AMENDED AGENDA

DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
VIA ZOOM

December 3, 2020 – 5:00-8:00 p.m.

NOTE: The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 and Governor Inslee's Stay-at-Home order issued March 23, 2020 in response to the COVID-19 Pandemic. Accordingly, this meeting will be held virtually using Zoom.

Public Comment continues to be encouraged and will be accepted in the following manner:

(1) In writing, either by email to the City Clerk's Office at https://www.desmoineswa.gov/FormCenter/City-Forms-3/Council-Meeting-Comments-49 or by mail; Attn: City Clerk Office, 21630 11th Avenue S., Des Moines WA 98198 no later than 4:00 p.m. day of the meeting. Please provide us with your first and last name and the city in which you live. Your full name and the subject of your public comment will be read into the record at the Council meeting. Incomplete forms will not be read into the record, however the full correspondence will be attached to the Council packet and uploaded to the website as part of the permanent record.

(2) By participation via Zoom. If you wish to provide oral public comment please email the City Clerk's office at https://www.desmoineswa.gov/FormCenter/City-Forms-3/Council-Meeting-Comments-49 no later than 4:00 p.m. day of the meeting to receive your Zoom log-in and personal identification number. Please note that Zoom attendees do not interact with one another; they join in listen-only mode until it is their turn to address the Council.

City Council meetings can also be viewed live on Comcast Channel 21 or live streamed on the City's website at www.desmoineswa.gov.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC VIA ZOOM/WRITTEN PUBLIC COMMENT

PRESIDING OFFICER'S REPORT

Item 1: VIRTUAL HOLIDAY TREE LIGHTING

ADMINISTRATION REPORT

Item 1: ARTS COMMISSION YEAR END UPDATE

~~Item 2: LIFE SAVINGS AWARD~~

~~Item 3: REPORT ON MENTAL HEALTH~~

Item 4: LEGISLATIVE AGENDA

CONSENT CALENDAR

Page 5 Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through November 23, 2020 in the attached list and further described as follows:

Total A/P Checks/Vouchers	#161596-161667	$	475,845.07
Electronic Wire Transfers	# 1558-1568	$	568,294.76
Payroll Direct Deposit	#470001-470138	$	354,381.89
Total Checks and Wires for A/P and Payroll:			$1,398,521.72

Page 7 Item 2: RESOLUTION 20-071: UPDATE AND AUTHORIZE THE POST ISSUANCE COMPLIANCE POLICY AND PROCEDURES FOR TAX-EXEMPT GENERAL OBLIGATION BONDS

Motion is to adopt Draft Resolution No. 20-071 authorizing a Post Issuance Compliance Policy and Procedures for Tax-Exempt General Obligation Bonds.

Page 27 Item 3: 2021 CONSULTANT CONTRACT: BHC CONSULTANTS, LLC

Motion is to approve Amendment 2 to the 2019 Contract with BHC Consultants, to provide professional inspection and plan review services for the year 2021 up to a total of $40,000, and authorize the City Manager to sign the Contract Amendment substantially in the form submitted.

Page 51 Item 4: AUTHORIZE THE CITY OF DES MOINES GRANT MANAGEMENT POLICY

Motion is to adopt Draft Resolution No. 20-072 authorizing the City of Des Moines Grant Management Policy.

PUBLIC HEARING

Page 63 Item 1: DRAFT ORDINANCE 20-044 AMENDING THE DES MOINES 2035 COMPREHENSIVE PLAN

Staff Presentation:
Planning & Development Services Manager Denise Lathrop

NEW BUSINESS

Item 1: POLICE BODY CAMERA DISCUSSION

Staff Presentation:
City Manager Michael Matthias

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS – (4 minutes per Councilmember) - 30 minutes

PRESIDING OFFICER'S REPORT

EXECUTIVE SESSION

NEXT MEETING DATE

January 7, 2021 City Council Regular Meeting

ADJOURNMENT

THIS PAGE LEFT INTENTIONALLY BLANK

CITY OF DES MOINES
Voucher Certification Approval
December 3, 2020
Auditing Officer Certification

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

As of December 3, 2020 the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through November 23, 2020 and payroll transfers through November 20, 2020 included in the attached list and further described as follows:

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

Shawn Hunstock

Shawn Hunstock, Deputy Finance Director

			# From		# To	Amounts
Claims Vouchers:						
Total A/P Checks/Vouchers			161596	-	161667	475,845.07
Voided Checks - (see attached report)				-		0.00
Electronic Wire Transfers			1558	-	1568	568,294.76
Total claims paid						**1,044,139.83**
Payroll Vouchers						
Payroll Checks	11/20/2020		0	-	0	0.00
Direct Deposit			470001		470138	354,381.89
Total Paychecks/Direct Deposits paid						**354,381.89**
Total checks and wires for A/P & Payroll						**1,398,521.72**

THIS PAGE LEFT INTENTIONALLY BLANK

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Resolution 20-071: Update and Authorize the Post Issuance Compliance Policy and Procedures for Tax-Exempt General Obligation Bonds.

ATTACHMENTS:

1. Draft Resolution No. 20-071
2. Exhibit A – Post Issuance Compliance Policy and Initial and Ongoing Disclosure Procedures

FOR AGENDA OF: December 3, 2020

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: November 19, 2020

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

CHIEF OPERATIONS OFFICER: ____________

[X] Legal /s/ TG
[X] Finance /s/ SH
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval and adoption of Draft Resolution No. 20-071 updating and authorizing a Post Issuance Compliance Policy and Procedures for Tax-Exempt General Obligation Bonds.

Suggested Motion

"I move to adopt Draft Resolution No. 20-071 authorizing a Post Issuance Compliance Policy and Procedures for Tax-Exempt General Obligation Bonds."

Background

A requirement for the issuance of tax-exempt general obligation bonds includes completing Internal Revenue Service (IRS) Form 8038-G, *Information Return for Tax-Exempt Governmental Obligations.* Form 8038-G includes a check box for the issuer (City of Des Moines) to indicate they have established written procedures to monitor the requirements of section 148 of the Internal Revenue Code. Section 148 provides the federal arbitrage requirements.

According to Federal Securities Law there are initial and ongoing disclosure requirements. On February 27, 2019, two additional events were added to the requirements included in any Continuing Disclosure Agreement for any Securities issued on or after February 27, 2019.

Discussion

The Finance Director has been complying with section 148 of the Internal Revenue Code for all qualified general obligation bonds of the City, and has followed procedures as described in the written policy. However, in performing an annual review of the policy it was noted a need to update the policy and to add procedures related to initial and ongoing disclosures. It is prudent for the City to formally adopt the updated Post Issuance Compliance Policy and Procedures for tax-exempt general obligation bonds to ensure the current and future finance directors and other responsible City staff meet the necessary compliance requirements.

Alternatives

None

Financial Impact

The financial impact by not complying with the post issuance compliance policy and procedures for tax-exempt general obligation bonds could result in the bonds losing their tax-exempt status.

Recommendation

Staff recommends that the City Council adopt Draft Resolution No. 20-071.

CITY ATTORNEY'S FIRST DRAFT, 11/19/2020

DRAFT RESOLUTION NO. 20-071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, updating and authorizing the City of Des Moines's post issuance compliance policy and procedures for tax-exempt general obligation bonds.

WHEREAS, on June 14, 2012, the City Council passed Resolution No. 1193 authoring a post issuance compliance policy for tax-exempt general obligation bonds, and

WHEREAS, the City of Des Moines ("City") is authorized to incur debt by issuing and selling general obligation bonds from time to time as may be deemed necessary for the general welfare of the City and its general corporate purpose, and

WHEREAS, such debt may qualify as tax-exempt general obligation bonds under regulations promulgated by the Internal Revenue Service, and

WHEREAS, such tax-exempt qualification places certain compliance requirements upon the City for the duration of time that the bond issues are outstanding and beyond, and

WHEREAS, the City of Des Moines ("City") has certain outstanding debt obligations that are subject to federal tax law, federal securities law and state law requirements, and

WHEREAS, the U.S. Securities and Exchange Commission has made amendments to Rule 15c2-12 requiring disclosures of debt obligations of the City of Des Moines, and

WHEREAS, the City desires to adopt policies and procedures, relating to such obligations, to ensure compliance which such requirements, thereby it is in the best interests of the City to update its Post Issuance Compliance Policy for Tax-Exempt General Obligation Bonds; now therefore

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

Sec. 1. The City Council hereby approves and adopts the policy relating to post compliance and initial and ongoing disclosure substantially in the forms attached here to as Exhibit A and incorporated herein by reference.

Sec. 2. The City Manager and Finance Director are each hereby authorized to finalize such policies, in consultation with bond and tax counsel, as necessary and in the best interest of the City of Des Moines.

Resolution No. ___
Page 2 of 2

ADOPTED BY the City Council of the City of Des Moines, Washington this 3rd day of December, 2020 and signed in authentication thereof this 3rd day of December, 2020.

____
M A Y O R

APPROVED AS TO FORM:

____
City Attorney

ATTEST:

____
City Clerk

Attachment #2

EXHIBIT A

CITY OF DES MOINES, WASHINGTON

Post Issuance Compliance Policy – Federal Tax Matters

(for Governmental Bonds)

Scope. The Post Issuance Compliance Policy addresses the City of Des Moines compliance with federal tax requirements applicable to the City of Des Moines tax-advantaged governmental bond issues. The policy is intended to supplement the City of Des Moines' policies and procedures adopted by the City relating to its debt issuances, which may include, but are not limited to, policies and procedures relating to financial management, federal securities and state law requirements. This policy applies generally to all of the City's tax-exempt governmental bonds, and other bonds subject to comparable requirements. As used in this policy, references to "bonds" include bonds, lines of credit, bond anticipation notes, and equipment and other financing leases.

Purpose. The policy is intended to improve the City of Des Moines' ability to:

- Prevent violations in bond requirements from occurring,
- Timely identify potential violations, and
- Correct identified violations through appropriate remedial steps.

Schedule of Review. The policy is to be reviewed at least annually and upon each issuance of new bonds, including refunding bonds. In connection with this periodic review, the City of Des Moines will consider whether this policy should be amended or supplemented:

- To address any particular requirements associated with the new bond issue, or
- To reflect general changes in legal requirements since the prior bond issue.

Requirements at Bond Closing. Numerous federal tax, federal securities and state law requirements must be met in connection with a bond issue. In some circumstances (e.g., revenue bonds) rate and other covenant requirements will also need to be satisfied. These requirements are addressed in the bond transcript completed at bond closing, and confirmed in certain respects by legal opinions included in the bond transcript. For each bond issuance, the Responsible Officer (defined below) will create a written schedule for due diligence reviews, with the appropriate officials set forth below, based upon the expectations set forth in the transcript documents.

Requirements after Bond Closing. Other federal tax, federal securities law and state law requirements and contractual obligations require on-going monitoring after the issuance of the bonds. The following addresses requirements after bond closing relating to federal tax law.

- Primary Responsibility. The City of Des Moines Finance Director (the "Responsible Officer") will undertake post-issuance compliance related to the City of Des Moines bonds. The Responsible Officer may delegate tasks to other officers or staff of the City or to outside attorneys or other experts.

- Officials or employees responsible for review. The following officers and employees of the City of Des Moines are identified as the responsible persons for reviewing compliance with the City of Des Moines post-issuance obligations. Each responsible individual is to institute a calendaring system to track compliance with tasks in a timely manner.

- Federal tax requirements, including arbitrage, use of proceeds, use of facilities and IRS filings:
  - ✓ Arbitrage, IRS Filings: Responsible Officer
  - ✓ Use of Proceeds: Responsible Officer
  - ✓ Use of Facilities: Responsible Officer

- The Responsible Officer is responsible for reviewing the other requirements under the policy.

- The responsible persons identified above may need to confer, from time to time, with the City of Des Moines's bond counsel and/or financial advisor (if any), to confirm the applicability and scope of the requirements outlined in the policy. For reference, the contact information for bond counsel is provided below:
  - ✓ Alice Ostdiek at Stradling Yocca Carlson & Rauth, as bond counsel AOstdiek@svcr.com

- Training of the responsible official/employee. The City of Des Moines provides opportunities for training to the responsible individuals, specifically including the following training opportunities:
  - At or after bond closing, a conference call or meeting with bond counsel to review the requirements applicable to a new bond issue.
  - Participation in in-house training sessions, CPE, seminars, or seminars/webinars conducted by professional organizations (e.g., Government Finance Officers Association, Washington Public Treasurers Association, Washington Finance Officers Association and Puget Sound Finance Officers Association.

- Records to be Maintained. The following documents are maintained in connection with each bond issue. The goal is to retain adequate records to substantiate compliance with federal tax law requirements applicable to the City of Des Moines's bonds. Generally records should be maintained for the term of the bonds (plus the term of any refunding bonds) plus three years. Unless otherwise specified, the following records are to be maintained in the office of the Responsible Officer.
  - Complete bond transcript (provided by bond counsel) in electronic or hard copy.
  - Records of investment of bond proceeds in a format showing the date and amount of each investment, its interest rate and/or yield, the date any earnings are received and the amount earned, and the date each investment matures and if sold prior to maturity, the sale date and sale price.
  - Records of expenditure of bond proceeds in a format showing the amount, timing and the type of expenditure.
  - Records of invoices, together with supporting documentation showing payee, payment amount and type of expenditure, particularly for projects involving multiple sources of funds.
  - Records necessary to document the allocation of bond proceeds and other source of funds to particular projects or portions of projects.

- Records documenting the final allocation of bond proceeds to projects, including any reallocations of bond proceeds, in a format showing the timing and substance of the reallocation, if applicable.
- Records demonstrating compliance with arbitrage and rebate requirements, including arbitrage calculations, documentation of spending exceptions to rebate, rebate reports and IRS filings and payments.
- Copies of contracts relating to the use of the bond-financed facility including leases, concession agreements, management agreements and other agreements that give usage rights or legal entitlements with respect to the facility to nongovernmental persons (e.g., advertising displays, cell tower leases, and naming rights agreements).
- Copies of any filings or correspondence with the IRS or other regulatory body.

Investment of Bond Proceeds. In general, bond proceeds and certain other funds can only be invested at a rate that exceeds the yield on bonds under limited circumstances. Furthermore, amounts earned by investing above the bond yield must be rebated to the IRS, unless the City of Des Moines qualifies as a small issuer or a spending exception is met. The arbitrage and rebate requirements for each bond issue are detailed in the federal tax certificate executed in connection with the applicable bond issue.

The Responsible Officer will monitor the investment and expenditure of the funds and accounts listed below. The Responsible Officer will determine whether the bond issue meets the requirement for one of the expenditure exceptions to arbitrage rebate. The Responsible Officer will determine whether a rebate calculation is necessary and, if so, will perform the calculation or engage a rebate consultant. The Responsible Officer will arrange for the payment of any required rebate to the IRS together with the appropriate IRS form on the dates described below.

- Funds to Monitor.
  - ✓ Bond or debt service funds/accounts
  - ✓ Project or construction funds/accounts
  - ✓ Debt service reserve funds/accounts
  - ✓ Other accounts with bond proceeds or amounts pledged to pay bonds
- Arbitrage Reports – Rebate May Be Due.
  - ✓ During construction, monitor expenditures to confirm satisfaction of expected exceptions to rebate (such as six month exception, 18 month exception, 24 month exception)
  - ✓ The first rebate payment is due five years after date of issue plus 60 days
  - ✓ Rebate is due every succeeding five years, if there are unspent gross proceeds of the bonds
  - ✓ Final rebate payment is due 60 days after early redemption or retirement of bonds
- Limitations on Type of Investments. Bond proceeds must be invested as permitted under state law. In addition, the bond ordinance or any bond insurance agreement may further limit the permitted investments.

Use of Bond Proceeds During the Construction Period. Monitoring the expenditure of bond proceeds is necessary to assure that the required amount of bond proceeds are expended for capital expenditures and that not more than 10% of the bond proceeds are expended for projects that will be used for in a private trade or business (including by the federal government and nonprofit entities).

- The Responsible Officer, in consultation with the appropriate City of Des Moines staff member, is responsible for reviewing the transcript for the bonds, and in particular the authorizing documents and the federal tax certificate, as well as invoices and other expenditure records to monitor that the bond proceeds are spent on authorized project costs.
- If, at the completion of the project, there are unspent bond proceeds the Responsible Officer, conferring with bond counsel, will direct application of the excess proceeds for permitted uses under federal tax law, state law, and bond authorization documents.
- If the project involves bond proceeds and other sources of funds and included both governmental and nongovernmental use of the financed facilities the Responsible Officer in consultation with the City of Des Moines staff member will undertake a final reconciliation of bond proceeds expenditures and expenditures of other funds with project costs no later than 18 months after the later of the date of expenditure or the date that the project is placed in service (but in no event more than five years after the date of issue).
- Any change in the scope of the project financed with bond proceeds should be reviewed and documented.

Refundings.

- For refunding escrows, confirm that any scheduled purchases of State and Local Government Series or open market securities are made as scheduled.
- On the redemption date, confirm that the refunded bonds have been redeemed and cancelled.
- Promptly following the redemption date, confirm that all proceeds of the bonds and all proceeds of the refunded bonds have been spent. Verify that excess proceeds, if any, of the bonds do not exceed an amount permitted by the Regulations.

Use of Bond-Financed Facilities. Monitoring (and limiting) any private use of the bond-financed facility is important to maintaining the federal tax treatment of governmental bonds.

In general, no more than 10% of the bond-financed facility can be used in a private trade or business (including by the federal government and nonprofit entities). Private use can arise through any of the following arrangement, either directly or indirectly.

- Types of Private Use:
  - ✓ Selling all or a portion of the facility
  - ✓ Leasing all or a portion of the facility
  - ✓ Entering into a management contract for the facility (except for qualified management contracts under IRS Rev. Proc. 97-13)
  - ✓ Use of all or a portion of the facility for research contracts under IRS Rev. Proc. 97-14)
  - ✓ Entering into contracts giving "special legal entitlement" to the facility (for example, selling advertising space or naming rights)

- Procedures for monitoring private use; procedures reasonably expected to timely identify noncompliance.
  - ✓ All leases and other contracts involving bond-financed property will be sent prior to execution to the Responsible Officer for review.
  - ✓ The Responsible Officer will confer with personnel responsible for bond-financed projects at least annually to discuss any existing or planned use of bond-financed or refinanced facilities.
  - ✓ Private use for each bond-financed project will be calculated annually.
- Procedures ensuring that the City of Des Moines will take steps to timely correct noncompliance.
  - ✓ Consult with bond counsel regarding any private use or proposed change in use with respect to bond-financed property.
  - ✓ If noncompliance will be remediated under existing remedial action provisions or tax-exempt bond closing agreement programs contained in the Regulations or other published guidance from the IRS, determine the deadline for taking action and proceed with diligence to take the required remedial actions.
  - ✓ If remedial actions are unavailable, determine whether to make a submission to the Tax Exempt Bonds Voluntary Closing Agreement Program ("VACAP") under Internal Revenue Manual 7.2.3.

Reissuance. A significant modification of the bond documents may result in bonds being deemed refunded or "reissued". Such an event will require, among other things, the filing of new information returns with the federal government and the execution of a new arbitrage certificate. Bond counsel should be consulted in the event of modification of the bond documents.

CITY OF DES MOINES, WASHINGTON

Initial and Ongoing Disclosure Procedures

(Addressing Federal Securities Law)

Section 1. Scope. These Initial and Ongoing Disclosure Procedures ("Procedures") are intended to establish a framework for compliance by the City of Des Moines (the "City") with its disclosure and/or contractual obligations with respect to bonds, notes, and other securities it issues or that are issued on its behalf (as defined herein, the "Securities"), pursuant to the requirements of federal and state securities laws and other applicable rules, regulations, and orders. This policy applies generally to all of the City of Des Moines's tax-exempt and taxable Securities, and other debt issued on the City's behalf subject to comparable requirements.

These Procedures are intended to supplement the City's financial policies and procedures adopted by the City relating to its debt issuances, which may include, but are not limited to, policies and procedures relating to federal tax and state law requirements.

Section 2. Purpose. The City of Des Moines from time to time issues or is an obligated party with respect to taxable and tax-exempt Securities in order to finance and/or refinance its projects. The purpose of these Procedures is to confirm and enhance existing procedures regarding compliance with applicable laws relating to disclosure by memorializing and communicating key principles and procedures in connection with Securities in order:

- To facilitate compliance with applicable law and existing ongoing disclosure undertakings when preparing and distributing initial and ongoing disclosure documents,,
- To reduce exposure (of the City and its officials and employees) to liability for damages and enforcement actions based on material misstatements and omissions in such documents, and
- To promote good investor relations.

Section 3. Definitions. As used in these Procedures, the following words and terms shall have the following meanings, unless the context or use indicates another or different meaning or intent.

Anti-Fraud Rules refer to Section 17 of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934, particularly Rule 10b-5 under the Securities Exchange Act of 1934, and regulations adopted by the SEC under those Acts. [1]

Bond Counsel means an attorney at law or a firm of attorneys, selected by the City of Des Moines, of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions.

Continuing Disclosure Agreement means a certificate, agreement, the provisions of a resolution, or an agreement of the City of Des Moines by which the City undertakes to provide financial and operating data periodically, and timely notices of certain events under the Rule.

Continuing Disclosure Filing means a filing of financial and operating data or an event notice with the MSRB through EMMA pursuant to a Continuing Disclosure Agreement.

Disclosure Counsel means counsel engaged from time to time by the City to give advice to the City related to Securities disclosure. Disclosure Counsel may be the City's Bond Counsel or other counsel.

Disclosure Documents mean Offering Documents, Continuing Disclosure Filings and other filings made on EMMA.

Disclosure Officer means the City official or officials designated in Section 5 of these procedures.

Disclosure Working Group shall mean the City officials and others identified in Section 7(a)(1) of these procedures.

EMMA means the Electronic Municipal Market Access System maintained by the MSRB, currently located at heep://www.emma.msrb.org.

Final Official Statement means a document prepared by or on behalf on the City in connection with the sale of its publicly sold Securities that discloses material information on the offering of such Securities.

Financial Obligation means a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) guarantee of clause (A) or (B) of this definition. The term financial obligation shall not include municipal securities as to which a Final Official Statement has been provided to the MSRB consistent with the Rule.

Governing Body means the general legislative body of the City of Des Moines as it may be duly and regularly constituted from time to time.

Investor Communications means any statement or other communication that is intended (or reasonably can be expected) to be accessible to and relied upon by investors of the City's Securities. Investor Communications include: Offering Documents, Continuing Disclosure Filings, and other filings made on EMMA, and may include, depending on the context, information uploaded or linked or posted to the website of the City, and press releases and other formal and/or public statements of the City of Des Moines.

MRSB means the Municipal Securities Rulemaking Board.

Offering Documents mean Preliminary Official Statement, Final Official Statements and other documents by which Securities are offered for sale.

---

[1] For example, the Anti-Fraud Rules provide that "It shall be unlawful for any person, directly or indirectly, …

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security."

Preliminary Official Statement means a version of the Final Official Statement prepared by or for the City in connection with its publicly sold Securities prior to the availability of the Final Official Statement.

Responsible Officer means the City of Des Moines Finance Director, who is charged with responsibility for ensuring compliance with this policy.

Rule means SEC Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, promulgated under the 1934 Act.

SEC means the United States Securities and Exchange Commission.

Securities means bonds, notes, certificates of participation, and other debt obligations or securities of the City of Des Moines, or the payment of which the City is obligated to support by a lease, contract, or other arrangement, that are sold to or otherwise held or traded in by the public.

Signing Officer means the City official designated in Section 7(a)(2) of these Procedures.

Section 4. Policy and Background. It is the policy of the City to comply fully with applicable securities laws regarding disclosure in connection with the issuance of Securities and with the terms of its Continuing Disclosure Agreements. In offering Securities to the public and preparing Investor Communications, the City will comply with the Anti-Fraud Rules.

At the core, the Anti-Fraud Rules require all material information relating to the offered Securities to be provided to potential investors. The information provided to potential investors must not contain any material misstatements, and the City must not omit material information which would be necessary to provide to investors a materially complete description of the Securities and the City's financial condition. In the context of the sale of Securities, a fact is considered to be material if there is a substantial likelihood that a reasonable investor would consider it to be important, in the total mix of information made available to investors, in determining whether or not to purchase the Securities being offered.

The City must exercise reasonable care to avoid material misstatements or omissions in preparing Investor Communications that are used to sell Securities in primary offerings, and it may not knowingly or recklessly include material misstatements or omissions in other Investor Communications while its Securities are outstanding. Knowledge of any officer or employee of the City as well as information in the files of the City may be imputed to the City.

Section 5. Responsibility for Disclosure Compliance. The Responsible Officer has overall oversight responsibility for compliance with Continuing Disclosure Agreements and the Anti-Fraud Rules as applied to Investor Communications. To perform most of these Procedures, the Responsible Officer may designate another City employee to serve as the "Disclosure Officer".

Section 6. Guidelines for Preparing Disclosure Documents. The following guidelines apply to all officials and staff members who contribute information to, or otherwise assist in the preparation of, Investor Communications:

- Staff members and officials involved in the preparation or review of Disclosure

Documents or other Investor Communications are responsible for being familiar with the Anti-Fraud Rules. Violations of the Anti-Fraud Rules may be punishable by civil or criminal penalties against the City and the individual staff members and officials responsible for the violations.

- Staff members and officials involved in the preparation or review of Disclosure Documents or other Investor Communications are instructed to err on the side of raising issues when preparing or reviewing Disclosure Documents and other Investor Communications. Officials and staff are encouraged to consult with the City's Bond Counsel, if any, and/or the City's municipal advisor, if any, if there are questions regarding whether an issue is material. Any concerns regarding the accuracy of a Disclosure Document or other Investor Communication should be immediately reported to Bond Counsel, if any.
- The City has identified the Signing Officer, the Responsible Officer, the Disclosure Officer and the other officials involved in the disclosure process under this policy as having sufficient seniority such that it is reasonable to believe that collectively, they are in possession of material information related other City and its finances.
- These Procedures are intended for the internal use of the City of Des Moines only and are not intended to establish any duties in favor of or rights of any person other than the City.
- The officers and employees charged by these Procedures with performing or refraining from any action may depart from these Procedures when they and the Responsible Officer in good faith determine that such departure is in the best interests of the City and consistent with the duties of the City under the Anti-Fraud Rules. The Responsible Officer is encouraged to first consult with Bond Counsel, and/or other legal counsel to the City prior to any such departure.

Section 7. Procedures for Investor Communications. The following procedures shall be followed when preparing, checking, reviewing or issuing the following Investor Communications.

(a) Preliminary and Final Official Statements and Other Offering Documents.

(1) The working group for the preparation of Offering Documents used in primary offerings shall consist of the following (i) officers and employees of the City: City Manager, Chief Operating Officer, Chief Strategic Officer, Finance Director, and others as necessary depending on the credit, to provide information to investors and potential investors in City Securities (collectively, the "Disclosure Working Group").

(2) At the beginning of the process for preparing a Preliminary Official Statement, the Disclosure Working Group will (i) determine (with input from other members of the transaction finance team, which may consist of the underwriter, underwriter's counsel (if any), Bond Counsel, the City's municipal advisor (if any), bond registrar, trustee (if any) and/or other parties to the transaction (the "Finance Team") what information should be disclosed in the Preliminary Official Statement to present fairly a description of the source of repayment and security for the Securities being offered, including related financial and operating information (which may include a discussion of material risks related to investment in the Securities), (ii) assign responsibilities for assembling and verifying the information, (iii) establish a

schedule for producing the information and the Preliminary Official Statement that will afford sufficient time for final review by the Disclosure Working Group and the Finance Team, and to obtain the approvals required by these Procedures, and (iv) determine which City official has been delegated responsibility (in the bond resolution or otherwise) to ultimately approve the release of the Preliminary Official Statement on behalf of the City (the "Signing Officer"), it being understood that the Signing Officer much read the Preliminary Official Statement and Final Official Statement from cover to cover.

(3) The Disclosure Working Group will (i) identify officers and employees of the City who are likely to know or be able to obtain and verify required information, (ii) request that they assemble, verify, and forward the information and provide information regarding any other fact that they believe to be important to investors, and (iii) establish a reasonable deadline for producing the information.

(4) The members of the Disclosure Working Group will review drafts of the Preliminary Official Statement and the process used to develop the Preliminary Official Statement to determine whether, based on information known or reported to them, (i) these Procedures were followed, (ii) the material facts in the Offering Document appear to be consistent with those known to the members of the Disclosure Working Group (and , in the case of information included in the audited financial statements or other source documents, are consistent with such source documents), and (iii) the Preliminary Official Statement does not omit any material fact that is necessary to be included to prevent such document from being misleading to potential investors.

(5) Prior to the public release of a Preliminary Official Statement, the Disclosure Working Group will complete a final review, consisting of comparing and resolving any material discrepancies between the City's audited (and unaudited, if needed) financial statements and other source materials, and cover-to-cover review of the Preliminary Official Statement. The Disclosure Working Group and the Finance Team, as applicable, will complete their review of the Preliminary Official Statement prior to its release. Upon confirmation that the Disclosure Working Group and Finance Team have completed this review, the Preliminary Official Statement will be sent to the Signing Officer or other authorized officer for approval, based on this confirmation, prior to releasing the Preliminary Official Statement to potential investors. The Signing Officer's approval may be documented in the form of a signed "deemed final" certificate, described in the following paragraph.

For the purpose of satisfying the underwriter's compliance with the Rule, the Signing Officer (and/or any other official designated by City Council, if any) will be responsible for "deeming final" the Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, delivery dates, and other terms of the Securities dependent on such matters or permitted under the Rule to be omitted.

(6) Prior to release of a Final Official Statement, the Disclosure Working Group will confirm that the pricing information included in the Final Official Statement matches the final pricing numbers and confirm that no material developments have

occurred since the date of the Preliminary Official Statement (or, if material developments have occurred, that such developments are disclosed in a supplement). The Disclosure Working Group and Finance Team, as applicable, will complete their review of the Final Official Statement prior to its release. Upon confirmation that the Disclosure Working Group and Finance Team have completed this review, the Final Official Statement will be sent to the Signing Officer for approval, based on this confirmation, prior to releasing the Final Official Statement to potential investors. The Signing Officer's approval may be documented in the form of the signed closing certificate described in subsection (7).

(7) In connection with the closing of the transaction, the Signing Officer (and any other official designated by the City Council, if any) will execute a certificate under the Anti-Fraud Rules stating that the Offering Documents, as of their respective dates and as of the dates of the pricing and closing, as applicable, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements contained in the Offering Documents not misleading in light of the circumstances under which they were made.

(8) The Disclosure Working Group will compile and retain a file (which may consist of electronic records) of the actions taken to prepare, check, review and approve the Offering Documents, including the sources of the information included, the comments and actions of the Disclosure Working Group, the description of the process followed by the Disclosure Working Group, and the confirmations and approvals received prior to releasing the relevant Offering Document.

(b) Continuing Disclosure Filings. Certain of the City's Securities are subject to ongoing filing requirement under the Continuing Disclosure Agreements, which require that the City make annual filings with the MSRB of audited financial statements and certain operating data, and, as required, notices of certain listed events.

(1) Annual Filings. The Disclosure Officer will be responsible for filing all annual reports required under the City's Continuing Disclosure Agreements.

Under the existing Continuing Disclosure Agreements, the City's annual filings are required to be made not later than the end of nine months (September 30) after the end of the City's fiscal year. If audited information is not available by the filing date, unaudited information must be filed, and the audited information must be filed as soon as it is available. Further, the Disclosure Officer is responsible for providing, in a timely manner, notice of any failure to provide required annual financial information, on or before the date specified in the applicable Continuing Disclosure Agreement.

The Disclosure Officer must (i) compile and maintain (and update after every issuance or defeasance of Securities) a list of all financial information and operating data required to be filed with the MSRB pursuant to each of the Continuing Disclosure Agreements, (ii) assign responsibilities to officers and employees, if necessary, for periodically assembling and verifying the data, (iii) request that they assemble, verify, and forward the data to the Disclosure Officer and notify the Disclosure Officer if they have learned of any other fact that they consider to be material with respect to the information provided, and (iv) establish a schedule for producing the data (and the documents to be filed) that will afford sufficient time for final review and approval by the Disclosure Officer.

Prior to posting an annual filing, the Disclosure Officer will complete a final review, consisting of comparing and noting material discrepancies with source materials. Each Continuing Disclosure Filing shall be sent to the Responsible Officer or other authorize officer for approval prior to posting on EMMA.

The Disclosure Officer will file or cause to be filed each annual filing with the MSRB through EMMA by the deadline established by the applicable Continuing Disclosure Agreements. The Disclosure Officer must exercise reasonable care to file the annual filings in word-searchable PDF format and with the identifying information required by the Continuing Disclosure Agreements, including applicable CUSIP number for the Securities.

Prior to each offering of Securities, the Disclosure Officer will determine whether the City has materially complied with all of its Continuing Disclosure Agreements during the previous five years. As applicable, the Disclosure Officer will file (or cause to be filed) notice on EMMA disclosing instances of material noncompliance with the Continuing Disclosure Agreements during the previous five years, along with any information that was required to be filed.

(2) Notice of Reportable Events. The Continuing Disclosure Agreements require the City to give notice of the following reportable events (except as set forth below) in a timely manner not more than ten (10) business days after the occurrence of the event.

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, *if material*;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the Securities, *if material*;
7. Modifications to the rights of Security holders, *if material*;
8. [BAW1]Optional, contingent or unscheduled bond calls other than scheduled sinking fund redemptions for which notice is given pursuant to Exchange Act Release 34-23856, *if material*, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Securities, *if material*;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the City;
13. Merger, acquisition or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, *if material*;
14. Appointment of a successor or additional trustee or the change of name of a trustee, *if material*;

15. Incurrence or agreement of a Financial Obligation of the City, *if material*; and
16. An event reflecting financial difficulties under the terms of a Financial Obligation.

(3) Listed Events 15 and 16. Disclosure of events 15 and 16 is required by Continuing Disclosure Agreement executed after February 27, 2019.

To facilitate compliance with Continuing Disclosure Agreements, the Disclosure Officer will create and maintain an inventory of all Financial Obligations, which may consist of copies of each Financial Obligation. For each Financial Obligation, the inventory will show (1) the type of obligation (e.g., general obligation or revenue bond) and the fund from which the obligation is payable, (2) the dates of its incurrence and maturity (or other expiration), (3) key terms or a summary of key terms, default provisions, events of acceleration (if any), termination events or other similar reportable events that could reflect financial difficulties if triggered, and (4) whether the Financial Obligation is determined to be material. The Disclosure Officer will review each Financial Obligation (with the assistance of Bond Counsel as needed) to determine whether it is material and subject to reporting under the City's Continuing Disclosure Agreements.

The Responsible Officer will identify, in writing, officers and employees, responsible for notifying the Disclosure Officer prior to the incurrence of Financial Obligations (or agreement to terms of Financial Obligations) and immediately following the occurrence of any event under the terms of a Financial Obligation that could reflect financial difficulties. With such officers and employees, the Disclosure Officer will periodically review the definition of Financial Obligations and the inventory of existing Financial Obligations. If there is a foreseeable possibility of any default, event of acceleration, termination event, modification of terms or other similar event is reasonably possible occur, the Disclosure Officer will be informed.

(4) Preparation of Notice Filings. If the Disclosure Officer learns of a potential reporting event and the event requires notice under the Continuing Disclosure Agreements regardless of whether the event is material or whether it reflects financial difficulty, the Disclosure Officer shall prepare a notice giving information of the event. If the Disclosure Officer learns of a potential reporting event and the event requires notice under the Continuing Disclosure Agreements only if material[2], the Disclosure Officer shall assess the materiality of the reported event (with the assistance of Bond Counsel, if needed). If the Disclosure Officer determines that the event is material, the Disclosure Officer shall prepare a notice giving information of the event. If the Disclosure Officer learns of a potential reporting event and the event requires notice under the Continuing Disclosure Agreements only if it reflects financial difficulty, [3] the Disclosure Officer shall assess whether the reported event (with the assistance of Bond Counsel, if needed) reflects financial difficulty. If the Disclosure Officer determines that the event reflects financial difficulty, the Disclosure Officer shall prepare a notice giving information of the event.

---

[2] Noted in italics in the list of reportable events.
[3] Noted in underlined text in the list of reportable events.

Whenever notice of a reportable event is required, the Disclosure Officer will draft and file such notice within ten (10) business days of the occurrence of the event. The Disclosure Officer will exercise reasonable care to file the event notice in the format and with the identifying information required by the applicable Continuing Disclosure Agreements, including CUSIP numbers for the applicable Securities. With respect to notices of bond calls or defeasances, the Disclosure Office may fulfill the responsibilities of this paragraph by (1) requesting the bond registrar to file notice of a bond call (if the bond registrar is the State fiscal agent) of (2) ensuring that an escrow agreement obligates the escrow agent to file timely notice of the defeasance of the refunded obligations.

© *Other Investor Communications.* The Anti-Fraud Rules apply to all Investor Communications. Such Investor Communications may include, but are not limited to, voluntary filings made on EMMA, information on the City's website, communications with investors (or potential investors), press releases and other formal statements of the City that are intended to reach investors. The Signing Officer, Responsible Officer, Disclosure Officer and other officers of the City shall exercise reasonable care to make sure that the information in Investor Communications is materially accurate and complete and otherwise in compliance with the Procedures.

Section 8. Training. The City will provide or cause to be provided training for finance staff, the Responsible Officer, Disclosure Officer and others involved in the preparation of Offering Documents and Continuing Disclosure Filings. The training program shall impart the requirements of the Anti-Fraud Rules and the Continuing Disclosure Agreements and the duties of such officers and employees under these Procedures. Training will be provided as necessary to address any changes in law or these Procedures.

Section 9. Period Review. These Procedures will be reviewed at least annually by the Responsible Officer and in conjunction with any new Security offering. In addition, at any time all officers and employees of the City are invited and encouraged to recommend changes to these Procedures to promote compliance with the Anti-Fraud Rules, provide timely and accurate information to investors, or enhance the efficiency of these Procedures.

Section 10. Document Retention. The following documents are maintained in connection with each Security. The goal is to retain adequate records to substantiate compliance with Anti-Fraud Rules. Unless otherwise specified, the following records are to be maintained.

- Complete bond transcript in electronic format or hard copy, including (if applicable) copies of the Continuing Disclosure Agreements.
- A written record of any Financial Obligation or the occurrence of other notice event that is determined to be immaterial or not reflecting financial difficulty and thus not requiring disclosure, and the facts and circumstances used to reach such conclusion.
- Documentation of the actions taken to prepare, check, review and approve each Investor Communication made pursuant to these Procedures, including the sources of the information included.
- Electronic copies of confirmations from EMMA of all Continuing Disclosure Filings.
- Copies of any filings or correspondence with the SEC or other regulatory body.

Section 11. Engagement of Outside Bond Counsel. In connection with the issuance of a Security, if it is determined to be in the bets interest of the City by the Responsible Officer in consultation with the City's legal counsel, if necessary, the City may engage Bond Counsel or other counsel for advice with respect to the City's disclosure obligations and requirements under the federal securities laws. Bond Counsel has a confidential, attorney-client relationship with officials and staff of the City.

THIS PAGE LEFT INTENTIONALLY BLANK

Consent Calendar Item #3

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: 2021 Consultant Contract: BHC Consultants, LLC

ATTACHMENTS:
1. Amendment #2
2. Exhibit "C": 2021 rate schedule
3. 2019 Contract for Building Inspection and Plan Review Services between the City of Des Moines and BHC Consultants, LLC
4. Amendment #1 to the 2019 BHC Contract

FOR AGENDA OF: December 3, 2020

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: November 23, 2020

CLEARANCES:
[X] Community Development Susan M. Cezar
[ ] Marina ____
[ ] Parks, Recreation & Senior Services ____
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: ____________

[X] Legal _TG_
[X] Finance /s/ SH
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: ____________

Purpose and Recommendation
The purpose of this agenda item is to request Council's approval of a second Contract Amendment (refer to Attachment 1) to the existing contract with BHC Consultants, LLC for building inspection and plan review services for the year 2021. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to approve Amendment 2 to the 2019 Contract with BHC Consultants, to provide professional inspection and plan review services for the year 2021 up to a total of $40,000, and authorize the City Manager to sign the Contract Amendment substantially in the form submitted."

Background
Due to the current and projected economy and workload, and the requirement for timely building inspection and plan review services, the City has been contracting with BHC Consultants, LLC over the last few years to assist in meeting the inspection work load for the Building Division.

Discussion
The City has used BHC Consultants, LLC for inspection services since 2014. This proposed contract will continue the City's relationship with BHC Consultants as needed through 2021.

Alternatives
None offered.

Financial Impact
The maximum financial impact is the total contract amount ($40,000). There are sufficient funds authorized in the 2021 Budget to cover this expenditure.

Recommendation
Staff recommends the Council approve the Contract as submitted.

Attachment #1

AMENDMENT #2 TO THE BHC CONTRACT FOR BUILDING AND PLANS EXAMINATION SERVICES

This is an addendum/amendment to the Contract for Building and Plans Examination Services executed between the CITY OF DES MOINES (hereinafter the "City"), and BHC Consultants, LLC, in January of 2019, as amended by Amendment #1 to the BHC Contract for Building and Plans Examination Services, executed December 24, 2019, (hereinafter the "Contract").

1. Section I of the Contract is amended as follows:

I. Description of Work.

The schedule and compensation for performing services under the Contract for the year 2021 shall be as described as Exhibit "C" attached to this Amendment #2, and hereby incorporated into the Contract.

2. Section II of the Contract is amended as follows:

II. Time for Completion.

The term of this contract is extended through December 31, 2021.

3. Section III of said Contract is amended as follows:

III. Compensation

The City shall pay the Consultant, based on time and materials, an amount not to exceed $40,000 for the services performed under this Contract in the year 2021.

Except as modified hereby, all terms and conditions of said contract shall remain in full force and effect.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract Addendum/Amendment, each of which shall be deemed an original, have been executed by the parties this ________ day of __________, 2020.

CITY OF DES MOINES	BHC CONSULTANTS, LLC
By____________________________	By____________________________
Michael Matthias, City Manager	
Dated__________________________	Dated__________________________

APPROVED AS TO FORM:

____

Tim George, City Attorney

Attachment #2

BHC Consultants,

Building and Construction Code Compliance
2021 SCHEDULE OF RATES, CHARGES AND FEES

Classification	Hourly Rate
Building Inspector (combination)	$85
Electrical Inspector	$90
Plan Reviewer - nonstructural	$150
Fire Sprinkler review	$130
Structural P.E.	$175
Civil/site plan review (P.E.)	$150
Principal Consultant (Building Official)	$150
Administration Assistance	$80

THIS PAGE LEFT INTENTIONALLY BLANK

Attachment #3

19-022

CONSULTANT SERVICES CONTRACT between the City of Des Moines and BHC Consultants, LLC

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and BHC Consultants, organized under the laws of the State of Washington, located and doing business at 1601 Fifth Avenue Suite 500, Seattle WA 98101 (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:

> The scope of services to be performed, and the schedule and compensation for performing those services, shall be as described in Exhibit "A" and Exhibit "B", attached, and hereby 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 December 31, 2019.

III. COMPENSATION.

A. The City shall pay the Consultant, based on time and materials, an amount not to exceed $50,000 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 "B" 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 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, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole 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 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:	**CITY OF DES MOINES:**
By: Ronald A Dorn (signature)	By: [signature] (signature)
Print Name: Ronald A. Dorn	Print Name: Michael Matthias
Its President (Title)	Its City Manager (Title)
DATE: 1/29/2019	DATE: 1.30.19
	Approved as to form: [signature] City Attorney DATE: 1/30/19

NOTICES TO BE SENT TO:	NOTICES TO BE SENT TO:
CONSULTANT:	**CITY OF DES MOINES:**
Ronald Dorn, President BHC Consultants 601 Fifth Avenue, Suite 500 Seattle, WA 98101 (206) 505-3400 (telephone)	Larry Pickard, Building Official City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 (206) 870-6569 (telephone) LPickard@desmoineswa.gov

EXHIBIT "A"

SCOPE OF SERVICES

2019 Community Development On-Call Services Contract

GENERAL

The City of Des Moines (City) has selected BHC, LLC (Consultant) to provide on-call Services for various Community Development projects and tasks. BHC agrees to perform on-call Services, and will be available on an as-needed called upon basis through December 31, 2019. BHC will serve as a partner to the City in order to expand the capability of City staff.

The time for completion of all work under this Agreement shall be no later than December 31, 2019, provided that any work authorized before that date may continue until the completion date set for such work authorization, but in no event shall continue beyond December 31, 2019. No new work shall be authorized after December 31, 2019 unless this Agreement is amended by the City to extend these termination dates.

The Consultant is expected to respond on short notice to requests from the City that are deemed to be an emergency and require urgent work orders to be resolved immediately. The Consultant should be capable of performing urgent tack order assignments while working on several other task orders simultaneously.

Any services provided under this Agreement shall be performed pursuant to individual and specific task orders issued to the Consultant by the City. Each task order will have a specific scope of work, budget, and schedule. Work on scoping and/or preparation of the individual task order agreements are not reimbursable. Individual task order budgets will be based on time and materials and will be charged at the hourly rate shown in Exhibit B, as determined by the City. The amount for each task order assignment will be the maximum amount payable for that assignment unless modified in writing by the City.

PROJECT DESCRIPTION

Task order assignments may include but are not limited to the following types of work/services:

- Plan Reviews, including but not limited to Building, Fire, Electrical, Mechanical, and Plumbing.
- Building Inspections, including but not limited to non-structural fire and life safety inspections, structural inspections, energy code inspections, barrier free inspections, mechanical, plumbing and electrical inspections.
- Building Official and Administrative Services, including but not limited to Code Interpretations and administrative needs such as ordinance review and update, staffing needs and department budget development and review.
- Land Use Planning, including but not limited to review of development applications for subdivisions, planned developments, binding site plans, variances, conditional uses, sign permits, critical area permits, GMA concurrency, SEPA compliance, comprehensive planning and GIS.
- Civil and Site Plan Review
- Attendance at meetings.
- Other related work as requested by the City.

TASK ORDER PROCESS

Task orders made by the City shall be issued in writing by a Task Order Assignment Document, provided in **Exhibit A-1**. In response to a Task Order Assignment Document, the Consultant shall prepare a detailed Scope of Work, professional service budget, project schedule, and identify key staff assignments. The scope of work will be thorough and sufficiently detailed to match the complexity of the project. The Consultant's project manager will also develop a Quality Assurance review schedule which shall be included in the scope of work. The City's Project Manager will review and comment on the scope, schedule, and budget. An Assignment shall become effective when a Task Order Assignment Document is signed by the Consultant and the City and the City issues it back to the Consultant with a Notice to Proceed. The exception is that emergency actions requiring an immediate response (less than 24 hour) can be handled by oral authorization. Such oral authorization shall be followed up with a Task Order Assignment Document within four working days, and any billing rates agreed to orally (for individual, subcontractors, or organizations whose rates were not previously established in this Agreement) shall be provisional and subject to final negotiation and acceptance by the City.

In case of projects covering two or more direct phases, when the cost for the second phase depends on decisions reached during the first phase, the work order agreement should cover only the first phase.

Once a Task Order Assignment Document is issued by the City, whether formal or informal, the consultants designated project manager will meet with the City personnel as needed to discuss project specifics, including a site visit to fully understand the desired project outcome. The Consultant will then assemble a project team, including sub-consultants if necessary, possessing the specific skills necessary to perform the required work. Roles and responsibilities will be well defined within the project team to provide clear communication and establish accountability. When forming a project team the consultant will:

- Be as accurate as possible when identifying key staff that will be assigned project work.
- Achieve concurrence in staffing assignments from the appropriate discipline team leaders and principle in charge.
- Identify appropriate sub-consultants and similarly obtain Principal in Charge concurrence.

CONTRACT VALUE

The City estimates that the potential value of the contract will not exceed $50,000. The City is not obligated to assign any specific number of tasks, volume of work, or a specific contract value to the Consultant under this Agreement. At any time during the funding year, all projects and subsequent Task Order Assignments may be subject to change including funding levels and project priorities. The City reserves the right to add and or delete Task Assignments to meet other priorities.

PLAN REVIEW TASK ORDERS

BHC will review plans submitted with building permit applications for structural and nonstructural code compliance in accordance with the currently adopted construction codes as adopted and amended by the State of Washington and City of Des Moines (CITY), except that BHC will confer with the Building Official and his/her agent on any portion of the review that specifically requires the approval of the Building Official as specified in the code(s).

A. The BHC will not provide design assistance or advice to the applicant, make any structural changes on the plans, or make any changes that directly contradict other information on the plans. Significant changes must be made by or under the direction of the applicant or design professional.

B. Reviews shall be done by BHC, an approved representative, or an outside sub-consultant. The name of the reviewer or outside consultant shall be submitted to the CITY.

C. If corrections or additions are required, the Consultant will write a draft review letter addressed to the applicant. This draft review letter will be sent to the CITY's agent. The CITY will then send the draft review letter, along with any additional CITY requirements to the applicant. The correction letter will indicate to the applicant that they are required to submit the revisions/additions to the CITY per the submittal requirements for the permit type under review.

D. BHC will indicate that the drawings and other review materials have been reviewed and found to be in substantial compliance with applicable construction codes and ordinances. The reviewer's name and date of compliance will be affixed to each sheet in up to two sets of drawings including the cover sheet.

E. Complete reviews will include structural, nonstructural, accessibility, energy, and ventilation requirements. Partial reviews will be indicated as either structural or nonstructural or as mutually agreed upon in the Task Assignment.

F. The CITY will intake, track, and process the permit applications and all revisions per current building and permit administration procedures.

G. BHC will be responsible for the transportation and cost of returning permit review documents back to the CITY. The CITY will be responsible for the transportation and cost of delivering permit review documents to BHC.

H. Unless specifically noted otherwise in the Task Order Assignment, the Consultant will complete the initial review and will have either approved the application and notified the CITY of approval or contacted the applicant and the CITY with corrections within the time frames listed below:

Project Type	**Initial Review**	**Re-Review**
Single-Family	10 days (2 weeks)	5 days (1 week)
Multi-Family	15 days (3 weeks)	10 days (2 weeks)
Commercial	20 days (4 weeks)	15 ays (3 weeks)

I. The Consultant will review any revisions or additional information and will either indicate compliance with the code(s) against which it was checked and notify the CITY of compliance, or if the drawings are still not complete, contact the applicant and the CITY with additional revision requests within the time frames specified above.

J. The review time may be negotiated based on the number and complexity of projects to be reviewed. The Consultant will not be held responsible for delays beyond the Consultant's control. During heavy workloads or schedule delays, the Consultant shall notify the CITY of revisions to estimated target dates.

<u>BUILDING INSPECTION TASK ORDERS</u>

BHC will provide certified building inspectors that will provide building inspections in accordance with the currently adopted International Codes, Washington State Building Code (WAC 51-50 and 51-51), and Energy Code (WAC 51-11), and the applicable CITY Building Codes, except that inspectors will confer with the Building Official or his/her agent on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an unusual interpretation.

Inspections will be done in accordance with CITY codes, ordinances and regulations in effect and will be performed in a courteous and professional manner. Up-to-date records of inspection status will be maintained on the job card in the field and on the office copy of the permit.

EXHIBIT "A-1"

Formal Task Assignment Document

Task Number ____________

The general provisions and clauses of the Consultant On-Call Services Contract dated _______ shall be in full force and effect for this Task Assignment.

Location of Project: ____

Project Title: ____

Maximum Amount Payable Per Task Assignment: ____

Completion Date: ____

Description of Work:
(Note attachments and give brief description)

Agency Project Manager Signature: ______________________________ Date: ____________________

Oral Authorization Date: ______________________________ See Letter Dated: ____________________

Consultant Signature: ______________________________ Date: ____________________

Agency Approving Authority: ______________________________ Date: ____________________

EXHIBIT "B"
SCHEDULE OF RATES, CHARGES AND FEES

Task Order Assignments will be based on the hourly rates indicated below:

Classification	Hourly Rate
Building Inspector	$80
Electrical	$85
Plan Reviewer - nonstructural	$140
Fire code/sprinkler review	$130
Structural P.E.	$175
Civil/site plan review (P.E.)	$150
Principal Consultant (Building Official)	$150
Planning Director	$140
Planning Manager (Land Use/Environmental)	$110
Planner (Land Use/Environmental)	$95
GIS Technician	$90
Administration Assistance	$75

A. Each billing statement will include the permit application number and owner or project name of the plans reviewed with the fee.

B. Billing statements will be issued for reviews that receive a complete initial review in the preceding month or other acceptable time period.

C. The CITY shall have the right to withhold payment to the Consultant for any work not completed in a satisfactory manner until such time that the consultant modifies such work to the satisfaction of the CITY.

D. The cost of delivering plans for review to BHC will be incurred by the CITY. The cost of delivering reviewed plans back to city will be incurred by BHC.

E. Hourly rates shown are portal to portal from inspector's residence or the Seattle office, whichever is less for on-call services.

F. All mileage included by BHC inspector will be reimbursed at the most current IRS rate, currently .555 cents per mile. Mileage will not be assessed on travel using client supplied vehicle.

G. Consultant staff's normal work days are Monday through Friday (8am~5pm). Office work on Saturdays, Sundays, or CITY Holidays will be performed only at specific request of the CITY. Billing for work performed outside normal work hours are on Saturdays, Sundays, or CITY Holidays shall be at 150% of the rates shown above.

H. This Schedule of Hourly Rates is effective as of January 1, 2019. Rates are subject to annual review.

Attachment #4

AMENDMENT #1 TO THE BHC CONTRACT FOR BUILDING AND PLANS EXAMINATION SERVICES

This is an addendum/amendment to the Contract for Building and Plans Examination Services executed between the CITY OF DES MOINES, hereinafter referred to as the "City, and BHC Consultants, LLC, in January of 2019.

1. Section II of said Contract is amended as follows:

II. Time for Completion.

The term of this contract is extended through December 31, 2020.

2. Section III of said Contract is amended as follows:

III. Compensation

The City shall pay the Consultant, based on time and materials, an amount not to exceed $40,000 for the services performed under this Contract in the year 2020.

Except as modified hereby, all terms and conditions of said contract shall remain in full force and effect.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract Addendum/Amendment, each of which shall be deemed an original, have been executed by the parties this 24 day of Dec, 2020.

CITY OF DES MOINES

By________________
Michael Matthias, City Manager

Dated 12/24/19

BHC CONSULTANTS, LLC

By________________
President

Dated 12/17/2019

APPROVED AS TO FORM:

____
Tim George, City Attorney

BHC CONSULTANTS

LETTER OF TRANSMITTAL

DATE: December 17, 2019 PROJECT NO.

TO: City of Des Moines
21630 11th Avenue S., Suite A
Des Moines, WA 98198

RE: Amendment # 1

ATTN: Larry Pickard, Building Official

THE FOLLOWING ITEMS ARE:

☐ REQUESTED
☒ ENCLOSED
☐ SENT VIA US MAIL

NO. OF COPIES	DESCRIPTION
2	Amendment # 1 to the BHC Contract for Building and Plans Examination Services

General Remarks:

Larry,

Enclosed are two signed copies of Amendment # 1 to the BHC Contract for Building and Plans Examination Services. Please return a fully executed copy for our records.

Thank you,

Sincerely,
BHC Consultants, LLC

BY: Sarah Sifferman
Project Assistant
CC: Willie Hill, CBO, ACO

1601 Fifth Avenue, Suite 500 ◆ Seattle, WA 98101 ◆ (206) 505-3400 ◆ FAX (206) 505-3406
www.bhcconsultants.com

Consent Calendar Item #5

A G E N D A   I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Authorize the City of Des Moines Grant Management Policy.

ATTACHMENTS:
1. Draft Resolution No. 20-072
2. Exhibit A – Grant Management Policy

FOR AGENDA OF: December 3, 2020

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: November 19, 2020

CLEARANCES:
[X] Community Development Susan M. Cezar
[ ] Marina ____
[X] Parks, Recreation & Senior Services Susan M. Cezar
[X] Public Works R. Brown

CHIEF OPERATIONS OFFICER: ____________

[X] Legal /s/ TG
[X] Finance Beth Anne Wroe
[X] Courts ____
[X] Police /s/ KT

APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation
The purpose of this agenda item is to seek City Council approval and adoption of Draft Resolution No. 20-072 authorizing and adopting the City of Des Moines Grant Management Policy.

Suggested Motion

"I move to adopt Draft Resolution No. 20-072 authorizing the City of Des Moines Grant Management Policy."

Background

Federal awards for local government were previously audited under the provisions of Circular Nos. A-87, A-102, and A-133. The guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published in Title 2 of the Code of Federal Regulations (2CFR 200) which supersedes requirements from these circulars by way of consolidation into a streamlined format to improve transparency.

The "uniform requirements" place heavy emphasis on written policies and procedures. To meet the federal requisites, it is necessary to adopt the grant management policy.

The focus and intent of these policies and procedures is to ensure that those within the organization who carry out the objectives of the award understand:

- The federal statutes, regulations, and terms and conditions of the award,
- How to evaluate and properly monitor compliance, and
- The steps to take if noncompliance is identified.

Alternatives

None

Financial Impact

If we do not comply with the federal requisites, the City may receive an audit finding which would impact the ability to obtain future grant funding.

Recommendation

Staff recommends that the City Council adopt Draft Resolution No. 20-072.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT, 11/19/2020

DRAFT RESOLUTION NO. 20-072

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, approving and adopting the City of Des Moines Grant Management Policy.

WHEREAS, the City regularly receives federal grant awards for a variety of purposes, and

WHEREAS, the federal Office of Management and Budget (OMB) has issued uniform guidance to streamline the federal grant process, and

WHEREAS, OMB's uniform guidance requires nonfederal entities to have certain written policies and procedures to address the management of grant award funds, and

WHEREAS, these requirements aim to reduce the risk of fraud, waste and abuse of fraud, waste, and abuse of federal funds; now therefore

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

Sec. 1. The City Council hereby approves and adopts the City of Des Moines Grant Management Policy substantially in the form attached as Exhibit A and incorporated herein by reference.

Sec. 2. The City Manager is hereby authorized to take such other action as may be necessary to carry out the directives of this legislation, as necessary and in the best interest of the City of Des Moines.

ADOPTED BY the City Council of the City of Des Moines, Washington this 3rd day of December, 2020 and signed in authentication thereof this 3rd day of December, 2020.

____

M A Y O R

APPROVED AS TO FORM:

____

City Attorney

ATTEST:

____

City Clerk

GRANT MANAGEMENT POLICY

1.0 PURPOSE

To establish and maintain policy and internal controls that provide reasonable assurance that Federal awards are being managed in compliance with all Federal regulations and with the terms and conditions of the award. The City of Des Moines will follow the Uniform Guidance, the Local Agency Guidelines (LAG) distributed by the Washington State Department of Transportation (WSDOT) for Federal Highway Administration (FHWA) funding, other specific grant requirements or guidance documents published by the Federal Granting Agency such as the United States Department of Housing, Urban Development (HUD) and the Federal Aviation Administration (FAA), Government Accountability Office Standards for Internal Control in the Federal Government (the Green Book), and the Committee of Sponsoring Organizations of the Treadway Commission's (COSO) Internal Control-Integrated Framework Principles, as applicable.

2.0 ORGANIZATIONS AFFECTED

All departments/divisions receiving Federal Awards.

3.0 REFERENCES

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – Title 2 Code of Federal Regulations (2 CFR 200); State and Local guidelines will also apply based on awarding organization.

4.0 POLICY

General: This policy describes the procedure for the administrative responsibility of awards received as grants (or grant-like loans such as low-interest loans provided by the Washington State Public Works Board). The City, through designated staff and City officials, solicits and accepts awards from a variety of organizations for funding City programs and projects. Awards frequently require close coordination between different City departments and adherence to strict guidelines and requirements. This policy outlines the procedures and departmental roles and responsibilities to centrally coordinate and track citywide efforts in grant management and administration.

- The Department that is requesting and/or administering the grant award shall be responsible for maintaining accurate and current information and complying with the general and specific guidelines and requirements of the grant award. This will include:
  - being knowledgeable of grant award requirements,
  - ensuring the City complies with said requirements,

- providing accurate information to the Finance Department in the preparation of reports and requests for reimbursement of eligible costs, and
- maintaining the proper written and electronic documentation and financial records consistent with said requirements.

- In the event more than one Department is involved in requesting or administering a grant award, the Departments involve will agree upon a designated lead Department. The lead Department will have overall responsibilities for administering the grant award consistent with this policy.

Internal Controls: The City of Des Moines will maintain effective internal control over the Federal Award providing reasonable assurance that the City is managing the Federal Award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

- The City will take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- The City will take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive.

Certification: To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

Advance Payments and Reimbursements: Payment methods must minimize the time elapsing between transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the City of Des Moines whether the payment is made by electronic transfer, or issuance or redemption of checks, warrants, or payment by other means.

- Advanced payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash needs of the City to carry out the purpose of the approved program or project. Any advanced payments must be consolidated to cover anticipated cash needs.

- The City shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs.
- Be necessary and reasonable for the performance of the Federal award.
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the City.
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles (GAAP).
- Not be included as cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period.
- Be adequately documented.

Procurement: When procuring goods and services under a Federal award, the City will follow 2 CFR §200.318 General Procurement Standards through §200.326 Contract Provisions or City of Des Moines purchasing procedures, whichever is more restrictive. The following table outlines procurement requirements when using Federal funds.

- Contracts for more than the simplified acquisition threshold currently set at $250,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- Contracts and sub-grants of amounts in excess of $250,000 requires that the City will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.
- The City will monitor procurements to avoid duplicative purchases. The City will continue to enter into inter-entity agreements to realize cost savings for shared goods and services when possible.
- The City will verify and document that vendors are not suspended or debarred from doing business with the Federal government.

Single Audit Act: The City, as a recipient of Federal funds, shall adhere to the Federal regulations outlined in 2 CFR §200.501 as well as all Federal and State statutes and regulations.

Closure: A project agreement end date will be established in accordance with 2 CFR §200.309. Any cost incurred after the project agreement end date are not eligible for Federal reimbursement.

Code of Conduct: The purpose of the Code of Conduct is to ensure the efficient, fair and professional administration of federal grant funds in compliance with 2 CFR §200.122, 2 CFR §200.318 and other applicable federal and state standards, regulations, and laws.

- The Code of Conduct applies to all elected officials, employees or agents of the City engaged in the award or administration of contracts supported by federal grant funds.
- No elected official, employee or agent of the City shall participate in the selection, award or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:
    - The City employee, elected official, or agent; or
    - Any member of their immediate family; or
    - Their partner; or
    - An organization which employs, or is about to employ any of the above.
- The City of Des Moines elected officials, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or subcontractors.
- To the extent permitted by federal, state or local laws and regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the City's elected officials, employees or agents, or the contractors, potential contractors, subcontractors or their agents. Any potential conflict of interest, will be disclosed, in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

5.0 PROCEDURES

The purpose of these procedures is to ensure inter-departmental coordination in the identification of grant opportunities, to ensure consistency in the management of grants the City receives, and oversight in management and compliance with the guidelines and restrictions as required by the grantor.

Grant Application

- Request to Apply. Prior to submitting an application for an award, the Department pursuing the grant award shall obtain the required approval signatures (i.e., Department Director, City Manager).
- Legal Review. If necessary, the responsible Department will review the grant and grant application with the City's Legal Department to identify any potential legal issues that the City should be aware of.
- Submittal of Award Application. Once approval or direction is received to pursue the award, the Department charged with the responsibility for implementing the award will prepare the necessary application paperwork and, if necessary, seek approval of the City Council.

Grant Award, Obligation and Management

- Award Review and Acceptance. Once the award is received, the responsible Department will accept the award only if the grantor's terms and conditions can be satisfactorily met by the City. Administrative and Legislative acceptance of an award will be subject to the following limitations:
  - Department Directors may approve awards up to and including \$10,000.00.
  - City Manager approval is required for awards between \$10,000.01 up to and including \$50,000.00.
  - Council approval is required for awards of \$50,000.01 and up.

Project Number. The responsible Department will request the Finance Department establish a project number. The purpose of the project number is to enable the accurate accounting of revenues and expenditures related to the project. No project can be started or executed without a project number.

Reporting. The responsible Department will serve as the single point of contact with the grantor and will be responsible for the preparation and submittal of reports to the grantor and for complying with the guidelines and requirements of the award. The responsible Department will maintain a detailed project folder that will contain, at a minimum, all official correspondence concerning the award including City memoranda, resolutions or ordinances; award letter; grantor guidelines and restrictions; written communications between the City and the grantor including copies of emails and any other documents necessary for the effective management of the award.

- The Finance Department will be the responsible department in preparing the necessary financial information for reimbursements and any reports that are necessary for reimbursements.

Matches – City budget identified. Some awards prescribe a matching requirement in which the City must provide a financial match to qualify for the award. In the event of a required match, the responsible Department will work with the Finance Department to ensure sufficient budget is identified, and if necessary, to request a budget amendment.

Award Compliance – Issues: Periodically, compliance issues associated with award guidelines and conditions may occur. The Department charged with administering the award will be responsible for keeping the City Manager and Finance Department informed of any award compliance issues and resolution undertaken to address the issue. Resolution will be documented in the City's grant award files.

Loans: Loans represent a strategic means for the City of Des Moines to leverage its limited cash resources to fund programs and projects. However, as a loan represents a liability that must be repaid by the City, the responsible Department will coordinate with the Finance Department to ensure sufficient resources are available to repay the loan. If necessary, a budget amendment will be prepared to appropriate resources to repay the loan.

6.0 Glossary

The following is a summary of key references and terms used in this policy

References

Title 2 of the Code of Federal Requirements (2 CFR 200). Developed by the Office of Management and Budget (OMB), this guidance establishes uniform administrative requirements, cost principles, and audit requirements for federal awards. The requirements aim to reduce the risk of fraud, waste, and abuse of federal funds and places heavy emphasis on written policies and procedures. The focus on these policies and procedures should be to ensure that those in the organization who carry out the objectives of the award understand:

- The federal statutes, regulations, and terms and conditions of the award
- How to evaluate and properly monitor compliance
- The steps to take if non-compliance is identified

For further information, refer to:

https://www.gpo.gov/fdsys/pkg/CFR-2017-title2-vol1/pdf/CFR-2017-title2-vol1-part200.pdf

Specific state and local regulations may also apply. These regulations can vary based upon the unique conditions and circumstances of each grant award. City staff should take due care in determining the specific state and local applicable regulations that apply to their respective project and to appropriately document, understand, and comply with the conditions and restrictions within these regulations.

Terms

Award – An award refers to financial resources provided to the City in the form of a loan, grant or contract from a federal, state, regional or local government or private for-profit or non-profit entity.

Award Compliance – This term refers to the general and specific requirements and provisions that must be satisfactorily met by the City and demonstrated to the awarding agency. Fulfilling the award requirements as provided by the awarding agency is important as variances thereto can become subject to an audit finding.

Department – This term refers to any, singular or in combination, of the City's operating Departments.

Finance Department - This term refers to the City's Finance Department.

General and Specific Audit Requirements – General audit requirements refers to federal, state and local audit compliance requirements. Specific audit requirements typically are specific to individual awards and can vary in complexity based upon the awarding agency. The responsible department should take due care to carefully review and comply with the general and specific requirements of the award in question.

Program or Project - This term refers to the City operating program or capital facilities project that is supported by the award.

Responsible Department – This term refers to the City operating department that is designated as the lead City department responsible for managing the program or project funded by the award.

THIS PAGE LEFT INTENTIONALLY BLANK

Public Hearing Item #1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing to consider Draft Ordinance 20-044 amending the Des Moines 2035 Comprehensive Plan

ATTACHMENTS:

1. Draft Ordinance 20-044
2. Staff Report

FOR AGENDA OF: December 3, 2020

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: October 30, 2020

CLEARANCES:
[X] Community Development Susan M. Cezar
[ ] Marina ____
[X] Parks, Recreation & Senior Services Susan M. Cezar
[ ] Public Works ____

CHIEF OPERATIONS OFFICER: ____________

[X] Legal /s/ TG
[ ] Finance ____
[ ] Courts ____
[ ] Police ____

APPROVED BY CITY MANAGER FOR SUBMITTAL: ____________

Purpose and Recommendation
The purpose of this Agenda Item is for the City Council to hold a public hearing for the consideration of Draft Ordinance No. 20-044 (Attachment 1) that would amend the Des Moines 2035 Comprehensive Plan as codified in Chapter 18.25 Des Moines Municipal Code (DMMC).

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No 20-044 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 20-044 enacting the 2020 amendments to *Des Moines 2035: Charting Our Course for a Sustainable Future* and amending Chapter 18.25 DMMC."

Background

The comprehensive plan *Des Moines 2035 – Charting Our Course for a Sustainable Future* is the City's official statement with respect to its vision for future growth and development. It identifies goals, policies, and strategies for maintaining the health, welfare, and quality of life of the Des Moines' residents. The comprehensive plan is comprised of individual elements addressing land use, transportation, environment, capital facilities, utilities and public services, parks, recreation and open space, housing, economic development, neighborhoods and public health.

The 1990 Growth Management Act is codified in RCW 36.70A. It requires, among other things, that "cities … take action to review and, if needed, revise their ***comprehensive plans*** and development regulations *(emphasis added)* to ensure the plan and regulations comply with the requirements of this chapter . . . Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan."

Chapter 18.25 Comprehensive Plan of the Des Moines Municipal Code sets forth the process and standards of review that must be used by staff and City Council in analyzing proposed amendments to the Comprehensive Plan and associated maps, including initiation of amendments, schedule for initiation and review of amendments, contents for application for amendment and decision criteria. Applications for amendment of the City of Des Moines Comprehensive Plan may be submitted between January 1st and June 30th of each calendar year (DMMC 18.25.060(1)). Consistent with the provisions of DMMC 18.20.080A, the Comprehensive Plan amendments are considered Type VI land use actions and require a public hearing before the City Council.

Discussion

The docket for the 2020 comprehensive plan amendments includes one (1) City staff initiated housekeeping amendment to Chapter 6: Parks, Recreation and Open Space Element.

2020-1: Chapter 6: Parks, Recreation and Open Space Element – Text amendments to update the park acreage and trail distances related to land acquisitions, including Tables PR 13.3.2 Existing Neighborhood Parks to update the acreage for Midway Park and Table PR 13.3.7 Existing Trails, Pathways, Streetscapes and rights-of-way to update the length of the Barnes Creek Trail.

A staff report associated with the proposed amendments is provided as Attachment 2.

Alternatives

The City Council may:

1. Approve Draft Ordinance No. 20-044

2. Amend Draft Ordinance No. 20-044.

Financial Impact

The proposed comprehensive plan amendments support the City's vision for sustainability, livability and economic vitality.

Recommendation or Conclusion

Staff recommends that the City Council enact Draft Ordinance No. 20-044.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 11/17/2020

DRAFT ORDINANCE NO. 20-044

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, adopting the 2020 amendments to the *Des Moines 2035: Charting Our Course for a Sustainable Future* (the Comprehensive Plan) and amending chapter 18.25 DMMC.

WHEREAS, the Growth Management Act requires, among other things, that "cities … take action to review and, if needed, revise their *comprehensive plans (emphasis added)* and development regulations to ensure the plan and regulations comply with the requirements of this chapter . . . Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan," and

WHEREAS, the goals and policies for growth and the provision of services are guided by GMA requirements and are based in part upon state and regional goals, and reflect the vision and goals of elected officials, community advisory groups and citizens, and

WHEREAS, pursuant to chapter 18.25 DMMC, Comprehensive Plan amendments are legislative (Type VI) land use decisions and require the City Council to conduct a public hearing to receive public comment regarding the amendments, and

WHEREAS, each amendment of the Comprehensive Plan was processed in accordance with the requirements of the State Environmental Policy Act (chapter 197-11 WAC) and public hearings were conducted in accordance with law, and

WHEREAS, notice was given to the Washington State Department of Commerce of these amendments as required by chapter 36.70A RCW, and

WHEREAS, the City provided notice of the public hearing on November 18, 2020, setting the public hearing for December 3, 2020 and

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

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

Sec. 1. DMMC 18.25.120 and section 3 of Ordinance No. 1623, as amended by section 2 of Ordinance No. 1664, as amended by section 2 of Ordinance No. 1712, as amended by section 2 of Ordinance No. 1731 are amended to read as follows:

18.25.120 Comprehensive Plan amendments. There is adopted by reference a Comprehensive Plan, on file with the City Clerk, as subsequently amplified, augmented and amended pursuant to the provisions in this Title, as identified below.

(1) Chapter 1: Introduction;

(2) Chapter 2: Land Use Element;

(3) Chapter 3: Transportation Element;

(4) Chapter 4: Conservation and Environment Element;

(a) 2019 Amendment: Selected portions of this element of the Comprehensive Plan are amended as described in Exhibit “A” to Ordinance No. 1731.

(5) Chapter 5: Capital Facilities, Utilities, and Public Services Element;

(a) 2018 Amendment: Selected portions of this element of the Comprehensive Plan are amended as described in Exhibit “A” to Ordinance No. 1712;

(6) Chapter 6: Parks, Recreation, and Open Space Element;

(a) 2016 Amendment: This element of the Comprehensive Plan is amended as described in Exhibit “A” to Ordinance No. 1664.

(b) 2018 Amendment: Selected portions of this element of the Comprehensive Plan are amended as described in Exhibit "A" to Ordinance No. 1712;

(c) 2019 Amendment: Selected portions of this element of the Comprehensive Plan are amended as described in Exhibit "A" to Ordinance No. 1731.

(d) 2020 Amendment: Selected portions of this element of the Comprehensive Plan are amended as described in Exhibit "A" to Draft Ordinance No. 20-044.

(7) Chapter 7: Housing Element;

(8) Chapter 8: Economic Development Element;

(9) Chapter 9: North Central Neighborhood Element;

(10) Chapter 10: Marina District Element;

(11) Chapter 11: Pacific Ridge Element;

(12) Chapter 12: Healthy Des Moines Element;

(13) Appendix A: City of Des Moines Buildable Lands Report;

(14) Appendix B: Transportation Technical Memorandum;

(15) Appendix C: City of Des Moines Housing Inventory and Needs Assessment.

Sec. 2. Severability - Construction.

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

Ordinance No. ______
Page 4 of 4

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

Sec. 3. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final passage by the Des Moines City Council in accordance to law.

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

____
M A Y O R

APPROVED AS TO FORM:

____
City Attorney

ATTEST:

____
City Clerk

Published:

STAFF REPORT - DES MOINES 2020 COMPREHENSIVE PLAN AMENDMENTS

INTRODUCTION

Des Moines adopted its comprehensive plan in 1995. The Comprehensive Plan has undergone subsequent amendments, with a major update adopted in June 2015 and amendments in 2016, 2018 and 2019. Pursuant to RCW 36.70A.130(2)(a), the Growth Management Act (GMA) limits plan amendments to no more than once per year, except under the following circumstances:

1. The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea.
2. The adoption or amendment of a shoreline master program.
3. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.
4. The adoption of comprehensive plan amendments necessary to enact a planned action.

Except as otherwise provided above, all proposals are to be considered concurrently, so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation, a county or city may adopt amendments or revisions to its comprehensive plan whenever an emergency exists, or to resolve an appeal of a comprehensive plan filed with the Growth Management Hearings Board or with the court.

2020 COMPREHENSIVE PLAN AMENDMENTS

Chapter 18.25 DMMC Amendments to the Comprehensive Plan sets forth the process and standards of review that must be used by staff and the City Council in analyzing proposed amendments to the Comprehensive Plan and associated maps, including initiation of amendments, schedule for initiation and review of amendments, contents for application for amendment and decision criteria.

Applications for amendment of the DMCP may be submitted between January 1st and June 30th of each calendar year (DMMC 18.25.080(1)). No public request to amend the Comprehensive Plan was received during this period in 2020.

The docket for the 2020 comprehensive plan amendments includes one staff initiated housekeeping amendment to Chapter 6: Parks, Recreation and Open Space Element (Refer to Attachment 1, Exhibit A).

DECISION CRITERIA PER DMMC 18.25.100

(1) Amendment of the City of Des Moines Comprehensive Plan is a legislative action (Type VI land use action) and the City Council shall be afforded the broadest possible discretion during review of amendment requests. The City Council may approve, approve with modifications, or deny any application for amendment.

(2) The City Council may approve or approve with modifications an amendment to the City of Des Moines Comprehensive Plan when:

- (a) The amendment would correct a technical error; or
- (b) The amendment addresses changing circumstances or the needs of the City as a whole, and will benefit the City as a whole; and
- (c) All of the following conditions are satisfied:
  - (i) The amendment is consistent with the Growth Management Act.
  - (ii) The amendment is not inconsistent with other elements or policies of the City of Des Moines Comprehensive Plan.
  - (iii) The amendment will not adversely impact community facilities and bears a reasonable relationship to public health, safety, and welfare.
  - (iv) For amendments relating to a specific property:
    - (A) The amendment is compatible with adjacent land use and the surrounding development pattern as existing or as specified by the City of Des Moines Comprehensive Plan; and
    - (B) The subject property is suitable for development as allowed by the development regulations of the potential zone.

(3) During the review of a proposed amendment to the City of Des Moines Comprehensive Plan, factors that may be considered by the Planning, Building and Public Works Director and the City Council include, but are not limited to, the following:

- (a) The effect upon the physical environment.
- (b) The effect upon the economic environment.
- (c) The effect upon the social environment.
- (d) The effect upon open space, surface waters, and environmentally critical areas.
- (e) The effect upon parks of local significance.
- (f) The effect upon historic and archaeological resources of local significance.
- (g) The compatibility with an impact upon adjacent land uses and surrounding neighborhoods.
- (h) The adequacy of and impact upon capital facilities, utilities, and public services.
- (i) The quantity and location of land planned for the proposed land use type and density.
- (j) The current and forecasted population in the area or City.
- (k) The effect upon other aspects of the City or the City of Des Moines Comprehensive Plan

PROPOSED AMENDMENTS

The Decision Criteria listed above for Comprehensive Plan amendments are addressed below and a staff recommendation is provided.

Reference #: **2020-1: Chapter 6: Parks, Recreation and Open Space Element**

Applicant: City of Des Moines, Planning Building and Public Works Department

Location: Citywide

Request: Text amendments to update the park acreage and trail distance related to land acquisitions, including Table PR 13.3.2 Existing Neighborhood Parks to update the acreage for Midway Park and Table PR 13.3.7 Existing Trails, Pathways, Streetscapes and Rights-of-way to update the length of the Barnes Creek Trail.

Background:

The expansion of Midway Park in the Pacific Ridge Neighborhood is listed as a priority in the adopted Parks, Recreation and Senior Services Master Plan. Taking steps to implement the plan, the City successfully applied for King County Conservation Futures (CFT) grant funding to acquire a total of four additional parcels adjacent to Midway Park. The acquisitions are complete for the first two parcels, entirely funded with CFT grant funds. Purchase agreements are in place for the other two parcels, also to be fully funded, subject to approval of the King County budget in November 2020. These remaining acquisitions are scheduled for 2021. These Comprehensive Plan amendments update the plan to acknowledge the first two acquisitions. A future amendment will further update the plan to add the data related to the last two parcels once the acquisitions are complete.

The Barnes Creek Trail extends from S 216th Street, thru the Washington State Department of Transportation's SR509 right of way to Kent-Des Moines Road (KDM), then along 16th Avenue S. and S. 240th Street to Highline College. Currently, the trail is complete between KDM Road and S. 240th Street and the design is currently underway for the remaining segments, S. 216th Street to KDM and 16th Avenue S. to Highline College. Eventually the trail will connect to the Des Moines Creek Trail and is pending developer construction with Des Moines Creek Business Park West.

<u>Staff Recommendation</u>

In accordance with DMMC 18.84.080 decision criteria (1), (2)(b), (2)(c)(i-iii), and (3), the proposed amendments to Chapter 6: Parks, Recreation and Open Space Element to update the City's is consistent with the GMA as well as other elements and policies of the Comprehensive Plan.

Staff recommends that the City Council approve proposed Amendment 2020-1.

Chapter 6: Parks, Recreation and Open Space Element

BACKGROUND AND CONTEXT

The Parks, Recreation, and Open Space Element contains goals and policies regarding how Des Moines parks, recreational facilities and open space will be acquired, designed, managed, and programmed. The City parks system contains 28 parks totaling ~~194.28~~194.66 acres of park land and ~~3.85~~4.65 miles of trails~~ (2015)~~. These are made up of conservancy and open space, mini-parks, neighborhood parks, community parks, special/waterfront parks, trails, pathways, streetscapes and ROWs, and Interlocal City/School District facilities.

The goals and policies in this element are taken from, and must be consistent with, the City's Parks, Recreation, and Senior Services Master Plan also known as the PRO Plan, which is required by the Washington State Recreation and Conservation Office (RCO) to remain eligible for grant funding. This element also connects and supports other comprehensive plan elements, such as the Land Use Element (through discussion of quality of life and public health), Transportation Element (through the discussion of trails, bikeways, and paths), the Environment & Conservation Element (through the objectives on water conservation and recycling), and the Healthy Des Moines Element (through the discussion of healthy eating and active living).

Consistent with the Comprehensive Plan's framework for sustainability and healthy communities, this element plays an important role in promoting good public health. Park, waterfront, and recreation facilities provide opportunities for physical activity through the use of park, waterfront, trails and athletic fields and participation in a broad array recreation activities, programs and services, countering national trends toward physical inactivity and obesity. Studies have also shown that parks and recreation can provide mental health benefits, including reduction of depression and anxiety.

Background information for this element is found in the Parks, Recreation and Senior Services Master Plan (2016) which includes estimates of demand for parks, a needs assessment, as well as a discussion about opportunities to coordinate with other jurisdictions to provide parks, recreation, senior services, human services, health and wellness, cultural arts, historic preservation, tourism and aquatics. Refer to Sections 1 through 3 of the Master Plan for this information.

Goals

To ensure the Parks, Recreation and Senior Services Vision is achieved, the City has the following goals:

Goal PR 1 *Provide adequate and accessible park, waterfront and recreation facilities that are responsive and inclusive to the diverse interests and needs of people of all ages, income levels, cultural or educational backgrounds, or physical abilities. Such recreational facilities should satisfy outdoor*

PR 13.3.2 Existing Neighborhood Parks

Neighborhood Parks within Des Moines	**Size (acres)**
Dr. Shirley Gordon Park	0.88
Havenwood Park	0.67
Mary Gay Park	1.78
Midway Park	~~1.58~~1.96
Parkside Park	4.04
Water Tower Park*	1.0
Wooton Park	2.24
Total Neighborhood Parks	**~~12.19~~12.57**

* Water Tower Park is leased from Highline Water District

PR 13.3.3 Existing Community Parks

Community Parks/Sports Complexes within Des Moines	**Size (acres)**
Des Moines Field House Park	5.2
Steven J. Underwood Memorial Park and Activity Center	21.6
Total Community Parks	**26.8**

*Zenith Park is leased from Highline School District

PR 13.3.4 Existing Regional Parks

Regional Parks within Des Moines	**Size (acres)**
Saltwater State Park*	88.0
Total Regional Parks	**88.0**

*Saltwater State Park is of waterfront resource of particular local significance to the residents of Des Moines and should be protected and preserved.

PR 13.3.5 Existing Special-Use Parks

Special- Use Parks within Des Moines	**Size (acres)**
Des Moines Beach Park and Tidelands	22.3
Marina, Fishing Pier and Tidelands	15.9
Redondo Park, Beach and Tidelands	3.94
Van Gasken Park	0.67
Total Special Parks	**42.81**

PR 13.3.6 Existing Conservancy Parks/Open Space

Conservancy Parks within Des Moines	Size (acres)
Barnes Creek Open Space and Trail	4.7
Bayview Wetlands	.74
Bluffs at Redondo	.27
Cameron's Crossing Open Space	7.35
Cedarbrook Wetlands	3.87
City Park	3.44
Des Moines Creek Park and Trail*	45.05
Des Moines Trace Open Space	.53
Graceview Wetlands/Open Space	4.24
Havenwood Park Wetlands and Trail	2.97
Landmarque Open Space	1.12
Massey Creek Plaza	.81
Mediterranean Heights Open Space	.27
Parkdale Open Space	.4
Parkside Wetlands	10.94
Sola Wetlands	3.77
Sonju Park	9.54
Sunset Gardens Open Space	.17
Wetland Tract	.27
Woodmont Park	9.98
Total Conservancy Parks	**110.43**

*Portions of Des Moines Creek Park & Trail north of South 208th Street are within the City of SeaTac.

PR 13.3.7 Existing Trails, Pathways, Streetscapes and ROWs

Trails, Pathways, Streetscapes and ROWs within Des Moines	Size (acres)
Barnes Creek Trail	~~1.1~~1.9 Mi.
Des Moines Creek Trail*	2.5 Mi.
Des Moines Memorial Park (ROW)	.14 Ac.
Overlook I (ROW)	.08 Ac.
Redondo Boardwalk	.5 Mi.
Redondo Hillclimb (ROW)	.07Ac.
Redondo Trail	.25 Mi.
South 251st Entrance (ROW)	.07 Ac.
Total Trails, Pathways, Streetscapes and ROWs	**NA**

*Portions of Des Moines Creek Trail north of South 208th Street are within the City of SeaTac.

Bonnie Wilkins

From: Xfinity <andersoncentral@comcast.net>
Sent: Tuesday, November 24, 2020 4:59 PM
To: _CityCouncil
Subject: Minimum Wage Hike

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

Good evening Council and City Manager...

As a Des Moines city resident, I don't support any decision or measure for the city to increase the minimum wage. The timing is poor and we're already in-line with the state minimum wage. If we think this through, the group impacted the most would be the already struggling small businesses in DM. Putting a mandate in place from the city would be poor timing for existing business as well as deter any new business from wanting to make DM a home. Right now, we're seeing the people who work in Seattle, move North and South of Seattle to improve their quality of life. That should trickle down to creating a need for new businesses to meet the need. Let's not disrupt one of the few positives the pandemic is having. Thank you for your time and hard work.

Rob Anderson
1723 S 234th St
Des Moines
Sent from my iPhone

heArt OF DES MOINES
Des Moines Arts Commission

CITY OF DES MOINES ARTS COMMISSION

2020 UPDATE
2021 PROGRAMMING

CURRENT COMMISSION

Current Commissioners

Commissioner Eduardo Mendonça

Commissioner Nicholas Fannin

We are grateful to our current commission for their dedication and passion for arts and culture and continuing with programming during these challenging times

City Council Liaison

Councilmember Luisa Bangs

We are appreciative of the support of the City, in particular Councilmember Bangs in her role in guiding us.

City Staff Liaisons

Susan Cezar

City of Des Moines Chief Strategic Officer

Nicole Nordholm

City of Des Moines Parks, Recreation, and Senior Services Assistant Director

Katy Bevegni

City of Des Moines Assistant Harbormaster

Ashley Young

City of Des Moines Event and Facilities Manager

2020 EVENTS AND PROGRAMMING

The Des Moines Arts Commission faced challenges with restricted gatherings for events, reduced budget for 2020 spending, and a reduced commission. However, monthly meetings were diligently maintained and programs new and pivoted to a virtual platfoorm were able to continue.

Cancelled Programming:

Kindness Rocks	March 2020
Summer Concert Series	July - August 2020
Burien Actors Theater	August 2020
Shakespeare in the Park	August 2020

Executed Programming:

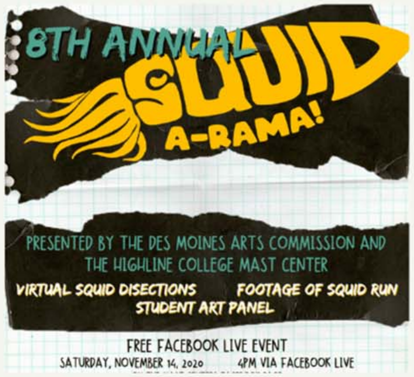
Art on Poverty Bay Sculpture Stipends	June 2020
Murray Island Incident Mural Relocation to Harper Studios	August 2020
Virtual Concert Series	October 30 to November, 20 2020
Virtual Squid a Rama	November 14, 2020
Artist Sunday	November 29, 2020
SR3 Public Art Instillation	December 2020
Sound Transit on the Link Extension Public Art Activation	October 2020

2020 HIGHLIGHTS

Virtual Concert Series

Streamed over YouTube and on the Arts Commission website Friday evenings October 30 - November 20.

Four bands/artists were selected to pre-record a live concert session at the Beach Park Auditorium. These concerts were provided to the community for free.



Virtual Squid a Rama

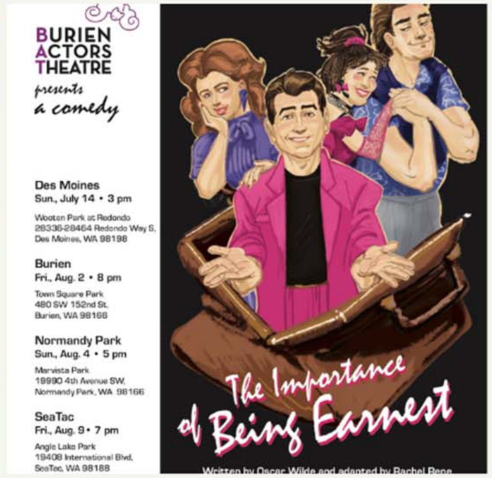
An hour long live streamed event via Facebook with videos of squid dissections, footage of underwater squid dives, and an art competition voted by the public via Facebook.

Des Moines Students participated in the Squid Art Competition and the top three votes were awarded art supplies.

SR3 Fence Public Art Instillation

A public call was made to Washington State residents to create two-dimensional art work for the fence that will surround the new Marine Mammal Hospital that is located on the Marina Floor.

Allyce Wood was awarded the work and has been working with the Commission and SR3 on the work. Installation to take place before end of 2020



des moines arts commission presents:

Monthly Virtual Concerts

ARTS COMMISSION 2021 PROPOSED PROGRAMMING

DEPENDANT ON STATE AND COUNTY RESTRICTIONS

Month to Month Virtual Concerts	Year Round
Kindness Rocks	March 2021
Midway Public Art	Spring/Summer 2021
Utility Box Wrap	Spring 2021
Art on Poverty Bay Wayfinding	Pending
Summer Concerts	July - August 2021
Theater in the Parks	August 2021
Squid a Rama	November 2021

DES MOINES ARTS COMMISSION

POSITIONS OPENINGS IN 2021

The City of Des Moines is looking for new members to join the Arts Commission. If you're interested in helping to preserve and bring new artistic ventures into the community, please consider serving on the commission.

Commissioners meet once a month to help plan events and maintain the city's interests in arts related activities, including the Art on Poverty Bay Outdoor Sculpture Gallery and the Beach Park Summer Concert series. This year the Commission will be pivoting programs to offer virtual events such as the Virtual Concert Series and Facebook Live Squid a Rama. In addition to bringing more public art to the community.

Commissioners attend and help staff events in conjunction with the City's Parks Department. Ideas and good energy are required! If you'd like to learn more, the monthly Arts Commission meetings are open to the public, or you can contact us at: info@desmoinesartscommission.com.

Arts Commission applications are available online:
https://www.desmoinesartscommission.com/take-action

-

Please submit applications to:
City Clerk
City of Des Moines
21630 11th Avenue South, Suite A
Des Moines, WA 98198

FUTURE COMMISSIONERS

The Arts Commission is currently seeking applications for new Commissioners via:

- City Currents
- Facebook
- Instagram
- Word of Mouth

BEYOND 2021

We look forward to one day coming back with regular programming and offering greater support for the arts and culture community.

This includes marketing the City and the Arts Commission as supporting Arts and Culture, continuing to provide free community programming, connecting with other local and regional organizations, and providing support for artists and community arts based organizations coming out of these challenging times.

THANK YOU

The Arts Commission would like to thank the Mayor, City Council, City Manager, community members, and City Staff and Administration for the continued support of the Commission and arts and culture.

Public Hearing
2020 Comprehensive Plan Amendments

DENISE LATHROP, AICP – PLANNING & DEVELOPMENT SERVICES MGR.

DECEMBER 3, 2020

Comprehensive Plan Amendments

Des Moines 2035: Charting Our Course for a Sustainable Future (June 25, 2015, as amended)

Comprehensive Plans can be amended no more than once per year per state law.

Citizen requests for Comprehensive Plan Amendments must be received by June 30th.

- None received

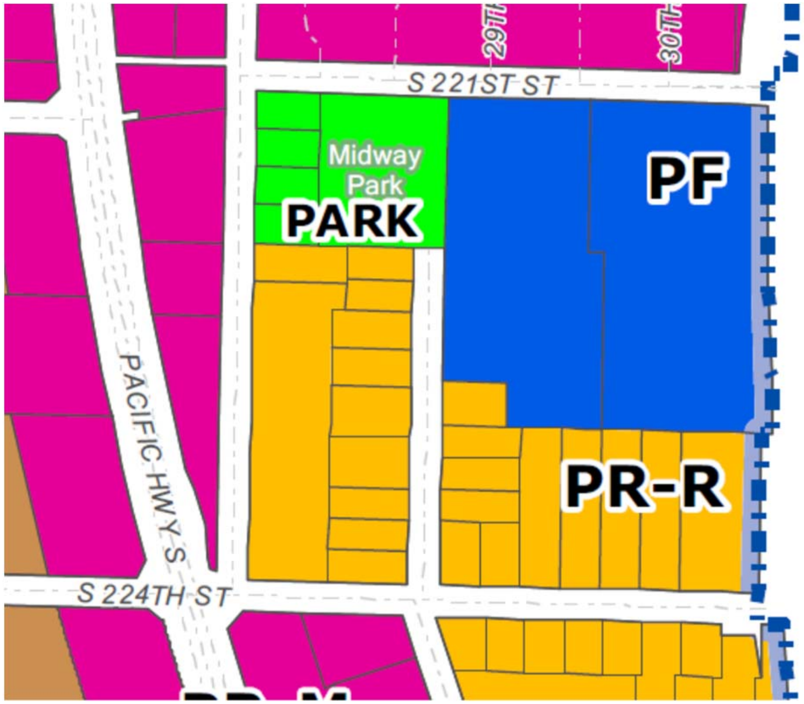
2020 - only City-initiated amendments.

Type VI land use action - Decision Criteria per DMMC 18.25.100.

2020 Comprehensive Plan Amendments

2020-1: Chapter 6: Parks, Recreation and Open Space Element

- Midway Park:
  - Des Moines received a King County Conservation Futures grant to acquire a total of four additional parcels adjacent to Midway Park.
  - Acquisitions are complete for the first two parcels and are reflected in the amended park acreage.
  - Purchase agreements are in place for the other two parcels and will be reflected in future updates when complete.
- Barnes Creek Trail:
  - The updated distance reflects the length from S. 216th Street to Highline College.



Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No 20-044 on first reading."

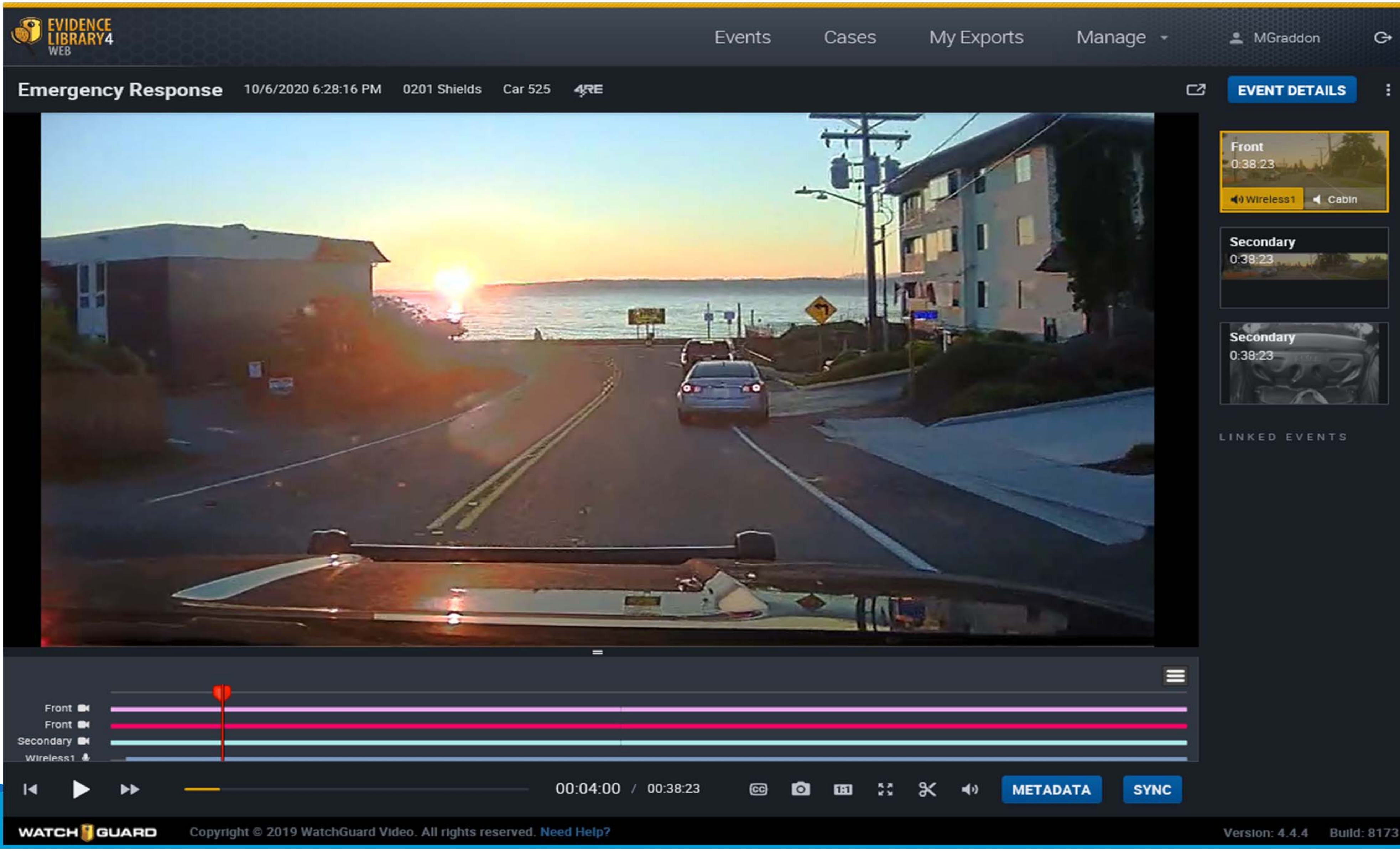
Motion 2: "I move to enact Draft Ordinance No. 20-044 enacting the 2020 amendments to *Des Moines 2035: Charting Our Course for a Sustainable Future* and amending Chapter 18.25 DMMC."

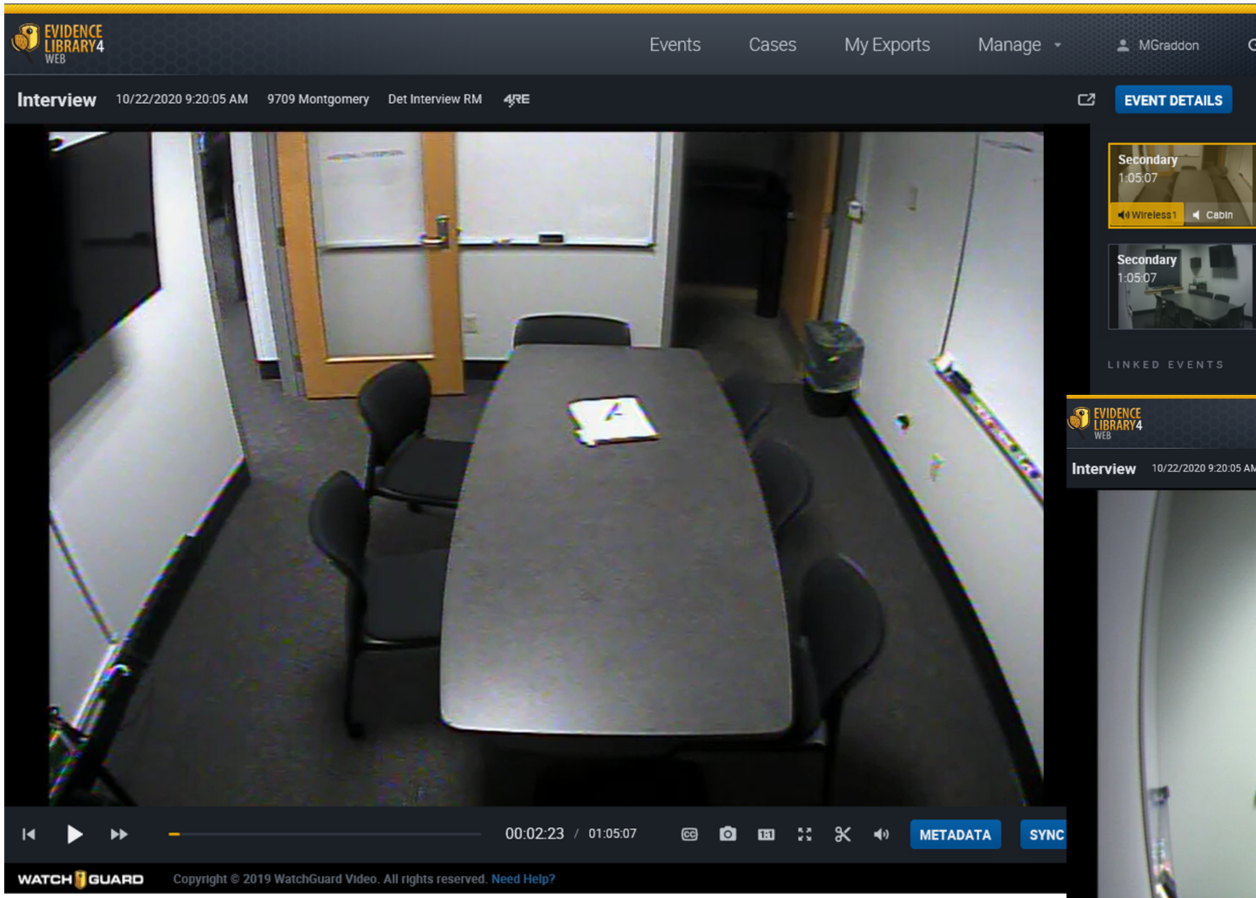
Des Moines Police Department
Council Presentation
Body Worn Cameras

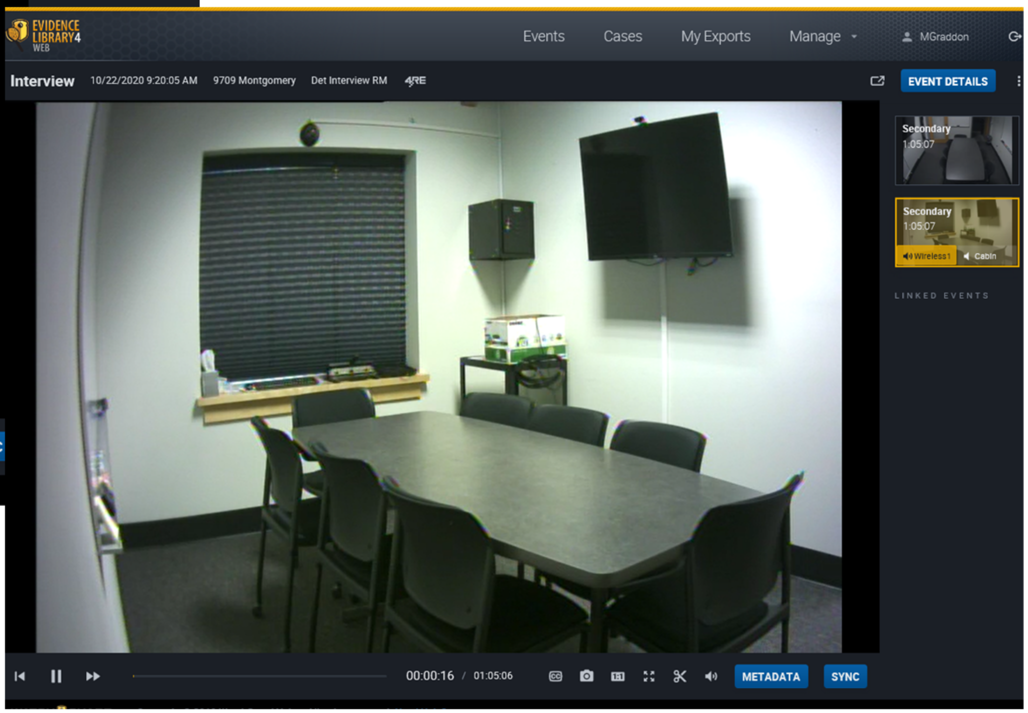
DECEMBER 3, 2020

COMMITTED TO RELENTLESSLY FIGHTING CRIME WITH TRUST AND CARE

SERVICE-COMMITMENT-UNITY


EVIDENCE LIBRARY4 WEB
Events
Cases
My Exports
Manage
MGraddon
Emergency Response
10/6/2020 6:28:16 PM
0201 Shields
Car 525
4RE
EVENT DETAILS
Front
0:38:23
Wireless1
Cabin
Secondary
0:38:23
Secondary
0:38:23
LINKED EVENTS
Front
Front
Secondary
Wireless1
00:04:00 / 00:38:23
METADATA
SYNC
WATCHGUARD
Copyright © 2019 WatchGuard Video. All rights reserved. Need Help?
Version: 4.4.4
Build: 8173





SERVICE-COMMITMENT-UNITY

BACKGROUND

- Dash-Cameras in all 18 Patrol Vehicles
- Cameras: forward facing, panoramic, backseat
- System upgraded in 2020
- Previous system in place for 20 years
- Current policy in place
- Storage capability in place
- Public Disclosure Request
- Video sharing
- Retention schedules

USE OF FORCE OVERVIEW

2020 (thru June)	*2019:*	*2018:*
32,260 DES MOINES RESIDENTS *(WA Office of Financial Management estimate)*	31,580	31,140
11,373 INTERACTIONS	26,981	22,748
9,509 REQUESTS FOR SERVICE *(Includes 911 calls)*	21,262	18,832
1,864 TRAFFIC STOPS & FIELD INTERVIEWS	5,719	3,916
556 ARRESTS *(Includes criminal citations, arrests and involuntary commitments)*	1,222	718
24 INDIVIDUALS FORCE WAS USED ON	56	51
1 GENERAL CITIZEN COMPLAINTS	4	10
0 COMPLAINTS CONCERNING USE OF FORCE	1	0
0 APPLICATIONS OF DEADLY FORCE	0	0

PERCEIVED BENEFITS OF BODY CAMERAS

- Greater Accuracy During Event Reviews
- Enhanced Complaint Documentation & Liability Mitigation
- Transparency
  - Could Enhance Community Trust
- Stronger Evidence Collection

PUBLIC DISLOSURE REQUESTS (Videos Only)

2019	2020
131	150 YTD*

- Time Estimate (Average time per request?)
- Redaction
- Requesters:
  - Insurance Companies (request full videos)
  - Attorneys (private)
  - Attorneys (Defense)
  - Individuals
  - Media

*November

CAMERA COSTS

- Hardware (one-time purchase, 5 year warranty).

- **Software** (on-going storage cost, licensing, warranty, support)
  - Storage proposals

- Responding to records requests, from members of public and news (redaction, labor hours)

CONSIDERATIONS FOR IMPLEMENTING BODY CAMERAS

- On-Going Financial Obligation
- System Failure/Maintenance
- Community Expectations
- Public Disclosure

Body Worn Camera Estimates (30 Total Cameras) $1,000-2,000/camera

Company	Hardware Initial Investment	Software* Annual Investment	Notes
Axon	$60,979	$29,943	• Redaction Assistant is available-$7,500/yr • Cloud storage only • Individual licensing • Constant streaming
WatchGuard	$45,945	$16,695	• Redaction Software=$11,961/3 Years. • Integrates/sync with current evidence library • Minimal set-up/training • Recent install of interview room cam • Hybrid Storage • Only 1 issue with a crash recording
Getac Video	$38,744	$18,280	• $8,327 remote setup project/training
Equature	$30,000	$13,000	• No other WA PD has them in use • No Redaction Software Available • New company • Uses a smartphone
AVERAGE	$43,917	$19,479	$5,000/YEAR Redaction

*Software includes licensing, warranty, support, storage (estimate based on amount of cloud storage), does not include set-up or training

KEY FEATURES

- Battery Life
- Video access/sharing
- Integrated video system
- Synchronized video playback

INTERACTIVE VIDEO

- [Camera Views]()

RECOMMENDATIONS

Beta/Field Test

2 Units, 6 Months

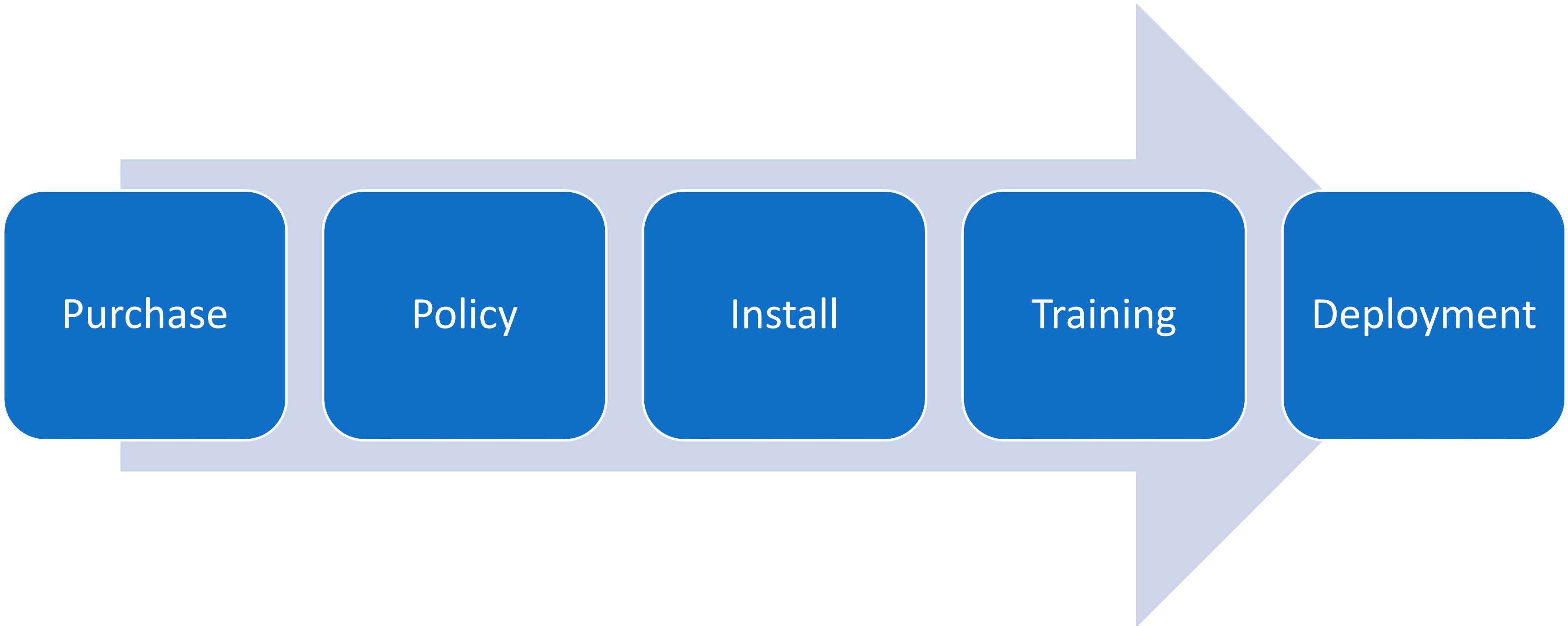
Follow-Up

Presentation

Like-Agency Operational Cost Analysis

Monitor Legislative Financial Assistance Program

POTENTIAL IMPLEMENTATION PLAN



THANK YOU!


DES MOINES POLICE DEPARTMENT
OFFICER
DES MOINES
POLICE
WA
WASHINGTON


UNITY
SERVICE
POLICE
DES MOINES
WA
COMMITMENT