

## AGENDA

### DES MOINES CITY COUNCIL REGULAR MEETING City Council Chambers VIA ZOOM

Thursday, February 10, 2022 - 5:00 PM

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

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

- (1) In writing, either by completing a [council comment form](#) or by mail; Attn: City Clerk Office, 21630 11th Avenue S., Des Moines WA 98198 no later than 4:00 p.m. day of the meeting. Please provide us with your first and last name and the city in which you live. Your full name and the subject of your public comment will be read into the record at the Council meeting. Incomplete forms will not be read into the record, however the full correspondence will be attached to the Council packet and uploaded to the website as part of the permanent record.
- (2) By participation via Zoom. If you wish to provide oral public comment please complete the [council comment form](#) no later than 4:00 p.m. day of the meeting to receive your Zoom log-in and personal identification number. Please note that Zoom attendees do not interact with one another; they join in listen-only mode until it is their turn to address the Council

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

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CORRESPONDENCE**

**COMMENTS FROM THE PUBLIC VIA ZOOM/Written PUBLIC COMMENT**

# CITY MANAGER REPORT

## CONSENT CALENDAR

### Item 1. APPROVAL OF VOUCHERS

**Motion** is to approve for payment vouchers through January 27, 2022 and payroll transfers through February 05, 2022 in the attached list and further described as follows:

ECH/EFT Vendor Payments	#522-578	\$1,237,585.65
Electronic Wire Transfers	#1902-1902	\$564.00
Accounts Payable Checks	#163574-163634	\$1,016,954.14
Payroll Checks	#19461-19463	\$ 3,299.27
Payroll Direct Deposit	#319-482	\$803,704.16

Total Checks and Wires for A/P and Payroll: \$3,062,107.23

[Approval of Vouchers](#)

### Item 2. APPROVAL OF MINUTES

**Motion** is to approve the January 06, January 13, and January 27, 2022 City Council Regular Meeting Minutes.

[Approval of Minutes](#)

### Item 3. 24TH AVENUE S IMPROVEMENTS PROJECT, KENT DES MOINES ROAD (SR 516) TO 223RD STREET, 2022-2023 ON-CALL GENERAL CIVIL ENGINEERING SERVICES – CONSULTANT DESIGN TASK ASSIGNMENT 2022-01 WITH PARAMETRIX FOR CENTURYLINK AGREEMENT REDESIGN

**Motion 1** is to approve the 2022-2023 On-Call General Civil Engineering Services Task Agreement 2022-01 with Parametrix, Inc. to provide engineering design services for the CenturyLink Agreement Redesign for the 24th Ave S Improvements Project (Kent-Des Moines Rd. (SR 516) to S. 223rd St.) in the amount of \$55,139.12, and further authorize the City Manager to sign said Task Assignment substantially in the form as submitted.

**Motion 2** is to approve the CenturyLink Agreement Redesign along 24th Ave S, (between S. 223rd St and S 224th St) and authorize the City Manager to sign the Agreement substantially in the form as submitted.

[24th Avenue S Improvements Project, Kent Des Moines Road \(Sr 516\) To 223rd Street, 2022-2023 On-Call General Civil Engineering Services – Consultant Design Task Assignm](#)

### Item 4. SOUTH 239TH STREET OUTFALL REPLACEMENT PROJECT – PERMANENT FENCE EASEMENT PARCEL 5119400075

**Motion** is to approve the permanent Easement signed by the property owners, Robert and Sandra Bisordi, on November 17, 2021 for public

fence installation, and to further authorize the City Manager to sign said Easement agreement substantially in the form as submitted.

[South 239th Street Outfall Replacement Project – Permanent Fence Easement Parcel 5119400075](#)

## **NEW BUSINESS**

### **Item 1:**

ESA Consultant Services Contract

Staff Presentation: Planning & Development Services Manager Denise Lathrop

[ESA Consultant Services Contract](#)

### **Item 2:**

MARINA DOCK REPLACEMENT

Staff Presentation: Chief Operations Officer Dan Brewer

[Marina Dock Replacements](#)

### **Item 3:**

COUNCIL VACANCY PROCESS

### **Item 4:**

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**

## **NEXT MEETING DATE**

February 24, 2022 City Council Regular Meeting

## **ADJOURNMENT**

**February 10, 2022**  
**Auditing Officer Certification**

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

As of **February 10, 2022** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through January 27, 2022 and payroll transfers through February 5, 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
<b>Claims Vouchers:</b>				
ACH/EFT Vendor Payments		522	578	1,237,585.65
Electronic Wire Transfer		1902	1902	564.00
Accounts Payable Checks		163574	163634	1,016,954.14
<b>Total claims paid</b>				<b>2,255,103.79</b>
<b>Payroll Vouchers</b>				
Payroll Checks	2/5/2022	19461	19463	3,299.28
Direct Deposit		319	482	803,704.16
<b>Total Paychecks/Direct Deposits paid</b>				<b>807,003.44</b>
<b>Total checks and wires for A/P &amp; Payroll</b>				<b>3,062,107.23</b>

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**MINUTES**

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
VIA ZOOM**

**January 06, 2022 – 5:00 p.m.**

**CALL TO ORDER**

City Clerk/Communications Director Bonnie Wilkins called the meeting to order at 5:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by City Clerk/Communications Director Bonnie Wilkins.

**ROLL CALL**

Council present:

Councilmembers Gene Achziger, Traci Buxton, JC Harris, Matt Mahoney, Anthony Martinelli, Jeremy Nutting, and Harry Steinmetz attended the meeting via Zoom.

Staff present:

City Manager Michael Matthias; Chief Operations Officer Dan Brewer; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Chief Strategic Officer Susan Cezar; Finance Director Beth Anne Wroe; Deputy Finance Director Jeff Friend; Human Resource Director Adrienne Johnson-Newton; Harbormaster Scott Wilkins; Assistant Harbormaster Katy Bevegni; Chief of Police Ken Thomas; Judicial Operations Supervisor Serena Daigle; Planning & Development Service Manager Denise Lathrop; Administrative Coordinator Peggy Volin; Public Works Director Andrew Merges; Economic Relief & Resource Coordinator / Land Use Planner II Eric Lane; Assistant Director of Parks, Recreation and Senior Services Nicole Nordholm; Emergency Preparedness & Safety Manager Shannon Kirchberg; City Clerk/Communications Director Bonnie Wilkins and Deputy City Clerk Taria Keane attended the meeting via Zoom.

**SWEARING IN OF COUNCILMEMBERS**

Councilmembers Buxton, and Mahoney, were officially sworn in on January 3, 2022 in the City Clerk's Office.

Councilmembers Achziger and Steinmetz were officially sworn in on January 4, 2022 in the City Clerk's Office.

**SELECTION OF MAYOR**

City Clerk/Communications Director Wilkins called for nominations for Mayor.

Councilmember Buxton nominated Councilmember Mahoney to serve as Mayor for 2022 and 2023.

Councilmember Martinelli nominated Councilmember Harris to serve as Mayor for 2022 and 2023.

City Clerk/Communications Director Wilkins asked if there were any other nominations. Seeing none Communications Director/City Clerk Wilkins called for the vote.

Councilmembers Mahoney and Councilmember Harris made brief statements as to why they should be elected Mayor.

Councilmember Steinmetz voted for Councilmember Mahoney.

Councilmember Nutting voted for Councilmember Mahoney.

Councilmember Martinelli voted for Councilmember Harris.

Councilmember Achziger voted for Councilmember Mahoney.

Councilmember Mahoney voted for himself.

Councilmember Buxton voted for Councilmember Mahoney.

Councilmember Harris voted for himself.

With a vote of 5-2 Councilmember Mahoney was elected as Mayor for 2022-2023.

#### **SELECTION OF DEPUTY MAYOR**

Mayor Mahoney called for nominations of Deputy Mayor.

Councilmember Martinelli nominated Councilmember Harris to serve as Deputy Mayor for 2022 and 2023.

Councilmember Nutting nominated Councilmember Buxton to serve as Deputy Mayor for 2022 and 2023.

Mayor Mahoney asked if there were any other nominations. Seeing none Mayor Mahoney called for the vote.

Councilmembers Harris and Councilmember Buxton made brief statements as to why they should be elected Deputy Mayor.

Councilmember Steinmetz voted for Councilmember Buxton.

Councilmember Achziger voted for Councilmember Buxton.

Councilmember Nutting voted for Councilmember Buxton.

Councilmember Martinelli voted for Councilmember Harris.

Councilmember Buxton voted for herself.

Councilmember Harris voted for himself.

With a vote of 5-2 Councilmember Buxton was elected as Deputy Mayor for 2022-2023.

**CORRESPONDENCE**

- There were no correspondence

**COMMENTS FROM THE PUBLIC via Written Comment**

- David Denino, Please elect a Mayor who will commit to leading the change to a more inclusive, respectful and ethical public government in Des Moines
- Jeff Hupp, Snowmageddon
- Jo Schadt, Urge the new City Council to move ahead with Marina plan

**CITY MANAGER REPORT**

- City Manager Matthias gave Council an update on COVID.
- Chief Operations Officer Brewer gave Council an update on the City's Response of the Snow Event.

**BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS**

Councilmember Steinmetz

- Polar Bear Plunge
- Introduction Statement

Councilmember Achziger

- Introduction Statement

Councilmember Nutting

- No Report

Councilmember Martinelli

- Congratulated the new Councilmembers

Councilmember Harris

- Second Chance for Port Packages
- Congratulated the new Councilmembers, Mayor, and Deputy Mayor

Deputy Mayor Buxton

- Congratulated the Mayor and new Councilmembers

**PRESIDING OFFICER'S REPORT**

- Read a Statement on being selected Mayor

**NEXT MEETING DATE:**

January 13, 2022 City Council Regular Meeting.

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmembers Harris.  
Motion passed 7-0.



The meeting adjourned at 6:05 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting

**MINUTES**

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
VIA ZOOM  
January 13, 2022 – 5:00 p.m.**

**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Steinmetz.

**ROLL CALL**

Council present: Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmembers Gene Achziger, JC Harris, Jeremy Nutting, and Harry Steinmetz attended the meeting via Zoom.

Councilmember Anthony Martinelli was absent.

**Direction/Action**

**Motion** made by Councilmember Harris to excuse Councilmember Martinelli; seconded by Councilmember Buxton.  
Motion passed 4-2.

**For:** Deputy Mayor Buxton; Councilmembers Achziger, Harris, and Steinmetz.

**Against:** Mayor Mahoney; and Councilmember Nutting.

Staff present: City Manager Michael Matthias; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; Human Resource Director Adrienne Johnson-Newton, Finance Director Beth Anne Wroe; Police Chief Ken Thomas; Assistant Police Chief Mark Couey; Commander Patti Richards; Harbormaster Scott Wilkins; Assistant Harbormaster Katy Bevegni; Judge Lisa Leone; Court Administrator Jennefer Johnson; Support Services Manager Melissa Patrick; Public Works Director Andrew Merges; Civil Engineer I Khai Le; Assistant Director of Parks, Recreation and Senior Services Nicole Nordholm; Emergency Preparedness Manager Shannon Kirchberg; and City Clerk/Communications Director Bonnie Wilkins attended the meeting via Zoom.

**CORRESPONDENCE**

- There were no correspondence.

**COMMENTS FROM THE PUBLIC via Written Comment**

- There were no public comments.

**COMMENTS FROM THE PUBLIC via Zoom**

- Barbara McMichaels; Tree Give Away Program.

**CITY MANAGER REPORT**

- Civil Engineer I Le gave Council a PowerPoint update on the North Marina Parking Lot Bulkhead and Restroom Replacement project.

### CONSENT CALENDAR

Item 1: APPROVAL OF VOUCHERS

**Motion** is to approve for payment vouchers through December 30, 2021 and payroll transfers through January 05, 2022 in the attached list and further described as follows:

Total A/P Checks/Vouchers	#163413-163540	\$2,414,608.29
Electronic Wire Transfers	# 1878-1900	\$1,096,955.35
Payroll Checks	# 19438-19438	\$ 1,894.02
Payroll Direct Deposit	#500001-500159	\$ 397,731.19
Payroll Checks	# 19439-19441	\$ 3,467.46
Payroll Direct Deposit	# 10001-10163	\$ 470,482.35
Total Checks and Wires for A/P and Payroll:		\$4,385,108.66

Item 2: APPROVAL OF MINUTES

**Motion** is to approve the November 18, December 02, December 09, and the December 16, 2021 City Council Regular Meeting Minutes.

Item 3: ACCEPTANCE OF OFFICE OF JUSTICE PROGRAMS DES MOINES MUNICIPAL COURT – DUI COURT

**Motion** is to accept the grant from the Office of Justice Programs in the amount of \$444,118 for the purposes of expanding operations of the Des Moines Municipal Court – DUI Court and authorize the City Manager or his designee to execute the declaration and certification substantially in the form attached.

**Direction/Action**

**Motion** made by Councilmember Nutting to approve the Consent Calendar; seconded by Councilmember Buxton.  
Motion passed 6-0.

### NEW BUSINESS

Item 1: Introduction of Items for Future Consideration – 10 Minutes

Councilmember Steinmetz proposed have a discussion over the City's Website at the Goal Setting Retreat.  
Council Majority Approved.

Deputy Mayor Buxton proposed to add Proclamations to the Futures each year.  
Council Majority Approved.

Deputy Mayor Buxton proposed to add Women's Suffrage as part of the Women's History Month Proclamation, if it passed in legislation.  
Council Majority Approved.

Councilmember Harris proposed to add 10 minutes for Rules of Engagement to Discussion Council Rules.  
Council Majority Approved.

Mayor Mahoney proposed Cell Phones for Council and to move the discussion to next agenda.  
Council Majority Approved.

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

Councilmember Steinmetz

- City Website

Councilmember Nutting

- No Report

Councilmember Achziger

- City Website

Councilmember Harris

- Consent Calendar Item #3
- City Website
- Tree Give Away Program

Deputy Mayor Buxton

- Community Member Ray Clarke's Passing

**Direction/Action**

Motion made by Deputy Mayor Buxton to send flowers for Ray Clarkes passing from the Hearts and Minds fund.

Motion passed 6-0.

- South King Housing and Homelessness Partnership Meeting. (SKHHP)

**PRESIDING OFFICER'S REPORT**

- Community Member Jack Mayne's Passing

**EXECUTIVE SESSION**

**NEXT MEETING DATE**

January 27, 2022 City Council Regular Meeting

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmember Buxton.

The motion passed 6-0.

The meeting adjourned at 6:01 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

**MINUTES**

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
VIA ZOOM  
January 27, 2022 – 5:00 p.m.**

**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Achziger.

**ROLL CALL**

Council present: Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmembers Gene Achziger, JC Harris, Jeremy Nutting, and Harry Steinmetz attended the meeting via Zoom.

Staff present: City Manager Michael Matthias; Assistant City Attorney Matt Hutchins; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; Finance Director Beth Anne Wroe; Deputy Finance Director Jeff Friend; Police Chief Ken Thomas; Assistant Police Chief Mark Couey; Harbormaster Scott Wilkins; Assistant Harbormaster Katy Bevegni; Public Works Director Andrew Merges; Principal Planner Laura Techico; Economic Relief & Resource Coordinator / Land Use Planner II Eric Lane; Assistant Director of Parks, Recreation and Senior Services Nicole Nordholm; Emergency Preparedness Manager Shannon Kirchberg; City Clerk/Communications Director Bonnie Wilkins; and Deputy City Clerk Taria Keane attended the meeting via Zoom.

**PRESIDING OFFICER'S REPORT**

- Made a statement regarding Councilmember Martinelli's Resignation on January 21, 2022 and the application process to apply for the open seat.

**CORRESPONDENCE**

- Friends of Saltwater thanked Council and Administration for the \$7,500 funding they received from the City for their new website.

**COMMENTS FROM THE PUBLIC via Written Comment**

- Rob Anderson, CM Martinelli must resign
- Amanda Barron, DV Counsel Members
- Tad Doviak, Better communication regarding construction noise at the marina
- Barbara McMichael, Preservation of historic buildings
- Faith Young, Suggestion for Martinelli Replacement

**COMMENTS FROM THE PUBLIC via Zoom**

- No one signed up to speak

**CITY MANAGER REPORT**

- No Report

**CONSENT CALENDAR**

Item 1: APPROVAL OF VOUCHERS

**Motion** is to approve for payment vouchers through January 11, 2022 and payroll transfers through January 20, 2022 in the attached list and further described as follows:

Total A/P Checks/Vouchers	#163541-163573	\$ 64,175.69
Electronic Wire Transfers	# 500-521	\$139,107.64
Payroll Checks	# 19456-19460	\$ 12,649.85
Payroll Direct Deposit	# 166-318	\$616,031.42

Total Checks and Wires for A/P and Payroll: \$831,964.60

Item 2: ARTS COMMISSION APPOINTMENT

**Motion** is to confirm the Mayoral appointment of Sean Begley to a 3 year term on the City of Des Moines Arts Commission effective immediately and expiring on December 31, 2024.

Item 3: 2022-2023 RECYCLING PROGRAM PROFESSIONAL SERVICES CONTRACT

**Motion** is to approve the Professional Services Contract for the 2022-2023 Recycling Program between the City of Des Moines and Olympic Environmental Resources and to authorize the City Manager to sign substantially in the form as submitted.

Item 4: HUMAN TRAFFICKING AWARENESS MONTH PROCLAMATION

**Motion** is to approve the Proclamation recognizing January as Human Trafficking Awareness Month.

Item 5: BLACK HISTORY MONTH PROCLAMATION

**Motion** is to approve the Proclamation recognizing February as Black History Month.

**Direction/Action**

**Motion** made by Councilmember Nutting to approve the Consent Calendar; seconded by Councilmember Harris.  
Motion passed 6-0.

Mayor Mahoney read the summary of the Human Trafficking Awareness Month Proclamation into the record.

Mayor Mahoney read the Black History Month Proclamation into the record.

**NEW BUSINESS**

Item 1: Introduction of Items for Future Consideration – 10 Minutes

Councilmember Harris asked for an ARPA Funds update. This will be discussed at the Goal Setting Retreat.

Councilmember Harris requested an ETA on the Towing Policy. Staff will bring this to Council when appropriate.

Councilmember Harris on process filling the Council vacancy to be discussed at the February 10<sup>th</sup> meeting.  
Council Majority Approved.

**BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS – (4 minutes per**

**Councilmember) - 30 minutes**

Councilmember Achziger

- Reach Out Des Moines Monthly Meeting

Councilmember Nutting

- Thanked Sean Begley for joining the Arts Commission

Councilmember Harris

- Thanked Sean Begley for joining the Arts Commission
- State Legislative Meeting
- Association of Washington Cities Action Days
- Coho Fish Pen

Councilmember Steinmetz

- Thanked Sean Begley for joining the Arts Commission
- Sound Cities Association Meeting

Deputy Mayor Buxton

- Thanked Sean Begley for joining the Arts Commission
- Commented on the Human Trafficking Awareness Month Proclamation
- Commented on the Black History Month Proclamation

**PRESIDING OFFICER'S REPORT**

- Thanked Sean Begley for joining the Arts Commission
- House Bill 1815
- 30<sup>th</sup> Legislative Call
- Highline Forum
- Passing of former Police Chief Roger Baker

Mayor Mahoney asked Council for funds from the Hearts and Mind Fund to buy flowers for the family of former Police Chief Roger Baker.  
Council Approved.

**EXECUTIVE SESSION**

**NEXT MEETING DATE**

February 03, 2022 City Council Regular Meeting

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmember Steinmetz.

The motion passed 6-0.

The meeting adjourned at 5:33 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

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

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: 24<sup>th</sup> Ave S Improvements Project, Kent-Des Moines Rd. (SR 516) to S 223<sup>rd</sup> St, 2022-2023 On-Call General Civil Engineering Services – Consultant Design Task Assignment 2022-01 with Parametrix for CenturyLink Agreement Redesign

FOR AGENDA OF: February 10, 2020

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: February 2, 2020

ATTACHMENTS:

1. Parametrix, Inc. 2022-2023 On-Call General Civil Engineering Services Task Assignment 2022-01
2. CenturyLink Agreement for Redesign
3. Lumen/CenturyLink Redesign Request Letter

CLEARANCES:

- Community Development N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Public Works *Richard Jones*

CHIEF OPERATIONS OFFICER: *[Signature]*

- Legal /s/ MH
- Finance *Bethanne Wynn*
- Courts N/A
- Police N/A

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

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval for the 2022-2023 On-Call General Civil Engineering Services Task Assignment 2022-01 (Attachment 1) with Parametrix, Inc. to provide engineering design services for the CenturyLink Agreement Redesign on the 24<sup>th</sup> Ave S Improvements Project (Kent-Des Moines Rd. (SR 516) to S 223<sup>rd</sup> St), and to seek City Council approval for the CenturyLink Redesign Agreement (Attachment 2). The following motions will appear on the Consent Calendar:



### Suggested Motion

**Motion 1:** “I move to approve the 2022-2023 On-Call General Civil Engineering Services Task Assignment 2022-01 with Parametrix, Inc. to provide engineering design services for the CenturyLink Agreement Redesign for the 24<sup>th</sup> Ave S Improvements Project (Kent-Des Moines Rd. (SR 516) to S 223<sup>rd</sup> St) in the amount of \$55,139.12, and further authorize the City Manager to sign said Task Assignment substantially in the form as submitted.”

**Motion 2:** “I move to approve the CenturyLink Agreement Redesign along 24<sup>th</sup> Ave S, (between S 223<sup>rd</sup> St and S 224<sup>th</sup> St) and authorize the City Manager to sign the Agreement substantially in the form as submitted.”

### Background

The 24<sup>th</sup> Ave S Improvements Project (Kent-Des Moines Rd. (SR 516) to S 223<sup>rd</sup> St) is an element of the adopted City of Des Moines Comprehensive Transportation Plan (CTP), Transportation Improvement Plan (TIP), and Capital Improvement Plan (CIP). This project is Segment 2 of the 24<sup>th</sup> Ave S Corridor Improvements, with future Segment 1 improvements designated between S 223<sup>rd</sup> St and S 216<sup>th</sup> St. Design of the project is 90% complete and is expected to be ready for solicitation for public bids following right-of way acquisition in 2022.

The 24<sup>th</sup> Ave S corridor is a critical north-south arterial roadway connecting Kent-Des Moines Road, two public schools, and multiple churches with the Des Moines Creek Business Park, Federal Aviation Administration regional headquarters, Prologis, SeaTac commercial aviation support, Angle Lake Sound Transit Light Rail Station, and SeaTac International Airport. The recently completed Transportation Gateway Projects just north of the project on S 216<sup>th</sup> Street and 24<sup>th</sup> Ave S, between S 216<sup>th</sup> Street and S 208<sup>th</sup> Street, have supported growing capacity and development as defined in the City’s Comprehensive Transportation Plan.

This project proposes to construct sidewalks, bike lanes, reduced travel lane widths for traffic calming, two-way left turn lane, storm drainage, and illumination. The project will improve non-motorized user safety by the construction of bike lanes and ADA sidewalks on both sides of the roadway and enhanced pedestrian crossings near Midway Elementary and Pacific Middle schools.

During major storms the drainage system along the east side of 24<sup>th</sup> Ave S often exceeds the system capacity and will flow over 24<sup>th</sup> Ave S. These overflows are then conveyed along the west side of 24<sup>th</sup> Ave S, bypassing the trunk line and flooding properties south of Pacific Middle School and S 227<sup>th</sup> Street. The trunk line along the east side of 24<sup>th</sup> Ave S conveys flows to the City Park detention facility which is sized to accommodate future storm events. This project is recommended in the 1992 Massey Creek Basin Plan and is identified as Projects No. 5 and 23 of the 2015 Surface Water Comprehensive Plan.

At the May 7, 2020 City Council meeting, the City Council approved a task assignment for preliminary engineering design services with Parametrix, Inc. for the 24<sup>th</sup> Ave S Improvements Project. Throughout preliminary design staff has been in coordination with all utilities within the project limits. During this process it was recognized that there are significant conflicts between existing CenturyLink facilities and the City’s proposed project improvements. Lumen Technologies, as the parent company of

CenturyLink, formally notified the City by letter (Attachment 3) on September 13, 2021, of its request for changes to the City's project plans in order to mitigate conflicts with existing underground facilities between S 223<sup>rd</sup> St and S 224<sup>th</sup> St.

### **Discussion**

During the design phase of the project, the City met with franchise utility providers to inform them of the City's plans, request identification of utility conflicts with the proposed improvements, and to request their input and participation in the project where conflicts exist. As a result of the utility conflicts with existing CenturyLink facilities and the City's proposed storm sewer improvements on the 24<sup>th</sup> Ave S Improvements Project, it was acknowledged by CenturyLink and City staff that a redesign of the project would be in the best interest of both parties and an agreement was sought. It is understood that CenturyLink maintains two major communication duct banks along 24<sup>th</sup> Ave S, north of S 224<sup>th</sup> St, that provide local and national service to a vast range of customers.

Under this Agreement (Attachment 2), the City agrees to revise the design of the replacement storm sewer in 24<sup>th</sup> Ave S, between S 224<sup>th</sup> St and S 223<sup>rd</sup> St, to accommodate the existing CenturyLink duct banks and incorporate the revised design into the Project contract documents. CenturyLink shall provide payment to the City to reimburse the City for the design by Parametrix (Attachment 1) and construction costs to accommodate the existing CenturyLink duct banks based on Low Bid prices when the project nears construction. It is estimated that CenturyLink will be responsible for approximately \$380,000 worth of design and construction costs.

In order to fulfill the project redesign per the Agreement, consultant support is needed. The City's 2022-2023 On-call is utilized to retain Parametrix, Inc. Parametrix has been previously tasked with providing preliminary engineering design services for the 24th Ave S Improvements Project and their continued support is needed to complete the design of the project and CenturyLink redesign.

### **Alternatives**

#### *Motion 1:*

The City Council could elect not to approve the 2022-2023 On-call General Civil Engineering Services Task Order 2022-01 with Parametrix Inc. for engineering design services. The City does not have adequate resources to complete this redesign and the Agreement with CenturyLink would be null and void. This will delay the project as well as jeopardize the current and any future TIB project funding opportunities.

#### *Motion 2:*

The City Council could elect not to approve the CenturyLink Agreement Redesign along 24th Ave S (between S 224th St and S 223rd St). City staff would then direct CenturyLink to relocate facilities in conflict with the City's proposed improvements. This could delay the project by up to 2 years based on the magnitude of CenturyLink facilities and potentially place TIB funds at risk.

### **Financial Impact**

Per the CenturyLink Agreement Redesign, CenturyLink shall provide payment to the City to reimburse the City for its actual and documented costs to accommodate the existing CenturyLink duct banks. The project will not incur additional costs associated with the project redesign.

**Recommendation**

Staff recommends adoption of motions 1 and 2.



## FORMAL TASK ASSIGNMENT DOCUMENT

Task Number TA 2022-01

The general provisions and clauses of Agreement Consultant Services Contract between the City of Des Moines and Parametrix, Inc. for 2022-2023 On-Call General Civil Engineering Svcs.

Shall be in full force and effect for this Task Assignment.

Location of Project: 24th Avenue South from Kent-Des Moines Road to South 223rd Street  
Des Moines, Washington

Project Title: 24th Avenue South Storm Sewer Revisions and Coordination with Lumen

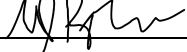
Maximum Amount Payable Per Task Assignment: \$55,139.12

Completion Date: December 31, 2022

Description of Work: See attached Scope of Work and Budget Estimate.

Agency Project Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Oral Authorization Date: \_\_\_\_\_ See Attachment Dated: \_\_\_\_\_

Consultant Signature:  Date: 2/2/2022

Agency Approving Authority: \_\_\_\_\_ Date: \_\_\_\_\_

## SCOPE OF WORK

### City of Des Moines 24th Avenue South Storm Sewer Revisions and Coordination with Lumen

#### PROJECT UNDERSTANDING

The City of Des Moines (City) has requested that Parametrix prepare this scope of services for design revisions of the replacement of the storm sewer in 24th Avenue South between South 224th Street and South 223rd Street to accommodate the existing Lumen duct banks to the extent that it is feasible.

#### TASK 01 – STORM SEWER REVISIONS

Subtasks 01 to 04 – Coordination, Storm Sewer Revisions, Capacity Calculations, and Potholing Coordination

##### Approach

Parametrix will revise design files and update the plan sheets for the new storm sewer alignment. Parametrix will confirm the pipe capacity of the new profile alignment. Parametrix will also assist the City in coordinating with Lumen to determine the final storm sewer alignment and profile(s).

##### Assumptions

- The design revisions will include relocating the new proposed 24-inch trunk line between South 223rd Street and South 224th Street to the center of the roadway with laterals from the curb line to convey roadway runoff between the two streets.
- The design revisions are anticipated to require the revision of existing plan sheets and no additional sheets are anticipated.
- The design revisions are anticipated to require new bid items and a separate bid schedule for tracking of actual construction costs.

##### Deliverables

- Revised plan and profile sheets.
- Additional storm sewer profiles.
- Separate bid schedule of work.

## SCOPE OF WORK (continued)

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### Subtask 05ICE – Additional Geotechnical Engineering – Icicle Creek Engineers

#### Approach

Icicle Creek Engineers (ICE) will complete one (1) additional boring near South 223rd Street and will provide recommendations for shoring, trench excavation, and dewatering that may be needed due to the increased depth of the storm system following revisions to avoid a conflict with existing Lumen infrastructure.

#### Assumptions

- As noted in ICE proposal.

#### Deliverables

- As noted in ICE proposal.

### Subtask 06APS – Potholing – Applied Professional Services

#### Approach

Applied Professional Services (APS) will utilize its Air Vacuum Excavation System to verify utilities at selected test-hole locations determined by Parametrix as described in the attached APS proposal.

#### Assumptions

- As noted in APS proposal.

#### Deliverables

- As noted in APS proposal.

**END OF SCOPE OF SERVICES**



October 25, 2021

Austin Fisher, PE  
Parametrix, Inc.  
1019 – 39<sup>th</sup> Avenue NE, Suite 100  
Puyallup, Washington 98374

Supplemental Scope of Services and Fee  
Estimate  
Geotechnical Engineering Services  
24<sup>th</sup> Avenue South Improvements  
Des Moines, Washington  
ICE File No. 1082-004

#### **INTRODUCTION**

Icicle Creek Engineers (ICE) is pleased to present this Supplemental Scope of Services and Fee Estimate for geotechnical engineering services related to the proposed 24<sup>th</sup> Avenue South improvements for the City of Des Moines, Washington. Our services were requested by Austin Fisher, PE with Parametrix on October 12, 2021. ICE previously completed a geotechnical report for the project, which included for geotechnical test borings (Borings B-1 through B-4); the results of our study are presented in our draft report dated January 29, 2021.

#### **PROJECT DESCRIPTION**

Mr. Fisher provided ICE with the following preliminary plans for this project related to design changes to the stormwater drain system:

- Parametrix, September 2021, *24<sup>th</sup> Avenue S Roadway Improvements, Des Moines, Washington*, sheets SD5, SD6 and SD10.

Based on communications with Mr. Fisher and the above-referenced plans, we understand that revisions have been made to the stormwater drain alignment and depth at the north end of the project (north of the intersection of 24<sup>th</sup> Avenue South and South 224<sup>th</sup> Street). The revisions show that the storm drain system will be deepened along this part of the alignment, to a maximum depth of about 15 feet in the vicinity of Catch Basin (CB) #13 and moved to the southbound traffic lane. Our nearest test boring (Boring B-4) was over 300 feet south of CB #13 and was drilled to a completion depth of 11.5 feet. Based on our review, we recommend an additional test boring be completed to a depth of about 20 feet near proposed CB #13 along 24<sup>th</sup> Avenue South to better understand subsurface soil and groundwater conditions.

#### **SCOPE OF SERVICES**

The purpose of our services will be to explore subsurface soil and groundwater conditions at the north end of the project site as a basis for updating our January 2021 draft report. Specifically, the services provided by ICE will include the following:

- Review existing information regarding site conditions, including our January 29, 2021 draft report and current project plans.
- Prepare an Exploration Plan for review by Parametrix prior to initiating the field exploration program (completed, see Attachment A).

- Apply for and obtain a Street Use Permit (SUP) as required by the City of Des Moines for in-street drilling.
- Complete an underground utility locate at the planned test boring location.
- Explore subsurface soil and groundwater conditions by drilling one test boring (Boring B-5) to a depth of about 20 feet using a drill rig and operator subcontracted to ICE. Soil samples will be obtained at 2.5- to 5-foot depth intervals using Standard Penetration Test (SPT) methods.
- Complete laboratory testing (moisture content) on soil samples obtained from the test boring.
- Evaluate dewatering and shoring requirements related to trenching and installation of the proposed stormwater drain system.
- Prepare an updated draft report to include the new test boring and any changes to the recommendations for the project.

#### **PROJECT AND FEE ESTIMATE ASSUMPTIONS**

- We expect these supplemental services will be provided in 2021.
- ICE plans to pre-mark the boring location for underground utility locate purposes. The “One-Call” service will be contacted. We will rely on Parametrix and the City of Des Moines for assistance in locating underground utilities that are not covered by the One Call service. We will also contract with APS to complete a private locate for the test boring location.
- We assume that any applicable fee for the SUP will be waived by the City of Des Moines.
- ICE subcontracted services include APS to develop a traffic control plan (as required by the SUP) and Emerald City Flagging to provide the necessary traffic control (signs and flaggers, also required by the SUP).
- The test boring will be completed in one day (estimated to be about four hours on site).
- The test boring will be completed using rubber-track mounted drilling and vector equipment subcontracted to Gregory Drilling, Inc. of North Bend, Washington.
- The test boring will be completed in an existing paved area. We intend to core the asphalt prior to drilling, then replace the asphalt with cold patch and hot-applied asphalt sealant, in accordance with the City of Des Moines SUP requirements for surface restoration of the test borings completed for our January 2021 draft report. If other patching methods are required by the City of Des Moines permit conditions, our fee may increase.
- Drill cuttings will be collected and disposed of off-site by the drilling subcontractor.
- All subcontracted activities will be observed full-time by an engineer or geologist from our firm. Our representative will collect soil samples from the test boring. Groundwater conditions will be evaluated at the time of drilling.
- We expect to complete up to eight moisture content tests.
- No meetings or supplemental consultation are planned at this time; these services can be provided upon request in accordance with the rates described in our attached Schedule of Charges.

#### **SCHEDULE**

We expect to initiate our field program within three weeks following receipt of the signed agreement and notice to proceed, depending on the time required to obtain the SUP and subcontractor availability. We expect that the utility locate will take about one week to complete. Drilling the test boring will be completed in one day. Review of the samples and laboratory testing will take about one week following completion of the field work. We expect our updated draft report will be available within about three



Austin Fisher, PE  
Parametrix, Inc.  
October 25, 2021  
Page 3

weeks following the field services. The report will be finalized within about one week following receipt of comments.

**FEE ESTIMATE**

We propose to accomplish these supplemental services on a time-and-expense basis in accordance with the rates indicated on the attached Schedule of Charges and the terms of Parametrix contract documents to be negotiated with ICE for the purpose of this project. We estimate that the fees for the scope of services described above will be an additional **\$14,500**. Our fees are summarized below.

Information Review, Permitting, Plans, Utility Locate and Recon	\$2,700
Subcontracted Drilling, Private Locate, Traffic Plan/Control Services	\$5,200
ICE Field Services (Drilling)	\$1,500
Laboratory Testing	\$200
Engineering Analysis and Report Preparation	\$3,100
Project Scheduling and Management	\$1,800
<b>Total Fee Estimate</b>	<b>\$14,500</b>

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We appreciate the opportunity to submit this Supplemental Scope of Services and Fee Estimate. Please contact us with any questions.

Yours very truly,  
Icicle Creek Engineers, Inc.

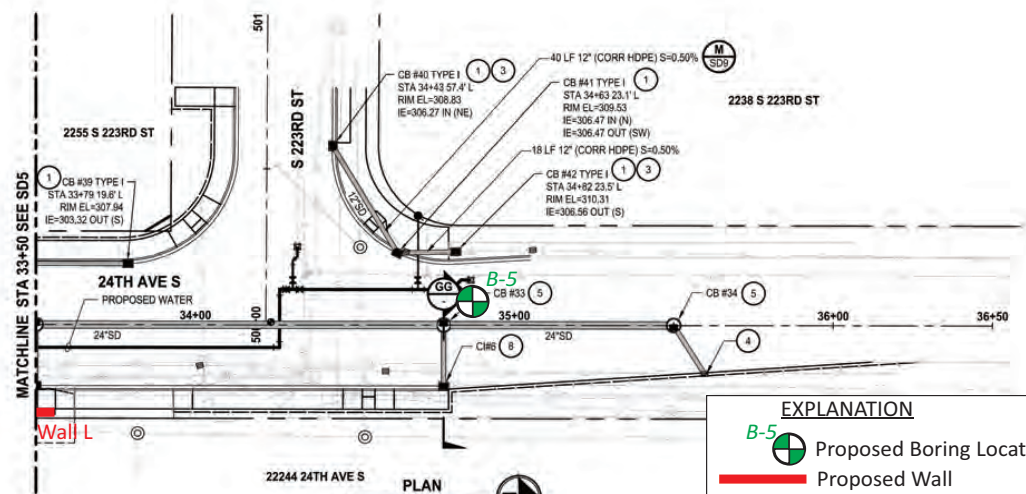


Kathy S. Killman, LEG  
Principal Engineering Geologist

Document ID: 1082004.SupplementalScopeFee

Attachments: Exploration Plan - Attachment A  
2021 Schedule of Charges

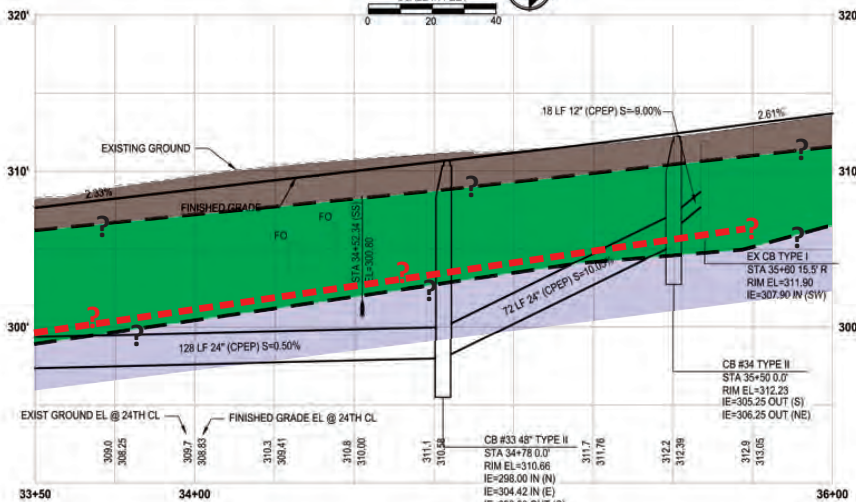
Submitted via email



**EXPLANATION**

Proposed Boring Location

Proposed Wall



**Geologic Units**

- Fill
- Recessional Outwash
- Glacial Till
- Groundwater

**PROFILE**

HORIZ: 1"=20'

VERT: 1"=5'

Horizontal Scale in Feet (approximate)

Vertical Scale in Feet (approximate)

Plans Reference: Parametrix, September 2021 (30% Review Submittal), 24<sup>th</sup> Avenue South Phase 1 Roadway Improvements, City of Des Moines, Washington, sheet SD6.

- Notes: 1) Geologic Units are from ICE's January 29, 2021 draft report.  
 2) Subsurface conditions shown are along trail centerline and are based on widely-spaced explorations. Actual subsurface conditions may vary significantly, especially fill thickness. See ICE January 2021 report text for details.  
 3) "?" indicates inferred geologic contact and estimated groundwater level.

 	<b>EXPLORATION PLAN</b>  <b>24TH AVENUE SOUTH - PHASE 1 ROADWAY IMPROVEMENTS</b> <b>DES MOINES, WASHINGTON</b>	 29335 NE 20th Street Carnation, Washington 98014 (425) 333-0093	SCALE: As Shown	ICE FILE NO.
			DESIGNED: — DRAWN: JMS CHECKED: BRB DATE: 10/25/21	1082-004 Attachment A



## 2021 SCHEDULE OF CHARGES

### COMPENSATION

Our compensation will be determined on the basis of time and expenses in accordance with the following schedule of charges.

#### Personnel Category

Principal	\$220/hour
Associate	\$203/hour
Senior Project	\$183/hour
Project	\$151/hour
Senior Staff	\$129/hour
Staff	\$118/hour
Senior Technician	\$102/hour
Technician	\$95/hour
Support	\$89/hour

Contracted professional and technical services will be charged at the applicable hourly rates listed above. Staff time spent in depositions, trial preparation and court, hearing or other legal proceedings will be billed at one and one-half times the above rates. Time spent in either local or inter-city travel, when travel is in the interest of this contract, will be charged in accordance with the foregoing schedule; when traveling by public carrier, a maximum charge of eight hours per day will be made.

#### Equipment

Miscellaneous geotechnical field equipment, including water measurement and sampling equipment, survey equipment, camera and hand auger, per equipment item, per day	\$10
Nuclear moisture-density gauge, per half-day/full-day	\$20/\$40
Lab testing equipment, per hour	\$10
Vehicle usage, per mile (or allowable IRS rate)	\$0.56

Specialized equipment or disposable field supplies will be quoted on a per-job basis

#### Geotechnical Laboratory Tests

In-house testing for geotechnical soil characteristics at current rates, list available upon request.

All rates are subject to change upon notification.

### OTHER SERVICES, SUPPLIES AND SPECIAL TAXES

Charges for services, equipment, supplies and facilities not furnished in accordance with the above schedule, and any unusual items of expense not customarily incurred in our normal operations, are charged at cost. This includes shipping charges, permit fees, subsistence, transportation, printing and reproduction, miscellaneous supplies and rentals, surveying services, drilling and excavating subcontractors, construction equipment, watercraft, aircraft, and special insurance which may be required.



# APPLIED PROFESSIONAL SERVICES, INC

September 27, 2021

## APS PROJECT NUMBER 6015 VAC

### 1. Project Scope

APS, Inc. will utilize our Air Vacuum Excavation System to verify utilities at selected test-hole locations determined by **Parametrix**. This process is being performed to obtain utility and depth information for the project's design.

- APS, Inc. shall air vacuum excavate **(10)** test-holes to obtain a depth and location of existing underground utilities per the maps provided on 9/27/2021.
- Scope is based on the assumption that the utility will be between 0' and 10' in depth.
- If a test-hole falls in the hard surface APS, Inc. shall core the existing asphalt or concrete.
- APS, Inc. shall backfill all test-holes with a material approved by **City of Des Moines** (5/8" select, sand, pea gravel, etc.).
- CDF backfill and permanent asphalt repair is excluded from this scope.
- Collect utility and test-hole data.
- This estimate is based on design engineering rates in which case prevailing wages do not apply.
- Restoration is assumed at this time to be 5/8 fill with EZ street cold mix patching.
- Grind and overlay of the existing roadway is not covered in this scope. Should **City of Des Moines** require additional restoration, other than what is included in the scope, then additional fees will be required.
- All traffic control plans and permits will be drawn and submitted by **APS**.
- All bonding and right of entry agreements will be obtained by **Parametrix**.

### 2. Deliverables

- A. Test-hole data sheets, which include Top, Bottom, Width, Diameter and Direction of the utility.
- B. Excel spread sheet containing all test-hole data for the project.
- C. Hub & washer left at grade with measurements stamped into washer.
- D. A photo of all found utilities will be provided for all found utilities.

SERVICE PROVIDED	COST / UNIT	EST. HRS/UNITS	TOTAL COST
VACUUM TRUCK (per hole)	\$ 1,200.00	10	\$ 12,000.00
<b>TOTAL PROJECT ESTIMATE</b>			<b>\$ 12,000.00</b>

**3. Cost Terms:**

- A. The project cost is based on the estimated number of hours it will take to perform the Scope of Work.
- B. In the event the project scope increases a revised project cost will be submitted.
- C. APS, Inc. will require a written authorization to proceed or a signature on the block below prior to any project start-up.

**4. Project Site Address**

- 24<sup>th</sup> Ave S. & S. 224<sup>th</sup> St. Des Moines, WA

**5. Contact Information:**

**CLIENT**

**Parametrix**

**Jay Munro, LSIT  
1019 39th Avenue SE, Suite 100  
Puyallup, WA 98374  
(360) 850-5320**

**Client: City of Des Moines**  
**Project: 24th Avenue South Storm Sewer Revisions**  
**and Coordination with Lumen**  
**Project No: 214-1792-032**

**Budget Estimate**

Task	SubTask	Description	Labor Dollars	Labor Hours	Regional Division Manager	Designer IV	Surveyor II	Engineer III
01		Storm Sewer Revisions	\$28,139.12	142	40	82	10	10
	01	Coordination	\$9,862.56	46	16	30		
	02	Storm Sewer Revisions	\$13,972.08	68	20	48		
	03	Capacity Calculations	\$1,291.44	4	4			
	04	Potholing - Parametrix	\$3,013.04	24		4	10	10
	05ICE	Geotechnical Engineering - ICE	(see below)					
	06APS	Potholing - APS	(see below)					

**Subconsultants**

Applied Professional Services Inc (potholing)	\$12,000.00
Icicle Creek Engineers (geotechnical engineering)	\$14,500.00
<b>Subconsultants Total:</b>	<b>\$26,500.00</b>

**Other Direct Expenses**

Other Direct Costs	\$500.00
<b>Other Direct Expenses Total:</b>	<b>\$500.00</b>

**TA 2022-01 Total**

**\$55,139.12**

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## **AGREEMENT**

### **CITY OF DES MOINES AND QWEST CORPORATION D/B/A/ CENTURYLINK QC**

#### **RECITALS**

WHEREAS, the City of Des Moines, Washington ("City") is undertaking a capital improvement project known as the 24<sup>th</sup> Avenue South Roadway Improvements – Segment 2 ("the Project"); and

WHEREAS, Qwest Corporation d/b/a CenturyLink QC ("CenturyLink") owns and operates certain utilities located in the 24<sup>th</sup> Ave S Right of Way, within and adjacent to the Project limits;

WHEREAS, the City intends to construct improvements to 24<sup>th</sup> Ave S and its approaches;

WHEREAS, CenturyLink has existing facilities that are required to be moved to facilitate the current Project as designed;

WHEREAS, CenturyLink has requested that the City modify the Project to avoid a requirement of CenturyLink to relocate their facilities;

WHEREAS, the City is amenable to modifying the Project at the request of CenturyLink if CenturyLink covers the additional design and construction expenses;

WHEREAS, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs, and liabilities regarding this undertaking;

WHEREAS, the City Council of the City has taken appropriate action to approve the City's approval of and entry into this Agreement ("Agreement"); and

WHEREAS, CenturyLink has taken appropriate action to approve the entry into this Agreement;

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein, the Parties agree as follows:

#### **AGREEMENT**

Section 1. Purpose. The purpose of this Agreement is to establish a formal arrangement under which CenturyLink will pay for the costs incurred by the City to revise the design of the replacement of the storm sewer in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street to accommodate the existing CenturyLink duct banks, incorporate the revised design into the Project contract documents and to construct the revised design in conjunction with the City's design and construction of the Project. The terms, conditions, and covenants of this Agreement shall accordingly be interpreted to advance this purpose. This Agreement further seeks to allocate and define the



Parties' respective rights, obligations, costs and liabilities concerning the establishment, operation and maintenance of this undertaking.

Section 2. Term. This Agreement shall be effective upon the date of the last signature of the Parties. Unless terminated in accordance with Section 3 or other provisions hereof, this Agreement shall remain in effect until one of the following events occurs, whichever is later: (a) completion of the Project, or (b) **December 31<sup>st</sup>, 2024**. The Parties may at their option renew this Agreement for a mutually agreed upon term by a writing signed by both Parties.

Section 3. Termination for Breach. A Party may terminate this Agreement if the other Party fails to cure a material breach within thirty (30) days written notice of same.

#### Section 4. Obligations of CenturyLink.

A. CenturyLink shall provide payment to the City to reimburse the City for its actual and documented costs to revise the design of the replacement of the storm sewer in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street to accommodate the existing CenturyLink duct banks, incorporate the revised design into the Project contract documents and to construct the revised design in conjunction with the City's design and construction of the Project as follows:

a. Engineering/Design. CenturyLink shall participate in the revised design process as follows:

- i. CenturyLink will coordinate with the City and its engineering consultants on the preparation of the engineering plans and specifications necessary to accommodate CenturyLink's facilities utilizing specifications and bid quantities for common work that is acceptable to the City. The City may use CenturyLink's survey for preparation of its plans. CenturyLink shall review the final plans and specifications, and provide the City a written notice of acceptance of the plans and specifications within fifteen (15) business days of receipt. Failure to provide a written response within fifteen (15) business days shall constitute acceptance.

If termination is initiated by CenturyLink during project redesign, CenturyLink shall be responsible for City costs associated with further project redesign, administration, and delay. These costs will be determined by requested City Consultant scope and fee proposals and will greatly depend

on status of project development (30%, 90%, Contract Documents etc.). City administrative costs will be determined at 15% of Consultant Fee determination.

- ii. CenturyLink will coordinate with the City and its engineering consultants on the preparation of the “Engineer’s Estimate of Probable Construction Cost” and associated “Bid Item Schedule of Work” to define the cost variance between the City’s original design intent and the proposed improvements to accommodate CenturyLink’s facilities.

Upon initial review of the request by CenturyLink compared to the City’s 30% design, the redesign most likely will result in storm drainage mainline horizontal alignment shifted to the center of the roadway and vertical alignment shifted significantly lower. This will include, but not be limited to, estimated increased storm drainage facilities (curb inlets), trenching and backfill, site dewatering, storm drainage treatment and flow control horizontal and vertical alignment changes, mobilization, traffic control, and increased TESC site control. Additionally, the changes in horizontal alignment of the storm drainage will cause additional roadway disturbance.

The storm drainage realignment will cause added roadway impacts versus the planned roadway widening while maintaining the existing. CenturyLink will be responsible for Bid Item Schedule of work costs associated with the Hot Mix Asphalt (HMA) roadway section and is estimated to be one full lane width at 12-feet in width and 6-inches depth of HMA.

CenturyLink shall review the Engineer’s Estimate of Probable Construction Cost, associated Bid Item Schedule of Work, and cost breakdown of CenturyLink responsibilities and provide the City a written notice of acceptance within fifteen (15) business days of receipt. Failure to provide a written response within fifteen (15) business days shall constitute acceptance.

If termination is initiated by CenturyLink during project redesign, CenturyLink shall be responsible for City costs associated with further project redesign, administration, and delay. These costs will be determined by requested City Consultant scope and fee proposals and will greatly depend on status of project development (30%, 90%, Contract Documents etc.). City administrative costs will be determined at 15% of Consultant Fee determination.

- iii. CenturyLink will provide as-built information relevant to the Project to the City upon request.
  - iv. CenturyLink will reimburse the City for the City's actual and documented costs for consultant support to revise the Project plans, which shall not exceed **\$55,139.12 (See attachment 1)**.
  - v. CenturyLink will reimburse the City one-time for the City's costs for internal project management support to facilitate project redesign and franchise utility coordination totaling a single, lump sum payment of **(\$6,000)**.
- b. Construction. CenturyLink shall reimburse the City for the City's actual costs for construction of the elements of the revised design of the replacement of the storm sewer in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street that are necessary to accommodate the existing CenturyLink duct banks as defined in Section 4.A.a.
- i. The estimated construction costs billable to CenturyLink pursuant to this Agreement are approximately **\$287,000 (See attachment 2)**. This construction estimate is based upon a planning level (5%) design and will be further refined during project redesign. The final amount shall be determined by the "Responsive Low Bidder Proposal" after the bid process
  - ii. CenturyLink shall be responsible for all Washington State Sales tax resulting from (i) above.
- c. Construction Management: CenturyLink shall reimburse the City for the prorated share of the City's costs incurred for Project construction engineering and management of the elements of the revised design of the replacement of the storm sewer in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street that are necessary to accommodate the existing CenturyLink duct banks. This will be determined by utilizing an industry standard 12% construction management fee for applicable work based on Bid Proposal selection in a 4.A.b.
- d. Construction Claims: If claim(s) are filed on the Project by the contractor that are directly and solely related to the work elements of the revised design of the replacement of the storm sewer in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street that are necessary to accommodate the existing CenturyLink duct banks, the Parties shall resolve those claims pursuant to the Change Order process in Section 8 hereof.

- B. CenturyLink shall respond within five (5) business days to information requests submitted by the City or its agents.

Section 5. Obligations of the City.

- A. The City shall revise the design of the Project in order to accommodate the existing CenturyLink duct banks in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street. This will include revising the construction plans, specifications, and contract documents for the Project.
- B. The City shall assume responsibility for constructing the Project in accordance with the revised plans, specifications, and contract documents, including but not limited to securing all necessary consultants, contractors, and subcontractors. All construction contracts shall be procured through a formal competitive bidding process consistent with applicable State and/or Federal laws as may be applicable. The City shall have sole authority to award and manage the construction contract per the terms of this Agreement.
- C. The City shall periodically submit CenturyLink written invoices for payment in accordance with Section 6. The City shall include copies of invoices or other documentation from consultants and/or contractors, clearly indicating CenturyLink's portion of the invoices.
- D. The City shall assume lead agency status and responsibility for applying for and obtaining any and all regulatory permits necessary to complete the Project.
- E. The City shall provide CenturyLink personnel access to the Project's construction area for purposes of inspecting or monitoring the progress of work. The City shall notify a CenturyLink representative of all construction meetings and shall allow the CenturyLink's representative to participate in all construction meetings.
- F. The City shall respond promptly to information requests submitted by CenturyLink or its agents regarding the Project.
- G. The City shall require the contractor to be responsible for damage it (or its subcontractors) causes to CenturyLink's facilities and for compliance with all applicable federal, state and local statutes, regulations and ordinances regarding safety.

Section 6. Payment Schedule. The Parties agree to the following billing and payment schedule:

- A. CenturyLink shall reimburse the City of Des Moines in the amount of **\$61,139.12** as specified in Section 4.A.a. within (15) business days of City Council Approval of this Agreement.
- B. For construction contract costs incurred by the City for the revised design to accommodate the existing CenturyLink duct banks in 24<sup>th</sup> Ave S between S 224<sup>th</sup> Street and S 223<sup>rd</sup> Street, the City shall submit monthly invoices to CenturyLink during Construction. Said invoices shall contain a reasonably detailed explanation of the methodology utilized by the City in determining CenturyLink's share of each expense. To the extent reasonably possible, the City shall document and tabulate separately the actual quantities of work installed to clearly identify CenturyLink's portion of the Project construction cost. Final adjustment of prorated costs shall be delivered to CenturyLink within thirty (30) days of project close out as determined by issuance of a Final Contract Voucher.
- C. Within thirty (30) days of receiving any invoice pursuant to subsection 6.B, CenturyLink shall tender payment to the City, except as to any disputed amounts.
- D. The cost incurred by the City for construction engineering and management has been pre-determined and illustrated in Section 4.A.c. of this Agreement. CenturyLink shall tender payment to the City in the form of a warrant payable to the City for said calculated amount within fifteen (15) days of execution of the Construction Contract with the Contractor.
- E. If the Parties disagree regarding CenturyLink's share of any expense incurred by the City regarding the Project, the Parties may agree to submit the question for resolution in accordance with the dispute resolution clause contained herein.

Section 7. (reserved)

Section 8. Change Orders

- A. Change Orders. The City shall have the right to approve or reject change orders and contractor claims relating to the Project; provided, however, that any change order affecting the amount paid by CenturyLink pursuant to this Agreement shall be reviewed and approved by CenturyLink in advance, or if disputed, resolved by the Parties pursuant to the dispute resolution clause contained herein.

Section 9. Ownership and Disposition of Property. All work constructed under the Project shall become and remain the exclusive property of the City upon completion; provided, however, that CenturyLink facilities shall remain the exclusive

property of CenturyLink.

Section 10. Administration; No Separate Entity Created. The City of Des Moines Public Works Director, or his/her designee, shall serve as the City's administrator of this Agreement. CenturyLink's **Project Administrator**, or his/her designee, shall serve as CenturyLink's administrator of this Agreement. No separate legal entity is formed by this Agreement.

Section 11. Release, Indemnification and Hold Harmless Agreement. Each Party to this Agreement shall be responsible for its own negligent and/or wrongful acts or omissions, and those of its own agents, employees, representatives, contractors or subcontractors, to the fullest extent required by laws of the State of Washington. Each Party agrees to protect, indemnify and save the other Party harmless from and against any and all such liability for injury or damage to the other party or the other Party's property, and also from and against all claims, demands, and causes of action of every kind and character to the extent arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, caused by its own fault or that of its agents, employees, representatives, contractors or subcontractors.

The City specifically promises to indemnify CenturyLink against claims or suits brought under Title 51 RCW by its own employees, contractors, or subcontractors, and waives any immunity that the City may have under that title with respect to, but only to, the limited extent necessary to indemnify CenturyLink. The City shall also indemnify and hold CenturyLink harmless from any wage, overtime or benefit claim of any City employee, agent, representative, contractor, or subcontractor performing services under this Agreement. The City further agrees to fully indemnify CenturyLink from and against any and all costs of defending any such claim or demand to the end that CenturyLink is held harmless therefrom.

CenturyLink specifically promises to indemnify the City against claims or suits brought under Title 51 RCW by its own employees, contractors, or subcontractors, and waives any immunity that CenturyLink may have under that title with respect to, but only to, the limited extent necessary to indemnify the City. CenturyLink shall also indemnify and hold the City harmless from any wage, overtime or benefit claim of any CenturyLink employee, agent, representative, contractor, or subcontractor performing services under this Agreement. CenturyLink further agrees to fully indemnify the City from and against any and all costs of defending any such claim or demand to the end that the City is held harmless therefrom.

Section 12. Dispute Resolution and Mediation. If a dispute arises from or relates to this Agreement or the alleged breach thereof and if the dispute cannot be resolved through direct discussions between the Parties, the Parties agree to endeavor

first to settle the dispute in an amicable manner by mediation before a mutually agreed alternative dispute resolution entity or by mediation administered under the American Arbitration Association's Commercial or Construction Rules. The mediator may be selected by agreement of the Parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof may be brought by either Party to a court of competent jurisdiction set forth in Section 13 hereof.

All fees and expenses for mediation 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.

Section 13. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County Superior Court – Kent or the federal district court located nearest thereto.

Section 14. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between CenturyLink and any employee, agent, representative or contractor of the City, or between the City and any employee, agent, representative or contractor of CenturyLink.

Section 15. No Third Party Rights. This Agreement is intended for the sole and exclusive benefit of the parties hereto and no third party rights are created by this Agreement.

Section 16. Notices. Notices to the City shall be sent to the following address:

**City of Des Moines  
Public Works Director  
216560 11<sup>th</sup> Avenue South  
Des Moines, WA 98198**

Notices to CenturyLink shall be sent to the following address:

**CenturyLink  
Attn : Jesse Patjens  
23315 66<sup>th</sup> Ave S  
Kent, WA 98032**

Section 17. Integration/Entire Agreement. This document constitutes the entire embodiment of the Agreement between the Parties, and, unless modified in writing by an amendment to this Agreement signed by the Parties, shall be implemented as described above. This Agreement supersedes any oral representations that are inconsistent with or modify its terms and conditions.

Section 18. Non-Waiver. Waiver by any Party or any of the provisions contained within this Agreement, including but not limited to any performance deadline, shall not be construed as a waiver of any other provisions.

Section 19. Amendment. This Agreement may be amended only upon consent of the Parties. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.

Section 20. Severability. If any provisions of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby.

Section 21. Counterparts. This Agreement may be executed in counterparts, and delivered by electronic signature, pdf, or other electronic means, each of which will be considered an original instrument and which together shall constitute one and the same instrument

Reviewed and approved as authorized by motion of the City of Des Moines City Council on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF DES MOINES

By: \_\_\_\_\_

Michael Matthias, City Manager

Date: \_\_\_\_\_

ATTEST:

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



APPROVED AS TO FORM:

\_\_\_\_\_  
Des Moines City Attorney

CENTURYLINK

By: Daphne A. Herron  
VP, Network Implementation

Date: 1-24-2022



September 13, 2021

Andrew Merges  
Transportation & Engineering Service Manager  
City of Des Moines  
21630 11<sup>th</sup> Ave S, Suite A  
Des Moines, WA 98198

Re: Lumen Existing Facilities 24<sup>th</sup> Avenue South Phase 1 – Roadway Improvements

Dear Mr. Merges,

Lumen Technologies (Lumen) hereby requests changes to the City of Des Moines's 24<sup>th</sup> Ave South Phase 1 project plans to mitigate conflicts with existing Lumen underground facilities from S 223<sup>rd</sup> St to S 224<sup>th</sup> St.

The City of Des Moines was notified in March 2021 of Lumen's existing underground facilities and provided base maps of the major facilities approximate locations. During a Zoom meeting on March 23<sup>rd</sup>, 2021, Lumen, with its engineering vendor, provided additional details regarding the major facilities in conflicting with a proposed 30" storm structure on the East side of 24<sup>th</sup> Ave S. Lumen's existing facilities include multiple duct banks occupied with large copper cables & fiber cables that provide local and national service to a vast range of customers.

Lumen's underground facilities within the project limits will take extensive time to plan, design, permit, and construct in order to relocate away from currently designed conflicts. Many services within the above described facilities require scheduled outages that must be coordinated months in advance. As discussed between both parties during a Zoom meeting on September 9<sup>th</sup>, mutual interest exists in mitigating relocations of this facility that would involve cable replacements that trigger scheduled service outages.

To facilitate this mitigation and coordination, Lumen requests the City of Des Moines provide the necessary draft agreement for this redesign request, along with any potential cost implications for review. Additionally, Lumen requests that the City of Des Moines and its representatives provide Lumen and its engineering vendors with any requested project files to aid in the coordination of design changes to limit impacts to existing Lumen facilities.

Regards,

*Leslie Ferguson*

Leslie Ferguson  
Sr. Manager Local Network Implementation  
Lumen Technologies  
23315 66<sup>th</sup> Ave S  
Kent, WA 98032

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23315 66<sup>th</sup> Ave S  
Kent, WA 98032  
(253) 393-5388  
lumen.com

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## AGENDA ITEM

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: South 239<sup>th</sup> Street Outfall  
Replacement Project - Permanent Fence Easement  
Parcel 5119400075

ATTACHMENTS:

1. Easement Agreement
2. Exhibit A – Easement Legal Description and Exhibit

FOR AGENDA OF: February 10, 2022

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: February 3, 2022

CLEARANCES:

- Community Development *Suzanne M. Coy*  
 Marina N/A  
 Parks, Recreation & Senior Services N/A  
 Public Works *Richard M. Hayes*

CHIEF OPERATIONS OFFICER: *Dilip J. ...*

- Legal /s/MH  
 Finance *Bethanne Wene*  
 Courts N/A  
 Police N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Michael ...*

**Purpose and Recommendation**

The purpose of this item is to seek City Council approval and acceptance of a permanent fence Easement (Attachment 1) as a part of the South 239<sup>th</sup> Street Outfall Project. The following motion will appear on the Consent Calendar.

**Suggested Motion**

**Motion:** “I move to approve the Permanent Easement signed by the property owners, Robert and Sandra Bisordi, on November 17, 2021 for public fence installation, and to further authorize the City Manager to sign said Easement agreement substantially in the form as submitted.”

**Background**

Over the summer of 2021, construction on the South 239<sup>th</sup> Street Outfall Replacement Project was completed by R.W. Scott Construction. This project consisted of installing new drainage infrastructure along the City Park and rebuilding the staircase which accesses the beach viewing platform. In order to install the new outfall pipe and supporting structures, the existing public fencing adjacent to the property located at 560 South 239<sup>th</sup> Street was removed and replaced.

**Discussion**

The restoration phase of the project included replacing the previously removed public fencing. Due to an alignment restriction caused by the new outfall pipe's anchoring system, the fence was replaced further to the north than originally planned. In agreement with the private property owners at 560 S 239<sup>th</sup> Street, the new fence alignment necessitated that a portion of fence line be installed on private property, as shown in Exhibit A (Attachment 2).

The Easement signed by the property owners provides the right to the City to construct, operate, maintain, repair, replace, improve or remove the fencing within the designated Easement Area.

**Financial Impact**

The grant of Easement includes ten dollars (\$10) from the City to the Grantors and will be paid through the project budget. There are no other financial impacts as the cost and construction of the fence has not changed with the new alignment.

**Alternatives**

Council could elect not to approve the easement, direct staff to remove the installed fence, and direct staff to evaluate alternative fencing alignments.

**Recommendation or Conclusion**

Staff recommends adoption of the motion.

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

**EASEMENT**

Grantors:	Robert Bisordi and Sandra Bisordi
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	MAPLES THE ADD PARCEL B OF KC SHORT PLAT 476014 REC AF #7609090581 SD PLAT DAF LOT 5 THE MAPLE ADD LESS E 210 FT TGW TD LDS ADJ
Assessor's Tax Parcel ID#:	5119400075
Property Address:	560 S 239 <sup>th</sup> St, Des Moines, WA 98198

**6<sup>th</sup> Ave S / South 239<sup>th</sup> Street Pipe Replacement Project**

THIS EASEMENT AGREEMENT, made this 17<sup>th</sup> day of November, 2021, by and between Robert Bisordi and Sandra Bisordi, ("Grantors" herein), and the CITY OF DES MOINES, a municipal corporation of the State of Washington, ("Grantee" herein),

**WITNESSETH:**

1. **Grant of Easement.** The Grantors, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors and assigns, (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement ("Easement" herein) for constructing and maintaining a Type 2 Glare Screen Chainlink Fencing ("Fencing" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.
2. **Property Subject to Easement**
  - a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" attached hereto and incorporated by reference.

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

3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve or remove the Fencing and other associated features within the Easement Areas for the purpose of constructing and maintaining the Fencing.
4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Area Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, tree or other vegetation in the Easement Area.
6. **Grantor's Use of Easement Area.** Grantors reserve the right to use the Easement Area for any purpose so long as the use does not interfere with the Easement rights herein granted. Grantors may install groundcover and shrub landscaping plantings within the Easement Area with Grantee's prior written consent. Grantors shall not alter the ground surface and subsurface with the Easement Area by excavation, placement of fill material, or installation of any wall or rockery, without written consent from the Grantee's Public Works Director or authorized designee. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Area.
7. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.
8. **Covenant Running With the Land.** This Easement shall be covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.

Grantors acknowledge that property and/or property rights conveyed herein are in consideration of mutual benefit to be derived; and Grantors has been informed of its right to receive just compensation and have waived said rights.

DATED this 17<sup>th</sup> day of November, 2021.

GRANTOR(S):

By: Ray Bill

Date: 11/17/21

By: Sandra I Bisordi

Date: 11/17/21

GRANTEE:

CITY OF DES MOINES,  
a Washington municipal corporation

By: \_\_\_\_\_  
Michael Matthias, City Manager

Date: \_\_\_\_\_

At the direction of the Des Moines City Council on \_\_\_ day of \_\_\_\_\_, 2021.

APPROVED as to form only:

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

Date: \_\_\_\_\_

STATE OF WASHINGTON

||  
|| SS.  
||

COUNTY OF KING

I certify that I know or have satisfactory evidence that Sandra & Robert Bisordi is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the 17<sup>th</sup> of November, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



Dated: 11/17/2021

Signature: Laura Hopp

Notary Public in and for the State of Washington

Notary (print name): Laura Hopp

Residing at: Des Moines, WA

My appointment expires: 6/29/25



STATE OF WASHINGTON

}  
}  
}

SS.

COUNTY OF KING

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

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

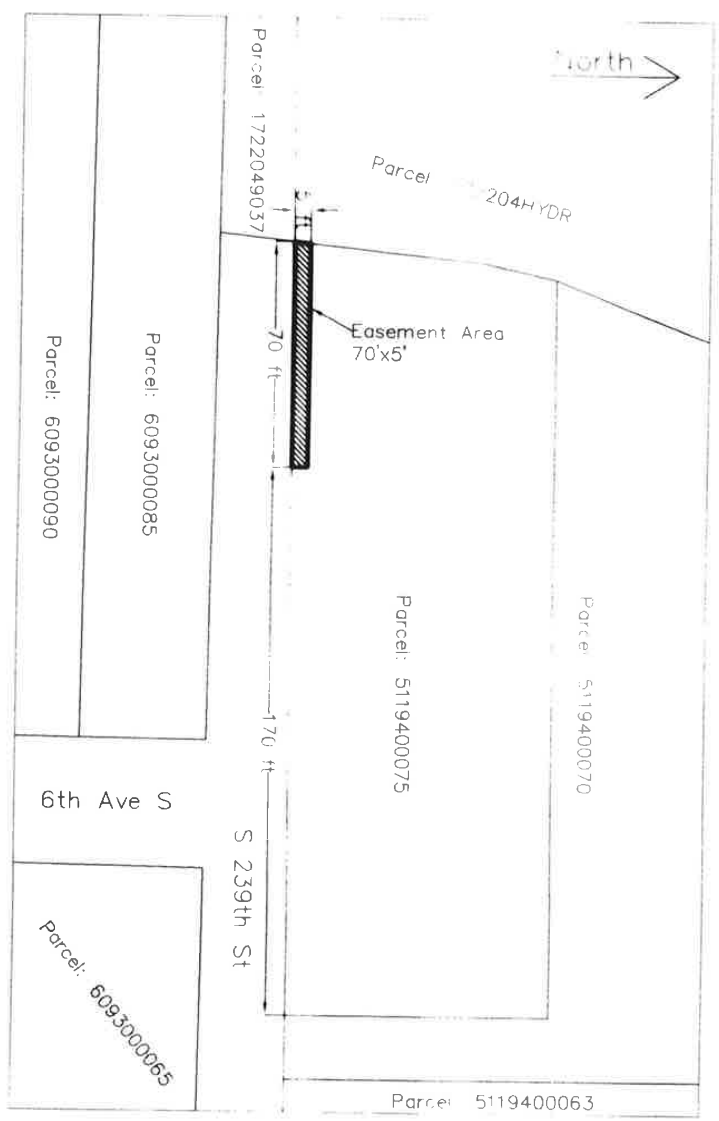
Notary Public in and for the State of Washington

Notary (print name): \_\_\_\_\_

Residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

Exhibit



LEGAL DESCRIPTION

Maples the add parcel B of KC Short Plat 476014 REC AF #7609090581 SD PLAT DAF Lot 5 the Maple add less E 210 FT TGW TD LDS ADJ

EASEMENT AREA

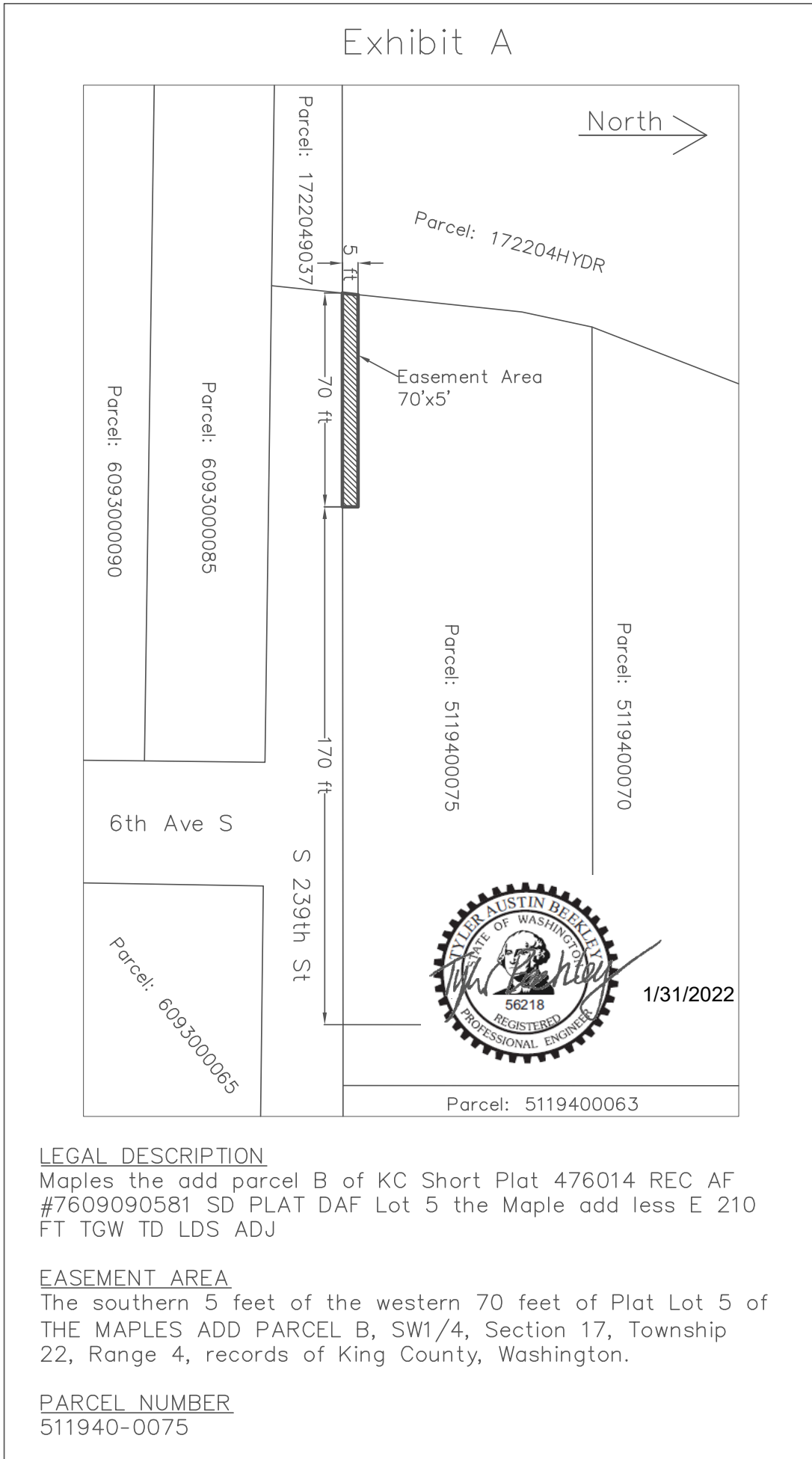
The southern 5 feet of the western 70 feet of Plat Lot 5 of THE MAPLES ADD PARCEL B, SW1/4, Section 17, Township 22, Range 4, records of King County, Washington.

PARCEL NUMBER

511940-0075

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### Exhibit A



LEGAL DESCRIPTION

Maples the add parcel B of KC Short Plat 476014 REC AF #7609090581 SD PLAT DAF Lot 5 the Maple add less E 210 FT TGW TD LDS ADJ

EASEMENT AREA

The southern 5 feet of the western 70 feet of Plat Lot 5 of THE MAPLES ADD PARCEL B, SW1/4, Section 17, Township 22, Range 4, records of King County, Washington.

PARCEL NUMBER

511940-0075

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**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: ESA Consultant Services Contract

FOR AGENDA OF: February 10, 2022

ATTACHMENTS:

1. Consultant Services Contract – Environmental Science Associates (ESA)
2. Scope of Services - ESA

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: February 3, 2022

CLEARANCES:

- Community Development *Susan M. Cey*
- Marina \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

CHIEF OPERATIONS OFFICER: *[Signature]*

- Legal /s/ MH
- Finance *Bonnie Ware*
- Courts \_\_\_\_\_
- Police \_\_\_\_\_

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

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval of the contract with Environmental Science Associates (ESA) for the purpose of preparing a limited scope Environmental Impact Statement (EIS) for a proposal by Zenith Properties LLC (Applicant). Project costs will be paid by the Applicant through a phased contracting approach: Phase 1- Scoping, Phase 2 - Draft EIS and Phase 3 - Final EIS.

**Suggested Motion**

**Motion 1:** “I move to approve the agreement with Environmental Science Associates for the purpose of preparing an Environmental Impact Statement for a proposal by Zenith Properties LLC as required by the State Environmental Policy Act, and authorize the City Manager to sign the contract substantially in the form as submitted.”

### **Background**

Zenith Properties LLC (Zenith) is the applicant for a demolition permit of the structures located at 23660 Marine View Drive S. (aka Landmark on the Sound), being processed under City Application Number LUA2019-0032. Zenith has completed and submitted to the City a State Environmental Policy Act (SEPA) Checklist for the demolition of the existing structures along with supporting historical documentation.

To date, the City is reviewing the Proposal as the basis for making a SEPA threshold determination pursuant to chapter 16.05 Des Moines Municipal Code (DMMC) and WAC 197-11-360. The City anticipates the issuance of a Determination of Significance (DS) requiring a limited scope environmental impact statement for this project to focus on the following:

1. Analysis of potential adverse impacts to historic and cultural resources;
2. Evaluation of reasonable alternatives that would avoid or minimize adverse impacts resulting from the proposed demolition and potential mitigation;
3. Public Involvement; and
4. Preparation of a Draft and Final EIS.

Pursuant to DMMC 16.05.160, preparation and content of draft and final EISs are the responsibility of the Planning, Building and Public Works Department under the direction of the responsible official. The Department can contract with consultants as necessary with the cost to be paid by the applicant.

The City is required to review and process applications and to complete the environmental review (SEPA) process. In order to assure a rigorous analysis of the proposal and peer review of applicant-submitted information, consultant assistance is needed. Although the costs are paid by the applicant, the contract is between the City and the consultant who will work at the direction of city staff. Contracting with ESA adds technical expertise and assures a robust public involvement process. The Phase 1 (Scoping) process is an opportunity for the public's voice to be heard related to the scope of the EIS and the alternatives to be evaluated.

Staff reviewed the qualifications of several firms and has selected ESA as the most qualified firm, with experience in EIS preparation, cultural resources, and public involvement.

### **Discussion**

In order to develop a more refined scope and budget, the project contract is broken out into three phases:

- Phase 1 – Scoping: kickoff meeting, alternatives development, scoping meeting, public involvement, comments and summary document. This will provide better information related to how many people are interested in the project and help refine the scope of the EIS.
- Phase 2 – Draft EIS (based on level of interest in scoping)
- Phase 3 – Final EIS

This approach will enable the Consultant team to tailor the scope and budget to address the required level of analysis to meet the City's obligations under SEPA and to address Agency and public comments on the project.

**Alternatives**

This work is required by state law and City Code. Preparation of an adequate EIS and a robust public involvement process requires consultant assistance.

**Financial Impact**

If the City Council approves the Contract there will be no fiscal impact to the City as the Applicant is responsible for covering the cost of the SEPA review associated with their application.

**Recommendation**

Staff recommends approval of this contract and scope of work as presented.



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

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

### **I. DESCRIPTION OF WORK.**

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

The Consultant will assist the City of Des Moines to prepare a limited scope environmental impact statement (EIS) for a proposal by Zenith Properties LLC (Applicant). Project costs will be paid by the Applicant through a phased contracting approach: Phase 1- Scoping, Phase 2 - Draft EIS and Phase 3 - Final EIS.

The Phase 1 Scope of Work and Budget is provided in Exhibit A. Phase 2 will be developed at the completion of Phase 1, and Phase 3 will be developed at the completion of Phase 2.

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

**II. TIME OF COMPLETION.** The parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Contract. Upon the effective date of this Contract, Consultant shall complete the work described in Section I as negotiated with the City of Des Moines .

### **III. COMPENSATION.**

- A. The City shall pay the Consultant, based on time and materials, an amount not to exceed Ninety Thousand Nine Hundred and Eighty-four Dollars (\$90,984) for Phase 1 to be paid for the services described in this Contract. The costs of additional Phases shall be determined through negotiation of the parties as the Phases are developed. The costs of additional Phases shall be approved by both parties in writing. The Consultant agrees that the amount budgeted for as set forth in Exhibit A for its services contracted for herein shall remain locked at the negotiated rate(s) for a period of one (1) year from the effective date of this Contract.

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

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

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

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

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

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

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

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

- A. Notice of Claim. Provide a signed written notice of claim that provides the following information:
1. The date of the Consultant's claim;
  2. The nature and circumstances that caused the claim;
  3. The provisions in this Contract that support the claim;
  4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
  5. An analysis of the progress schedule showing the schedule change or disruption if the Consultant is asserting a schedule change or disruption.
- B. Records. The Consultant shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Consultant's records needed for evaluating the protest.

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

- C. Consultant's Duty to Complete Protested Work. In spite of any claim, the Contractor shall proceed promptly to provide the goods, materials and services required by the City under this Contract.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Consultant also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).
- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Consultant completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

**VII. LIMITATION OF ACTIONS.** CONSULTANT MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS CONTRACT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONSULTANT'S ABILITY

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

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

**IX. DISCRIMINATION.** In the hiring of employees for the performance of work under this Contract or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

**X. INDEMNIFICATION.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Contract, 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. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

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

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

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

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

**A. Minimum Scope of Insurance.** Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap 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 using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

**B. 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 \$2,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

**C. Other Insurance Provisions.**

1. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured 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.

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

**E. Verification of Coverage** Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not

necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contract before commencement of the work.

**F. Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

**G. Failure to Maintain Insurance.** Failure on the part of the Consultant 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 Consultant to correct the breach, immediately terminate the Agreement 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 Consultant from the City.

**H. City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

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

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

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

**XV. WORK PERFORMED AT CONSULTANT'S RISK.** Consultant shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Consultant's own risk, and Consultant

shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

#### **XVI. MISCELLANEOUS PROVISIONS.**

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

B. Resolution of Disputes and Governing Law.

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

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

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

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



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

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

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

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

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

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

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

**CONSULTANT:**

By: \_\_\_\_\_  
(signature)

Print Name: \_\_\_\_\_

Its \_\_\_\_\_  
(Title)

DATE: \_\_\_\_\_

**CITY OF DES MOINES:**

By: \_\_\_\_\_  
(signature)

Print Name: Michael Matthias

Its City Manager  
(Title)

DATE: \_\_\_\_\_

Approved as to form:

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

DATE: \_\_\_\_\_

**NOTICES TO BE SENT TO:**

**CONSULTANT:**

Margaret Clancy  
Environmental Science Associates  
5309 Shilshole Ave NW, Suite 200  
Seattle, WA 98107  
206-789-9658 (telephone)  
[Insert Fax Number] (facsimile)

**NOTICES TO BE SENT TO:**

**CITY OF DES MOINES:**

Michael Matthias, City Manager  
City of Des Moines  
21630 11<sup>th</sup> Avenue S., Suite A  
Des Moines, WA 98198  
206-870-6554 (telephone)  
[Insert Fax Number] (facsimile)

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## City of Des Moines Limited Scope EIS for Zenith Properties Project

### Proposed Tasks to Complete the Scope of Work – Scoping Only Phase I

#### **Task 1: Project Management and Coordination**

This task provides for project management and coordination.

##### **Task 1.1 Project Management (for 4 months)**

This task is intended to ensure that ESA delivers quality work on time and within budget. It includes a variety of tasks, including coordination with the City, development team, and other technical consultants; internal oversight and guidance to technical experts; ongoing budget and schedule management; invoicing; and quality control/quality assurance. Other activities in this task include:

- **SEPA compliance strategy** – The Consultant team will work with the City to finalize the detailed scope and budget for Phases 2 and 3, providing information at the subtask level about deliverables, assumptions, staff assignments, budget, and schedule that is mutually acceptable.
- **Shared Data protocol** – The Consultant team will work with the City to set up an appropriate data sharing site. It is understood that the City would need full access to all records and all records would need to be maintained so they can be reviewed and provided to a requestor if a public records request is received.

##### **Task 1.2 Project Team Meetings and Schedule – Scoping Only**

- **EIS kickoff meeting** – We will convene a 1-hour virtual meeting of the project team to align the project objectives, team organization, communication protocols, schedule, and the EIS outline.
- **Ongoing coordination meetings** – Throughout the project, up to 2 ESA project managers would participate in up to four 1-hour meetings or eight 30-minute meetings.

**Assumptions:**

1. Kick-off meeting (1-hour virtual meeting)
2. Up to four 1-hour virtual meetings with up to 2 ESA staff (or eight 30-minute meetings).
3. The EIS team will post project-related information on the City's project website as directed by the City.
4. The City will assemble their internal comments on documents prior to sending to ESA. Additional review time will be required for City review due to staff shortage.

#### **Task 2: Public Involvement and Communications for Scoping Only**

##### **Task 2.1 Public Involvement project meetings, coordination and administration**

The Consultant team will coordinate overall public involvement for Scoping Only. This includes public involvement coordination with City staff and the consultant team members.

**Assumptions:**

1. General administration, progress reporting, and invoicing (4 months)
2. Internal team coordination and meetings (up to two with 1 staff)
3. Communications coordination meetings (up to two with 2 staff)

### **Task 2.2 Public Involvement Plan and communications schedule for Scoping Only**

The Consultant team will develop a public involvement and communications plan that details key messaging, stakeholders, roles and responsibilities and schedule of activity for Scoping Only. After City approval, a communications work plan and schedule for Scoping Only will be developed and managed by S&A.

#### **Assumptions:**

1. The Public Involvement Plan will include Scoping Only.
2. The City will assist in the development of the public involvement plan for Scoping Only at the SEPA Strategy Workshop.

### **Task 2.3 Public Scoping Meeting**

Working with the City, we will prepare a scoping notice based on the alternatives. We assume that the historic and cultural element analyses will be the focus of the EIS. We have not scoped for additional elements so this will need to be re-visited if other issues arise during scoping. Following the City's procedures, the determination of significance and scoping notice will be published and a scoping meeting will be held.

The Consultant team will plan, facilitate and report on one public scoping meeting to receive comments. For planning purposes, the public meeting will be online and last up to two hours and accommodate up to 300 attendees. This will include supporting preparation of notifications and a scoping meeting consistent with SEPA requirements.

The Consultant team will prepare a presentation and coordinate public notification. One (1) training/prep meeting will be provided before the event for presenters, including recording a pre-prepared video, if requested. Preparatory meetings and online presentation will take place remotely. Up to 300 participants can participate online. The Consultant team will facilitate the meeting and provide the link to the virtual meeting recording to the City. An online comment form will be available via the website and be connected to the Comment Tracker. An email and mailing address will also be made available. A court reporter is available and will take formal notes during the scoping meeting.

#### **Assumptions:**

1. The pre-prepared video recording will be no longer than 10 minutes in length.
2. If accommodations for more than 300 participants are needed on the virtual call, additional budget would be required.
3. Assume the City already has a working website where project information can be posted.

### **Task 2.4 Scoping Comment Management**

The Consultant team will utilize the Comment Tracking System to receive scoping comments electronically from the City website. Mailed comments or other comment methods would be forwarded to the Consultant team from the City. The Consultant team will organize comments for City and for administrative records. The Consultant team will develop an online comment form which includes the email address and mailing address that the public should use to submit their comments. The Consultant team anticipates that all scoping comments will be directed through the City website, from the designated email address, and from the mailing

address. The Consultant team will work with the City to set up a special phone line with project and contact information and add a QR code to website signage to direct people to website.

**Assumptions:**

1. The Consultant team will coordinate and take direction from ESA Project Manager and City.
2. The Consultant team will invoice ESA for staff time and material and the Consultant team will be paid directly by ESA.
3. All work performed will be in accordance with City guidelines as applicable. Consultant will be primary contact. City will review materials prior to publication/release.
4. The Consultant team will provide a court reporter for the public scoping meeting. The City will be billed for actual cost of their services.
5. All content for presentations and hearings including presentations, graphics, photos etc. will be provided by the Consultant team. We understand that the City does not have staff capacity other than providing GIS data/shape files.
6. The City will create a project page on the City website to post project information. The Consultant team will be responsible for developing content.
7. Assumes use of the Comment Tracking System to reduce the staff hours that would be required to receive, sort, and categorize comments.
8. Assumes the Consultant team will be able to coordinate the Comment Tracking System with the existing City website.
9. Assumes up to 20 unique short formal comments (assume 2-page length and no more than 4 legal comments (15-20 pages) and no more than 100 duplicative comments from the public scoping process.

**Task 2.5 Scoping Summary Document**

Once the scoping comment period is complete, the Consultant team will summarize the scoping comments to form a record of the alternatives and issues that the EIS will focus on. This summary will describe the nature and volume of the comments, including major themes as well as substantive individual comments, and how they will (or will not) be addressed in the Draft EIS. The Scoping Summary will be sufficient for inclusion in the Draft EIS.

**Task 3: EIS Alternatives**

**Task 3.1 SEPA Strategy Alternative Development Workshop with City Staff and Follow up with Applicant**

The SEPA Strategy Alternative Development Workshop will be held prior to the start of scoping and will focus on the definition of the No Action Alternative and up to 2 other alternatives to submit as part of the DS and Notice of Scoping Meeting. Prior to the workshop, the Consultant team will compile outstanding questions or issues to be resolved and have them on the agenda. The goal of the workshop is to provide the City staff with a strong understanding of the options for the EIS process and why the decisions were made. The SEPA Strategy Workshop would assist the City in working through the following issues:

- Confirm legal requirements of SEPA
- Frame the Phased EIS approach since there is not an associated development proposal
- Define the No Action Alternative
- Develop Alternatives
- Define public outreach goals and objectives
- Design public outreach options under the EIS (Public Participation Plan)
- Other concerns that the City brings forward.

**Assumptions:**

1. All meetings will be virtual.
2. Assume the applicant and their consultants will be available to contribute to the alternatives development at a follow-up meeting, if requested by the City.
3. Assume the strategy meeting with the City will be a maximum of 3 hours and held virtually. Representatives from the ESA team will be available to facilitate.
4. Assume one follow-up meeting with applicant for up to 2 hours with up to 5 ESA team staff attending.

**Task 3.2 Preparation of DS and Notice of Scoping and Alternatives**

The ESA team will coordinate with City staff to write the DS and Notice of Scoping for distribution.

**Assumptions:**

1. Assume 1 draft and 1 final version of the notice.

**Task 4: Administrative Record**

ESA will maintain the SEPA administrative record consistent with the scope of work.

**Task 4.1 Protocol for maintaining an EIS administrative record**

ESA will develop the protocol at the start of the project.

**Task 4.2 Administrative Record**

Administrative records will be kept on a shared document site.

**Task 4.3 Response to public records requests (as needed)**

The Consultant team firms will respond to public records request for up to 2 hours per firm.

Budget

Task	ESA										NW Vermorel		Prairie Preservation		Stapleton & Associates			Swenson Stay Page			
	Project Director	Project Manager	Dept. Manager	Resources Senior Reviewer	Sr. Archeologist	GIS Analyst	Technical Editor	Document Production Staff	Planner I	Project Administrator	Architectural Historian	Architectural Historian	Principal Architectural Historian	Outreach Manager	Outreach Associate	Outreach Coordinator	Graphic Design	Principal	Project Manager	Project Engineer	Staff Engineer
	\$20	\$20	\$170	\$245	\$170	\$155	\$170	\$190	\$110	\$110	ESA task hours	ESA Cost	NW Vermorel Cost	Prairie Preservation Cost	Stapleton & Associates Cost	Stapleton & Associates Cost	Stapleton & Associates Cost	Swenson Stay Page Cost	Swenson Stay Page Cost	Swenson Stay Page Cost	Total Labor
1.1 Project Management (4 months)	0	10	8	0	0	0	0	0	0	0	4	\$4,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	4,400
1.2 Project Management (2 months)	4	2	10	2	6	6	6	6	8	8	1	\$1,000	\$100	\$100	\$200	\$200	\$400	\$400	\$400	\$400	1,400
1.3 Project Management and Coordination	4	22	28	2	6	6	6	6	8	8	1	\$6,520	\$1,200	\$1,200	\$2,400	\$2,400	\$4,800	\$4,800	\$4,800	\$4,800	21,120
2.1 Public Involvement and Communications (4 months)	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2.2 Public Involvement and Communications for Scoping, EA and EIS	0	0	2	0	0	0	0	0	0	0	6	\$1,200	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,200
2.3 Public Involvement Plan for Scoping Only and Communications Schedule	2	4	4	0	0	0	0	0	0	0	14	\$2,680	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,680
2.4 Public Involvement Meeting	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2.5 Scoping summary document	0	0	0	0	0	0	0	0	0	0	2	\$2,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,400
2.6 Scoping summary document	0	0	0	0	0	0	0	0	0	0	17	\$2,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,400
Subtotal	2	16	26	0	0	0	0	0	0	0	82	\$13,440	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$13,440
3.1 SEPA Study/Alternative Development Workshop with City Staff and Follow up with Applicant	7	8	8	6	0	0	0	0	0	0	33	\$7,700	\$2,000	\$2,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$14,700
3.2 Preparation of DS and Notices of Scoping and Alternatives	2	2	2	2	0	0	0	0	0	0	12	\$2,400	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,400
3.3 SEPA Study/Alternative Development Workshop with City Staff and Follow up with Applicant	9	10	10	6	0	0	0	0	0	0	46	\$9,760	\$2,500	\$2,500	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$17,260
4.1 Protocol for maintaining an ES administrative record	0	1	1	0	0	0	0	0	0	0	4	\$70	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$70
4.2 Response to public records requests (as needed)	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4.3 Response to public records requests (as needed)	0	1	1	0	0	0	0	0	0	0	4	\$70	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$70
Subtotal	0	1	1	0	0	0	0	0	0	0	4	\$70	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$70
Subtotal Labor	15	49	45	8	17	36	8	210	8	210	40,920	\$8,920	\$4,000	\$2,000	\$42	\$42	\$42	\$42	\$42	\$42	\$79,290
Office Direct Costs																					
Technology Services Fee (4 months x \$500 per month)																					\$2,000
Comment Tracker (4 months and up to 100 comments)																					\$1,000
Mileage Reimbursement (56 cents per mile)												\$100	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$50	\$600
Parking (at cost)												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Lodging (at cost)												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Lodging, Per Diem (CSA rate \$86/night)												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Meal Allowance and Transportation/Registration Support												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Printing												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reproduction, Distribution and Meeting Expenses												\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Direct Costs												\$100	\$100	\$100	\$42	\$42	\$42	\$42	\$42	\$42	\$1,600
Total Labor												\$9,020	\$4,100	\$2,100	\$86	\$86	\$86	\$86	\$86	\$86	\$16,800
Subtotal Direct Costs												\$100	\$100	\$100	\$42	\$42	\$42	\$42	\$42	\$42	\$1,600
Total Project Cost												\$9,120	\$4,200	\$2,200	\$128	\$128	\$128	\$128	\$128	\$128	\$18,400

- Assumptions:
- The Consultant will provide printing and distribution of public ES scoping documents with City assistance as needed
  - Virtual meetings will be used for all public scoping meetings for the 4 month period
  - Some all meetings will be virtual
  - The ES team will post project-related information, including on-line scoping and commenting, on an established City website
  - Assume no more than 20 unique and no more than 100 applicable scoping comments through Comment Tracker. Additional time will be needed if Comment Tracker is not used
  - Assume the City will assemble these internal comments and documents prior to sending to ESA
  - There will be a review of all data and all current ready to go for each report



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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 Dock Replacements

ATTACHMENTS: None.

FOR AGENDA OF: 2/10/2022

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: 2/3/2022

CLEARANCES:

- Community Development \_\_\_\_\_
- Marina *Scott White*
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

CHIEF OPERATIONS OFFICER: *Neil J...*

- Legal /s/ MH
- Finance *Bethanne W...*
- Courts \_\_\_\_\_
- Police \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *Michael...*

**Purpose and Recommendation**

The purpose of this agenda item is to provide an update to City Council on the Marina Dock Replacement Project. Staff will provide a summary of the preliminary economic, financial, and design analysis, along with recommendations for Phase 1 (L, M, and N) dock replacements. This project has been approved in the Capital Improvement Program (CIP). Staff will be moving forward with next steps in the design and permitting phase, and will bring a construction contract forward to the City Council for approval based upon the consultant's recommendations, in the next few months. Although no motion is requested at this time, staff is providing this project update so that the Council can better understand the recommended path forward based on the benefit/risk associated with Marina dock replacement options.

**Background**

The Des Moines Marina is owned and operated by the City of Des Moines. The Marina was originally constructed in 1970, and most of the Marina infrastructure is now over 50 years old. Due to the age of the infrastructure and its location in the corrosive saltwater environment, it is time to start the strategic replacement of the docks to avoid dock failure.

As part of initial strategic planning efforts, the City consulted with Mark Bunzel of the Waggoner Consulting firm (at the recommendation of members of Des Moines Marina Association (DMMA) board), to help us analyze current boating uses, needs, and trends. The Waggoner Group prepared reports that have previously been presented to the City Council. In summary, the Waggoner reports showed that the trend for boating in the Puget Sound is significantly moving away from smaller boats and towards larger boats; that the Des Moines Marina is currently oriented towards serving smaller boats, and as such is not positioned well to meet future demands and trends in the boating industry; and that rebuilding docks with covered moorage would be problematic from both financial and environmental perspectives.

The City also consulted with Reid Middleton to provide an independent third party condition assessment report of the docks. The purpose of the assessment was to assist the City in evaluating the current condition of the docks so that replacement needs could be prioritized.

A critical component of any Marina capital needs assessment is that the Marina, unlike the City, is an enterprise fund. Its expenditures must be matched with revenue. Revenue is a function of market composition and expenditures must both maintain and enhance the quality of the Marina to maximize revenue.

Other feedback and information was provided by the Des Moines Yacht Club, the Harbormaster's Working Group and community/tenant input via the Draft Marina Master Plan.

### **Discussion**

In July 2021 the City Council approved a contract with Moffett & Nichol to begin the dock replacement process. Part of the Moffett & Nichol scope of work included a review and validation of the economic conclusions presented in the previous Waggoner Reports; a detailed financial analysis of various dock replacement design and phasing alternatives; and a preliminary design and layout analysis for the entire Marina basin based on the economic and financial findings. The purpose of these steps in the scope of work was to help the City make informed financial and design decisions for the first phase of dock replacements, with the ideal comprehensive layout of the entire Marina basin in view. This allows the City to move forward with Phase 1 of dock replacements knowing that it is consistent with economic forecasts, financial considerations, and optimal design considerations.

Moffett and Nichol has completed these initial steps in their scope of work. Staff will provide a summary of the findings and recommendations, along with next steps in the design, permitting, and construction of L, M, and N docks.