

## AGENDA

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, November 17, 2022 - 6:00 PM**

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

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### CORRESPONDENCE

### COMMENTS FROM THE PUBLIC

### CITY MANAGER REPORT

- 2023-2024 HUMAN SERVICES FUNDING RECOMMENDATION

### PUBLIC HEARING/CONTINUED PUBLIC HEARING

- Item 1. 2023 PROPERTY TAX LEVIES  
Staff Presentation by Deputy Finance Director Jeff Friend  
[2023 Property Tax Levies](#)
- Item 2. 2023 PRELIMINARY ANNUAL BUDGET, 2nd READING  
Staff Presentation by Finance Director Beth Anne Wroe  
[2023 Preliminary Annual Budget](#)
- Item 3. 2022 ANNUAL BUDGET AMENDMENTS  
Staff Presentation by Deputy Finance Director Jeff Friend  
[2022 Annual Budget Amendments](#)

### CONSENT CALENDAR

- Item 1. APPROVAL OF VOUCHERS  
**Motion** is to approve for payment vouchers through November 10th, 2022 and the payroll transfers through November 4, 2022 in the attached list and further described as follows:

ACH/EFT Vendor	#	7433 to 7537	\$ 2,314,093.16
Payments			
Wires	#	2065 to 2076	\$ 838,032.90

Payroll Checks	#	19597 to 19601	\$	4,235.07
Accounts Payable Checks	#	164427 to 164489	\$	172,080.06
Voided Checks	#	164428	\$	(210.00)
Voided Checks	#	164460	\$	(500.00)
Payroll Direct Deposit	#	3223 to 3387	\$	413,825.92

Total Checks and Wires for A/P and Payroll: \$ 3,741,557.11

[Approval of Vouchers](#)

- Item 2. APPROVAL OF MINUTES  
**Motion** is to approve the October 20 and October 27, 2022 Regular Council meeting minutes.

[Approval of Minutes](#)

- Item 3. ACCEPTANCE OF WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS - DES MOINES MUNICIPAL COURT- INTERAGENCY AGREEMENT

**Motion** is to accept the interagency reimbursement agreement from the Washington State Administrative Office of the Courts in the amount of \$76,611 for the purposes of improving audio/visual technology within the courtroom/chambers of the City of Des Moines and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached.

[Acceptance of Washington State Office Of The Courts - Des Moines Municipal Court-Interagency Agreement](#)

- Item 4. FLOCK CAMERA AGREEMENT  
**Motion** is to approve the Agreement with Flock for the installation and use of license plate reading cameras and authorize the City Manager to sign the Agreement substantially in the form as attached.

[Flock Camera Agreement](#)

- Item 5. MARCOTTE CONSULTING CONTRACT AMENDMENT #1  
**Motion** is to approve Amendment #1 to the contract with Marcotte Consulting, expanding the scope of work, extending the time of completion, and authorizing additional compensation for the purpose of providing consultant services to support the Finance department, and authorize the City Manager to sign the Amendment substantially in the form as attached.

[Marcotte Consulting Contract Amendment #1](#)

## NEW BUSINESS

- Item 1. DRAFT ORDINANCE NO. 22-069 - SUSPENDING RESTRICTION ON USE OF ONE-TIME REVENUE FOR 2023  
Staff Presentation by Finance Director Beth Anne Wroe

[Draft Ordinance No. 22-069 - Suspending Restriction On Use Of One-Time Revenue For 2023](#)

- Item 2. 2023 CITY COUNCIL LEGISLATIVE PRIORITIES  
Staff Presentation by City Manager Michael Matthias and Anthony Hemstad, Legislative Advocate  
[2023 City Council Legislative Priorities](#)
- Item 3. 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**

LABOR NEGOTIATIONS UNDER RCW 42.30.140(4)(a) - 30 Minutes

**NEXT MEETING DATE**

December 01, 2022 City Council Regular Meeting

**ADJOURNMENT**

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Public Hearing regarding 2023  
Property Tax Levies

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Finance

ATTACHMENTS:

DATE SUBMITTED: November 9, 2022

1. Draft Ordinance No. 22-063
2. Draft Ordinance No. 22-062
3. 2023 Preliminary Property Tax Worksheet

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal /s/ TG
- Finance *[Signature]*
- Courts \_\_\_\_\_
- Police \_\_\_\_\_

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

**Purpose and Recommendation**

RCW 84.52.020 requires taxing districts to certify the amount to be raised through property taxation to the county legislative authority. The certification should include the regular levy amount, and if applicable, any lid-lifts approved by the voters, plus amounts for new construction, improvements to property and so forth. Draft Ordinance No. 22-063 satisfies the requirement of RCW 84.52.020.

RCW 84.55.120 requires all taxing districts to adopt a resolution or ordinance in order to realize any increase in their regular property tax levy other than increases due to new construction, improvements to property, increased value of state-assessed property annexations, and refunds. Draft Ordinance No. 22-062 satisfies the requirements of RCW 84.55.120.

**Suggested Motion**

**Motion 1a:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-063 on first reading.”

**Motion 1b:** “I move to enact Draft Ordinance No. 22-063, determining the amount of funds to be raised by ad valorem taxes for the year 2023 for general City expenditures.”

AND

**Motion 2a:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-062 on first reading.”

**Motion 2b:** “I move to enact Draft Ordinance No. 22-062 authorizing the increase in ad valorem taxes for the year 2023 for general City expenditures.”

**Background**

General Property Tax Levies must be adopted by the City Council on or before December 1, 2022. (RCW 84.52.020 and RCW 84.52.070).

**General Property Taxes**

The property tax levy rate is estimated to be \$.8647 per \$1,000 of assessed value; down from \$1.0041 in 2022. The levy rate is less than the City's statutory allowable maximum of \$1.60 due effects of the 1% maximum levy increase limitation. The total citywide preliminary assessed valuation used for the 2023 Tax Roll is \$6,434,133,095 as compared to \$5,394,605,257 for 2022's Tax Roll, which is an increase of 19.269%. The County's 2023-limit factor of a 1% increase is \$54,501 and is included in the 2023 Proposed Annual Budget. Also included in the 2023 Proposed Annual Budget is the levy on new construction of \$24,075, and a re-levy of \$34,935 for prior year refunds. The actual increase for 2023 will vary depending on any increase in utility value.

**Recommendation**

It is recommended that the City Council pass the motions as stated above.

**CITY ATTORNEY'S FIRST DRAFT 11/17/2022**

**DRAFT ORDINANCE NO. 22-063**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** authorizing an increase in the regular property tax levy for the year 2023 for general City expenditures.

**WHEREAS**, the City Council and the City Manager of the City of Des Moines has met and considered its budget for the calendar year 2023; and

**WHEREAS**, the City Council, of the City of Des Moines after hearing and after duly considering all relevant evidence and testimony presented, determined that the City of Des Moines requires a regular levy in the amount of \$5,563,642 which includes a \$147,187 increase in property tax revenue from the previous year, and amounts resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, and amounts authorized by law as a result of any annexations that have occurred and refunds made, in order to discharge the expected expense and obligations of the City and in its best interest; now therefore,

**WHEREAS**, pursuant to RCW 84.55.120 the City Council is required to adopt a separate ordinance specifically authorizing an increase in the regular property tax levy in terms of both dollars and percentage increase from the previous year's levy; now therefore,

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

**Sec. 1.** Consistent with RCW 84.55.120, the City Council of the City of Des Moines finds that an increase in the regular property tax levy is hereby authorized for the 2023 levy in the amount of \$54,501 which is a percentage increase of one percent (1.00%) from the previous year. This increase is exclusive of additional revenue resulting from the addition of new construction and improvements to property and any increase in the value of state assessed property, and any additional amounts resulting from any annexations that have occurred and refunds made.

**Sec. 2.** The actual amounts levied pursuant to the one percent (1.00%) increase set forth in section 1 of the Ordinance shall be calculated after the value of state-assessed property (increase in utility value) is provided by King County.

Ordinance No. \_\_\_\_\_  
Page 2 of 2

**Sec. 3.** Upon adoption, the City Clerk shall certify and forward a copy of this Ordinance to the Metropolitan King County Council and County Assessor for King County, Washington.

**Sec. 4. Severability - Construction.**

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

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

**Sec. 5. Effective date.** This Ordinance shall take effect in full force five (5) days after its passage, approval and publication according to law.

**PASSED BY** a majority of the City Council of the City of Des Moines this 17th day of November, 2022 and signed in authentication thereof this 17th day of November, 2022.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

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

ATTEST:

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

Published: \_\_\_\_\_

**CITY ATTORNEY'S FIRST DRAFT 11/17/2022**

**DRAFT ORDINANCE NO. 22-062**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** determining and fixing the amount of taxes levied, and certifying the estimated amounts of funds to be raised by taxes on the assessed valuation of property within the City for the year 2023, for general City budget expenditures.

**WHEREAS**, by law, the King County Assessor is responsible for determining the assessed valuation of all taxable property situated within the boundaries of the City of Des Moines for the year 2022, and

**WHEREAS**, the City Council and the City Manager have considered the anticipated budget requirements of the City of Des Moines for the fiscal year 2023, and

**WHEREAS**, notice of public hearing was provided as required by law, and

**WHEREAS**, RCW 84.52.010 allows the City to use any unused capacity from the authorized levy amounts of the King County Library district and South King Fire and Rescue, and

**WHEREAS**, the City Council, after hearing and after duly considering all relevant evidence and testimony presented, determined that the City of Des Moines requires a total levy in an amount not greater than \$5,563,642, in order to discharge the expected expenses and obligations of the City and in its best interest, and

**WHEREAS**, pursuant to chapter 84.52 RCW, the City Council is required to determine and fix by ordinance the amount of taxes levied, and to certify the estimated amounts of funds to be raised by taxes on the assessed valuation of property within the City; now therefore,

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

**Sec. 1. Findings.** The recitals set forth above are adopted in full as findings of the City Council in support of enactment of this Ordinance.



**Sec. 2.** The following amount is determined and fixed as the amount of funds to be raised by taxes on the assessed valuation of property within the City for the year 2023 for general City budget expenditures:

The sum of not greater than \$5,563,642, which represents the relevy of the prior year tax levy and \$147,187 increase for 2023, including \$24,075 for new construction and \$34,935 as relevy for prior year refunds and \$0 amounts authorized by the voters for excess or special levies, for the fiscal year 2022 in the City of Des Moines.

**Sec. 3.** The actual amounts levied pursuant to section 1 of this Ordinance shall be calculated after the value of state-assessed property (increase in utility value) is provided by King County.

**Sec. 4.** Upon adoption, the City Clerk shall certify and forward a copy of this Ordinance to the Metropolitan King County Council and County Assessor for King County, Washington.

**Sec. 5. Severability - Construction.**

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

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

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**Sec. 6. Effective date.** This Ordinance shall take effect in full force five (5) days after its passage, approval and publication according to law.

Ordinance No. \_\_\_\_\_  
Page 3 of 3

**PASSED BY** a majority of the City Council of the City of Des Moines this 17th day of November, 2022 and signed in authentication thereof this 17th day of November, 2022.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

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

ATTEST:

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

Published: \_\_\_\_\_

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# PRELIMINARY LEVY LIMIT WORKSHEET – 2023 Tax Roll

TAXING DISTRICT: City of Des Moines

*The following determination of your regular levy limit for 2023 property taxes is provided by the King County Assessor pursuant to RCW 84.55.100.*

Annexed to Fire District 39  
Annexed to Library District

(Note 1)

Estimated Fire rate: 1.25201  
Estimated Library rate: 0.23474

Using Limit Factor For District	Calculation of Limit Factor Levy	Using Implicit Price Deflator
5,450,131	Levy basis for calculation: (2022 Limit Factor) (Note 2)	5,450,131
<b>1.0100</b>	x Limit Factor	<b>1.0646</b>
5,504,632	= Levy	5,802,046
24,230,006	Local new construction	24,230,006
0	+ Increase in utility value (Note 3)	0
24,230,006	= Total new construction	24,230,006
0.99360	x Last year's regular levy rate	0.99360
24,075	= New construction levy	24,075
<b>5,528,707</b>	Total Limit Factor Levy	<b>5,826,121</b>
<b>Annexation Levy</b>		
<b>0</b>	Omitted assessment levy (Note 4)	<b>0</b>
5,528,707	Total Limit Factor Levy + new lid lifts	5,826,121
6,434,133,095	÷ Regular levy assessed value less annexations	6,434,133,095
0.85928	= Annexation rate (cannot exceed statutory maximum rate)	0.90550
0	x Annexation assessed value	0
<b>0</b>	= <b>Annexation Levy</b>	<b>0</b>
<b>Lid lifts, Refunds and Total</b>		
0	+ First year lid lifts	0
5,528,707	+ Limit Factor Levy	5,826,121
<b>5,528,707</b>	= Total RCW 84.55 levy	<b>5,826,121</b>
34,935	+ Relevy for prior year refunds (Note 5)	34,935
5,563,642	= Total RCW 84.55 levy + refunds	5,861,056
	Levy Correction: Year of Error (±)	
<b>5,563,642</b>	<b>ALLOWABLE LEVY (Note 6)</b>	<b>5,861,056</b>
<b>Increase Information (Note 7)</b>		
0.86471	Levy rate based on allowable levy	0.91093
5,363,593	Last year's ACTUAL regular levy	5,363,593
141,039	Dollar increase over last year other than N/C – Annex	438,453
2.63%	Percent increase over last year other than N/C – Annex	8.17%
<b>Calculation of statutory levy</b>		
	Regular levy assessed value (Note 8)	6,434,133,095
	x Maximum statutory rate	2.11325
	= <b>Maximum statutory levy</b>	<b>13,596,932</b>
	+Omitted assessments levy	<b>0</b>
	=Maximum statutory levy	<b>13,596,932</b>
	Limit factor needed for statutory levy	Not usable

ALL YEARS SHOWN ON THIS FORM ARE THE YEARS IN WHICH THE TAX IS PAYABLE.  
Please read carefully the notes on the reverse side.

11/09/22 10:53 AM  
LevyLimitWS.doc

Notes:

- 1) Rates for fire districts and the library district are estimated at the time this worksheet is produced. Fire district and library district rates affect the maximum allowable rate for cities annexed to them. These rates *will* change, mainly in response to the actual levy requests from the fire and library districts. Hence, affected cities may have a higher or lower allowable levy rate than is shown here when final levy rates are calculated.
- 2) This figure shows the maximum *allowable levy*, which may differ from any actual prior levy if a district has levied less than its maximum in prior years. The maximum allowable levy excludes any allowable refund levy if the maximum was based on a limit factor. The maximum allowable levy excludes omitted assessments if the maximum was determined by your district's statutory rate limit. If your district passed a limit factor ordinance in the year indicated, that limit factor would help determine the highest allowable levy. However, if the statutory rate limit was more restrictive than your stated limit factor, the statutory rate limit is controlling.
- 3) Any increase in value in state-assessed property is considered to be new construction value for purposes of calculating the respective limits. State-assessed property is property belonging to inter-county utility and transportation companies (telephone, railroad, airline companies and the like).
- 4) An omitted assessment is property value that should have been included on a prior year's roll but will be included on the tax roll for which this worksheet has been prepared. Omitted assessments are assessed and taxed at the rate in effect for the year omitted (RCW 84.40.080-085). Omitted assessments tax is deducted from the levy maximum before calculating the levy rate for current assessments and added back in as a current year's receivable.
- 5) Administrative refunds under RCW 84.69.020 were removed from the levy lid by the 1981 legislature.
- 6) A district is entitled to the lesser of the maximum levies determined by application of the limit under RCW 84.55 and the statutory rate limit. Levies may be subject to further proration if aggregate rate limits set in Article VII of the state constitution and in RCW 84.52.043 are exceeded.
- 7) This section is provided for your information, and to assist in preparing any Increase Ordinance that may be required by RCW 84.55.120. The increase information compares the allowable levy for the next tax year with your ACTUAL levy being collected this year. The actual levy excludes any refund levy and expired temporary lid lifts, if applicable. New construction, annexation and refund levies, as well as temporary lid lifts in their initial year, are subtracted from this year's *allowable* levy before the comparison is made.
- 8) ***Assessed valuations shown are subject to change from error corrections and appeal board decisions recorded between the date of this worksheet and final levy rate determination.***

**A G E N D A   I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Public Hearing:  
2023 Preliminary Annual Budget

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Finance Department

ATTACHMENTS:

DATE SUBMITTED: November 9, 2022

1. Draft Ordinance No. 22-060
2. Appendix A 2023 Annual Budget
3. Updated Pages for the 2023 Annual Budget

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Beckie Wise*
- Human Resources \_\_\_\_\_
- Legal *Is/ TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

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

**Purpose and Recommendation**

The purpose of this agenda item is to hold the second reading of the 2023 Annual Budget for City Council consideration and approval. The first public hearing was held on October 27, 2022.

**Suggested Motion**

**Motion 1:** "I move to pass Draft Ordinance No. 22-060, establishing the 2023 Annual Budget for the fiscal year ending December 31, 2023."

### **Background**

The 2023 Preliminary Annual Budget document was filed with the City Clerk and made available to the public on October 13, 2022. The Finance Director gave a budget presentation during the October 27, 2022 public hearing.

Budget adoption requires two public hearings. The first public hearing was held on October 27, 2022 and the final public hearing is scheduled for November 17, 2022. Notice of these public hearings were provided to the public on October 6, 2022 and October 13, 2022

City Council and staff have reviewed the 2023 Preliminary Annual Budget and pointed out some items, which could use some additional information; as well as, additional formatting to make the budget easier to read. The budget document was updated to correct these issues, as well as, a change in the budgeted expenditures in the Street Fund.

The most significant changes to the 2023 Preliminary Annual Budget are:

- Page 26 – Corrected FTE count for 2021 and 2022 for the Court Marshal
- Page 27 – Corrected FTE count for 2022 ADJ and 2023 for Assistant Chief of Police and Commander
- Pages 50 and 51 – Updated Projected Beginning Fund Balances for Municipal Capital Improvements and Facility Repair & Replacement Funds
- Page 78 – Corrected FY2022 Projected Intergovernmental Revenues from \$8,036,208 to \$4,519,350
- Page 181 – Updated the 2023-2027 General Fund Forecast to retain the One-Time Sales and B&O Tax Revenues for FY2023

### **Recommendation**

Staff recommends that the City Council enact Draft Ordinance No. 22-060.

**CITY COUNCIL'S DRAFT 10/20/2022**

**DRAFT ORDINANCE NO. 22-060**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** adopting the final annual budget for the City of Des Moines, Washington, for the fiscal year ending December 31, 2023, in summary form, ratifying and confirming revenues and expenditures previously implemented for fiscal year 2022, as such revenues and expenditures form the basis for development of the budget for fiscal year 2023, approving revenues and expenditures for fiscal year 2023, and temporarily suspending the effect of any ordinance, code provision or other City requirement with which the fund adjustments and transfers proposed by the City Manager for the 2022 budget might be inconsistent.

**WHEREAS**, the City Manager for the City of Des Moines has prepared and submitted the preliminary annual budget for the fiscal year ending December 31, 2023 to the City Council and has filed these budgets with the City Clerk, and

**WHEREAS**, the City Council finds that the City Manager's proposed budget for fiscal year 2023 reflects revenues and expenditures that are intended to ensure provision of vital municipal services at acceptable levels, and

**WHEREAS**, the City Council finds that the City Manager's proposed annual budget for fiscal year 2023 appropriately relies upon anticipated year-end balances derived from revenues and expenditures previously approved and authorized by the City Council as part of the City's budget for fiscal year 2022, and

**WHEREAS**, the City Council finds that the fund adjustments and transfers proposed by the City Manager for fiscal year 2022 are necessary and in the public's interest, and

**WHEREAS**, a preliminary public hearing was held on October 27, 2022, to take public comment with respect to the proposed 2023 annual budget, and

**WHEREAS**, notice of the public hearing was given to the public in accordance with law and the preliminary public hearing was held on the 27th day of October, 2021, and all persons wishing to be heard were heard, and

**WHEREAS**, by motion regularly passed, the Des Moines City Council scheduled the final public hearing for November 17,



2022, to take public comment with respect to the proposed 2023 annual budget, and

WHEREAS, notice of the public hearing was given to the public in accordance with law and the final public hearing was held on the 17<sup>th</sup> day of November, 2022, and all persons wishing to be heard were heard; now therefore,

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

**Sec. 1.** The findings set forth in the preamble to this Ordinance are hereby adopted and incorporated by reference.

**Sec. 2.** Based on the findings adopted herein, the City Council temporarily suspends the effect of any ordinance, code provision or other City requirement with which the fund adjustments and transfers proposed by the City Manager for the 2023 annual budget might be inconsistent.

**Sec. 3.** The fund adjustments and transfers proposed by the City Manager for fiscal year 2022 which are incorporated in the annual budget for fiscal year 2023, are hereby authorized and approved by the City Council.

**Sec. 4.** Because the City's annual budget for fiscal year 2023 rely upon anticipated year-end fund balances or shortages derived from revenues collected and expenditures incurred in fiscal year 2022, the City Council hereby ratifies and confirms all revenues, from whatever source derived, and expenditures incurred by the City to the extent such revenues and expenditures are in accordance with the City's annual budget for fiscal year 2022 or any subsequent budget amendments formally approved by the City Council.

**Sec. 5.** The City Council hereby adopts, affirms and approves any and all revenues, from whatever source derived, and expenditures as referenced in the attached annual budget for fiscal year 2023.

**Sec. 6.** The final annual budget for the City of Des Moines' fiscal year 2023 is hereby adopted and approved in summary form as set forth in the attached Appendix "A", which is by this reference incorporated herein

**Sec 7. Severability - Construction.**

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

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

**Sec 8. Effective date.** This Ordinance shall take effect and be in full force (5) five days after its final passage by the Des Moines City Council.

Ordinance No. 22-060  
Page 4 of 4

**PASSED BY** the City Council of the City of Des Moines this 17th day of November, 2022 and signed in authentication thereof this 17th day of November, 2022.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

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

ATTEST:

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

Published: \_\_\_\_\_

**DRAFT ORDINANCE 22-060  
APPENDIX A**

**2023 PRELIMINARY BUDGET  
SUMMARY OF SOURCES AND USES**

Funds	Estimated		
	Beginning Fund Balance	Revenue	Total Sources
General Fund	\$ 6,947,169	\$ 24,809,248	\$ 31,756,417
Special Revenue			
Streets	942,370	1,910,518	2,852,888
Street Pavement	2,414,956	1,642,086	4,057,042
Development	3,048,214	2,815,250	5,863,464
Police Drug Seizure	141,562	40,000	181,562
Hotel-Motel Tax	154,257	120,750	275,007
Affordable Housing Sales Tax	57,095	34,200	91,295
American Rescue Plan Funding	7,384,040	1,750	7,385,790
Redondo Zone	5,230	77,850	83,080
Waterfront Zone	391,642	128,350	519,992
PBPW Automation Fee	496,500	126,500	623,000
Urban Forestry	-	5,000	5,000
Abatement	35,319	5,400	40,719
Automated Speed Enforce (ASE)	220,206	365,500	585,706
Transportation Benefit District	2,190,935	1,044,000	3,234,935
Total Special Revenue Funds	17,482,326	8,317,154	25,799,480
Debt Service			
REET 1 Debt Service	-	-	-
REET 2 Debt Service	20,603	233,492	254,095
2018 LTGO Debt Service	113,452	226,500	339,952
Total Debt Service Funds	134,055	459,992	594,047
Capital Projects			
Municipal Capital Improvement	649,864	4,550,000	5,199,864
Transportation Capital Improvement	5,965,724	8,559,000	14,524,724
REET 1st Quarter	3,251,830	810,000	4,061,830
REET 2nd Quarter	2,490,980	802,500	3,293,480
Park Levy	2,880	183,000	185,880
Park In Lieu	245,125	402,844	647,969
One Time Revenues	2,259,104	267,500	2,526,604
Traffic In Lieu	1,018,957	1,150,500	2,169,457
Traffic Impact Citywide	737,165	351,250	1,088,415
Traffic Impact Pacific Ridge	677,705	100,750	778,455
Total Capital Project Funds	17,299,334	17,177,344	34,476,678
Enterprise			
Marina	4,241,679	8,989,736	13,231,415
Surface Water Management	7,160,142	6,477,077	13,637,219
Total Enterprise Funds	11,401,821	15,466,813	26,868,634
Internal Service			
Equipment Rental Operations	331,963	663,109	995,072
Equipment Rental Replacement	1,607,076	1,036,106	2,643,182
Facility Repair & Replacement	378,747	301,770	680,517
Computer Replacement	1,271,186	175,203	1,446,389
Self Insurance	788,126	783,704	1,571,830
Unemployment Insurance	482,562	36,500	519,062
Total Internal Service Funds	4,859,660	2,996,392	7,856,052
Total Budget - All Funds	\$ 58,124,365	\$ 69,226,943	\$ 127,351,308

Revised November 10, 2022

**DRAFT ORDINANCE 22-060  
APPENDIX A**

Funds		Estimated Ending		Total Uses
		Expenditure	Fund Balance	
	General Fund	\$ 27,246,473	\$ 4,509,944	\$ 31,756,417
Special Revenue	Streets	2,032,774	820,114	2,852,888
	Street Pavement	3,151,000	906,042	4,057,042
	Development	4,149,839	1,713,625	5,863,464
	Police Drug Seizure	11,000	170,562	181,562
	Hotel-Motel Tax	120,000	155,007	275,007
	Affordable Housing Sales Tax	30,000	61,295	91,295
	American Rescue Plan Funding	3,154,759	4,231,031	7,385,790
	Redondo Zone	80,934	2,146	83,080
	Waterfront Zone	121,692	398,300	519,992
	PBPW Automation Fee	78,429	544,571	623,000
	Urban Forestry	5,000	-	5,000
	Abatement	5,000	35,719	40,719
	Automated Speed Enforce (ASE)	397,000	188,706	585,706
	Transportation Benefit District	1,450,000	1,784,935	3,234,935
<b>Total Special Revenue Funds</b>	<b>14,787,427</b>	<b>11,012,053</b>	<b>25,799,480</b>	
Debt Service	REET 1 Debt Service	-	-	-
	REET 2 Debt Service	236,493	17,602	254,095
	2018 LTGO Debt Service	226,400	113,552	339,952
	<b>Total Debt Service Funds</b>	<b>462,893</b>	<b>131,154</b>	<b>594,047</b>
Capital Projects	Municipal Capital Improvement	5,199,864	-	5,199,864
	Transportation Capital Improvement	8,534,000	5,990,724	14,524,724
	REET 1st Quarter	1,742,000	2,319,830	4,061,830
	REET 2nd Quarter	983,492	2,309,988	3,293,480
	Park Levy	108,000	77,880	185,880
	Park In Lieu	17,000	630,969	647,969
	One Time Revenues	270,000	2,256,604	2,526,604
	Traffic In Lieu	1,150,000	1,019,457	2,169,457
	Traffic Impact Citywide	926,000	162,415	1,088,415
Traffic Impact Pacific Ridge	-	778,455	778,455	
<b>Total Capital Project Funds</b>	<b>18,930,356</b>	<b>15,546,322</b>	<b>34,476,678</b>	
Enterprise	Marina	9,322,194	3,909,221	13,231,415
	Surface Water Management	8,079,313	5,557,906	13,637,219
	<b>Total Enterprise Funds</b>	<b>17,401,507</b>	<b>9,467,127</b>	<b>26,868,634</b>
Internal Service	Equipment Rental Operations	768,629	226,443	995,072
	Equipment Rental Replacement	946,000	1,697,182	2,643,182
	Facility Repair & Replacement	605,000	75,517	680,517
	Computer Replacement	428,079	1,018,310	1,446,389
	Self Insurance	801,000	770,830	1,571,830
	Unemployment Insurance	42,500	476,562	519,062
	<b>Total Internal Service Funds</b>	<b>3,591,208</b>	<b>4,264,844</b>	<b>7,856,052</b>
<b>Total Budget - All Funds</b>		<b>\$ 82,419,864</b>	<b>\$ 44,931,444</b>	<b>\$ 127,351,308</b>

Revised November 10, 2022

<b>STAFFING LEVELS</b>					
<b>POSITION</b>	<b>NUMBER OF EMPLOYEES</b>				
	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2022 ADJ</b>	<b>2023</b>
<b>LEGAL</b>					
City Attorney	1.00	1.00	1.00	1.00	1.00
Assistant City Attorney	1.00	1.00	1.00	1.00	1.00
Prosecuting Attorney	1.00	1.00	1.00	1.00	1.00
Deputy Prosecuting Attorney (Limited Term)	-	-	-	1.00	1.00
Domestic Violence Advocate	0.60	0.40	0.40	0.40	0.40
Paralegal(s)	1.42	1.17	0.92	0.42	0.42
Legal Intern	-	0.25	0.50	-	-
<b>Total Legal</b>	<b>5.02</b>	<b>4.82</b>	<b>4.82</b>	<b>4.82</b>	<b>4.82</b>
<b>MUNICIPAL COURT</b>					
Judge	0.80	0.80	0.80	0.80	0.80
Director of Court Administration	-	-	-	1.00	1.00
Court Administrator	1.00	1.00	1.00	-	-
Judicial Operations Supervisor	-	1.00	1.00	1.00	1.00
Lead Court Clerk	1.00	1.00	1.00	-	-
Court Clerks	4.00	4.00	4.00	4.00	4.00
Court Clerk (Limited Term)	1.00	1.00	1.00	1.00	1.00
Court Marshal	1.15	1.15	1.15	1.60	1.60
Court Security Officer	1.00	-	-	-	-
Support Services Administrator	1.00	1.00	1.00	1.00	1.00
Support Services Specialist	-	1.00	1.00	1.00	1.00
<b>Total Municipal Court</b>	<b>10.95</b>	<b>11.95</b>	<b>11.95</b>	<b>11.40</b>	<b>11.40</b>

STAFFING LEVELS					
POSITION	NUMBER OF EMPLOYEES				
	2020	2021	2022	2022 ADJ	2023
<b>POLICE</b>					
Chief of Police	1.00	1.00	1.00	1.00	1.00
Assistant Chief of Police	1.00	1.00	1.00	2.00	2.00
Executive Support	1.00	1.00	1.00	1.00	1.00
Commander	1.00	1.00	1.00	-	-
Sergeant - Detectives	1.00	1.00	1.00	1.00	1.00
Street Crimes - Detectives	2.00	2.00	2.00	2.00	2.00
Patrol Officers - Detectives	5.00	5.00	5.00	5.00	5.00
Traffic Enforcement Officer	-	1.00	1.00	1.00	1.00
ATF Violent Crime Detectives	1.00	1.00	1.00	1.00	1.00
Sergeant - Prof Standards	1.00	1.00	1.00	1.00	1.00
Sergeant - Administrative	1.00	1.00	1.00	1.00	1.00
Sergeant - Patrol	4.00	4.00	4.00	4.00	4.00
Patrol Officers - Patrol	16.00	16.00	16.00	16.00	16.00
Patrol Officers - Patrol (ARPA)	-	-	2.00	2.00	2.00
Social Worker (ARPA)	-	-	1.00	2.00	2.00
School Resource Officers	2.00	-	-	-	-
Community Service Officer	2.00	2.00	2.00	2.00	2.00
Animal Control Officer	1.00	1.00	-	-	-
Evidence Technician	0.60	-	-	-	-
Digital Evidence Technician	-	0.50	1.00	1.00	1.00
Record Supervisor	1.00	1.00	1.00	1.00	1.00
Record Specialists	5.00	5.00	5.00	5.00	5.00
<b>Total Police</b>	<b>46.60</b>	<b>45.50</b>	<b>48.00</b>	<b>49.00</b>	<b>49.00</b>

## 2023 SUMMARY OF SOURCES AND USES

Fund	Projected Beginning Fund Balance	Revenues	Total Sources
General Fund	\$ 6,947,169	\$ 24,809,248	\$ 31,756,417
Street Fund	942,370	1,910,518	2,852,888
Arterial Pavement	2,414,956	1,642,086	4,057,042
Development Fund	3,048,214	2,815,250	5,863,464
Police Drug Seizure Fund	141,562	40,000	181,562
Hotel-Motel Tax Fund	154,257	120,750	275,007
Affordable Housing Sales Tax	57,095	34,200	91,295
American Rescue Plan (Arpa)	7,384,040	1,750	7,385,790
Redondo Zone	5,230	77,850	83,080
Waterfront Zone	391,642	128,350	519,992
Pbpw Automation Fee	496,500	126,500	623,000
Urban Forestry Fund	-	5,000	5,000
Abatement Fund	35,319	5,400	40,719
Ase-Automated Speed Enf	220,206	365,500	585,706
Transport Benefit District	2,190,935	1,044,000	3,234,935
Reet 2 Eligible Debt Service	20,603	233,492	254,095
2018 Ltgo & Refunding Bonds	113,452	226,500	339,952
Reet 1St Quarter %	3,251,830	810,000	4,061,830
Reet 2Nd Quarter	2,490,980	802,500	3,293,480
Park Levy	2,880	183,000	185,880
Park In Lieu	245,125	402,844	647,969
One-Time Tax Revenues	2,259,104	267,500	2,526,604
Municipal Capital Improvements	649,864	4,550,000	5,199,864
Transportation Cap Imp	5,965,724	8,559,000	14,524,724
Traffic In Lieu	1,018,957	1,150,500	2,169,457
Traffic Impact - City Wide	737,165	351,250	1,088,415
Traffic Impact Pac Ridge	677,705	100,750	778,455
Marina Fund	4,241,679	8,989,736	13,231,415
Surface Water Fund	7,160,142	6,477,077	13,637,219
Equipment Rental Operations	331,963	663,109	995,072
Equipment Rental Replacement	1,607,076	1,036,106	2,643,182
Facility Repair & Replacement	378,747	301,770	680,517
Computer Equip Capital Fund	1,271,186	175,203	1,446,389
Self-Insurance Fund	788,126	783,704	1,571,830
Unemployment Insurance Fund	482,562	36,500	519,062
<b>TOTAL BUDGET - ALL FUNDS</b>	<b>\$ 58,124,365</b>	<b>\$ 69,226,943</b>	<b>\$ 127,351,308</b>



## 2023 SUMMARY OF SOURCES AND USES

Fund	Expenditures	Projected Ending Fund Balance	Total Uses
General Fund	\$ 27,246,473	\$ 4,509,944	\$ 31,756,417
Street Fund	2,032,774	820,114	2,852,888
Arterial Pavement	3,151,000	906,042	4,057,042
Development Fund	4,149,839	1,713,625	5,863,464
Police Drug Seizure Fund	11,000	170,562	181,562
Hotel-Motel Tax Fund	120,000	155,007	275,007
Affordable Housing Sales Tax	30,000	61,295	91,295
American Rescue Plan (Arpa)	3,154,759	4,231,031	7,385,790
Redondo Zone	80,934	2,146	83,080
Waterfront Zone	121,692	398,300	519,992
Pbpw Automation Fee	78,429	544,571	623,000
Urban Forestry Fund	5,000	-	5,000
Abatement Fund	5,000	35,719	40,719
Ase-Automated Speed Enf	397,000	188,706	585,706
Transport Benefit District	1,450,000	1,784,935	3,234,935
Reet 2 Eligible Debt Service	236,493	17,602	254,095
2018 Ltgo & Refunding Bonds	226,400	113,552	339,952
Reet 1St Quarter %	1,742,000	2,319,830	4,061,830
Reet 2Nd Quarter	983,492	2,309,988	3,293,480
Park Levy	108,000	77,880	185,880
Park In Lieu	17,000	630,969	647,969
One-Time Tax Revenues	270,000	2,256,604	2,526,604
Municipal Capital Improvements	5,199,864	-	5,199,864
Transportation Cap Imp	8,534,000	5,990,724	14,524,724
Traffic In Lieu	1,150,000	1,019,457	2,169,457
Traffic Impact - City Wide	926,000	162,415	1,088,415
Traffic Impact Pac Ridge	-	778,455	778,455
Marina Fund	9,322,194	3,909,221	13,231,415
Surface Water Fund	8,079,313	5,557,906	13,637,219
Equipment Rental Operations	768,629	226,443	995,072
Equipment Rental Replacement	946,000	1,697,182	2,643,182
Facility Repair & Replacement	605,000	75,517	680,517
Computer Equip Capital Fund	428,079	1,018,310	1,446,389
Self-Insurance Fund	801,000	770,830	1,571,830
Unemployment Insurance Fund	42,500	476,562	519,062
<b>TOTAL BUDGET - ALL FUNDS</b>	<b>\$ 82,419,864</b>	<b>\$ 44,931,444</b>	<b>\$ 127,351,308</b>

### AMERICAN RESCUE PLAN FUND - 2023 Projected Revenues by Source

Name	FY2020 Actuals	FY2021 Actuals	FY2022 Original Budget	FY2022 Projected	FY2023 Budgeted	FY2022 Original Budget vs. FY2023 Budgeted (% Change)
Revenue Source						
Intergovernmental	\$0	\$4,514,939	\$4,514,939	\$4,519,350	\$0	-100%
Misc.	\$0	-\$10,672	\$1,250	\$1,250	\$1,750	40%
<b>Total Revenue Source:</b>	<b>\$0</b>	<b>\$4,504,267</b>	<b>\$4,516,189</b>	<b>\$4,520,600</b>	<b>\$1,750</b>	<b>-100%</b>



	2023-2027 GENERAL FUND							
	BUDGET	REVISED BUDGET	BUDGET	FORECAST				
	2022	2022	2023	2024	2025	2026	2027	
<b>BEGINNING FUND BALANCE</b>	\$ 4,536,182	\$ 7,163,952	\$ 6,947,169	\$ 4,647,444	\$ 4,597,186	\$ 4,629,855	\$ 4,692,537	
Operating Revenues	22,269,094	22,801,873	23,289,489	26,005,935	26,579,067	27,374,574	28,065,812	
Operating Expenditures	(23,698,055)	(23,736,693)	(26,294,193)	(26,494,193)	(26,546,397)	(27,311,893)	(27,902,725)	
<b>** Net Activity ("Operating revenues over (under) operating expenditures")</b>	<b>(1,428,961)</b>	<b>(934,820)</b>	<b>(3,004,704)</b>	<b>(488,258)</b>	<b>32,670</b>	<b>62,681</b>	<b>163,087</b>	
<b>ONE-TIME ACTIVITIES</b>								
Total One-Time Revenues	2,256,265	2,156,265	1,519,759	1,126,320	200,000	125,000	75,000	
Total One-Time Expenditures	(1,190,265)	(1,438,228)	(814,780)	(688,320)	(200,000)	(125,000)	(75,000)	
<b>ENDING FUND BALANCE</b>	<b>\$ 4,173,221</b>	<b>\$ 6,947,169</b>	<b>\$ 4,647,444</b>	<b>\$ 4,597,186</b>	<b>\$ 4,629,855</b>	<b>\$ 4,692,537</b>	<b>\$ 4,855,624</b>	
<b>GFOA Target of 60 days (approx. 16.67%)</b>	<b>3,950,466</b>	<b>3,956,907</b>	<b>4,383,242</b>	<b>4,416,582</b>	<b>4,425,284</b>	<b>4,552,893</b>	<b>4,651,384</b>	
Reserve (shortfall) surplus to GFOA Target	222,755	2,990,262	264,202	180,604	204,571	139,644	204,240	
Ending Reserve - % Total Operating Expenditures	17.61%	29.27%	17.67%	17.35%	17.44%	17.18%	17.40%	

**\*\* Due to the uncertainties with COVID and potential economic recovery, the yearly summaries reflect conservative revenue estimates.**

**A G E N D A   I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: 2022 Annual Budget Amendments

FOR AGENDA OF: November 17, 2022

ATTACHMENTS:

- 1. Draft Ordinance No. 22-064
- 2. Appendix A 2022 Amended Annual Budget

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: November 9, 2022

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

Legal /s/ TG

Finance *[Signature]*

Courts \_\_\_\_\_

Police \_\_\_\_\_

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

**Purpose and Recommendation**

The purpose of this Agenda Item is for the City Council to consider Draft Ordinance 22-064, amending the 2022 Annual Budget.

**Suggested Motion**

FIRST MOTION: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-064 on first reading."

SECOND MOTION: "I move to enact Draft Ordinance No. 22-064 relating to municipal finance, amending the 2022 Annual Budget adopted in Ordinance No. 1753."

## **Background**

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

This has been very important, as the City of Des Moines has responded to the continuing uncertain impacts from the COVID-19 pandemic. As local economies, governmental policies, and needs of community members adapt to the economic environment impacted by recovery efforts to a global pandemic, municipal budgets need to accurately reflect the updated and informed expectations of City leadership and the community.

In reviewing the 2022 Adopted Budget and setting the goals for the 2023 Preliminary Annual Budget, the City maintains the following goals: 1) Remain solvent and strong; 2) Recover from COVID – socially, economically and programmatically; 3) Address reforms to the administration of justice; and 4) Prioritize Redevelopment.

Additional changes in revenues and expenditures, for all funds, from forecasts used to create the 2022 budget, enacted by Ordinance No. 1753 are in accordance with council direction and approval for fiscal year 2022.

## **Discussion**

The 2022 Annual Budget presented on November 18, 2021 was based upon an estimated carry-forward of the 2020 year-end fund balances. Appendix “A” shows amended 2022 beginning fund balances, which are the actual 2021 ending fund balances. Changes in budget amounts are detailed below:

GENERAL FUND	Change in Budget Increase/(Decrease)		Footnote	Description
	Revenues	Expenditures		
<b>Non-Department Revenue</b>	195,296 190,455 25,000 205,000			Criminal Justice Sales Tax Utility Taxes Gambling Tax Franchise Fees
<b>Total Non-Department Revenue</b>	<b>615,751</b>	<b>-</b>		
<b>Public Safety Revenue</b>	77,540 6,000			Liquor Beer Excise Tax State Marijuana Revenue
<b>Total Public Safety Revenue</b>	<b>83,540</b>	<b>-</b>		
<b>City Manager's Office</b> <i>(Includes City Manager, City Clerk, Human Resources Emergency Management Services, Communications, and Organizational Memberships)</i>	125,000	112,340 (33,479) 15,000 5,000 8,000 21,100 3,000 50,000 60,000 4,000 500 7,650 150,000 150,000	1	Salaries and Benefits Computer Intrafund Maintenance Metro (Shuttle) Services Dues, Schools, & Conferences Professional Services Communication WA State City Assistance Safety Committee Election Services Voter Registration Services County Recording Services Supplies Kc 4Culture/Art Program Grant FEMA Public Assistance Grant
<b>Total City Manager's Office</b>	<b>282,650</b>	<b>395,461</b>		
<b>Finance and Information Technology</b>	(569,666)	62,500 94,000 1,500 2,500 (51,687) 19,120 19,120	1	Salaries and Benefits Professional Services Communication Meals and Travel Computer Intrafund Maintenance IT Salaries and Benefits Computer Intrafund Maintenance
<b>Total Finance and Information Technology</b>	<b>(569,666)</b>	<b>127,933</b>		
<b>Court</b>	53,100	13,400 26,000 4,000 9,700 36,385 (66,461)	3	WA State Grant Judge Pro Tem Interpreter Services Advertising Misc. Services Salaries and Benefits Computer Intrafund Maintenance
<b>Total Court</b>	<b>53,100</b>	<b>23,024</b>		
<b>Legal</b>		(28,630)	1	Computer Intrafund Maintenance
<b>Total Legal</b>	<b>-</b>	<b>(28,630)</b>		
<b>Police Administration</b>	260,000	260,000 (309,224)	1	WASPC Mental Health Grant Computer Intrafund Maintenance
<b>Total Police Administration</b>	<b>260,000</b>	<b>(49,224)</b>		
<b>Parks, Recreation, and Senior Services</b> <i>Event and Facility Rentals</i>	38,000 150,000	104,200 (17,185)	1	Bench Contributions Rental Revenues Salaries and Wages Computer Intrafund Maintenance
<b>Recreation Programs</b>		395,355 35,000 (54,820)	1	Salaries and Wages Services Computer Intrafund Maintenance
<b>Total Parks, Recreation, and Senior Services</b>	<b>188,000</b>	<b>462,550</b>		
<b>Public Works</b> <i>Parks Maintenance</i>	120,000	124,740 16,000 7,500 (8,180)	1	Interfund Maintenance Salaries and Wages Unleaded Fuel Purchases Diesel Fuel Purchases Computer Intrafund Maintenance
<b>Total Public Works</b>	<b>120,000</b>	<b>140,060</b>		
<b>Total General Funds</b>	<b>1,033,375</b>	<b>1,071,174</b>		

**GENERAL FUND FOOTNOTES**

- 1) The City is discontinuing the practice of the General Fund charging General Fund departments for services. Discontinuing this practice will have a net effect on the General Fund of zero dollars while ensuring that revenues and expenditures are not artificially inflated.
- 2) City Assistance from Washington State is funding expenses related to Election Services, Voter Registration Services, County Recording Services, etc.
- 3) A grant from Washington State fund expenditures such as interpreter services, Judge Pro Tem, advertising, and other miscellaneous services.

FUND	Change in Budget Increase/(Decrease)		Footnote	Description
	Revenues	Expenditures		
<i>Street Fund - 101</i>	15,000 9,900 5,600 (200,000)	15,000		2022 WCIA Risk Reduction Grant Insurance Recoveries Misc. 1 Transfer In of ARPA funds for traffic calming and ADA compliance
<b>Total Street Fund - 101</b>	<b>\$ (169,500)</b>	<b>\$ 15,000</b>		
<i>Police Drug Seizure Fund - 107</i>	41,000			Seizures in 2022
<b>Total Police Drug Seizure Fund - 107</b>	<b>\$ 41,000</b>	<b>\$ -</b>		
<i>American Rescue Plan Act - 114</i>		(1,050,000) (200,000) (450,000) (155,000)		1 ARPA transfer out to Fund 310 for Marina Infrastructure and People Movers 1 ARPA transfer out to Fund 101 for traffic calming and ADA compliance 1 ARPA transfer out to Marina for tenant restrooms and People Movers 1 ARPA transfer out to Equipment Rental Replacement Fund for police vehicles
<b>Total American Rescue Plan Act - 114</b>	<b>\$ -</b>	<b>\$ (1,855,000)</b>		
<i>Redondo Zone - 140</i>		18,000		Salary and wages
<b>Total Redondo Zone - 140</b>	<b>\$ -</b>	<b>\$ 18,000</b>		
<i>Waterfront Zone - 141</i>	85,000  272,500	300,000 12,000 7,500		2 Passenger Ferry Operations Salary and wages Security and utilities 2 Transfer In from One-Time Revenue (Passenger Ferry)
<b>Total Waterfront Zone - 141</b>	<b>\$ 357,500</b>	<b>\$ 319,500</b>		
<i>ASE Automated Speed Enforcement - 190</i>		225,000		Monthly Photo Enforcement Fees Penalties and Fines
<b>Total ASE Automated Speed Enforcement - 190</b>	<b>\$ 44,000</b>	<b>\$ 225,000</b>		
<i>REET 1 Eligible Debt Service - 201</i>		7,870		Transferring remaining balance back to REET 1 Fund
<b>Total REET 1 Eligible Debt Service - 201</b>	<b>\$ -</b>	<b>\$ 7,870</b>		
<i>REET 1st Quarter % - 301</i>	250,000  7,870	1,300,000		Additional Revenue 3 Transfer Out to Municipal Improvements - North Bulkhead Transfer from Reet 1 Debt Service
<b>Total REET 1st Quarter % - 301</b>	<b>\$ 257,870</b>	<b>\$ 1,300,000</b>		
<i>REET 2nd Quarter % - 302</i>	250,000	710,000		REET 2nd Quarter Revenue 3 Transfer Out to Municipal Improvements - North Bulkhead and Soundview Park
<b>Total REET 2nd Quarter % - 302</b>	<b>\$ 250,000</b>	<b>\$ 710,000</b>		
<i>Park Levy - 305</i>		116,000		3 Transfer Out to Municipal Improvements - Soundview Park
<b>Total Park Levy - 305</b>	<b>\$ -</b>	<b>\$ 116,000</b>		



FUND	Change in Budget Increase/(Decrease)		Footnote	Description
	Revenues	Expenditures		
<i>One-Time Revenues - 309</i>		100,000	3	Transfer Out to Municipal Improvements - North Bulkhead
		272,500	2	Transfer to Waterfront Zone - Passenger Ferry
<b>Total One-Time Revenues - 309</b>	<b>\$ -</b>	<b>\$ 372,500</b>		
<i>Municipal Capital Improvements - 310</i>				
	1,300,000		3	Transfer In from Reet 1 fund - North Bulkhead
	710,000		3	Transfer In from Reet 2 fund - North Bulkhead and Soundview Park
	100,000		3	Transfer In from One-Time Sales Tax/B+O Tax - North Bulkhead
	116,000		3	Transfer In from Park Levy - Soundview Park
	16,500			Transfer In from Computer Replacement - Financial Management System
	(1,050,000)		1	Transfer In of ARPA funds for Marina Infrastructure and People Movers
<b>Total Municipal Capital Improvements - 310</b>	<b>\$ 1,192,500</b>	<b>\$ -</b>		
<i>Traffic Impact City-Wide - 321</i>				
	60,000			GMA Impact Fees
<b>Total Traffic Impact City-Wide - 321</b>	<b>\$ 60,000</b>	<b>\$ -</b>		
<i>Marina - 401</i>				
	(450,000)		1	Transfer In of ARPA funds for Tenant Restroom and People Movers
<b>Total Marina - 401</b>	<b>\$ (450,000)</b>	<b>\$ -</b>		
<i>Surface Water Management Fund - 450</i>				
		36,000		Street sweeping disposal
<b>Total Surface Water Management Fund - 450</b>	<b>-</b>	<b>36,000</b>		
<i>Equipment Rental Operations Fund - 500</i>				
	80,000			Internal Fuel Sales - Unleaded
	10,000			External Fuel Sales - Unleaded
	13,000			Insurance Recoveries
		60,000		Unleaded Fuel Purchases
		17,000		Diesel Fuel Purchases
		10,000		Supplies
		60,000		Repairs and Maintenance
<b>Total Equipment Rental Operations Fund - 500</b>	<b>\$ 103,000</b>	<b>\$ 147,000</b>		
<i>Equipment Rental Replacement Fund - 501</i>				
	(155,000)		1	Transfer In of ARPA funds for Police and other vehicles not yet purchased
<b>Total Equipment Rental Replacement Fund - 501</b>	<b>\$ (155,000)</b>	<b>\$ -</b>		
<i>Facility Repair and Replacement Fund - 506</i>				
		4,000		Salary
<b>Total Facility Repair and Replacement Fund - 506</b>	<b>\$ -</b>	<b>\$ 4,000</b>		
<i>Computer Replacement Fund - 511</i>				
		16,500		Transfer out to Municipal Improvements Fund - Financial Management System
<b>Total Computer Replacement Fund - 511</b>	<b>\$ -</b>	<b>\$ 16,500</b>		
<b>Total Other Funds</b>	<b>1,531,370</b>	<b>1,432,370</b>		

**OTHER FUNDS FOOTNOTES**

- 1) Some ARPA projects anticipated to begin in 2022 will begin after 2022. Therefore, the transfer of ARPA funds for these projects aren't necessary in 2022.
- 2) On June 23<sup>rd</sup>, 2022, the City Council discussed and approved, by a 5-2 vote, two contracts to operate the passenger ferry pilot program. As stated in the Financial Impact section of the agenda item from that meeting, "In order to implement this pilot program, City administration requested an allocation not to exceed \$975,000. After negotiating the required agreements, the anticipated costs for this pilot program are much lower."
- 3) Included in the adoption of the Capital Improvement Plan on September 22, 2022.

**CITY ATTORNEY'S FIRST DRAFT 11/9/2022**

**DRAFT ORDINANCE NO. 22-064**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to municipal finance, amending Ordinance No. 1753 (uncodified) (Budget 2021) and authorizing certain expenditures in the amounts specified in this Ordinance.

**WHEREAS**, the City Council finds that current and capital revenues and expenditures for the City differ from forecasts used to create the 2022 budget, enacted by Ordinance No. 1753, and further finds that such differences justify certain adjustments regarding obligations incurred and expenditures of proceeds for fiscal year 2022, and

**WHEREAS**, the City Council finds that the 2022 budget amendments to the City's budget are in the public interest; now therefore,

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

**Sec. 1. Finding.** Each and every of the findings expressed in the recitals to this Ordinance are hereby adopted and incorporated by reference.

**Sec. 2. Amendment to 2022 Budget.** Appendix "A" of Ordinance No. 1753 (Uncodified) (2022 Budget) are amended by Appendix "A" attached to this Ordinance and incorporated herein by this reference as though fully set out.

**Sec. 3. Ratification and confirmation.** All acts taken by City officers and staff prior to the enactment of this Ordinance that are consistent with and in furtherance of the purpose or intent of this Ordinance are hereby ratified and confirmed by the City Council.

**Sec 4. Severability - Construction.**

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

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

**Sec 8. Effective date.** This Ordinance shall take effect and be in full force (5) five days after its final passage by the Des Moines City Council.

**PASSED BY** the City Council of the City of Des Moines this 17th day of November, 2022 and signed in authentication thereof this 17th day of November, 2022.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

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

ATTEST:

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

Published: \_\_\_\_\_

ORDINANCE NO.22-064 - APPENDIX A  
SUMMARY OF SOURCES AND USES - 2022 AMENDED BUDGET

FUNDS	2022 ORIGINAL BUDGET				CHANGE IN BUDGET		2022 AMENDED BUDGET			
	Beginning Fund Balance	Revenue	Expenditure	Ending Fund Balance	Revenue	Expenditure	Beginning Fund Balance	Revenue	Expenditure	Ending Fund Balance
General Fund	4,896,509	24,733,459	25,088,420	4,541,548	1,033,375	1,071,174	7,163,952	25,766,834	26,159,594	6,771,192
<b>Special Revenue</b>										
Streets	1,115,728	1,871,155	2,071,415	915,468	(169,500)	15,000	1,045,552	1,701,655	2,086,415	660,792
Street Pavement	1,749,884	1,133,550	1,082,000	1,801,434	-	-	1,976,406	1,133,550	1,082,000	2,027,956
Development	3,617,030	2,842,907	3,475,407	2,984,530	-	-	3,553,588	2,842,907	3,475,407	2,921,088
Police Drug Seizure	97,823	1,250	11,000	88,073	41,000	-	107,313	42,250	11,000	138,563
Hotel-Motel Tax	90,552	117,200	117,000	90,752	-	-	154,057	117,200	117,000	154,257
Affordable Housing Tax	24,008	30,000	30,000	24,008	-	-	54,495	30,000	30,000	54,495
American Rescue Plan Act	3,306,789	4,516,189	4,174,665	3,648,313	-	(1,855,000)	(250,611)	4,516,189	2,319,665	1,945,913
Redondo Zone	32,436	92,850	86,785	38,501	-	18,000	(11,335)	92,850	104,785	(23,270)
Waterfront Zone	252,421	199,600	117,233	334,788	357,500	319,500	309,275	557,100	436,733	429,642
PBPW Automation Fee	446,609	127,500	-	574,109	-	-	435,914	127,500	-	563,414
Urban Forestry	-	5,000	5,000	-	-	-	-	5,000	5,000	-
Abatement	26,907	2,300	1,000	28,207	-	-	30,518	2,300	1,000	31,818
Automated Speed Enforcement (ASE)	244,596	242,200	140,000	346,796	44,000	225,000	243,704	286,200	365,000	164,904
Transportation Benefit District	1,176,589	1,020,000	950,000	1,246,589	-	-	2,103,936	1,020,000	950,000	2,173,936
<b>Total Special Revenue Funds</b>	<b>12,181,372</b>	<b>12,201,701</b>	<b>12,261,505</b>	<b>12,121,568</b>	<b>273,000</b>	<b>(1,277,500)</b>	<b>9,752,813</b>	<b>12,474,701</b>	<b>10,984,005</b>	<b>11,243,509</b>
<b>Debt Service</b>										
REET 1 Debt Service	13,464	-	-	13,464	-	7,870	7,870	-	7,870	(0)
REET 2 Debt Service	20,591	246,365	235,242	31,714	-	-	9,480	246,365	235,242	20,603
2018 LTGO Debt Service	113,564	226,100	226,000	113,664	-	-	113,352	226,100	226,000	113,452
<b>Total Debt Service Funds</b>	<b>147,618</b>	<b>472,465</b>	<b>461,242</b>	<b>158,841</b>	<b>-</b>	<b>7,870</b>	<b>130,701</b>	<b>472,465</b>	<b>469,112</b>	<b>134,054</b>
<b>Capital Project</b>										
REET 1	1,908,420	665,000	1,499,000	1,074,420	257,870	1,300,000	3,713,330	922,870	2,799,000	1,837,200
REET 2	1,042,984	653,000	1,025,365	670,619	250,000	710,000	2,513,345	903,000	1,735,365	1,680,980
Park Levy	70,606	182,600	-	253,206	-	116,000	167,680	182,600	116,000	234,280
Park In Lieu	446,313	50,750	63,000	434,063	-	-	297,375	50,750	63,000	285,125
One Time Sales Tax	1,036,760	367,500	891,000	513,260	-	372,500	2,853,104	367,500	1,263,500	1,957,104
Municipal Capital Improve	4,847,305	4,765,000	9,600,000	12,305	1,192,500	-	1,348,105	5,957,500	9,600,000	(2,294,395)
Transportation Capital Improve	1,795,006	5,439,000	6,155,000	1,079,006	-	-	1,717,795	5,439,000	6,155,000	1,001,795
Traffic In Lieu	1,314,366	2,690,500	200,000	3,804,866	-	-	128,457	2,690,500	200,000	2,618,957
Traffic Impact - City Wide	1,597,266	353,250	849,000	1,101,516	60,000	-	578,065	413,250	849,000	142,315
Traffic Impact - Pac Ridge (S)	637,987	101,750	-	739,737	-	-	596,830	101,750	-	698,580
<b>Total Capital Project Funds</b>	<b>14,697,013</b>	<b>15,268,350</b>	<b>20,282,365</b>	<b>9,682,998</b>	<b>1,760,370</b>	<b>2,498,500</b>	<b>13,914,086</b>	<b>17,028,720</b>	<b>22,780,865</b>	<b>8,161,941</b>
<b>Enterprise</b>										
Marina	3,659,176	11,657,254	12,513,999	2,802,431	(450,000)	-	14,371,098	11,207,254	12,513,999	13,064,353
Surface Water Management	6,619,968	9,297,997	12,137,346	3,780,619	-	36,000	26,776,518	9,297,997	12,173,346	23,901,169
<b>Total Enterprise Funds</b>	<b>10,279,144</b>	<b>20,955,251</b>	<b>24,651,345</b>	<b>6,583,050</b>	<b>(450,000)</b>	<b>36,000</b>	<b>41,147,616</b>	<b>20,505,251</b>	<b>24,687,345</b>	<b>36,965,522</b>
<b>Internal Service</b>										
EQUIPMENT RENTAL OPERATIONS	352,244	575,319	610,436	317,127	103,000	147,000	319,763	678,319	757,436	240,646
EQUIPMENT RENTAL REPLACEMENT	2,808,641	653,606	905,000	2,557,247	(155,000)	-	4,274,261	498,606	905,000	3,867,867
FACILITY REPAIR & REPLACEMENT	548,516	165,594	385,000	329,110	-	4,000	602,153	165,594	389,000	378,747
COMPUTER REPLACEMENT	1,257,858	160,043	286,620	1,131,281	-	16,500	1,619,341	160,043	303,120	1,476,264
SELF INSURANCE	819,698	717,410	778,365	758,743	-	-	849,081	717,410	778,365	788,126
UNEMPLOYMENT INSURANCE	431,545	39,500	90,000	381,045	-	-	516,062	39,500	90,000	465,562
<b>Total Internal Service Funds</b>	<b>6,218,501</b>	<b>2,311,472</b>	<b>3,055,421</b>	<b>5,474,552</b>	<b>(62,000)</b>	<b>167,500</b>	<b>8,180,661</b>	<b>2,259,472</b>	<b>3,222,921</b>	<b>7,217,212</b>
<b>Total</b>	<b>48,420,158</b>	<b>75,942,698</b>	<b>85,800,298</b>	<b>38,562,558</b>	<b>2,564,745</b>	<b>2,503,544</b>	<b>80,289,829</b>	<b>78,507,443</b>	<b>88,303,842</b>	<b>70,493,430</b>

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**CITY OF DES MOINES**  
**Voucher Certification Approval**  
**November 17, 2022**  
**Auditing Officer Certification**

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

As of **November 17, 2022** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through November 10th, 2022 and payroll transfers through November 4, 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, Finance Director

	# From	# To	Amounts
<b>Claims Vouchers:</b>			
EFT Vendor Payments	7433	7537	2,314,093.16
Electronic Wires	2065	2076	838,032.90
Voided Checks	164428	164428	(210.00)
Voided Checks	164460	164460	(500.00)
Accounts Payable Checks	164427	164489	172,080.06
<b>Total claims paid</b>			<b>3,323,496.12</b>

<b>Payroll Vouchers</b>				
Payroll Checks		19597	19601	4,235.07
Direct Deposit	11/4/2022	3223	3387	413,825.92
<b>Total Paychecks/Direct Deposits paid</b>				<b>418,060.99</b>
<b>Total checks and wires for A/P &amp; Payroll</b>				<b>3,741,557.11</b>

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**MINUTES**  
**DES MOINES CITY COUNCIL**  
**REGULAR MEETING**  
**City Council Chambers**  
**21630 11th Avenue S, Des Moines, Washington**  
**Thursday, October 20, 2022 - 6:00 PM**

**CALL TO ORDER**

Mayor Matt Mahoney called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag Salute was led by Mayor Matt Mahoney.

**ROLL CALL**

**Council Present:**

Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Gene Achziger; Councilmember JC Harris; Councilmember Jeremy Nutting; Councilmember Vic Pennington; and Councilmember Harry Steinmetz

**Staff Present:**

City Manager Michael Matthias; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Executive Director of Marina Redevelopment Dan Brewer; Chief Administrative Officer Bonnie Wilkins; Harbormaster Scott Wilkins; Human Resources Director Adrienne Johnson-Newton; Finance Director Beth Anne Wroe; Deputy Finance Director Jeff Friend; Assistant Police Chief Patti Richards; Public Works Director Andrew Merges; Director of Parks, Recreation and Senior Services Nicole Nordholm; DV Advocate/Management Analyst Rochelle Sems; and City Clerk Taria Keane

**CORRESPONDENCE**

- There were no correspondence.

**COMMENTS FROM THE PUBLIC**

- Stephanie Harris, Cecil Powell Park
- Felicia Wilson, King County Library System
- Azeb Hagos, Listening Session Highline Schools
- Deborah Haehl, Redondo

[Public Comment](#)



Regular Meeting Minutes  
October 20, 2022

[Makerspace at the Federal Way Library](#)  
[King County Library System Flyers](#)

## **CITY MANAGER REPORT**

- SKHHP Executive Manager Angela San Filippo gave Council a PowerPoint Update on the 2023 SKHHP Work Plan and Budget.

[SKHHP 2023 Work Plan and Budget](#)

- ~~COMMUNITY EMERGENCY RESPONSE TEAM – CERT GRADUATES~~

- This item has been moved to a future Council Meeting.
- City Manager Michael Matthias gave Council an update on the October 20th Great Washington Shakeout and Evacuation Practice that City Staff participated in.
- City Manager Michael Matthias gave background on Consent Calendar Item #4.
- Human Resource Director Adrienne Johnson-Newton gave Council a PowerPoint Presentation on the City of Des Moines COVID-19 Pandemic Response Plan and Timeline.

[City of Des Moines COVID-19 Pandemic Response Plan and Timeline](#)

- Assistant Chief Patti Richard gave Council a PowerPoint Presentation on the Flock Camera System.

[Flock Camera System](#)

- Public Works Director Andrew Merges gave an update on Cecil Powell Park.
- Public Works Director Andrew Merges gave Council a PowerPoint Presentation on Consent Calendar Item #7.

[Washington State Department of Transportation \(WSDOT\) Certification Acceptance Program \(CA\)](#)

- City Manager Michael Matthias gave Council an update on the Des Moines Farmer's Market.
- City Manager Michael Matthias gave Council an update on the Budget process.
- City Manager Michael Matthias acknowledged City Attorney Tim George on his 15 Years of Service.

## **CONSENT CALENDAR**

Item 1: APPROVAL OF VOUCHERS

Regular Meeting Minutes  
October 20, 2022

**Motion** is to approve for payment vouchers through October 6, 2022 and the payroll transfers through October 5, 2022 in the attached list and further described as follows:

ACH/EFT Vendor Payments	#7307 to 7370	\$470,082.98
Wires	#2051 to 2060	\$373,126.32
Payroll Checks	#19582 to 19590	\$6,463.02
Accounts Payable Checks	#164354 to 164389	\$362,101.55
Payroll Direct Deposit	#2901 to 3062	\$411,554.77
Total Checks and Wires for A/P and Payroll:		\$1,623,328.64

- Item 2: APPROVAL OF MINUTES  
**Motion** is to approve the September 22, 2022 Regular Council meeting minutes.
- Item 3: BREAST CANCER AWARENESS MONTH PROCLAMATION  
**Motion** is to approve the Proclamation recognizing October as Breast Cancer Awareness Month.
- Item 4: DRAFT RESOLUTION 22-053 RESCINDING THE COVID-19 PROCLAMATION OF EMERGENCY  
**Motion** is to approve Draft Resolution 22-053, rescinding the Proclamation of Emergency issued by the City Manager on March 5, 2020 and confirmed by the City Council.
- Item 5: RESOLUTION TO APPROVE SOUTH KING HOUSING AND HOMELESSNESS PARTNERS 2023 BUDGET AND WORK PLAN  
**Motion** is to enact Draft Resolution No. 22-051, approving the 2023 South King Housing and Homelessness Partners Budget and the 2023 Work Plan.
- Item 6: 2022 DES MOINES FARMER'S MARKET HOLIDAY MARKET AGREEMENT  
**Motion** is to approve the Agreement with Des Moines Farmers Market for the 2022 Des Moines Waterfront Farmers Market Holiday Market to be held at the Beach Park Event Center on Saturday, November 5, 2022, and authorize the City Manager to execute the Agreement substantially in the form as attached.
- Item 7: CITY OF DES MOINES RIGHT-OF-WAY PROCEDURES STAFFING UPDATE

Regular Meeting Minutes  
October 20, 2022

**Motion** is to approve the City of Des Moines Right-of-Way Procedures Staffing Update and authorize the Mayor to sign the Staffing Update substantially in the same form as submitted.

**Direction/Action**

**Motion** made by Councilmember Jeremy Nutting to approve the Consent Calendar; seconded by Deputy Mayor Traci Buxton. Motion passed 7-0.

Mayor Matt Mahoney read the Breast Cancer Awareness Month Proclamation into the record.

**NEW BUSINESS**

Item 1: INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes

- There were no new items for future consideration.

**BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS**

(4 minutes per Councilmember) - 30 minutes

**COUNCILMEMBER JC HARRIS**

- Marina Redevelopment Community Meeting

**COUNCILMEMBER VIC PENNINGTON**

- Community Engagement
- Preliminary Budget Document

**COUNCILMEMBER HARRY STEINMETZ**

- Information on Website

**COUNCILMEMBER GENE ACHZIGER**

- Marina Redevelopment Community Meeting
- Bench Dedication for Former Mayor Bob Sheckler

**COUNCILMEMBER JEREMY NUTTING**

- Lighthouse Northwest - Domestic Violence Advocate

Regular Meeting Minutes  
October 20, 2022

### **DEPUTY MAYOR TRACI BUXTON**

- Attended 17 engagements with colleagues, staff, citizens, board and committees
- Senior Center Grand Reopening
- Human Services Committee
- Des Moines Holiday Farmers Market
- Domestic Violence Awareness

### **PRESIDING OFFICER'S REPORT**

- Marina Redevelopment Community Meeting
- Southend Mayors Meeting
- SR3 Cornhole Tournament
- Mount Rainier/Federal Way Football Game
- Des Moines Trick or Treat Path
- Veterans Day Event at Steven J Underwood Park

### **NEXT MEETING DATE**

October 27, 2022 City Council Regular Meeting

### **ADJOURNMENT**

#### **Direction/Action**

**Motion** made by Councilmember Harry Steinmetz to adjourn; seconded by Councilmember Vic Pennington.  
Motion passed 7-0.

The meeting adjourned at 7:41 p.m.

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**MINUTES**

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, October 27, 2022 - 6:00 PM**

**CALL TO ORDER**

Mayor Mahoney called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Vic Pennington.

**ROLL CALL**

**Council Present:**

Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Gene Achziger; Councilmember JC Harris; Councilmember Jeremy Nutting; Councilmember Vic Pennington; and Councilmember Harry Steinmetz

**Staff Present:**

City Manager Michael Matthias; City Attorney Tim George; Executive Director of Marina Redevelopment Dan Brewer; Chief Administrative Officer Bonnie Wilkins; Harbormaster Scott Wilkins; Police Chief Ken Thomas; Assistant City Attorney Matt Hutchins; Finance Director Beth Anne Wroe; Deputy Finance Director Jeff Friend; Community Development Director Denise Lathrop; Public Works Director Andrew Merges; Support Services Manager Melissa Patrick; Judicial Operations Supervisor Serena Daigle; and City Clerk Taria Keane

**CORRESPONDENCE**

There were no correspondence.

**COMMENTS FROM THE PUBLIC**

- Bill Bishop, Quarterdeck, Marina Development
- Shary Frankfurter, Marina North Parking Lot
- Chris Tollepson, Marina Development
- Jennefer Johnson, Resignation

[Public Comment](#)

## CITY MANAGER REPORT

- Amy Cook-Thomas along with South King Fire & Rescue Captain Brad Chaney gave Council information regarding the Des Moines Burning Boat Festival.

### **Direction/Action**

**Motion** made by Mayor Matt Mahoney to donate \$500 from the Council's Hearts and Minds Fund to the Burning Boat Festival; seconded by Councilmember Jeremy Nutting.

Motion passed 7-0.

### [Burning Boat Festival](#)

- City Manager Michael Matthias gave Council a PowerPoint Presentation update on the Fall Planter Boxes.

### [Fall Planting](#)

- Quarterdeck Owner Ken Rogers gave Council background on the Quarterdeck.

## CONSENT CALENDAR

Item 1: APPROVAL OF VOUCHERS

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

ACH/EFT Vendor Payments	#	7371 to 7432	\$ 342,094.01
Wires	#	2061 to 2064	\$ 103,787.02
Payroll Checks	#	19592 to 19596	\$ 11,226.32
Accounts Payable Checks	#	164390 to 164426	\$ 111,875.98
Payroll Direct Deposit	#	3063 to 3222	\$ 405,334.78
Unclaimed Property Checks	#	See Report	\$ (2,775.35)

Total Checks and Wires for A/P and Payroll: \$ 971,542.76

Item 2: APPROVAL OF MINUTES

**Motion** is to approve the October 6, 2022 Regular Council meeting minutes.

Item 3: SMALL BUSINESS SATURDAY PROCLAMATION

Regular Meeting Minutes  
October 27, 2022

**Motion** is to approve the Proclamation recognizing the Saturday after Thanksgiving as Small Business Saturday.

Item 4: QUARTERDECK CHANGE OF OWNERSHIP AND LEASE AGREEMENT

**Motion** is to approve the lease agreement with Nourishmints, LLC for the Quarterdeck, and authorize the City Manager to sign the agreement substantially in the form as attached as well as to take the necessary steps to terminate the existing lease with DM Harborside.

**Direction/Action**

**Motion** made by Councilmember Jeremy Nutting to approve the Consent Calendar; seconded by Councilmember Vic Pennington.

Councilmember JC Harris pulled Consent Calendar Item #4.

The remainder of the Consent Calendar passed 7-0.

Council discussed Consent Calendar Item #4.

**Motion** made by Councilmember JC Harris to postpone Item #4 to the 1st meeting of the Economic Development Meeting in January then brought back immediately after that meeting to Council; seconded by Councilmember Gene Achziger.  
Motion failed 2-5.

**For:** Councilmember Gene Achziger, and Councilmember JC Harris.

**Against:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

**Motion** made by Councilmember Jeremy Nutting to approve the Consent Calendar Item #4 as presented; seconded by Deputy Mayor Traci Buxton.  
Motion passed 5-2.

**For:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

**Against:** Councilmember Gene Achziger, and Councilmember JC Harris.



Regular Meeting Minutes  
October 27, 2022

Mayor Matt Mahoney read the Small Business Saturday Proclamation into the record.

## **PUBLIC HEARING/CONTINUED PUBLIC HEARING**

2023 PRELIMINARY ANNUAL BUDGET

- Staff Presentation by Finance Director Beth Anne Wroe

At 7:08 p.m. Mayor Matt Mahoney opened the Public Hearing.

Finance Director Beth Anne Wroe gave Council a PowerPoint Presentation.

Mayor Matt Mahoney asked 3 times if anyone wished to speak. Seeing none Mayor Matt Mahoney asked Council if they had any questions.

Mayor Matt Mahoney closed the Public Hearing at 8:09 p.m.

### **Direction/Action**

**Motion** made by Councilmember Jeremy Nutting to approve Draft Ordinance No. 22-060 to a second reading on November 17, 2022 for further City Council consideration and approval; seconded by Deputy Mayor Traci Buxton.

Motion passed 7-0.

[October 27, 2022 Budget](#)

## **NEW BUSINESS**

Item 1: DRAFT ORDINANCE No. 22-058  
Staff Presentation by Community Development Director Denise Lathrop

Community Development Director Denise Lathrop gave Council a PowerPoint Presentation.

### **Direction/Action**

**Motion 1** made by Councilmember Jeremy Nutting to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-058 on first reading; seconded by Councilmember Vic Pennington.

Motion passed 5-2.

**For:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

Regular Meeting Minutes  
October 27, 2022

**Against:** Councilmember Gene Achziger, and Councilmember JC Harris.

**Motion 2** made by Councilmember Jeremy Nutting to enact Draft Ordinance No. 22-058, establishing a six month moratorium prohibiting the submission or acceptance of development applications for new development in the Moratorium Study Area, setting a date for a public hearing and declaring an emergency; seconded by Deputy Mayor Traci Buxton.

Motion passed 5-2.

**For:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

**Against:** Councilmember Gene Achziger, and Councilmember JC Harris.

[Presentation Draft Ord 22-058](#)  
[Draft Ordinance No. 22-058](#)

Item 2: INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes

There were no new items for future consideration.

Item 3: INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes

Item 4: **Draft Ordinance No. 22-058**

## **BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS**

(4 minutes per Councilmember) - 30 minutes

### **COUNCILMEMBER VIC PENNINGTON**

- No Report

### **COUNCILMEMBER HARRY STEINMETZ**

- No Report

### **COUNCILMEMBER GENE ACHZIGER**

- Destination Des Moines Trick or Treat Path

Regular Meeting Minutes  
October 27, 2022

### **COUNCILMEMBER JEREMY NUTTING**

- 4th Anniversary of the Quarterdeck
- Halloween Movie Night at the Field House
- Fear on the Pier
- Mount Rainier vs. Kennedy High School Football Game
- Mount Rainier High School Trunk or Treat
- Destination Des Moines Trick or Treat Path
- Community Listening Meeting at Mount Rainier High School
- Des Moines Farmers Holiday Market
- Daylight Savings Time
- Election Day - November 8th

### **COUNCILMEMBER JC HARRIS**

- Community Listening Meeting at Mount Rainier High School

### **DEPUTY MAYOR TRACI BUXTON**

- Attended 16 engagements with colleagues, staff, citizens, boards and committees
- Lighthouse Northwest Fundraiser
- Met with Redondo residents
- Soundside Alliance Meeting

### **PRESIDING OFFICER'S REPORT**

- Des Moines Theater Tour

### **NEXT MEETING DATE**

November 17, 2022 City Council Regular Meeting

### **ADJOURNMENT**

#### **Direction/Action**

**Motion** made by Councilmember Jeremy Nutting to adjourn; seconded by Councilmember Vic Pennington.  
Motion passed 7-0.

The meeting adjourned at 8:56 p.m.

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Acceptance of Washington State  
Administrative Office of the Courts- Des Moines  
Municipal Court-Interagency Agreement

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Court

DATE SUBMITTED: November 4, 2022

ATTACHMENTS:

- 1. Interagency Reimbursement Agreement  
IAA23945 between Washington State  
Administrative Office of the Courts and  
Des Moines Municipal Court

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts *Mc Patrick* \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Jeff R* \_\_\_\_\_
- Human Resources \_\_\_\_\_
- Legal */s/ TG* \_\_\_\_\_
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

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

**Purpose and Recommendation**

The purpose of this Agenda Item is to request the Council’s authorization to enter into an Interagency Agreement with the Washington State Administrative Office of Courts (AOC) to be used to for audio/visual technology upgrades to the courtroom/council chambers. This agreement will cover upgrades to the existing audio/visual equipment including but not limited to high resolution displays and improved audio in courtroom/council chambers and lobby.

**Suggested Motion**

**Motion 1: “I move to accept the interagency reimbursement agreement from the Washington Administrative Office of the Courts in the amount of \$76,611 for the purposes of improving audio/visual technology within the courtroom/chambers of the City of Des Moines and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached.”**

### **Background**

In May 2020, Des Moines Municipal Court began remote court proceedings via virtual platforms due to the COVID-19 pandemic. Technology was enabled to provide continuity of services such as web cameras, microphones, headsets/earphones through similar funding through the AOC. Over the last three years the court has continued operations in a remote capacity, however as emergency orders have been lifted by all branches of government in Washington State, the court is looking to upgrade the audio/visual capacity in the courtroom and lobby to improve our transition to a hybrid court model. Technological upgrades are necessary to bridge audio/visual deficiencies between our current systems with modern systems capable of maintaining a hybrid court/meeting model.

### **Discussion**

As we transition out of the pandemic the court is committed to providing a hybrid courtroom model that will require updated audio technology. The council chambers/courtrooms current equipment does not allow for clear communication between in-person and remote participants. Those appearing in a remote setting find the audio faint and distorted when communicating with participants appearing in-person. Furthermore, due to the age of the speaker system we frequently experience audio feedback that is both disruptive and compromises the quality of court recordings. Lastly, the current projector monitor system is not as clear for viewers in the physical audience and updated displays will allow for clearer viewing of presentations, exhibits and participants of hybrid hearings/meetings.

Reimbursement Funding to be used for the following:

- Replace all analog microphones with digital.
- Replace existing speaker system with digital model capable of zone configuring (dais, well, gallery and lobby).
- Install two voice activated microphones from the ceiling to capture audio from gallery.
- Purchase two wireless microphones to accommodate ADA compliance.
- Replace analog mixer with digital mixer that also allows for integration with virtual platforms.
- Install additional viewing monitors on South and East walls and update monitor on West wall for clearer imaging and viewing of presentations, meetings and exhibits.
- Labor expenses related to upgrades and installation.

### **Alternatives**

City Council could choose to not approve the interagency agreement. (Not recommended)

### **Financial Impact**

The total costs of the project are estimated at \$103,000 including installation. The costs not covered by the interagency agreement could be covered by ARPA funds, additional interagency opportunities through AOC and potential grant funding. The court is prepared to come back to the council for approval of the contract with the audio/visual company, as well as the request for approval of funding the difference through one of the methods previously mentioned.

### **Recommendation**

Staff recommends that the Council approve with the interagency reimbursement agreement from the Washington State Administrative Office of the Courts for the City of Des Moines audio/visual upgrades.

### **Council Committee Review**

**INTERAGENCY REIMBURSEMENT AGREEMENT IAA23945**  
**BETWEEN**  
**WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS**  
**AND**  
**Des Moines Municipal Court**

THIS REIMBURSEMENT AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and Des Moines Municipal Court (Court), for the purpose of reimbursing Des Moines Municipal Court (Court) for costs related to enhancing its audio and visual systems.

**PURPOSE**

The purpose of this Agreement is to provide reimbursements to assist Courts with costs related to enhancing its audio and visual systems. These funds are intended to be used for equipment and services related to the installation and set-up of applicable equipment.

**REIMBURSEMENT**

- A. Audio/Visual Reimbursement. AOC will reimburse the Court up to a maximum of **\$76,611.00** for payments made by the Court during the period July 1, 2022 to June 30, 2023 related to the procurement and installation of upgraded audio/visual equipment in its courtrooms.
- B. General. AOC shall provide reimbursement to the Court for approved and completed reimbursements by warrant or account transfer within 30 days of receipt of a properly completed A-19 invoice and the completed data report as required below.

**PERIOD OF PERFORMANCE**

Performance under this Agreement begins **July 1, 2022**, regardless of the date of execution, and ends on **June 30, 2023**.

**COMPENSATION**

- a. AOC will reimburse the Court up to a maximum of **\$76,611.00** for payments made by the Court during the period July 1, 2022 to June 30, 2023 related to the procurement and installation of upgraded audio/visual equipment in its courtrooms.
- b. The Court shall submit invoices to AOC for expenditures no more frequently than monthly, and no less frequently than quarterly. Invoices shall be submitted on state form A-19.
- c. Before payment can be processed, properly-completed A-19 invoices must be submitted to [payables@courts.wa.gov](mailto:payables@courts.wa.gov)
- d. If this agreement is terminated, the Court shall only receive payment for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.

- e. The Court shall maintain sufficient backup documentation of expenses under this agreement.
- f. Payments made by AOC within 30 days of receipt of a properly-completed A-19 invoice shall be deemed timely.
- g. AOC, in its sole discretion and upon notice, may initiate revenue sharing and reallocate funding among recipients of funding. If, in AOC's assessment, the Court is unlikely to expend the maximum agreement amount, AOC may reduce the maximum agreement amount. AOC may increase the maximum agreement amount if additional funds become available.

#### **APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of Washington State (Legislature) for the performance of this Agreement. If sufficient appropriations and authorization are not made or removed by the Legislature, this Agreement will terminate immediately upon written notice being given by the AOC to the Court. The decision as to whether appropriations are sufficient to perform the duties under this Agreement is within the sole discretion of AOC.

#### **AGREEMENT ALTERATIONS AND AMENDMENTS**

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

#### **INDEPENDENT CAPACITY**

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

#### **RECORDS, DOCUMENTS, AND REPORTS**

The Court shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the AOC and the Office of the State Auditor, or so authorized by law, rule, regulation, or agreement. The Court will retain all books, records, documents, and other material relevant to this agreement for six years after settlement, and make them available for inspection by persons authorized by this provision.

#### **RIGHT OF INSPECTION**

The Court shall provide right of access to its facilities to the AOC, or any of its officers, or to any other authorized agent or official of the state of Washington at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this agreement.

## **DISPUTES**

Disputes arising under this Agreement shall be resolved by a panel consisting of one representative from the AOC, one representative from the Court, and a mutually agreed upon third party. The dispute panel shall thereafter decide the dispute with the majority prevailing. Neither party shall have recourse to the courts unless there is a showing of noncompliance or waiver of this section.

## **TERMINATION**

Either party may terminate this Agreement upon thirty (30) days written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

## **GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement must be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. This Agreement; and
- c. Any other provisions of the agreement, including materials incorporated by reference.

## **ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

## **WAIVER**

A failure by either party to exercise its rights under this Agreement does not preclude that party from subsequent exercise of such rights and is not a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

## **SEVERABILITY**

If any provision of this Agreement, or any provision of any document incorporated by reference is held invalid, such invalidity does not affect the other provisions of this Agreement which can be given effect without the invalid provision and to this end the provisions of this Agreement are declared to be severable.



**AGREEMENT MANAGEMENT**

The program managers noted below are responsible for and are the contact people for all communications and billings regarding the performance of this Agreement:

<b>AOC Program Manager</b>	<b>Court Program Manager</b>
<b>Kyle Landry</b> PO Box 41170 Olympia, WA 98504-1170 Kyle.Landry@courts.wa.gov (360) 218-6096	Melissa Patrick 2163011th Ave S Des Moines, WA 98198 mpatrick@desmoineswa.gov

**ENTIRE AGREEMENT**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement are considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

**AGREED:**

**Administrative Office of the Courts**

_____ <i>Signature</i>	_____ <i>Date</i>	_____ <i>Signature</i>	_____ <i>Date</i>
Christopher Stanley _____ <i>Name</i>		Lisa Leone _____ <i>Name</i>	
Chief Financial and Management Officer _____ <i>Title</i>		Judge _____ <i>Title</i>	

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Flock Camera Agreement

FOR AGENDA OF: November 17, 2022

ATTACHMENTS:

- 1. Flock Camera Agreement

DEPT. OF ORIGIN: Police

DATE SUBMITTED: November 10, 2022

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Beth Ann White*
- Human Resources \_\_\_\_\_
- Legal */s/ TG*
- Marina \_\_\_\_\_
- Police */s/ KT*
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works *Shirley Brown*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Michael Deo*

**Purpose and Recommendation:**

The purpose of this agenda item is to seek City Council approval for the City Manager to sign an agreement with the Flock Group, Inc. for the purposes of installing and utilizing 16 license plate reading cameras in strategic locations to assist with law enforcement efforts. The following motion will be on the consent calendar:

**Suggested Motion**

**MOTION:** "I move to approve the Agreement with Flock for the installation and use of license plate reading cameras, and authorize the City Manager to sign the Agreement substantially in the form as attached."

**Background:**

The use of cameras can be a force multiplier for public safety and follow-up investigations. Missing/endangered persons, stolen cars, hit & run investigations and other follow-up criminal investigations can be furthered by use of strategically placed cameras.

Flock cameras are license plate recognition cameras. They are placed in City right of way and capture license plates of vehicles on public streets. The software then alerts the police department when a wanted vehicle is detected. These cameras are used as a method of crime solving and they take the human bias out of crime-solving by detecting objective data on vehicles, not people.

The cameras are designed in a way that adheres to all state laws. This includes no facial recognition abilities, the data is not tied to personal identifiable information, they are not used for traffic enforcement and the data is only stored for 30 days before it automatically deletes.

The proposed services agreement would allow for 16 cameras and is a year to year lease arrangement.

**Discussion:**

In recent years, the City has seen an increase in suspects committing crimes against persons and property in our City or driving through our City. This includes Pacific Highway S., where the police department started an Anti-Crime Initiative following five recent Homicides near Pacific Hwy S./Kent-Des Moines Road.

By approving this contract, Flock would install 16 strategically placed cameras to capture evidence to help solve crimes in an effort to proactively reduce crime in order to increase quality of life. The use of cameras is a force multiplier and allows increased enforcement without hiring additional officers.

Additionally, the City is coordinating efforts with other jurisdictions that use Flock, including Tukwila and Kent, to maximize the effectiveness of camera placement as a region.

Prior to seeking City Council approval, the Police Department and the City has done extensive public notifications of this potential contract in order to seek community input as well as to provide information about the program. This public notice and outreach has included:

- Police Advisory Board meetings
- Public Safety Emergency Management meeting
- Pacific Highway South Business Meetings
- Community Meetings
- Chief Thomas' Monthly Department Update on Social Media

**Alternatives:**

Additional police staffing could be an alternative, yet would not provide the same type of outcome and would involve major budget impacts.

**Financial Impact:**

The Agreement calls for a payment of \$48,100 for year 1, which includes the lease of the cameras and software support. Additional years are \$42,000 per year. Utilization of these cameras during the first 60 days includes an option to cancel at no cost. Cameras and success will be evaluated on a regular basis.

**Recommendation/Conclusion:** Police and Administration recommend approval.

**Concurrence:** The Public Safety/Emergency Management Committee reviewed and approved this matter for the entire Council consideration.

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# flock safety

## FLOCK GROUP INC. SERVICES AGREEMENT ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. ("Flock") and the customer identified below ("Customer") (each of Flock and Customer, a "Party"). This order form ("Order Form") hereby incorporates and includes the "GOVERNMENT AGENCY CUSTOMER AGREEMENT" attached (the "Terms") which describe and set forth the general legal terms governing the relationship (collectively, the "Agreement"). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the "Effective Date").

Customer: WA - Des Moines PD  
Address: 21900 11th Ave S  
Des Moines, Washington 98198

Contact Name: Ken Thomas  
Phone: (206) 878-3301

E-Mail:  
police@desmoineswa.gov

Billing Contact:  
accounts payable@desmoineswa.gov

Expected Payment Method:

(if different than above)

Initial Term: 24.00  
Renewal Term: 24 Months

Pilot period: First 60 days of Initial Term; option to cancel contract at no cost. Initial Term invoice due after Pilot period.  
Billing Term: Annual payment due Net 30 per terms and conditions

Name	Price	QTY	Subtotal
Flock Safety Advanced Search <25 Falcons	\$2,500.00	1.00	\$2,500.00
Professional Services - Falcon, Standard Implementation	\$350.00	16.00	\$5,600.00
• Falcon Camera	\$2,500.00	16.00	\$40,000.00

(Includes one-time fees)

Year 1 Total: \$48,100.00  
Recurring Total: \$42,500.00

Flock Group Inc.

Order Form

This proposal expires in 30 days.

# flock safety

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**By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached.** The Parties have executed this Agreement as of the dates set forth below.

**Flock Group Inc**

**Customer:**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

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Flock Group Inc.

Order Form

This proposal expires in 30 days.

# flock safety

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## GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

### RECITALS

**WHEREAS**, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

**WHEREAS**, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

**WHEREAS**, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

**WHEREAS**, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

### AGREEMENT

**NOW, THEREFORE**, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

### 1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.2 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.3. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.4. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.5 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.6 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.



# flock safety

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1.7 “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.8 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.9 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.10 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.11 “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.12 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.13 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.14 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.16 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.17 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.18 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.18 below.

1.19 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.20 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.21 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.22 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.23 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.24 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.25 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.26 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.27 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.28 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

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# flock safety

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1.29 “*Vehicle Fingerprint™*” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

## 2. SERVICES AND SUPPORT

**2.1 Provision of Access.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third Party service providers are the agency’s sole and exclusive remedy and Flock’s sole and exclusive liability with regard to such third-Party services, including without limitation hosting the web interface. Agency agrees to comply with any acceptable use policies and other terms of any third-Party service provider that are provided or otherwise made available to Agency from time to time.

**2.2 Embedded Software License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

**2.3 Documentation License.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

**2.4 Wing Suite License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

### 2.5 Usage Restrictions.

**2.5.1 Flock IP.** The Permitted Purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency. Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, 2.3, or 2.4.

**2.5.2. Flock Hardware.** Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of

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the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

**2.6 Retained Rights; Ownership.** As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. There are no implied rights.

## **2.7 Suspension.**

**2.7.1 Service Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for anything other than the Permitted Purpose ("**Service Suspension**"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

**2.7.2 Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

## **2.8 Installation Services.**

**2.8.1 Designated Locations.** For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on, and provide Agency with a Deployment Plan for, the location and positioning of the Flock Hardware and appurtenances for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("**Designated Location**") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. The Agency may require, but not be limited to, engineering drawings, traffic control, and hardware specifications prior to the issuance of a Right of Way Permit. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary After installation, any subsequent changes to the Deployment Plan ("**Reinstalls**") will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior

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notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

**2.8.2 Agency Installation Obligations.** Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work as allowed by the terms and conditions of an issued Agency Right of Way Permit. Although Flock Hardware is designed to utilize solar power, certain Designated Locations identified in the Deployment Plan may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware through the franchise utility power distribution provider, PSE. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or for AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency (“**Agency Installation Obligations**”). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation, as allowed by the terms and conditions of an issued Right of Way Permit..

**2.8.3 Flock’s Obligations.** Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance

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of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

**2.8.4 Ownership of Hardware.** Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right.

**2.9 Hazardous Conditions.** Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

**2.10 Support Services.** Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at [support@flocksafety.com](mailto:support@flocksafety.com), at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

**2.11 Special Terms.** From time to time, Flock may offer certain Special Terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency's prior written consent. To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

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**2.12 Upgrades to Platform.** Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

## 3. RESTRICTIONS AND RESPONSIBILITIES

**3.1 Agency Obligations.** Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone and must protect the security of its account and password. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

**3.2 Agency Representations and Warranties.** Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

## 4. CONFIDENTIALITY; AGENCY DATA

**4.1 Confidentiality.** To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third Party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third Parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third Party, or the public as required or permitted by law, including

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respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

**4.2 Agency Data.** As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.4. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

**4.3 Agency Generated Data in Wing Suite.** Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

**4.4 Feedback.** If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

**4.5 Aggregated Data.** Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

## 5. PAYMENT OF FEES

**5.1.1 Wing Suite Fees.** For Wing Suite products, the Agency will pay Flock the first Usage Fee and the Implementation Fee (as described on the Order Form attached hereto) as set forth on the Order Form on or before the 30th day following the Effective Date of this Agreement. Flock shall have no liability resulting from any delay by the Agency in installing the Embedded Software on the Agency Hardware. If applicable, Agency shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period.

**5.1.2 Falcon Fees.** For Falcon products during the Term (as defined in Section 6.1), Agency will pay Flock fifty percent (50%) of the Usage Fee, the Implementation Fee as set forth on the Order Form on or before the 30<sup>th</sup> day following receipt of initial invoice after Effective Date. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of total fees, and Agency shall pay on or before 30<sup>th</sup> day following receipt of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay

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on or before 30<sup>th</sup> day following receipt of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For a Renewal Term, as defined below, Agency shall pay the entire invoice on or before the 30<sup>th</sup> day following receipt of invoice.

**5.2 Notice of Changes to Fees.** Flock reserves the right to change the fees or applicable charges and to institute new charges and fees on subsequent terms by providing sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email).

**5.3 Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the receipt of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income. If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

## 6. TERM AND TERMINATION

**6.1 Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Term**"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.

**6.2 Termination for Convenience.** At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination.

**6.3 Termination.** Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Flock's material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

**6.4 No-Fee Term.** Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion,



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can determine to impose a price per No-Fee Term upon thirty (30) days' notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.5 **Survival.** The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 9.6.

## 7. REMEDY; WARRANTY AND DISCLAIMER

7.1 **Remedy.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a "*Defect*"), Agency must notify Flock's technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware.

7.2 **Exclusions.** Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

7.5 **Insurance.** Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

7.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

## 8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE

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OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

**8.2 Additional No-Fee Term Requirements.** IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

**8.3 Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

**8.4 Indemnity.** Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement.

## 9. MISCELLANEOUS

**9.1 Compliance With Laws.** The Agency agrees to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

**9.2 Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

# flock safety

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**9.3 Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchase of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

**9.4 Entire Agreement.** This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

**9.5 Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

**9.6 Governing Law; Venue.** This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

**9.7 Publicity.** Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

**9.8 Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets

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# flock safety

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Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation (“FAR”), section 2.101, the Services, the Flock Hardware and Documentation are “commercial items” and according to the Department of Defense Federal Acquisition Regulation (“DFAR”) section 252.2277014(a)(1) and are deemed to be “commercial computer software” and “commercial computer software documentation.” Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

**9.9 Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

**9.10 Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

**9.11 Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

**FLOCK NOTICES ADDRESS:**

1170 HOWELL MILL ROAD, NW SUITE 210  
ATLANTA, GA 30318  
ATTN: LEGAL DEPARTMENT  
EMAIL: [legal@flocksafety.com](mailto:legal@flocksafety.com)

**AGENCY NOTICES ADDRESS:**

ADDRESS:

ATTN:

EMAIL:

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# AGENDA ITEM

## BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Marcotte Consulting Contract  
Amendment #1

ATTACHMENTS:

1. Amendment #1
2. Consultant Services Contract with  
Marcotte Consulting

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Finance Department

DATE SUBMITTED: November 9, 2022

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Beckham Ware*
- Human Resources \_\_\_\_\_
- Legal */s/ TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *[Signature]*

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval of an amendment to the Consultant Agreement with Marcotte Consulting to provide additional time and services in support of the Finance department. The following motion will appear on the consent calendar:

**Suggested Motion**

**Motion 1:** "I move to approve Amendment #1 to the contract with Marcotte Consulting, expanding scope of work, extending the time of completion and authorizing additional compensation for the purpose of providing consultant services to support the Finance department, and authorize the City Manager to sign the Amendment substantially in the form as attached."

### **Background**

In July 2021, the City contracted with Diane Marcotte at Marcotte Consulting as a Strategic Financial Advisor and an ERP Implementation Consultant. Diane assisted the Finance Department with the structural setup of the Human Capital Management (HCM) and Payroll (PR) setup in Munis, which resulted in a very successful implementation. She assisted with the setup of Executime Advanced Scheduling and timekeeping functions for integration to Munis HCM/PR, as well as, providing expertise and assistance with testing of the payroll system.

The Finance Director requested additional assistance with the business license and business & occupation (B&O) tax process. Diane has provided valuable support, training and assistance with business license and B&O tax processing in the FileLocal system and the City's system of record. An assessment of the business license and B&O tax process has been completed and the City would like Marcotte Consulting to assist in completing the items identified in the assessment. Please see the additional services requested below under discussion.

Diane has been instrumental in assisting the Finance department with systems implementations and improvements and by extending this contract, the City will benefit from Diane Marcotte's consulting services to facilitate, train and provide guidance related to financial and budget matters for the incoming Finance Director and related staff and for business license and B&O tax processing.

### **Discussion**

The Finance Director is requesting additional consulting services from Marcotte Consulting for the following:

- Provide support, training and assistance with business license and business & occupation tax processing in the FileLocal system and the City's system of record.
- Oversee project to update City account numbers in the FileLocal system to match the City's system of record in 1<sup>st</sup> Quarter 2023.
- Oversee project to ensure filing frequency for businesses are up-to-date in the FileLocal system and agree to the City's system of record.
- Facilitate assistance and training related to business license and B&O tax processes for incoming Finance Director and related staff.
- Facilitate transition, training, and provide guidance related to financial and budget matters for incoming Finance Director and related staff.

The work above will help bring city businesses in compliance with the City's business license and B&O tax requirements. Improvements made to FileLocal and the City's system of record will help the City to communicate with businesses in a more efficient and timely manner.

### **Financial Impact**

The cost of this extension is \$125,500. The funds for this expenditure are in the revised 2022 budget and the proposed 2023 budget.

### **Recommendation**

The Finance Director recommends approval of the Amendment as written.



## CONTRACT AMENDMENT

### CONTRACT FOR CONSULTANT SERVICES BETWEEN THE CITY OF DES MOINES AND MARCOTTE CONSULTING

**THIS AMENDMENT** is entered into on this \_\_\_\_\_ day of November, 2022, pursuant to that certain Contract entered into on the 13th day of July, 2021, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **MARCOTTE CONSULTING**, (hereinafter "Consultant"),

The parties herein agree that the Contract dated July 13, 2021, shall remain in full force and effect, except for the amendments set forth as follows:

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

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

Consultant shall serve as "Strategic Financial Advisor" and "ERP Implementation Consultant" to the City of Des Moines and the Finance Department and shall perform the following services for the City in accordance with the following described plans and/or specifications:

- a. Provide support for ongoing financial process
- b. Review existing procedures to assure compliance with appropriate standards
- c. Assist with setup of Executime Advanced Scheduling and Timekeeping functions for integration to Munis HCM/PR.
- d. Identify potential efficiencies and make recommendations
- e. Provide strategic insight to better accomplish the City's financial responsibilities
- f. Provide support, training and assistance with business license and business & occupation tax processing in the FileLocal system and the City's system of record.
- g. Oversee project to update City account numbers in the FileLocal system to match the City's system of record in 1<sup>st</sup> Quarter 2023.





- h. Oversee project to ensure filing frequency for businesses are up-to-date in the FileLocal system and agree to the City's system of record.
- i. Facilitate assistance and training related to business license and B+O tax process for incoming Finance Director and related staff.
- j. Facilitate transition, training, and provide guidance related to financial and budget matters for incoming Finance Director and related staff.
- k. Other duties as assigned

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.

2. **SECTION II** of the Contract is amended to extend the time of completion until December 31, 2023.

3. **SECTION III (A)** of the Contract is hereby amended to read as follows:

The City shall pay the Consultant, based on time and materials, an amount of up to \$140/hour with a total amount not to exceed \$175,000 for the services described in this Contract. This is the maximum amount to be paid under this Contract for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract.

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

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

<p style="text-align: center;"><b>MARCOTTE CONSULTING:</b></p> <p>By: _____  <i>(signature)</i></p> <p>Print Name: _____</p> <p>Its _____  <i>(Title)</i></p> <p>DATE: _____</p>	<p style="text-align: center;"><b>CITY OF DES MOINES:</b></p> <p>By: _____  <i>(signature)</i></p> <p>Print Name: <u>Michael Matthias</u></p> <p>Its <u>City Manager</u>  <i>(Title)</i></p> <p>DATE: _____</p> <p style="text-align: right;">Approved as to form:</p> <p style="text-align: right;">_____  City Attorney</p> <p style="text-align: right;">DATE:  _____</p>
<p><b>NOTICES TO BE SENT TO:</b></p> <p>Marcotte Consulting  1117 187<sup>th</sup> Ave East,  Lake Tapps, WA 98391  dsmarcotte@comcast.net (email)</p>	<p><b>NOTICES TO BE SENT TO:</b></p> <p><b>CITY OF DES MOINES:</b></p> <p>Michael Matthias  City of Des Moines  21630 11<sup>th</sup> Avenue S., Suite A  Des Moines, WA 98198  (206) 870-6554 (telephone)  MMatthias@desmoineswa.gov (email)</p>

## **CONSULTANT SERVICES CONTRACT between the City of Des Moines and Marcotte Consulting**

THIS CONTRACT is made between the City of Des Moines, a Washington municipal corporation (hereinafter the "City"), and Marcotte Consulting located and doing business at 1117 187<sup>th</sup> Avenue East, Lake Tapps, Washington 98391 (hereinafter the "Consultant").

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

Consultant shall serve as "Strategic Financial Advisor" and "ERP Implementation Consultant" to the City of Des Moines and the Finance Department and shall perform the following services for the City in accordance with the following described plans and/or specifications:

- a. Provide support for ongoing financial process
- b. Review existing procedures to assure compliance with appropriate standards
- c. Review structural setup up of the Human Capital Management (HCM) and Payroll (PR) setup in Munis
- d. Assist with setup of Executime Advanced Scheduling and Timekeeping functions for integration to Munis HCM/PR
- e. Identify potential efficiencies and make recommendations
- f. Provide expertise and assist with testing activities for parallel payroll processing between Munis and ADP and address issues throughout testing. Assist in testing paid labor and benefits processed in Payroll integrate with Munis project accounting and general ledger and address any issues identified.
- g. Provide strategic insight to better accomplish the City's financial responsibilities
- h. Other duties as assigned

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

CONSULTANT SERVICES CONTRACT 2  
(Various)

effective date of this Contract, Consultant shall complete the work described in Section I by December 31, 2022, unless extended by mutual agreement of the parties.

**III. COMPENSATION.**

- A. The City shall pay the Consultant, based on time and materials, an amount of \$100/hour with a total amount not to exceed \$49,500 for the services described in this Contract. This is the maximum amount to be paid under this Contract for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this Contract.
- 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.

CONSULTANT SERVICES CONTRACT 3  
(Various)

**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.

**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

CONSULTANT SERVICES CONTRACT 4  
(Various)

used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

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

**X. INDEMNIFICATION.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

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

Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

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

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

**XI. RESERVED.**

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

**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.

CONSULTANT SERVICES CONTRACT 5  
(Various)

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

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

**XVI. MISCELLANEOUS PROVISIONS.**

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

B. Resolution of Disputes and Governing Law.

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

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

C. Written Notice. All communications regarding this Contract shall be sent to the parties at the addresses listed on the signature page of this Contract, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business

CONSULTANT SERVICES CONTRACT 6  
(Various)

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.**

<b>CONSULTANT:</b> By: <u>Diane L Marcotte</u> (signature) Print Name: <u>Diane L Marcotte</u>	<b>CITY OF DES MOINES:</b> By: <u>Michael Matthias</u> (signature) Print Name: <u>Michael Matthias</u> Its <u>City Manager</u>
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CONSULTANT SERVICES CONTRACT 7  
(Various)



DATE: July 13, 2021

Its City Manager  
(Title)

DATE: 7.13.2021

Approved as to form:

/s/ Tim George

City Attorney

DATE: 7/13/2021

**NOTICES TO BE SENT TO:**

**CONSULTANT:**

Marcotte Consulting  
1117 187<sup>th</sup> Ave East,  
Lake Tapps, WA 98391  
dsmarcotte@comcast.net (email)

**NOTICES TO BE SENT TO:**

**CITY OF DES MOINES:**

Michael Matthias  
City of Des Moines  
21630 11<sup>th</sup> Avenue S., Suite A  
Des Moines, WA 98198  
(206) 870-6554 (telephone)  
MMatthias@desmoineswa.gov (email)

**A G E N D A   I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Draft Ordinance No. 22-069 –  
Suspending restriction on use of one-time revenue  
for 2023

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Finance Department

DATE SUBMITTED: November 10, 2022

ATTACHMENTS:

- 1. Draft Ordinance No. 22-069

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Bethanne Weir*
- Human Resources \_\_\_\_\_
- Legal *Is/ TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

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

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to consider Draft Ordinance No. 22-069, which would suspend the restriction on the use of one-time revenue for general fund expenditures contained in chapter 3.100 DMMC for the year 2023 in order to address potential revenue shortfalls caused by the worldwide COVID-19 pandemic and the response to the pandemic.

**Suggested Motion**

**Motion 1:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-069 on the first reading.”

**Motion 2:** “I move to enact Draft Ordinance No. 22-069, amending DMMC 3.100.020, and lifting the restriction on the use of one-time revenue in the general fund budget for the year 2023.”

### **Background**

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

One cornerstone of these policies is the principal that ongoing expenses should be funded by ongoing, structural revenue. The City Council has codified this principle at chapter 3.100 DMMC, forbidding the use of one-time revenue for general fund expenditures. The City Council adopted preliminary budgets for the years 2017 through 2022 using this principle.

In the winter of early 2020, an outbreak of the virus SARS-CoV-2 and its associated disease COVID-19 struck the United States. The first “hotspot” for the outbreak in the country occurred in the Seattle area. In response, emergency declarations were issued by the State of Washington, King County, the City of Des Moines, and ultimately the Federal government.

The disruption to lives and employment caused by the COVID-19 pandemic was significant and caused impacts to the local, state, national, and worldwide economies that could not be accurately predicted with any degree of certainty. The City Council enacted Ordinance No. 1735 in 2020 to waive the restriction on the use of one-time revenue and Ordinance No. 1741 in 2021 to again waive the restriction on the use of one-time revenue to provide budget flexibility in the face of possible revenue shortfalls due to the COVID-19 pandemic.

Although the Emergency Declaration has been rescinded, the financial ramifications of the COVID-19 pandemic continue to be uncertain and potentially significant into 2023.

### **Discussion**

The impacts of the COVID-19 pandemic have lasted much longer than first anticipated. The City has taken several actions to address the loss of revenue, as a result, of the pandemic. However, it is necessary to request the ability to retain the one-time revenues in the General Fund for 2023 to provide insurance against risk (known and unknown) and to maintain the appropriate level of reserves in the General Fund. The policy of sound, sustainable budgeting that requires that ongoing revenue fund ongoing expenses in ordinary times supports using one-time revenue to respond to one-time emergency circumstances to keep the budget stable while continuing to provide vital services.

The City of Des Moines maintains public safety as a high priority for the community. The current economic conditions, as well as the current market conditions for retaining and attracting people to law enforcement put pressure on the general fund budget. By approving Draft Ordinance No. 22-069, it provides the flexibility to address these issues. City staff is committed to minimizing the use of the one-time revenues, if possible.

While the Draft Ordinance will give the City Council the ability to use one-time revenues for the general budget in 2023, the Council is not required to do so. Whether the Council does so, and to what extent, are policy decisions to be made at future Council meetings, based on facts and circumstances that exist at that time. This Draft Ordinance applies only to the year 2023, and the restriction on one-time revenue will return in the year 2024 and going forward without additional action by the Council.

**Alternatives**

The Council may:

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

**Financial Impact**

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

**Recommendation**

Staff recommends that the City Council adopt Draft Ordinance 22-069 as written.

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**CITY ATTORNEY'S FIRST DRAFT 11/10/2022**

**DRAFT ORDINANCE NO. 22-069**

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

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

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

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

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

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

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

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

**WHEREAS**, in the winter of early 2020, an outbreak of the virus SARS-CoV-2 and its associated disease COVID-19 struck the United States, quickly giving rise to emergency declarations by the Federal government, the State of Washington, King County, the City of Des Moines, and countless other jurisdictions, and

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**WHEREAS**, the disruption to lives and employment caused by the COVID-19 pandemic was significant and caused impacts to the local, state, national, and worldwide economies that could not be accurately predicted with any degree of certainty, and

**WHEREAS**, the City Council enacted Ordinance No. 1735 in 2020 to waive the restriction on the use of one-time revenue for the year 2020 to provide budget flexibility in the face of possible revenue shortfalls due to the COVID-19 pandemic, and

**WHEREAS**, the City Council enacted Ordinance No. 1741 in 2021 to again waive the restriction on the use of one-time revenue for the year 2021 to provide budget flexibility in the face of possible revenue shortfalls due to the COVID-19 pandemic, and

**WHEREAS**, although the Emergency Declaration has been rescinded, the financial ramifications of the COVID-19 pandemic continue to be uncertain and potentially significant into 2023, and

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

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

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

**Sec. 1.** DMMC 3.100.020 and section 1 (part) of Ordinance No. 1561 as amended by section 1 of Ordinance No. 1607 as amended by section 1 of Ordinance No. 1637, as amended by section 1 of Ordinance No. 1735, as amended by section 1 of Ordinance No. 1741 are amended to read as follows:

**3.100.020. Phased-in expenditure requirements created.**

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(1) For the calendar years of ~~2020-2023~~ and ~~2021~~, the total amount of one-time revenues to be used to fund the ~~2020-2023~~ general fund budget ~~and the 2021 general fund budget~~ shall not be restricted.

(2) For the calendar year of ~~2022-2024~~ and beyond, no one-time revenues shall be used to fund the general fund budget.

**Sec. 2. Severability - Construction.**

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

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

**Sec. 3. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_\_, 2022 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

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

ATTEST:



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

Published: \_\_\_\_\_, 2022

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Discussion of 2023 City Council  
Legislative Priorities

FOR AGENDA OF: November 17, 2022

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

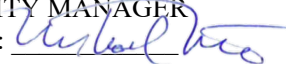
DATE SUBMITTED: November 10, 2022

1. Proposed 2023 City of Des  
Moines City Council State  
Legislative Priorities

CLEARANCES:

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

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to review the 2023 City Council Legislative Priorities for the 2023 Legislative Session.

**Suggested Motion**

**Motion 1:** "I move to approve the 2023 City Council Legislative Priorities as presented."

## **Background**

The State Legislative Session convenes January 9, 2023 for what is expected to be a relatively normal session compared to the last two years. Covid restrictions should mostly be lifted and many more in-person activities allowed.

It is a long session this year, scheduled to go for 105 days (this contrasts with last year's 60-day session). This is a budget year when the State's three biennial budgets are put together - the Operating Budget, Capital Budget and Transportation Budget.

## **Political Representation and Outlook**

The 2022 elections made one change in who will be representing Des Moines in the State Legislature. Most of Des Moines is in the 33<sup>rd</sup> Legislative District (LD) and there will be no change there with Senator Karen Keiser, Representative Tina Orwall and Representative Mia Gregerson all returning. Keiser won her re-election race easily while Orwall and Gregerson were unopposed. There were robust campaigns in the 30<sup>th</sup> LD, which includes the southernmost neighborhoods in Des Moines. Senator Claire Wilson and Representative Jamila Taylor each won re-election. Representative Jesse Johnson (D-30<sup>th</sup>) did not run for re-election (he now works with former 30<sup>th</sup> LD Representative Mike Pellicciotti in the State Treasurer's Office) and that seat was won by Kristine Reeves. Reeves had earlier served as a Representative so she will not have the steep learning curve that other new legislators normally face. Congressman Adam Smith (D-WA 9th Congressional District) represents all of Des Moines in the US Congress along with

US Senators Patty Murray and Maria Cantwell in the US Senate. Smith and Murray easily won re-election.

The City is fortunate to have representatives in top Legislative leadership positions. For instance, Senator Keiser is the Senate's President Pro Tempore. The President Pro Tempore serves as the Senate's presiding officer in absence of the Lieutenant Governor. Representative Tina Orwall holds the equivalent position in the House - Speaker Pro Tempore - and she presides over the House in absence of the Speaker. Representative Gregerson is Vice-Chair of the House Appropriations Committee. All the Legislators in the 33<sup>rd</sup> have deep Legislative experience in Olympia.

Committee and leadership assignments for the upcoming session will be set in the coming weeks.

With the 2022 election being the first in the new boundaries after the once-a-decade redistricting and with what was expected as a very positive year for Republicans, many had anticipated considerable change in the Legislature with closer margins between the D majority and R minority. Instead, if current returns hold (votes are still being counted as this is written), Democrats will increase their majorities to 29-20 in the Senate and 60-38 in the House. These would be the largest D majorities in decades. All the current Legislators representing Des Moines are Democrats.

## **Economic Outlook**

Washington State bases its budget on economic forecasts developed by the Washington Economic & Revenue Forecast Council (ERFC). In normal economic times ERFC's regular updated forecasts make minor adjustments up or down depending on the changing economic indicators/outlook. In the last three years these gyrations have been much larger due to a continual stream of major macro events related to Covid, Federal stimulus and now the war in Ukraine (and related oil & agriculture shocks). The resulting high inflation rates (7.7% is the rate the Fed announced today) and uncertain inflation outlook puts a new wildcard in the equation for budget writers after a decade-plus of very low-inflation.

The State, unlike the Federal government, must run a balanced budget. Therefore, the State budget must adhere to these ERFC forecasts. The last major forecast was in June and was predicting that through the end of this biennium and through the next biennium that the State would collect \$2 billion more than it had earlier forecast. The next major forecast comes out on November 18<sup>th</sup>.

While there remain many unknowns about how good of a budget year this will be for the State, Des Moines should still pursue some budget and policy asks that could help improve the quality of life for Des Moines residents.

Last year was very successful for Des Moines. We secured \$3.5 million in Transportation funds for the Barnes Creek Trail project and \$307,000 in the Capital Budget for the S. 223<sup>rd</sup> Green Street design/planning project. In policy, Des Moines was instrumental in getting new legislation passed to combat catalytic converter theft and to expand the use of speed cameras.

We recommend continuing this policy of pursuing just one or two budget asks along with some targeted policy pushes.

#### **Recommended Budget Requests**

There are many different projects where Des Moines needs assistance in bridging the gap between what it has and what it needs to finish a project. It makes it much easier for our Legislators though if we limit our asks to very top priority issues that can ideally have a larger regional impact. These include:

#### **Redondo Fishing Pier**

We have successfully gained planning (\$350,000) and construction (\$900,000) funds for this project from past Legislatures. While the planning funds have been spent, the actual construction has been delayed due to Federal permit issues that have slowed all in-Sound projects. We expect to be able to obtain the needed permits and proceed with construction in the coming biennium – but project costs have gone up considerably. We would ask for re-appropriation of the past \$900,000 along with an additional \$1.5 million for the fishing pier construction and the adjacent shoreside (bathroom) improvements. Redondo is a regional attraction and the fishing pier's closure has been felt by many.

#### **Marina Steps**

A key part of the overall Marina Redevelopment project is establishing better pedestrian connection between the downtown and the marina floor. We recommend pursuing \$2 million in planning and construction funds.

#### **Transportation**

While \$3.5 million for Barnes Creek was included in the 16-year Transportation Package passed last year, WSDOT needs direction on which projects to proceed with in what year. We should push for clarification that Barnes Creek should proceed as quickly as possible.

#### **Policy Issues**

Many different policy bills that could directly impact Des Moines will arise during the session. While we will work on those as needed, we recommend to also pursue several policy issues proactively.

#### **Catalytic Converter Theft Prevention**

Des Moines was heavily involved in getting a bill passed on this issue in the last session. Mayor Mahoney and DM's Legislative Advocate Anthony Hemstad are serving on the Task Force set up to recommend further legislation. We recommend that Des Moines continue to help lead on this issue and

help advocate for the new reforms that the Task Force recommends (those recommendations will be issued this month).

**Support Public Safety reforms**

There have been substantial negative impacts in south King County, including Des Moines, from the Blake ruling. We would work with other south County cities in working to revise current law, establish accountability in state laws, and prevent full decriminalization of illicit drug use.

**Airport Issues**

The CACC is scheduled to make its final recommendation on a new commercial airport by June 15, 2023. We should work with our Legislative delegation to make sure that momentum continues on this long-term project. Other airport issues are also likely to arise during course of the session.

## Proposed 2023 City of Des Moines City Council State Legislative Priorities

### Funding Requests:

**Marina Steps.** Downtown Des Moines and the marina floor will be connected via new marina steps. This is a key part in downtown's renaissance and the waterfront redevelopment program. Constructing the marina steps should help leverage private investment to the neighborhood and bring greater vibrancy and walkability to area.

Capital Budget request: **\$2 million.**

**Redondo Fishing Pier.** The long Federal permitting process is almost complete, but additional funds are needed due to heavy project inflation.

Capital Budget request: **\$1 million** for Redondo Fishing Pier and **\$1.6 million** for adjacent Redondo Bathroom project.

**Barnes Creek Trail South Segment.** In 2022, Des Moines received \$3.5 million in the 16 year Move Ahead Transportation Package for this project. WSDOT has not determined when funds for each project will be spent. The Legislature should clarify that Barnes Creek funding be used soon so that pedestrians can access the new Kent/Des Moines Sound Transit station opening in 2024.

### Public Safety

**Blake:** Des Moines will work with WSPC, AWC and other groups towards better public safety. For 2023 this will include efforts to further mitigate impacts from the *Blake* ruling and reign in the ongoing problems of illicit drugs on our community.

**Combatting Catalytic Converter Theft.** Des Moines helped craft recommendations from the State Task Force for the Study and Reduction of Catalytic Converter Theft. New legislation will be proposed to combat this ongoing problem in 2023 and Des Moines will work to get this passed.

### Airport Issues

**CACC.** With CACC recommendations on a new airport location being expected in mid-2023, Des Moines encourages appropriate planning and appropriations to continue momentum for locating alternatives to SeaTac for future air travel.

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