

AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington
Thursday, December 1, 2022 - 6:00 PM**

City Council meeting can be viewed live on the City's website, Comcast Channel 21/321 or on the City's [YouTube](#) channel.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

CITY MANAGER REPORT

- Item 1. FERRY SERVICE UPDATE
- Item 2. MARK EVERTON, SEATTLE SOUTHSIDE
- Item 3. CODE ENFORCEMENT UPDATE

CONSENT CALENDAR

- Item 1. APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers through November 17, 2022 and the payroll transfers through November 21, 2022 in the attached list and further described as follows:

Accounts Payable	#164490-164491	\$ 5,170.03
Checks		
Payroll Checks	# 19602-19604	\$ 3,635.91
Payroll Direct Deposit	# 3388-3548	\$410,441.40
Payroll Direct Deposit	# 3549-3549	\$ 17,160.89

Total Checks and Wires for A/P and Payroll: \$436,408.23

[Approval of Vouchers](#)

- Item 2. CONSULTANT CONTRACT AMENDMENT #12 - GRANT FREDRICKS
Motion is to approve Amendment #12 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2023, with an increase of \$5,000 for 2022 and up to

\$50,000 in m2023, and authorize the City Manager to sign the contract amendment substantially in the form as submitted.

[Consultant Contract Amendment #12 - Grant Fredricks](#)

- Item 3. PETER PHILIPS CONSULTING CONTRACT AMENDMENT 3
Motion is to approve Amendment 3 to the contract between the City and Peter Philips, extending the consultant services contract through December 31, 2023.

[Peter Philips Consulting Contract Amendment 3](#)

- Item 4. MARINA REDEVELOPMENT CONSULTING CONTRACT AMENDMENT
Motion is to approve the draft Consultant Agreement Amendment 1 with the Holmes Group, LLC, in an amount not to exceed \$80,000, for the purposes of providing consultant services for Marina redevelopment, and authorize the City Manager to sign the Agreement substantially in the form as attached.

[Marina Redevelopment Consulting Contract Amendment](#)

- Item 5. 2022 SIDEWALK REPLACEMENT PROJECT - PUBLIC WORKS CONSTRUCTION CONTRACT AWARD
Motion is to approve the Public Works Contract with Asphalt Patch System, Inc. for the 2022 Sidewalk Replacement Project, in the amount of \$63,280, authorize a construction contingency in the amount of \$6,400, and further authorize the City Manager to sign said Contract substantially in the form as submitted.

[2022 Sidewalk Replacement Project – Public Works Construction Contract Award](#)

NEW BUSINESS

- Item 1. INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

(4 minutes per Councilmember) - 30 minutes

PRESIDING OFFICER'S REPORT

EXECUTIVE SESSION

PERFORMANCE OF A PUBLIC EMPLOYEE UNDER RCW 42.30.110(1)(g) - 45 Minutes

NEXT MEETING DATE

December 08, 2022 City Council Regular Meeting

ADJOURNMENT

**CITY OF DES MOINES
Voucher Certification Approval**

December 1, 2022

Auditing Officer Certification

Voucher 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 1, 2022** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through November 17th, 2022 and payroll transfers through November 21, 2022 included in the attached list and further described as follows:

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

Beth Anne Wroe

Beth Anne Wroe, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Accounts Payable Checks	164490	164491	5,170.03
Total claims paid			5,170.03

Payroll Vouchers						
Payroll Checks	11/18/2022		19602		19604	3,635.91
Direct Deposit			3388		3548	410,441.40
Payroll Checks	11/21/2022					
Direct Deposit			3549		3549	17,160.89
Total Paychecks/Direct Deposits paid						431,238.20
Total checks and wires for A/P & Payroll						436,408.23

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Consultant Contract Amendment #12–
Grant Fredricks

FOR AGENDA OF: December 01, 2022

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

1. Proposed Amendment #12 to Professional Services Agreement with Grant Fredricks
2. Services Agreement with Grant Fredricks

DATE SUBMITTED: October 24, 2022

CLEARANCES:

- City Clerk _____
- Community Development _____
- Courts _____
- Director of Marina Redevelopment *[Signature]*
- Emergency Management _____
- Finance *[Signature]*
- Human Resources _____
- Legal */s/TG*
- Marina _____
- Police _____
- Parks, Recreation & Senior Services _____
- Public Works *[Signature]*

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

Purpose and Recommendation

The purpose of this item is for the City Council to approve a contract amendment with Grant Fredricks for additional 2022 and 2023 consulting services related to the Sound Transit’s (ST) Federal Way Link Extension (FWLE). Funds for the proposed amendment are available in the 2022 adopted budget and the proposed 2023 budget, provided by the Services Agreement between the City and Sound Transit for City FWLE project services through 2024. The following motion will appear on the Consent Calendar:

Suggested Motion:

Motion: “I move to approve Amendment #12 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2023, with an increase of \$5,000 for 2022 and up to \$50,000 in 2023, and authorize the City Manager to sign the contract amendment substantially in the form submitted.”

Background

Mr. Fredricks has been providing consulting services under contract since January 2013 following his retirement from the City in November 2012.

Following is a summary of hours billed since 2013: 800 hours in 2013, 482 hours in 2014, 410 hours in 2015, 494 hours in 2016, 500 hours in 2017, 682 hours in 2018, 459 hours in 2019, 500 hours in 2020, 466 hours in 2021, and approximately 365 hours in 2022.

The proposed amendment provides for approximately 275 hours of consulting support in 2023. All of Grant’s costs in 2023 will continue to be fully reimbursed by Sound Transit under the terms of the City’s agreement (Task Orders #3).

Discussion

Mr. Fredricks had been working remotely from home on parts of 17 days per month on average since the City Hall COVID-19 closures. He currently represents the City with Sound Transit as a City project coordinator.

In 2022, Mr. Fredricks has been working under a \$50,000 (333 hours) City Council-approved contract on FWLE planning, design review and permitting, managing agreements with Sound Transit, and working with Highline College on the College Way Connection Project (CWCP) in the College East Parking Lot. Mr. Fredricks’ hourly rate was increased in 2018 and will remain unchanged through 2022 but increase to \$180 in 2023.

The FWLE-related work in 2022 has become less complex and time consuming than in 2021 but is still more than anticipated when the 2022 contract was approved last fall. It has included reviewing detailed design builder plans and designs; completing Sound Transit’s rights-of-way vacations and dedications; supporting City FWLE-designated task force staff through design and construction; and administering ST agreements.

In 2023, he will be helping to negotiate changes to the City/ST Development Agreement and Services Agreement, coordinate Phase 2 construction on and to Highline College next summer, construction of street ends and rehabilitation of haul routes in Pacific Ridge, closeout of construction with Kiewit and Sound Transit, and final preparation for opening for light rail service in 2025.

Consultant Selection Process

Professions outside the fields described in RCW 39.80 may provide consulting services such as long-range planning and studies, project management, economic analyses, and real estate negotiations. These consulting services are provided through personal service agreements in accordance with RCW 39.29. For professional service contracts, like the one for Mr. Fredricks, the City can select or appoint based on the specific experience of the individual and the proposed work to be performed. There are no other specific selection requirements for professional service contracts.

Alternatives

Council may choose not to approve the 2022 contract amendment in which case Mr. Fredricks will continue to work through November when his contract authority is reached. Other staff would be required to back fill his assignments through the end of the year and in 2023. This is not recommended, as the City's Public Works department is currently significantly understaffed. In addition, project continuity would be lost if Grant was no longer on our project.

Financial Impact

The 2022 budget has enough capacity to accommodate up to \$5,000 of additional 2022 spending because Sound Transit fully reimburses his time as provided for in Task Order #3. The proposed 2023 Budget has been developed to accommodate up to \$50,000 in services provided by this contract as proposed anticipating that these costs will continue to be reimbursed by ST in accordance with Task Order #3 authorized by the City Council-approved Services Agreement with ST.

Recommendation/Conclusion:

Staff recommends that Council approve the proposed contract Amendment.

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CONTRACT AMENDMENT 12
CONTRACT FOR SERVICES BETWEEN
THE CITY OF DES MOINES AND GRANT FREDRICKS

THIS AMENDMENT is entered into on this ____ of _____, 2022, pursuant to that certain Contract entered into on the 2nd day of January, 2014 and subsequent amendments between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **GRANT FREDRICKS** (hereinafter "VENDOR").

The parties herein agree that the Contract dated January 2, 2014, shall remain in full force and effect, except for the amendments set forth as follows:

I) **SECTION II** of the Contract is hereby amended to read as follows:

II. **TIME OF COMPLETION.** Upon the effective date of this Amendment, Vendor shall complete the work and provide all goods, materials, and services by December 31, 2023.

II) **SECTION III** of the Contract is hereby amended to read as follows:

III. **COMPENSATION.** The City shall pay the Vendor an amount not to exceed \$55,000 for services performed in 2022 at a rate of \$150.00 per hour. Effective January 1, 2023 the City shall pay the Vendor an amount not to exceed \$50,000 for services performed in 2023 at a rate of \$180.00 per hour, for the goods materials, and services contemplated in this Agreement. Vendor shall invoice the City not later than the 5th of the following month. The invoice will include an itemized work summary.

Except as modified hereby, all other terms and conditions of the contract dated January 2, 2014 and all subsequent amendments remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed Amendment 12 as of the date first above written.

<p align="center">GRANT L. FREDRICKS:</p> <p>By: _____ <i>(signature)</i> Print Name: <u>Grant L. Fredricks</u> Vendor</p> <p>DATE: _____</p>	<p align="center">CITY OF DES MOINES:</p> <p>By: _____ <i>(signature)</i> Print Name: <u>Michael Matthias</u> Its <u>City Manager</u></p> <p>DATE: _____ Approved by the Des Moines City Council in an open public meeting on _____, 2022.</p> <p>Approved as to form: _____ City Attorney DATE: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>Grant L. Fredricks: dba Fredricks Management Consulting 9020 Valley Green Dr SE Olympia, WA 98513 (360) 584-3164 (cell phone) granita.fredricks@gmail.com</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES: Daniel J. Brewer, PE Sound Transit Liason City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 206-870-6554 (telephone) 206-870-6540 (facsimile)</p>

SERVICES AGREEMENT
between the City of Des Moines and Grant Fredricks

THIS AGREEMENT is made by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Grant Fredricks dba Fredricks Management Consulting (hereinafter the "Vendor") as a personal services contract not to exceed \$50,000 in value and expiring December 31, 2014.

AGREEMENT

I. DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City. Working with other City staff, assist in:

1. Planning for the extension of light rail through Des Moines.
2. Developing the Des Moines Creek Business Park.
3. Updating the Zoning Code along the Pacific Highway South corridor and in other commercial zones in the City.
4. Helping promote economic development.
5. Commercially developing the Marina.
6. Advising the City Council on policy and other matters.
7. Working on other City Manager assignments as directed.

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

II. TIME OF COMPLETION. Upon the effective date of this Agreement, Vendor shall complete the work and provide all goods, materials, and services by December, 31, 2014.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed \$50,000, at a rate of \$120.00 per hour, for the goods, materials, and services contemplated in this Agreement. Vendor shall invoice the City not later than the 5th of the following month. The invoice will include an itemized work summary.

If the City objects to all or any portion of an invoice, it shall notify Vendor 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.

- A. Defective or Unauthorized Work. The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services. If Vendor is unable, for any reason, to complete any part of this Agreement, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Agreement price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Agreement with other sources, from any and all amounts due or to become due the Vendor.
- B. Final Payment: Waiver of Claims. **VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.**

IV. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Agreement and that the Vendor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement.

V. TERMINATION. Either party may terminate this Agreement, 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 Agreement.

VI. CHANGES. The City may issue a written amendment for any change in the goods, materials or services to be provided during the performance of this Agreement. If the Vendor determines, for any reason, that an amendment is necessary, Vendor must submit a written amendment request to the person listed in the notice provision section of this Agreement, section XIV(D), within fourteen (14) calendar days of the date Vendor 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 Vendor'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 Vendor on all equitable adjustment. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the amended work upon receiving either a written amendment from the City or an oral order from the City before actually receiving the written amendment. If the Vendor fails to require an amendment within the time allowed, the Vendor waives its right to make any claim or submit subsequent amendment requests for that portion of the contract work. If the Vendor disagrees with the

equitable adjustment, the Vendor must complete the amended work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VII, Claims, below.

The Vendor accepts all requirements of an amendment by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. An amendment that is accepted by Vendor 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.

VII. CLAIMS. If the Vendor disagrees with anything required by an amendment, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor 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 Vendor 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 Agreement or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Agreement.

At a minimum, a Vendor'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 Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Agreement 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 Vendor is asserting a schedule change or disruption.

B. Records. The Vendor 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 Vendor'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. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Agreement.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor 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 Vendor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

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

IX. WARRANTY. This Agreement is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any part of the goods are repaired, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City May complete the corrections and the vendor or shall pay all costs incurred by the City in order to accomplish the correction.

X. DISCRIMINATION. In the hiring of employees for the performance of work under this Agreement or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age,

sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XI. **INDEMNIFICATION.** Vendor shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Vendor's performance of this Agreement, except for that portion of the injuries and damages caused by the City's negligence.

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE VENDOR'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 Agreement.

XII. **WORK PERFORMED AT VENDOR'S RISK.** Vendor 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 Vendor's own risk, and Vendor 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.

XIII. MISCELLANEOUS PROVISIONS.

A. Recyclable Materials. The city recommends that its contractors and consultants use recycled and recyclable products whenever practicable.

B. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement 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.

C. Resolution of Disputes and Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court,

King County, Washington, unless the parties agree in writing to an alternative dispute resolution process. 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, including all appeals, 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 XI of this Agreement.

D. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, 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 Agreement or such other address as may be hereafter specified in writing.

E. Assignment. Any assignment of this Agreement 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 Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.


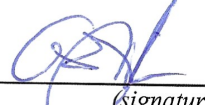
F. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.


G. Entire Agreement. The written provisions and terms of this Agreement, 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 Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

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

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

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

<p>VENDOR:</p> <p>By: <u></u> <i>(signature)</i></p> <p>Print Name: Grant L. Fredricks</p> <p>DATE: <u>1/2/14</u></p>	<p>CITY OF DES MOINES:</p> <p>By: <u></u> <i>(signature)</i></p> <p>Print Name: Anthony A. Piasecki Its: City Manager</p> <p>DATE: <u>12/24/13</u></p>
<p>NOTICES TO BE SENT TO:</p> <p>VENDOR:</p> <p>Grant L. Fredricks 9020 Valley Green Dr. SE Olympia, WA 98513 (360) 584-3164 (cell phone) grantita@ix.netcom.com</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES:</p> <p>Tony Piasecki, City Manager City of Des Moines 21630 11th Ave. So., Suite A (206) 870-6541 (telephone) (206) 870-6540 (facsimile)</p>

APPROVED AS TO FORM

City Attorney

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Peter Philips Consulting Contract
Amendment 3

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: November 22, 2022

ATTACHMENTS:

1. Consulting Amendment 3
2. Consulting Amendment 2
3. Consulting Amendment 1
4. Consulting Contract

CLEARANCES:

- City Clerk _____
- Community Development _____
- Courts _____
- Director of Marina Redevelopment _____
- Emergency Management _____
- Finance *Benjamin W...*
- Human Resources _____
- Legal */s/ MH*
- Marina *[Signature]*
- Police _____
- Parks, Recreation & Senior Services _____
- Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *[Signature]*

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of an Amendment to extend the existing contract with Peter Philips for the purpose of assisting with passenger ferry service, marina redevelopment as well as other potential opportunities for the marina. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: "I move to approve Amendment 3 to the contract between the City and Peter Philips, extending the consultant services contract through December 31, 2023"

Background

The City entered into a consulting agreement with Peter Philips in 2020 in order to assist the City in developing strategies and implementation to achieve access to regional water taxi, ferry and other maritime transportation opportunities. Additional services included commercial engagement of the Marina floor and adjacent business district, including but not limited to ferries, commercial fishing boat expansion and sales and potential retail/dining opportunities.

The scope of the contract was expanded in June of 2021 to include the following additional tasks:

Assist the City in the sourcing and coordination of vendor companies tasked with feasibility, and if applicable, operations of maritime-related amenities: passenger-only ferries, off-boat fish sales and other opportunities as may arise from the continued development of the marina's physical infrastructure and supporting transportation opportunities around electrification.

Serve as the primary point of contact with vendor community to coordinate maritime transportation feasibility studies, resulting business plan(s) and, if determined by the city to be viable, startup of water taxi and/or water taxi pilot program(s).

Represent the City as the initial point of contact with the vendor community to provide them with a single point of contact for the city in achieving the above.

Provide periodic updates to Council Committees and City Council as determined by City Manager.

Mr. Philips has been very successful in providing preparation, coordination and implementation of Des Moines passenger ferry service to Seattle and back during the 2022 pilot study.

Discussion

The work Peter Philips has provided to the City has been extraordinary, and his assistance is vital as the City moves forward with marina redevelopment. He was instrumental in organizing the City's passenger ferry maiden voyage in September, 2021.

The contract amendment as proposed extends Peter Philips' contract through the end of 2023 at the rate of \$5,000/mo.

Alternatives

Do not extend the Contract or extend it on a more limited basis. This is not recommended.

Financial Impact

Funds for this Amendment have been included in the City budget for 2023.

Recommendation

Administration recommends approval of the motion.

CONTRACT AMENDMENT #3

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS AMENDMENT/ADDENDUM is entered into on this _____ day of December, 2022, pursuant to that certain Contract entered into on the 1st day of October, 2020, and subsequent amendment between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **PETER PHILIPS**, (hereinafter "Consultant").

The parties herein agree that the Contract dated October 1, 2020 and subsequent amendment, shall remain in full force and effect, except for the amendments/addendums set forth as follows:

- 1) **SECTION 2** is amended to extend the term of the Agreement through December 31, 2023.

- 2) **SECTION 3** is hereby amended to increase the monthly compensation to \$5,000 per month beginning January 1, 2023 through the end of the term of this Contract.

Except as modified hereby, all terms and conditions of the existing contract and amendment remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Addendum as of the date first above written.

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CONTRACT AMENDMENT #2

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS SECOND AMENDMENT is entered into on this 26th day of August, 2022, pursuant to that certain Contract entered into on the 1st day of October, 2020, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **PETER PHILIPS**, (hereinafter "Contractor").

The parties herein agree that the Contract dated October 1, 2020 as well as subsequent amendments, shall remain in full force and effect, except for the amendments set forth as follows:

1. **SECTION I** is hereby amended to add the following duties and responsibilities:

Contractor has excellerated efforts and performance to establish passenger ferry service between Des Moines and Seattle in a successful manner.

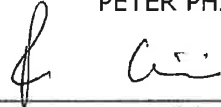
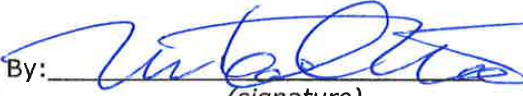
2. **SECTION II** is hereby amended to extend the term of the Contract through December 31, 2022.

3. **SECTION III** is hereby amended to increase the monthly compensation to \$4,100 per month beginning September 1, 2022 through the end of the term of this Contract.

Except as modified hereby, all terms and conditions of the Contract and subsequent amendments remain in full force and effect.

PP
9/20/22

IN WITNESS WHEREOF the parties hereto have executed this Addendum as of the date first above written.

PETER PHILIPS:	CITY OF DES MOINES:
By: <u></u> (signature) Print Name: <u>Peter Philips</u> Its <u>Owner</u> (Title) DATE: <u>9/20/22</u>	By: <u></u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: _____
	Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>September 21, 2022</u>

CONTRACT AMENDMENT 1

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF DES MOINES AND PETER PHILIPS**

THIS AMENDMENT/ADDENDUM is entered into on this 3 day of June, 2021, pursuant to that certain Contract entered into on the 1st day of October, 2021, between the CITY OF DES MOINES, WASHINGTON (hereinafter "City"), and Peter Philips, (hereinafter "Consultant").

The parties herein agree that the Contract dated October 1, 2020, shall remain in full force and effect, except for the amendments/addendums set forth as follows:

1. **SECTION 1** of the Contract, is hereby amended to expand the Scope of Work as follows:

Assist the City in developing strategies and implementation to achieve access to regional water taxi, ferry and other maritime transportation opportunities.

Assist the city in the promoting to the private sector the opportunities around commercial engagement of the marina floor and adjacent business district, including but not limited to the development of regional water taxi, ferry and maritime transportation opportunities.

Assist the City in the sourcing and coordination of vendor companies tasked with feasibility, and if applicable, operations of maritime-related amenities: passenger-only ferries, off-boat fish sales and other opportunities as may arise from the continued development of the marina's physical infrastructure and supporting transportation opportunities around electrification.

Serve as the primary point of contact with vendor community to coordinate maritime transportation feasibility studie(s), resulting business plan(s) and, if determined by the city to be viable, startup of water taxi and/or water taxi pilot program(s)

Represent the city as the initial point of contact with the vendor community to provide them with a single point of contact for the city in achieving the above.

Handwritten:
N.P.
6/3/21


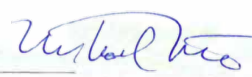
Provide periodic updates to Council Committees and City Council as determined by City Manager.

2. **SECTION 2** of the Contract is amended to extend the term of the contract through May 31, 2022.

3. **SECTION 3** of the Contract is amended to increase the compensation to a maximum of \$3,000 per month unless prior approval by the City is given.

Except as modified hereby, all terms and conditions of contract dated October 1, 2020, remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Addendum as of the date first above written.

<p>CONSULTANT:</p> <p>By: <u></u> (signature) Print Name: <u>Peter Philips</u> Its <u>Owner</u> (Title) DATE: <u>06.03.21</u></p>	<p>CITY OF DES MOINES:</p> <p>By: <u></u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> (Title) DATE: <u>06.04.2021</u></p> <p>Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>June 3, 2021</u></p>
<p>NOTICES TO BE SENT TO:</p> <p>CONSULTANT: Peter Philips 19679 Marine View Dr SW Normandy Park, WA 98166 (206) 284-8285 (telephone) Peter@colibriNW.com (Email)</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES: Bonnie Wilkins City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 (206) 870-6519 (telephone) BWilkins@desmoineswa.gov (Email)</p>



CONSULTANT SERVICES CONTRACT between the City of Des Moines and

Peter Philips

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Peter Philips, located and doing business at 19679 Marine View Drive SW, Normandy Park WA 98166 (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:

Assist the City in developing strategies and implementation to achieve access to regional water taxi, ferry and other maritime transportation opportunities.

Commercial engagement of the Marina floor and adjacent business district, including but not limited to ferries and commercial fishing boat expansion.

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 starting October 1, 2020 through December 31, 2021.

III. COMPENSATION.

- A. The City shall pay the Consultant for the services described in this Contract with a total amount not to exceed \$18,000.00 per year. 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.

CONSULTANT SERVICES CONTRACT
(Various)

RP
9/30/20

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

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

V. CHANGES. The City may issue a written change order for any change in the Contract work during the performance of this Contract. If the Consultant determines, for any reason, that a change order is necessary, Consultant must submit a written change order request to the person listed in the notice provision section of this Contract, section XVI(C), within fourteen (14) calendar days of the date Consultant knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Consultant's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Consultant on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Consultant shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Consultant fails to require a change order within the time specified in this paragraph, the Consultant waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Consultant disagrees with the equitable adjustment, the Consultant must complete the change order work; however, the Consultant may elect to protest the adjustment as provided in subsections A through E of Section VI, Claims, below.

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

VI. CLAIMS. If the Consultant disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Consultant may file a claim as provided in this section. The Consultant shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Consultant knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Consultant unless a

CONSULTANT SERVICES CONTRACT 2
(Various)

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

CONSULTANT SERVICES CONTRACT 3
(Various)

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. Reserved

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.

CONSULTANT SERVICES CONTRACT 4
(Various)

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

CONSULTANT SERVICES CONTRACT 5
(Various)

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.

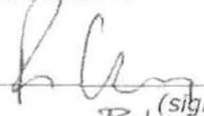

H. Business License. Contractor shall comply with the provisions of Title 5 Chapter 5.04 of the Des Moines Municipal Code.

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.

CONSULTANT SERVICES CONTRACT 6
(Various)

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

CONSULTANT: By: <u></u> (signature) Print Name: <u>Peter Philips</u> Its: <u>owner</u> (Title) DATE: <u>9.30.20</u>	CITY OF DES MOINES: By: <u></u> (signature) Print Name: <u>Michael Matthias</u> Its: <u>City Manager</u> (Title) DATE: <u>10-1-2020</u> Approved as to form: /s/ Tim George City Attorney DATE: <u>10/01/2020</u>
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NOTICES TO BE SENT TO: CONSULTANT: Peter Philips 19679 Marine View Drive SW Normandy Park WA 98166 206-284-8285 (telephone) Peter@ColibriNW.com (email)	NOTICES TO BE SENT TO: CITY OF DES MOINES: Bonnie Wilkins City of Des Moines 21630 11 th Avenue S., Suite A Des Moines, WA 98198 (206)870-6519 (telephone) BWilkins@desmoineswa.gov (email)
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CONSULTANT SERVICES CONTRACT 7
(Various)

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Marina Redevelopment Consulting
Contract Amendment

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: City Manager

ATTACHMENTS:

1. Consultant Services Contract
2. Consultant Services Contract Amendment #1
3. Scope of Work

DATE SUBMITTED: November 23, 2022

CLEARANCES:

- City Clerk _____
- Community Development _____
- Courts _____
- Director of Marina Redevelopment _____
- Emergency Management _____
- Finance *Bethanne Weir*
- Human Resources _____
- Legal */s/ MH*
- Marina *(SW)*
- Police _____
- Parks, Recreation & Senior Services _____
- Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *(Signature)*

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of the Consultant Agreement Amendment 1 with the Holmes Group, LLC (THG) to provide services to accomplish the Scope of Work (Attachment 2), focusing on formulating and implementing strategies for City of Des Moines Marina Redevelopment.

Suggested Motion

Motion 1: "I move to approve the draft Consultant Agreement Amendment 1 with the Holmes Group, LLC, in an amount not to exceed \$80,000, for the purposes of providing consultant services for Marina redevelopment, and authorize the City Manager to sign the Agreement substantially in the form as attached."

Background

In September of 2019, City Council directed staff to proceed with issuance of a Request for Qualifications (RFQ) for Marina redevelopment [Motion made by Councilmember Bangs, second by Councilmember Nutting] to direct staff to prepare an RFQ for a private developer for Marina Redevelopment. Motion passed 7-0. As staff, working with consultants began the process of developing the RFQ, the COVID pandemic appeared and constrained efforts to proceed. Staff, in consultation with consultants decided to wait to issue the RFQ, subject to the dynamic of the virus spreading.

Since that time staff has been identifying potential alternative development strategies which will culminate in a discussion with City Council at a late January, 2023 Study Session. THG will continue to provide strategic guidance and support moving forward.

The Holmes Group has been involved in our Marina Redevelopment process since our first efforts beginning in 2016. Their Principal Consultant was involved in the development of the Seattle Harbor Steps and has brought that level of expertise to our current efforts.

Discussion

The path forward for Marina Redevelopment has been complicated by macro-economic factors related to availability of construction firms, cost of money for investment, supply chain challenges and labor shortages. The City has worked to utilize these challenges to our advantage in identifying alternative development options. One of the most significant challenges in developing the Marina-and in coordinating land side development with capital improvements on the water side-is to establish the appropriate role for private sector participation. THG provides a wealth of knowledge and experience in dealing with the private sector and in establishing public-private partnerships.

Financial Impact

The cost of this contract not to exceed \$80,000 and the funding will be provided by ARPA Funds, designated for Marina Redevelopment.

Recommendation

The City Manager recommends approval of the motion as written.

Concurrence

The City Attorney's Office, Harbormaster, Finance Department and Public Works concur.



CONTRACT AMENDMENT #1

**CONTRACT AMENDMENT #1 FOR CONSULTANT SERVICES
BETWEEN THE CITY OF DES MOINES AND THG, LLC**

THIS AMENDMENT/ADDENDUM is entered into on this ____ day of _____, 2022, pursuant to that certain Contract entered into on the 16th day of May, 2021, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **THG, LLC**, (hereinafter "Contractor").

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

- 1.) **SECTION I** is amended to add the following language:

Description of Work: Scope of work is expanded to include tasks in Attachment A.

- 2.) **SECTION II** is amended as follows:

Consultant shall complete the work described in Section I by December 31, 2023.

- 3.) **SECTION III** is amended to add the following language:

The City shall pay the consultant, based on time and materials, an amount not to exceed \$80,000.

Except as modified hereby, all terms and conditions of contract dated May 16, 2021, remain in full force and effect.

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

<p>THG</p> <p>By: _____ <i>(signature)</i></p> <p>Print Name: <u>Robert J. Holmes</u></p> <p>It's <u>Managing Partner</u></p> <p>Date: _____</p>	<p>CITY OF DES MOINES:</p> <p>By: _____ <i>(signature)</i></p> <p>Print Name: <u>Michael Matthias</u></p> <p>It's <u>City Manager</u></p> <p>Date: _____</p> <p>Approved as to Form:</p> <p>_____ City Attorney</p> <p>Date: _____</p>
--	---

<p>NOTICES TO BE SENT TO:</p> <p>CONSULTANT: Robert J. Holmes THG, LLC 1324 N Liberty Lake Road PMB 3661 Liberty Lake WA 99019 206-999-2600 rhomes@theadvisor.com</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES: Michael Matthias City of Des Moines 21630 11th Avenue S., Suite A Des Moines WA 98198 206-870-6519</p>
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ATTACHMENT A

Scope of Work for THG Consulting – Marina Redevelopment Consulting contract

Ongoing strategic planning for Marina redevelopment

Private Developer outreach (including Urban Land Institute – Pacific Northwest), introductions, meetings, and tours.

Investors

Same as above but goal to align developer interest with capital.

Identifying potential tenants and users

Marketing by continuing to articulate story and value of Des Moines and Marina Steps

Review options for Pop up events and food trucks

Retail and experiential

Consider a meeting hosted by City and THG plus selected developers on how to leverage the vision to achieve the experiential vision and market creation

Marketing outreach piece-

targeting the wine industry

targeting the beer (microbrew) industry

Ongoing consultation with City Administration and City Council as needed.

Provision of tours of development options for City Council as needed.

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CONSULTANT SERVICES CONTRACT between the City of Des Moines and

THG, LLC

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and THG, LLC organized under the laws of the State of Washington, located and doing business at 1324 N. Liberty Lake Road PMB 3661, Liberty Lake, WA 99019 (hereinafter the "Consultant").

I. DESCRIPTION OF WORK.

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

See attached Scope of Work (Exhibit A)

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. Consultant shall complete the work described in Section I December 31, 2021.

III. COMPENSATION.

- A. The City shall pay the Consultant, based on time and materials, an amount not to exceed \$46,550 plus expense reimbursements 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.

CONSULTANT SERVICES CONTRACT
(Various)

- 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 request 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 Consultant's agreement to accept the adjustment, if any, and once paid, shall be a final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VI. CLAIMS. If the Consultant disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Consultant may file a claim as provided in this section. The Consultant shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Consultant knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Contract or otherwise, shall be conclusively deemed to have been waived by the Consultant unless a

CONSULTANT SERVICES CONTRACT 2
(Various)

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

CONSULTANT SERVICES CONTRACT 3
(Various)

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. Each party ("Indemnitor") shall defend, indemnify and hold the other party ("Indemnitee"), 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 Indemnitor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Indemnitee.

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

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

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

XI. INSURANCE. The Consultant shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

No Limitation. Consultant's maintenance of insurance as required by the Contract shall not be construed to limit the liability of the Consultant to the coverage

CONSULTANT SERVICES CONTRACT 4
(Various)

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.

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.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile 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

CONSULTANT SERVICES CONTRACT 5
(Various)

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

CONSULTANT SERVICES CONTRACT 6
(Various)

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.

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.

CONSULTANT SERVICES CONTRACT 7
(Various)

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.

<p>CONSULTANT:</p> <p>By: <u></u> <small>(signature)</small> Print Name: <u>ROBERT J. HOLMES</u> Its <u>MANAGER</u> <small>(Title)</small> DATE: <u>5.11.2021</u></p>	<p>CITY OF DES MOINES:</p> <p>By: <u></u> <small>(signature)</small> Print Name: <u>Michael Matthias</u> Its <u>City Manager</u> <small>(Title)</small> DATE: <u>5.16.2021</u></p> <p>Approved as to form: <u>/s/ Tim George</u> City Attorney DATE: <u>05/10/2021</u></p>
<p>NOTICES TO BE SENT TO:</p> <p>CONSULTANT:</p> <p>Robert J. Holmes THG, LLC 1324 N. Liberty Lake Road PMB 3661 Liberty Lake, WA 99019 (206) 999-2600 (telephone) Rholmes@thgadvisory.com (email)</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES:</p> <p>Michael Matthias City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 (206) 870-6554 (telephone) MMatthias@desmoineswa.gov (email)</p>

CONSULTANT SERVICES CONTRACT 8
(Various)

SCOPE OF WORK

CITY OF DES MOINES AND THG, LLC

1. **Project Description:** Include a brief description of the goal(s) and/or issue to be addressed with each project.

Since 2018, THG (with The Concord Group) has worked to deliver recommendations to the Des Moines City Council, City Manager, and City staff regarding development strategies and scenarios at the Des Moines Marina. In 2020, we completed an initial draft of a Request for Qualifications ("RFQ"), which was put on abeyance as the COVID-19 pandemic took hold around the country. THG has also sought out and toured potential hotel operators/owners, developers, tenants, and users. At this time, the City is seeking to update and finalize the RFQ document in order to alert the development community to the opportunity at the Marina and to generate Statements of Qualifications ("SOQ"). As part of the process, THG is assisting the City in preparing a video 'virtual tour' of the downtown, waterfront, the project, and the property.

In addition to funding and operating Marina Steps, the City is assessing the opportunity to design, develop, own, and operate the parcel immediately south of the planned Marina Steps with a variety of uses, including boat / dry-boat storage, the Harbormaster House, and the structure to house the farmer's market.

Building on our prior work, we will work with The Concord Group, City staff and its architects, and other team members to:

- a. Continue to follow up with interested developers, operators, users, and tenants (for example: Embarcadero Hospitality Group, Outdoor Research, SeaLevel, 192 Brewing, Columbia Hospitality, REI, Amazon, Vulcan, Tom Cody, etc.) to further interest and energy;
- b. Have a kick-off meeting (virtual) with City staff to review project objectives and requirements and including any background information relevant to COVID;
- c. Identify, with the City, required changes to the RFQ draft and to the Marina master plan;
- d. As needed, update relevant data/high-level analysis and story that will be included in the RFQ including impacts of COVID;
- e. Update and revise the copy (text) for the RFQ;
- f. Coordinate and communicate with the design team retained by the City to ensure alignment with their work and any new Exhibit for the RFQ. Provide input to the City as it prepares the Data Room that will be accessible to developers;
- g. Work with the team to identify and generate images, maps, and graphs suitable for the RFQ;
- h. Assist in preparation of distribution lists;
- i. If required, present the final draft of the RFQ to the City Council (assumed to be a virtual session);

- j. Assist the City in assessing SOQs;
- k. Participate in interviews of selected developers and/or provide feedback and recommendations to assist City in assessment and preparations for negotiations (assumes interviews held virtually);
- l. Separately from the RFQ creation and assessments, work with the City and team to develop potential plan for parcel immediately south of Marina Steps ("Parcel B").

We will finish the above scope of work through point "l" prior to the planned May/June 2021 RFQ distribution target, assuming timely responses from the City and project team.

The professional fee required is \$46,550. Expense reimbursement for travel and materials will be billed with no mark up.



Robert J. Holmes
THG, LLC

April 29, 2021
Date



Michael Matthias
City of Des Moines

5.10.2021
Date

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: 2022 Sidewalk Replacement Project –
Public Works Construction Contract
Award

FOR AGENDA OF: December 1, 2022

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: November 22, 2022

ATTACHMENTS:

- 1. Public Works Construction Contract

CLEARANCES:

- City Clerk _____
- Community Development _____
- Courts _____
- Director of Marina Redevelopment _____
- Emergency Management _____
- Finance *MH*
- Human Resources _____
- Legal */s/ MH*
- Marina _____
- Police _____
- Parks, Recreation & Senior Services _____
- Public Works *Thomas Owen*

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

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of the Public Works Contract (Attachment 1), with Asphalt Patch System, Inc., for the 2022 Sidewalk Replacement Project. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: “I move to approve the Public Works Contract with Asphalt Patch System, Inc. for the 2022 Sidewalk Replacement Project, in the amount of \$63,280.00, authorize a construction contingency in the amount of \$6,400.00, and further authorize the City Manager to sign said Contract substantially in the form as submitted.”

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**PUBLIC WORKS CONTRACT
Between City of Des Moines and
Asphalt Patch System, Inc.**

THIS CONTRACT is made and entered into this _____ day of _____, 2022, by and between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Asphalt Patch System, Inc. organized under the laws of the State of Washington, located and doing business at 8812 Canyon Rd E, Puyallup WA 98371, Tyson Kiehn, 253-535-2590 (hereinafter the "Contractor").

CONTRACT

The parties agree as follows:

I. DESCRIPTION OF WORK.

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

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

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

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

WAC 458-20-171 and its related rules for the work contemplated in this Contract. The Contractor shall invoice the City monthly. The City shall pay to the Contractor, as full consideration for the performance of the Contract, an amount equal to the unit and lump sum prices set forth in the bid. The Contractor will submit requests for Progress payments on a monthly basis and the City will make progress payment within 45 days after receipt of the Contractor's request until the work is complete and accepted by the City. The City's payment shall not constitute a waiver of the City's right to final inspection and acceptance of the project.

- A. Retainage. The City shall hold back a retainage in the amount of **five percent (5%)** of any and all payments made to contractor for a period of sixty (60) days after the date of final acceptance, or until receipt of all necessary releases from the State Department of Revenue and the State Department of Labor and Industries and until settlement of any liens filed under Chapter 60.28 RCW, whichever is later. If Contractor plans to submit a bond in lieu of the retainage specified above, the bond must be in a form acceptable to the City and submitted within 30 days upon entering into this Contract, through a bonding company meeting standards established by the City.
- B. Defective or Unauthorized Work. The City reserves its right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract; and extra work and materials furnished without the City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, the City may complete the work by contract or otherwise, and Contractor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Contract price specified above. The City further reserves its right to deduct the cost to complete the Contract work, including any Additional Costs, from any and all amounts due or to become due the Contractor. Notwithstanding the terms of this section, the City's payment to contractor for work performed shall not be a waiver of any claims the City may have against Contractor for defective or unauthorized work.
- C. Final Payment: Waiver of Claims. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CONTRACTOR'S CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME FINAL PAYMENT IS MADE AND ACCEPTED.

extremely difficult to ascertain. However, City and Contractor agree that due to the expenditure of public funds for the work specified in this Contract, and the need to provide the work for the benefit of the health, safety and welfare of the public, the failure to complete the work within the time specified in the Contract will result in loss and damage to City. City and Contractor agree that a delay will result in, but not be limited to, expense to the City in the form of salaries to City employees, the extended use of City equipment, delays in other portions of the project on which Contractor is working, increased cost to the City for the project, delays in other projects planned by City, and loss of use and inconvenience to the public.

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

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

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

City and Contractor agree that for each day beyond the completion date specified in the Contract that the project is not completed, the sum of **\$632.8** [*Liquidated Damages = (0.15*Contract Amount)/Time for Completion*] shall be deducted from the amount to be paid Contractor and shall be retained by City as damages.

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

VII. PREVAILING WAGES. Contractor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work and an Affidavit of prevailing wages paid after completion of the work. The Statement of Intent to Pay Prevailing Wages," shall include Contractor's registration certificate number and the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020, and the estimated number of workers in each classification. Contractor shall pay prevailing wages in effect on the date the bid is accepted or executed by Contractor, and comply with Chapter 39.12 of the Revised

XXII(C), within seven (7) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If the City determines that the change increases or decreases the Contractor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Contractor fails to require a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Contractor disagrees with the equitable adjustment, the Contractor must complete the change order work; however, the Contractor may elect to protest the adjustment as provided in subsections A through E of Section XIII, Claims, below.

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

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

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

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

- A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
1. The date of the Contractor's claim;
 2. The nature and circumstances that caused the claim;
 3. The provisions in this Contract that support the claim;

corrections and the Contractor shall pay all costs incurred by the City in order to accomplish the correction.

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

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

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

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

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

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

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

A. Minimum Scope of Insurance

Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent

insured endorsement, evidencing insurance of the Contractor before commencement of the work.

F. Subcontractors

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

E. Notice of Cancellation

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

F. Failure to Maintain Insurance

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

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

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

In the event that the Compensation called for in Section III of this Contract is less than \$150,000.00, which sum shall be determined after the addition of applicable Washington

after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Contract or such other address as may be hereafter specified in writing.

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

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

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

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

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

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

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

K. Severability. If any one or more sections, sub-sections, or sentences of this Contract are held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this Contract and the remainder shall remain in full force and effect.

INVITATION TO BID

EXHIBIT A

City of Des Moines 2022 SIDEWALK REPLACEMENT PROJECT

NOTICE IS HEREBY GIVEN that quotes will be received by, or emailed to, the Engineering Services Division of the City of Des Moines, Washington, until 4:00 PM, on **November 16th, 2022** to kle@desmoineswa.gov.

2022 SIDEWALK REPLACEMENT PROJECT

SCOPE OF WORK contemplated to be performed under this contract is as follows:

DESCRIPTION & CONSTRUCTION REQUIREMENTS

Contractor shall remove and replace all cement concrete sidewalk and curb and gutter within the designated work areas as described and illustrated in Appendix A: Project Location Map.

This work shall consist of traffic control, grading, roadway excavation, mobilization, temporary erosion and sediment control, supplying, transporting & installing Portland Cement Concrete as sidewalks and curb ramps at locations specified in Appendix A. All materials, equipment, labor, and other miscellaneous items required to complete the work shall be furnished by the contractor unless otherwise noted on the Contract Plans.

Concrete shall conform to the minimum requirements for Class 3000 as specified by WSDOT. Concrete shall be placed only when the air temperature is 40 degrees Fahrenheit and rising. Concrete will be protected from freezing for the first 24 hours. Appropriate levels of care will be employed by contractor to restrict public access to uncured concrete.

Cement concrete shall be installed not less than four inches (4") thick, with a width of not less than four feet (4') to match existing, unless otherwise described. Crushed surface top course 5/8" minus (CSTC) shall be installed not less than two inches (2") as leveling prior to installation of proposed materials.

All Sidewalks and curb ramps shall meet ADA Standards. Finish shall be broom with no tool marks left on panel surface to match existing.

Contractor must remove hazards completely from one end of the displaced sidewalk joint to the other if applicable, resulting in no displacement between sidewalk slabs across the full face of the raised edge.

Contractor shall provide all traffic control as required per Manual of Uniform Traffic Control Devices (MUTCD) and the City's Right-of-Way Permit requirements. The contractor shall erect and maintain all construction signs, warning signs, detour signs, and other traffic control devices necessary to warn and protect the public at all times from injury or damage as the result of the contractor's construction activities. No work shall be done on or adjacent to the roadway until all necessary signs and traffic control devices are in place.

Any replaced sidewalks or curb ramps that do not meet ADA standards, shall be removed and replaced at no additional cost to the Contracting Agency to contract specifications within five (5) days of discovery.

Any damage to adjacent property and facilities will be the sole responsibility of the Contractor.

- c. By Bid prices mutually agreed upon by the contractor and the City; or
- d. By force account, as set forth in Section 1-09.6.

The City will provide the contractor a copy of the request for a minor change and will require the contractor to provide a cost estimate for the City Engineer's review and approval prior to the work being performed

The quantity of each bid items was estimated to establish the Low Bid and may be increased, decreased, or reduced to zero as directed by the Contracting Agency.

Each bid item shall also include the costs Temporary Erosion and Sediment Control, Spill Prevention and Pollution Control Plan, Material Haul and Disposal and any other labor, materials, and equipment necessary to complete the work.

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

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

The undersigned Bidder hereby agrees to start construction within ten (10) days after the date stated in the Notice to Proceed, and to complete the contract within 15 working days thereafter. This period shall be known as the "Contract Time" for the purposes of the project.

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

The schedule on the Proposal must be completed, or the Bid shall be considered non-responsive. Basis for award shall be total Bid for all items included in the Proposal.

The Owner will correct obvious mathematical errors in Bid proposals.

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

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

Project Contact: Khai Le, Project Manager at (206) 870-6585 or kle@desmoineswa.gov for any project related questions.

Please Note:

Select Contractors who are currently registered and on the Municipal Research & Services Center (MRSC) Small Works Roster are being invited to bid based on the "Concrete Trip Hazard Removal" sub-category

BID PROPOSAL

The following bid prices shall include all material, labor, tools, equipment and all taxes. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

Bid Item	ITEM DESCRIPTION	Total Qty	Unit	Unit Price	Total Price
1	Minor Change	1	EST	\$15,000	15,000.00
2	Mobilization	1	LS	4,700.00	4,700.00
2	Project Temporary Traffic Control	1	LS	1,500.00	1,500.00
3	Removing Cement Concrete Sidewalk	200	SY	45.00	9,000.00
4	Cement Concrete Sidewalk	230	SY	103.00	23,690.00
5	Crushed Surface Top Course	30	TN	123.00	3,690.00
6	Cement Concrete Curb Ramp Type Parallel A	1	EA	5,700.00	5,700.00

Total Bid Price (in figures) \$ 63,280.00

Total Bid Price (in words) Sixty Three Thousand Two Hundred Eighty and 00/100 dollars

Signed 

Title Vice President

Name of Bidder Tyson Kiehn

Date of Bid 11/16/2022

Non-Collusion Affidavit

CITY OF DES MOINES

STATE OF WASHINGTON)

) ss.

County of King)

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

[Handwritten Signature]
SIGNATURE

Subscribed and sworn to before me this 16th day of November, 2022.

[Handwritten Signature]
Notary Public in and for the State of Washington,
Residing at Puyallup, WA
My commission expires 9.1.26



Statement of Bidders Qualifications

Each Bidder submitting a proposal on this work shall prepare and submit as part of this bid the following schedule:

- 1. Name of Bidder: Asphalt Patch Systems, Inc
- 2. Business address and telephone number:
8812 Canyon Rd E
Puyallup, WA 98371
(253)535-2590
- 3. How many years has said Bidder been engaged in the contracting business under present firm name:
41 years
- 4. Contracts now in hand (gross amount):
\$ 2,500,000.00
- 5. General character of work performed by said company:
asphalt and concrete restoration
- 6. List of more important projects constructed by said company, including approximate costs and dates:
Pierce County - 2021 Concrete Road Work - November 2021 \$51,000.00
Rainier School - Gym Stairs/Sidewalk - November 2022 \$10,500.00
So Klitsap School District - Remove & replace Conc -April 2022 \$37,000.00

Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address and Telephone Number	Description of Work
N/A	

Material Suppliers	Material (major items only)
Corliss Resources (253)826-8010	Concrete Delivery

Statement of Bidder Responsibility Criteria


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

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

Contract Title: 2022 Sidewalk Replacement Project

Bidder's Business Name: Asphalt Patch Systems, Inc

Bidder's Name: Tyson Kiehn

Bidder's Signature: 

Bidders Title: Vice President

Date: 11/16/2022

EXHIBIT A



APPENDIX A: PROJECT LOCATIONS			
Site	Address	Panel Dimensions	Photo
1	24564 20th Ave S	5 x 10	
2	2021 S 260th St	5 x 2	
3	2167 S 260th St	5 x 7	
4	2100 S 260th St	5 x 15	
5	2062 S 260th St	5 x 15	
6	1842 S 260th St	5 x 25	
7	1842 S 260th St	5 x 54	
8	1828 S 260th St	5 x 10	
9	2001 S 260th St	5 x 15	
10	1627 S 260th St	15 x 5	
11	1730 S 260th St	10 x 5	

EXHIBIT A


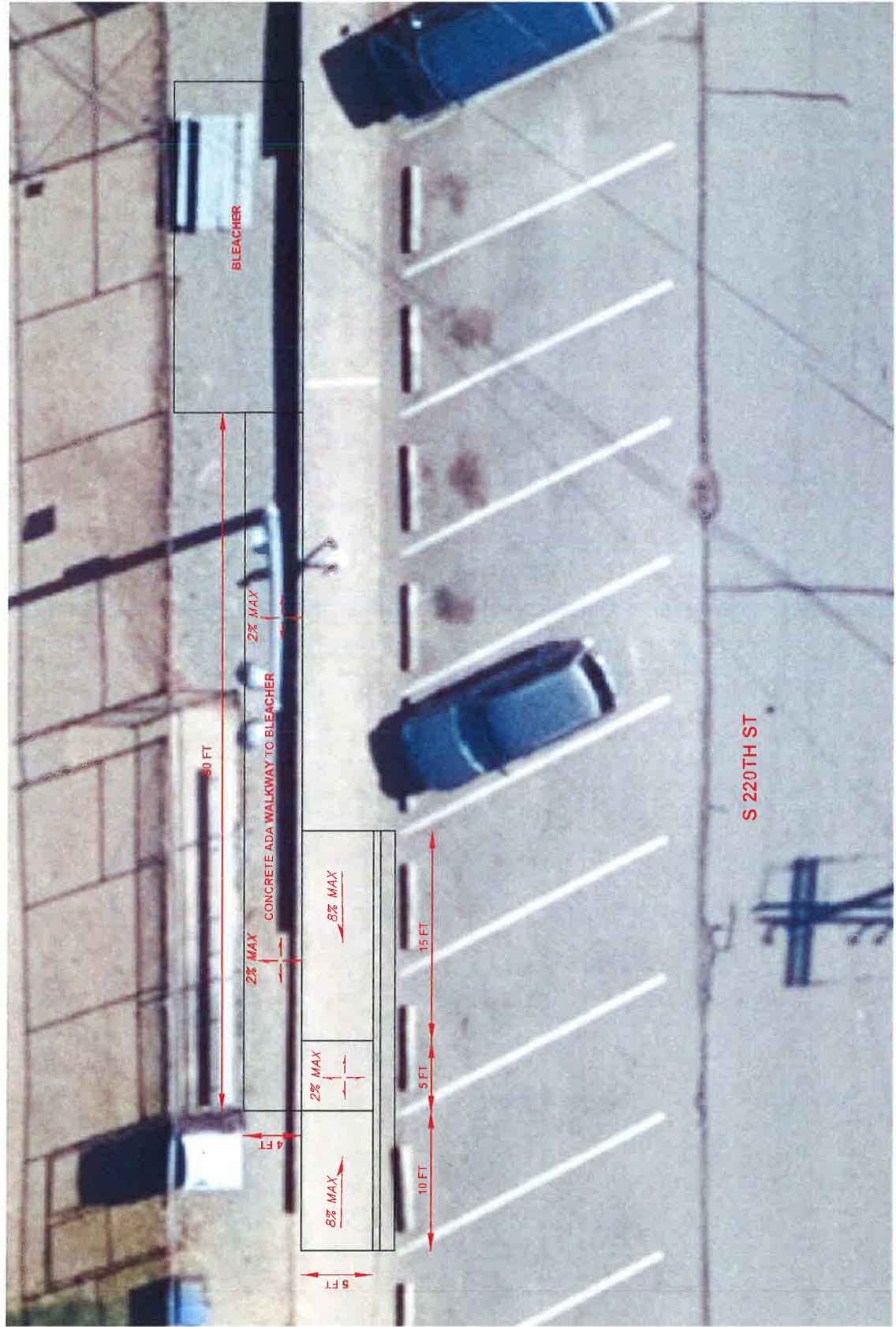
23	930 S 262nd Pl	5 x 10	
24	1000 S 220th St	See Exhibit A	See Exhibit A

EXHIBIT A

EXHIBIT A
LOCATION 24: 1000 S 220TH ST



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