The notice of 13
classification continuance shall be attached to the real estate excise tax affidavit. Buyer 14
acknowledges that if Buyer fails to execute a notice of classification continuance, the county 15
assessor must reassess the Property's taxable value and retroactively impose additional 16
taxes, applicable interest, and penalties, which Buyer shall pay. 17

_____ Buyer's Initials	_____ Date	_____ Buyer's Initials	_____ Date	_____ Seller's Initials	_____ Date	_____ Seller's Initials	_____ Date
---------------------------	---------------	---------------------------	---------------	----------------------------	---------------	----------------------------	---------------

EARNEST MONEY PROMISSORY NOTE

\$ 1,000.00 Des Moines, Washington 1

FOR VALUE RECEIVED, City Of Des Moines 2
Buyer

Buyer ("Buyer") 3

agree(s) to pay to the order of Ticor Title and Escrow (Selling Firm or Closing Agent) 4

the sum of One Thousand Dollars 5

(\$ 1,000.00), as follows: 6

☒ within 3 days following mutual acceptance of the Purchase and Sale Agreement. 7

☐ * 8

This Note is evidence of the obligation to pay Earnest Money under a real estate Purchase and 9

Sale Agreement between the Buyer and Presbytery Of Seattle 10
Seller

Seller ("Seller") 11

dated August 09, 2018. Buyer's failure to pay the Earnest Money 12
 strictly as above shall constitute default on said Purchase and Sale Agreement as well as on this Note. 13

If this Note shall be placed in the hands of an attorney for collection, or if suit shall be brought to collect 14
 any of the balance due on this Note, the Buyer promises to pay reasonable attorneys' fees, and all 15
 court and collection costs. 16

Date: _____ 17

BUYER _____ 18

BUYER _____ 19

* "On closing" or similar language is not recommended. Use a definite date.

AGENCY DISCLOSURE

Washington State law requires real estate brokers to disclose to all parties to whom the broker renders real estate brokerage services whether the broker represents the seller (or lessor), the buyer (or lessee), both the seller/lessor and buyer/lessee, or neither.

This form is for use when the transaction forms **do not** otherwise contain an agency disclosure provision.

THE UNDERSIGNED BROKER REPRESENTS: Buyer,

**THE UNDERSIGNED BUYER / LESSEE OR SELLER / LESSOR ACKNOWLEDGES RECEIPT
OF A COPY OF THE PAMPHLET ENTITLED "THE LAW OF REAL ESTATE AGENCY"**

Buyer _____
Signature Date

Signature Date

Seller _____
Signature Date

Signature Date

BROKER Tony Hettler
Print/Type

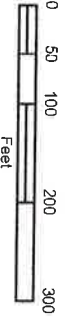
BROKER'S SIGNATURE _____

FIRM NAME AS LICENSED John L Scott DESM
Print/Type

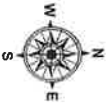
FIRM'S ASSUMED NAME (if applicable) _____
Print/Type



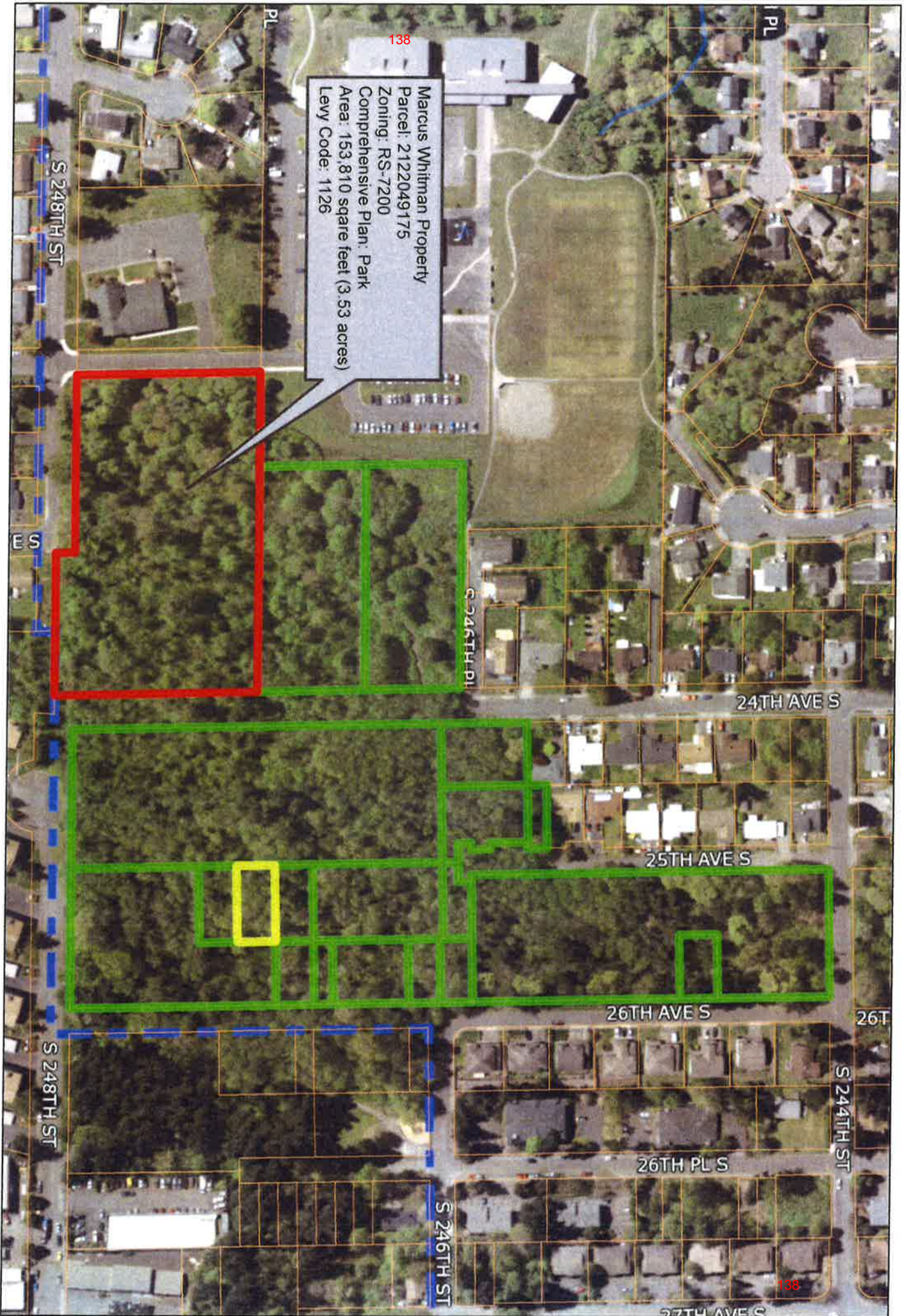
Marcus Whitman
Wetland Property



* This map is not suitable
for site-specific analysis
or for utility location *



- Whitman Parcel
- Private Owner
- Owned by CDM
- Tax Parcels
- Des Moines City Limits





N/A	N/A	153,810	N/A
Beds	Bldg Sq Ft	Lot Sq Ft	Sale Price
N/A	N/A	RES ACG	N/A
Baths	Yr Built	Type	Sale Date

Owner Information

Owner Name (LN FN):	Presbytery Of Seattle	Tax Billing Zip:	98198
Tax Billing Address:	2130 S 248th St	Tax Billing Zip+4:	3904
Tax Billing City & State:	Des Moines, WA		

Location Information

School District Name:	Des Moines	Neighborhood Code:	088003-088003
School District Code:	Aa7	Zoning:	RS7200
Census Tract:	290.04	Range/Township/Section/Quarter:	04-22-21-NW

Tax Information

Tax-ID:	212204-9175	Parcel ID:	2122049175
Alt. Tax-ID:	212204917505	Tax Area:	1126
Legal Description:	S HALF S HALF SE QTR NW QTR STR 21-22-04; EXC W 779.68 FT; AND EXC E 30 FT THEREOF FOR 24TH AVE S CONVEYED TO KING CO BY DEED UNDER RECORDING NO 5821506; AND EXC S 30.00 FT OF W 1060.21 FT OF S HALF S HALF SE QTR NW QTR OF SAID SECTION 21 THEREOF FOR PUBLIC RIGHT-OF-WAY; TGW VACATED 22ND PLACE S (ROBERT MALTBY RD) CONTAINED HEREIN IF ANY (AKA "NEW LOT 2" DESCRIBED & DELINEATED PER CITY OF DES MOINES LOT LINE ADJUSTMENT NO LUA07-037B RECORDING NO 20100112900005) PLAT BLOCK: PLAT LOT:		

Assessment & Tax

Assessment Year	2017 - Preliminary	2017	2016	2015
Assessed Value - Total	\$125,000	\$137,000	\$125,000	\$116,000
Assessed Value - Land	\$125,000	\$137,000	\$125,000	\$116,000
Market Value - Total		\$137,000	\$125,000	\$116,000
Market Value - Land		\$137,000	\$125,000	\$116,000
YOY Assessed Change (\$)	-\$12,000	\$12,000	\$9,000	
YOY Assessed Change (%)	-8.76%	9.6%	7.76%	

Total Tax	Tax Year	Change (\$)	Change (%)
\$8	2016		
\$8	2017	\$0	0%
\$12	2018	\$4	51.43%

Characteristics

Lot Acres:	3.531	County Land Use:	Vacant (Single Family)
Lot Area:	153,810	Water Source:	Public
Land Use:	Residential Acreage	Sewer:	Public Service

Last Market Sale & Sales History

Owner Name (LN FN):	Presbytery Of Seattle		
Recording Date	12/11/2009	03/16/2006	01/25/2002
Sale/Settlement Date	12/10/2009	12/17/2003	12/14/2001
Sale Price		\$528	

Courtesy of Anthony Hettler

The data within this report is compiled by CoreLogic from public and private sources. The data is deemed reliable, but is not guaranteed. The accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

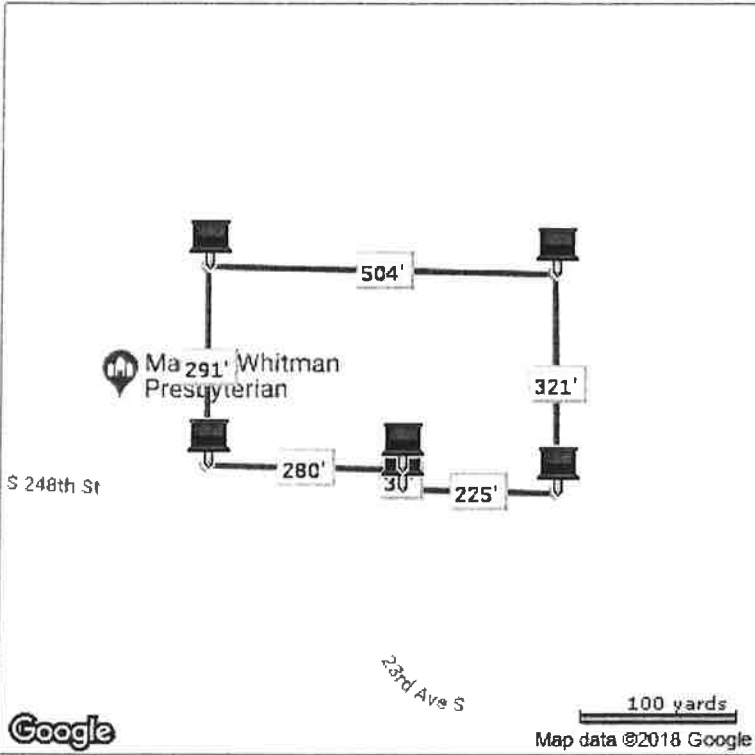
Property Detail

Generated on 08/09/2018

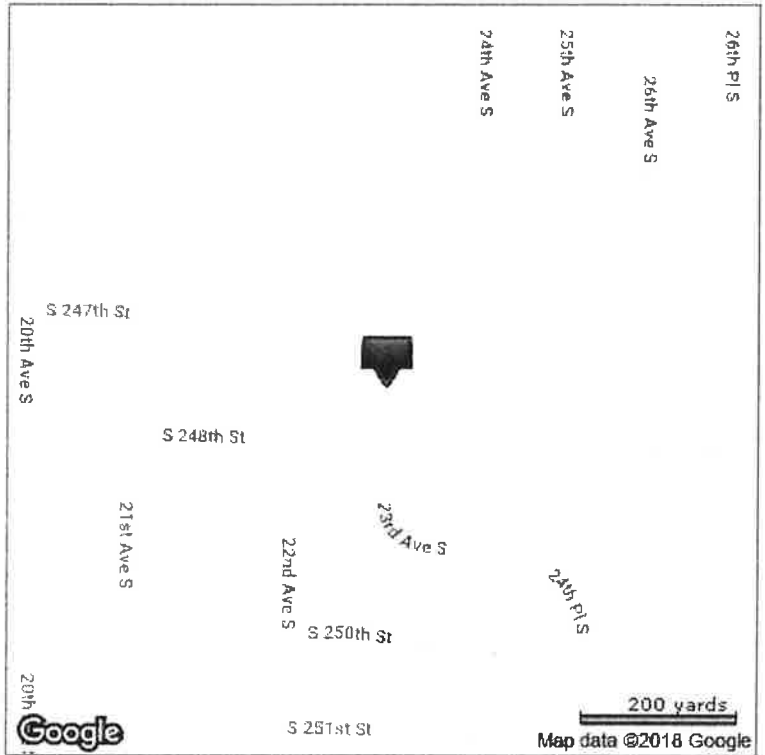
Page 1 of 2

Nominal	Y	Y	
Buyer Name	Presbytery Of Seattle	140	Highline School District 401
Seller Name	Highline School Dist No 401		King County
Auditor No	200912110548		Treasury Division Of King County
Hist. Document No.	2421245		200603161789
Document Type	Quit Claim Deed		200201251163
			2192918
			1864412
			Deed (Reg)

Property Map



*Lot Dimensions are Estimated



Courtesy of Anthony Hettler

The data within this report is compiled by CoreLogic from public and private sources. The data is deemed reliable, but is not guaranteed. The accuracy of the data contained herein can be independently verified by the recipient of this report with the applicable county or municipality.

Property Detail

Generated on 08/09/2018

Page 2 of 2



December 27, 2017

Pastor Rob Caudillo & Adair Hendrickson
Marcus Whitman Church
2130 South 248th Street
Des Moines, WA 98198

(Sent via E-Mail)

Dear Mr. Caudillo and Ms. Hendrickson:

I am following up on a meeting held between Ms. Hendrickson and City staff on December 19, 2017 regarding the disposition of property owned by the Seattle Presbytery adjacent to your church. Following is some background for your reference.

The Marcus Whitman Presbyterian Church is located on King County Tax Parcel No. 2122049009 (hereinafter "church property"), located at 2130 South 248th Street, just south of Parkside Elementary School in Des Moines, Washington. The Seattle Presbytery owns the church property, the tract just east of the church property (King County Tax Parcel No. 2122049203), which provides access to the church and to Parkside Elementary School via easement (hereinafter "access tract"), and the parcel immediately to the east of the access tract, King County Parcel No. 2122049175 (hereinafter "subject property"), which the Marcus Whitman Church also maintains. According to King County records, the subject property is approximately 3.53 acres in size.

The subject property is a vacant heavily wooded site, and the majority of the property is considered wetland and/or wetland buffer. While the subject property is currently zoned residential (RS 7200), development on this parcel would be extremely difficult and likely financially unfeasible given the site conditions and environmental regulations governing development on the property (largely imposed by the State of Washington Department of Ecology).

Recently, the church has encountered increased costs of property maintenance on the subject property due to homeless encampments and illegal dumping. In 2017, the church incurred thousands of dollars in costs to remove a large encampment on the subject property. The church has indicated an interest in reducing ongoing operating costs and liabilities by liquidating the subject property.

There is some interest by the City in obtaining the subject property. The preferred land use identified in the City's Comprehensive Plan is Park. The City also owns a large area of property to the north, east, and northeast of the subject property, all of which is designated as Park. If the City were to take ownership of the subject property, the City would assume the financial responsibility for on-going property maintenance issues.

Members of the church and City staff have discussed a purchase price for the subject property of \$10,000.00, plus closing costs. If this is agreeable to the church and property owner (The Seattle Presbytery), City staff will work with a local real estate broker to have the necessary documentation prepared for the transaction, and obtain authorization from the City Council for the acquisition of the subject property.

Please discuss this with your church members and the property owner, and let me know if you would like the City to proceed. The City would like something in writing from the property owner indicating that they are agreeable to this approach and the purchase amount before moving forward.

I look forward to your response and working with you on this property transaction.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Brewer", with a long horizontal flourish extending to the right.

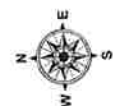
Daniel J. Brewer, P.E., P.T.O.E.
Chief Operations Officer

Copy: Michael Matthias, City Manager
Susan Cezar, Community Development Director
Patrice Thorell, Parks & recreation Director

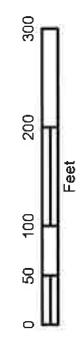


Marcus Whitman Property
 Parcel: 2122049175
 Zoning: RS-7200
 Comprehensive Plan: Park
 Area: 153,810 square feet (3.53 acres)
 Levy Code: 1126

- █ Whitman Parcel
- █ Private Owner
- █ Owned by CDM
- Tax Parcels
- Des Moines City Limits



* This map is not suitable
 for site-specific analysis
 or for utility location *



**Marcus Whitman
 Wetland Property**



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City of Des Moines

2016 Parks, Recreation & Senior Services
Master Plan

Facilities Development Plan

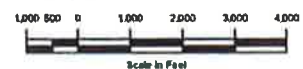
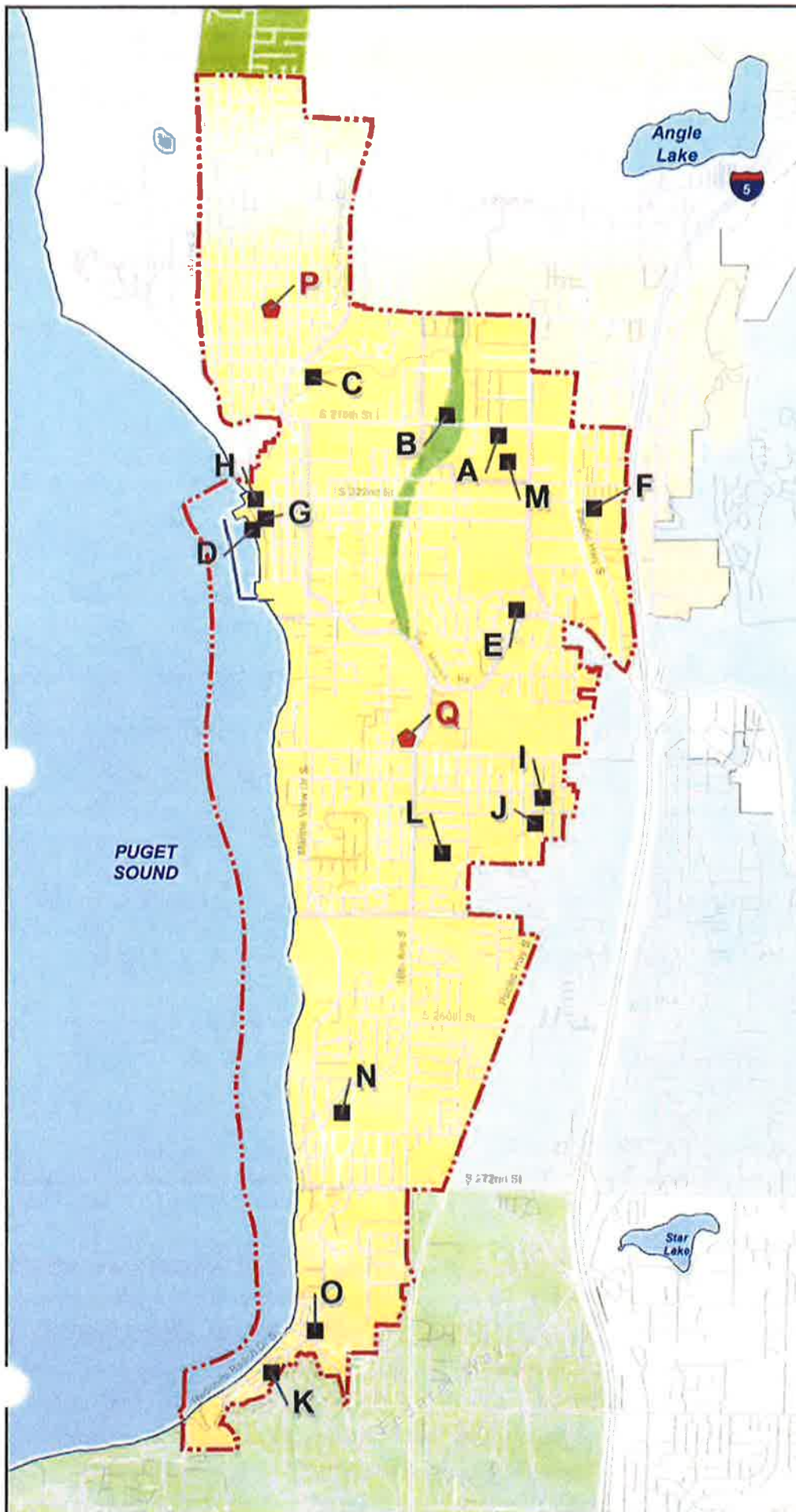
Parks New Development

- A.** Activity Center Expansion
- B.** Barnes Creek Trail
- C.** Des Moines Creek Trail Connection
- D.** Des Moines Marina Promenade
- E.** Kiddle/City Park
- F.** Midway Park
- G.** Overlook I
- H.** Overlook II
- I.** Parkside Park
- J.** Parkside Wetlands
- K.** Redondo Hillclimb
- L.** Sonju Park
- M.** Steven J. Underwood Memorial Park
- N.** Woodmont Park Trail
- O.** Wooton Park

Interlocal New Development

- V.** Zenith Park
- W.** Water Tower Park

- City Plan
- ◆ Interlocal Plan
- SR509 ROW
- Planning Area Boundary



Map Generated: 10/21/2015
File: MP_NewDevelopment.mxd
©2015 Des Moines GIS

DAVID A. CLARK
ARCHITECTS, PLLC

Des Moines Master Plan

Park Projects Summary

Revised

10/27/2015

	Park Land Acquisition Plan	Facilities Repair & Renovation Plan	Facilities Development Plan	Facilities Maintenance Plan	Proposed Annual Maintenance Plan
Park Name	(PLAF)	(PRRF)	(PDOP)	(PMMP)	(PMMP)
1 Barnes Creek Trail			TBD		TBD
2 Big Catch Plaza		126,606		2,000	3,600
3 Cecil Powell Park		199,904		4,000	3,000
4 Des Moines Activity Center		353,378	9,601,100	2,500	209,200
5 Des Moines Beach Park		744,071		71,650	89,200
5.1 Beach Park Auditorium		TBD		-	32,000
5.2 Beach Park Dining Hall		107,475			52,000
5.3 Beach Park Sun Home Lodge		1,000,000			14,400
5.4 Beach Park Founders Lodge		297,685			30,000
5.5 Beach Park Cabins		534,939			5,600
5.6 Beach Park Promenade		4,665,848			15,500
7 Des Moines Creek Trail		45,856	3,500/TBD	35,825	30,000
8 Des Moines Marina		-		See Marina Master Plan	
8.1 Des Moines Marina Promenade			4,397,877		
9 Des Moines Memorial Park		65,202			2,400
10 Dr. Shirley Gordon Park		1,500			12,000
11 Des Moines Field House Park		1,083,170			71,200
11.1 Des Moines Field House Buildings		219,249			96,000
12 Kiddie Park		97,444	214,950		15,000
12.1 City Park		45,856		69,071	25,000
13 Midway Park	1,433,000		2,149,500	29,160	32,500
14 Overlook I			325,000	5,000	25,000
15 Overlook II		17,196	501,550	1,000	18,750
16 Parkside Park		265,105	465,725	58,482	55,000
17 Parkside Wetlands Park			510,117	247,909	34,020
18 Redondo Pier, Boat launch & Boardwalk		-			TBD
19 S. 251st Street (ROW)				11,200	1,000
20 Sonju Park		64,485	607,695	45,000	31,500
21 South Des Moines Park	TBD		TBD		
22 South Marina Park		154,048			55,000
23 Steven J Underwood Memorial Park		1,234,558	2,234,907	50,872	360,000
24 Water Tower Park		151,755	133,269		19,500
25 Westwood		53,161		7,500	21,000
26 Woodmont Park			214,950	62,336	28,710
27 Wooton Park	1,200,000	460,322	882,728		80,550
28 Zenith - 239th St Beach Access		138,714			4,000
29 Zenith Park	TBD	249,915	589,536		82,500
Total	\$2,634,000	\$8,337,892	\$8,282,402	\$307,505	\$1,526,220

**DAVID A. CLARK
ARCHITECTS, PLLC**

**Des Moines Master Plan
Park Cost Estimates**

Created 6/28/2015
Revised 9/16/2015

17. Parkside Wetlands

Action	Unit cost	43%	
		Soft Costs	Total
A Access Pathway through park	25,000	10,825	35,825
B Develop entrance gateways with signage	20,000	8,660	28,660
E Provide connections to other nearby parks	10,000	-	10,000
F 24th Avenue picnic area at school	250,000	108,250	358,250
G Interpretive signage	30,000	12,990	42,990
H Provide parallel parking on S. 244th St.	24,000	10,392	34,392
Total		FDP	\$ 510,117
C Vegetation Management	63,000	27,279	90,279
D Tree removal and pruning	50,000	21,650	71,650
I Debris Removal	60,000	25,980	85,980
Total		FMP	\$ 247,909
Annual Maintenance Costs	12.6	1,000	12,600
Annual Maint. Costs with Prop. Improvements	12.6	2,700	34,020

FDP: Facilities Development Plan

FMP: Facility Maintenance Plan



Parks, Recreation & Senior Services

Park Review Plan

Parkside Wetlands

Existing Park Description:

Parkside Wetland is an undeveloped wetland and natural storm water retention basin. The site is heavily wooded and crossed by several walking trails. In the future, the Parkside Wetlands will be an interpreted wetlands and natural area with walking trails, parking and connection to Parkside Elementary School and the city- owned upland property.



Address:	South 248th & 25th Ave. South
Size:	12.6 Acres
Zoning:	Residential; Suburban Estates
Park Classification:	Conservancy Park
Features:	Heavily wooded with dense underbrush and blackberries
Goal:	Passive Recreation

Previous 2010 Plan Accomplishments

None



Proposed Improvements

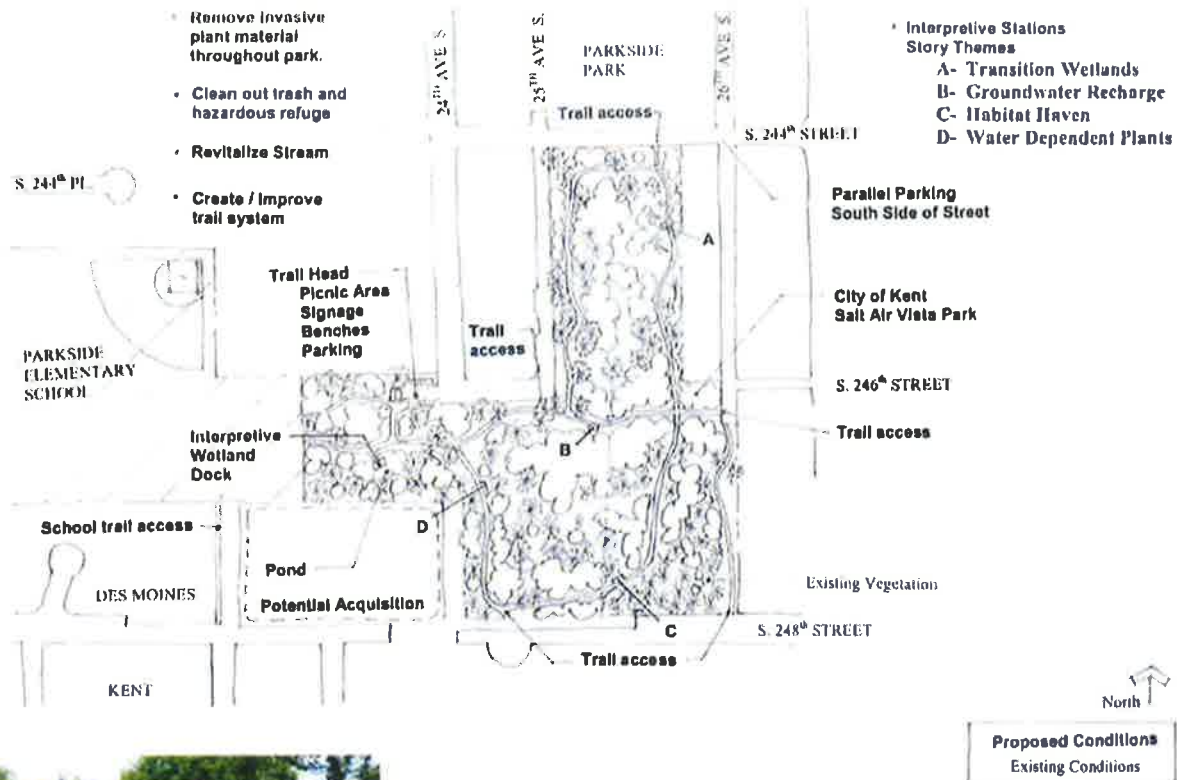
- A. Provide pathways throughout the park. Will require new paths and grading.
- B. Improve entrance locations to serve as inviting gateways into park. Provide signage at each entrance
- C. Remove blackberries and other low vegetation to provide visual access into park from all sides. Provide continual blackberry control maintenance. Improve safety and security within and around the Park.
- D. Provide immediate large tree pruning or removal. Some of the trees are an imminent hazard.
- E. Provide connections to Sonju Property, Parkside Park, and Parkside Elementary School.
- F. Provide small parking lot, picnic area, signage, and benches, pond, interpretive deck off 24th Ave. South
- G. Provide interpretive stations with varying themes throughout the park at various locations. Themes may include Transition Wetlands, Groundwater Recharge, Habitat Haven, and Water Dependent Plants.
- H. Provide parallel parking on south side of S. 244th St.
- I. Remove old cars and debris w/KCSWD



Parks, Recreation & Senior Services

Park Review Plan

Parkside Wetlands, Page 2



Design & Construction Cost:	\$758,000
Maintenance Level:	III
Existing Annual Maintenance Cost:	\$12,600
Annual Maintenance Cost with Proposed Improvements:	\$34,000



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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Consultant Services Contract
Addendum – Environmental Science Associates

ATTACHMENTS:

1. Contract Addendum No. 1
2. Consultant Services Contract (3-7-2018)

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: August 16, 2018

CLEARANCES:

- [X] Community Development *Sme*
 [] Marina _____
 [X] Parks, Recreation & Senior Services *Sme*
 [X] Public Works *PAC*

CHIEF OPERATIONS OFFICER: *DJB*

- [X] Legal *SG*
 [X] Finance *Bau*
 [] Courts _____
 [] Police _____

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

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of Contract Addendum No. 1 (Attachment 1) with Environmental Science Associates (ESA) for the additional emergency permitting work on the Van Gasken Property. The following motion will appear on the consent calendar:

Suggested Motion:

Motion 1: “I move to approve Contract Addendum No. 1 with Environmental Science Associates for additional emergency permitting work on the Van Gasken Property in the amount of \$38,007.00, bring the total Contract amount to \$61,090.00, and further authorize the City Manager to sign said Contract Addendum substantially in the form as submitted.”

Background

In early 2017, the City identified the Van Gasken property for acquisition when it was put on the open market for sale in order to preserve the property, provide additional park and open spaces in the City in accordance with the Comprehensive Plan, and to ensure that the site was not redeveloped in a manner that would further limit public access and views of Puget Sound. On August 24, 2017, the City Council authorized a Memorandum of Understanding with Forterra for the purchase of the Van Gasken property. Shortly thereafter, Forterra purchased the property on behalf of the City for \$1,190,000. The City has three years to complete the purchase of the property from Forterra.

The City has been busy seeking grant funding to cover the cost of the property acquisition. The City has been successful in obtaining \$594,000 in King County Conservation Futures funding (CFT), and is currently seeking \$684,632 in funding from the State's Recreation and Conservation Office (RCO). In addition to grant funding, the City has allocated "park in-lieu" fees which the City has already received from current and former development projects within the City to cover a portion of the purchase price.

Discussion

In early 2018, City staff were in the process of installing an irrigation system on the property. During the installation, cultural resources were observed. Staff immediately reached out to the State's Department of Archeological and Historical Preservation (DAHP), and entered into a Contract with Environmental Science Associates (ESA) for assistance (Attachment 2). A site evaluation was conducted and consultations with several Native American tribes have since taken place. The property has also been covered with a geotextile fabric.

Additional work is now needed to close out the emergency permit related work on the site. ESA has provided a scope of work (Attachment 1), which has been negotiated with the tribes, DAHP, and City staff.

Once this work on the emergency permit is complete, the site will remain covered with geotextile fabric until the City begins a site restoration project. The City is currently working with a Landscape Architect to develop landscape mitigation plans. Eventually these plans will need to be permitted with the tribes and DAHP, and the City anticipates that an additional Contract Addendum with ESA will be needed for the permanent permitting work.

Alternatives

None.

Financial Impact

Costs for this emergency permitting work on the Van Gasken property have been included in the budget.

Recommendation

Staff recommends that the Council approve the suggested motion.



CONTRACT AMENDMENT/ADDENDUM

CONTRACT FOR DES MOINES VAN GASKEN PROPERTY SHELL MIDDEN BETWEEN THE CITY OF DES MOINES AND ENVIRONMENTAL SCIENCE ASSOCIATES

THIS AMENDMENT/ADDENDUM #1 is entered into on this _____ day of _____, 2018, pursuant to that certain Contract entered into on the 7th day of March, 2018, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **ENVIRONMENTAL SCIENCE ASSOCIATES**, (hereinafter "Consultant"),.

The parties herein agree that the Contract dated March 7, 2018, shall remain in full force and effect, except for the amendments/addendums set forth as follows:

1) **SECTION I** of Contract dated March 7, 2018, is hereby amended to read as follows:

The Consultant scope of work shall be amended to include the REVISED scope of work dated 8/15/18.

2) **SECTION II** of Contract dated March 7, 2018, is hereby amended to read as follows:

The Consultant shall complete the work described in Section I by December 31, 2018.

3) **SECTION III** of Contract dated March 7, 2018, is hereby amended to read as follows:

The City shall pay the Consultant, based on time and materials, an amount not to exceed \$61,090.00 for the services described in this Contract. Original contract amount was not to exceed \$23,083.00. This



new scope will add an additional not to exceed amount of \$38,007.00,
bringing the new not to exceed amount to \$61,090.00.

IN WITNESS WHEREOF the parties hereto have executed this

Addendum as of the date first above written.

CONSULTANT: By: <u>308</u> (signature) Print Name: <u>Light J. Adolfson</u> Its <u>Senior Vice President</u> (Title) DATE: <u>8/16/18</u>	CITY OF DES MOINES: By: _____ (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: _____ Approved as to form: _____ City Attorney DATE: _____
NOTICES TO BE SENT TO: CONSULTANT: Paula Johnson Environmental Science Associates 5309 Shilshole Avenue NW Seattle, WA 98107 (206) 789-9658 (telephone) PJohnson@esassoc.com (e-mail)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Scott J. Romano City of Des Moines 21650 11th Avenue S Des Moines, WA 98198 (206) 870-6539 (telephone) sromano@desmoineswa.gov (e-mail)

At the Direction of the Des Moines
City Council taken at an open public
Meeting on _____



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 phone
206.789.9684 fax

www.esassoc.com

REVISED City of Des Moines Shell Midden-Van Gasken Property Project

Spoils Screening Phase-2018 Scope of Work 8/15/18

Project Description: This scope of work is to perform additional archaeological investigations at archaeological site 45-KI-449. Additional portions of the previously recorded site were inadvertently discovered during construction excavations for an irrigation project at the Van Gasken property in the City of Des Moines. Following site delineation efforts, the City met with the Assistant State Archaeologist and representatives from the Muckleshoot Indian Tribe (MIT), Puyallup Tribe of Indians, and Snoqualmie Tribe to discuss next steps, an Emergency Excavation Permit to screen spoils, and revised land use design/constraint issues. This scope of work reflects those discussions and compliance with State law including RCW 27.44 and RCW 27.53. This scope of work also retroactively encompasses several tasks conducted during the earlier phase of work.

Scope of Work: The Scope of Work to be conducted by Environmental Science Associates (ESA) includes 7 tasks:

Task 1: Project Management. ESA will provide monthly invoices and progress reports. ESA will maintain regular communication with the City Project Manager regarding progress and budget, and will oversee project schedule and budget, and coordinate with the necessary agencies and Contractors. ESA anticipates this task will take no longer than 3 months from Notice to Proceed.

Task 2: Archaeological Site Alteration and Excavation Permit Preparation. ESA will prepare a Washington State Alteration and Excavation Permit application to allow for screening the surface spoils, per the direction of the Assistant State Archaeologist. The permit will be prepared to address the approach outlined during the on-site meeting held May 21, 2018. The focus of the Emergency Excavation Permit will be to mitigate the inadvertent damage to the archaeological site across the northern and eastern portions of the property. The permit application will require two signed letters from the City as appendices; these letters and the application coversheet will require notarization.

Assumptions:

- ESA assumes an Emergency Excavation Permit will be issued (typically less than 5 days).
- A separate Excavation Permit will be required for any subsequent ground disturbing maintenance or landscaping activities. If additional archaeological investigations are proposed once the City determines a new/revised land use design, a second Excavation Permit will outline the methods and research questions for those investigations.
- The City will provide comments on the draft permit application within 2 business days.

Deliverables:

- Draft archaeological site permit application, in Word format.
- Final archaeological site permit application, in pdf format, submitted to DAHP and a copy provided to the City.



Task 3: Fieldwork.

Once the Emergency Excavation Permit is issued, ESA will perform screening of spoils placed on the surface at the Van Gasken property to determine presence/absence of archaeological materials and/or human remains. The north and eastern portions of the property (as shown as the green and orange areas on the attached map), will be divided into four sections each. Each of the 8 total sections will be designated with an area number and spoils from each area will be screened separately.

ESA will gather volumetric data of screened matrix (spoils) by area. Spoils will be skim-shoveled and screened through 1/8-inch hardware mesh. Lithics and faunal material will be collected. Shell and FMR will be weighed, but no further analysis will be necessary (these materials will be left on site). Charcoal and historic materials will be noted but not collected, unless the historic materials are diagnostic. Screened spoils will be disposed of onsite.

The screening will be documented with GPS, field notes, and photographs. ESA will gather screening information on handheld electronic tablets. The field data can be exported to tables and a GIS software program to compile relative location of cultural materials and maps will be prepared.

At the completion of spoils screening, ESA will meet with the City, Tribes, and Department of Archaeology and Historic Preservation (DAHP) to discuss findings, eligibility and next steps, including reporting and final disposition of artifacts.

Assumptions:

- Under the terms of an Emergency Archaeological Excavation Permit ESA must complete fieldwork within 30 days.
- As there will be no subsurface excavation, ESA assumes no public utility locate will need to be completed.
- Materials to be screened will be limited spoils on the surface.
- Fieldwork is scoped for up to 5, 10-hour days (including 2 hours' drive-time, round-trip, per day) for a crew of 4.
- The cost for labor assumes no assistance from volunteers, tribal, or city staff. If tribal or city staff are available to help with the screening efforts, the fieldwork cost would be reduced. If volunteers are utilized, the city will be in charge of coordination.
- Any artifacts recovered as described above will be collected and temporarily stored onsite.

Task 4: Laboratory, Analysis, and Curation Preparation.

ESA will conduct preliminary onsite laboratory inventory and field cataloging, including preparing a field bag list. Onsite tasks include weighing shell and FMR, and noting charcoal and non-diagnostic historic artifacts, by grid square. These items would then be discarded onsite with the screened matrix. Artifact types to be collected include, animal bone, lithics, and other (i.e., diagnostic historic materials).

Once fieldwork is complete, any artifacts recovered as described above, will be transferred to ESA's secure laboratory for analysis. Up to an additional 24 hours of analyses may be performed by several different specialists and are anticipated to include lithic and faunal analysis. Up to 16 hours may be used for synthesizing comprehensive analytical results between the artifacts collected during site delineation phase.



Analyses of stone and bone artifacts will include quantification, gross measurement (dimensions and weight using a field scale), functional identification, usewear and taphonomic analyses, and taxonomic identification, if bone. Analyses of mammal, bird, and fishbone will include identification to lowest possible taxonomic level, identification of element/side, quantification of NISP and MNI, assessment of modifications (e.g., burning/calination, gnawing, saw marks).

Historic artifact analysis, if necessary, will focus solely on diagnostic artifacts could include quantification of artifacts, production of relevant graphics and illustrations, and photo-documentation of artifacts. Diagnostic historic artifacts, lithics, and faunal bone collected during the screening effort will be integrated with the artifacts collected during the site delineation. All collected artifacts will undergo analysis and be cataloged for curation. As part of the curation preparation, the artifacts will be cleaned, dried, and placed in archival 4-mil polyethylene bags with acid and lignin-free labels, and housed in acid-free archival boxes.

It is assumed that after analysis and preparation are completed, the assemblage (artifacts and associated records) will be transferred to the MIT repository for curation. Associated records will include field forms and notes, maps, photographs and photo logs, catalog, and copy of the reports.

Assumptions:

- ESA assumes recovery of up to 200 additional artifacts.
- If human remains are identified, ESA will require additional funds to coordinate with the State Physical Anthropologist and Tribes to support culturally appropriate treatment. If substantial amounts of human remains are identified, additional scope and budget will be developed to address the appropriate level of effort.
- Artifacts will be temporarily collected and stored onsite during fieldwork. After fieldwork, the artifacts will be temporarily held at ESA's Seattle office during analysis. Artifacts and associated records are assumed to be transferred to the Muckleshoot repository following completion of all tasks.

Task 5: Consultation Meetings. ESA will attend one consultation meeting between the City, DAHP, and affected Tribes to discuss findings and future steps.

Assumptions:

- Meeting is assumed to be held on site or at City offices.

Task 6: Reporting and Update Site Form. ESA will document the process and findings Tasks 2 through 5, and a memorandum detailing the spoils screening with graphics and maps, and consultation discussion will be prepared. The archaeological site form will be updated with any new information resulting from the screening effort.

Data gathered from the systematically collected versus the screened matrix will be incorporated and compiled to provide an interpretation of activities at the site. GIS mapping of the artifact information will provide a distribution and density of activities and land use patterns across the site. Information from the site can be used to further tell the story on a local and regional precontact land use patterns.

The report will meet the current SHPO standards for a cultural resources assessment including recommendations for mitigating or minimizing potential adverse effects. ESA will submit a draft memorandum (in PDF format) for



review by the City. Once comments are received, ESA will prepare the final memorandum copy (in PDF format) and upload it to DAHP's WISAARD website, under the direction of the client.

Assumptions:

- The City of Des Moines will provide one set of fully reconciled, consolidated review comments within 10 business days of receipt of the Draft memo.

Deliverables:

- Draft memo, in Word format.
- Final memo, in pdf format.
- Site form submitted electronically.

Task 7: Retroactive Tasks. During the first phase of work, several of the assumptions regarding the project were not accurate and several additional tasks were necessary to complete the fieldwork.

- Additional fieldwork necessary: the cultural deposits extended much deeper than assumed which required 40 additional hours of fieldwork.
- Additional on-site meetings: two ESA staff members attended two additional on-site meetings (total of three on-site meetings); this entailed a total of 12 additional hours.
- Bone Identification: During analysis of faunal remains, ESA identified a bone that could not definitively be classified as non-human. ESA coordinated with the State Physical Anthropologist including transporting the bone to Olympia for identification. Bone identification and coordination required 8 additional hours.

Schedule: Once a Notice to Proceed has been received, ESA anticipates the following project schedule:

- Within 3 business days of NTP: ESA will prepare a draft state archaeological permit for review by DAHP.
- Once the state archaeological permit is approved by DAHP, ESA and the City will develop a schedule that is mutually acceptable to complete fieldwork within permit requirements and maximizes the involvement of tribal staff to the greatest extent possible.

Delays to the schedule by other parties are not the responsibility of ESA.

Cost Proposal: ESA estimates that the sum of \$38,007.00 will be required to complete Tasks 1-7, as described above. Extra services will be initiated by ESA only after agreement by both ESA and the City concerning revisions to the scope of work and additional compensation, if necessary.

Version: 3 Spoils Screening

Version: 3

City of Des Moines Shell Midden-Van Gasken

Project Title: Property

Client: City of Des Moines

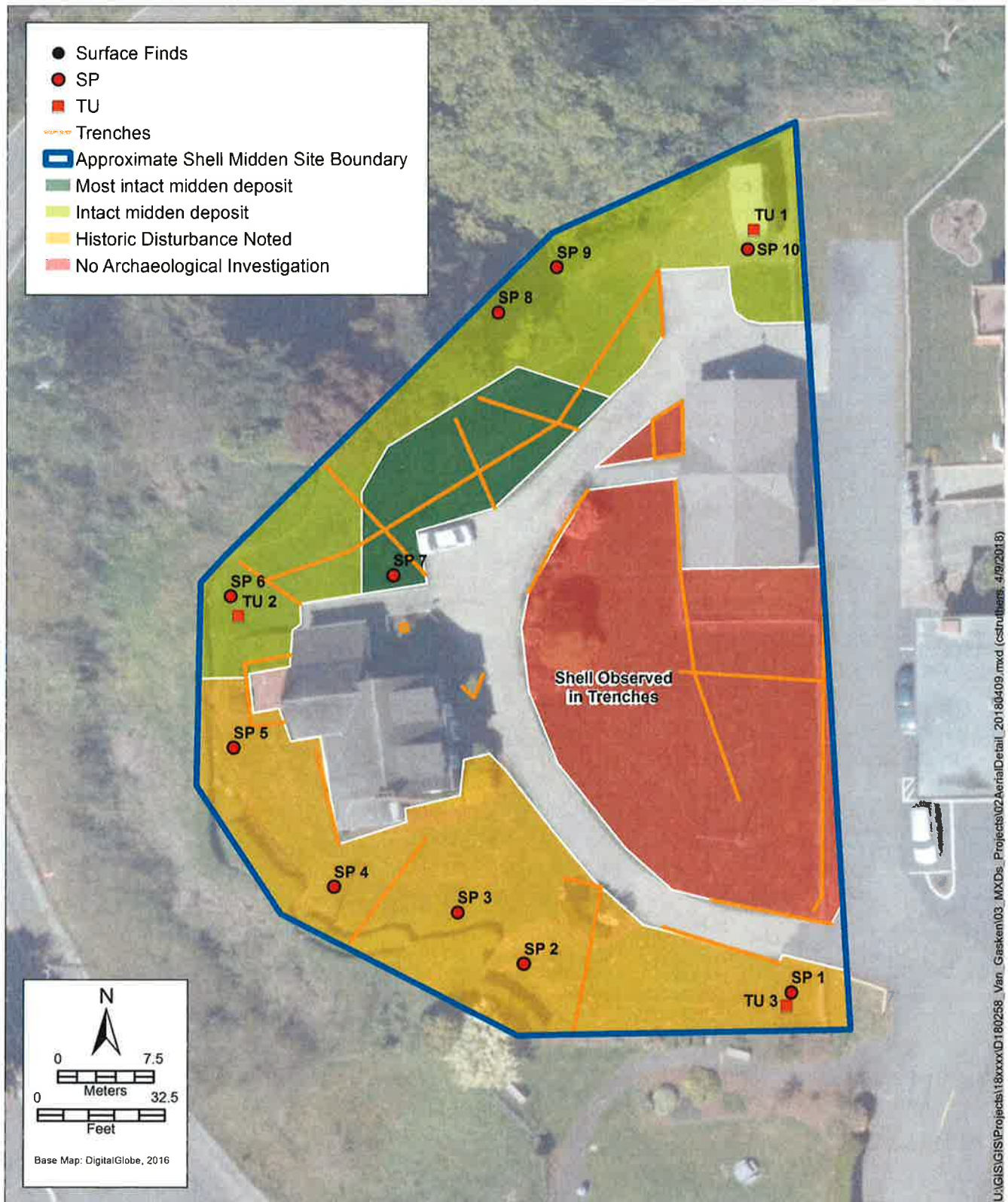
Budget Total: \$38,007

Project Manager: Jenny Dellert

Contract No.:

Location: Des Moines

[illegible]





CONSULTANT SERVICES CONTRACT between the City of Des Moines and Environmental Science Associates

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Environmental Science Associates, a California corporation authorized to do business in the State of Washington, located and doing business at 5309 Shilshole Avenue NW, Suite 200, Seattle, WA 98107, (206) 789-9658 (hereinafter the "Consultant").

I. DESCRIPTION OF WORK.

Consultant shall perform the following services for the City in accordance with the following described plans and/or specifications:

See attached Exhibit "A" – Consultant Scope and Fee Proposal, dated March 5, 2018; which is incorporated into this contract.

Consultant further 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 those services are performed.

II. TIME OF COMPLETION. The parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Contract. Upon the effective date of this Contract, Consultant shall complete the work described in Section I by May 31, 2018.

III. COMPENSATION.

- A. The City shall pay the Consultant, based on time and materials, an amount not to exceed \$23,083.00 for the services described in this Contract. This is the maximum amount to be paid under this Contract for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract. The Consultant agrees that the amount budgeted for as set forth in Exhibit "A" for its services contracted for herein shall remain locked at the negotiated rate(s) for a period of one (1) year from the effective date of this Contract.

- B. The Consultant shall submit monthly payment invoices to the City for work performed, and a final bill upon completion of all services described in this Contract. The City shall provide payment within forty-five (45) days of receipt of an invoice. If the City objects to all or any portion of an invoice, it shall notify the Consultant and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Contract and that the Consultant has the ability to control and direct the performance and details of its work; however, the City shall have authority to ensure that the terms of the Contract are performed in the appropriate manner.

V. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Consultant determines, for any reason, that a change order is necessary, Consultant must submit a written change order request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Consultant 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 Consultant'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 Consultant on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Consultant 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 Consultant fails to require a change order within the time specified in this paragraph, the Consultant waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Consultant disagrees with the equitable adjustment, the Consultant must complete the change order work; however, the Consultant may elect to protest the adjustment as provided in subsections A through E of Section VI, Claims, below.

The Consultant 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 Consultant 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.

VI. CLAIMS. If the Consultant 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 Consultant may file a claim as provided in this section. The Consultant shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Consultant 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 Consultant unless a

CONSULTANT SERVICES CONTRACT 2

(*Environmental Science Associates – Van Gasken Property*)

timely written claim is made in strict accordance with the applicable provisions of this Contract.

At a minimum, a Consultant'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 Consultant'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 Consultant is asserting a schedule change or disruption.
- B. Records. The Consultant 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 Consultant'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. Consultant'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 Consultant 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 Consultant completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

VII. LIMITATION OF ACTIONS. CONSULTANT 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 CONSULTANT'S ABILITY

TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

VIII. TERMINATION. Either party may terminate this Contract, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Contract. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project, which may be used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

IX. DISCRIMINATION. In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor 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.

X. INDEMNIFICATION. Consultant 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, to the extent the claim, injury, damage loss or suit arises out of or results from the acts, errors or omissions of the Consultant in performance of this Contract, except for injuries and damages caused by the negligence of the City.

The City's inspection or acceptance of any of Consultant'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 Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

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

XI. INSURANCE. The Consultant shall procure and maintain for the duration of the Contract, 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 Consultant, its agents, representatives, or employees.

No Limitation. Consultant's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Consultant to the coverage
CONSULTANT SERVICES CONTRACT 4
(*Environmental Science Associates – Van Gasken Property*)

provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance. Consultant 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 and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

Minimum Amounts of Insurance: Consultant 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.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage 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 Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

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

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

XII. EXCHANGE OF INFORMATION. The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to Consultant for the purpose of completion of the work under this Contract.

XIII. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS. Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Consultant will be safeguarded by the Consultant. Consultant shall make such data, documents, and files available to the City upon the City's request. The City's use or reuse of any of the documents, data and files created by Consultant for this project by anyone other than Consultant on any other project shall be without liability or legal exposure to Consultant.

XIV. CITY'S RIGHT OF INSPECTION. Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Contract, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

XV. WORK PERFORMED AT CONSULTANT'S RISK. Consultant 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 Consultant's own risk, and Consultant 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.

XVI. 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 agreement 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 X 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 this 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 Consultant.

F. **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, the terms of this Contract shall prevail.

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

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

I. 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.

J. 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.

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

CONSULTANT: By: <u>308</u> (signature) Print Name: <u>Billy J. Adelfson</u> Its: <u>Senior Vice President</u> (Title) DATE: <u>3/6/18</u>	CITY OF DES MOINES: By: <u>[Signature]</u> (signature) Print Name: <u>Michael Matthias</u> Its: <u>City Manager</u> (Title) DATE: <u>3.7.18</u> Approved as to form: <u>[Signature]</u> City Attorney DATE: <u>3/7/18</u>
NOTICES TO BE SENT TO: CONSULTANT: Paula Johnson Environmental Science Associates 5309 Shilshole Avenue NW Suite 200 Seattle, WA 98107 (206) 789-9658 (telephone) PJohnson@esassoc.com (e-mail)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Scott J. Romano City of Des Moines 21650 11th Avenue South Des Moines, WA 98198 (206) 870-6539 (telephone) sromano@desmoineswa.gov (e-mail)

CONSULTANT SERVICES CONTRACT 8
(Environmental Science Associates - Van Gasken Property)

City of Des Moines Shell Midden-Van Gasken Property Project Scope of Work

Project Description: This scope of work is to perform archaeological investigations to delineate the boundary of an archaeological site found during construction excavations for an irrigation project at the Van Gasken property in the City of Des Moines. The property is owned by the City and the irrigation project is being funded the City of Des Moines Parks Department. Following the discovery of the archaeological site, the City met with the Assistant State Archaeologist to discuss an approach to evaluating the site. This scope of work reflects those discussions and compliance with State law including RCW 27.44 and RCW 27.53.

Scope of Work: The Scope of Work to be conducted by Environmental Science Associates (ESA) includes 7 tasks:

Task 1: Project Management / Regulatory Coordination. ESA will provide monthly invoices and progress reports. ESA will maintain regular communication with the City Project Manager regarding progress and budget, and will oversee project schedule and budget, and coordinate with the necessary agencies and Contractors. ESA anticipates this task will take no longer than 2 months from Notice to Proceed.

Task 2: Site Delineation. Prior to site delineation fieldwork, ESA's Health and Safety Coordinator will prepare a project-specific Health and Safety Plan (HASP) for the archaeological field crew to follow during the archaeological field investigation. A copy of the HASP will be available onsite.

ESA will perform pedestrian survey of the Van Gasken property and conduct subsurface survey to delineate the boundary of the archaeological site and determine presence/absence of archaeological materials across the property. The initial focus will be where cultural debris was observed in recently created irrigation trenches. Transects will be walked over the entire site, and diagnostic materials will be point-plotted with a GPS and collected.

During testing, up to three (3) 50-by-50 centimeter (cm) units and 14 shovel probes will be excavated to 20-cm below sterile. Up to seven (7) cubic meters of material is expected to be excavated. Each unit and shovel probe will be excavated by stratigraphic unit, or 10-cm levels, whichever is more shallow.

Two of the test units will be at or near the site boundary and one will be in an area thought to be clear of shell midden soils. The shovel probes will be placed across the property to help delineate the horizontal extent and get further understanding of the entire parcel, although excavation within the known site area should be avoided.

Units will be excavated using shovels and trowels to remove matrix in a combination of natural and arbitrary excavation levels, depending on the archaeological matrix. Natural layers exceeding 10 cm thickness will be subdivided into arbitrary 10 cm levels. Readily identifiable cultural features (e.g. soil stains) will be treated as separate natural layers and excavated separately. Stratigraphic relationships and spatial relationships of artifacts and features will be recorded on unit level forms and stratigraphic profile forms. At least two profiles of each unit will be drawn. All spoils from the test units and shovel probes will be screened through 1/8-inch hardware mesh, artifacts bagged and collected, and holes backfilled.

The surface and subsurface survey will be documented with GPS, field notes, and photographs. ESA will gather stratigraphic information on handheld electronic tablets. The field data can be exported to tables and a GIS software program to compile a stratigraphic composition of the property and maps will be prepared.

At the completion of testing, ESA will meet with the City, Tribes, and Department of Archaeology and Historic Preservation (DAHP) to discuss findings, eligibility and next steps, including reporting and disposition of artifacts.

Assumptions:

- No Archaeological Excavation Permit will be required to conduct delineation work under this task (Task 2).
- Under Washington State law, a public utility locate will need to be completed prior to subsurface survey. ESA will request completion of a utility locate through the Utility Notification Center (ITIC).
- ESA will coordinate with the City of Des Moines about private utilities on the subject parcel.
- The City of Des Moines will be responsible for securing the site with fencing or other restrictive measures.
- The City of Des Moines will provide rights-of-entry.
- Test unit and shovel probe depths will continue until a sterile stratum is reached.
- Fieldwork is scoped for 3, 10-hour days (including 2 hours' drive-time, round-trip, per day).
- All artifacts recovered in test units, shovel probes, and on the surface will be temporarily collected and stored onsite. A sample of materials exposed during project grading and trench excavation will also be collected.
- If the results of testing indicate that the site is Eligible for listing in the National Register of Historic Places (NRHP), additional excavation (data recovery) may be necessary. That work will be scoped separately.

Task 3: Onsite Laboratory and Analysis.

All artifacts recovered during Task 2 will be temporarily stored onsite at ESA's field laboratory (which will be established in a secure location such as the Van Gasken house or garage, if possible). The artifacts will undergo preliminary analysis and be cataloged on a field bag list. At this time, final disposition of artifacts, including analysis and preparation for curation, and/or reburial on site, are not part of this scoping effort. Final disposition will be decided after a meeting between the City, DAHP, and affected Tribes (Task 4). Artifact types to be temporarily collected may include, but are not limited to, animal bone, shell, fire-modified rock (FMR), lithics, charcoal, and other (i.e. historic). Onsite laboratory inventory and field cataloging could take up to eight (8) hours. An additional eight (8) hours of preliminary (field) analyses may be performed onsite by several different specialists to help evaluate the site's eligibility for inclusion in the NRHP. The analyses could include shell speciation, lithic analysis, and others. Historic artifact analysis, if necessary, could include quantification of artifacts, production of relevant graphics and illustrations, and photo-documentation of artifacts. In-depth analysis and C14 sampling would not occur at this time, but under a State excavation permit.

Assumptions:

- ESA assumes recovery of up to 200 artifacts.



- Artifacts will be temporarily collected, undergo preliminary (field) analysis, and stored onsite until final disposition is decided after consultation among the City, DAHP, and affected Tribes.
- A field bag list of artifacts will be prepared during collection to provide an inventory. This is not a catalog.

Task 4: Preparation of Archaeological Site Form. ESA will document the cultural materials, and make recommendations regarding the significance of the archaeological site using NRHP criteria for evaluation (36 CFR 60.4). The documentation will include preparation of a Washington State Archaeological Site Form and will be uploaded to DAHP's online database (WISAARD) website, for review by DAHP.

Assumptions:

- One archaeological site form, with graphics, will be prepared and uploaded to DAHP's WISAARD database. The site form will include a recommendation for preliminary evaluation of the site using NRHP criteria.

Deliverables:

- Archaeological site form, uploaded into DAHP's WISAARD database and pdf version submitted to City.

Task 5: Consultation Meeting. ESA will attend one consultation meeting between the City, DAHP, and affected Tribes to discuss findings and future steps.

Assumptions:

- ESA will attend one in-person, onsite meeting, between the City, DAHP, and affected tribes to discuss the site, NRHP eligibility recommendations, and determine next steps.

Task 6: Reporting. ESA will document the process and findings Tasks 2 through 5, and the significance of the archaeological site using NRHP criteria for evaluation (36 CFR 60.4). Under Washington State law, precontact archaeological sites are protected regardless of NRHP eligibility status. If no further work is to be done, a memorandum detailing the site with graphics and maps, evaluation recommendation, and consultation discussion will be prepared. If additional fieldwork is decided upon, that will be scoped separately and a full report will be prepared after that time.

The report will meet the current SHPO standards for a cultural resources assessment including recommendations for mitigating or minimizing potential adverse effects. ESA will submit a draft report (in PDF format) for review by the City. Once comments are received, ESA will prepare the final technical report copy (in PDF format) and upload it to DAHP's WISAARD website, under the direction of the client.

Assumptions:

- The level of reporting will be determined during the onsite meeting between the City, DAHP, and affected Tribes.
- The City of Des Moines will provide one set of fully reconciled, consolidated review comments within 10 business days of receipt of the Draft memo.

Deliverables:

- Draft memo, in Word format.
- Final memo, in pdf format.

Task 7: Archaeological Site Alteration and Excavation Permit Preparation. ESA will prepare a Washington State Alteration and Excavation Permit application after the site delineation and preliminary evaluation, per the direction of the Assistant State Archaeologist. The permit will be prepared to address the approach outlined during the on-site meeting. At a minimum the permit will cover those ground disturbing activities necessary for the City to conduct further maintenance work within the boundaries of the archaeological site, including but not limited to cap and cover methods, or ground surface restoration. If additional archaeological investigations are proposed, the permit will outline the methods and research questions for those investigations.

Assumptions:

- An archaeological excavation permit will be required by DAHP for the City to work further to restore the property. Because the site is exposed, ESA assumes an emergency permit will be issued (typically less than 5 days).
- Depending on the outcome of the discussion, the archaeological excavation permit may include a range of activities by the City and ESA.
- The City will provide comments on the draft permit application within 1 business day.

Deliverables:

- Draft archaeological site permit application, in Word format.
- Final archaeological site permit application, in pdf format, submitted to DAHP and a copy provided to the City.

Schedule: Once a Notice to Proceed has been received, ESA anticipates the following project schedule:

- Within 2 business days of NTP: ESA will order public utility locates from ITIC and will coordinate with the City about private utility locates on the parcel.
- Within 7 business days of utility locate: complete fieldwork.
- Within 3 business days of completion of fieldwork: prepare a draft archaeological site form and preliminary evaluation of the site.
- Within 5 business days following the on-site meeting: submit the archaeological site permit

Delays to the schedule by other parties are not the responsibility of ESA.

Cost Proposal: ESA estimates that the sum of \$23,083.00 will be required to complete Tasks 1-7, as described above. Extra services will be initiated by ESA only after agreement by both ESA and the City concerning revisions to the scope of work and additional compensation, if necessary.

5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 phone
206.789.9684 fax

3/5/18

Project Manager:

Project Title: Property

Location:

Budget Total: \$23,083

Task 1	Project Management/Regulatory Coord
--------	-------------------------------------

EXHIBIT "A"

Mileage
Camera
iPad

Field & lab supplies/incidentals

Subtotal Reimbursables

PROJECT TOTAL **\$23,083**



ENVISCI-05

AUSTINA

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 3/6/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E67768 IOA Insurance Services 4370 La Jolla Village Drive Suite 600 San Diego, CA 92122		CONTACT NAME: Ali Smith PHONE (A/C, No, Ext): (619) 788-5795 50206 FAX (A/C, No): (619) 574-6288 E-MAIL ADDRESS: Ali.Smith@ioausa.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: RLI Insurance Company	13056
		INSURER B: Mt Hawley Insurance Company	37974
		INSURER C: Greenwich Insurance Company	22322
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED Environmental Science Associates
550 Kearny St., Suite 800
San Francisco, CA 94108

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☒ PROJECT ☐ LOC OTHER:	X		PSB0007416	01/01/2018	12/01/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPIOP AGG \$ 4,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY Coll.: \$1,000 ☒ NON-OWNED AUTOS ONLY Comp.: \$1,000			PSA0002468	01/01/2018	12/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	☒ UMBRELLA LIAB ☒ EXCESS LIAB DED ☒ RETENTION \$ 10,000			PSE0003196	01/01/2018	12/01/2018	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	PSW0004135	01/01/2018	12/01/2018	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Prof Liab/Clims Made			PEC001336815	01/01/2018	12/01/2018	Per Claim 1,000,000
C	Ded.: \$50k Per Clm			PEC001336815	01/01/2018	12/01/2018	Aggregate 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: All Operations

Consultant and the City of Des Moines, its officers, officials, employees, and volunteers are Additional Insureds with respect to General Liability per the attached endorsement as required by written contract.

30 Days Notice of Cancellation with 10 Days Notice for Non-Payment of Premium in accordance with the policy provisions.

CERTIFICATE HOLDER

CANCELLATION

City of Des Moines Attention: Scott J. Romano 21650 11th Avenue South Des Moines, WA 98198	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>T. Kelly Howell</i>
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ACORD 25 (2016/03)

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Named Insured: Environmental Science Associates
Policy Number: PSB0007416

RLI Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RLIPack® FOR PROFESSIONALS BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies Insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM - SECTION II – LIABILITY

1. **C. WHO IS AN INSURED** is amended to include as an additional insured any person or organization that you agree in a contract or agreement requiring insurance to include as an additional insured on this policy, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by you or those acting on your behalf:
 - a. In the performance of your ongoing operations;
 - b. In connection with premises owned by or rented to you; or
 - c. In connection with "your work" and included within the "product-completed operations hazard".
2. The insurance provided to the additional insured by this endorsement is limited as follows:
 - a. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this policy.
 - b. This insurance does not apply to the rendering of or failure to render any "professional services".
 - c. This endorsement does not increase any of the limits of insurance stated in **D. Liability And Medical Expenses Limits of Insurance**.
3. The following is added to **SECTION III H.2. Other Insurance – COMMON POLICY CONDITIONS (BUT APPLICABLE ONLY TO SECTION II – LIABILITY)**

However, if you specifically agree in a contract or agreement that the insurance provided to an

additional insured under this policy must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- a. The "bodily injury" or "property damage" for which coverage is sought occurs after you have entered into that contract or agreement; or
 - b. The "personal and advertising injury" for which coverage is sought arises out of an offense committed after you have entered into that contract or agreement.
4. The following is added to **SECTION III K. 2. Transfer of Rights of Recovery Against Others to Us – COMMON POLICY CONDITIONS (BUT APPLICABLE TO ONLY TO SECTION II – LIABILITY)**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal and advertising injury" arising out of "your work" performed by you, or on your behalf, under a contract or agreement with that person or organization. We waive these rights only where you have agreed to do so as part of a contract or agreement with such person or organization entered into by you before the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Grant Acceptance for the 2018 King County Senior Center Request for Qualifications-Veterans, Seniors and Human Services Levy

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: August 16, 2018

ATTACHMENTS:

1. Des Moines/Normandy Park Senior Center Activity Center Program Grant Contract

CLEARANCES:

- [X] Community Development Sme
 [] Marina _____
 [X] Parks, Recreation & Senior Services Sme
 [] Public Works _____

CHIEF OPERATIONS OFFICER: DJB

- [X] Legal NG
 [] Finance _____
 [] Courts _____
 [] Police _____

APPROVED BY CITY MANAGER
 FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of King County grant funding in the amount of \$49,613 in order to facilitate capital improvements and facility repairs at the City's Activity Center.

Suggested Motion

Motion 1: "I move to accept King County grant funds for capital improvements, facility repairs and enhanced services at the City's Activity Center, and authorize the City Manager to sign the necessary contracts, substantially in the form as attached."

Background

In November 2017, King County's voters approved the Veterans, Seniors and Human Services Levy (VSHSL). The levy gives service providers across the county the ability to connect veterans, residents over 55 years of age and vulnerable populations to services that will help them live healthy lives. There will be 52 million dollars over the next six years divided as follows: one-third/veterans, one-third/seniors and caregivers and one-third/ vulnerable adults. The VSHSL Implementation Plan will govern the funds from 2019-2023.

King County has developed a vision for the levy funds that will have a positive impact on peoples' quality of life through housing stability, social engagement and financial stability. This includes \$3.5 million that will be given out specifically to these community-focused hubs where seniors can share a meal together, work out together and learn together. Connecting seniors to these services can mean the end of social isolation, a reduction in senior depression and an increase in senior physical health.

Phase One of the VSHSL levy is a Transition Plan Senior Center RFQ that provides ONE-TIME funding to qualifying King County senior centers that apply, are eligible "senior centers" as defined by the RFQ and that provide requests for eligible expenditures. This one time funding will be most appropriate to allow a senior center to make investments that do not require ongoing support.

Discussion

The City has been selected to receive approximately \$50,000 from the Phase One funds for capital improvements, facility repairs and enhanced services at the City's Activity Center. This funding must be used to provide capital and/or regional health and human services for persons who are 55 years old or older or their caregivers. King County encourages particular focus on older adults who live on low-incomes, who are people of color, who are geographically, physically, culturally, or linguistically isolated, or whose primary language is not English.

Staff have identified several projects that qualify for this funding including audio enhancements for those many older adults with hearing issues, and building repairs to the Senior Activity Center.

Alternatives

Not accept the grant (Not recommended)

Financial Impact

There is no financial impact other than the receipt of the funds. There is no match requirement.

Recommendation

Staff recommends approval of the motion.

**DRAFT
EXHIBIT II
DES MOINES/NORMANDY PARK SENIOR ACTIVITY CENTER
SENIOR CENTER PROGRAM**

I. WORK STATEMENT

The Contractor shall increase participation and inclusion, update infrastructure, complete minor capital improvements and facility repairs, provide enhanced services including referrals for King County's Property tax Exemption for older persons in accordance with the terms and conditions described hereinafter and in the attached application for the Spring 2018 Senior Center Request for Qualifications, Attachment A. The total amount of reimbursement pursuant to this Exhibit shall not exceed \$49,613 in County funds during the period July 1, 2018 through December 31, 2018. The contract period may be extended at the discretion of King County based on its evaluation of circumstances such as a capital project that cannot be completed by December 31, 2018 due to circumstances beyond the control of the Contractor.

II. PROGRAM DESCRIPTION

A. Outcomes:

The senior center increases short-term stability through one-time investment that:

1. Increases senior center participation and inclusion;
2. Updates Organizational Infrastructure;
3. Maintains the Center's facility through maintenance or minor capital projects; and/or,
4. Sustains or Enhances senior center programming without creating ongoing funding requirements.

B. Indicators

1. Formulate and implement strategies to increase participation and inclusion of previously underserved groups;
2. Update organization infrastructure as described in the Contractor's RFQ application, Attachment A;
3. Complete capital investment projects to enhance or maintain the facility as described in the RFQ application;
4. Maintain or enhance programming as described in the RFQ application;
5. Market, educate participants, refer and have available applications for the King County Property Tax Exemption program.

C. Eligibility

This contract's funding must be used to provide capital and/or regional health and human services for persons who are 55 years old or older or their caregivers. King County encourages particular focus on older adults who live on low-incomes, who are people of color, who are geographically, physically, culturally, or linguistically isolated, or whose primary language is not English. No otherwise eligible person may be required to pay to receive services or access facilities funded by this contract, although contractors may provide the opportunity for persons to provide donations.

D. Definitions

1. "Sustain or Enhance Programming" means investments that will extend operations of or enhance basic services such as Health Promotion, Wellness and Fitness; Education, Recreation, Socialization; Social Work Services and Outreach Activities. Social work services include assistance provided by, or under the supervision of a qualified social worker including one-on-one counseling, home visits, group sessions to older adults or caregivers.
2. "Increase Participation and Inclusion" means obtaining the participation of new and more diverse older adults such as underserved, homeless, homebound, isolated, rural or marginalized older adult populations and caregivers or those with mobility issues. It may include a variety of strategies to locate, recruit older adults or assess the best strategies to accomplish increased participation and inclusion of older adults residing in their service area, but not currently participating in at the senior center.
3. "King County Property Tax Exemption Outreach" for King County senior citizens is defined as marketing, educating participants, making referrals to the King County Assessor's Office and having available applications for low income older adults to apply for a reduction in property taxes.
4. "Legal Counseling" is defined as activities delivered by volunteer attorneys, trained legal interns, or other trained volunteers to provide clients with individual or group education, information, or advice on legal issues.
5. "Minor Capital Investments" to Enhance or Maintain the Facility means repairs, physical improvements, maintenance, vehicle repairs, or equipment purchases not exceeding \$49,999. A variety of projects and/or purchases may be proposed under this category.
6. "Partnerships with Small Nutrition Sites" means senior center's establishing a relationship with nutrition sites that do not meet the definition of senior center and to foster a relationship between the two agencies, enhance services available at the small nutrition site(s) such as expanded programming, increased days of operation and assistance to connect participants to the broader network of services available to older adults in King County.
7. "Schedule of Activities" is defined as a list that shows the names, dates and times of activities and programs offered specifically targeting and without charge to individuals age 55 and older.

8. "Senior Center Survey" is defined as a measurement tool designed to assess whether senior center participants received benefit and/or saw positive changes in their lives as a result of attending the senior center.
9. "Small Nutrition Site" means an agency listed in Attachment 2, Aging and Disability Services Congregate Nutrition Sites, that does not provide qualifying services for seniors three days a week for a minimum of 15 hours a week.
10. "Transportation Services" are defined as activities to provide mobility to clients by means of providing transportation directly, collaborating with organizations that provide transportation, or assisting clients to access transportation when they cannot drive.
11. "Update Organizational Infrastructure" means developing, maintaining or repairing the organization's systems, staff capacity and information technology infrastructure that allows the senior center to function well and effectively and efficiently serve seniors.

E. Program Requirements

1. Minimum Performance Requirements

The Contractor shall meet the following minimum performance requirements during the term of this Exhibit and shall complete the reporting requirements set out in Section IV of Exhibit:

- a. Increase senior center participation and inclusion:
 - i. Maintain caregiver resource library / website in partnership with Wesley Homes Retirement Community, Des Moines United Methodist Church;
 - ii. Purchase books and bookshelf for library and maintain at senior center.
- b. Update organizational infrastructure by installing a hearing loop system to assist older adults with hearing loss to provide quality hearing experience.
- c. Implement minor capital investments to enhance or maintain the facility including:
 - i. Tear off siding on two exterior walls where mold is present;
 - ii. Cover walls with water proofing paper, install T1-11 siding and repaint;
 - iii. The Contractor shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, county, state and federal law.

- iv. The Contractor shall provide documentation to the County showing that the project activities were completed as stated.
 - v. The Contractor shall provide evidence of insurance with coverage sufficient for the project including:
 - (a) Builder's Risk and Property Insurance;
 - (b) Direct Risk of Physical Loss Builder's Risk coverage for the duration of the construction project and property insurance for the installed property after the completion of the project;
 - (c) Coverage shall be for the full replacement value of the project with a deductible not to exceed \$1,000; and,
 - (d) Property Coverage: King County shall be listed as a Named Insured on Builders Risk coverage as their interests may appear and as Loss Payee on Property coverage as their interests may appear.
 - vi. Contractor shall pay State residential prevailing wage rates as a minimum. Projects that are subject to State prevailing wage requirements of chapter 39.12 RCW shall pay prevailing wages at or above the applicable State classification rate.
 - vii. The Contractor shall provide annual certification to the County of its compliance with the requirements of this section. The Contractor shall additionally maintain records sufficient to evidence compliance with this section and shall make such records available for the County's review upon request.
- d. Provide King County Property Tax Exemption Outreach to older adults including the following services:
- i. Agency shall publicize and provide information to older adults participating at the senior center about the availability of the King County Senior Property Tax Exemption.
 - ii. Agency shall have paper applications for the senior property tax exemption available to interested individuals.
 - iii. Agency shall provide interested seniors with referral information on how to contact King County Assessor and apply for the senior property tax exemption.
 - iv. Agency will include the number of individuals referred to the King County Assessor's office in their monthly report.

III. COMPENSATION AND METHOD OF PAYMENT

A. Billing Invoice Package

1. The Contractor shall submit a Billing Invoice Package monthly that consists of an invoice statement, receipts and other reporting requirements as stated in Section IV., REPORTING REQUIREMENTS, of this Exhibit in a format and method approved by the County. The Billing Invoice Package is due within ten working days after the end of each month.
2. A hard copy of the invoice statement shall be submitted with original signatures. Accompanying reports as stated in Section IV. shall be submitted electronically.

B. Method of Payment

1. The monthly payment for Contractor expenses incurred for Updating Organizational Infrastructure and implementing Capital Improvements and Minor Facility Repairs shall be made upon submission of documentation of actual cost of equipment, labor, and services.

Reimbursement for these expenses shall not exceed: \$35,113

2. The monthly payment schedule for Increased Participation, Enhanced Programming and King County Property Tax Exemption Outreach shall be:

July – November 2018	<u>\$2,416</u>
December 2018	<u>\$2,420</u>

Reimbursement for these services shall not exceed: \$14,500

3. Reimbursement for this contract shall not exceed: \$49,613.
4. The Contractor shall advise the County quarterly of any changes in revenues from sources other than the County that are used to provide services funded under this Exhibit. The Contractor agrees to renegotiate performance requirements if the County determines that such changes are substantial.
5. Payment to the Contractor may be withheld for any month in which the Contractor has not submitted the contractually required reports.

IV. REPORTING AND EVALUATION REQUIREMENTS

The Contractor shall submit the following reports electronically in a format and method approved by the County:

- A. Narrative Report, in a format approved by the County, identifying which of the services specified in Section II.D.1., Minimum Performance Requirements, the Contractor provided with each monthly invoice. The number of individuals referred to the King County Assessor's Office will be included in this report.
- B. Agencies that received funds for Minor Capital Investments will include in their monthly updates progress made towards completion of their capital projects and purchases.

- C. Contractor shall report to the County by December 10, 2018 on the progress of any capital projects and indicate whether the project(s) will be completed by December 31, 2018. An extension to the contract for the purpose of completing the project(s) can be considered at that time.
- D. A monthly schedule of activities and programs shall be submitted with the Narrative Report identifying names, dates and times of activities and programs offered specifically targeting and without charge to individuals age 55 and older.
- E. The six-month Senior Center Participant Report, Attachment B, on unduplicated participants for the contract period July 1, 2018 – December 31, 2018. It will include cumulative data on referrals made to the King County Assessor's Office for Property Tax Exemptions.
- F. A six-month narrative report that shall describe the specific results of each of the services specified in Section II.D.1., Minimum Performance Requirements, and how each of those services increased the senior center's short-term stability.

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Hearing to consider Draft Ordinance No. 18-074 regarding changes in permitted uses and associated regulations in the Institutional Campus (I-C) Zone

ATTACHMENTS:

1. Draft Ordinance No. 18-074
2. Chapter 18.95 DMMC – I-C Institutional Campus Zone Redlines

FOR AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: August 16, 2018

CLEARANCES:

- ☒ Community Development Sme
☐ Marina _____
☐ Parks, Recreation & Senior Services _____
☐ Public Works _____

CHIEF OPERATIONS OFFICER: DSB

- ☒ Legal TS
☐ Finance _____
☐ Courts _____
☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for City Council to hold a public hearing to consider Draft Ordinance No. 18-074 (Attachment 1) amending the permitted uses and associated development regulations in the I-C Institutional Campus Zone.

Suggested Motion

Motion 1: “I move to suspend Rule 26(a) in order to enact Draft Ordinance No 18-074 on first reading.”

Motion 2: “I move to enact Draft Ordinance No. 18-074 amending the permitted uses in DMMC 18.52.010B and associated development regulations in DMMC 18.95.030 and DMMC 18.95.060 in the I-C Institutional Campus Zone.”

Background

History of I-C Zone

The Institutional Campus (I-C) Zone was established in 2012 by Ordinance No. 1544. Des Moines Comprehensive Plan policy directed that an Institutional Campus land use designation that supported Highline College's Master Plan be established. In addition to the College, there were other large institutional facilities in the City that serve regional clientele, including Wesley Homes, Judson Park and the Highline School District that required a land use designation and zone that supported their uses, services, operations and facilitated their Master Plan redevelopment plans. There are currently three properties that are zoned I-C: Wesley Homes, Highline College and Judson Park. The Landmark on the Sound site has a Comprehensive Plan preferred land use designation of I-C, but has not been rezoned.

Previous Development

In 2002, a Master Plan was reviewed for the Masonic Retirement Center on the Landmark site. The approved plan included 44 cottages, 190 apartments, 96 units/beds assisted living and 178 independent living units. A model cottage was constructed, but no further construction was performed.

In 2004, Judson Park began review to add two building wings to their existing building. These additions added 64 residential units to the existing 116 residential units, 37 assisted living units and 96 skilled nursing beds.

In 2015, a Master Plan was reviewed for the Wesley campus south of S. 216th St. At the proposed build-out of the multi-phased project, it will contain a total of 362 units of independent living units, assisted living units, cottages, and brownstones. Construction of Phases 1A and 1B is underway. A Design Review application for Phase 2 was submitted on April 13, 2018.

In 2017, a Master Plan was reviewed for Highline College. The Master Plan provides a guideline for the continued development of Highline College's Des Moines Campus and a comprehensive perspective of the College's future capital program with a prioritized list of future capital projects.

Ordinance No. 1697, adopted March 22, 2018, added a new chapter to the DMMC entitled 'Essential Public Facilities' that establishes a process, regulations and criteria for the siting and expansion of essential public facilities. The goal of this ordinance was to ensure timely, efficient and appropriate siting of EPFs while simultaneously acknowledging and mitigating the significant community impacts often created by such facilities. This ordinance amended the permitted use tables in chapter 18.52 DMMC. One of the changes removed mental hospitals as a possible use in the I-C Zone. This use was previously permitted through the Conditional Use Permit process.

Landmark on the Sound – Pre-Application meeting

On January 31, 2018, a pre-application meeting was held with Urban Self Storage, Inc. and Jackson Main Architecture to discuss a proposal for redevelopment of the Landmark on the Sound site and re-zoning of the property from RM-900B to Institutional Campus (I-C) Zone to conform with the Comprehensive Plan preferred land use designation. The concept includes phased development of approximately 395 worklofts in the existing building, 115 live-work units directly east of the existing building, mixed use buildings, and multi-family residential buildings further east that would total approximately 1,200 to 1,500 condominiums/apartments, live-work units, restaurants and associated amenities over time.

A public open house was hosted by the potential developer at the Landmark site on February 24, 2018. Approximately 800-1,000 residents were able to tour the property and building and view information related to the proposed redevelopment. Generally, the feedback from the public was positive. In addition to the uses described above, the potential developer proposes to provide public benefits including the preservation of the area west of the main building, including the existing fountain, gardens and landscaped area for public use and a community center on the southeast portion of the site that contains a conference room, social gathering spaces and an outdoor BBQ. The narrative from the open house includes the list of proposed uses.

Possible additional public amenities discussed with the potential developer include:

- Community shuttle
- Police Department Satellite Station
- Community gardens/urban agriculture partnership with Highline College
- Public pathways
- Development integration with Judson Park
- Buffer adjacent to neighborhood to the east

Other I-C Zoned Properties

On March 13, 2018, staff met with representatives from the existing I-C zoned properties (Wesley, Highline College, and Judson Park) without the potential developer of the Landmark site to discuss the proposed zoning changes and to solicit input. Feedback was positive for the zoning changes and additional uses were suggested during the meeting, including coffee shop, small retail, daycare, urgent care and physician's clinic. Including these uses would meet the needs of the existing I-C zoned developments.

Discussion

Council directed staff to prepare a Draft Ordinance for their consideration that would amend the permitted uses and associated development regulations for I-C zoned properties. The draft ordinance modifies the purpose statement, adds to the list of permitted uses, and clarifies other provisions of the chapter with further City Council review and approval through the master plan process.

The proposed text code amendments are to further the vision for the *Des Moines 2035 Comprehensive Plan* by promoting development and redevelopment in a manner that strengthens community sustainability, livability and business vitality. This realization is further supported by the following goals, policies and implementation strategies in the Land Use Element and Economic Development Element:

- **Goal LU 1** Actively guide and manage growth in a way that:
 - Preserves and enhances the quality of life and the diverse residential neighborhoods of the community, and serves them with vibrant business districts, open space, recreational facilities, affordable housing, and other supportive land uses;
 - Protects environmentally critical areas and shorelines; and
 - Promotes economic development.
 - **Policy LU 1.5** Seek a harmonious blend of living, working, shopping, recreational and cultural land uses.
 - **Implementation strategy LU 1.5.3** Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation;

structure height, bulk, and scale; separation of buildings; landscaping; density; and noise buffering.

- **Policy LU 2.2** Support the revitalization of declining commercial areas and obsolete facilities through redevelopment, rehabilitation and other available means to provide long-term economic vitality.
- **Goal ED 1** Promote economic stability, growth and vitality.
 - **Policy ED 1.1** Increase the self-reliance of the City by diversifying revenue streams, reducing dependence on property tax, and increasing revenues generated from retail sales and commercial economic activity.
 - **Implementation Strategy ED 1.1.1** Identify ways the City can designate appropriate entitlements to property to encourage quality development; including land use, zoning, expedited permitting and infrastructure investment where feasible to define development patterns.

On June 28, 2018, City Council set the public hearing date by adopting Resolution No. 18-074. A notice of amendment and request for expedited review was sent to the Washington State Department of Commerce on June 29, 2018 and expedited review was granted on July 18, 2018. A notice of public hearing and SEPA threshold Determination of Nonsignificance were issued on July 26, 2018 and the associated comment and appeal periods have lapsed. No comments were received and no appeals were filed.

Draft code changes were discussed with the Economic Development Committee on April 26, 2018, May 24, 2018 and June 28, 2018. The draft was revised to incorporate recommended changes at each of the meetings prior to review by the full Council. Committee concerns that were discussed and addressed include buffers and retention of significant vegetation, parking and traffic, permitted uses, lighting, safety and security. With the incorporated changes, the Committee recommended forwarding to the full Council.

Alternatives

The City Council may:

1. Enact the proposed Draft Ordinance.
2. Enact the proposed Draft Ordinance with amendments.
3. Decline to enact the Draft Ordinance.

Financial Impact

Proposed amendments to the permitted uses and associated development regulations for the I-C Zone will facilitate current and future development efforts. They will encourage the appropriate reuse of surplus institutional buildings and properties to avoid long term vacancies. This in turn will help further the economic vision for the City by promoting development in a manner that strengthens community sustainability, livability, business vitality, and employment and housing capacity.

Recommendation

Staff recommends Council enact Draft Ordinance No. 18-074.

CITY ATTORNEY'S FIRST DRAFT 8/23/2018**DRAFT ORDINANCE NO. 18-074**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to textual code amendments to the permitted uses in the Institutional Campus ("I-C") Zone and associated land use and development regulations, and amending chapters 18.52 and 18.95 DMMC, to facilitate economic development in the City and to encourage the appropriate reuse of surplus institutional buildings.

WHEREAS, the Institutional Campus Zone was established to support institutional facilities that serve a regional clientele by allowing for the needed uses, services and operations, and facilitating the redevelopment plans as established in agency Master Plans, and

WHEREAS, allowing for additional permitted uses reviewed in conjunction with a master plan will facilitate the incorporation of appropriate uses to support the City's large institutional uses, and

WHEREAS, allowing for additional permitted uses reviewed in conjunction with a master plan will enable organizations that need to surplus buildings/properties to respond to market or demographic changes, encourage the appropriate reuse of surplus buildings and avoid long term vacancies, and

WHEREAS, there are benefits to the City including increased direct and indirect City revenues from added employment, commercial and residential activity, and encouraging economic development in Des Moines, and

WHEREAS, these reasons for the proposed changes, benefits of such a change and other considerations were discussed with the Council Economic Development Committee as a noticed agenda item at its April 26, 2018, May 24, 2018 and June 28, 2018 meetings, and

WHEREAS, the City Council directed City staff to prepare an ordinance for its consideration which would amend the permitted uses in the I-C Zone, and

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WHEREAS, pursuant to DMMC 18.20.080A, amendment of the Zoning Code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

WHEREAS, pursuant to DMMC 18.20.210 amendments to the Zoning Code require the City Council to conduct a public hearing to receive public comment on the proposed textual code amendments, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. 18-074, fixing the public hearing for August 23, 2018 as required by DMMC 18.30.070, and

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

WHEREAS, the City's Chief Strategic Officer, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the changes proposed by this Ordinance have been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), and a determination of non-significance was issued on July 26, 2018, and the appeal period concluded on August 20, 2018, and

WHEREAS, a public hearing was held on August 23, 2018 where all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the Title 18 DMMC amendments contained in this Ordinance comply with the requirements of chapter 36.70A RCW and are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.52.010B, and those parts of the Commercial Use Chart and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance 1601 as amended by section 8 of Ordinance 1618-A as amended by section 2 of Ordinance 1644 as amended by section 1 of Ordinance No. 1645 as amended by section 8 of Ordinance 1655 as amended by section 4 of Ordinance 1656 as amended by section 2 of Ordinance 1661 as amended by section 2 of Ordinance 1669 as amended by section 1 of Ordinance 1672 as amended by section 3 of Ordinance 1697, shall be amended to read as follows:

COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C

Admin, support services	P/L _[3]	P/L _[6.1]	P	P/L _[16]	P/L _[22]		P	P	P

Art galleries	P	P/L _[6.1]		P	P		P	P	P
Art, glassware manufacturing		P/L _[6.1]	P	P	P		P/L _[52.5]		P

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Arts, entertainment, and recreation facilities		<u>P/L</u> _[6.1, 6.2]		P/L _[16]	P/L _[22]		P	P	P

Barber, beauty and hairstyling shops	P/L _[3]	<u>P/L</u> _[6.1]		P	P		P	P	P

Brewery/winery/distillery		<u>P/L</u> _[6.1]			P/L _[21]				

Columbariums, crematories, mausoleums	CUP	<u>CUP</u>	CUP	CUP		CUP	CUP		CUP

Community gardens		<u>P/L</u> _[6.1]		P	P				P

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Convention facilities		<u>P/L</u> _[6.1]	P	P	P	P		P	P

Day care centers and mini-day care providers	CUP/ L _[89]	<u>P/L</u> _[6.1] 89]	CUP/ L _[89]	CUP/ L _[89]	CUP/ L _[89]		CUP/ L _[89]	CUP/ / L _[89]	CUP/ L _[89]

Fairgrounds and rodeos	CUP	<u>CUP</u>	CUP	CUP		CUP	CUP		CUP

Financial and insurance services		<u>P/L</u> _[6.1]	P	P	P		P	P	P

Fraternal organizations/societies		<u>P/L</u> _[6.1]	P/L _[7]	P	P		P	P	P

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Glass, stained glass studios	P	<u>P/L</u> _[6.1]				P			

Hotels		<u>P/L</u> _[6.1]		P	P	<u>P/L</u> _[40] 1	<u>P/L</u> _[47]	P	P

Labor camps (transient)	UUP/L [84,85]	<u>UUP/L</u> [84,85]	UUP/ L[84,85]	UUP/ L[84,85]		UUP/ L[84,85]	UUP/L [84,85]		UUP/ L[84,85]

Legal Services	<u>P/L</u> _[3]	<u>P/L</u> _[6.1]	P	P	P	P	P	P	P

Libraries (public)	P	<u>P/L</u> _[6.1]		P	P		P	P	P

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Management of companies and enterprises	P/L _[3]	<u>P/L_[6.1]</u>	P	P	P		P	P	P

Mixed use	UUP	<u>P/L_[6.1]</u> <u>6.3]</u>		UUP	P/L _[26]	UUP	P/L _[50]	P/L _[58]	P/L _[58]

Motion pictures services	P/L _[3]	<u>P/L_[6.1]</u>		P	P		P	P	P

Museums	P	<u>P/L_[6.1]</u>	P/L _[7]	P	P		P	P	P

Nursing homes (PR-R-Nursing care facility; IC-Nursing and residential care facility)		<u>P</u>		P	P		P		

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

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

Personal and business services	P/L _[3]	<u>P/L_[6.1]</u>	P/L _[7]	P/L _[16]	P/L _[22]		P	P	P/L _[68]

Professional, scientific, technical services	P/L _[3]	<u>P/L_[6.1]</u>	P	P	P		P	P	P
Professional offices, medical, dental	P/L _[3]	<u>P/L_[6.1]</u>	P	P	P		P	P	P
Public administration facilities	P	<u>P/L_[6.1]</u>	P	P/L _[17]	P/L _[23]		P/L _[49]	P/L _[60]	P/L _[69]
Public facilities _[68]	P	<u>P/L_[6.1]</u>	P/L _[10]	P	P		P	P	P

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Publishing, telecommunications, Internet service providers, data processing services	P/L _[3]	<u>P/L_[6.1]</u> <u>[6.4]</u>	P	P	P	P	P	P	P
Race tracks, drag strips, motorcycle hills and Go-Kart tracks	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Real estate renting and leasing	P/L _[3]	<u>P/L_[6.1]</u>	P	P	P	P	P	P	P

Religious, grant writing, civic and professional organizations	P/L _[3]	<u>P/L_[6.1]</u>	P/L _[7]	P	P	P	P	P	P

Restaurants	P	<u>P/L_[6.1]</u>	P/L _[9]	P	P	P	P	P	P
Retail services and trade	P/L _[1]	<u>P/L_[6.1]</u>	P/L _[7]	P/L _[15] [19]	P/L _[21]	P	P/L _[43]	P	P/L _[67]

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COMMERCIAL ZONE PRIMARY USES (Changes to Full Table)

Use is: P: Permitted P/L: Permitted, but with special limitations CUP: Conditional use review required UUP: Unclassified use review required	N-C	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
Sewage treatment plants	UUP/L [84,85]	UUP/L [84,85, 6.4]	UUP/ L[84,85]	UUP/ L[84,85]		UUP/ L[84,85]	UUP/L[84,85]		UUP/ L[84,85]

Solid waste handling facilities ^[85,86]	UUP/L [84]	UUP/L [84]	UUP/ L[84]	UUP/ L[84]		UUP/ L[84]	UUP/L[84]		UUP/ L[84]

Stadiums	CUP	CUP ^[6, 5]	CUP	CUP		CUP	CUP		CUP

Taverns and cocktail lounges	P/L ^[1]	P/L ^[6.1]	P	P	P	P/L ^[38]	P	P/L ^[64]	P/L ^[75]

Theaters		P/L ^[6.1]		P	P	P	P	P/L ^[65]	P/L ^[76]

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...

Institutional Campus Zone

Every use locating in the I-C Zone is subject to the standards of chapter 18.95 DMMC.

6.1. This regulation applies to all parts of Table 18.52.010B that have a [6.1]. These uses shall be permitted only in conjunction with a mixed use or educational facility development reviewed under a master plan pursuant to chapter 18.95 DMMC.

6.2. NAICS Sector 71 - Arts, Entertainment, and Recreation uses are permitted in the I-C Zone, with the exception of Amusement Parks and Arcades (7131) and Gambling Industries (7132).

6.3. Mixed use. In the I-C Zone, mixed use developments reviewed under a master plan pursuant to chapter 18.95 DMMC may incorporate structures containing single-purpose multifamily residential buildings or single-purpose commercial buildings.

6.4 Small scale to serve site development.

6.5 To serve colleges, universities or educational facilities.

Sec. 2. DMMC 18.95.030, Purpose, and section 239 of Ordinance No. 1591, shall be amended to read as follows:

- (1) To provide a zoning district for colleges, universities, educational facilities, and retirement facilities.
- (2) To ensure that colleges, universities, educational facilities, and retirement

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- facilities that occupy large sites are planned, designed, and managed in a way that minimizes impacts on adjacent areas.
- (3) To ensure that the expansion of existing institutional uses does not significantly adversely impact quality of life in adjacent residential areas.
 - (4) To provide flexibility to allow for appropriate reuse of surplus institutional buildings and properties.

Sec. 3. DMMC 18.95.060, Master plan decision criteria, and section 242 of Ordinance No. 1591, shall be amended to read as follows:

Master plan decision criteria. A master plan approval shall be granted by the City only if the applicant demonstrates that:

- (1) The master development plan includes a general phasing timeline of development and associated mitigation.
- (2) The master development plan meets or exceeds the current regulations for critical areas if critical areas are present.
- (3) There is either sufficient capacity and infrastructure (e.g., roads, sidewalks, bike lanes) in the transportation system (motorized and nonmotorized) to safely support the development proposed in all future phases or there will be adequate capacity and infrastructure by the time each phase of development is completed. If capacity or infrastructure must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.
- (4) There is either sufficient capacity within public services such as water, sewer and stormwater to adequately serve the development proposal in all

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future phases, or there will be adequate capacity available by the time each phase of development is completed. If capacity must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.

- (5) The master development plan proposal contains architectural design (including but not limited to building setbacks, insets, façade breaks, roofline variations) and site design standards, landscaping, provisions for open space and/or recreation areas, retention of significant trees, parking/traffic management and multimodal transportation standards consistent with this Title that minimize conflicts and create transitions between the proposal site and adjacent neighborhoods and between institutional uses and residential uses.
- (6) The master plan development proposal incorporates the principles of Crime Prevention through Environmental Design (CPTED).
- (7) The applicant shall demonstrate that proposed commercial or laboratory uses will be safe for the surrounding neighborhood and for other uses on the campus.

Sec. 4. DMMC 18.95.080, Property development standards, and section 244 of Ordinance No. 1591, shall be amended to read as follows:

Property development standards. All properties zoned I-C shall be subject to the following development standards:

- (1) The maximum building height for master plan sites of 10 acres or more shall be as follows:
 - (a) The maximum building height for multi-unit residential buildings shall be 85 feet as measured from the average finished grade.

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- (b) The maximum building height for all other buildings and structures shall be 65 feet as measured from the average finished grade.
- (2) The maximum building height for master plan sites of less than 10 acres shall be as follows:
 - (a) The maximum building height for multi-unit residential buildings shall be 45 feet as measured from the average finished grade.
 - (b) The maximum building height for all other buildings and structures shall be 35 feet as measured from the average finished grade.
- (3) Buildings with a height of 35 feet or less shall be set back a minimum of 20 feet from all property lines. Buildings with a height above 35 feet shall be set back 20 feet for the first 35 feet plus one foot for every two feet of height above 35 feet. Buildings greater than 35 feet in height shall utilize the minimum setback associated with the highest point of the building. Setbacks previously approved with a Master Plan shall be vested for the term of the Master Plan approval.
- (4) Buildings, parking areas, and other paved surfaces, exclusive of public rights-of-way and recreation areas developed and accessible to the public, shall cover no more than 75 percent of the building site.

Sec. 5. 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.

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Sec. 6. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its final approval by the Des Moines City Council in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____ and signed in authentication thereof this _____ day of _____, 2018.

 M A Y O R

APPROVED AS TO FORM:

 City Attorney

ATTEST:

 City Clerk

Published: _____

8/23/2018
 Draft Ordinance No. 18-074

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Chapter 18.95 I-C INSTITUTIONAL CAMPUS ZONE

Sections

- [18.95.010](#) Title.
- [18.95.020](#) Application.
- [18.95.030](#) Purpose.
- [18.95.040](#) Authority.
- [18.95.050](#) Master plans.
- [18.95.060](#) Master plan decision criteria.
- [18.95.070](#) Master plan amendments.
- [18.95.080](#) Property development standards.
- [18.95.090](#) Performance standards.

18.95.010 Title.

This chapter shall be entitled "I-C Institutional Campus Zone." [Ord. 1591 § 237, 2014.]

18.95.020 Application.

This chapter shall apply to all areas zoned I-C Institutional Campus. [Ord. 1591 § 238, 2014.]

18.95.030 Purpose.

- (1) To provide a zoning district for colleges, universities, educational facilities, and retirement facilities.
- (2) To ensure that colleges, universities, educational facilities, and retirement facilities that occupy large sites are planned, designed, and managed in a way that minimizes impacts on adjacent areas.
- (3) To ensure that the expansion of existing institutional uses does not significantly adversely impact quality of life in adjacent residential areas. [Ord. 1591 § 239, 2014.]

(4) To provide flexibility to allow for appropriate reuse of surplus institutional buildings and properties.

18.95.040 Authority.

This chapter is adopted pursuant to the provisions of chapters [35.63](#), [35A.63](#) and [36.70A](#) RCW and other applicable laws. [Ord. 1591 § 240, 2014.]

18.95.050 Master plans.

(1) Purpose. The purpose of the master plan is to define the development of property, promote compatibility with neighboring areas and benefit the community with flexibility and innovation. With the exception of those uses and standards contained in this section, all other aspects of development, redevelopment or expansion will be regulated as prescribed in this Title and other applicable codes.

(2) Master Plan Required. Master plan approval shall be required for all institutional uses with 150,000 square feet of total gross floor area or more. The calculation of the total gross floor area is calculated by combining the total gross floor area of all the buildings located within a contiguous campus area.

(3) Contents of Master Plan. A master plan shall consist of the following:

(a) Site plans drawn at a maximum scale of 1:40 and illustrating the following:

(i) Boundaries, dimensions, and acreage of the site;

(ii) Location of lot lines, rights-of-way, easements, and tracts within the site;

(iii) Location and nature of planned improvements to the vehicular and pedestrian circulation system within and abutting the site;

(iv) Location of planned buildings, structures, parking areas, and other improvements within the site;

(v) Location of proposed landscaped areas, recreation areas, and areas to be left undisturbed;

(b) Conceptual landscaping plans for all required landscaping areas, exterior boundaries, internal streets, and common open space areas. The conceptual landscaping plans shall be drawn at a maximum scale of 1:20 and shall be prepared by a licensed landscape architect;

(c) Conceptual utilities plan drawn at a maximum scale of 1:20;

(d) Environmental checklist;

(e) Vicinity map(s) showing existing conditions within and surrounding the site including: land uses, zoning, buildings, vehicular and pedestrian circulation systems, existing topography indicated with five-foot contours, environmentally critical areas, and significant natural vegetation. The vicinity map shall be drawn at a maximum scale of 1:100;

(f) A narrative description of the proposal, including a discussion of how it is consistent with applicable Comprehensive Plan policies; how any off-site environmental impacts will be mitigated; and a description of planned improvements, including the maximum site coverage, maximum gross square feet of occupiable floor area and the maximum floor area to be occupied by different types of uses, maximum building height for each building location, the nature and extent of off-site improvements, and development phasing;

(g) A traffic analysis and report indicating the following: current and future traffic volumes and levels of service on the street system; planned and programmed traffic improvements and their relationship to any adopted state, local, and/or regional transportation plans or programs; anticipated traffic volumes and distribution; impacts generated by the proposal on future traffic volumes and levels of service; measures necessary to mitigate the proposal's effects on traffic and traffic systems, including the proposal's pro rata share of identified traffic improvements; a proposed transportation demand management (TDM) plan to reduce traffic impacts; and such other information as may be required by the City;

(h) A technical information report containing the elements required by the City's adopted surface water design manual;

(i) Covenants, conditions, and restrictions proposed by the applicant to control future development of the area subject to the master plan; and

(j) A sign program indicating the general location, dimensions, height, and materials of signs consistent with the requirements for a comprehensive sign review provided in Article III of chapter 18.200 DMMC. [Ord. 1591 § 241, 2014.]

18.95.060 Master plan decision criteria.

A master plan approval shall be granted by the City only if the applicant demonstrates that:

- (1) The master development plan includes a general phasing timeline of development and associated mitigation.
- (2) The master development plan meets or exceeds the current regulations for critical areas if critical areas are present.
- (3) There is either sufficient capacity and infrastructure (e.g., roads, sidewalks, bike lanes) in the transportation system (motorized and nonmotorized) to safely support the development proposed in all future phases or there

will be adequate capacity and infrastructure by the time each phase of development is completed. If capacity or infrastructure must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.

(4) There is either sufficient capacity within public services such as water, sewer and stormwater to adequately serve the development proposal in all future phases, or there will be adequate capacity available by the time each phase of development is completed. If capacity must be increased to support the proposed master development plan, then the applicant must identify a plan for funding their proportionate share of the improvements.

(5) The master development plan proposal contains architectural design (including but not limited to building setbacks, insets, facade breaks, roofline variations) and site design standards, landscaping, provisions for open space and/or recreation areas, retention of significant trees, parking/traffic management and multimodal transportation standards consistent with this Title that minimize conflicts and create transitions between the proposal site and adjacent neighborhoods and between institutional uses and residential uses.

(6) The master plan development proposal incorporates the principles of Crime Prevention through Environmental Design (CPTED).

(67) The applicant shall demonstrate that proposed commercial or laboratory uses will be safe for the surrounding neighborhood and for other uses on the campus. [Ord. 1591 § 242, 2014.]

18.95.070 Master plan amendments.

(1) Minor amendments to an approved master development plan may be approved by the City Manager or the City Manager's designee if the amendment meets the development standards and criteria applicable to the zoning and requirements set forth in this section. Minor amendments include any revision or modification of the previously approved master development plan that would result in any one or more of the following:

(a) An increase in the square footage of any proposed building or structure of greater than 10 percent but less than 15 percent; or

(b) A change in the number of new parking spaces, parking spaces created by restriping existing parking areas and/or a combination of both, except for an increase in parking spaces for bicycles or electric vehicles or carpools that is greater than 10 percent but less than 15 percent; or

(c) A change in the original phasing timeline for mitigation of the master development plan; or

(d) Changes to building placement when located outside of the required setbacks and any required setbacks for critical areas; or

(e) A cumulative increase in impervious surface that is greater than 10 percent but less than 15 percent or a cumulative decrease in tree cover that is greater than 10 percent and less than 15 percent.

(2) Major amendments are changes that exceed the thresholds for a minor amendment or were not analyzed as part of an approved master development plan. Major amendments to an approved master development plan shall be processed as a new master plan. [Ord. 1591 § 243, 2014.]

18.95.080 Property development standards.

All properties zoned I-C shall be subject to the following development standards:

(1) The maximum building height for master plan sites of 10 acres or more shall be as follows:

(a) The maximum building height for multi-unit residential buildings shall be 85 feet as measured from the average finished grade.

(b) The maximum building height for all other buildings and structures shall be 65 feet as measured from the average finished grade.

(2) The maximum building height for master plan sites of less than 10 acres shall be as follows:

(a) The maximum building height for multi-unit residential buildings shall be 45 feet as measured from the average finished grade.

(b) The maximum building height for all other buildings and structures shall be 35 feet as measured from the average finished grade.

(3) Buildings with a height of 35 feet or less shall be set back a minimum of 20 feet from all property lines.

Buildings with a height above 35 feet shall be set back 20 feet for the first 35 feet plus one foot for every two feet of height above 35 feet. Buildings greater than 35 feet in height shall utilize the minimum setback associated with the highest point of the building. Setbacks previously approved with a Master Plan shall be vested for the term of the Master Plan approval.

(4) Buildings, parking areas, and other paved surfaces, exclusive of public rights-of-way and recreation areas developed and accessible to the public, shall cover no more than 75 percent of the building site. [Ord. 1591 § 244, 2014.]

18.95.090 Performance standards.

Every property within the I-C Zone shall conform to the following performance standards:

(1) Nuisances. No use, activity, or equipment shall be permitted which creates a nuisance or is offensive, objectionable, or hazardous by reason of creation of odors, noise, sound, vibrations, dust, dirt, smoke, or other pollutants, noxious, toxic, or corrosive fumes or gases, radiation, explosion or fire hazard, or by reason of the generation, disposal, or storage of hazardous or dangerous wastes or materials.

(2) Loading and Parking Areas.

(a) Loading areas shall be set back, recessed and/or screened so as not to be visible from adjacent public rights-of-way or properties designated as single-family, multifamily, or park by the City of Des Moines Comprehensive Plan.

(b) Load areas shall only be allowed between the rear lot line and the extension of the front facade of the principal structure, provided no loading areas are allowed between a building and a side street lot line.

(3) All uses shall conform to the off-street parking and loading area requirements as set forth in chapter 18.210 DMMC, or as hereinafter amended; provided, however, employee parking may be reduced through implementation of a transportation demand management (TDM) program.

(4) Landscaping.

(a) All uses shall conform to the landscaping and buffering requirements as set forth in chapter 18.195 DMMC.

(b) Landscaping shall be designed to achieve an aesthetically pleasing park-like setting; integrate landscaping in master plan design; preserve significant trees, particularly tree clusters; reinforce the relationship to its natural setting; soften building masses; provide visual screening from, and provide transition to, adjacent residential areas, and noise and wind buffering; define automobile and pedestrian circulation patterns; maintain and strengthen public vistas; provide screening for on-site parking areas,

and refuse and recycling receptacles; create functional and accessible active and passive outdoor activity spaces; and create linkages, where feasible, to City and regional parks and trail systems.

(5) **Trash and Recycling Receptacles.** Trash and recycling receptacles shall be a minimum of 15 feet from any properties designated as single-family, multifamily, or park by the City of Des Moines Comprehensive Plan.

(6) **Exterior Mechanical Devices.** Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices shall be screened from surrounding properties and streets and shall comply with the maximum environmental noise levels established by chapter 173-60 WAC as presently constituted or as may be subsequently amended.

(7) **Exterior Lighting.**

(a) Lighting shall comply with the Zone 2 requirements for exterior light established by the 2009 Washington State Energy Code as presently adopted or as subsequently amended.

(b) Lighting shall be fully shielded in such a manner that the bottom edge of the shield shall be below the light source so no light is emitted above the horizontal plane of the lighting fixture.

(c) Ground-mounted floodlighting shall only be used to illuminate landscaping areas, accentuate key architectural features or illuminate flag poles.

(d) Exterior lighting shall provide a minimum of at least 1.5 foot-candles for parking lots and walkways.

(e) Exterior lighting shall be less than 0.2 foot-candles at the property lines which abut properties designated as single-family, multifamily, or park by the Des Moines Comprehensive Plan.

(f) A photometric plan and exterior lighting summary shall be required and shall be submitted as part of the building permit application. [Ord. 1591 § 245, 2014.]

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Eminent Domain: Transportation
Gateway Project S. 216th Street, Segment 3
Improvements

AGENDA OF: August 23, 2018

DEPT. OF ORIGIN: Legal Department

DATE SUBMITTED: August 16, 2018

CLEARANCES:

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

ATTACHMENTS:

1. Draft Ordinance 18-098
2. Approved Right of Way Plan
3. Letters to Property Owners
4. City of Des Moines ROW Procedures
5. Vicinity Map
6. Photos of Subject Properties
7. CIP Budget S. 216th St Segment 3

CHIEF OPERATIONS OFFICER: DB

- ☒ Legal JB
- ☒ Finance Bau
- ☐ Courts N/A
- ☐ Police N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation:

The purpose of this item is to authorize the City Attorney to begin condemnation proceedings to acquire necessary right of way or easements on parcels 082204-9177 and 082204-9092 located on S. 216th Street between 11th Avenue S and 20th Avenue S. for construction of the S. 216th Street, Segment 3 Improvements.

Suggested Motion:

Motion 1: “I move to suspend Rule 26(a) in order to enact Draft Ordinance No 18-098 on first reading.”

Motion 2: “I move to enact Draft Ordinance No 18-098, directing the City Attorney to prosecute the eminent domain action in King County Superior Court in a manner provided by law to condemn, take damage and appropriate real properties in a manner necessary to carry out the provisions of Draft Ordinance No 18-098.”

Background:

In order to facilitate the widening of the S. 216th Street, Segment #3 of the Transportation Gateway Project, CIP Project #319.334, easements and right of way are necessary to secure property for placement of underground utilities, walls, slopes and sidewalks. S. 216th Street, Segment 3, between 11th Avenue S and 20th Avenue S., is the last link planned for improvement west of State Route 99, collectively known as the City of Des Moines Transportation Gateway Project.

Discussion:

Design of this project is substantially complete including the SEPA Declaration of Non-Significance (DNS) issued on November 8, 2017. KPG’s licensed surveyor has prepared legal descriptions and the right of way plan, with minor modifications, is consistent with that endorsed by the City Council on January 11, 2018. The requested easements are legally described in the draft ordinance. The easements permit the City, and its assigns, to access the properties, install and maintain sidewalks and utilities, restore properties to match improvements as well as authorize the owner to make use of the property where there are no conflicts (i.e. landscaping, access, etc.).

The requested action enacting draft Ordinance No 18-098 (**Attachment 1**) is consistent with the project right of way plan, August 2, 2018 (**Attachment 2**). Property owners (4) have been properly notified of this action by letter (**Attachment 3**) as required by RCW 8.25.290. Two of the owners have signed easements and voucher agreements and have been pulled from the City Attorney’s recommended third draft of the ordinance (Parcels #200820-0010 – Terry Leffard and #082204-9163 - Cheryl Laws-Brown). Verbal agreements have been reached with the remaining two apartment parcels and staff may recommend postponing enactment of the ordinance subject to receipt of signed documents.

Individual meetings have been held with the owners including discussions of how best to coordinate plans and construction, presentation of offers, and making settlements. All negotiations have been consistent with the City’s Right of Way Procedures (**Attachment 4**). Negotiations for compensation are ongoing and will continue until complete.

There are 27 properties adjoining the project. Four properties were in the final stages of negotiations at the time notice of the ordinance was published, as summarized on the vicinity map (**Attachment 5**). Easements for each property still in negotiation are legally described in the third draft Ordinance 18-098. Photos of subject properties are provided in **Attachment 6**.

Negotiations for these easements may not be complete in time to accommodate the construction schedule. In addition to matching roadway improvements to all adjacent properties, the City will also need to maintain access to these properties during construction and will restore the properties as close to the

“before” condition as possible. Consistent with other Gateway Project improvements, City contractors will underground all overhead electrical and communication lines along the corridor, including some secondary service connections where needed to avoid construction delays and cost increases.

Time is of the essence as these acquisitions and/or property possession is required prior to advertising and bidding the project in the November, 2018, followed by construction in the first quarter of 2019. This condemnation action(s) will allow the City to maintain the construction schedule.

Alternatives:

The final design and alignment for the roadway requires these easements. An effort was made to only require easements where there was inadequate right of way to accommodate the improvements. Other alternatives are currently unavailable.

Financial Impact:

Funds for acquisition of this easement were approved as part of the City of Des Moines 2018 budget (**Attachment 7**). These acquisitions are funded, in part, by a grant from the Washington State Transportation Improvement Board.

Recommendation/Conclusion:

Staff recommends the Council approve the proposed motion.

Concurrence:

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

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CITY ATTORNEY'S THIRD DRAFT 8/16/18**DRAFT ORDINANCE NO. 18-098**

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

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

WHEREAS, the City Council of the City of Des Moines intends to acquire by the payment of "fair market value" the properties described in Section 1 to continue construction of the Transportation Gateway Project located on S. 216th Street, Des Moines, Washington ("Property"), and

WHEREAS, the City Council finds that acquisition of the properties described in section 1 "Legal description" below is critical to construct the street widening for the S. 216th Street Segment 3 Improvements between 11th Avenue and 20th Avenue S, an arterial segment in the City's capital improvement program collectively referred to as the Transportation Gateway Project, and it is in the public interest to acquire such properties for public health, safety, welfare and transportation needs, and

WHEREAS, pursuant to chapter 8.12 RCW, the City is empowered to condemn land and property for transportation purposes (RCW 8.12.030), and

WHEREAS, proper notice of planned final action shall be provided pursuant to RCW 8.25.290 prior to Council final action, and

WHEREAS, based upon the foregoing, the City Council finds that, pending the outcome of negotiations, the only alternative available for acquisition of properties in described in section 1, or portions thereof, may be by eminent domain; now therefore,

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

Ordinance No. 18-098
Page 2 of 12

Sec. 1. Legal description. The real properties that are the subject of this Ordinance are legally described in Exhibit A-1 and Exhibit A-2; attached hereto.

Sec. 2. Public use and necessity. The public convenience, use and necessity demand the acquisition of the real property and/or temporary construction rights described in section 1 herein for the widening of S. 216th Street as part of the Transportation Gateway Project, S. 216th Street, Segment 3 and for use by the public for transportation purposes. Said improvements have been designed to implement the City of Des Moines Comprehensive Plan, adopted 2009, as amended; the City of Des Moines Transportation Improvement Plan, 2019 to 2038, and the approved Right of Way Plan for the project dated: August 2, 2018.

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

Sec. 4. Costs of acquisition. The costs of the acquisition provided by this Ordinance shall be paid by the City of Des Moines, or such other funds of the City of Des Moines as may be provided by law.

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

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Sec. 6. Severability - Construction

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

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

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

PASSED BY the City Council of the City of Des Moines, Washington, this ____ day of _____, 2018 and signed in authentication thereof this ____ day of _____, 2018.

M A Y O R

APPROVED AS TO FORM

City Attorney

ATTEST

City Clerk

Published: August 9, 2018 and August 15, 2018

Effective Date: _____

Ordinance No. 18-098
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Exhibit A-1: Legal Description

Parcel #082204-9177; ROW Plan #23

EXHIBIT _____ **PARCEL NO. 082204-9177** **TEMPORARY CONSTRUCTION EASEMENT**

THAT PORTION OF THE HERINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING ON THE SOUTH MARGIN OF SOUTH 216TH STREET;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID MARGIN, 329.36 FEET TO THE NORTHEAST CORNER OF SAID PARCEL "A";

THENCE SOUTH 00° 17' 08" WEST ALONG THE EAST LINE OF SAID PARCEL "A", 5.00 FEET TO A LINE THAT IS 35.00 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 07° 51' 30" WEST ALONG SAID PARALLEL LINE, 23.49 FEET;

THENCE SOUTH 02° 08' 30" WEST, 5.50 FEET TO A LINE THAT IS 40.50 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 29.49 FEET;

THENCE NORTH 02° 08' 30" EAST, 5.50 FEET TO SAID LINE THAT IS 35.00 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 220.48 FEET;

THENCE SOUTH 02° 08' 30" WEST, 5.50 FEET TO SAID LINE THAT IS 40.50 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SOUTH 216TH STREET;

THENCE NORTH 07° 51' 30" WEST, ALONG SAID PARALLEL LINE, 30.94 FEET;

THENCE NORTH 02° 08' 30" EAST, 5.50 FEET TO SAID LINE THAT IS 35.00 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 24.96 FEET TO THE WEST LINE OF SAID PARCEL "A";

THENCE NORTH 00° 17' 08" EAST ALONG SAID WEST LINE, 5.00 FEET TO THE POINT OF BEGINNING

CONTAINING 1979 SQUARE FEET, MORE OR LESS.

PARCEL "A":

(PER SPECIAL WARRANTY DEED RECORDED UNDER RECORDING NO. 20190131001328)

THE WEST 5 ACRES OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 30 FEET THEREOF FOR ROAD AS DEEDED UNDER KING COUNTY RECORDING NO. 1305100451, RECORDED MAY 10, 1973; AND

23-100000X

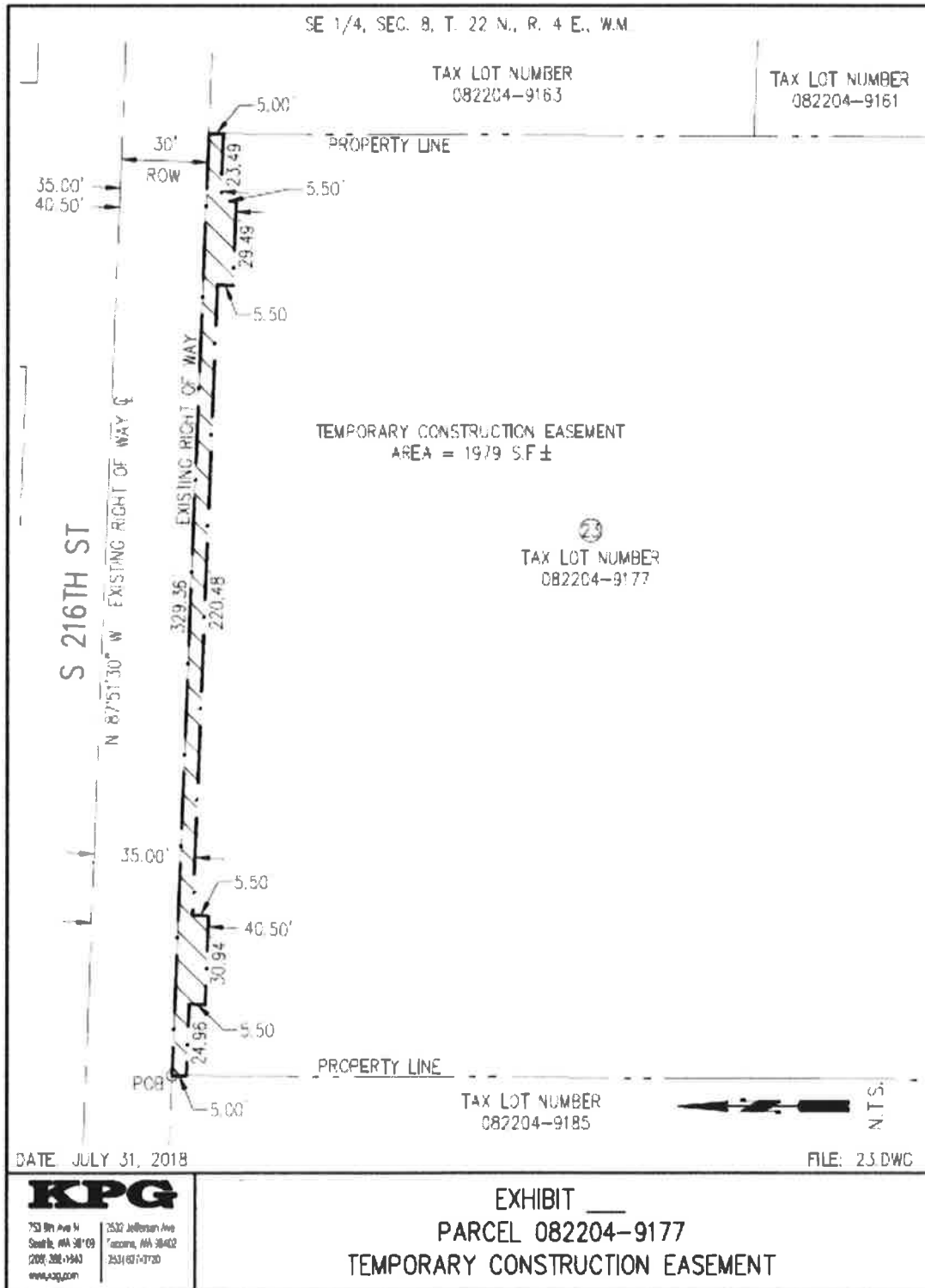
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*ALSO EXCEPTING THAT PORTION DEEDED TO THE CITY OF DES MOINES UNDER KING COUNTY
RECORDING NO. 8201250263, RECORDED JANUARY 25, 1982.*



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Exhibit A-4: Legal Descriptions

Parcel #082204-9092; Plan # 28

**EXHIBIT _____
PARCEL NO. 082204-9092
UTILITY EASEMENT**

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A" SAID CORNER ALSO BEING THE INTERSECTION OF THE SOUTH MARGIN OF SOUTH 216TH STREET AND THE EAST MARGIN OF 14TH AVENUE SOUTH;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID SOUTH MARGIN, 92.40 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTH MARGIN SOUTH 87° 51' 30" EAST 25.00 FEET;

THENCE SOUTH 02° 08' 30" WEST, 8.00 FEET TO A LINE THAT IS 38.00 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 25.00 FEET;

THENCE NORTH 02° 08' 30" EAST, 8.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 200 SQUARE FEET, MORE OR LESS.

PARCEL "A":

(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2727865, DATED DECEMBER 12, 2017)

LOT A, CITY OF DES MOINES SHORT PLAT NO. DE-MO-SP10-80, RECORDED OCTOBER 15, 1989 UNDER RECORDING NO. 8010150846, IN KING COUNTY, WASHINGTON, SAID SHORT PLAT BEING A SUBDIVISION OF A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST W.M., IN KING COUNTY, WASHINGTON, AND OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 22 NORTH, RANGE 4 EAST W.M., IN KING COUNTY, WASHINGTON

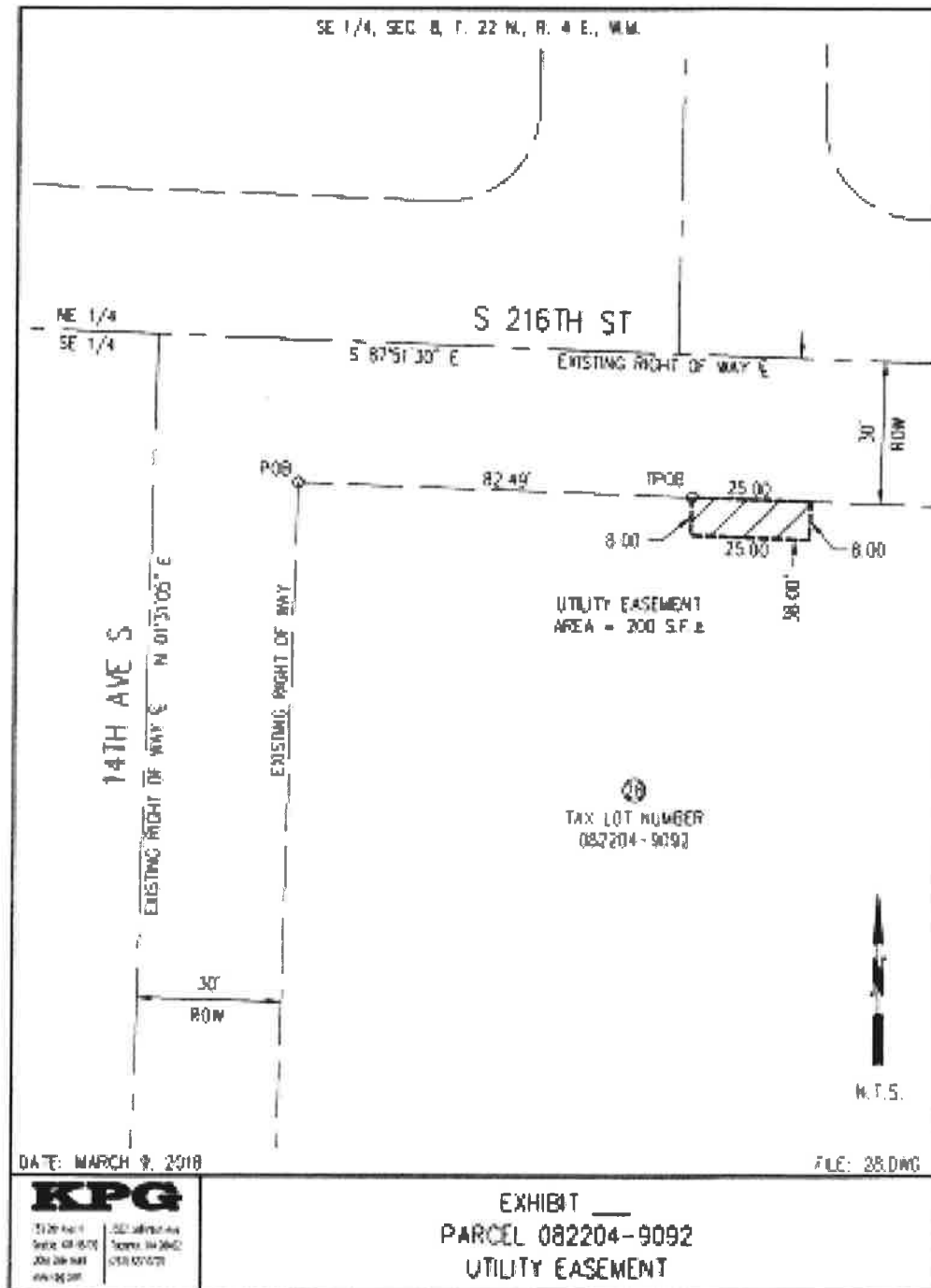


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EXHIBIT
PARCEL NO. 082204-9092
SIDEWALK EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING THE INTERSECTION OF THE SOUTH MARGIN OF SOUTH 216TH STREET AND THE EAST MARGIN OF 14TH AVENUE SOUTH;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID SOUTH MARGIN, 107.49 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTH MARGIN SOUTH 87° 51' 30" EAST, 10.00 FEET;

THENCE SOUTH 02° 08' 30" WEST, 1.50 FEET TO A LINE THAT IS 31.50 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 10.00 FEET;

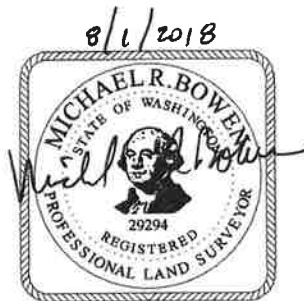
THENCE NORTH 02° 08' 30" EAST, 1.50 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 15 SQUARE FEET, MORE OR LESS.

PARCEL "A":

(PER FIRST AMERICAN TITLE COMPANY ORDER NO. 2727865, DATED DECEMBER 12, 2017)

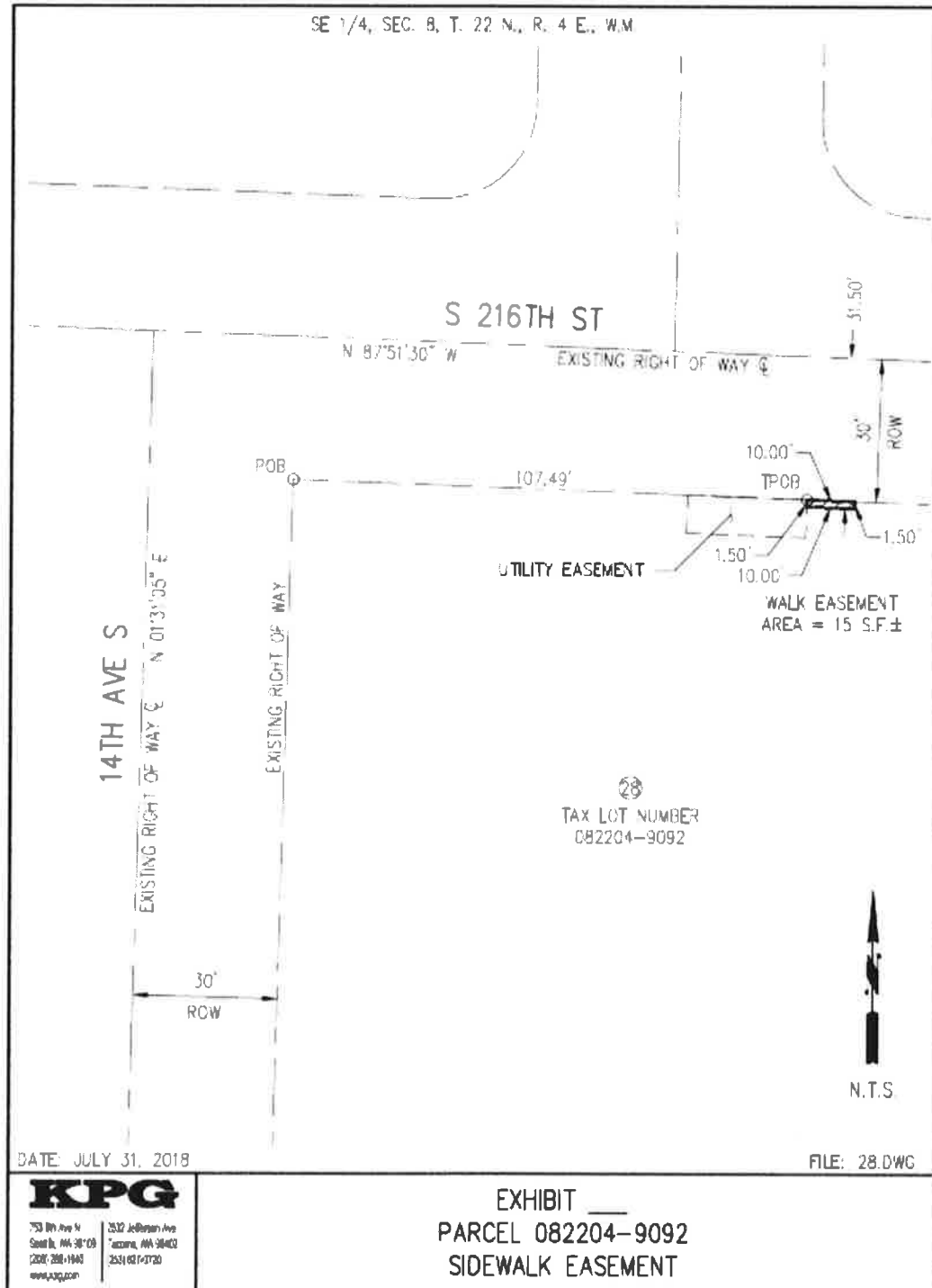
LOT A, CITY OF DES MOINES SHORT PLAT NO. DE-MO-SP8-80, RECORDED OCTOBER 15, 1980 UNDER RECORDING NO. 8010150846, IN KING COUNTY, WASHINGTON, SAID SHORT PLAT BEING A SUBDIVISION OF A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST W.M., IN KING COUNTY, WASHINGTON, AND OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST W.M., IN KING COUNTY, WASHINGTON.



28-WALK.DOCX

Page 1 of 1
KPG
TACOMA • SEATTLE

Ordinance No. 18-098
Page 10 of 12



Ordinance No. 18-098
Page 11 of 12

EXHIBIT _____
PARCEL NO. 082204-9092
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A", SAID CORNER ALSO BEING THE INTERSECTION OF THE SOUTH MARGIN OF SOUTH 216TH STREET AND THE EAST MARGIN OF 14TH AVENUE SOUTH;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID SOUTH MARGIN, 82.49 FEET TO A POINT HEREINAFTER DESCRIBED AS "POINT A";

THENCE SOUTH 02° 08' 30" WEST, 5.00 FEET TO A LINE THAT IS 35.00 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 87° 51' 30" WEST ALONG SAID PARALLEL LINE, 82.43 FEET TO THE WEST LINE OF SAID PARCEL "A";

THENCE NORTH 01° 31' 05" EAST, 5.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 412 SQUARE FEET, MORE OR LESS.

TOGETHER WITH:

BEGINNING AT SAID POINT "A", THENCE CONTINUING ALONG SAID SOUTH MARGIN SOUTH 87° 51' 30" EAST, 35.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTH MARGIN SOUTH 87° 51' 30" EAST, 395.14 FEET;

THENCE CONTINUING ALONG SAID SOUTH MARGIN SOUTH 88° 15' 56" EAST, 20.00 FEET TO THE EAST LINE OF SAID PARCEL "A";

THENCE SOUTH 01° 31' 05" WEST ALONG SAID EAST LINE OF PARCEL "A", 10.00 FEET TO A LINE THAT IS 40.00 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 88° 15' 56" WEST ALONG SAID PARALLEL LINE, 12.00 FEET;

THENCE NORTH 01° 44' 04" EAST, 5.00 FEET TO SAID LINE THAT IS 35.00 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE NORTH 88° 15' 56" WEST ALONG SAID PARALLEL LINE, 8.06 FEET;

THENCE CONTINUING ALONG SAID PARALLEL LINE NORTH 87° 51' 30" WEST, 405.16 FEET;

THENCE NORTH 02° 08' 30" EAST, 3.50 FEET TO A LINE THAT IS 31.50 FEET SOUTH OF AND PARALLEL WITH SAID CENTERLINE OF SAID SOUTH 216TH STREET;

THENCE SOUTH 87° 51' 30" EAST ALONG SAID PARALLEL LINE, 10.00 FEET;

THENCE NORTH 02° 08' 30" EAST, 1.50 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 2,171 SQUARE FEET, MORE OR LESS.

28-TCE.DOCX



CITY OF DES MOINES **SOUTH 216TH STREET - SEGMENT 3** **(11TH AVENUE S TO 20TH AVENUE S)** **RIGHT OF WAY PLANS**

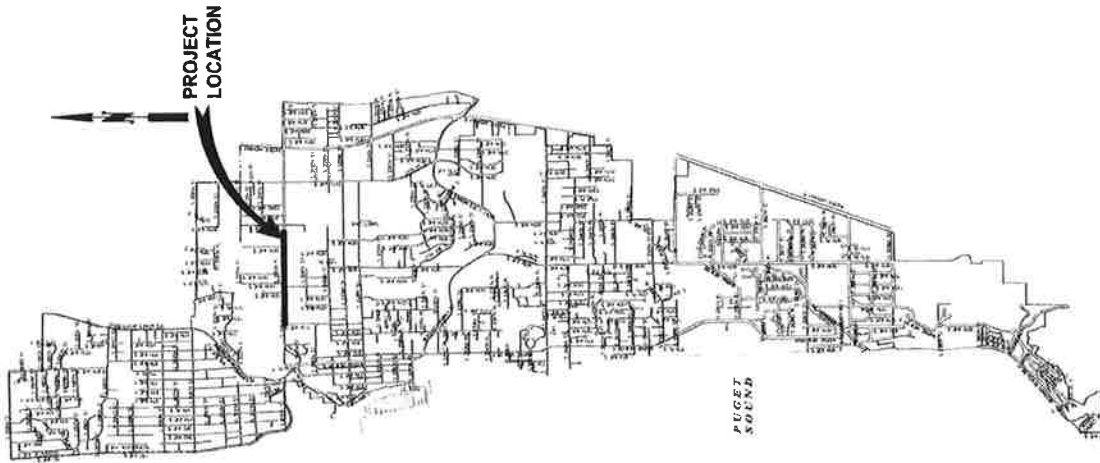
CITY MANAGER
 Michael Matthias

MAYOR
 Matt Pina

PUBLIC WORKS DIRECTOR
 Brandon Carver

CITY COUNCIL

Robert Back
 Tracy Buxton
 Matt Mohoney
 Melissa Musser
 Jeremy Nutting
 Vic Pennington

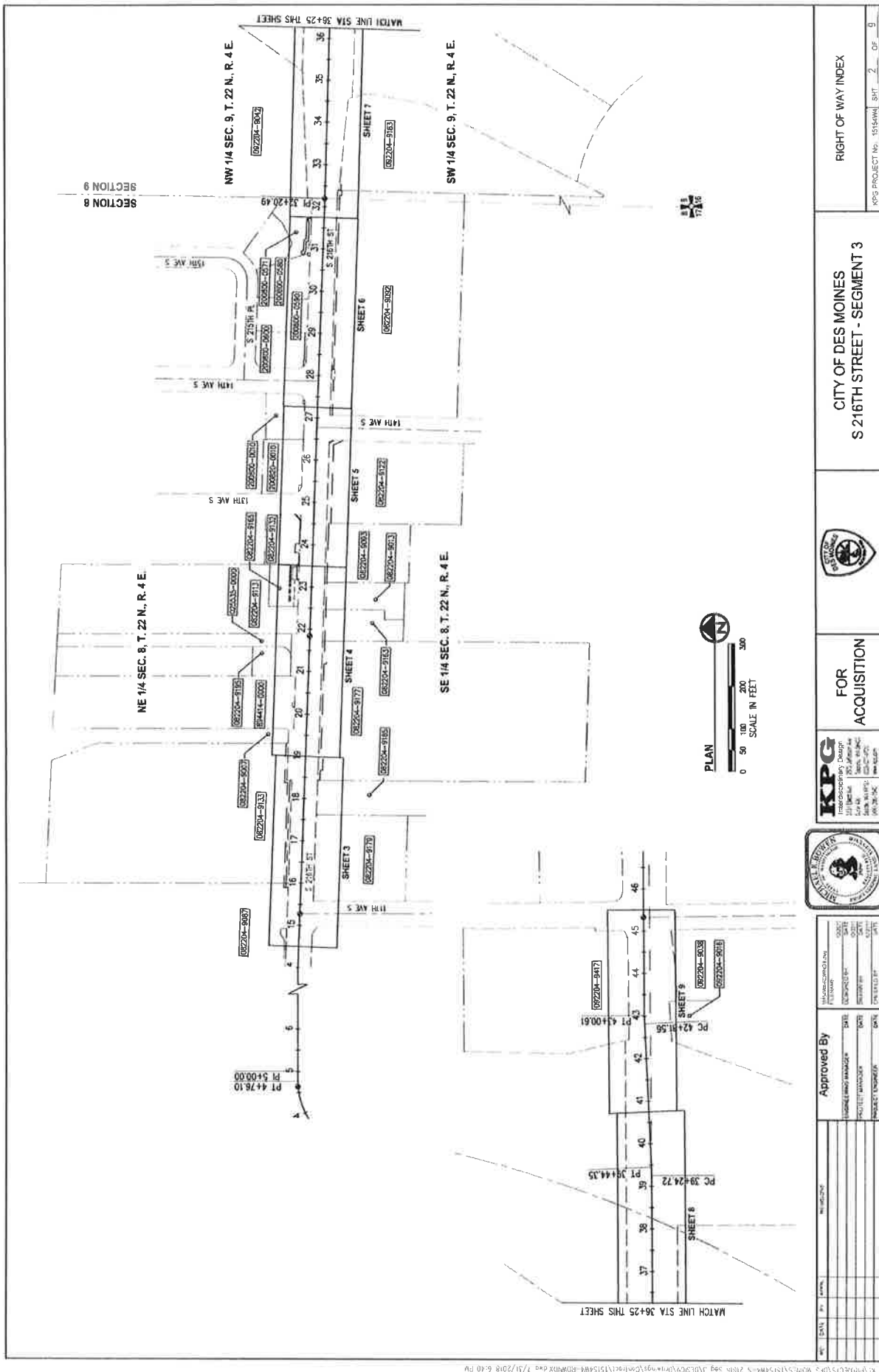


APPROVED BY MOTION OF DES MOINES CITY COUNCIL:
 SUBJECT TO MINOR MODIFICATIONS BY THE PUBLIC
 WORKS DIRECTOR, ON JANUARY 11, 2018

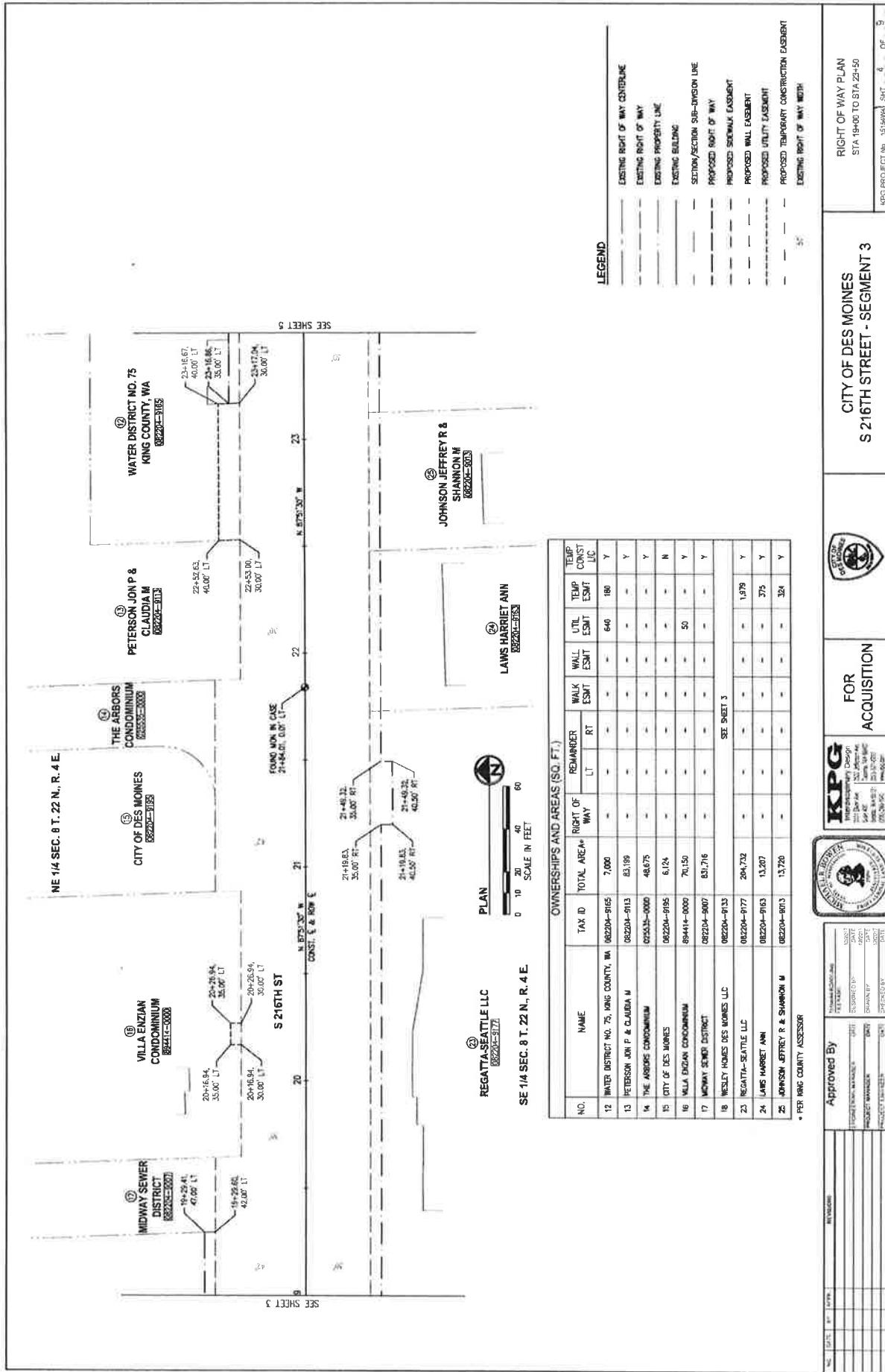
APPROVED RIGHT OF WAY PLAN:
 [Signature]
 BRANDON CARVER-P.E.
 PUBLIC WORKS DIRECTOR
 9/2/18
 DATE

APPROVED RIGHT OF WAY PLAN:

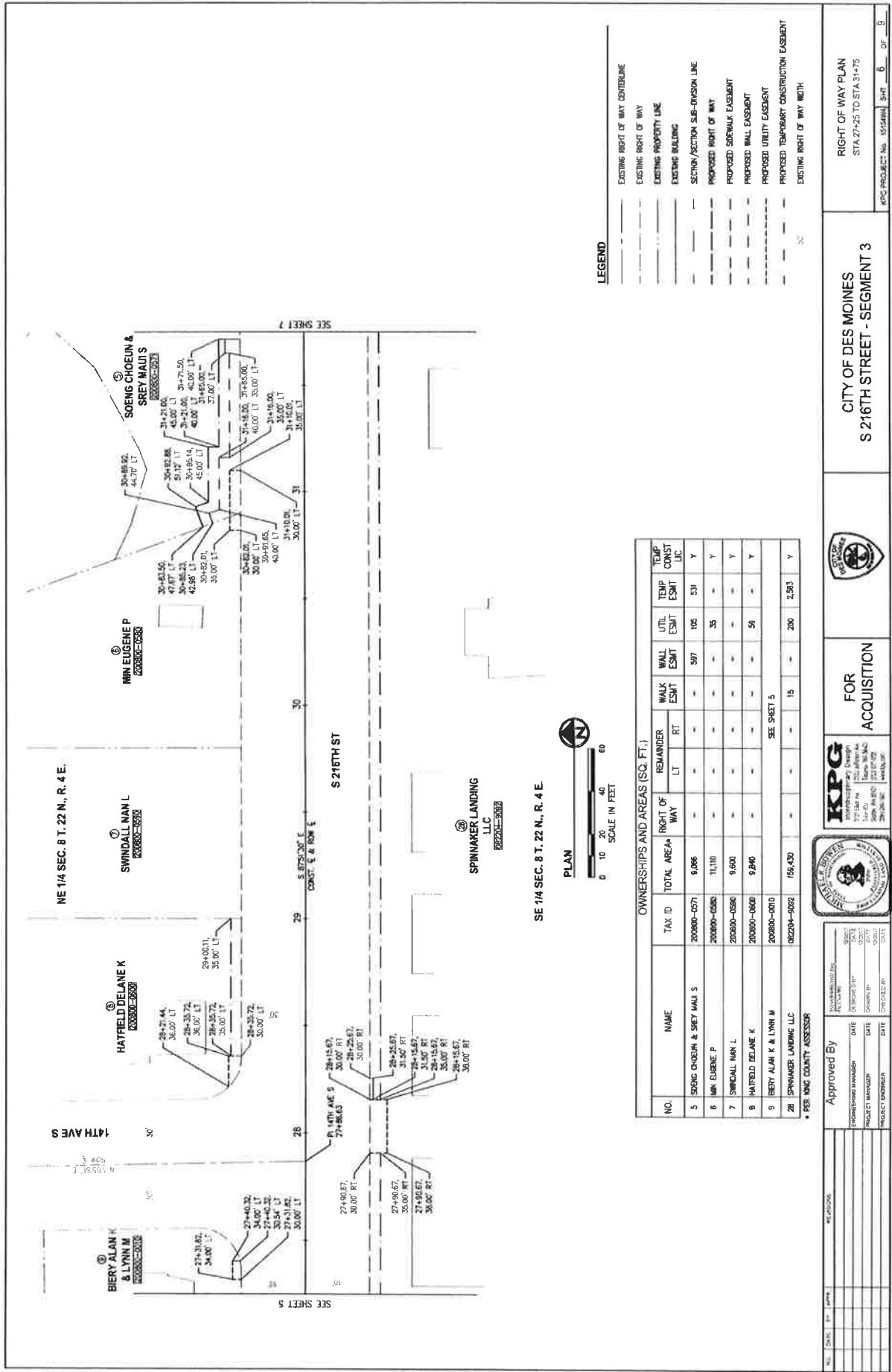
FOR
ACQUISITION

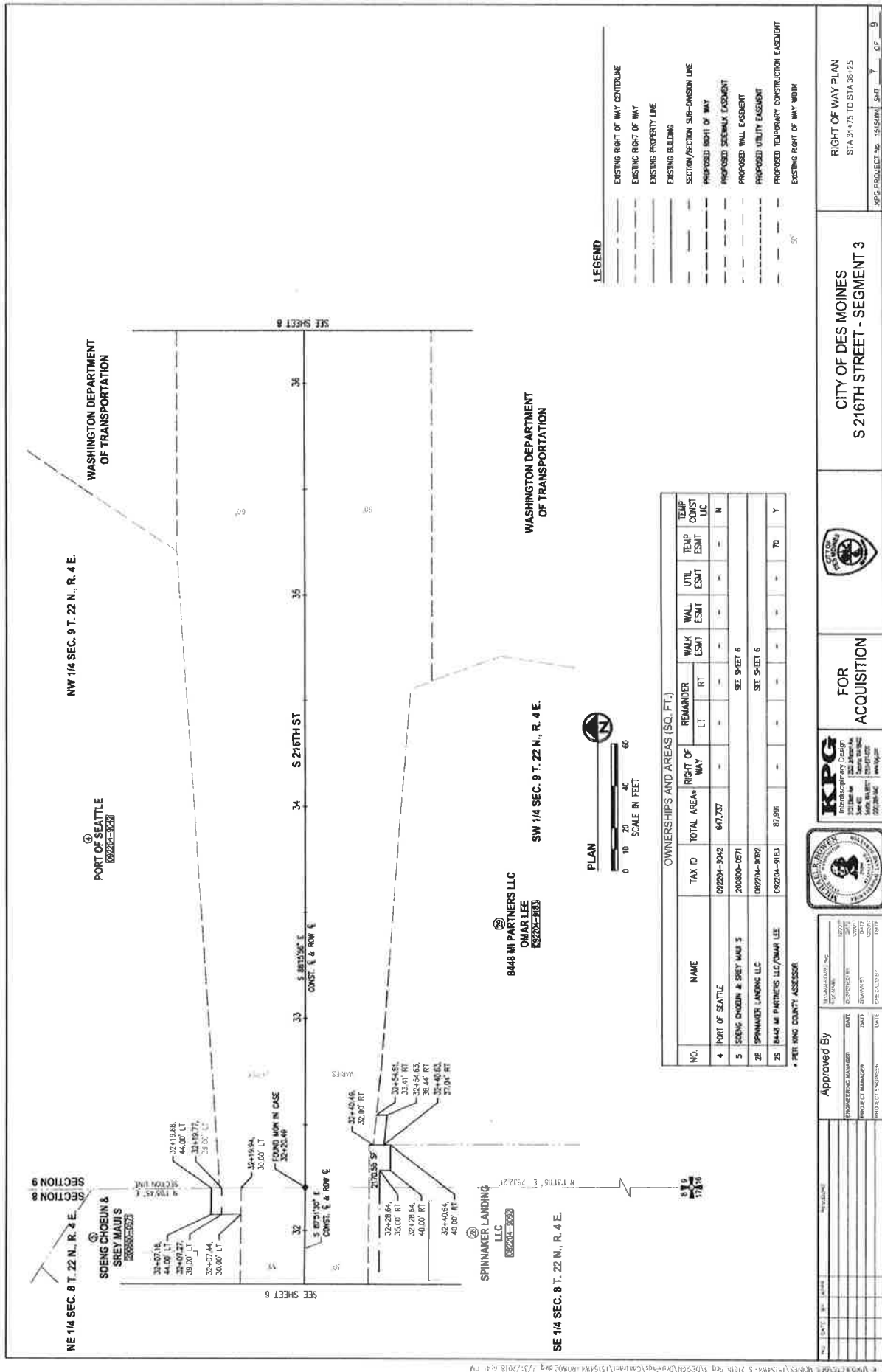


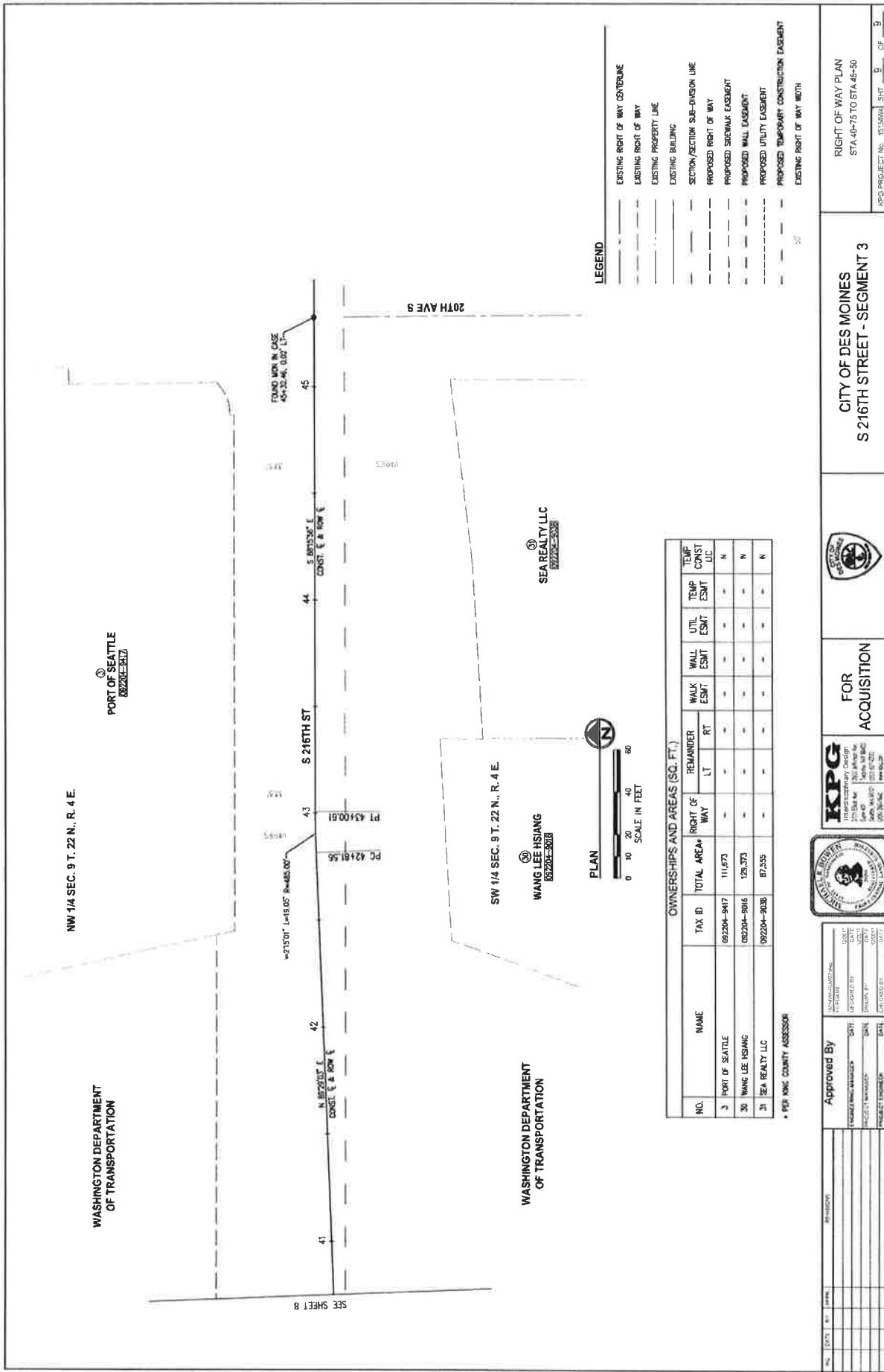












PLANTING NOTES:

PLANTING:

1. DIG HOLE 2 - 3 TIMES THE WIDTH OF THE ROOT BALL AND AS DEEP AS THE ROOT BALL. DO NOT MAKE HOLE DEEPER THAN THE ROOT BALL.
2. REMOVE CONTAINERS, BIODEGRADABLE POTS, SYNTHETIC OR TREATED BURLAP, WIRE, TWINE, OR ROPES. LEAVE NATURAL BURLAP IN PLACE AND FOLD BACK. LOOSEN THE ROOTS AND SPREAD OR CUT CIRCLING ROOTS.
3. PLACE TOP OF ROOT BALL EVEN WITH OR SLIGHTLY HIGHER THAN SOIL GRADE ON FIRM SOIL. DO NOT ADD SOIL AMENDMENTS OR GRAVEL UNLESS APPROVED BY THE CITY TRANSPORTATION ENGINEER.
4. INSTALL 4" x 24" PERFORATED DRAIN PIPE; FILL WITH DRAIN ROCKS. PIPE SHALL NOT EXTEND MORE THAN 1/2" ABOVE FINISH GRADE.
5. BACK FILL WITH CLEAN NATIVE SOIL. FIRM SOIL AROUND THE ROOT BALL; WATER SLOWLY AND THOROUGHLY.
6. MULCH AROUND TREE WITH 2-4" WOOD-CHIP MULCH. DO NOT PLACE MULCH NEXT TO TRUNK.

ROOT BARRIER:

1. ROOT BARRIER SHALL BE RIGID HIGH IMPACT POLYPROPYLENE TREATED WITH UV INHIBITORS, MINIMUM 18" HEIGHT, WITH 1/2" RAISED VERTICAL RIBS 6" ON CENTER, OR APPROVED EQUAL.
2. INSTALL ROOT BARRIER IN CONTINUOUS 15" STRIP, CENTERED ON TREE, NEXT TO SIDEWALK AND CURB ACCORDING TO MANUFACTURER'S DIRECTIONS. EXPOSED EDGE SHALL NOT EXTEND MORE THAN 1/2" ABOVE FINISHED GRADE.

STAKING:

1. USE 2, 8'-0" TREE STAKES. DO NOT DRIVE STAKE THROUGH ROOT BALL.
2. ATTACH TREE TO STAKE WITH CANVAS WEB BELTING OR RUBBER, USING A FIGURE-8 FORMATION.
3. TREES SHALL BE STAKED IN A MANNER NOT TO OBSTRUCT SIDEWALK TRAFFIC.

TAGS:

1. REMOVE TAGS ONLY AFTER INSPECTION.

NOT TO SCALE

PLANTING NOTES

DMLF6.8



CITY OF DES MOINES
PUBLIC WORKS DEPARTMENT

TRANSPORTATION SERVICES
21650 11TH AVENUE SOUTH
DES MOINES, WA 98198



SAILS WITH PRIDE

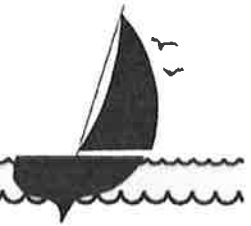
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City of Des Moines

Attachment #3



PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596



August 7, 2018

By Certified Mail

Ms. Terry A. Leffard
21524 13th Avenue S
Des Moines WA 98198

RE: City of Des Moines Transportation Gateway Project
S 216th Street Segment 3 Improvements (11th Avenue S to 20th Avenue S)
Notice of City Council Meeting Authorizing Acquisition of Property for Public Purposes Through
the Exercise of Eminent Domain (Condemnation), if Necessary

Tax Parcel No: 200820-0010 Located at: 215

Dear Property Owner;

On August 23, 2018, the City Council will be called to acquire through condemnation all remaining property on the east side of the street. The date of this letter through Eminent Domain (Condemnation) is to make sure authorization for condemnation is in place before the project this fall. If the City is able to complete the project this fall, the City will be able to complete the project this fall.

In compliance with RCW 8.25.290, the City is required to take "final action" authorizing condemnation through negotiation or condemnation on August 23, 2018. The ordinance authorizing the City to take "final action" will be considered as the Council's final action.

If you wish to attend this City Council meeting, please contact the City Clerk at 215 Des Moines, WA 98198. You will have the opportunity to speak during the public comment section of the City Council meeting.

The City's intent is to continue to finalize negotiations with you while maintaining the project's schedule. The City may use its powers of eminent domain to condemn and secure adequate rights for project construction while continuing negotiations with you for financial compensation.

Sonja Davis, the City's ROW agent, (425) 577-2184, will continue overseeing the acquisition process. If you have any questions about the upcoming City Council meeting, the Ordinance, or the acquisition process, please contact me, (206) 353-1328, or Sonja.

Thank you,


Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent



City of Des Moines²⁴⁰

PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596



August 7, 2018

By Certified Mail

Regatta Apartments LLC
c/o First American Commercial R/E
18006 Sky Park Circle Suite 200
Irvine CA 92614

RE: City of Des Moines Transportation Gateway Project
S 216th Street Segment 3 Improvements (11th Avenue S to 20th Avenue S)
Notice of City Council Meeting Authorizing Acquisition of Property for Public Purposes Through
the Exercise of Eminent Domain (Condemnation), if Necessary

Tax Parcel No: 082204-9177 Located at: Regatta Apartments, 1145 S 216th Street, Des Moines WA

Dear Property Owner;

On August 23, 2018, the City Council will be considering an ordinance authorizing the City of Des Moines to acquire through condemnation all remaining property rights needed for the above project as of the date of this letter through Eminent Domain (Condemnation). The City is taking this action as a precaution to make sure authorization for construction is secured in order to secure authorization to bid the project this fall. If the City is able to complete negotiations with you, this action will be moot.

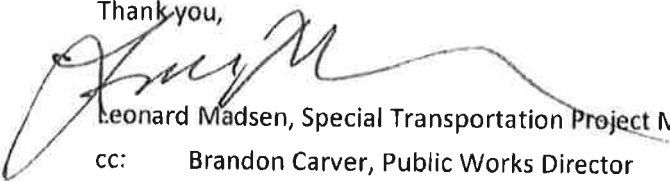
In compliance with RCW 8.25.290, the City is required to provide you with formal written notice before the City takes "final action" authorizing condemnation of property. The ordinance authorizing acquisition through negotiation or condemnation will be on the City Council Agenda for approval at 7 pm on August 23, 2018. The ordinance authorizes the City Attorney to use the City's Eminent Domain authority and will be considered as the Council's final action.

If you wish to attend this City Council meeting, the Council Chambers are located at 21630 11th Avenue S Des Moines, WA 98198. You will have the opportunity to express your views on the Ordinance during the public comment section of the City Council meeting.

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Thank you,


Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent
Julie Rodriguez, Saga Apartment Communities



City of Des Moines²⁴¹

PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596



August 7, 2018

By Certified Mail

Harriet Laws Estate
c/o Cheryl Laws Brown
1015 165th Place NE
Bellevue WA 98008

RE: City of Des Moines Transportation Gateway Project
S 216th Street Segment 3 Improvements (11th Avenue S to 20th Avenue S)
Notice of City Council Meeting Authorizing Acquisition of Property for Public Purposes Through
the Exercise of Eminent Domain (Condemnation), if Necessary

Tax Parcel No: 082204-9163 Located at: 1219 S 216th Street, Des Moines WA

Dear Property Owner;

On August 23, 2018, the City Council will be considering an ordinance authorizing the City of Des Moines to acquire through condemnation all remaining property rights needed for the above project as of the date of this letter through Eminent Domain (Condemnation). The City is taking this action as a precaution to make sure authorization for construction is secured in order to secure authorization to bid the project this fall. If the City is able to complete negotiations with you, this action will be moot.

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Thank you,

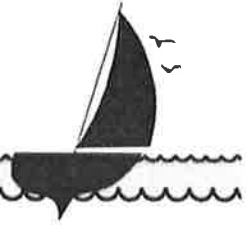
Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent



City of Des Moines²⁴²

PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596



August 7, 2018

By Certified Mail

Spinnaker Landing Apartments LLC
c/o First American Commercial R/E
18006 Sky Park Circle Suite 200
Irvine CA 92614

RE: City of Des Moines Transportation Gateway Project
S 216th Street Segment 3 Improvements (11th Avenue S to 20th Avenue S)
Notice of City Council Meeting Authorizing Acquisition of Property for Public Purposes Through
the Exercise of Eminent Domain (Condemnation), if Necessary

Tax Parcel No: 082204-9092 Located at: 21620 14th Ave S, Des Moines WA

Dear Property Owner;

On August 23, 2018, the City Council will be considering an ordinance authorizing the City of Des Moines to acquire through condemnation all remaining property rights needed for the above project as of the date of this letter through Eminent Domain (Condemnation). The City is taking this action as a precaution to make sure authorization for construction is secured in order to secure authorization to bid the project this fall. If the City is able to complete negotiations with you, this action will be moot.

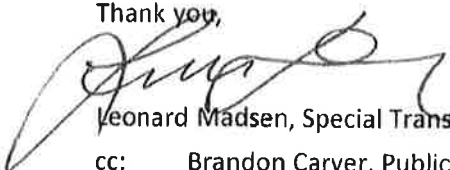
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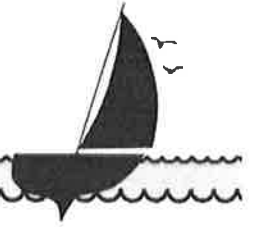

Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent
Julie Rodriguez, Saga Apartment Communities



City of Des Moines²⁴³

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S 216th Street Segment 3 Improvements (11th Avenue S to 20th Avenue S)
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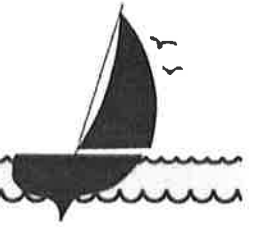
Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent
Julie Rodriguez, Saga Apartment Communities



City of Des Moines²⁴⁴

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Tax Parcel No: 082204-9092 Located at: 21620 14th Ave S, Des Moines WA

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Thank you,

Leonard Madsen, Special Transportation Project Manager

cc: Brandon Carver, Public Works Director
Sonja Davis, ROW Agent
Julie Rodriguez, Saga Apartment Communities



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

March 20, 2018

Mr. R. Brandon Carver, PE
Public Works Director
City of Des Moines
21650 11th Avenue South.
Des Moines, Washington 98198-6317

**City of Des Moines
Updated Right of Way Procedures**

Dear Mr. Carver:

On February 28, 2018, the Local Programs Right of Way Section received the City's updated Right of Way (ROW) Procedures. These updated ROW procedures are approved, and supersede and replace the previous procedures subject to the following requirements:

1. R. Brandon Carver, P.E. P.T.O.E, Public Works Director is approved to perform the Program Administration function, which includes oversight of hired ROW consultants, review and approval of recommended actions and payments, review and preliminary approval of administrative settlements, and authorization of just compensation including approval of Administrative Offer Summaries (AOS).
2. Appraisals and appraisal reviews must be contracted for with the Washington State Department of Transportation (WSDOT) or consultant on WSDOT's approved qualified appraiser/reviewer list.
3. All acquisition work must be contracted for with qualified consultants, other agencies with qualified staff or WSDOT. Since the City has no experienced staff to oversee the acquisition process, the City must have direct supervision from the LAC. At a minimum, the LAC must be provided the opportunity to review all parcel files prior to first offers being made to the property owners. To avoid a conflict of interest, acquisition agents are only approved to acquire property valued at \$10,000 or less if they also prepare the Administrative Offer Summary (AOS).
4. All relocations must be contracted for with qualified consultants, other agencies with qualified staff or WSDOT. Any relocation consultant must be monitored by the LAC. For any projects involving relocation, the City must provide confirmation they have an approved relocation appeal procedure in place prior to starting relocation activities.
5. Cecilia Pollock, Interim Finance Director; Daniel J. Brewer, P.E., P.T.O.E., Chief Operations Officer; R. Brandon Carver, P.E., P.T.O.E., Public Works Director; Andrew Merges, P.E., Engineering Services Manager; Loren Reinhold, P.E., Surface Water & Environmental Engineering Manager; and Timothy A. George, City Attorney are approved to perform Property Management functions.

R. Brandon Carver, PE
Public Works Director
City of Des Moines
Updated Right of Way Procedures
March 20, 2018

The City is approved to use the Federal Highway Administration approved waiver process of \$25,000 or less, including cost to cure items in which it is not required to offer appraisals for values at \$10,000 or less. The city's relocation appeal procedures submitted in July of 2013 remain in effect.

It is requested that the City work closely with the region LAC early and throughout the right of way process to ensure that all necessary procedures are followed on any federal-aid projects. In particular, the City must notify the Region LAC prior to contracting with consultants to initiate the process.

When staffing changes occur, an updated list must be submitted for approval prior to commencement of any right of way work.

If you have any questions regarding the requirements, please contact David Narvaez, Northwest Region LAC at (206) 440-4205, or Mehrdad Moini, Northwest Region Local Programs Engineer at (206) 440-4734.

Sincerely,



Dianna Nausley
Right of Way Manager
Local Programs

DN:sas

Enclosures

cc: Mehrdad Moini, Northwest Region Local Programs Engineer, MS NB82-121
David Narvaez, Northwest Region Local Agency Coordinator, MS NB82-121

Right of Way Procedures

The City of Des Moines, hereinafter referred to as "AGENCY", desiring to acquire real property (obtain an interest in, and possession of, real property) in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations (49 CFR Part 24) and state law (Ch. 8.26 RCW), and state regulations (Ch. 468-100 WAC) hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the AGENCY will acquire right-of-way (ROW) in accordance with the policies set forth in the Right of Way Manual M 26-01 and Local Agency Guidelines. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. The following relate to the AGENCY's request.

- a. Below is a list of responsible AGENCY individual names and positions, for which the AGENCY has qualified staff to perform the specific right-of-way function(s). Attached are resumes for each individual AGENCY staff listed to perform those functions below, and a brief summary of their qualifications pertaining to the specific ROW function(s) for which they are listed. The procedures shall be updated whenever staffing changes occur. The AGENCY will be approved to acquire based upon staff qualifications.

i. PROGRAM ADMINISTRATION :

Oversee delivery of the R/W Program on federal aid projects for the agency. Ensures R/W functions are carried out in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Ensures agency's approved R/W Procedures are current, including staff qualifications, and provides copies to consultants and agency staff;
- Oversight of ROW consultants;
 - use of consultant contract approved by WSDOT (under construction)
 - management of ROW contracts
 - management of ROW files
 - reviews and approves actions and decisions recommended by consultants
 - Overall responsibility for decisions that are outside the purview of consultant functions
- Sets Just Compensation prior to offers being made;
- Approves administrative offer summaries per policy;
- Ensure agency has a relocation appeal process in place prior to starting relocation activities;
- Oversight of Administrative Settlements;
- Obligation authority for their agency;
- Obtain permits (Non-Uniform Relocation Act (URA));
- Ensures there is a separation of functions to avoid conflicts of interest.
- Verifies whether or not ROW is needed, and that the property rights and/or interests needed are sufficient to construct, operate and maintain the proposed projects (see Appendix 25.176).

Agency Position: Public Works Director

(Employee name & qualifications – see Attachment 1)

ii. **APPRAISAL**

Prepare and deliver appraisals on federal aid projects for the agency. Ensures that appraisals are consistent and in compliance with state and federal laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Use only qualified agency staff approved by WSDOT to perform appraisal work;
- Use appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);
- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Obtain specialist reports;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Qualified Consultant

iii. **APPRAISAL REVIEW:**

Review appraisals on federal aid projects for the agency to make sure they are adequate, reliable, and have reasonable supporting data, and approve appraisal reports. Ensures appraisals are adequately supported and represent fair market value and applicable costs to cure and are completed in compliance with state and federal laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Use only qualified agency staff approved by WSDOT to perform appraisal review work;
- Use review appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Ensures project wide consistency in approaches to value, use of market data and costs to cure;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Qualified Consultant

iv. **ACQUISITION:**

Acquire, through negotiation with property owners, real property or real property interests (rights) on federal aid projects for the agency. Ensures acquisitions are completed in compliance with federal and state laws, regulations, and policies and procedures.

Responsibilities/Expectations:

- Use only qualified staff to perform acquisition activities for real property or real property interests, including donations;
- To avoid a conflict of interest, when the acquisition function prepares an AOS, only acquires property valued at \$10,000 or less;
- Provide and maintain a comprehensive written account of acquisition activities for each parcel;
- Prepare administrative settlement justification and obtain approval;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);

- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Review title, and recommend and obtain approval for acceptance of encumbrances;
- Ensure acquisition documents are consistent with ROW plans, valuation, and title reports;
- Provide a negotiator disclaimer;
- Coordinate with engineering, program administration, appraisal, relocation, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each acquisition.

Qualified Consultant

v. **RELOCATION:**

Provide relocation assistance to occupants of property considered displaced by a federally funded projects for the agency. Ensures relocations are completed in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Prepare and obtain approval of relocation plan prior to starting relocation activities;
- Confirm relocation appeal procedure is in place;
- Provide required notices and advisory services;
- Make calculations and provide recommendations for agency approving authority prior to making payment;
- Provide and maintain a comprehensive written account of relocation activities for each parcel;
- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Qualified Consultant

vi. **PROPERTY MANAGEMENT:**

Establish property management policies and procedures that will assure control and administration of ROW, excess lands, and improvements acquired on federal aid projects for the agency. Ensures property management activities are completed in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Account for use of proceeds from the sale/lease of property acquired with federal funds on other title 23 eligible activities;
- Keep R/W free of encroachments;
- Obtain WSDOT/FHWA approval for change in access control along interstate;
- Maintain property records;
- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Agency Positions: Finance Director; Chief Operations Officer, Public Works Director, Engineering Services Manager; SWM Utility Manager, City Attorney

(Employee names and qualifications – See Attachment 1)

- b. Any functions for which the AGENCY does not have qualified staff, the Agency will contract with another local agency with approved procedures, an outside contractor, or the Washington State Department of Transportation (WSDOT). An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator (LAC) and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person approved to negotiate who is not experienced in negotiation for FHWA funded projects, the LAC must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
 - c. An AGENCY wishing to take advantage of an Appraisal Waiver (aka Administrative Offer Summary or AOS) procedure on properties valued up to \$25,000 or less should make their proposed waiver procedure a part of these procedures. The procedure outlined in LAG manual has already been approved using form LPA-003. The AGENCY may submit a procedure different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
 - d. Attached is a copy of the AGENCY's administrative settlement procedure showing the approving authority(s) and the procedure involved in making administrative settlements.
2. All projects shall be available for review by the FHWA and WSDOT at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages, and for a three year period following acceptance of the projects by WSDOT.
 3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the AGENCY is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.



Mayor or Chairman

5/29/17

Date

Washington State Department of Transportation

Approved By:



Local Programs Right of Way Manager

3/20/18

Date

ATTACHMENT 1

AGENCY STAFF POSITIONS & QUALIFICATIONS

City of Des Moines staff will be responsible for the Program Administration and Property Management functions. The following positions and individuals are identified below. Position descriptions and qualifications are available.

Chief Operations Officer: Daniel J. Brewer, P.E., P.T.O.E. - Registered Professional Engineer and Certified Professional Traffic Operations Engineer, Washington State; BS Civil Engineering, University of Washington. Mr. Brewer has over 20 years of experience in the public sector managing transportation programs and projects consistent with WSDOT LAG guidelines. Experience includes Right-of-Way acquisition meeting WSDOT/FHWA certification requirements.

Public Works Director: R. Brandon Carver, P.E., P.T.O.E. – Registered Professional Engineer and Certified Professional Traffic Operations Engineer, Washington State; BS Civil Engineering, University of Washington. Mr. Carver has over 21 years of experience in the public sector managing transportation infrastructure improvements consistent with WSDOT LAG guidelines. Experience includes Right-of-Way acquisition meeting WSDOT/FHWA certification requirements

Transportation & Engineering Services Manager: Andrew Merges, P.E. - Registered Professional Engineer in the states of Washington, Arizona, and Minnesota; Executive MPA, University of Washington; B.S. Civil Engineering, Michigan Technological University; Mr. Merges has over 13 years of experience in the public and private sector managing and fulfilling Engineer of Record roles for transportation infrastructure projects consistent with the WSDOT LAG manual. Experience includes Right-of-Way acquisition plan development, acquisition management, and project certification.

Surface Water & Environmental Engineering Manager: Loren Reinhold, P.E. - Registered Professional Engineer, Washington State; BS in Civil Engineering and Geology, University of Idaho. Mr. Reinhold has 28 years of engineering experience in the public sector involving stormwater infrastructure projects, road improvements, utility infrastructure, and landslide restoration projects.

Interim Finance Director: Cecilia Pollock, BSBA degree – major in accounting. Her accounting work experience for local government entities in Washington State over the past 20 years include Community Health Center, Covington Water District, and City of Des Moines.

City Attorney: Timothy A. George, -J.D., California Western School of Law, Attorney licensed to practice law in Washington, California, and the United States Western District. Mr. George has been practicing law for 10 years and has extensive civil and criminal law experience including acquisition of public Right-of-Way via use of municipal powers of eminent domain.

WAIVER OF APPRAISAL PROCEDURE

The City of Des Moines, Washington, hereinafter referred to as "AGENCY", desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives, and desiring to take advantage of the \$25,000.00 appraisal waiver process approved by the Federal Highway Administration (FHWA) for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation (WSDOT) as follows:

Rules

- A. The AGENCY may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the Project Funding Estimate (PFE) is \$25,000.00 or less including cost-to-cure items. A True Cost Estimate shall not be used with this procedure.
- B. The AGENCY must make the property owner(s) aware that an appraisal has not been completed on the property for offers \$10,000 or less.
- C. The AGENCY must make the property owner(s) aware that an appraisal has not been completed on the property for offers over \$10,000 and up to \$25,000, and that an appraisal will be prepared if requested by the property owner(s).
- D. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

- A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.
- B. The AOS is submitted to the Public Works Director for approval.
- C. The Public Works Director signs the AOS authorizing a first offer to the property owner(s).

AGENCY

By:


 Mayor, City of Des Moines

APPROVED:


 Local Programs Right of Way
 Manager

City of Des MoinesADMINISTRATIVE SETTLEMENT POLICIES

Administrative settlements that exceed Fair Market Value (FMV) as established through the appraisal process, and in accordance with LAG manual section 25.11, Administrative Settlement Guidelines, shall be documented and thoroughly justified, and shall be set forth in writing. Administrative Settlements shall be subject to the following levels of approval authority: The City Manager, or designee shall have the authority to make administrative settlements up to 10% above FMV not to exceed \$50,000. Administrative settlements in excess of \$50,000 shall require the approval of the City Council.

Passed and approved by the City of Des Moines Council, this 15th day of February, 2018.



Mayor

Attest:



City Clerk

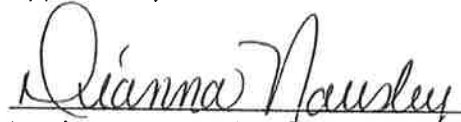
Approved as to Form:



City Attorney

Washington State Department of Transportation

Approved By:



Local Programs Right-of-Way Manager

3/20/18

Date

SUBJECT TO REQUIREMENTS LISTED IN
RIGHT OF WAY PROCEDURES APPROVAL LETTER

RESOLUTION NO. 1377

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, adopting Administrative Settlement Policies in accordance with the Washington State Department of Transportation Local Agency Guidelines (LAG) manual, section 25.11, *Administrative Settlement Guidelines*.

WHEREAS, it is sometimes necessary for the City to acquire real estate property in order to construct or accommodate planned improvements and,

WHEREAS, for a project to be eligible for federal funding on any phase of the project, the project's right-of-way must be acquired in accordance with the requirements of the Washington State Department of Transportation Local Agency Guidelines (LAG) manual and,

WHEREAS, Section 25.09 of the LAG outlines the process for Administrative Settlements which include requiring the local agency to submit for review to the Washington State Department of Transportation (WSDOT) the agency's responsible official with authority to approve administrative settlements, and the procedure for handling administrative settlements, and

WHEREAS, the designated local agency representative may approve an administrative settlement when it is determined that such action is in the public interest; now therefore,

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

The Des Moines City Council adopts the following Administrative Settlement Policies for real estate property purchases required for public works projects in accordance with the Washington State Department of Transportation Local Agency Guidelines (LAG) manual, section 25.11, *Administrative Settlement Guidelines*.

ADMINISTRATIVE SETTLEMENT POLICIES

(1) The City Manager, or the City Manager's designee, shall have the authority to make administrative settlements up to ten percent (10%) above the Fair Market Value (FMV) not to exceed \$50,000.

SUBJECT TO REQUIREMENTS LISTED IN
RIGHT OF WAY PROCEDURES APPROVAL LETTER

Resolution No. 1377
Page 2 of 2

(2) Administrative settlements in excess of \$50,000 shall require the approval of the Des Moines City Council.

ADOPTED BY the City Council of the City of Des Moines, Washington this 15th day of February, 2018 and signed in authentication thereof this 15th day of February, 2018.


MAYOR

APPROVED AS TO FORM:

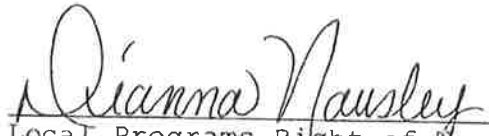

Assistant City Attorney

ATTEST:


City Clerk

APPROVED BY:

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

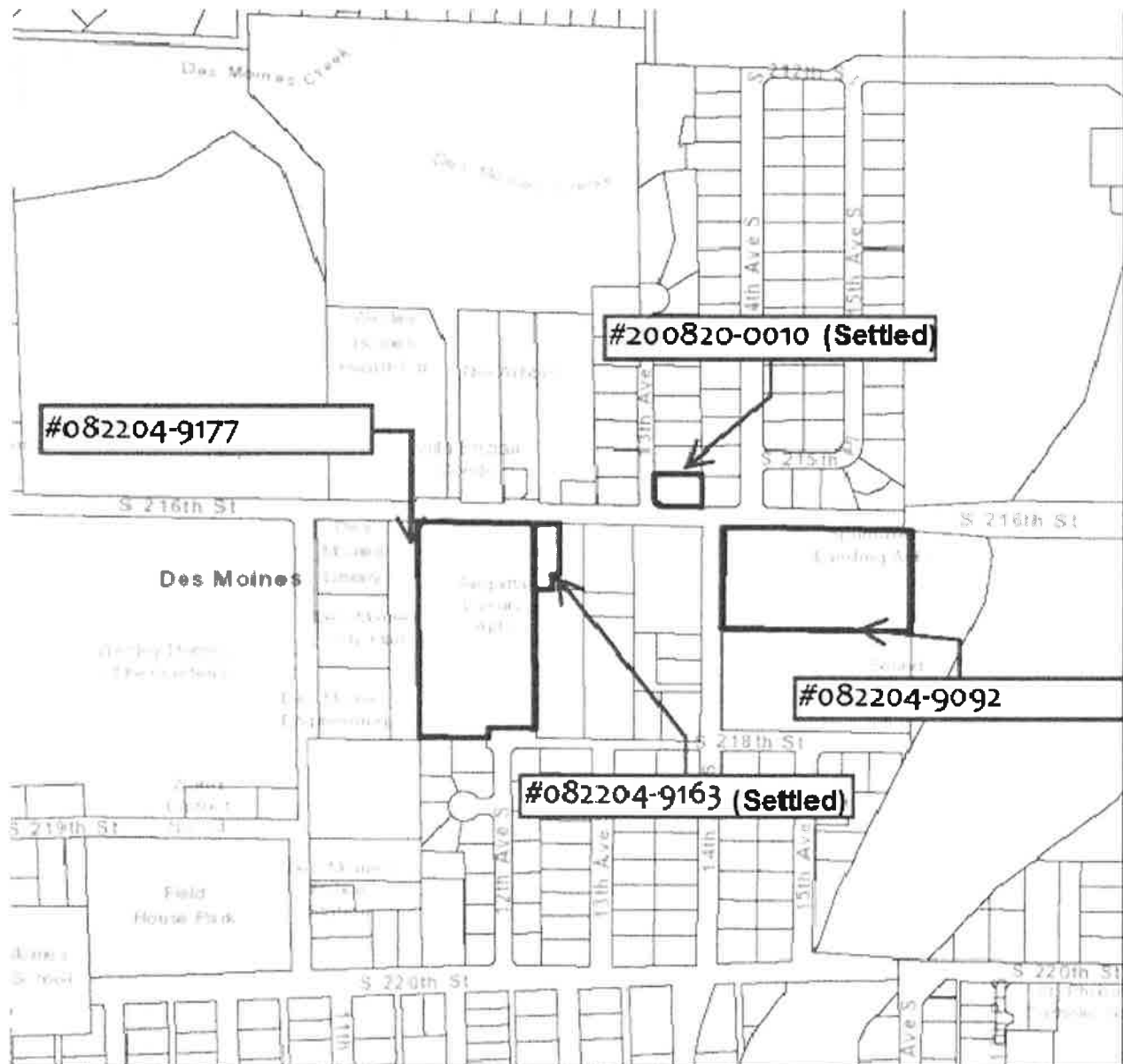

Local Programs Right-of-Way Manager
Dated: 3/20/18

SUBJECT TO REQUIREMENTS LISTED IN
RIGHT OF WAY PROCEDURES APPROVAL LETTER

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VICINITY MAP

ORDINANCE 18-098 (3ND Draft - 8/16/18)



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Attachment 6

Eminent Domain Ordinance #18-098

Subject Property Photos

Parcel #10 - Terry Leffard: Sidewalk Easement (bus stop – SETTLED)



Parcel #23 - Regatta Apartments LLC: Temporary Construction Easement



Parcel #24 Harriet Laws (estate): Temporary Construction Easement (SETTLED)



#28 - Spinnaker Landing Apartments, LLC: Utility, Sidewalk and Temporary Construction Easement



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South 216th - Segment 3

Project #

319,334

Summary Project Description:

TOTAL PROJECT SCOPE				PROJECT BUDGET ALLOCATIONS BY YEAR					ACTUAL EXPENDITURES
Expenditures	1/1/18 Current CIP Budget	2018 CIP Supplemental Request	2018 Revised CIP Budget Estimate	Estimated Year End 2018	Planned Year 2019	Planned Year 2020	Planned Year 2021	Planned Year 2022	
Design									
External Engineering	540,000	-	540,000	64,982					
Internal Engineering/Project Mgmt	10,000	-	10,000	6,931					
Other Professional Services - Len Madsen	80,000	-	80,000	42,307					
Other Misc (Advertise, Postage, Etc.)		-	-	(1,800)					
Prop/ROW/Easements									
External Engineering	130,000	-	130,000	130,000					
Internal Engineering		-	-	-					
Other Professional Services - Len Madsen	30,000	-	30,000	30,000					
Land		-	-	-					
Other Miscellaneous		-	-	-					
Construction									
External Engineering	560,000	-	560,000	-	560,000				
Internal Engr-Proj Mgmt/ Inspect	30,000	-	30,000	-	30,000				
Construction Contract 1	4,081,000	-	4,081,000	-	4,081,000				
Construction Contract Contingency		-	-	-					
Other Miscellaneous		-	-	-					
Other									
Interfund Financial Services	58,210	-	58,210	1,824	51,210				
Contingencies	410,000	-	410,000	-	410,000				
Total Project Expense Budget:	5,929,210	-	5,929,210	274,244	5,132,210	-	-	-	-

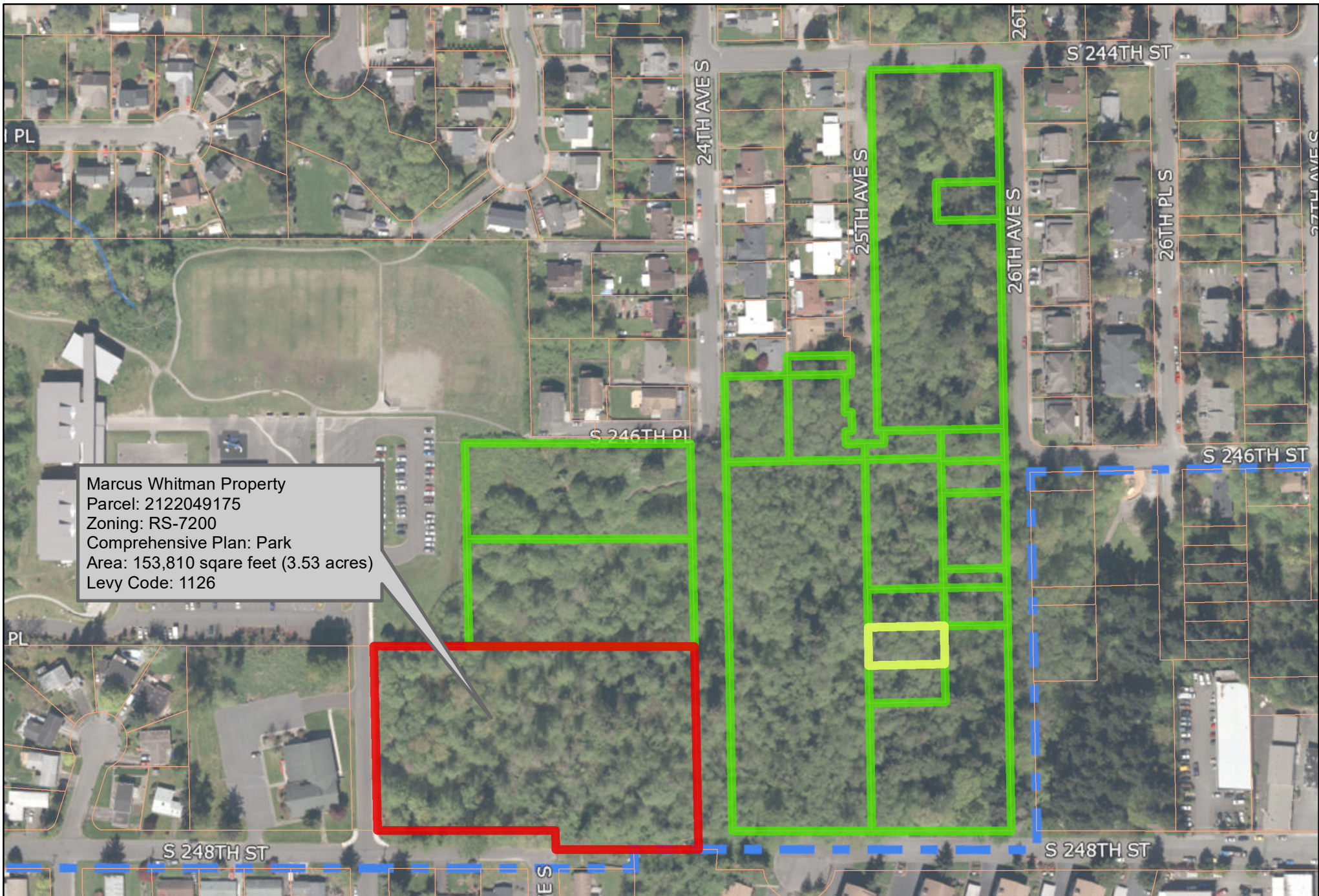
Funding Sources		1/1/18 Current CIP Budget	2018 CIP Supplemental Request	2018 Revised CIP Budget Estimate	Project to Date 12/31/17	Scheduled Year 2018	Scheduled Year 2019	Scheduled Year 2020	Scheduled Year 2021	Scheduled Year 2022
Traffic Impact Fees - City Wide		2,771,965	-	2,771,965	242,333	153,515	2,376,117			
TIF Grant		3,157,245	-	3,157,245	280,423	120,729	2,756,093			
Total Project Revenue Budget:		5,929,210	-	5,929,210	522,756	274,244	5,132,210	-	-	-

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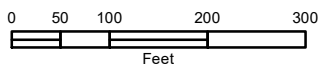


August 23, 2018

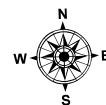
[illegible]



Marcus Whitman Wetland Property



* This map is not suitable for site-specific analysis or for utility location *



- Whitman Parcel
- Private Owner
- Owned by CDM
- Tax Parcels
- Des Moines City Limits

PUBLIC HEARING:

DRAFT ORDINANCE 18-074

PERMITTED USES AND DEVELOPMENT STANDARDS FOR I-C INSTITUTIONAL CAMPUS ZONED PROPERTIES

Susan Cezar, Chief Strategic Officer

Laura Techico, Principal Planner

August 23, 2018

Introduction

- The City very much appreciates the collaborative efforts by Wesley, Judson Park, Highline College, and the Masons' representatives, to provide input on potential I-C Zone code changes and their presence here tonight.
- The proposed code changes have been vetted by these institutional partners and the Council Economic Development Committee in multiple discussions. The proposed code changes will affect all current and future I-C properties.

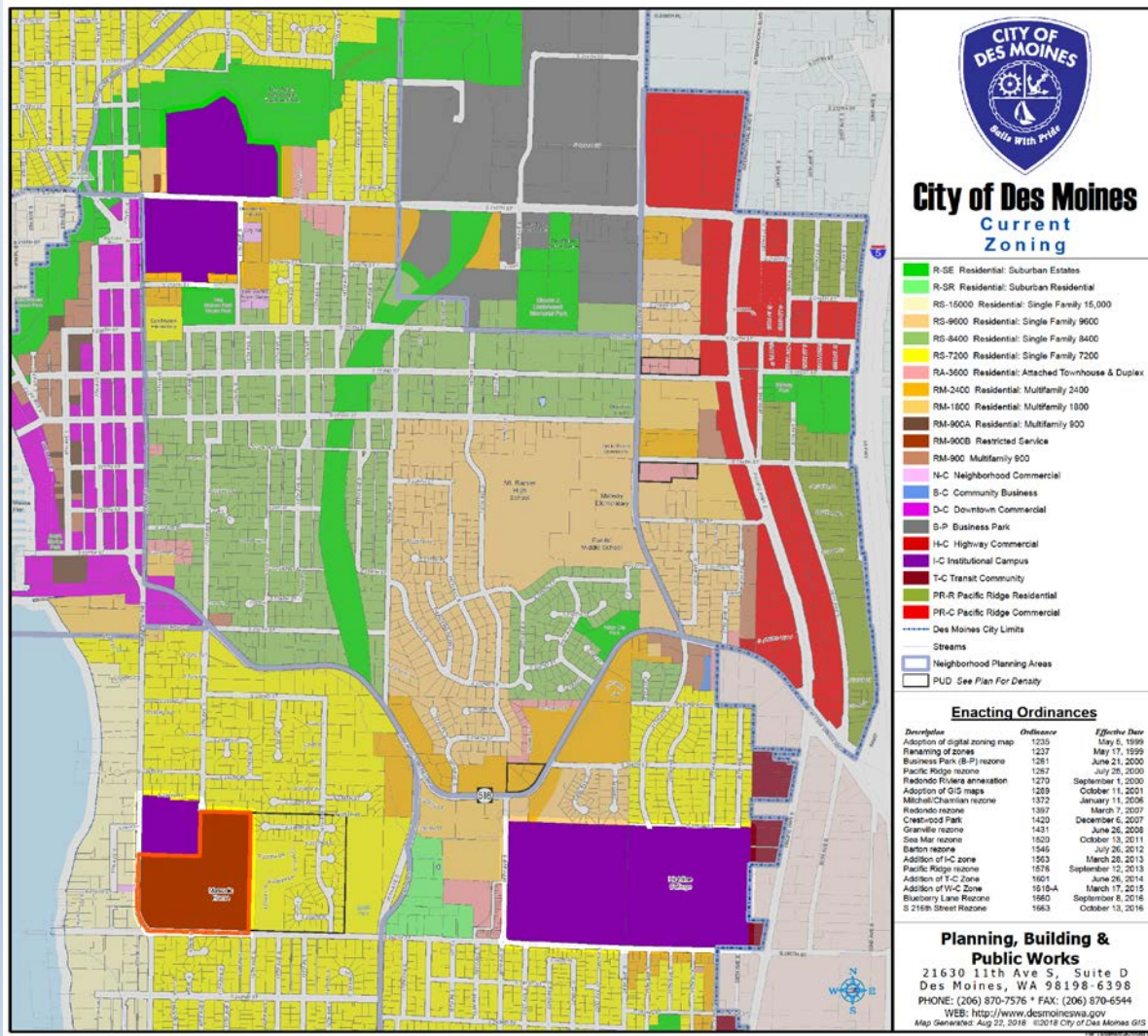
Purpose

- Code amendments – policy decision, not project review
- Development projects will require site-specific review for compliance
 - Master plan – City Council Approval – Quasi-judicial
 - Development regulations
 - Environmental Review
 - Mitigation for project-specific impacts
- Amends the permitted uses and associated development regulations in the Institutional Campus (I-C) Zone
- The I-C Comprehensive Plan designation and Zone were established in 2012 to support existing and anticipated uses, operations, and future master planned development of the City's large institutions.

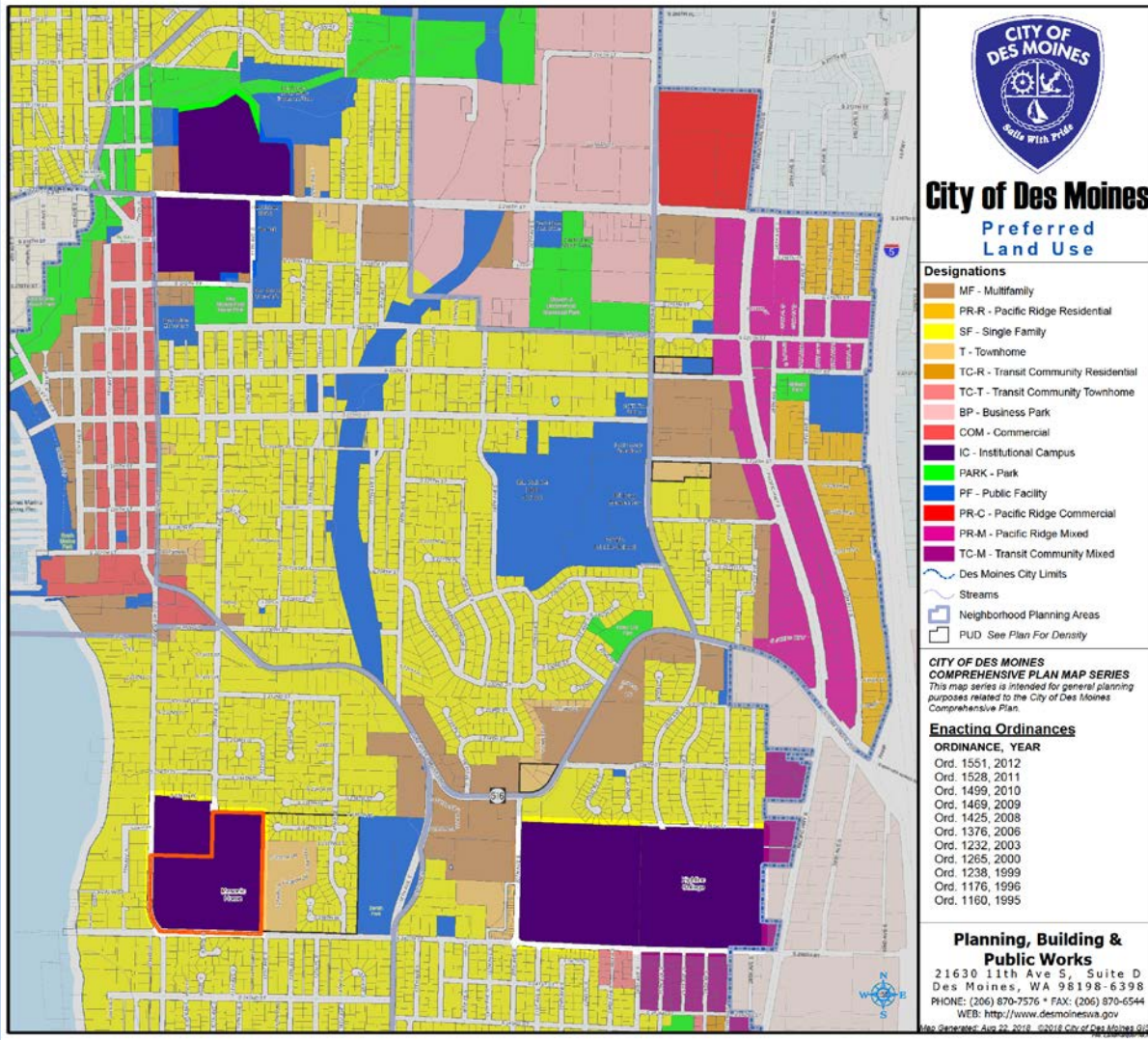
Purpose

- Provide additional flexibility for the institutional uses in the City and encourage re-use of surplus buildings, to avoid vacant/deterioration or demolition
- Clarify that certain uses are allowed such as daycare, café etc., as well as other uses suggested by I-C Zone partners
- Remove certain undesirable uses
- Mayor and Economic Development Committee reviewed all uses carefully and made recommendations to enhance desirable permitted uses and remove undesirable uses.
- In March 2018, Council approved a revised Essential Public Facilities ordinance, which also removed undesirable uses from the I-C Zone.
- Retains the requirement for a Master Plan – approval by City Council

Zoning Map – I-C zone in purple



Preferred Land Use Map – IC preferred land use in dark purple



History

- 2004 Judson Park began review for the addition of two building wings.
- 2012 City of Des Moines Comprehensive Plan amended to include IC preferred land use and zoning
- 2012 Adoption of the I-C zone
- 2015 Wesley Master Plan for south campus redevelopment.
- 2017 Highline College Master Plan.
- 2018 Rezone application submitted by the Masons for Landmark on the Sound – zoning change for consistency with the adopted IC preferred land use (separate process, City Council hearing proposed for September 27, 2018).

Council Action Tonight



- Hold a public hearing to receive comments on the change of uses.
- Consider adoption of the proposed changes to the Institutional Campus zone

Future Council Actions

- Rezone - Landmark Property:
 - Public Hearing - September 27th
 - Will bring the Landmark property into compliance with the Council's Comprehensive Plan
 - No development proposal or project specifics have been submitted to date.
- When a proposal is submitted for any I-C Zone property:
 - Master plan
 - Development regulations
 - Environmental Review
 - Mitigation for project-specific impacts
 - Opportunities for public comment and appeals
 - Public Hearing: City Council Review and Approval of the Master Plan

Proposed Zoning Amendments:

Development Regulation Changes

- Amend purpose statement to provide flexibility to allow for appropriate reuse of surplus institutional buildings and properties.
- Add master plan decision criteria to incorporate the principles of Crime Prevention through Environmental Design (CPTED).
- Amend property development standards so that minimum setback is based on the highest point of the building (assures appropriate setbacks from neighboring properties).

Proposed Zoning Amendments:

New or Clarified Permitted Uses

USES PERMITTED WITH LIMITATIONS

Uses permitted in conjunction with a mixed use or educational facility development reviewed under a Master Plan

- ❑ Admin, support services
- ❑ Art galleries
- ❑ Art, glassware manufacturing
- ❑ Arts, entertainment, and recreation facilities (with the exception of amusement parks and arcades and gambling industries)
- ❑ Barber, beauty and hairstyling shops
- ❑ Brewery/winery/distillery
- ❑ Community gardens
- ❑ Convention facilities
- ❑ Daycare centers and mini-day care providers
- ❑ Financial and insurance services
- ❑ Fraternal organizations/societies
- ❑ Glass, stained glass studios
- ❑ Hotels
- ❑ Legal Services
- ❑ Libraries (public)
- ❑ Management of companies and enterprises
- ❑ Mixed use (mixed use developments may incorporate structures containing single-purpose multi-family residential or commercial buildings)
- ❑ Motion pictures services
- ❑ Museums
- ❑ Offices, business and professional
- ❑ Personal and business services
- ❑ Professional, scientific, technical services
- ❑ Professional offices, medical, dental
- ❑ Public administration facilities
- ❑ Public facilities
- ❑ Publishing, telecommunications, Internet service providers, data processing services
- ❑ Real estate renting and leasing
- ❑ Religious, grant writing, civic and professional organizations
- ❑ Restaurants
- ❑ Retail services and trade
- ❑ Taverns and cocktail lounges
- ❑ Theaters

Proposed Zoning Amendments:

New or Clarified Permitted Uses Cont'd

USES PERMITTED WITH LIMITATIONS

**Uses with an added limitation
permitted at a small scale to serve site
development**

- Publishing, telecommunications,
Internet service providers, data
processing services
- Sewage treatment plants (ancillary
infrastructure)

**Uses permitted to serve colleges,
universities or educational facilities**

- Stadiums

USES PERMITTED OUTRIGHT

- Nursing homes

Proposed Zoning Amendments:

Removed Uses

- Columbariums, crematories, mausoleums
 - Fairgrounds and rodeos
 - Labor camps (transient)
 - Race tracks, drag strips, motorcycle hills, and Go-Kart tracks
 - Solid waste handling facilities
-
- Previous actions: Ordinance No. 1697 added an Essential Public Facilities chapter. This ordinance also modified the permitted uses tables. Uses such as mental health or substance abuse facilities were removed from the I-C Zone.

Suggested Motions

- **Motion 1:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No 18-074 on first reading.”
- **Motion 2:** “I move to enact Draft Ordinance No. 18-074 amending the permitted uses in DMMC 187.52.010B and associated development regulations in DMMC 18.95.030 and DMMC 18.95.060 in the I-C Institutional Campus Zone.”



CITY COUNCIL

PUBLIC HEARING Speaker Sign-Up Sheet

DRAFT ORDINANCE NO. 18-074 REGARDING CHANGES IN
PERMITTED USES AND ASSOCIATED REGULATIONS IN
THE INSTITUTIONAL CAMPUS (I-C) ZONE

August 23, 2018

NAME (PLEASE PRINT)	ADDRESS	PHONE/E-MAIL ADDRESS
1. Travis Amecche		
2. Chris Hayes Haynes	Seattle	206-353-0134
Clinton Brown		
Dana Moody		
Robert Sandoz		
Drew Hellmann	28857 Redondo Shores Dr. S.	206 372-3739
Brian Smith	28869 Redondo Shores Dr S.	smithbrian@comcast.net
3. Dave Kaplan	Am	

Bonnie Wilkins

From: Kevin Anderson <KAnderson@WesleyHomes.org>
Sent: Wednesday, August 22, 2018 4:29 PM
To: Bonnie Wilkins
Subject: Letter of Support

Bonnie please accept this email to be submitted to the Des Moines City Council meeting on August 23rd as a reflection of my support for the proposed amendments to the Institutional Campus Zoning. I am in full support of these amendments and encourage the City Council to pass these amendments as presented. Sincerely, Kevin Anderson, President/CEO, Wesley Homes.

Kevin Anderson
President & CEO
Phone: 206-870-1100
Email: KAnderson@WesleyHomes.org
www.wesleychoice.org



WESLEY STATEMENT OF CONFIDENTIALITY:

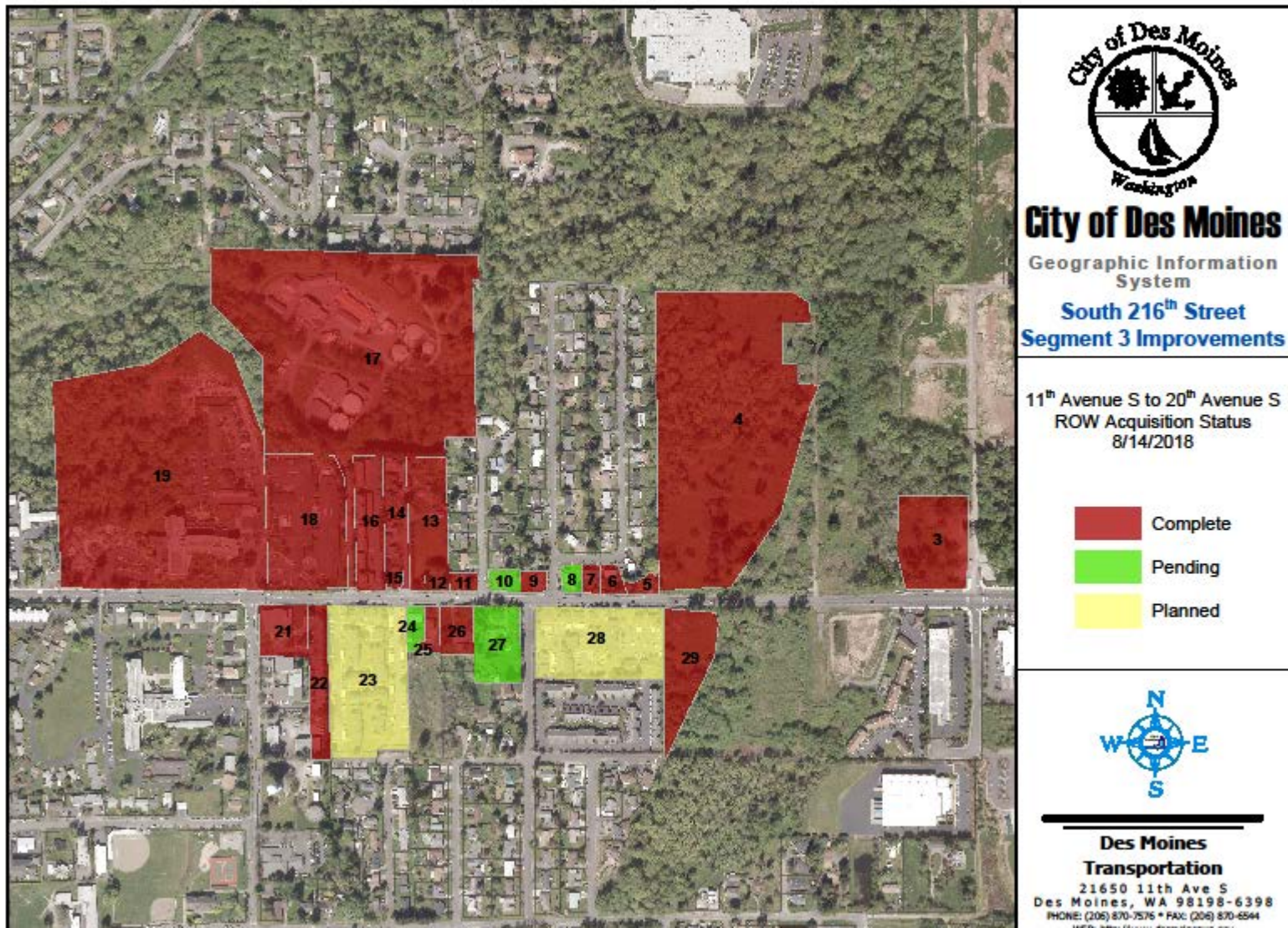
The information contained in this email and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential, privileged information and health information that is legally protected from disclosure by HIPAA. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution of this information is STRICTLY PROHIBITED. If you have received this information in error, please contact 206-824-5000 or notify the sender and destroy all copies of this email and any attachments.

S. 216th Street Segment 3 Transportation Gateway Project

Draft Ordinance #18-098
Authorizing Eminent Domain

Des Moines City Council
8/23/18

ROW Acquisition Status



Subject Properties



Suggested Motions:

Motion 1: “I move to suspend Rule 26(a) in order to enact Draft Ordinance No 18-098 on first reading.”

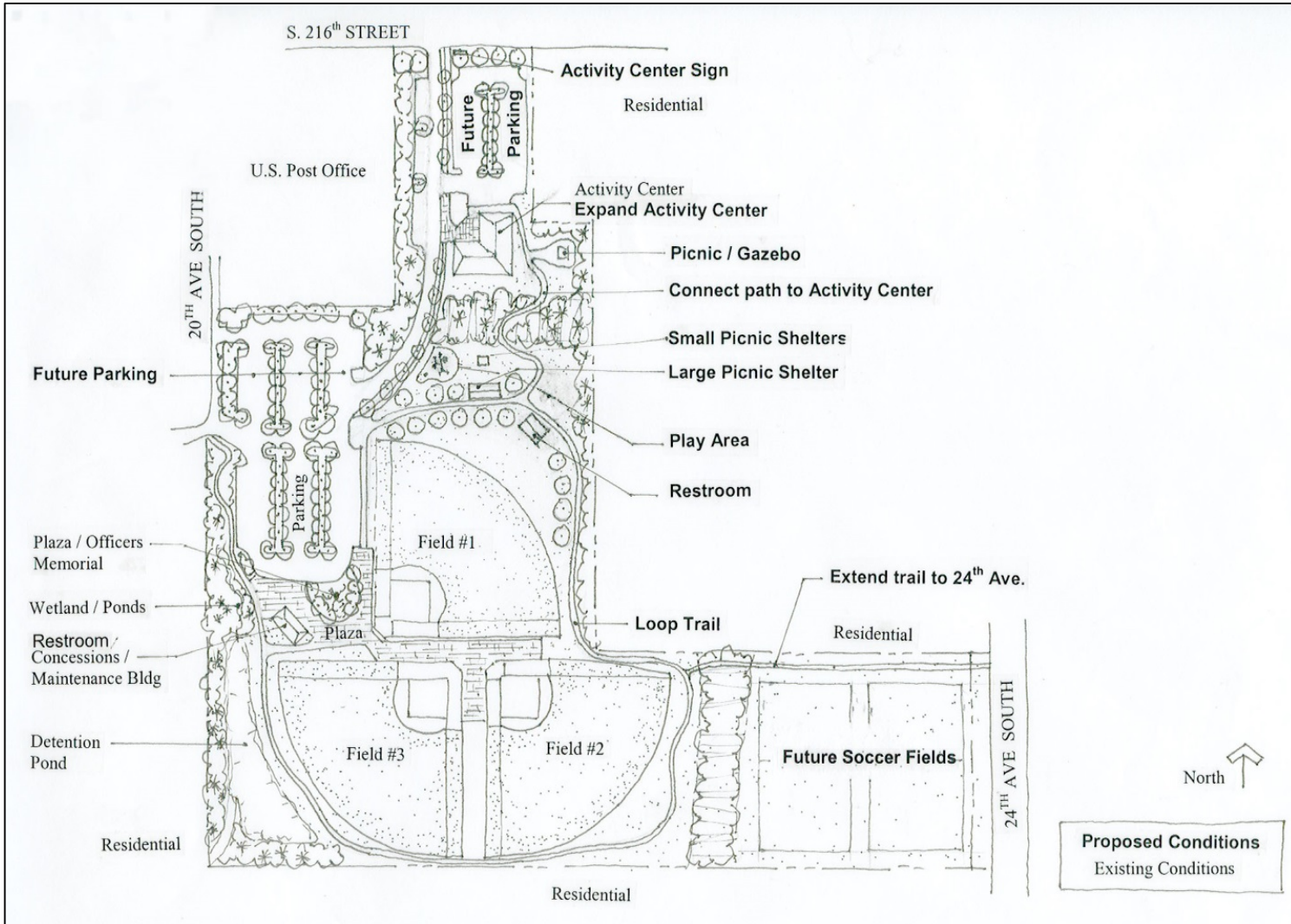
Motion 2: “I move to enact Draft Ordinance No 18-098, directing the City Attorney to prosecute the eminent domain action in King County Superior Court in a manner provided by law to condemn, take, damage and appropriate real properties in a manner necessary to carry out the provisions of Draft Ordinance No 18-098.”

Staffing

- DV Advocate to Management Analyst
 - *Increase from 0.40 to 1.0 FTE (Effective September 1, 2018)*
 - Public Records Specialist (New 1.0 FTE)
 - Hire Ahead Program:
 - *Building Division: Building Official (New 1.0 FTE)*
 - *Engineering Services: Project Manager (New 1.0 FTE)*
 - *Finance Department: Accounting Specialist (Payroll)*
 - (Increase from 0.5 FTE – 1.0 FTE)
-
- 2019
 - *2 FTE's related to Sound Transit's FWLE*

Parks, Recreation, and Senior Services Master Plan

Steven J. Underwood Memorial Park – Project #23



Proposed Improvements

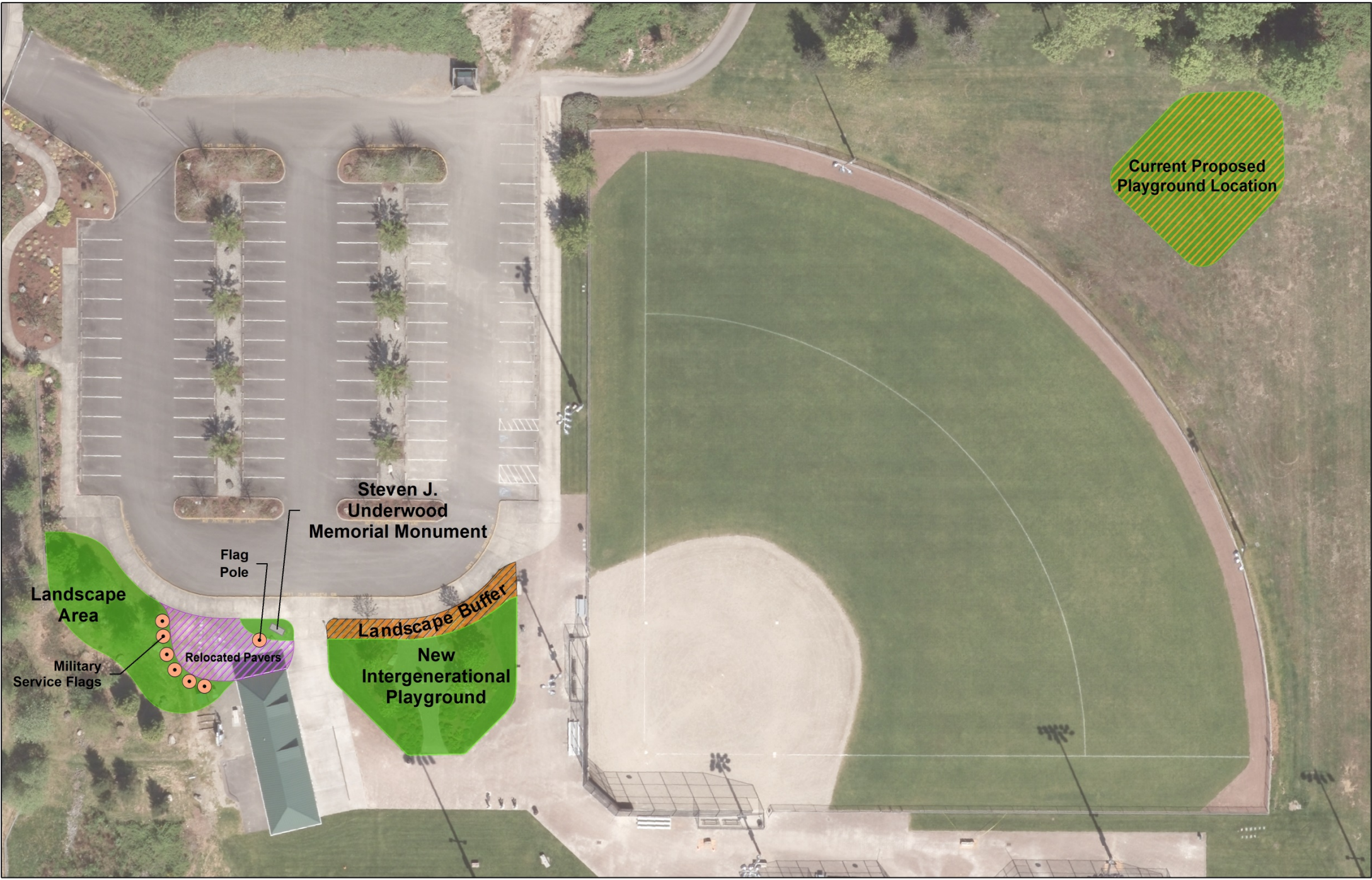
- A. Expand Parking in a new lot with lighting and surface water management.
- B. Develop one competition soccer field/multipurpose field with lights.
- C. Provide a large picnic shelter.
- D. Add play area.
- E. Add ADA tables, picnic tables, benches, trash receptacles.
- F. Add drinking fountain near restroom.
- G. Develop looped trail around entire park site.
- H. Trail extensions to 24th Ave, Activity Center and Neighborhood.
- I. Complete landscaping at restroom and wetlands for walking/driving.
- J. Add concrete mow strips along base of walls between fields #2 and #3.
- K. Add netting at backstop.
- L. Edge of brick plaza at field #3 is uneven. Resolve uneven grades and gap between bricks and concrete.
- M. Replace several dying plants and one tree along parking edge and detention pond.
- N. Paint restrooms.
- O. Fortify lighting/wiring electrical boxes.
- P. Add security cameras.

Playground Project Status

- Postpone project advertisement for bids until Jan/Feb 2019.
- Combine this project with Westwood Park and Wooton Park
 - Economy of Scale
- Kiddie/City Park



Current Proposed
Playground Location



Current Proposed
Playground Location

Steven J.
Underwood
Memorial Monument

Flag
Pole

Relocated Pavers

Landscape Buffer

New
Intergenerational
Playground

Landscape
Area

Military
Service Flags



STEVEN I. UNDERWOOD
MEMORIAL PLAZA



