

AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Suite C.
Des Moines, Washington
Thursday, May 22, 2025 - 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

PROCLAMATIONS

- Item 1. NATIONAL PUBLIC WORKS WEEK PROCLAMATION
Motion: To approve the proclamation recognizing the week of May 18-24, 2025 as National Public Works Week.
[National Public Works Week Proclamation](#)
[Public Works Week Poster](#)
- Item 2. LGBTQIA+ PRIDE MONTH PROCLAMATION
Motion: To approve the proclamation recognizing June as LGBTQIA+ Pride Month.
[LGBTQIA+ Pride Month Proclamation](#)

CORRESPONDENCE NOT PREVIOUSLY RECEIVED BY COUNCIL

COMMENTS FROM THE PUBLIC

REGIONAL COMMITTEE REPORT

CITY MANAGER REPORT/PRESENTATIONS/BRIEFINGS

- Item 1. PET LICENSING PROGRAM PRESENTATION
[City of Des Moines WA DocuPet PowerPoint Presentation](#)
- Item 2. CAPITAL PROJECTS UPDATE (MARINA STEPS, REDONDO PIER, MEMORIAL TRIANGLE)
[Marina Steps, Redondo Pier & Bond Projects PowerPoint](#)

CONSENT AGENDA

- Item 1. APPROVAL OF VOUCHERS

Motion: To approve the payment vouchers through May 8, 2025, and payroll transfers through May 5, 2025 in the attached list and further described as follows:

Payment Type	Voucher/Check Numbers	Amount
EFT Vendor Payments	# 11777–11850	\$ 373,402.91
Wires	# 2945–2966	\$ 815,922.72
Accounts Payable Checks	# 166724–166762	\$ 149,991.21
Payroll Voided Advice	# 166648, 166694	\$ (8,051.02)
Payroll Checks	# 19940–199445	\$ 4,693.54
Payroll Advice	# 13445–13607	\$ 494,801.30
Total Checks and Wires for A/P & Payroll: \$1,830,760.66		

[Approval of Vouchers](#)

Item 2. APPROVAL OF MINUTES

Motion: To approve the minutes from the City Council Regular Meetings held on April 10, 2025 and on April 24, 2025.

[Approval of Minutes](#)

Item 3. DRAFT ORDINANCE 25-020 ALARM SYSTEMS AND FALSE ALARMS

Motion: To enact Draft Ordinance No. 25-020, amending chapter 9.10 DMMC, Alarm Systems and False Alarms.

[Draft Ordinance 25-020 Alarm Systems and False Alarms](#)

Item 4. LAKEHAVEN UTILITY DISTRICT FRANCHISE UPDATE AND EXTENSION – 2ND READING

Motion: To pass Draft Ordinance 25-037 granting a franchise agreement to Lakehaven Water and Sewer District.

[Lakehaven Utility District Franchise Update and Extension – 2nd Reading](#)

Item 5. INTERLOCAL AGREEMENT - BARNES CREEK TRAIL/SOUTH 240TH STREET IMPROVEMENTS PROJECT

Motion: To approve the Interlocal Agreement with Highline Water District for the Barnes Creek Trail/South 240th Street Improvements Project and further authorize the City Manager to sign said Interlocal Agreement substantially in the form as submitted.

[Interlocal Agreement - Barnes Creek TrailSouth 240th Street Improvements Project](#)

Item 6. PUBLIC DEFENSE SERVICES CONTRACT EXTENSION

Motion: To approve the contract extension with Stewart MacNichols Harmell, Inc. P.S. for indigent public defense services for the period June 1, 2025 through May 31, 2027.

[Public Defense Services Contract Extension](#)

UNFINISHED BUSINESS

- Item 1. DISCUSSION ON APPOINTIVE COMMITTEE REORGANIZATION
[Discussion on City Appointive Committee Reorganization](#)
[Discussion on City Appointive Committees PowerPoint](#)
- Item 2. PROTOCOL MANUAL REVIEW
[City Council Protocol Manual Review](#)
[City Council Protocol Manual Review PowerPoint](#)

NEW BUSINESS

- Item 1. NEW AGENDA ITEMS FOR CONSIDERATION – 10 Minutes

COUNCILMEMBER REPORTS

(4 minutes per Councilmember) - 30 minutes

PRESIDING OFFICER'S REPORT

EXECUTIVE SESSION

POTENTIAL LITIGATION RCW 42.30.110 (1)(i) – 20 Minutes

NEXT MEETING DATE

June 05, 2025 City Council Study Session

ADJOURNMENT

[Projected Future Agenda Items](#)

[Public Comment 05.22.2025](#)

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: National Public Works Week
Proclamation

ATTACHMENTS:
1. Proclamation

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 13, 2025

CLEARANCES:

- [X] City Clerk *SK*
[] Community Development ____
[] Courts ____
[] Finance ____
[] Human Resources ____
[] Legal ____
[] Marina ____
[] Police ____
[] Parks, Recreation & Senior Services ____
[] Public Works ____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

Purpose and Recommendation

The purpose of this agenda item is to recognize the week of May 18-24, 2025 as National Public Works Week.

Suggested Motion

Motion: "I move to approve the proclamation recognizing the week of May 18-24, 2025 as National Public Works Week."

Background

The year 2025 marks the 65th annual National Public Works Week sponsored by the American Public Works Association. This week is designed to pay tribute to our public work professionals, engineers, managers and employees and to recognize the substantial contributions they make in promoting public health and safety and advancing quality of life for the citizens of Des Moines.

Alternatives

None

Financial Impact

None



City of Des Moines
ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



Proclamation

WHEREAS, public works professionals focus on infrastructure, facilities, and services that are of vital importance to sustainable and resilient communities and to public health, high quality of life, and well-being of the people of **Des Moines**; and,

WHEREAS, these infrastructure, facilities, and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders, and children in **Des Moines** to gain knowledge of and maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2025 marks the 65th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association,

NOW THEREFORE, THE DES MOINES COUNCIL HEREBY PROCLAIMS the week of May 18–24, 2025, as National Public Works Week. The Council urges all citizens to join with representatives of the American Public Works Association and government agencies in activities, events, and ceremonies designed to pay tribute to our public works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protecting our national health, safety, and advancing quality of life for all.

SIGNED this day 22nd day of May, 2025

Traci Buxton, Mayor

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: LGBTQIA+ Pride Month
Proclamation

ATTACHMENTS:
1. Proclamation

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 09, 2025

CLEARANCES:

[X] City Clerk *SK*
[] Community Development ____
[] Courts ____
[] Emergency Management ____
[] Finance ____
[] Human Resources ____
[] Legal ____
[] Marina ____
[] Police ____
[] Parks, Recreation & Senior Services ____
[] Public Works ____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

Purpose and Recommendation

The purpose of this agenda item is to recognize June as LGBTQIA+ Pride Month.

Suggested Motion

Motion: "I move to approve the proclamation recognizing June as LGBTQIA+ Pride Month."

Background

Members of the lesbian, gay, bisexual, transgender, and queer/questioning, intersex, and asexual/aromatic/agender communities, (LGBTQIA+) contribute to our community's success and strengths in a great number of immeasurable ways; and LGBTQIA+ Washingtonians invite all people to join them during the month of June in celebrating the resiliency of the community.

Alternatives

None.

Financial Impact

None.



City of Des Moines
ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



Proclamation

WHEREAS, the City of Des Moines recognizes that one of its greatest strengths is the diversity of its residents and citizens; and

WHEREAS, members of the lesbian, gay, bisexual, transgender, and queer/questioning, intersex, and asexual/aromantic/agender communities, (LGBTQIA+) contribute to our community's success and strengths in many ways; and

WHEREAS, the City of Des Moines must proactively ensure that acts of discrimination and hatred will not be tolerated; and

WHEREAS, the LGBTQIA+ community continues to be a target of violence, harassment, and discrimination by many and yet continues to thrive through the efforts of the community itself and through the support of LGBTQIA+ affirming spaces, agencies, and individual allies; and

WHEREAS, while nationwide there continues to be targeting and discrimination against members of the LGBTQIA+ community, Washington State continues to lead in affirming the lives and values of LGBTQIA+ individuals; and

WHEREAS, LGBTQIA+ Washingtonians invite all people to join them during the month of June in celebrating the resiliency of the community;

NOW THEREFORE, THE DES MOINES COUNCIL HEREBY PROCLAIMS June LGBTQIA+ Pride Month and encourages all people in our state to join in celebrating diversity, and promoting inclusion and equal protection under the law, and further encourage people to join us in eliminating discriminatory policies and practices toward any culture, race, or group.

SIGNED this day 22nd day of May, 2025

Traci Buxton, Mayor



DocuPet

A New Standard for Pet Licensing *for the City of Des Moines, WA*

April 2025

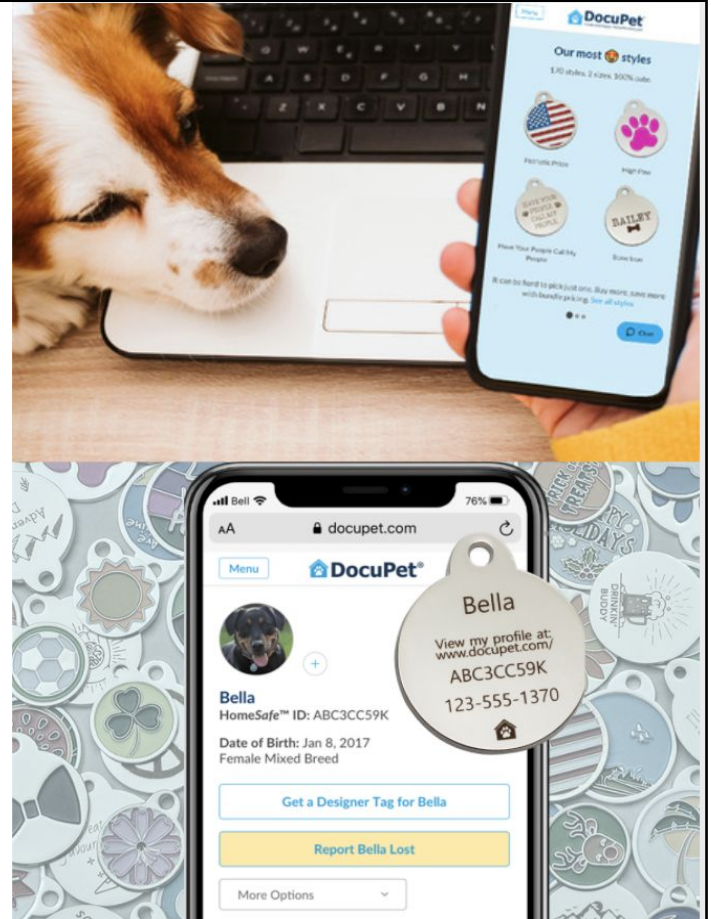




What is DocuPet?

DocuPet is North America's only complete licensing solution. We have reinvented pet licensing in order to...

- Get more pets home safely with better tags and services
- Increase revenue for animal care and protection
- Make licensing program administration easier and less costly
- Provide new management tools and offerings for program administrators



Now Serving 260+ Jurisdictions

40+ Partners Already in Queue for 2025

New States:
MO, VA, TN,
AL, IA, WA, OR,
UT & DE

Noteable:
Delaware
Maricopa, AZ
Toronto, ON



DocuPet...The National Pet Registry Platform

With support from national, regional, and local animal welfare organizations, together we can...

- Normalize Registration across North America
- Increase pet reunification and decrease the number of animals entering and/or staying in shelters
- Increase revenue for our animal welfare providers and our government partners

National Partners

The Association for
**Animal Welfare
Advancement**



Regional Partners



Select Local Partners

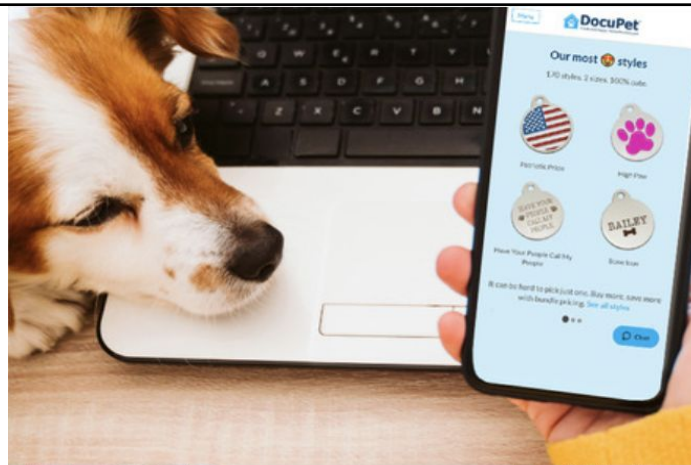




A New Standard

For Pet Owners...

- Online Payment and Document Management for New and Renewal Licenses
- Secure Online Profile
- Fun and Personalizable Tags
- Free 24/7 HomeSafe Lost Pet Service
- Bilingual Customer Support via Phone, Email and Chat
- More frequent, multi-channel reminders
- Communication throughout the year





A New Standard

For Our Partners...

- Customized Branded Websites
- Modern Online Licensing Platform
 - 360 Pet Licensing Program Management
 - Increased Data Points with Full Data Access
 - Financial and Performance Reporting
 - Community Canvassing Software and Support
- Reminder Communication Preparation and Delivery
- Pet Tag Provision and Shipping, and Lost Pet Support
- Bilingual Customer Care and Partner Support
- Mailed-In Order Processing
- Veterinarian Rabies Vaccination Record Data Entry and Follow-ups
- Marketing/Awareness Support
- Donation Collections

Key Services



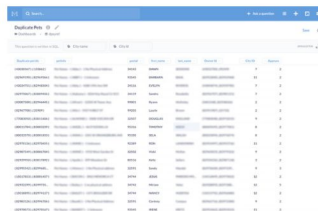
Software Solution

A customized online registration experience for licensees with a secure backend system designed to make administration easy. [Learn More](#)



Pet Owner Facing Website and Marketing Materials

Optimized messaging and marketing collateral templates that help you get the word out in the best way possible. [Learn More](#)



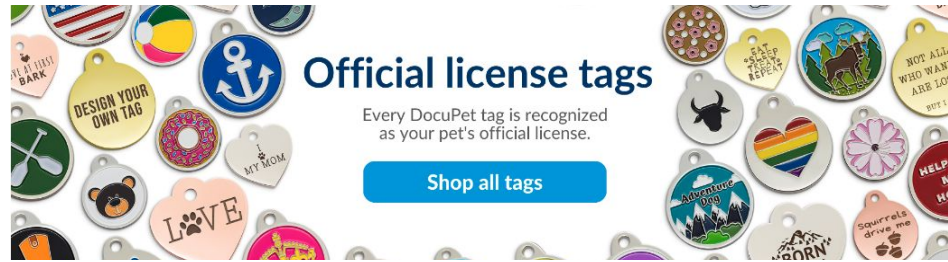
Data Tools

Our proprietary data upload tool makes it easy to keep records up to date and free of duplicates while retaining the level of access you need to make informed decisions. [Learn More](#)



Pet Tags and Order Fulfillment

We provide quality tags in every style imaginable to give pet owners the tags you want their pets wearing, in the designs they actually want their pets to wear. Free for you, awesome for them. [Learn More](#)



Free 24/7 HomeSafe™ lost pet service



Every tag is linked to your pet's profile and is equipped with our 24/7 lost pet service.

[Learn more](#)

It's personal(ized)

Include your personal details...



...or include our HomeSafe™ hotline

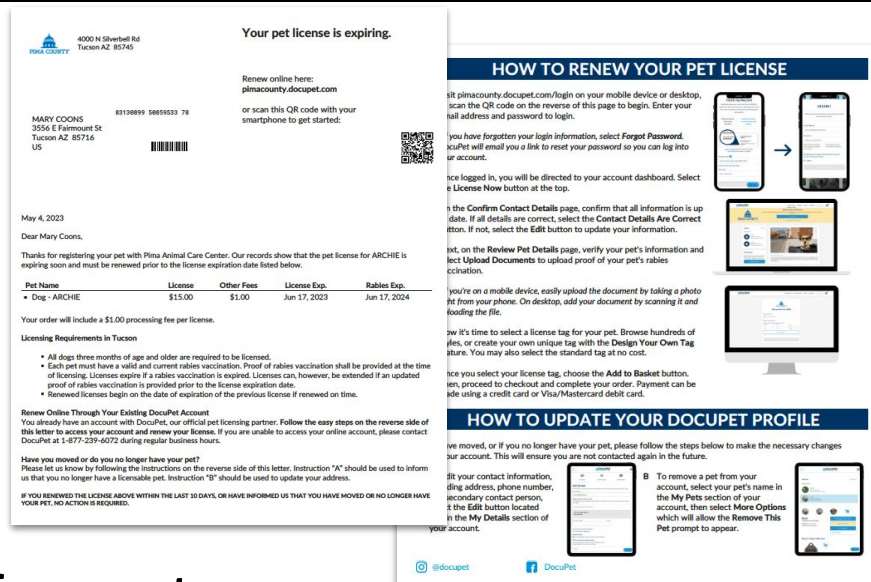


A real eye turner

[Butler County, OH 2024](#)

The license tag is the most tangible component of any licensing program. What if pet owners could choose the style and size of their own tag? What if they could personalize their tag with their phone number and pet's name? What if the tag actually helped lost pets get home 24/7?

Our designer tag program brings fresh awareness opportunities to our partners.



Never forget

Prior to launching with DocuPet, most communities send a single post card prior to license expiration and (maybe) another if a license is expired. Renewal rates are often unknown, but when we examine historical records, we can see that, too often, pet owners aren't renewing their licenses and we know this is often because they simply forget.

Our comprehensive reminder communications program ensures that no pet owner can ever “miss the message”.



Campaign-style Reminders

Pre-Expiry Communications



Post-Expiry Communications



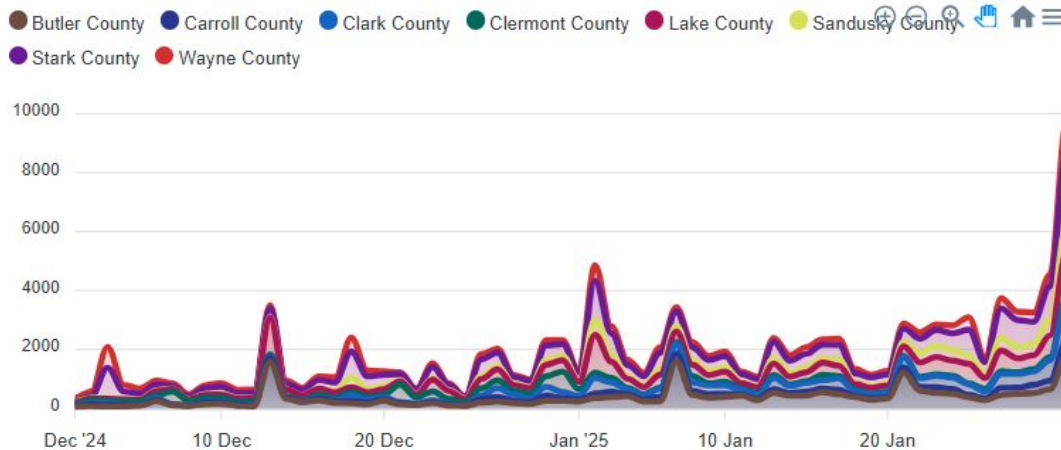
*Communications cease upon license renewal.



Ohio Licenses

2025 Dog Season

All License Sales By Organization In 2025



12-01-2024 to 01-31-2025

- Sales per Day: 1,928
- Renewed Pet: 102,952
- New Pet: 14,703
- Existing Owner: 111,705
- New Owner: 5,950
- **TOTAL: 117,655**



Canvassing Program

Our upgraded Canvassing Software Module allows partners to:

- View License Data in Map Overlays
- Map and Plan Canvassing Zones
- Conduct Canvassing Campaigns
 - Tablet-optimized Data Entry
 - Log visits
 - Sell licenses
 - Print Walking Sheets with Record Details
 - Send Follow-up Letters if pets are identified
 - Track progress and earnings

Student Parking Lot

W Rowland St

W Marbury St

W Thelborn St

Holbrook Ave

306 N Bradoaks Ave

NO RECORD FOUND AT THIS ADDRESS

NO INTERACTION (A) (E) (B) (Y) (N) (S) (H) (D) (I)

PET IDENTIFICATION NOTES

RESIDENT INTERACTION (Z) (L) (T) (X)

LOG VISIT

REVISIT LATER

306 N Bradoaks Ave

Abby (N12YGA4N) Lic. Exp. Mar 15, 2025

Frankie (N12MP5K3)

D/M/S - Labrador Retr - Red - DOB Apr 27, 2019 (3 yr, 3 mo)

Rab. Exp. Mar 15, 2025

D/M - DECEASED

LOG VISIT

REVISIT LATER



Canvassing Results

- **27,068** Canvassing Visits so far in 2023
- Pets identified on **9.7%** of Visits
- **60%** of Identified Pets have resulted in a License Sale
- You have earned **\$2.53** in Licensing Revenue on average per Visit

\$185-\$250+

New Licensing
Revenue per
Canvassing Run



Promos Galore!

If “compliance” is boring, getting a free tag for your pup sure isn’t!

1. Giveaways for...
 - Customer Care
 - Field Services
 - Seasonal Promotions
2. Discounts for...
 - Renewal Programs
 - Vendors and Partners

**REDEEM YOUR
FREE DESIGNER TAG!**

When you license your pet with Inland Valley Humane Society and S.P.C.A. and DocuPet. Use promo code **IVHS2023** at checkout*

*Promo code expires December 31st, 2023 and can only be redeemed for one designer tag. Personalization, upgraded connectors, GlowTags, sale items, keychains, wallet cards and Pet Essentials excluded. One use per person. Cannot be applied to previous orders. Only applicable to residents in Claremont, Covina, Diamond Bar, Glendora, La Verne, Mt. Baldy, Pomona, San Antonio Heights, San Dimas, Unincorporated cities (Chino, Chino Hills, Ontario, & More).



Garfield
Rescued 4/8/17

DOCUPET IS THE OFFICIAL PET LICENSING PARTNER OF INLAND VALLEY HUMANE SOCIETY AND S.P.C.A.

Licenses help keep pets safe and fund important animal welfare initiatives that support the animals in need in our community. Licensing your pet is now easier than ever with DocuPet's quick and easy online experience. Scan the QR code or visit ivhsspc.docupet.com to license your furry friend, and browse hundreds of fun (free) designer tag styles!



Scan this with your phone!





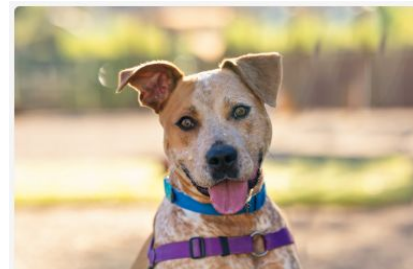
Driving Donation Revenue

They deserve a license tag that looks as good as they do.

Scroll to browse hundreds of tag styles, or design your own to match your pet's 1-in-a-million personality.



Choose a designer tag and we'll donate 20% of the purchase to San Diego Humane Society.



Cart Total: \$43.24

Would you like to make a donation to San Diego Humane Society?

Your gift will make a lifesaving difference for animals in need. Together, we can give more than 40,000 animals a second chance this year by providing the safe shelter, medical care and love each one needs to thrive. Donations to San Diego Humane Society are tax-deductible as permitted by law. A tax receipt will be provided to you by San Diego Humane Society.

Select your donation amount

\$ 10.00

\$ 25.00

\$ 50.00

\$ 100.00

\$ 250.00

\$ 500.00

\$ Custom Amount

Add Donation and Continue to Checkout

No Donation Today, Thanks - Continue



How it works

- Implementation
 - 8 week process highlighted by:
 - Discovery and Planning
 - Licensing and GIS Data Transfer
 - System Customization
 - Training
- Soft-Launch
 - Systems are Live
 - Marketing Plan is Prepared
- Hard-Launch
 - Full Licensing Communications Roll-out including “License Recovery”
 - Marketing Plan is Deployed
- 3-month Performance Review
 - Where do we stand and what can we do together to drive growth?



**Implementation
Kickoff**



MARINA STEPS, REDONDO PIER & BOND PROJECTS

CITY COUNCIL REGULAR MEETING

22 MAY 2025



OVERVIEW

- Recap of February 6 Study Session
- Project Status Updates
 - Memorial Triangle
 - Redondo Pier
 - Marina Steps
 - Funding Update
- Updated Timeline
- Discussion

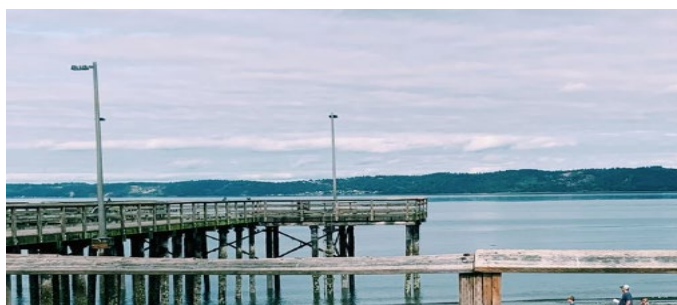
No decision needed tonight; status update and open to receive any feedback



RECAP OF FEBRUARY 6 STUDY SESSION

Shown 2.6.25

MARINA STEPS, REDONDO PIER & BOND PROJECTS



Redondo Fishing Pier & Restroom



Marina Steps



Memorial Drive Flag Triangle



Parking System For Redondo & Marina



Marina L-M-N Dock Replacement

Shown 2.6.25

WHAT FUNDING IS AVAILABLE FOR THE PROJECTS?

Marina Steps: \$12M

\$1.5M Grant funds only for Steps

Funding Needed \$10.5M
Construction

Redondo Pier: \$7M

\$857K Real Estate Excise Tax earmarked
for Pier

Funding Needed \$6.2M

Available Bond Funds:

\$1.66M (Dock under budget)
+ \$7.869M (Steps earmark)
+ \$3.5M (Pier earmark)

= \$13.0M

Remaining Funds Needed:

\$3.7M

OPTIONS

Option 1: Redondo Pier & Marina Steps

- New Pier project continues – fully fund with bond proceeds
- Steps is value engineered to reduce scope and lower budget
- Staff identify more funds for Steps

Option 2: Fully fund the Marina Steps Only

- Fully funded with bond proceeds
- Remaining bond funds (est. \$1M)

Option 3: Fully fund the Redondo Pier Only

- Fully funded with bond proceeds
- Remaining bond funds (est. \$6M)

Option 4: Amend Bond Ordinance to include new projects

- Council identifies new projects to be built with bond funds
- Move expeditiously due to arbitrage

**Options of course can be combined or modified*



PROJECT STATUS UPDATES

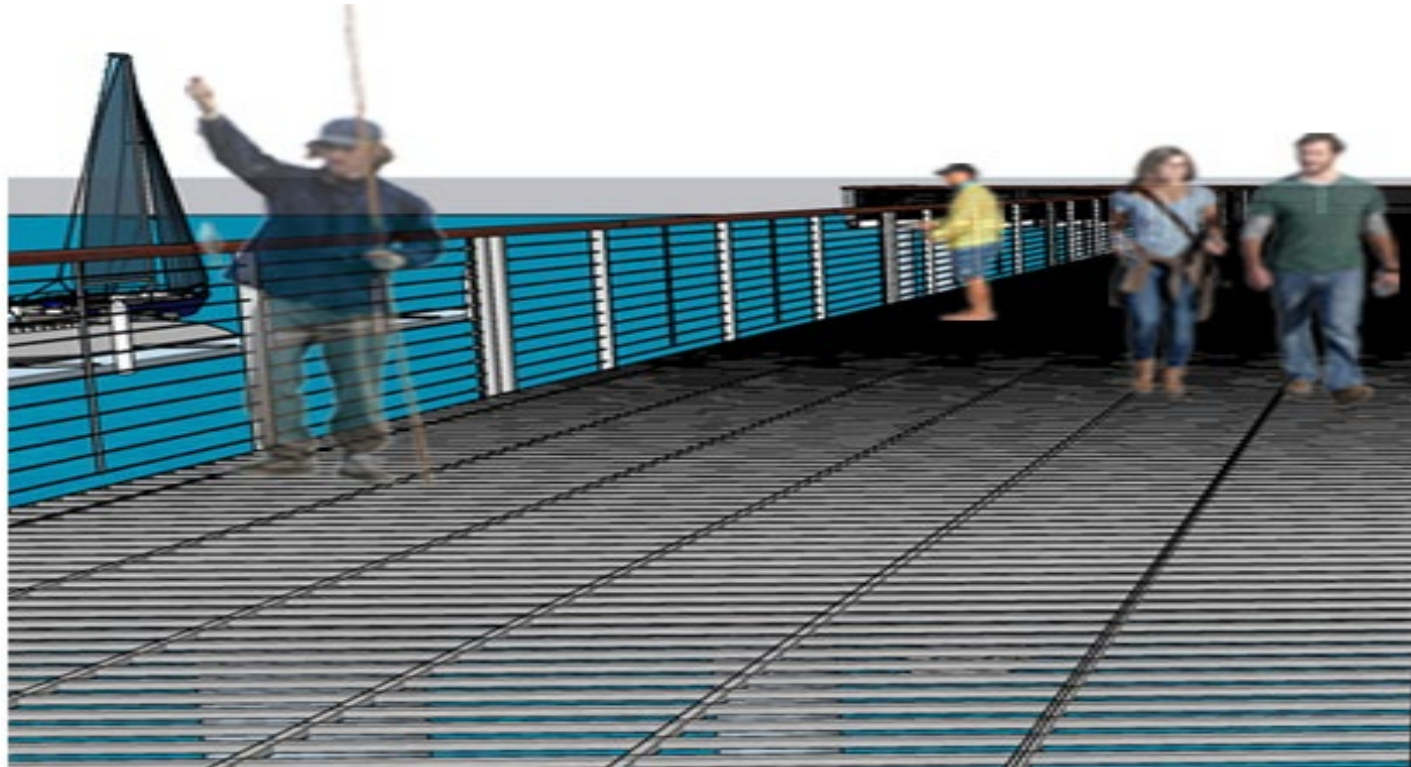
MEMORIAL TRIANGLE

- Work being completed!
- **Ribbon cutting: Memorial Day
Monday, May 26 at 2 PM**



REDONDO FISHING PIER

- Re-design and bid docs complete
- Permit amendments in progress
- Per Council direction, project fully funded with bond proceeds
- Current estimate \$6.02M total project costs
- **If permits received by June, will go out to bid this year and then begin construction**



REDONDO FISHING PIER

Funding:

- \$276,000 State design grant
 - \$857,000 REET
 - \$4,889,000 Bonds
 - Total \$6,023,000

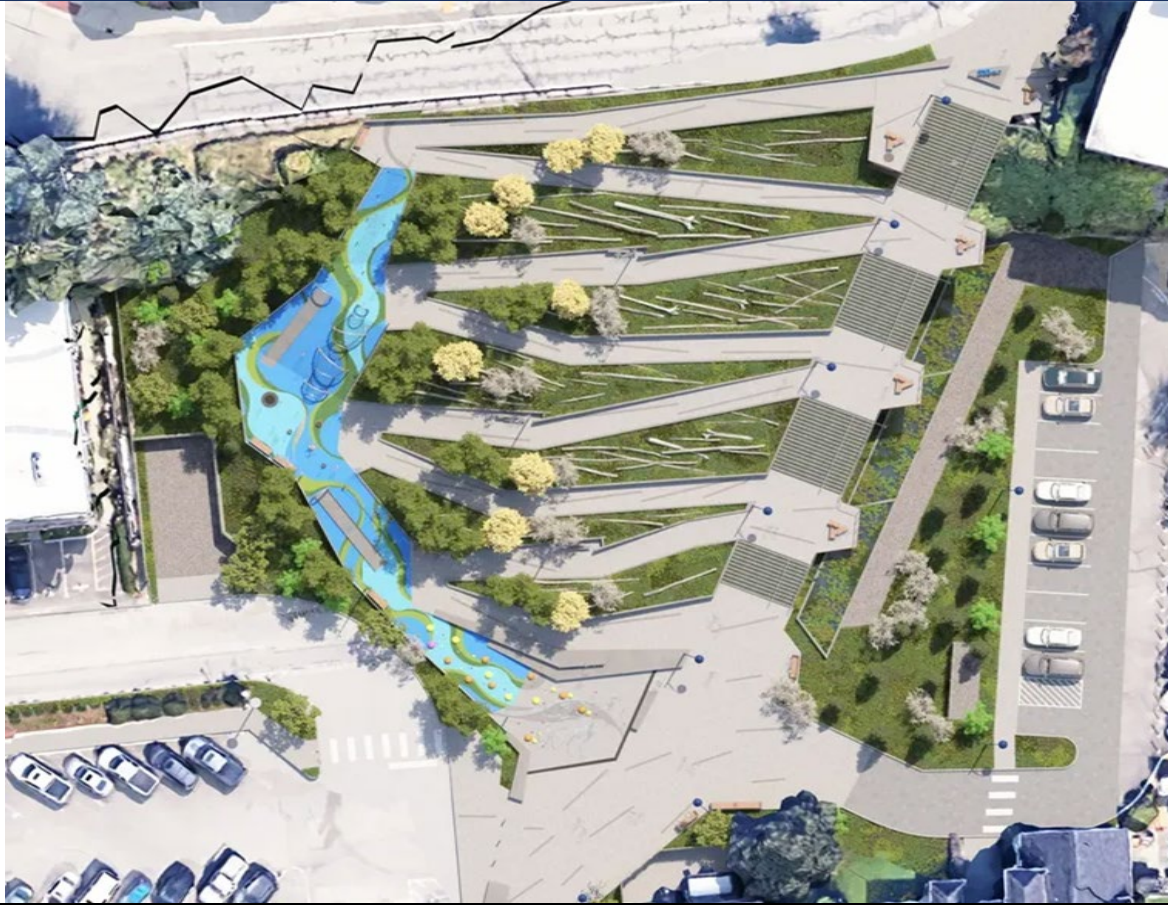


Project Funded

MARINA STEPS

- Direction received to value engineer project- reduce scope, lower budget, secure additional funds for project
- Update:
 - Construction cost estimate pre-value engineering \$11.7 M (previous bid)
 - Construction cost estimate post value engineering \$10 million
 - Deleted underground power
 - Eliminated stair landing overhangs
 - Specialty concrete reduction
 - Eliminated drift logs and reduced specialty landscaping
 - Anticipated construction savings from original scope of project \$1.7M

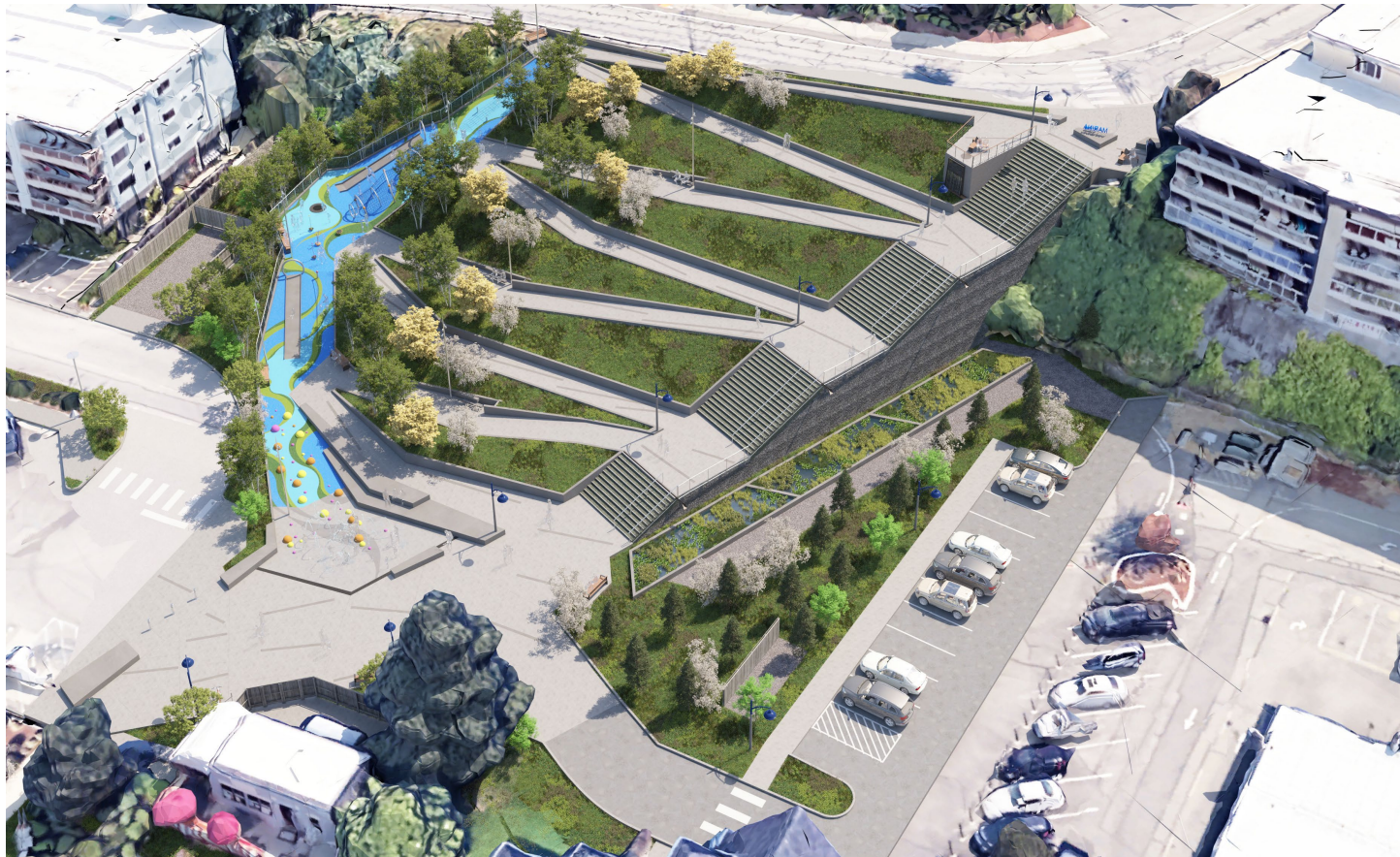
2024 ORIGINAL DESIGN BID



2025 VE DESIGN: NO DEDUCTIVE ALTERNATES

A

- Deleted underground power
- Eliminated stair landing overhangs
- Specialty concrete reduction
- Eliminated drift logs and reduced specialty landscaping
- \$10M construction estimate



2025 VE DESIGN: NO DEDUCTIVE ALTERNATES

A



2025 REVISED DESIGN – NO SPLASH PAD

B

- Elimination of splash pad
- Would generate est. \$130k savings



2025 REVISED DESIGN – NO PLAY AREA



- Elimination of play area
- Would generate est. \$250k savings



2025 REVISED DESIGN – NO PLAY AREA AND SPLASH PAD “BASIC STEPS”

D

- Additional reduction of scope via deductive alternates \$500,000
 - eliminate spray park \$130,000
 - no play area \$250,000
 - no weir wall \$80,000
 - no steps lighting \$40,000



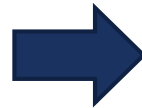
MARINA STEPS UPDATED COSTS

- A:VE Design with no deductive alternatives: Construction cost \$10M
- B: No splash pad: Construction cost \$ 9,870,000
- C: No play area: Construction cost \$ 9,750,000
- D: Basic Steps: \$9,500,000
- + Design, Permitting, Contingency, Construction Mgmt: Est. \$3.387M

MARINA STEPS FUNDING UPDATE

Shown 2.6.25

Marina Steps: \$12M
\$1.5M Grant funds only for Steps
Funding Needed \$10.5M
(Construction only)



5.22.25 Update

Marina Steps: \$10M
\$1.5M Grant funds only for Steps
\$1M in 2025 State budget allocation- grant
\$1M in King County grant- *application pending*
\$8,111,000 Bond proceeds
\$1,250,000 Real Estate Excise Tax
\$700,000 one-time Street vacation funds

\$13,561,000

UPDATED TIMELINE

Redondo Fishing Pier:

Permit dependent

Value Engineering
2025

Bid
Summer 2025

Bid Award
Summer 2025

Project done
February 2026

Marina Steps:

Value Engineering
Spring 2025

Final Funding
Update &
Council
Consideration
July 2025

Bid
Aug 2025

Bid Award
Sep 2025

Project done
spring 2026

FEEDBACK REQUESTED

- Any clarifying questions on information provided?
- Feedback on potential variations of Marina Steps design
 - Proceed with (A) and deductive alternatives?
 - Do you want to permanently eliminate any features now?
- Other Input
- Next steps: We will report back on status of permits for Redondo. If permits not received, will come back to Council for discussion on how this may impact Marina Steps.

CITY OF DES MOINES
Voucher Certification Approval

May 22, 2025

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 **May 22, 2025** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through May 8, 2025 and payroll transfers through May 5, 2025 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:

Jeff Friend, Finance Director

		# From	# To	Amounts
Claims Vouchers:				
EFT's		11777	11850	373,402.91
Wires		2945	2966	815,922.72
AP Checks		166724	166762	149,991.21
AP Voided Checks		166648, 166694		(8,051.02)
Total Vouchers paid				1,331,265.82
Payroll Vouchers				
Payroll Checks	5/5/2025	19940	199445	4,693.54
Payroll Advice		13445	13607	494,801.30
Total Paychecks & Direct Deposits				499,494.84
Total checks and wires for A/P & Payroll				1,830,760.66

MINUTES

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Suite C
Des Moines, Washington
Thursday, April 10, 2025 - 6:00 PM**

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Matt Mahoney.

ROLL CALL

Council Present:

Mayor Traci Buxton; Deputy Mayor Harry Steinmetz; Councilmember Gene Achziger; Councilmember Yoshiko Grace Matsui; Councilmember JC Harris; and Councilmember Matt Mahoney

Council via Zoom:

Councilmember Jeremy Nutting

Staff Present:

Assistant City Manager Adrienne Johnson-Newton; City Attorney Tim George; Police Chief Ted Boe; Community Development Director Rebecca Deming; Land Use Planner I Alicia Jacobs; Assistant City Attorney Matt Hutchins; City Prosecutor Tara Vaughn; Finance Operations Manager Eric Mandelas; Surface Water and Environmental Engineering Manager Tyler Beekley; IT Manager Chris Pauk; Events and Facilities Manager Cortney Wilt; and City Clerk Taria Keane

CORRESPONDENCE NOT PREVIOUSLY RECEIVED BY COUNCIL

- No further correspondence was received beyond the emails already received by Council.

COMMENTS FROM THE PUBLIC

- Victoria Andrews, Seniors for Democracy
- Christina Blocker, Black Wellness Week

COMMITTEE CHAIR REPORT

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- FINANCE COMMITTEE MEETING UPDATE: Chair Matt Mahoney
 - Councilmember Matt Mahoney provided an update on the Finance Committee meeting held on April 03, 2025.
- PUGET SOUND REGIONAL COUNCIL TRANSPORTATION MEETING
 - Councilmember Matt Mahoney provided an update on the PSRC Transportation meeting held on April 10, 2025.
- SOUND CITIES ASSOCIATION PUBLIC ISSUES COMMITTEE
 - Deputy Mayor Harry Steinmetz provided an update on the Sound Cities Association Public Issues Committee meeting held on April 09, 2025.

Councilmember Nutting

CITY MANAGER REPORT/PRESENTATIONS/BRIEFINGS

- Item 1: ~~STATE OF THE COURT ADDRESS~~
Moved to April 24, 2025
- Item 2:
 - Assistant City Manager Adrienne Johnson-Newton reported that the Finance Department was awarded the Government Finance Officers Association (GFOA) Award.
- Item 3: AIRPORT COMMITTEE
 - Community Development Director Rebecca Deming informed Council that the Airport Committee Applications are on the City's Website.

CONSENT AGENDA

- Item 1: APPROVAL OF VOUCHERS
Motion is to approve the payment vouchers through March 28, 2025 and payroll transfers through April 04, 2025 in the attached list and further described as follows:

EFT Vendor Payments	#11587-11634	\$485,805.29
Wires	#2905-2916	\$629,736.10
Accounts Payable Checks	#166594-166611	\$ 70,731.73
Payroll Checks	#19933-19935	\$ 3,283.32
Payroll Advice	#12961-13124	\$479,440.16
Payroll Checks	#19936-19938	\$ 1,302.70
Payroll Advice	#13125-13288	\$504,449.36

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Total Checks and Wires for A/P & Payroll: \$2,174,748.66

Item 2: APPROVAL OF MINUTES

Motion is to approve the minutes from the City Council Study Session meeting on March 06, 2025.

Item 3: BLACK WELLNESS WEEK PROCLAMATION

Motion is to approve the Proclamation recognizing April 14-18 as Black Wellness Week.

Item 4: CONTRACT WITH FCS GROUP FOR LONG-RANGE FINANCIAL PLAN AND DEVELOPMENT IMPACT ANALYSIS

Motion is to approve the Professional Services Contract for a Long-Range Financial Plan and Development Impact Analysis with FCS Group in the amount of \$68,650 and to authorize the City Manager to sign substantially in the form as submitted.

Item 5: 4TH OF JULY DRONE SHOW AT THE MARINA

Motion is to approve the proposed agreement from Sky Elements Drone Shows for 2025 4th of July Celebration and authorize the City Manager to sign the agreement substantially in the form as submitted.

Direction/Action

Motion made by Deputy Mayor Harry Steinmetz to approve the Consent Agenda as read; seconded by Councilmember Matt Mahoney.

Councilmember JC Harris pulled Consent Agenda Item #5.

The remainder of the Consent Agenda passed 7-0.

Council discussed Consent Agenda Item #5.

Motion made by Councilmember Matt Mahoney to approve Consent Agenda Item #5 as read; seconded by Deputy Mayor Harry Steinmetz. Motion passed 6-1.

For: Mayor Traci Buxton; Deputy Mayor Harry Steinmetz; Councilmember Gene Achziger; Councilmember Yoshiko Grace Matsui; Councilmember Jeremy Nutting; and Councilmember Matt Mahoney.

Against: Councilmember JC Harris.

Mayor Traci Buxton read the Black Wellness Week Proclamation into the record.

CITY MANAGER REPORT CONTINUED

ACCESSORY DWELLING UNITS

- Land Use Planner Alicia Jacobs provided Council with an updated PowerPoint presentation on Accessory Dwelling Units.

Council discussed Accessory Dwelling Units regulations.

UNFINISHED BUSINESS

SIXGILL SHARK CAPITAL OF THE WORLD FOLLOW UP

Direction/Action

Motion made by Councilmember Matt Mahoney to proceed with developing and installing commemorative signage declaring 6th Avenue Sixgill Shark Avenue, and authorize the Surface Water Management Fund to partner with MaST with educational signage and outreach related to the Sixgill Shark and the importance of water quality in an amount not to exceed \$10,000; seconded by Councilmember Jeremy Nutting.

Amended Motion made by Councilmember Gene Achziger to strike the street name designation from the proposal making it. "I move to authorize the Surface Water Management Fund to partner with MaST with educational signage and outreach related to the Sixgill Shark and the importance of water quality in an amount not to exceed \$10,000"; seconded by Councilmember Yoshiko Grace Matsui.

Motion passed 7-0.

Motion made by Councilmember JC Harris to postpone this to 2026; seconded by Councilmember Matt Mahoney.

Motion failed 1-6.

For: Councilmember JC Harris

Against: Mayor Traci Buxton; Deputy Mayor Harry Steinmetz; Councilmember Gene Achziger; Councilmember Yoshiko Grace Matsui; Councilmember Matt Mahoney; and Councilmember Jeremy Nutting.

The main motion as amended passed 6-1.

For: Mayor Traci Buxton; Deputy Mayor Harry Steinmetz; Councilmember Gene Achziger; Councilmember Yoshiko Grace Matsui; Councilmember Matt Mahoney; and Councilmember Jeremy Nutting.

Against: Councilmember JC Harris.

NEW BUSINESS

- Item 1: NEW AGENDA ITEMS FOR CONSIDERATION – 10 Minutes
- There were no new items for future consideration.

COUNCILMEMBER REPORTS

(4 minutes per Councilmember) - 30 minutes

COUNCILMEMBER MATT MAHONEY

- Bench Dedication for Jack and Norma Kelsey

COUNCILMEMBER YOSHIKO GRACE MATSUI

- The Rotary Club of Des Moines & Normandy Park "Swing for a Cause" Event
- Eggstravaganza
- Downtown Businesses Egg Hunt

COUNCILMEMBER JEREMY NUTTING

- No Report

COUNCILMEMBER GENE ACHZIGER

- Hands Off Demonstration

COUNCILMEMBER JC HARRIS

- First Air Quality Monitor in 50 years
- South King Housing and Homelessness Partnership Dashboard Presentation
- Emergency Management Advisory Committee
- Hands Off Demonstration

DEPUTY MAYOR HARRY STEINMETZ

- Bench Dedication for Jack and Norma Kelsey
- Met with a Representative from Patty Murry's office
- Citizens Advisory Committee Meeting
- The Rotary Club of Des Moines & Normandy Park "Swing for a Cause" Event
- Hands Off Demonstration

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PRESIDING OFFICER'S REPORT

- Judson Jark Pancake Breakfast
- American Association of University Women
- New Des Moines Businesses
- South Ends Mayors Meeting
- Weekly City Managers Report

NEXT MEETING DATE

April 24, 2025 City Council Regular Meeting

ADJOURNMENT

Direction/Action

Motion made by Councilmember Matt Mahoney to adjourn; seconded by Deputy Mayor Harry Steinmetz.
Motion passed 7-0.

The meeting adjourned at 8:41 p.m.

MINUTES

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Suite C
Des Moines, Washington
Thursday, April 24, 2025 - 6:00 PM**

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Yoshiko Grace Matsui.

ROLL CALL

Council Present:

Mayor Traci Buxton; Deputy Mayor Harry Steinmetz; Councilmember Gene Achziger; Councilmember Yoshiko Grace Matsui; Councilmember JC Harris; Councilmember Matt Mahoney; and Councilmember Jeremy Nutting

Staff Present:

Assistant City Manager Adrienne Johnson-Newton; City Prosecutor Tara Vaughn; Judge Lisa Leone; Finance Director Jeff Friend; Public Works Director Michael Slevin; Police Chief Ted Boe; and City Clerk Taria Keane

Staff via Zoom:

Director of Court Administration Melissa Patrick

CORRESPONDENCE NOT PREVIOUSLY RECEIVED BY COUNCIL

- There were no additional correspondence outside of the emails already received by Council.

COMMENTS FROM THE PUBLIC

- Peggy Claar, Proclamation
- Bill Linscott, Thank you to Harbormaster and Crew
- Kate Krug-Garvey, King County Sexual Assault Resource Center Presentation

CITY MANAGER REPORT/PRESENTATIONS/BRIEFINGS

- Item 1: STATE OF THE COURT ADDRESS
- Judge Lisa Leone and Melissa Patrick gave Council a PowerPoint Presentation on the State of the Court.
- Item 2: PUBLIC WORKS OPERATIONS UPDATE
- Public Works Director Mike Slevin gave Council a PowerPoint Presentation on the Public Works Department.

CONSENT AGENDA

- Item 1: APPROVAL OF VOUCHERS
- Motion** is to approve the payment vouchers through April 10, 2025 in the attached list and further described as follows:

EFT Vendor Payments	#11635-11696	\$401,911.53
Wires	#2917-2926	\$ 6,012.55
Wires	#2928-2929	\$ 7,967.48
AP Checks	#166612-166674	\$476,560.97

Total Checks and Wires for A/P & Payroll: \$892,452.53

- Item 2: SOUTH SOUND BOATING SEASON OPENING DAY PROCLAMATION
- Motion** is to approve the Proclamation recognizing the official opening of the South Sound Boating season on May 10, 2025.
- Item 3: SEXUAL ASSAULT AWARENESS MONTH PROCLAMATION
- Motion** is to approve the Proclamation recognizing April as Sexual Assault Awareness Month.
- Item 4: LABORERS LiUNA LOCAL 242 DAY PROCLAMATION
- Motion** is to approve the Proclamation recognizing May 9th, 2025 as Laborers LiUNA Local 242 Day.

Direction/Action

Motion made by Councilmember Jeremy Nutting to approve the Consent Agenda as read; seconded by Councilmember Matt Mahoney. Motion passed 7-0.

Mayor Traci Buxton read the South Sound Boating Season Opening Day Proclamation into the record.

Mayor Traci Buxton read the Sexual Assault Awareness Month

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Proclamation into record.

Mayor Traci Buxton read the Laborers LiUNA Local 242 Day
Proclamation into record.

NEW BUSINESS

Item 1: NEW AGENDA ITEMS FOR CONSIDERATION – 10 Minutes

- No New Agenda Items for Consideration

COUNCILMEMBER REPORTS

(4 minutes per Councilmember) - 30 minutes

COUNCILMEMBER YOSHIKO GRACE MATSUI

- No Report

COUNCILMEMBER JEREMY NUTTING

- No Report

COUNCILMEMBER JC HARRIS

- Administrative Professionals Day
- Soil Testing at Shark Garden in Burien
- Cash Basis Accounting Training Class
- Regional Transit Committee Advisory Meeting With King County

COUNCILMEMBER GENE ACHZIGER

- Hands Off Democracy Protest
- Eggstravaganza
- Rotary Club of Des Moines/Normandy Park Golf Fundraiser

COUNCILMEMBER MATT MAHONEY

- City Manager Birthday
- Seahawks

DEPUTY MAYOR HARRY STEINMETZ

- Destination Des Moines
- Hands Off Democracy Protest
- Downtown Easter Egg Hunt
- Second Love Coffee Roasters

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- Rotary Club of Des Moines/Normandy Park Golf Fundraiser

PRESIDING OFFICER'S REPORT

- League of Women Voters
- Redondo Community Club
- Eggstravaganza
- Meeting with Former Animal Control Officer Jan Magnuson
- Meeting with Adam Smith's Office
- City Newsletters

NEXT MEETING DATE

May 01, 2025 City Council Study Session

ADJOURNMENT

Direction/Action

Motion made by Councilmember Yoshiko Grace Matsui to adjourn;
seconded by Deputy Mayor Harry Steinmetz.
Motion passes 7-0.

The meeting adjourned at 7:26 p.m.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Ordinance 25-020 Alarm
Systems and False Alarms

ATTACHMENTS:


1. Draft Ordinance No. 25-020

FOR AGENDA OF: May 22, 2025

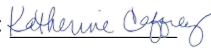
DEPT. OF ORIGIN: Legal

DATE SUBMITTED: May 12, 2025

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 item for the Council to consider Draft Ordinance 25-020 amending chapter 9.10 DMMC - Alarm Systems and False Alarms.

Suggested Motion

Motion 1: "I move to enact Draft Ordinance No. 25-020, amending chapter 9.10 DMMC, *Alarm Systems and False Alarms*."

Background

At the April 3, 2025 Committee of the Whole meeting, Chief Boe gave a presentation on contracting with False Alarm Management Solution for alarm administration. This includes, among other things, handling alarm registrations, collecting the registration fee(s), and billing for false alarms. Council approved moving ahead with this contract which prompted a review of our current laws and fees. This review showed that while some sections of the code had been changed in 2014, most of the code has not been revised since 2005, meaning that some of the provisions no longer accord with current practices and costs.

Code - As currently written, the code:

1. Does not allow for anyone other than the Chief of Police, or a person that they designate, to be the alarm administrator.
2. Requires certain functions be handled or approved solely by the alarm administrator, such as appeals of a fine, suspension, or permit revocation, and communications and procedures regarding dispatch and cancellation requests.
3. Mandates an “alarm user awareness class” be offered by the City to educate alarm users about the problems created by false alarms and about responsible operation of alarm systems.
4. Has alarm registration expiring one year from the date of issuance.
5. Requires the alarm administrator to approve a “Customer False Alarm Prevention Checklist” that the alarm company must review with the alarm user after installation of an alarm.
6. Mandates a \$25 fee for alarm registration and for late payment.
7. Sets different fees depending on how many false alarms one user has within a twelve month period; giving two “no cost violations,” charging \$100 upon the third false alarm, and charging \$200, or the actual cost of response as determined by the Chief of Police, after the fourth or more false alarm.

Fees - Currently the City charges \$25 for alarm registration and \$25 for late payment. For false alarm fees, the City charges different fees depending on how many false alarms one user has within a twelve month period. The City gives two “no cost violations,” meaning that upon the first two false alarms, the alarm user is sent a notice with no fine, upon the third false alarm the alarm user is charged \$100, and after the fourth or more false alarm the alarm user is charged \$200 or the actual cost of response as determined by the Chief of Police.

On May 1, 2025 the Committee of the Whole gave guidance to staff, concurring in the recommendation to leave the alarm registration the same but to change the fee structure to bring it closer to the actual cost of officer response based on the type of alarm triggered. The Committee approved bringing the revised the fee schedule to Council and this new structure is included in Draft Ordinance 25-020.

Discussion

There are two main areas being addressed in Draft Ordinance 25-020: changes to the code language to bring it more in line with current practices and to provide clarity, and changes to the false alarm fee schedule.

Code Language

Most of the proposed changes to the code are intended to provide clarity, making it easier for alarm users to understand, and making it easier to enforce. Other proposed changes are intended to reflect the current

procedure used for registration, imposing false alarm fines, and suspension of service or revocation of registration.

As the City will be contracting for alarm administration, a rewording is needed to allow an entity to be designated alarm administrator. Also, for sections relegating certain functions solely to the alarm administrator, it is proposed that these be revised to exchange the words “alarm administrator” with “the Chief of Police or their designee.” This will allow the Chief the flexibility to assign certain of these functions to the alarm administrator while retaining the ability to also handle them within the Department. For example, adopting the proposed change in DMMC 9.10.080(4) would allow either the alarm administrator or the Police to require a conference with an alarm user and their alarm company when they believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms.

There is a proposed change to remove any reference to an “alarm user awareness class” as this is not part of the current procedures after false alarms, the City does not have the resources to dedicate to create and run such a class, and neighboring cities do not have any such class listed in their alarm codes.

The last two substantive changes being proposed are 1) to have the alarm registration period begin on January 1st and end on December 31st of every year, and 2) have the look-back period for false alarms be the previous 12 months instead of 12 months from the date of registration or renewal. The first proposed change would simplify the process for notifying alarm users of their required registration renewal thirty days in advance of expiration as required of the alarm administrator by DMMC 9.10.050. The second would not only simplify the process for the alarm administrator when determining the number of prior false alarms for the purpose of imposing fines, but would hopefully result in reduced false alarms since users would not get a “clean slate” after every renewal of registration.

False Alarm Fee Schedule

For false alarms there are three different fee structures used by the neighboring cities. Some cities just charge one flat rate for each false alarm within a certain period of time. Others impose graduated fees depending on the number of false alarms within a certain period of time; this is how our current fees are structured. Yet others base their fee amounts on which type of alarm is triggered, which is due, as stated above, to the differing size of officer response depending on the alarm. Adopting the third approach would allow the City to recoup fees closer to the actual cost of officer response and is recommended.

Only limited other cities allow “no cost violations,” and of those only one allows more than one. Given that by the time of accruing a second false alarm the City has already expended resources for the first false alarm, we recommend joining the majority of these cities and only allow one no cost false alarm within a twelve month period.

Below is the proposed new fee schedule:

Number of False Alarms (within a 12 month period)	Fine
1	\$0
	\$100 – standard alarms

2	\$150 – duress or panic alarms \$200 – holdup alarms
3	\$150 – standard alarms \$200 – duress or panic alarms \$250 – holdup alarms
4 or more	*\$200 (each) – standard alarms *\$250 (each) – duress or panic alarms *\$300 (each) – holdup alarms

Alternatives

The City Council may:

1. Pass the proposed Draft Ordinance as written
2. Pass the proposed Draft Ordinance with alterations.
3. Decline to pass the proposed Draft Ordinance.

Financial Impact

The City is likely to see some increased revenue through imposing higher graduated fines for false alarms and professional management of the program.

Recommendation

Staff recommends that the City Council enact Draft Ordinance 25-020 as written.

Council Committee Review

Proposed changes to the fee structure were brought before the Committee of the Whole on May 1, 2025.

The Committee approved of the proposed changes and asked staff to bring an Ordinance to the City Council.

CITY ATTORNEY'S FIRST DRAFT 05/12/2025

DRAFT ORDINANCE NO. 25-020

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to alarm systems and false alarms, updating the City's alarm code, and amending DMMC 9.10.020, 9.10.030, 9.10.040, 9.10.050, 9.10.060, 9.10.070, 9.10.080, 9.10.090, 9.10.100, 9.10.110, 9.10.120, and 9.10.130.

WHEREAS, many businesses and residents within the City have central station monitored alarm systems installed on real property under their control, and

WHEREAS, such alarms are designed to notify police and emergency medical service providers of situations involving threats to personal safety such as burglary, robbery, and medical emergencies, and

WHEREAS, when such alarms are activated, the monitoring service contacts the Des Moines Police Department, resulting in the dispatch of Des Moines Police officers or other emergency personnel, and

WHEREAS, the Police Department receives thousands of such calls every year, most of which are false alarms, and

WHEREAS, such false alarms consume a significant amount of department resources and divert police officers from other valid law enforcement duties, and

WHEREAS, the City of Des Moines adopted an alarm system code through Ordinance no. 1360 in 2005, codified at chapter 9.10 DMMC to address the cost of false alarms, and

WHEREAS, in order to facilitate more effective implementation and enforcement of the alarm system code, certain updates to the code are warranted, and

WHEREAS, the adoption of reasonable amendments to the alarm system code is likely to reduce false alarm calls, conserve limited police resources, and otherwise promote public safety and the general welfare; now therefore,

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

Sec. 1. DMMC 9.10.020 and section 2 of Ordinance no. 1360 as amended by section 8 of Ordinance no. 1604 are each amended to read as follows:

Definitions - Use of words and phrases.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Alarm administrator" means a person or ~~person~~entity designated by the City of Des Moines Chief of Police to administer the City's false alarm reduction program.

"Alarm company" means the business, by an individual, partnership, corporation or other entity, of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system in an alarm site.

"Alarm dispatch request" means a notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

"Alarm registration" means the notification by an alarm company or an alarm user to the alarm administrator that an alarm system has been installed and is in use.

"Alarm site" means a single fixed premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multi-tenant building or complex, shall be considered a separate alarm site.

"Alarm system" means a device or series of devices which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition that is intended to or causes law enforcement service to be summoned.

"Alarm user" means any person, firm, partnership, corporation or other entity, other than a public law enforcement agency, who (which) uses or is in control of any alarm system at its alarm site.

~~"Alarm user awareness class" means a class conducted by any municipality or law enforcement agency for the purpose of educating alarm users about the problems created by false alarms and responsible use and operation of alarm systems.~~

"Cancellation" or "responding agency alarm dispatch cancellation" is the process by which an alarm company providing monitoring verifies with the alarm user or responsible party that a false dispatch has occurred and that there is not an existing situation at the alarm site requiring law enforcement agency response.

"Conversion" means the transaction or process by which one alarm company begins monitoring of a previously unmonitored alarm system or an alarm system previously monitored by another alarm company.

"Days" unless otherwise noted, shall mean calendar days to include weekends and holidays.

"Duress alarm" means a silent alarm system signal generated by the manual activation of a device intended to signal a life threatening situation or a crime in progress requiring law enforcement response.

"False alarm" means an alarm dispatch request to a law enforcement agency, when the responding officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site.

"Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

"Keypad" means a device that allows control of an alarm system by the manual entering of a coded sequence of numbers or letters.

"Local alarm system" means any alarm system that annunciates an alarm only by an internal or external audio device.

"Monitoring" means the process by which an alarm company receives signals from an alarm system and relays an alarm dispatch request to the City for the purpose of summoning law enforcement response to the alarm site.

"Panic alarm" means an audible alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

"Person" means an individual, corporation, partnership, association, organization or similar entity.

"Revocation" means the cancellation and invalidation of an alarm registration.

"Suspension" or "suspension of response" means that law enforcement will not respond to an alarm or to an alarm site even though an alarm dispatch request is received by law enforcement.

"Takeover" means the transaction or process by which an alarm user takes over control of an existing alarm system, which was previously controlled by another alarm user.

"Verify" means an attempt, by the alarm company or its representative, to contact the alarm site by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request.

"Zones" are subdivisions into which an alarm system is divided to indicate the general location from which an alarm system signal is transmitted.

Sec. 2. DMMC 9.10.030 and section 3 of Ordinance no. 1360 as amended by section 10 of Ordinance no. 1604 are each amended to read as follows:

Registration required - Application - Fee - Transferability - False statements.

(1) ~~After 60 days from the effective date of the ordinance codified in this chapter, n~~No alarm user shall operate, or cause

to be operated, an alarm system at its alarm site without a valid alarm registration issued by the alarm administrator. A separate registration is required for each alarm site.

~~(2) For those alarm systems in existence on the effective date of the ordinance codified in this chapter, the initial annual registration and fee for each alarm system must be submitted to the alarm administrator within 60 days of the effective date of the ordinance codified in this chapter.~~

(32) For new alarm system installations and alarm takeovers, the initial annual registration and fee for each alarm system must be submitted within five days after the alarm installation or alarm takeover.

(43) The registration fee for the year ~~starting January 2005~~ shall be:

Initial alarm registration	\$25.00
Renewal of alarm registration	\$25.00
Late fee (after 30 days)	\$25.00

~~(5) The registration and renewal fees for the years 2006 and thereafter shall be set by the City Manager based upon the recommendation of the City of Des Moines Police Chief, whose recommendation shall be based upon the actual costs of administration and enforcement of the alarm registration program.~~

(64) Upon receipt of a completed application form and the alarm registration fee, the alarm administrator shall register the applicant unless the applicant has:

(a) Failed to pay a fine assessed under this chapter;
or

(b) Had an alarm registration for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

(75) Each alarm registration application shall be on a form approved by the City of Des Moines Chief of Police or their

designee and shall provide such information and signed assurances as the Chief or their designee deems necessary to carry out the intent and purposes of this chapter.

(~~8~~6) Each alarm registration and renewal shall require a signed acknowledgment by the alarm user of the following:

Registration of an alarm system is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response by the City of Des Moines Police Department. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By registering an alarm system, the alarm user acknowledges that police response may be based on many factors, including but not limited to availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, and staffing levels.

(~~9~~7) Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue or to revoke a registration.

(~~10~~8) An alarm registration cannot be transferred to another person or alarm site. An alarm user shall inform the alarm administrator, within five (~~5~~) business days, of any change that alters any information listed on the registration application.

(~~11~~9) All fees owed by an ~~applicant~~alarm user must be paid before a registration may be issued or renewed.

Sec. 3. DMMC 9.10.040 and section 4 of Ordinance no. 1360 are each amended to read as follows:

Alarm systems in apartment complexes.

(1) A tenant of an apartment with an alarm system shall obtain an alarm registration from the alarm administrator before operating or causing the operation of an alarm system in the tenant's residential unit. The owner or property manager of an apartment complex shall obtain a separate alarm registration for any alarm system operated in offices or common areas of the

apartment complex. ~~The annual fee for these registrations or the renewal of these registrations shall be the same as the fee for a residential alarm site.~~

(2) If an alarm system installed by an individual tenant in an apartment complex unit is monitored, the tenant must provide the name of a representative of the apartment owner or property manager who can grant access to the apartment to the alarm company.

(3) For purposes of enforcing this chapter against an individual residential unit, the tenant is responsible for false alarms emitted from the alarm system in the tenant's residential unit. The owner or property manager of an apartment complex is responsible for false alarms emitted from an alarm system operated in offices or common areas of the apartment complex.

(4) Each apartment unit shall be considered an alarm site.

Sec. 4. DMMC 9.10.050 and section 5 of Ordinance no. 1360 are each amended to read as follows:

Registration duration and renewal.

An alarm registration shall expire ~~one year from the date of issuance~~ on December 31 of every year, and must be renewed annually by submitting an updated application and a registration renewal fee to the alarm administrator. The alarm administrator shall notify each alarm user of the need to renew 30 days prior to the expiration of the registration. It is the responsibility of the alarm user to submit an application prior to the registration expiration date.

Sec. 5. DMMC 9.10.060 and section 6 of Ordinance no. 1360 are each amended to read as follows:

Duties of the alarm user.

(1) An alarm user shall maintain the premises and the alarm system in a manner that will minimize or eliminate false alarms, and shall make every reasonable effort to respond or cause a representative to respond to the alarm system's location within 30 minutes when notified by the city to deactivate a malfunctioning

alarm system, to provide access to the premises, or to provide alternative security for the premises.

(2) An alarm user shall not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

(3) An alarm user shall adjust the alarm system or cause the alarm system to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 15 minutes after being activated.

(4) An alarm user shall have an alarm company inspect the alarm system after two false alarms in a one-year period ~~from the date of registration issuance or renewal~~. The alarm administrator may waive an inspection requirement if it is determined that a false alarm could not have been related to a defect or malfunction in the alarm system. After four false alarms within a one-year period ~~from the date of registration issuance or renewal~~ the alarm user must have a properly licensed alarm company modify the alarm system to be more false alarm resistant or provide additional user training as appropriate.

Sec. 6. DMMC 9.10.070 and section 7 of Ordinance no. 1360 as amended by section 1 of Ordinance no. 1379 are each amended to read as follows:

Duties of alarm company.

(1) Any alarm company that sells, leases, maintains, services, repairs, alters, replaces, moves, installs or monitors an alarm system at an alarm site within the city of Des Moines shall obtain a city of Des Moines business license in accordance with chapter 5.04 DMMC.

(2) Alarm companies shall use control panels tested for conformance to the American National Standards Institute (ANSI)/Security Industry Association (SIA) Control Panel Standard - Features for False Alarm Reduction.

~~(3) After completion of the installation an alarm company employee shall review with the alarm user the "Customer False Alarm Prevention Checklist" approved by the alarm administrator.~~

(43) An alarm company performing monitoring services shall:

(a) Notify the alarm user of the need to register the alarm system;

(b) Offer a training period in which no request for dispatch by law enforcement will occur during the first seven (7) days after installation of an alarm system, but rather will use that week to train the alarm user on proper use of the alarm system unless circumstances necessitate immediate requests for response as determined by the alarm administrator;

(c) Report alarm signals by using telephone numbers designated by the alarm administrator;

(d) Utilize mandatory enhanced call verification for every alarm signal, except a duress alarm, panic alarm, and/or a holdup alarm activation, by making a minimum of two calls to attempt to verify an alarm prior to requesting a police response. The first call shall be to the premises protected by the activated alarm. The second call shall be to a separate off-site number such as the mobile telephone of the owner or manager of the property;

(e) Designate an alarm company contact person, including the person's name, telephone number and e-mail address, for the alarm administrator. The contact person must be knowledgeable about City of Des Moines alarm ordinances and have the authority to make decisions and respond to the requests of the alarm administrator;

(f) Prepare and submit to the alarm administrator a quarterly written report listing all alarm users, alarm sites, addresses and telephone numbers for which the alarm company provides monitoring services for alarms regulated by this chapter;

(g) Communicate alarm dispatch requests to the city police department in a manner and form determined by the ~~alarm administrator~~ Chief of Police or their designee;

(h) Communicate cancellations to the city police department in a manner and form determined by the ~~alarm administrator~~Chief of Police or their designee;

(i) Ensure that all alarm users of alarm systems equipped with a duress alarm, panic alarm, or holdup alarm are given adequate training as to the proper use of ~~the duress or holdup alarm~~each type of alarm;

(j) Communicate any available information (north, south, front, back, floor, etc.) about the location of the alarm;

(k) Communicate type of alarm activation (silent or audible, interior or perimeter);

(l) Provide alarm user registration number when requesting dispatch;

(m) Endeavor to contact the alarm user when an alarm dispatch request is made; and

(n) Maintain~~, for a period of at least one year,~~ records relating to an alarm dispatch request. Records must include the name, address and phone number of the alarm user, the alarm system zone(s) activated, the time of the alarm dispatch request and evidence of an attempt to verify. The alarm administrator may request copies of such records for individually named alarm users.

Sec. 7. DMMC 9.10.080 and section 8 of Ordinance no. 1360 are each amended to read as follows:

Duties of the alarm administrator.

(1) The alarm administrator, at the direction of the Chief of Police, shall:

(a) Designate a manner, form and telephone numbers for communication of alarm dispatch requests; and

(b) Establish a procedure to accept cancellation of alarm dispatch requests.

(2) The alarm administrator shall establish a procedure to record such information on alarm dispatch requests necessary to permit the alarm administrator to maintain records, including, but not limited to, the following information:

(a) Identification of the registration number for the alarm site;

(b) Identification of the alarm site;

(c) Date and time the alarm dispatch request was received;

(d) Date and time of law enforcement officer arrival at the alarm site;

(e) Zone, if available;

(f) Name of alarm user's representative on-premises, if any;

(g) Identification of the responsible alarm company; and

(h) Cause of alarm, if known.

(3) The alarm administrator shall establish a procedure for the notification to the alarm user of a false alarm. The notice shall include the following information:

(a) The date and time of law enforcement response to the false alarm;

(b) The identification number of the responding law enforcement officer (s); and

(c) Such other notices, requirements and procedures as deemed necessary by the city of Des Moines ~~e~~Chief of ~~P~~Police to carry out the intent and purposes of this chapter.

(4) If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the ~~alarm administrator~~ Chief of Police or their designee may require a conference with an alarm user and the alarm company responsible for the repair of the alarm system to review the circumstances of each false alarm.

~~(5) The alarm administrator shall oversee the creation and implementation of an alarm user awareness class. The alarm administrator may request the assistance of alarm companies and a law enforcement agency in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and teach alarm users how to operate their alarm systems without generating false alarms.~~

Sec. 8. DMMC 9.10.090 and section 9 of Ordinance no. 1360 as amended by section 2 of Ordinance no. 1379 as amended by section 9 of Ordinance no. 1604 are each amended to read as follows:

Enforcement and penalties.

(1) Any person operating a nonregistered alarm system (whether registration was revoked, ~~suspended~~ not renewed, or never acquired) will be subject to a \$200.00 fine in addition to any other applicable fines. ~~Failure to renew will be classified as use of a nonregistered alarm system.~~

(2) An alarm user shall be subject to fines as stated in subsection (3) of this section, ~~warnings and suspension or revocation of registration~~ depending on the number and type of false alarms emitted from an alarm system within a 12-month period from the date of registration or renewal. In addition to fines, an alarm user shall receive a warning of possible suspension of response or registration revocation upon the first three false alarms. In addition to fines, the Chief of Police or their designee may suspend service or revoke an alarm user's alarm registration after the fourth or more false alarm in a 12-month period, or if they determine that such suspension or revocation is necessary for public safety and/or effective law enforcement.

(3) The fines for a false alarm ~~for the year starting January 2006~~ shall be:

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Number of False Alarms	Fines
1	0
2	0
3	\$100.00
4 or more	\$200.00 (each) or actual cost of response as deter- mined by Chief of Police

<u>Number of False Alarms within 12 month period</u>	<u>Fine</u>						
<u>1</u>							
<u>2</u>	<table><tr><td>Standard Alarm</td><td>\$100.00</td></tr><tr><td>Duress or Panic</td><td>\$150.00</td></tr><tr><td>Holdup Alarm</td><td>\$200.00</td></tr></table>	Standard Alarm	\$100.00	Duress or Panic	\$150.00	Holdup Alarm	\$200.00
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Standard Alarm	\$200.00						
Duress or Panic	\$250.00						
Holdup Alarm	\$300.00						

*Or the actual cost of response as determined by the Chief
of Police or their designee

~~(4) The fines for the years 2007 and thereafter shall be
determined by the City Manager based upon the recommendation of
the Des Moines Police Chief whose recommendation shall be based
upon the actual costs of a two-officer response including dispatch
fee and costs of administration.~~

~~(5) At the discretion of the alarm administrator, an alarm user may have the option of attending an alarm user awareness class in lieu of paying one prescribed fine.~~

(64) An alarm company will be subject to a \$200.00 fine per event if the ~~alarm administrator~~Chief of Police or their designee determines that the alarm company has failed to comply with any of the duties set forth in this chapter or that:

(a) The alarm company directly caused a false alarm. In this situation the fine will be assessed against the alarm company and will not be counted against the alarm user;

(b) There is a consistent pattern or written policy against verification;

(c) An alarm company employee made a false statement concerning the inspection of an alarm site or the performance of an alarm system; or

(d) An alarm company ~~continues to request~~requests law enforcement dispatch to an alarm site after notification that the ~~registration~~response has been suspended or registration has been revoked and/or is subject to enforcement and penalties set forth in this chapter.

(75) Any due and unpaid alarm registration fee and all fines and penalties imposed by this chapter may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties.

Sec. 9. DMMC 9.10.100 and section 10 of Ordinance no. 1360 are each amended to read as follows:

Suspension of response or revocation of alarm permit.

(1) The ~~alarm administrator~~Chief of Police or their designee may suspend alarm response or revoke an alarm user's registration if it is determined that:

(a) The alarm user has four or more false alarms in one ~~year~~twelve (12) month period; or

(b) There is a false statement of a material fact in the application for a registration; or

(c) The alarm user has failed to make timely payment of a fee or fine assessed under this chapter; or

(d) The alarm user has failed to submit a written certification from an alarm company, that complies with the requirements of this chapter, stating that the alarm system has been inspected and repaired (if necessary) by the alarm company.

(2) Unless there is separate indication that there is a crime in progress, the police department may refuse law enforcement response to an alarm dispatch request at an alarm site for which the alarm registration is ~~suspended~~revoked.

(3) If the alarm registration is reinstated, the ~~alarm administrator~~Chief of Police or their designee may suspend alarm response if it is determined that two false alarms have occurred within 60 days after the reinstatement date.

Sec. 10. DMMC 9.10.110 and section 11 of Ordinance no. 1360 are each amended to read as follows:

Notification.

(1) The alarm administrator shall notify the alarm user in writing after the first, second and third false alarms. The notification shall include:

(a) The amount of the fine for each false alarm;

~~(b) Notice that the alarm user can attend alarm user awareness class to waive a fine;~~

~~(c)~~ (e) The fact that response ~~will~~may be suspended or the registration revoked after the fourth false alarm; and

(~~dc~~) A description of the appeals procedure available to the alarm user.

(2) The alarm administrator will notify the alarm user and the alarm company in writing after the fourth false alarm that alarm response has been suspended and/or that the alarm permit has been revoked. This notice of suspension will also include:

(a) The amount of the fine for each subsequent false alarm; and

(b) A description of the appeals procedure available to the alarm user and the alarm company.

Sec. 11. DMMC 9.10.120 and section 12 of Ordinance no. 1360 as amended by section 3 of Ordinance no. 1379 as amended by section 11 of Ordinance no. 1604 are each amended to read as follows:

Appeals.

(1) An alarm user or an alarm company may appeal the assessment of a fine, ~~or~~ suspension, or permit revocation to the ~~alarm administrator~~ Chief of Police or their designee. An appeal fee of \$25.00 shall accompany the appeal. Appeal fees will be returned to the alarm user or the alarm company if the appeal is upheld. The filing of an appeal with the ~~alarm administrator~~ Chief of Police or their designee stays the assessment of the fine or suspension until the ~~alarm administrator~~ Chief of Police or their designee makes a final decision.

(2) The alarm user shall file a written appeal to the ~~alarm administrator~~ Chief of Police or their designee by setting forth the reasons for the appeal within 10 days after receipt of the fine.

(3) If the ~~alarm administrator~~ Chief of Police or their designee denies the issuance or renewal of an alarm registration, or suspends response, the ~~alarm administrator~~ Chief of Police or their designee shall send written notice of the action and a statement of the right to an appeal to either the applicant or alarm user and the alarm company.

(4) An alarm user or alarm company may appeal the decision of the ~~alarm administrator~~Chief of Police or their designee to the City Hearing Examiner in accordance with chapter 18.240 DMMC.

Sec. 12. DMMC 9.10.130 and section 13 of Ordinance no. 1360 are each amended to read as follows:

Reinstatement.

A person whose alarm response has been suspended or alarm registration has been revoked may have alarm response or registration reinstated if the person has abided by the following:

(1) Submits an updated application and the registration fee;

(2) Pays, or otherwise resolves, all citations and fines;

(3) Submits a certification from an alarm company, that complies with the requirements of this chapter, stating that the alarm system has been inspected and repaired (if necessary) by the alarm company; and

~~(4) Files with the alarm administrator a certificate showing that the alarm user has successfully completed the alarm user awareness class; and~~

~~(54)~~ Pays an inspection and reinstatement fee of \$25.00.

Sec. 13. 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. 14. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2025 and signed in authentication thereof this ____ day of _____, 2025.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Lakehaven Utility District Franchise
Update and Extension – 2nd Reading

ATTACHMENTS:

1. Draft Ordinance 25-037

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: May 13, 2025

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☐ Courts _____
- ☒ Finance *MT 21*
- ☐ Human Resources _____
- ☒ Legal */s/ TG*
- ☐ Marina _____
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☒ Public Works *WPS*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

Purpose and Recommendation

The purpose of this agenda item is for the Council to hold a second reading of Draft Ordinance no. 25-037 which updates and extends the existing franchise agreement with Lakehaven Water and Sewer District granted in Ordinance no. 1515. This new franchise includes a 6% franchise payment in lieu of paying a utility tax.

Suggested Motion

Motion 1: “I move to pass Draft Ordinance 25-037 granting a franchise agreement to Lakehaven Water and Sewer District.”

Background

There are five water/sewer utilities that service the City of Des Moines. In 2016, the City Council approved franchise agreements with three of them (Highline Water District, Southwest Suburban Sewer District and Midway Sewer District) that authorized a franchise payment of 6% of total revenue in lieu of the imposition of a utility tax. In exchange for this franchise payment, the City agreed during the term of the franchise to not impose a utility tax and also worked with the Districts to update language on relocation and other items to promote cooperation and planning.

Lakehaven Water and Sewer Utility District renewed their franchise with the City in 2011 for a 20 year term, about 5 years before the City began negotiations with the other utilities for franchise payments. The existing agreement with Lakehaven has no franchise payment and also waives the City's ability to impose a utility tax. This was all done at a time when there were legal questions about who was responsible for fire suppression facilities and whether a City had the authority to impose a utility tax on a special purpose district. The existing franchise expires in 2031.

The City approached Lakehaven in late 2024 about the possibility of updating their franchise agreement. Lakehaven was open to the discussion and over the last several months negotiations have taken place that resulted in draft ordinance 25-037 being prepared.

The Council held a first reading of this Draft Ordinance on May 8, 2025 and passed it to a second reading.

Discussion

Since franchise agreements with utility districts that serve the City were negotiated at different times and when legal questions were unanswered, our franchise agreements contained varied terms. This ad hoc situation created a lack of uniformity among utility rate payers in the City. In an effort to address this issue, the City recently amended Water District 54's franchise agreement to include a 6% franchise payment. Lakehaven is the only remaining utility that does not have a 6% franchise payment in their agreement.

If approved, Draft Ordinance 25-037 includes a 6% franchise payment on the revenue of the District subject to the same exclusions contained in the franchise agreements held by the other utilities. In exchange, the City agrees to exempt the District from any utility tax the City may impose during the term of the franchise and updates the franchise agreement to have terms similar to the other utilities in the City. The following provisions are included in the agreement:

1. **Franchise Term:** The term of the Agreements is for 10 years plus the remaining 6 years on the existing franchise for a total of 16 years. The 16 year term provides certainty with regards to operations and revenue income for the City. A common length for a utility franchise agreement can be in the neighborhood of 20-25 years.
2. **Relocation:** The Agreement requires the City to pay a portion of some relocations under certain circumstances. If the age of the District Facility is 10 years old or less, the City and the District split the cost of the relocation, except that if the District Facility is considered a Major Facility (as defined in the Agreement), then the City and the District split the cost regardless of the age of the facility. There are some conditions when the cost sharing would not apply including relocations required by a State or Federal Agency, declarations of emergency, and District Facilities located on bridges, or on, over, and under stream culverts. Additionally, the

Agreements require collaboration amongst the parties in order to avoid the necessity of relocation whenever possible.

3. **Right of Way Management, Planning, and District Operations:** The proposed language reflects current practice and provides more definitive expectations on right-of-way use permit application review times.
4. **Indemnification and Insurance:** The Agreement provides that each party is responsible for their own actions. The District is required to maintain \$5,000,000 in insurance coverage. The indemnification and insurance language has been reviewed and approved by the City's insurance provider (Washington Cities Insurance Authority).
5. **Franchise Fee:** The District will pay the City a one-time franchise fee of \$5,000. This flat fee is consistent with RCW 35.31.860 which requires that a franchise fee be limited to the actual administrative expenses incurred by the City in the negotiation of the franchise. This amount will reimburse the City for the staff costs of the negotiations over the last several months.
6. **Franchise Payment:** The Agreement requires the District to make bi-monthly Franchise Payments in the amount of 6% of the Districts "revenue" during the term of the franchise. This payment is in consideration of the rights and benefits the District receives under the Agreement. The definition of "revenue" is limited to income received from the sale of metered water or sewer services to customers within the City. It does not include fees, costs, or charges outside of the sale of water/sewer services.

In consideration of the payment, the City has agreed not to impose a utility tax on the District during the term of the Agreements as well as to not assume the District.

7. **Abandonment:** The Parties have agreed that the standard practice will be to abandon underground District facilities in-place whenever practical, however the City has the ultimate discretion to require their removal. The proposed language is an accurate reflection of current practice and also protects the City's authority to require their removal if needed.
8. **Vacation** – The proposed language is an accurate reflection of current practice and does not restrict the City's authority to vacate a right of way. The Agreement requires the City to notify the District of a vacation so that the District can obtain an easement if one is needed.
9. **Additional Terms** – The majority of the remainder of the Agreement is boilerplate legal language. All language and terms have been thoroughly reviewed and negotiated and the City's interests are protected throughout these Agreements.

Alternatives

The Council may:

1. Pass the draft ordinance.
2. Decline to pass the draft ordinance.

Financial Impact

Staff estimates that the franchise payment would provide additional revenue of approximately \$70,000 in 2026 with slight increases each year thereafter. This amounts to roughly 1.2 million dollars over the term of the franchise. Without this update the City would not collect any franchise payment from the District.

Recommendation

Staff recommends the Council pass Draft Ordinance 25-037 as presented.

CITY COUNCIL DRAFT 05/13/2025

DRAFT ORDINANCE NO. 25-037

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, granting Lakehaven Water and Sewer District a non-exclusive franchise to construct, maintain, operate, replace and repair a water and sewer system within public rights-of-way of the City of Des Moines, Washington, fixing a time when the same shall become effective and superseding Ordinance no. 1515.

WHEREAS, Lakehaven Water and Sewer District, a Washington special purpose municipal corporation ("District"), owns water and sewer facilities ("Facilities") located in the City of Des Moines, a Washington non-charter municipal code city ("City"), and a portion of such Facilities are located within the City's right-of-way as hereinafter defined, and

WHEREAS, RCW 57.08.005 authorizes the District to conduct water and sewer throughout the District and any city and town therein, and construct and lay facilities along and upon public highways, roads and streets within and without the District, and

WHEREAS, RCW 35A.47.040 authorizes the City to grant non-exclusive franchises for the use of the public streets above or below the surface of the ground by publicly owned and operated water and sewer facilities, and

WHEREAS, the City and the District have prepared a Franchise Agreement to provide for the operation of District Facilities within the City's right-of-way; now, therefore,

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

Sec. 1. Definitions. Where used in this Franchise (the "Franchise") these terms have the following meanings:

"City" means the City of Des Moines, a Washington municipal corporation, and its respective successors and assigns.

"Director" means the Director of the City's Public Works Department, or the Director's designee.

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"District" means the Lakehaven Water and Sewer District, a Washington municipal corporation, and its respective successors and assigns.

"Facility" or "Facilities" means tanks, reservoirs, water and wastewater treatment facilities, meters, pipes, mains, services, valves, blow offs, vaults, fire suppression water facilities, risers, generators, electrical control panels, power meters, telephone and communication connections, pressure reducing valves ("PRVs"), pump stations, meter stations, lines, service lines located in the Franchise Area as defined below, and all other necessary or convenient facilities and appurtenances thereto for the purpose of operating a water and sewer utility system, whether the same be located over, on or underground.

"Franchise Area" means every and all of the public roads, streets, avenues, alleys, highways and rights-of-way of the City as now or hereafter laid out, platted, dedicated or improved; and any and all public City roads, streets, avenues, alleys, highways, and other rights-of-way that may hereafter be laid out, platted, dedicated or improved in the District's service area within the present corporate boundaries of the City (as depicted in Exhibit "B", attached hereto, which is by this reference incorporated as if fully set forth herein), and as such corporate boundaries may be extended within District's service area by annexation or otherwise, but shall not include private roads, streets, avenues and alleys. The Franchise Area shall not include or convey any right to the District to install facilities on, or to otherwise use, City owned or leased properties.

"Ordinance" means this Ordinance No. ____, which sets forth the terms and conditions of this Franchise.

"Party" or "Parties" means the City or the District individually, or collectively as addressed in this Franchise.

"Revenue" means income received by the District from the sale of metered water and sewer service rates to direct retail customers whose properties receiving such service from the District's water and sewer system are located within the City.

Revenue shall not include: late fees; shut-off and reconnect fees; delinquent service charge collection costs and expenses; surcharges; impact or mitigation fees; permit fees and costs; any type of connection charges, general facilities charges, or local facilities charges; local improvement district and utility local improvement district assessments and payments; grants; contributed assets (contributions in aid of construction); income to recover the cost of fire suppression facilities and to pay for the provision of fire suppression services; loans; income from legal settlements not related to water and sewer sales to District customers; income from telecommunication leases or licenses; income from real property or from real property sales; income from the sale of surplus equipment, tools or vehicles; interest income; penalties; hydraulic modeling fees; water and sewer system extension agreement fees and charges; income from street lights; labor, equipment and materials charges; or any other fees and charges.

Sec. 2. Franchise.

(1) In addition to the authority granted by State law to the District to locate, operate and maintain its Facilities in public roads and streets, the City does hereby grant to District the right, privilege, authority and franchise to construct, install, lay, support, attach, maintain, repair, renew, replace, remove, enlarge, operate and use Facilities in, upon, over, under, along, through and across the Franchise Area for purposes of its water and sewer utility functions as defined in Title 57 RCW beginning on the Effective Date of this Franchise; provided the City's grant of the right to use the Franchise Area to the District as provided herein for its Facilities shall not be construed to require the District to provide such Facilities to the City.

(2) Nothing contained in this Ordinance is to be construed as granting permission to District to go upon any other public place other than those types of public places specifically designated as the Franchise Area in this Ordinance. Permission to go upon any other property owned or controlled by the City must be sought on a case-by-case basis from the City.

(3) In addition to the rights granted to the District to undertake and perform activities within the Franchise Area as provided herein, District shall have the right to discharge District water supply to and into the City's storm water system while performing water system flushing and other District activities, provided any District water to be discharged to the City's storm water system must comply with all applicable federal and state water quality standards and the City's NPDES permit relating to the City's storm water system.

(4) At all times during the term of this Franchise, District shall fully comply with all applicable federal and state laws and regulations and required permits, including, but not limited to, RCW 39.04.180 for construction trench safety systems, chapter 19.122 RCW for utility damage prevention, the State Environmental Policy Act, the State of Washington Pollution Control Law, and the Federal Clean Water Act.

Sec. 3. Non-interference of Facilities.

(1) District's Facilities shall be located, relocated and maintained within the Franchise Area so as not to unreasonably interfere with the free and safe passage of pedestrian, bicycle, and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the laws of the State of Washington, and the ordinances, resolutions, rules and regulations of the City of Des Moines. Nothing herein shall preclude District from effecting temporary road closures as reasonably necessary during construction or maintenance of its Facilities provided District receives prior City approval, which shall not be unreasonably withheld, and, provided further, District shall have the right to effect temporary road closures in the event of emergencies to maintain, repair and replace its Facilities without prior City approval but the District shall obtain City approval of such road closures as soon as reasonably possible.

(2) Whenever it is necessary for District, in the exercise of its rights under this Franchise, to make any excavation in the Franchise Area, District shall, upon completion of such excavation, restore the surface of the Franchise Area to City standards, as issued by the City's Public Works Department, as

nearly as reasonably possible to its condition prior to any such excavation, installation, construction, relocation, maintenance or repair, at no expense to the City; PROVIDED, HOWEVER, that no such work shall be done prior to the obtaining of a permit therefor issued by the Director, which permit shall set forth conditions pertaining to the work to be done and specifications for the restoration of the streets and rights-of-ways.

(3) If the City determines that the District has failed to restore the right-of-way in accordance with the conditions set forth in this Franchise, the City shall provide the District with written notice, which shall include a description of actions the City believes necessary to restore the right-of-way. If the right-of-way is not restored in accordance with the City's notice within thirty (30) days of that notice, or such longer period as may be specified in the notice, the City, or its authorized agent, may restore the right-of-way and District shall be responsible for all reasonable costs and expenses incurred by the City in restoring the right-of-way in accordance with this section. The rights granted to the City under this section shall be in addition to those otherwise provided by this Franchise.

(4) The District shall, at no expense to the City, expeditiously repair all existing Facilities that it owns, operates and maintains within the Franchise Area, including any damage caused directly or indirectly by its Facilities. The District shall also coordinate and manage the repair of service lines in the Franchise Area connecting its system to users.

(5) Survey monuments shall not be removed or destroyed without the District first obtaining the required Department of Natural Resources (DNR) permit in accordance with RCW 58.09.130 and WAC 332-120-030, and as such statute and regulation may be modified and amended. A Professional Land Surveyor (PLS) shall be responsible for perpetuating and documenting existing monuments in compliance with the Application Permit to Remove or Destroy a Survey Monument in accordance with WAC 332-120. Following approval by the Public Land Survey Office, copies of the approved permits shall be forwarded to the City. All survey monuments, which have been distributed or displaced by such work, shall be restored pursuant to all federal, state and local standards and

specifications. District agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole expense.

Sec. 4. Relocation of Facilities.

(1) Whenever the City causes the grading or widening of the Franchise Area or undertakes construction of City-owned utilities, storm drainage lines, lighting, signalization, sidewalk improvements, pedestrian and bicycle amenities, or other public street improvements and such project requires the relocation of the District's then-existing Facilities within such Franchise Area, the City shall:

(a) Pursuant to RCW 35.21.905, or as amended, consult with the District in the predesign phase of any such project in order to coordinate the project's design with District Facilities within such project's area; and

(b) Provide the District, at least three hundred sixty (360) days prior to the advertisement for bid of construction of such project, written notice that a project is expected to require the relocation of District Facilities, together with reasonably accurate and specific plans and specifications for such grading, widening, or construction and a proposed new location within the Franchise Area for the District's Facilities; and

(c) Coordinate and work diligently with the District to minimize conflicts between existing Facilities and the project improvements where possible, and to avoid having the District relocate their facilities, whenever possible. The District acknowledges that there may be situations and circumstances where no other feasible alternatives are available.

(2) After receipt of such notice and such plans and specifications, District shall relocate such Facilities within the Franchise Area so as to accommodate such street and city utility improvement project; provided, however, District may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocations. The City shall within a reasonable time evaluate

such alternatives and advise the District in writing whether one or more of the alternatives is suitable to accommodate work that would otherwise necessitate relocation of the Facilities. If so requested by the City, District shall submit such additional information as is reasonably necessary to assist the City in making such evaluation. The City shall give each alternative full and fair consideration. If the City reasonably determines that there is no other feasible alternative, the City shall provide the District with further written notice to that effect, and the District shall then relocate its Facilities by its own forces, by separate public works contract or by participating in the City's public works project in accordance with section 4(7). The City shall cooperate with the District to designate a substitute location for its Facilities within the Franchise Area. The City will establish a date by which Facilities will be relocated, which date will be not less than one hundred eighty (180) days after further written notice to the District as to the Facility to be relocated. District must finish relocation of each such Facility by the date so established.

(3) The cost of relocating such Facilities existing within the Franchise Area shall be paid as follows:

(a) If the relocation occurs within ten (10) years after the District or a third party on the District's behalf constructed such Facility, then the City shall pay fifty percent (50%) of the cost of such relocation and the District shall pay the remaining fifty percent (50%).

(b) If the relocation occurs more than ten (10) years after the District or a third party on the District's behalf constructed such Facility, then the relocation shall be at the District's sole cost.

(c) However, if the City requires the relocation of Major Facilities defined as water and sewer mains of twelve (12) inch diameter or greater (excluding asbestos cement water and sewer mains), supply stations, pump stations or vault structures ("Major Facilities" or "Major Facility") to accommodate the completion of or as a result of a City project, where such facility cannot reasonably be supported, disconnected, relocated or removed, then

the City shall pay fifty percent (50%) of the cost of the relocation of the Major Facility and the District shall pay the remaining fifty percent (50%) without limitation on the age of the facility; provided, the City and District agree to give full and fair consideration to any lower-cost alternatives to relocating the Major Facility meeting the minimum operational requirements of the Parties, and the City and the District shall each pay fifty percent (50%) of the lower-cost alternative.

(d) For the purposes of this section 4, the date of the Facility's acceptance by the District Board of Commissioners, or the date of final contract payment for the facility's installation (whichever occurs first), shall determine the age of the Facility.

(e) Whenever any State or Federal Agency with legal authority within the Franchise Area requires the relocation of District Facilities, the relocation shall be at the District's sole cost. This provision does not limit the District's rights to seek reimbursement for the costs of such relocation from the State or Federal Agency requiring the relocation.

(f) Subsections (a) and (c) of this section 4(3) shall not apply to:

(i) Relocations of District facilities required as part of a formal declaration of emergency as defined by RCW 39.04.280(3) by the City, which is ratified by Resolution of the City Council. In such cases, relocation, if necessary, shall be at the District's sole cost; and

(ii) Relocation of District facilities located on, over, or under bridges, and culverts conveying creeks and streams (identified as Des Moines Creek, Barnes Creek, Massey Creek, McSorley Creek, Woodmont Creek, Redondo Creek, Cold Creek), where relocation of such facilities, if necessary, shall be at the District's sole cost.

(4) Whenever the City is undertaking a road or City-owned utility project or improvement, the City will not use its authority to require the District to relocate water and sewer facilities

[excluding water services, hydrants and sewer stubs] for third party franchise utilities (private utilities) on City-initiated aerial-to-underground conversion projects. If conflicts between the aerial-to-underground joint-trench and the District Facilities cannot be resolved, and relocation of District Facility's is necessary, the District shall have the right as a pre-condition of such relocation to require payment to the District for any and all costs and expenses incurred by the District in the relocation of such District Facilities. On City-initiated projects requiring aerial-to-aerial relocation of third party franchise utilities (private utilities), the District shall relocate that portion of its Facilities which are in direct conflict with the new locations of the third party franchise utility facilities, such as utility poles, or participate in securing the necessary easements where no reasonable alternative location for the third party franchise utility facilities exists within the then existing right-of-way.

(5) For the purpose of this section 4, a project or improvement is considered to be caused by the City (as described in section 4(1) above) if the project is City-initiated and is part of the City's annually adopted Capital Improvement Project (CIP) Program, and can include projects or improvements where a third party has made an in lieu payment for a portion of the City's capital improvement project, provided, the City is responsible for the majority of the cost of the project or improvement, which, if applicable, includes any grant funding received by the City from any federal or state agency. A project or improvement is not considered to be caused by the City if the project or improvement is constructed by the City on behalf of a third party, where the third party is responsible for the majority of the project or improvement cost, and makes payment to the City in lieu of performing the project or improvement.

(6) Whenever any person or entity, other than the City, requires the relocation of District Facilities to accommodate the work of such person or entity within the Franchise Area [excluding State and Federal Agencies with legal authority within the Franchise Area], the City agrees not to use its authority to require the District to relocate the existing facilities. The District shall have the right as a pre-condition of such relocation to require such person or entity to:

(a) Make payment to District at a time and upon terms acceptable to the District for any and all costs and expense incurred by the District in the relocation of District Facilities; and

(b) Protect, defend, indemnify and save the District harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of District Facilities, to the extent such injury or damage is caused by the negligence or willful misconduct of the person or entity requesting the relocation of District Facilities or other negligence or willful misconduct of the agents, servants or employees of the person or entity requesting the relocation of District Facilities.

(7) If a City project requires the relocation of then existing Facilities within the Franchise Area, the District shall have the right by interlocal agreement with the City to include the relocation of any Facilities as required by the City as part of the City's public works project. Such interlocal agreement shall include and provide for, but not be limited to, the following terms and conditions:

(a) The inclusion of the District's work as part of the City's project;

(b) The District to provide plans and specifications of the District's work to the City for inclusion as a separate bid schedule in the City project, whether such District plans and specifications are prepared by the District at the District's expense, or the City prepares the plans and specifications for the District's work at the District's expense;

(c) The City bidding the project, including the District's work by separate bid schedule, and the District's approval of the contractor's bid for the District's work in the separate bid schedule, or, alternatively, the District's rejection of the contractor's bid for the District work and the District's right to perform the District's work through a District contractor,

provided that in so doing the City's project is not unreasonably delayed;

(d) The City's contractor to install both the City work and the District work, the City's obligation to pay the City's contractor for both the City work and the District work, and the District's obligation to reimburse the City for the cost of the District work performed by the City contractor; and

(e) The District's obligation to reimburse the City for District project administration and inspection fees and costs based on a time and materials basis, provided the City and the District may negotiate a lump sum payment on a per project basis, or a percentage of the total District project construction cost, and provided the District shall not be required to pay for any City-issued permits related to the City work and the District work.

(8) The Parties expressly agree that this section 4 shall not survive the expiration, revocation or termination of this Franchise, unless modified by separate agreement.

Sec. 5. Right-of-Way Management.

(1) Excavation. Whenever the District excavates in any right-of-way for the purpose of installation, construction, operation, maintenance, repair or relocation of its Facilities, it shall apply to the City for a permit to do so in accordance with the ordinances and regulations of the City requiring permits to operate in City right-of-way. Except for emergencies or routine maintenance, no District excavation work shall commence within any City right-of-way without a permit, except as otherwise provided in this Franchise and applicable City Ordinance. All work shall be done to the City's reasonable satisfaction.

(2) Restoration after construction. The District shall, after any installation, construction, relocation, operation, maintenance or repair of Facilities within the Franchise Area, restore the right-of-way to City standards as nearly as reasonably possible to its condition prior to any such work. The District agrees to promptly complete all restoration work and to promptly repair any damage to the right-of-way caused by such work at its sole cost and expense. If it is determined the District has failed

to restore the right-of-way in accordance with this Franchise and other applicable City regulations, the City shall provide the District with written notice including a description of the actions the City believes necessary to restore the right-of-way.

(3) Bonding requirement. The District, as a public agency, shall not be required to comply with the City's standard bonding requirement for working in the City's right-of-way.

(4) Emergency work, permit waiver. In the event of an emergency where any District Facilities located in the right-of-way are broken or damaged, or if the District's construction area for the District's Facilities is in a condition as to place health or safety of any person or property in imminent danger, the District shall immediately take any necessary emergency measures to repair, replace or remove its Facilities without first applying for and obtaining a permit as required by this Franchise; provided the District shall notify the City as soon as reasonably possible relative to such emergency activity and shall immediately obtain a permit for such activity if required by this Franchise or City Ordinance.

(5) City work zones. The District shall not be required to obtain a City right-of-way permit to undertake utility work when the District has included its work as part of a City public works project in accordance with section 4(7).

(6) Complete permit applications. If the District is required to obtain a City right-of-way permit to undertake utility work within City right-of-way, the City shall issue a permit within fourteen (14) calendar days of receiving a complete application for such permit from the District.

(7) City invoices. The City shall invoice the District for all City fees and charges relating to the issuance of any City right-of-way permit to the District, including inspection fees and charges, on a monthly basis, and the City's final fees and charges within thirty (30) days of the completion of any District work in City right-of-way subject to a City permit, and the City's final acceptance of any such District work.

Sec. 6. Planning coordination.

(1) The Parties agree to participate in the development of, and reasonable updates to, the other Party's planning documents as follows:

(a) For the District's service area within the City limits, the District will participate in a cooperative effort with the City to develop City's Comprehensive Plan Utilities Element that meets the requirements described in RCW 36.70A.070(4).

(b) The District will participate in a cooperative effort with the City to ensure that the Utilities Element of City's Comprehensive Plan is accurate as it relates to the District's operations and is updated to ensure continued relevance at reasonable intervals.

(c) The District shall submit information related to the general location, proposed location, and capacity of all existing and proposed Facilities within the City as requested by the City within a reasonable time, not exceeding twenty (20) days from receipt of a written request for such information, provided that such information is in the District's possession, or can be reasonably developed from the information in the District's possession.

(d) The City will provide information relevant to the District's operations within a reasonable period of written request to assist the District in the development or update of District's Comprehensive Water and Sewer Comprehensive Plan(s), provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.

(2) District and City shall each assign a representative whose responsibility shall be to coordinate planning for capital improvement plan projects including those that involve undergrounding. At a minimum, such coordination shall include:

(a) For the purpose of planning, the District and the City shall provide each other with a copy of their respective

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current adopted Capital Improvement Plan annually and upon request by the other Party.

(b) By February 1st of each year, District shall provide the City with a schedule of the District's planned capital improvements which may affect the rights-of-way for that year.

(c) By February 1st of each year, City shall provide the District with a schedule of City's planned capital improvements which may affect the rights-of-way for that year including but not limited to street overlays and repairs, storm drainage improvements and construction, and all other rights-of-way activities that could affect District capital improvements and infrastructure.

(d) The District shall meet with the City, and other franchisees and users of the right-of-way, as necessary, to schedule and coordinate construction activities.

(e) All construction locations, activities, and schedules shall be coordinated to minimize public inconvenience, disruption or damages.

(f) The City and the District agree to cooperate in the planning and implementation of emergency operations response procedures.

(g) Without charge to either Party, both Parties agree to provide each other with as-built plans, maps and records in electronic format as available that show the location of its facilities within rights-of-way.

Sec. 7. Indemnification.

(1) District shall indemnify, defend and hold the City, its agents, officers, employees, volunteers and assigns harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever, including all costs and attorney's fees, made against them on account of injury, sickness, death or damage to persons or property which is caused by or arises out of, in whole or in part, the willful, tortious or

negligent acts, failures and/or omissions of District or its agents, servants, employees, contractors, subcontractors or assigns in the construction, operation or maintenance of its Facilities or in exercising the rights granted District in this Franchise; provided, however, such indemnification shall not extend to injury or damage to the extent caused by the negligence or willful misconduct of the City, its agents, officers, employees, volunteers or assigns.

(2) City shall indemnify, defend and hold the District, its agents, officers, employees, volunteers and assigns harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever, including all costs and attorney's fees, made against them on account of injury, sickness, death or damage to persons or property which is caused by or arises out of, in whole or in part, the willful, tortious or negligent acts, failures and/or omissions of City or its agents, servants, employees, contractors, subcontractors or assigns in the City's performance, administration and operation of this Franchise or in exercising the rights granted City in this Franchise; provided, however, such indemnification shall not extend to injury or damage to the extent caused by the negligence or willful misconduct of the District, its agents, officers, employees, volunteers or assigns.

(3) In the event any such claim or demand be presented to or filed with the District or the City arising out of or relating to the acts or omissions in whole or in part of the other Party, the Party shall promptly notify the other Party thereof, and the notified Party shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand.

(4) Should a court of competent jurisdiction determine that this Franchise 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 City and District, their officers, employees and agents, District's liability hereunder shall be only to the extent of District's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes

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the parties' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification.

Sec. 8. Default. If the District fails to comply with any of the provisions of this Franchise, unless otherwise provided for herein, the City may serve upon the District a written order to so comply within thirty (30) days from the date such order is received by the District. If the District is not in compliance with this Franchise after expiration of said thirty (30) day period, the City may act to remedy the violation and may charge the costs and expenses of such action to District. The City may act without the thirty (30) day notice in case of an emergency. The City may in addition, by ordinance adopted no sooner than five (5) days after notice of the City Council hearing (at which District will have an opportunity to be heard) on the impending ordinance, declare an immediate forfeiture of this Franchise, provided, however, if any material failure to comply with this Franchise by District cannot be corrected with due diligence within said thirty (30) day period, the District's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control, in which case the time within which the District may so comply shall be extended for such time as may be reasonably necessary and so long as the District commences promptly and diligently to effect such compliance, provided a good faith dispute does not exist concerning such compliance.

In addition to other remedies provided herein, if the District is not in compliance with requirements of the Franchise, and if a good faith dispute does not exist concerning such compliance, the City may place a moratorium on issuance of pending District right-of-way use permits until compliance is achieved.

Sec. 9. Non-exclusive Franchise. This Franchise is not and shall not be deemed to be an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area, which do not interfere with District's rights under this Franchise. This Franchise shall not prohibit or prevent the City from constructing, altering, maintaining, or using the Franchise

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Area or affect the jurisdiction of the City over the same or any part thereof.

Sec. 10. Jurisdiction. This Franchise is intended to convey limited rights and interest only as to those roads and rights-of-way in which the City has an actual interest within the Franchise Area. It is not a warranty of title or of interest in City road rights-of-way.

Sec. 11. Franchise term. This Franchise shall have a term of sixteen (16) years from its Effective Date as defined in section 36 herein, provided this Franchise shall be automatically extended for one additional five (5) year period unless either Party, at least one hundred eighty (180) days prior to the termination date of the Franchise provides written notice to the other Party of its intent to terminate the Franchise at the end of the then current Franchise term (collectively, the "Term").

Sec. 12. Franchise fee. As compensation to the City for its costs of creating and administering this Franchise, the District shall pay to the City a one-time franchise fee ("Franchise Fee") of Five Thousand Dollars (\$5,000.00). The Franchise Fee shall be paid by the District to the City within forty-five (45) days of the Effective Date of the Franchise.

Sec. 13. Non-assumption. In consideration of the District's payment of the Franchise Fee and Franchise payment to the City as provided in sections 12 and 14 herein, and the District's acceptance of the other terms and conditions of this Franchise, the City agrees not to exercise and to forbear its statutory authority pursuant to RCW Chapter 35.13A or other statutes to attempt to assume jurisdiction over all or part of the District or any District responsibilities, property, facilities, equipment or utility customers located within or without the City's corporate limits during the term of this Franchise. The City's agreement and forbearance includes not providing consent to, or otherwise facilitating or cooperating with, any other city or town to attempt, pursuant to RCW Chapter 35.13A or as such statute may be amended or superseded, to assume jurisdiction over the District or any District responsibilities, property, facilities, equipment

or utility customers located within or without the City's corporate limits during the Term of this Franchise.

Sec. 14. Franchise payment.

(1) In consideration of the rights granted the District under this Franchise, the District shall pay to the City a franchise payment ("Franchise payment") in the amount of six percent (6.0%) of the District's Revenue during the Term of this Franchise, beginning September 1, 2025.

(2) Franchise payments shall be paid to the City in bi-monthly installments due and payable within forty-five (45) days following the end of the bi-monthly period.

(3) In consideration of the District's payment of a Franchise payment to the City as provided in section 14 herein, and the District's acceptance of the other terms and conditions of this Franchise, the City agrees not to exercise and to forbear any legal authority it may have to impose a utility, business and occupation tax, public utility tax, privilege tax, excise tax or any other tax (collectively "Excise Tax") upon the District based on the District's revenues, gross receipts, or gross income during the term of this Franchise.

(4) Should the District be prevented by legislative action from paying any or all of the Franchise payments or should a court of competent jurisdiction declare the Franchise payment invalid, in whole or in part, then the District's obligation to pay the Franchise payments to the City under this section shall be terminated in accordance with and to the degree required to comply with such legislative or court action, provided, the Parties agree to meet to discuss alternatives and amendments to this Franchise to retain the essential purposes of this section. If the Parties are unable to agree on appropriate amendments to this Franchise, the City shall have the right to void section 14(3) of this Agreement and may impose a 6% Excise Tax on the District's Revenue, as such revenues are described in Section 1 above. City agrees that if any such Excise Tax imposed exceeds six percent (6%), the District shall have the right to charge, and the City shall be obligated to pay, the District's current hydrant charge in an

amount up to, but not in excess of, the amount by which the excise tax charged exceeds the 6% limit on the franchise fee established in this section.

(5) The District shall have the right to recover the Franchise payments from the District's ratepayers residing within the City and may identify the Franchise payments as a separate billing item on utility customer billings.

(6) The District agrees while this Franchise is in effect that it will not pursue or support any legal challenge to the Franchise payment set forth herein. Except as provided in subsection (4) above, the District shall not charge the City for the cost of fire suppression (hydrant charge) during the term of this franchise.

(7) If the District fails to pay any fee required under this Franchise within ninety (90) days after the due date thereof, there shall be added to such fee a penalty of 1.5 percent (1.5%) of the amount of such fee.

Sec. 15. Compliance with codes and regulations.

(1) The rights, privileges and authority herein granted are subject to and governed by this Ordinance and all other applicable City ordinances and codes, as they now exist or may hereafter be amended, provided the City shall not unreasonably affect or modify any portion of this Franchise without District's written approval. Nothing in this Ordinance limits the City's lawful power to exercise its police power to protect the safety and welfare of the general public or deprive the City of any powers, rights, or privileges it now has or may later acquire in the future to regulate the use of and to control the City road rights-of-way covered by this Franchise. Any location, relocation, erection or excavation by District shall be performed by District in accordance with applicable federal, state and City rules and regulations, including the City public works policies and pre-approved plans, and any required permits, licenses or regulatory fees, and applicable safety standards then in effect or any Memorandum of Understanding with District.

(2) If any territory served by District is annexed to the City after the Effective Date of this Franchise, this Franchise shall be deemed to be the new agreement required to be granted to a franchisee in annexed territory by RCW 35A.14.900 for whatever period of time is then required under that statute or the remaining time left under this Franchise for the Franchise Area, whichever is longer. Such territory shall then be governed by the terms and conditions contained herein upon the effective date of such annexation. The first Franchise payment for any annexed area shall be calculated pro rata from the effective date of the annexation to the end of the next bi-monthly billing period and paid to the City at the same time as the fee for the Franchise Area is paid for that bi-monthly billing period.

Sec. 16. Location of Facilities and equipment. With the exception of components that are traditionally installed above ground such as fire hydrants, blow offs, air-vacs, odor control systems, flow monitoring devices, vault lids, risers, pump stations, generators, electrical control panels, power meters, telephone and communication connections, poles, antennas, automated reading equipment and appurtenances, and utility markers, all Facilities and equipment to be installed within the Franchise Area shall be installed underground; provided, however, that such Facilities may be installed above ground if so authorized by the City, which authorization shall not be unreasonably withheld, conditioned or delayed, consistent with the provisions of the City's land use and zoning code and applicable development pre-approved plans.

Sec. 17. Record of installations and service. With respect to excavations by District and the City within the Franchise Area, District and the City shall each comply with its respective obligations pursuant to chapter 19.122 RCW, and as such statute may be modified and amended, and any other applicable state law.

Upon written request of the City, District shall provide the City with the most recent update available of any plan of potential improvements to its Facilities within the Franchise Area; provided, however, any such plan so submitted shall only be for informational purposes within the Franchise Area, nor shall

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such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

Upon written request of District, the City shall provide District with the most recent update available of any plan of potential improvements to its improvements located within the Franchise Area; provided, however, any such plan so submitted shall only be for informational purposes within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

As-built drawings of the location of any Facilities placed by District in the Franchise Area, shall be made available to the City within twenty (20) working days of request.

Sec. 18. Shared use of excavations.

(1) District and the City shall exercise best efforts to coordinate construction work either may undertake within the Franchise Area so as to promote the orderly and expeditious performance and completion of such work as a whole. Such efforts shall include, at a minimum, reasonable and diligent efforts to keep the other Party and other utilities within the Franchise Areas informed of its intent to undertake such construction work. District and the City shall further exercise best efforts to minimize any delay or hindrance to any construction work undertaken by themselves or other utilities within the Franchise Area.

(2) If at any time, or from time to time, either District, the City, or another franchisee, shall cause excavations to be made within the Franchise Area, the Party causing such excavation to be made shall afford the others, upon receipt of a written request to do so, an opportunity to use such excavation, provided that:

(a) No statutes, laws, regulations, ordinances or District policies prohibit or restrict the proximity of other utilities or facilities to District's Facilities installed or to be installed within the area to be excavated;

(b) Such joint use shall not unreasonably delay the work of the Party causing the excavation to be made;

(c) Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both Parties. The Parties shall each cooperate with other utilities in the Franchise Area to minimize hindrance or delay in construction.

Sec. 19. Insurance.

(1) The District shall keep a policy of insurance in force with a minimum limit of five million dollars (\$5,000,000.00). Verification of insurance coverage shall be provided as requested by the City.

(2) The insurance shall be maintained in full force and effect at the District's sole expense throughout the term of the Franchise, and, should such insurance be terminated, this Franchise shall terminate as of the date of the termination of insurance coverage.

(3) The coverage provided by the District's insurance policies shall be primary to any insurance maintained by the City, except as to losses or damages attributable to the sole negligence of the City. Any insurance maintained by the City that might relate to this Franchise shall be in excess to the District's insurance and shall not contribute with or to it. The City has no obligation to report occurrences to the insurance companies unless a claim is filed with the City's City Council; and the City has no obligations to pay the District's premiums.

(4) The District shall be solely and completely responsible to perform all work related to this Franchise in compliance with all applicable federal, state, county and city statutes, rules, regulations, ordinances, orders and codes as presently constituted or as may be subsequently amended. The District's attention is directed to the requirements of the Washington Industrial Safety and Health Act, Chapter 49.17 RCW. The District shall be solely and completely responsible for safety and safety conditions on its job sites and for its work within the Franchise Area, including the safety of all persons and property

during performance of any works therein. The services of the City or City's consultant personnel in conducting construction review of the District's work relating to the Franchise is not intended to include review of the adequacy of the District's work methods, equipment, scaffolding, or trenching, or safety measures in, on or near such Franchise Area or job site. The District shall provide reasonable and appropriate access for the City and its inspectors to adequately inspect the work and its conformance with applicable statutes, ordinances, rules, regulations, and the Franchise.

Sec. 20. Abandonment and/or removal of District Facilities. The Parties agree that the standard practice will be to abandon underground District Facilities in-place whenever practical, subject to the following conditions:

(1) The District shall continue to own and be responsible for any such facilities abandoned within the Franchise Area.

(2) The City shall have the right to require the District to remove any Facilities abandoned within the Franchise Area if the City reasonably determines the removal of the abandoned Facility is required to facilitate the construction or installation of a City project within the Franchise Area and the City determines there is no other reasonable or feasible alternative to the removal of the Facility. The City will make reasonable efforts to avoid conflicts with abandoned Facilities whenever possible, however, whenever a conflict cannot be resolved except by removal from the right-of-way of previously abandoned District Facilities, then the District shall, at the District's expense, remove such abandoned Facilities by their own forces or by participating in the City's public works project. When necessary, removal of abandoned Facilities shall be limited to the area of direct conflict. In removing such material, the District shall conform to all local, state, and federal regulations applicable to asbestos abatement, when applicable.

(3) Within one hundred and eighty days (180) of the District's permanent cessation of use of its Facilities as determined by the District, or any portion thereof, the District shall provide the City with record drawings showing the location of the Facilities to be abandoned.

(4) District Facilities that are abandoned in-place shall be abandoned pursuant to City Standards, to the satisfaction of the Planning, Building and Public Works Director.

(5) The Parties expressly agree that this section shall survive the expiration, revocation or termination of this Franchise, unless modified by separate agreement.

Sec. 21. Vacation of Franchise Area. If the City processes an application and/or determines to vacate any right-of-way which is part of the Franchise Area, the City may, after giving thirty (30) days written notice to the District, terminate this Franchise with respect to any City road or rights-of-way vacated. However, should the District notify the City that an easement is required for existing Facilities within the proposed vacation area, the City shall require the applicant for a vacation to prepare and provide to the District the necessary easement documentation, at no cost to the District. The City shall withhold approval of such vacation until the District has notified the City that the necessary easement documentation has been secured, or provisions otherwise made acceptable to the District to maintain the viability and use of existing Facilities.

Sec. 22. Assignment. All of the provisions, conditions, and requirements herein contained shall be binding upon the District, and no right, privilege, license or authorization granted to the District hereunder may be assigned or otherwise transferred without the prior written authorization and approval of the City, which the City may not unreasonably withhold, condition or delay, provided that a merger or consolidation of District with or into another Title 57 water-sewer district shall not be considered an assignment for the purposes of this provision and shall not be subject to the City's approval.

Sec. 23. Reservation of rights. The City reserves the right, upon thirty (30) days written notice to the District, to amend or modify the provisions or conditions of this Franchise to conform to any state, county, or federal statute, ordinance, rule or regulation. Unless mandated by state or federal law, if any

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term or condition of this Franchise and any term or condition of any City code, ordinance, resolution, or regulation are in conflict, the terms of this Franchise shall control.

Sec. 24. Notice. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any Party (collectively, "notices") shall be in writing and shall be validly given or made to another Party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States Mail, certified, registered, or express mail with postage prepaid, or if sent by e-mail with electronic confirmation. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given five (5) business days after the deposit thereof in the United States Mail. If such notice is sent by email, it shall be deemed given at the time of the sender's receipt of electronic confirmation. Each such notice shall be deemed given only if properly addressed to the Party to whom such notice is to be given as follows:

To City: City Clerk
 City of Des Moines
 21630 11th Ave. S.
 Des Moines, WA 98198
 Phone: (206) 878-4595
 Fax: (870) 6540

To District : General Manager
 Lakehaven Water and Sewer District
 23828 30th Ave. S.
 Kent, WA 98032
 Phone: (206) 824-0375
 Fax: (206) 824-0806

Any Party may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner required by this section to the other Party.

Sec. 25. Severability. If any term, provision, condition or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect.

Sec. 26. Non-Waiver. The failure of either Party to enforce any breach or violation by the other Party or any provision of this Franchise shall not be deemed to be a waiver or a continuing waiver by the non-breaching Party of any subsequent breach or violation of the same or any other provision of this Franchise.

Sec. 27. Non-Discrimination clause. In all hiring or employment made possible or resulting from this Franchise, the Parties agree there shall be no discrimination against any employee or applicant for employment because of sex, sexual orientation, age, race, color, creed, national origin, marital status, families with children, honorably discharged veteran or military status or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability unless based upon a bona fide occupation qualification. No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Franchise on the grounds of sex, sexual orientation, age, race, color, creed, national origin, marital status, families with children, honorably discharged veteran or military status or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability unless based upon a bona fide occupation qualification.

Sec. 28. Alternate dispute resolution. If the Parties are unable to resolve disputes arising from the terms of this Franchise, prior to resorting to a court of competent jurisdiction, the Parties may submit the dispute to mediation or other non-binding alternate dispute resolution process agreed to by the

Parties. Unless otherwise agreed upon between the Parties or determined herein, the cost of that process shall be shared equally by the Parties.

Sec. 29. Attorney fees. 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. 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 or the District's right to indemnification under section 7 of this Agreement.

Sec. 30. Governing law/venue. This Franchise shall be governed by the laws of the State of Washington. Any suit to enforce or relating to this Agreement shall only be filed in King County Superior Court, King County, Washington.

Sec. 31. Entire Agreement. This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

Sec. 32. Amendment. This Franchise may be amended only by written instrument, signed by both Parties, which specifically states that it is an amendment to this Franchise, and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, section 7 "Indemnity" above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by District of any and all rights, benefits, privileges, obligations, or duties in and under this Franchise, unless such permit, approval, license, agreement or document specifically:

(1) References this Franchise; and

(2) States that it supersedes this Franchise to the extent it contains terms and conditions which change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document that does not comply with subsections (1) and (2) referenced immediately above, the provisions of this Franchise shall control.

Sec. 33. Directions to City Clerk. The City Clerk is hereby authorized and directed to forward certified copies of this Ordinance to the District as set forth in this Ordinance. District shall have thirty (30) days from the receipt of the certified copy of this Ordinance to accept in writing the terms of the Franchise granted to the District by this Ordinance and file with the City Clerk the Statement of Acceptance, attached hereto as Exhibit "A," and incorporated by reference.

Sec. 34. District Acceptance of Franchise. District shall have no rights under this Franchise nor shall District be bound by the terms and conditions of this Franchise unless District shall, within thirty (30) days after the effective date of the ordinance, file with the City its written acceptance of this Franchise.

Sec. 35. Effective date of Ordinance. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

Sec. 36. Effective date of Franchise. The terms and conditions of this Ordinance shall not be binding on the City and the District unless the District Board of Commissioners within thirty (30) days of the effective date of this Ordinance adopts a resolution accepting this Franchise, and the date of the adoption

Ordinance No. ____
Page 29 of 29

of such resolution by the District Board of Commissioners shall be the effective date ("Effective date") of the Franchise.

Sec. 37. Prior Ordinance Superseded. Upon the effective date of this Ordinance in Section 35, Ordinance no. 1515 is superseded by this Ordinance.

PASSED BY the City Council of the City of Des Moines this ____ day of ____, 2025 and signed in authentication thereof this ____ day of ____, 2025.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

EXHIBIT A

ORDINANCE NO. _____

ACCEPTANCE OF FRANCHISE

The undersigned authorized representative of Lakehaven Water and Sewer District hereby declares on behalf of Lakehaven Water and Sewer District the acceptance of the nonexclusive franchise to Lakehaven Water and Sewer District approved by the Des Moines City Council on _____, __, 2025, by the adoption of Des Moines City Ordinance No. _____.

DATED this _____ day of _____, 2025.

LAKEHAVEN WATER AND SEWER DISTRICT

By: _____
Its: _____

EXHIBIT B

ORDINANCE NO. _____

DEPICTION OF CITY CORPORATE BOUNDARIES

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO._____, Adopted_____.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance grants Lakehaven Water and Sewer District a non-exclusive franchise to construct, maintain, operate, replace and repair a water and sewer system within public rights-of-way of the City of Des Moines, Washington, and fixes a time when the same shall become effective.

The full text of the Ordinance will be mailed without cost upon request.

Taria Keane, CMC
City Clerk

Published: _____

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Interlocal Agreement - Barnes Creek
Trail/South 240th Street Improvements
Project

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: May 12, 2025

ATTACHMENTS:

1. Interlocal Agreement – City of Des Moines
and Highline Water District

CLEARANCES:

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

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval for an Interlocal Agreement with Highline Water District for preliminary engineering, construction management, and Right-of-Way use for the Barnes Creek Trail/South 240th Street Improvements (16th Ave S to 20th Ave S) Project (Attachment 1). The following motion will appear on the Consent Agenda:

Suggested Motion

Motion: “I move to approve the Interlocal Agreement with Highline Water District for the Barnes Creek Trail/South 240th Street Improvements Project and further authorize the City Manager to sign said Interlocal Agreement substantially in the form as submitted.”

Background

The Barnes Creek Trail/South 240th Street Improvements Project is a key infrastructure initiative that connects two critical elements of the City of Des Moines' long-term transportation plans. It will complete the unfinished South Segment of the Barnes Creek Trail between 16th Ave S and Highline College, as well as Segment 2 of the South 240th Street Corridor Improvements between 16th Ave S and 20th Ave S.

In 2019, the project received funding from the Sound Transit System Access Fund (\$1.9 million) and King County Metro's Safe Routes to Transit Program (\$120,000.00) to support non-motorized access improvements.

The project was also awarded a 2023-2025 WA State Legislative appropriation in the amount of \$3,500,000.00. This grant was approved by Council on November 16, 2023.

During the design phase of the project, staff met with franchise utility providers to inform them of the City's plans, requested identification of utility conflicts with the proposed improvements, and requested their input and participation in the project where conflicts exist to avoid delays during the project construction phase. Highline Water District owns and operates water utilities under a franchise agreement along South 240th Street. During the design of the City's project, Highline Water District identified the need to replace a 10" water main, within the City's project limits. Highline Water District requested integrating their work into the City's design and construction of the Barnes Creek Trail/South 240th Street Improvements Project.

Discussion

An Interlocal Agreement to incorporate Highline Water District's work into the City's project would be mutually beneficial. This would allow the construction of the project to be less disruptive to the public than if the District undertook their work separately, as well as maximize the economy of scale cost benefit. Highline Water District provided to the City an engineering estimate of their probable construction costs and this information was used to verify the District's participation obligations of a joint project.

Highline Water District estimates the construction work to cost approximately Nine Hundred Seventy-Seven Thousand Dollars (\$977,000) including sales tax associated with the work. The Water District will reimburse the City for the City's final actual costs of construction based on the Contractor's bid price and quantities of work installed. The Water District will also pay the City ten percent (10%) of the final actual direct construction costs to cover Construction Management costs.

Alternatives

The City Council could elect not to enter into an Interlocal Agreement with Highline Water District. The City would then need to wait for Highline Water District to complete their water main replacement project prior to the City moving forward with the roadway work. This introduces potential significant project delay, costs, and risk in future utility conflicts.

Financial Impact

The City's adopted CIP budget worksheet does not include expenditures and revenue associated with the Interlocal Agreement with Highline Water District. The updated project worksheet would be included in the next CIP budget amendment.

Recommendation

Staff recommends the adoption of the motion.

Council Committee Review

The Transportation Committee has regularly been updated on the status of this project.

**INTERLOCAL AGREEMENT
CITY OF DES MOINES AND
HIGHLINE WATER DISTRICT**

**South 240th Street (16th – 20th Ave/Barnes Creek Trail)
IMPROVEMENTS PROJECT**

RECITALS

WHEREAS, the City of Des Moines, Washington ("City") is undertaking a capital improvement project known as the South 240th Street (16th – 20th Ave/Barnes Creek Trail Improvements Project ("the Project"); and

WHEREAS, Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities; and

WHEREAS, Highline Water District ("District") owns and operates certain water utilities located in the South 240th Street right-of-way within and adjacent to the Project limits and the District has a franchise agreement to operate in said right-of-way; and

WHEREAS, the City intends to construct improvements to South 240th Street and its approaches; and

WHEREAS, the District is interested in replacing a 10-inch water main within the right-of-way limits of the City's project between 16th Ave South and 20th Ave South, along with other improvements ("District Work"); and

WHEREAS, integrating the District Work into the City's design and construction of the Project would be more expedient, less expensive, and less disruptive to the public than if the District undertook the District Work separately; and

WHEREAS, the City and the District (individually a "Party" and collectively the "Parties") mutually desire to establish a formal arrangement under which the District will pay the City in consideration of the City's incorporating the District Work into the design and construction of the Project; and

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

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

WHEREAS, the District Board of Commissioners has taken appropriate action to approve the District's approval of and entry into this Agreement;

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

AGREEMENT

Section 1. Purpose. The purpose of this Agreement is to establish a formal arrangement under which the District will pay the City to incorporate the design of the District Work into the Project contract documents and to construct the District Work in conjunction with the City's design and construction of the Project. The terms, conditions, and covenants of this Agreement shall accordingly be interpreted to advance this purpose. This Agreement further seeks to allocate and define the Parties' respective rights, obligations, costs and liabilities concerning the establishment, operation and maintenance of this undertaking.

Section 2. Term. This Agreement shall be effective upon execution by the Parties. Unless terminated in accordance with Section 3, this Agreement shall remain in effect until one of the following events occurs, whichever is later: (a) the District's written acceptance of and payment for the District Work provided pursuant hereto, or (b) December 31, 2026. Thereafter, this Agreement shall be deemed to have expired automatically. The Parties may at their option renew this Agreement for a mutually agreed upon term by a writing signed by both Parties.

Section 3. Termination. Subject to the provisions of Section 4 herein, either Party may terminate this Agreement with cause by providing the other Party with at least thirty (30) days written notice of its intent to terminate. Termination or expiration of this Agreement shall not alter the District's payment obligations under Section 6 for services already rendered, as well as for the normal and reasonable costs incurred by the contractor in terminating and closing out the District's portion of the work, and shall not alter the Parties' respective obligations under Section 11 of this Agreement.

Section 4. Obligations of the District.

A. The District shall provide monthly payments to the City to reimburse the City for its costs of incorporating the design of the District Work into the construction documents, and for constructing the District Work pursuant to Section 6 of this Agreement, and as follows:

- a. Engineering/Design. The District shall participate in the design process as follows:
 - i. The District will coordinate with the City and its engineering consultants on the preparation of the engineering plans and specifications necessary to accommodate the District Work

utilizing specifications and bid quantities for common work that is acceptable to the City. The District may use the City's survey for preparation of its plans but shall hold the City harmless from any errors, omissions or corrections necessary to design and construct said improvements. The District shall review the final Plans and Specifications, and provide the City a written notice of acceptance of the plans and specifications associated with the District Work within fifteen (15) days of receipt.

- ii. The District Work shall utilize 100% import Crushed Surfacing Top Course (CSTC) as defined by the WSDOT Standard Specifications for all trench backfill as part of its bid schedule unless approval for a different material is provided by the City. No native materials excavated, as part of this project shall be utilized for trench backfill unless the City provides approval to use such native materials.
 - iii. The District's Work shall include installation of water-related appurtenances, trench backfill and a 2-inch HMA trench patch for the pavement restoration. Permanent pavement restoration shall be designed and constructed by the City.
- b. Bid Process. The District shall participate in the bid process as follows:
- i. Accept or reject bids on bid items associated with the District Work. Those bid items include the items identified on a separate Bid Schedule for the District Work.
 - ii. Within ten (10) days of receiving the bid tabulation from the City, the District shall notify the City in writing that the District either agrees to proceed with the District Work as part of the Project, or the District chooses to complete the District Work on its own as part of a separate project.
 - iii. To determine the lowest responsive, responsible bidder, the City will include all Bid Schedules unless the District rejects the bid for the District Work.
- c. Construction. If the District elects to proceed with the District Work as part of the Project, the District shall reimburse the City for the City's actual costs for construction of the District Work based upon:
- i. Contractor's bid prices for the District Work, the actual quantities of work installed, and the final actual costs of construction. The District engineer's estimate for the District

Work, including sales tax, is approximately Nine Hundred Seventy-Seven Thousand Dollars (\$977,000).

- ii. All Washington State Sales tax associated with the District Work.
- d. Construction Management: The District agrees to reimburse the City for actual direct construction costs and sales tax of all District Work plus ten percent (10%) of the final actual direct construction costs to cover Construction Management costs (e.g., project management, construction administration, inspection and testing).
- e. Construction Engineering and Inspection: The District shall provide its own construction engineering and inspection during construction of the District Work. The District inspector shall coordinate directly with the City's inspector during the Project construction. The District inspector will have the responsibility for inspection and approval of the District Work and that the contractor employed by the City will be directed to comply with the District's requirements by the City's inspector or designee in accordance with plans and specifications approved by the District. The District's inspector shall immediately notify the City's inspector, verbally and in writing, of any disapproval of said work and provide said notification to the City prior to progress payment for said work to the contractor. The District's inspector will provide copies of all daily field reports to the City's Construction Manager.

The District shall review and approve Requests for Approval of Materials ("RAM") for materials to be used proposed by the contractor for District bid item work as provided by the City. The District shall complete the review within five (5) business days of receiving any RAM from the contractor or the City.

- f. Construction Claims: If claim(s) are filed on the Project by the contractor that are directly related to the District Work ("Claim"), the District shall reimburse the City for the City's reasonable expenses incurred to respond to said Claim, including the City's outside costs for construction engineering and management, if any, and City administration support including legal representation.
- B. The District shall respond within five (5) business days to information requests submitted by the City or its agents regarding the District Work.
- C. Upon completion of the District Work to the District's satisfaction, the

District shall provide written acceptance of the District Work to the City.

- D. The District may abandon the existing water main in place provided the water main is drained, filled with CDF to prevent collapse, and capped. Where necessary, the District shall remove AC water main where it is in conflict with the City's Project improvements. The cost of handling and proper disposal of any AC water main disturbed by the District or the City shall be the District's responsibility.
- E. If the District decides to reject the bid for the District Work, then the District acknowledges that construction of the District Work may be processed under a separate contract by the District. The District acknowledges that the construction of the District Work under a separate contract could cause delay and/or increase the cost of the Project. If the District elects to proceed with the District Work, the District shall require its contractor to coordinate all District work within the Project work area with the City contractor and with any contractors or work crews from other utilities and to not unreasonably interfere with or delay the City contractor or the work by other utilities. If the District chooses to forgo a separate contract, the District acknowledges the City will not allow construction and replacement for a period defined in the City's franchise utility agreement from the date of acceptance of the City's project physical completion.

Section 5. Obligations of the City.

- A. The City shall incorporate the design of the District Work into the construction plans, specifications, and contract documents for the Project provided said plans, specifications and documents are prepared in similar format to the Project's contract documents. The District Work will be under a separate bid schedule in order to provide a clear identification of the bid item cost allocations between the District Work and the Project work.
- B. The City shall assume responsibility for constructing the District Work in accordance with the plans, specifications, and contract documents, including but not limited to securing all necessary consultants, contractors, and subcontractors. All construction contracts shall be procured through a formal competitive bidding process consistent with applicable State and/or Federal laws as may be applicable. The City shall have sole authority to award and manage the construction contract per the terms of this Agreement.
- C. The City shall periodically submit to the District written invoices for payment in accordance with Section 6. The City shall include copies of invoices or other documentation from consultants and/or contractors, clearly indicating the District's portion of the invoices.

- D. The City shall assume lead agency status and responsibility for applying for and obtaining any and all regulatory permits necessary to complete the Project including the District Work, including but not limited to right-of-way permits, NPDES permits, and SEPA approvals.
- E. The City shall provide District personnel access to the Project's construction area for purposes of inspecting, monitoring, approving or disapproving the progress of work performed on the District Work. The City shall notify a District representative of all construction meetings and shall allow the District's representative to participate in all construction meetings.
- F. The City shall respond promptly to information requests submitted by the District or its agents regarding the Project.
- G. The City shall require the contractor constructing the Project to have the District, its elected and appointed officers, agents and employees named as an additional insured on all policies of insurance to be maintained by contractor(s) under the terms of any Commercial General Liability Insurance, Commercial Automobile Insurance, and Workers Compensation. The contractor shall provide the City with either a certified copy of all policies with endorsements attached or a Certificate of Insurance with endorsements attached as are necessary to comply with the contract specifications. The City shall provide the District with copies of all such policies and documents upon receipt by the City.

The City shall require the contractor building the Project to indemnify, defend, and save harmless the District and its elected and appointed officers, agents, or employees from any claim, damage, action, liability of proceeding brought or filed against the District or its officers, agents or employees alleging damage or injury arising out of the contractor's participation in the Project. The contractor shall also be required to waive the contractor's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the District solely for the purposes of the indemnification.

The City shall require the contractor to be responsible for compliance with all applicable federal, state and local statutes, regulations and ordinances regarding safety.

- H. The City shall design and construct the pavement surface restoration in lieu of construction by the District as provided in this Agreement.

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

- A. For construction contract costs incurred by the City for the District Work on the Project, the City shall submit invoices to the District for the District's share of said expense for the District Work. Said invoices shall contain a reasonably detailed explanation of the methodology utilized by the City in determining the District's share of each expense. To the extent reasonably possible, the City shall document and tabulate separately the actual quantities of work installed to clearly identify the District's portion of the Project construction cost for the District Work. Final adjustment of prorated costs shall be delivered to the District within thirty (30) days of Project close out.
- B. Within thirty (30) days of receiving any invoice pursuant to subsection 6.A, the District shall tender payment to the City in the form of a warrant payable to the City for the invoiced amount, except as to any disputed amounts.
- C. If the Parties disagree regarding the District's share of any expense incurred by the City regarding the Project, the Parties may agree to submit the question for resolution in accordance with the mediation/arbitration clause contained herein.

Section 7. (reserved)

Section 8. Change Orders and Authorization of Cost Overruns:

- A. Change Orders. The District shall have the right to approve or reject change orders relating to the District Work. The City shall have the right to approve or reject change orders relating to the City's work. The Parties shall mutually accept or reject change orders relating to joint work. Any dispute between the Parties as to proportional payment for joint element change orders shall be resolved pursuant to the mediation/arbitration clause contained herein.
- B. Cost Overruns. The City is authorized on behalf of the District to negotiate and approve all unit price over-runs in bid quantities and change orders related to the installation of the District Work. The District also authorizes the expenditure by the City of a contingency of up to ten percent (10%) of the contractor's total price for the District's bid items for over-runs in bid quantities and change orders associated with the installation of the District Work. For any quantity overruns that cause the cost of the District's water line installation to exceed the authorized ten percent (10%) contingency amount, the City will notify the District in writing requesting a letter of concurrency allowing the City to exceed the ten percent (10%) contingency before proceeding with the work. The City's notice shall include an explanation of the changed conditions

necessitating exceeding the previously approved contingency. A letter of concurrence shall be provided to the City within a reasonable time frame so as to not cause a Project delay. If there is a potential delay due to extra work or a change order, the City will indicate in this notification to the District along with a time for response required from the District. The City will include a progress schedule and any change orders for the District Work with the District's monthly invoice. In any event and even without a letter of concurrence from the District, the City is authorized to take any reasonable action and to expend any reasonable amount of money to assure that the District Work will not interfere or delay the timely completion of the Project. Any disputes as to the reasonableness of the City's actions or expenditures for the water line installation and related work will be resolved as set forth in Section 12 below.

Section 9. Ownership and Disposition of Property. The District Work pursuant to this Agreement shall become and remain the exclusive property of the District upon completion. All other work constructed under the Project shall become and remain the exclusive property of the City upon completion. The City will forward and assign to the District any guarantee or warranty furnished as a normal trade practice in connection with the purchase of any equipment, materials, or items used in the construction of the Project. The City shall submit redline drawings to the District upon completion of the Project for District review and approval. The City's contractor shall warrant the workmanship and materials utilized in the District Work to be free from defects for a period of one (1) year from the date of final completion of the City's Project, provided the District shall retain any rights, claims or demands the District may have against the City's contractor relating to the District Work under applicable statutes of limitation.

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

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

employees, representatives, contractors or subcontractors.

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

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

Section 12. Mediation/Arbitration Clause. If a dispute arises from or relates to this Agreement or the alleged breach thereof and if the dispute cannot be resolved through direct discussions between the Parties, the Parties agree to endeavor first to settle the dispute in an amicable manner by mediation before a mutually agreed alternative dispute resolution entity or by mediation administered under the American Arbitration Association's Commercial or Construction Rules before resorting to arbitration. The mediator may be selected by agreement of the Parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through binding arbitration which shall be conducted under mutually agreed rules, or under the American Arbitration Association's Commercial or Construction Arbitration Rules. The arbitrator may be selected by agreement of the Parties or through appointment pursuant to the rules of the American Arbitration Association.

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.

Section 13. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County Superior Court - Kent.

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

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

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

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

Notices to the District shall be sent to the following address:

**Highline Water District
General Manager
23828 30th Avenue South
Kent, WA 98032**

Section 17. Interlocal Cooperation. Pursuant to RCW 39.34.040, this Agreement shall be filed with the King County Auditor upon full execution or listed by subject on the City's and District's respective web sites.

Section 18. Integration/Entire Agreement. This document constitutes the entire embodiment of the agreement between the Parties, and, unless modified in writing by an amendment to this Agreement signed by the Parties, shall be implemented as described above. This Agreement supersedes any oral representations that are inconsistent with or modify its terms and conditions.

Section 19. Non-Waiver. Waiver by any Party or any of the provisions contained within this Agreement, including but not limited to any performance deadline, shall not be construed as a waiver of any other provisions.

Section 20. Amendment. This Agreement may be amended only upon consent of the Parties. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.

Section 21. Severability. If any provisions of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby.

Section 22. Counterparts. This Agreement shall be effective whether signed by all Parties on the same document or whether signed in counterparts.

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

CITY OF DES MOINES

By: _____

Katherine Caffrey, City Manager

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Des Moines City Attorney

Reviewed and approved as authorized by Resolution No. _____ of the Highline Water District Board of Commissioners on the ____ day of _____, _____.

By: _____

Jeremy DelMar, General Manager

Date: _____

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Defense Services Contract
Extension

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 15, 2025

ATTACHMENTS:

1. Contract Extension
2. Contract 2021-2023

CLEARANCES:

- ☐ City Clerk _____
- ☐ Community Development _____
- ☒ Courts M. Patrick
- ☒ Finance [Signature]
- ☐ Human Resources _____
- ☒ Legal /s/TG
- ☐ Marina _____
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: Katherine Coffey

Purpose and Recommendation

The purpose of this agenda item is to request City Council approval of a contract extension with the law firm Stewart MacNichols Harmell, Inc. P.S. to provide indigent criminal defense services for a two year term.

Suggested Motion

Motion: "I move to approve the contract extension with Stewart MacNichols Harmell, Inc. P.S. for indigent public defense services for the period June 1, 2025 through May 31, 2027."

Background

The City initially contracted with the law firm Stewart MacNichols Harmell, Inc. P.S. for indigent criminal defense services in 2021 following a Request for Proposals process. Stewart MacNichols Harmell, Inc. P.S. was selected and has been providing indigent criminal defense services since that time.

Their initial contract was extended for an additional two year term in 2023 and then again for three additional months in early 2025.

Discussion

The law firm of Stewart MacNichols Harmell, Inc. P.S. offer extensive experience in indigent criminal defense. The attorneys have proven they can work with a variety of people from all backgrounds and are familiar with the myriad of issues that indigent clients face within the City of Des Moines. The attorneys are aware of all legal requirements of this contract as well as the specific expectations that the Des Moines Municipal Court has, such as specialized training in computer software and therapeutic court training (DUI Court).

Stewart MacNichols Harmell, Inc. P.S. also provides public defense services for the City of Normandy Park. Because Des Moines provides court and prosecution services for Normandy Park, this arrangement allows for better efficiency and the ability to handle both cities cases during the same calendar.

Alternatives

Not approve the extension and seek out other attorneys or a law firm that could handle this legal mandate. There is however a severe shortage of public defenders across the state resulting in limited availability and increased costs. Additionally, the cost and time of transferring hundreds of pending criminal cases to new attorneys is substantial and not recommended given the current firm is providing quality service at a cost that is in line with the market.

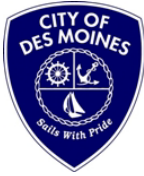
Financial Impact

The contract calls for a flat fee of \$550 per case, which is an increase of \$50 per case from the last extension. In 2021, the original cost per case was \$350 but that has risen over time due to not only general cost increases but also because of the introduction of body worn cameras. The use of body worn cameras results in video evidence that must be reviewed by defense counsel, which can add hours of time spent on each matter.

Currently, the City is filing on average between 30-40 new criminal cases per month that are assigned to the public defender. At the new rate this would result in costs between \$16,500 and \$22,000 per month. The City is required by the Constitution of the United States to provide these services.

Recommendation

Administration recommends that Council approve the proposed contract extension with Stewart MacNichols Harmell, Inc. P.S.



CONTRACT AMENDMENT/ADDENDUM FORM

CONTRACT FOR PUBLIC DEFENDER SERVICES BETWEEN THE CITY OF DES MOINES AND STEWART MACNICHOLS HARMELL, INC, PS

THIS AMENDMENT/ADDENDUM is entered into on this 26th day of May, 2025, pursuant to that certain Contract entered into on the 26th day of February, 2021, between the **CITY OF DES MOINES, WASHINGTON** (hereinafter "City"), and **STEWART MACNICHOLS HARMELL, INC, PS**, (hereinafter "Public Defenders").

The parties herein agree that the Contract dated February 26, 2021, (hereinafter "Contract") shall remain in full force and effect, except for the amendments/addendums set forth as follows:

1) **SECTION 2.1** of the Contract is hereby amended to include the following paragraph:

During the term of this Agreement, the City shall pay to the Public Defenders for services under this Agreement a rate of \$550 per case assigned.

2) **SECTION 3** of the Contract is hereby amended to read as follows:

The term of this agreement shall be extended to May 31, 2027.

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

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

<p>PUBLIC DEFENDERS:</p> <p>By: _____ <i>(signature)</i></p> <p>Print Name: _____</p> <p>Its _____ <i>(Title)</i></p> <p>DATE: _____</p>	<p>CITY OF DES MOINES:</p> <p>By: _____ <i>(signature)</i></p> <p>Print Name: <u>Katherine Caffrey</u></p> <p>Its <u>City Manager</u> <i>(Title)</i></p> <p>DATE: _____</p> <p>Approved as to form:</p> <p>_____ City Attorney</p> <p>DATE: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>Stewart MacNichols Harmell:</p> <p>Jeff MacNichols Stewart MacNichols Harmell 655 West Smith St Suite 210 Kent, WA 98032 253-859-8840 (telephone) 253-859-2213 (facsimile/email)</p>	<p>NOTICES TO BE SENT TO:</p> <p>CITY OF DES MOINES:</p> <p>Bonnie Wilkins City of Des Moines 21630 11th Avenue S., Suite A Des Moines, WA 98198 206-870-6519 (telephone) bwilkins@desmoneswa.gov (facsimile/email)</p>

AGREEMENT FOR PUBLIC DEFENDER SERVICES
FOR DES MOINES MUNICIPAL COURT

WHEREAS, the City of Des Moines, Washington (hereinafter "City") provides public defense services pursuant to contract, and

WHEREAS, a decision by the Federal Court for the Western District of Washington, the Honorable Robert Lasnik, in a case styled *Wilbur v. Mt. Vernon* (hereinafter "the Decision") emphasizes the need for the City to provide indigent defense services to misdemeanor clients in municipal and district courts in a manner which fully complies with the City's obligations under the Sixth Amendment to the United States Constitution, and

WHEREAS, the Washington Supreme Court has adopted standards regarding the caseload of Public Defenders and the Washington State Office of Public Defense has provided guidance regarding case weighting systems, and

WHEREAS, the City requires this contract to be in compliance with the guidance of the Decision, Supreme Court Standards and the standards for the provision of indigent defense services adopted by the City in Executive Order No. 14-005; now therefore,

In consideration of the mutual benefits to be derived and the promises contained herein, the **CITY OF DES MOINES**, Washington, a municipal corporation ("City") and Stewart MacNichols Harmell, Inc. P.S. (the "Public Defender(s)") have entered into this Agreement.

1. Scope of Services, Standards and Warranties. The Public Defender will provide indigent defense services in misdemeanor cases in accordance with the standards adopted by the City in Executive Order No. 14-005 as the same exists or is hereafter amended (hereinafter "Standards") and the Decision. The Public Defender individually warrants that he/she, and every Attorney/Public Defender and/or intern employed by the Public Defender to perform services under this contract, has read and is fully familiar with the provisions of the Standards adopted by the City and the Decision. Compliance with these Standards and the Decision goes to the essence of this Agreement. The Public Defender, and every Public Defender and/or Attorney or intern performing services under this Agreement shall certify compliance with Supreme Court Rule and governing case load

quarterly with the Des Moines Municipal Court on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Public Defender and every Public Defender and/or Attorney or intern warrants that he/she shall conform to the case load limitations not only with respect to services under this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

1.1 Screening. Determination of indigency for eligibility for appointed counsel under this agreement shall be determined by an independent screening process established by the City. Should the independent screener performing the screening determine a defendant is not eligible for assigned counsel, the independent screener shall so advise the Des Moines Municipal Court.

1.2 Twenty-Four Hour Telephone Access. The Public Defenders shall provide to the Des Moines Police Department a telephone number or numbers at which a Public Defender can be reached twenty-four (24) hours each day for advice to defendants during the course of police investigations or arrests for violations of law.

1.3 Client Contact. Public Defender agrees to attempt to contact the client within five (5) days of receiving the notice of appointment by the Des Moines Municipal Court if the defendant is out of custody and within seventy-two (72) hours if the defendant is in custody. Public Defender shall make reasonable efforts to confer with defendants about cases prior to court hearings and the Public Defender shall be available for office consult and shall respond to defendant inquiries within a reasonable time to ensure the effective assistance of counsel whether such inquiries are received by letter, telephone, email, or otherwise. Public Defender shall be available for attorney-client consultations at the jail prior court hearings.

1.4 Recordkeeping: Public Defender will maintain records documenting all work performed on each assigned case.

a. **Monthly Reports:** Public Defender will maintain and provide to the City a monthly report detailing the number of cases to which the Public Defender was appointed, the names of the defendants to which the Public Defender was appointed, the case number, the date of appointment, and the charge(s) filed against the defendant.

b. **Quarterly Reports:** Public defender shall submit quarterly reports which include the number of appellate cases filed during the preceding quarter, if any, the total number of cases assigned to each Public Defender during the preceding quarter, year-to-date appointments and CLE/training hours completed for each Public Defender during the preceding quarter.

1.5 Each Public Defender agrees to attend a minimum of seven (7) hours of criminal defense training/continued legal education classes each year. Each Public Defender may submit proof of payment of such training to the City and the City agrees to reimburse the Public Defender up to a maximum of \$500 each, per year for the costs of such training/education. The training must be approved by the Washington State Office of Public Defense (OPD) in compliance with the OPD Improvement Program Training requirements. This requirement also applies to associate counsel. Each Public Defender shall submit a copy of their CLE credit transcript from the WSBA annually.

1.6 The Public Defender further warrants that his/her proposal, reflected in Section 2, Compensation, reflects all infrastructure, support, administrative services, routine investigation, and systems necessary to comply with the Decision and Standards except as provided in Section 2.4 below.

1.7 The Public Defender promises that he/she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards.

1.8 **Therapeutic Courts:** The Des Moines Court operates a DUI court. As a representative, the Public Defender may be required to attend out of state training for therapeutic court to help ensure the program's success. The Des Moines DUI court is a post-conviction program that combines drug and alcohol treatment with intensive court supervision to reduce DUI recidivism. DUI courts use evidence-based practices, employing the ten guiding principles established by the National Center for DWI Courts. DUI Courts target offenders who are identified as high-risk and high-need. Judges, defense attorneys, prosecutors, law enforcement officers, probation officers and treatment providers are trained in the DUI court model and work cooperatively to oversee and manage participants' progress. DUI Court emphasizes accountability and long-term treatment.

1.9 Technology: The Public Defenders must be knowledgeable in different aspects of court technology, such as JABS, OCourt, SCORE; other county or statewide systems, Zoom.

2. Compensation. As used below, payment to "Public Defenders" means a single payment and not a payment to each Public Defender.

2.1 The City shall pay to the Public Defenders for services rendered under this Agreement, a rate of \$350 per case assigned to the Public Defenders for the term of this Contract.

This contract contemplates regularly scheduled Court hearings to occur at the following times:

Court Schedule:

Every Tuesday and Wednesday (all day); Friday mornings

Two (2) days per month for scheduled jury trials.

Video court at Score Monday through Friday (see below);

Courtesy counsel is required at arraignment calendars once per week.

- a. Video Court: The Public Defenders shall appear Monday through Friday for video court public defender services to defendants charged under ordinances of the City or state misdemeanor or gross misdemeanor statutes who are detained at the South Correctional Entity ("SCORE"). Public defense services will be provided in a manner consistent with the accepted practices for similar services, performed to the City's satisfaction and in conformance with WSBA's standards for the provision of public defense services as codified in the Rules for Professional Conduct, the Decision and the Des Moines Municipal Code as now existing or hereafter adopted or amended.
- b. The City shall pay an additional \$500 to Public Defenders for a "special set" jury trial that is scheduled and held on a court day other than the regularly scheduled 2 trial days per month as per Section 2.1

- c. The City shall pay an additional \$850 per RALJ appeal to the Superior Court in which a brief has been filed by the Public Defenders, which sum is over and above all compensation paid for legal services before the Court.
- d. The City may schedule additional Court days with 30 days written notice to the Public Defender, or such shorter time upon agreement by the Public Defender.
- e. DUI Court: The City shall pay the Public Defender \$175 per calendared day for serving as Public Defender for the City of Normandy Park and the City of Des Moines bi-monthly DUI calendar. This fee represents the City's one-half share of the Public Defender's billed fees, the other half to be paid by the City of Normandy Park.

2.2 The compensation amount represents the salary and benefits necessary to provide the services for the City and as supplemented in Section 2.6 below. As provided in Section 2.5 and its sub paragraphs below, the parties will periodically review staffing in light of changes in court rule and case load in order to adjust staffing based on experience. The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense services will comply with the Standards and Decision with an adequate reserve capacity for each Public Defender.

2.3 Case Counts. Based upon case counts maintained by Public Defender and reviewed by the City, current estimates for annual case counts for all indigent cases filed by the City is approximately 400 cases per year. As provided in the Standards, the case counts also include the Public Defender's appearance at all arraignment calendars. The terms "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City has adopted an unweighted case count. Monthly stats are due the following month.

2.4 Adjustment; Internal Allocation. As provided in the Standards, case counts may be revised upwards based upon a variety of factors. Upon the Public Defender's request, the City shall review any particular case with the Public Defender

to determine whether greater weighting should be assigned, and upward revisions shall not be unreasonably refused. The annual caseload shall be reviewed annually on or about June 30th each year.

2.5 Base Compensation. Except as expressly provided in Section 2.6, the cost of all infrastructure, administrative, support and systems as well as standard overhead services necessary to comply with the established standards are included in the base payment provided in Section 2.1 above.

2.6 Payments in Addition to the Base Compensation. The City shall pay for the following case expenses when reasonably incurred and approved by the Court from funds available for that purpose:

a. Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor. For post-conviction relief cases, discovery includes the cost to obtain a copy of the defense, prosecuting Public Defenders making any charge or court files pertaining to the underlying case.

b. Preauthorized Non-Routine Expenses. Non-routine case expenses requested by the Public Defender and preauthorized by order of the Court. Unless the services are performed by Public Defender's staff or Public Defenders, non-routine expenses include, but are not limited to:

- (i) investigation expenses;
- (ii) medical and psychiatric evaluations;
- (iii) expert witness fees and expenses;
- (iv) interpreters;
- (v) polygraph, forensic and other scientific tests;
- (vi) unusually extensive computerized legal research; or
- (vii) any other non-routine expenses the Court finds necessary and proper for the investigation, preparation, and presentation of a case. In the event any

expense is found by the Court to be outside of its authority to approve, the Public Defender may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

c. Lay Witness Fees. Lay witness fees and mileage incurred in bringing defense witnesses to court, but not including salary or expenses of law enforcement officers required to accompany incarcerated witnesses;

d. Copying Clients' Files. The cost, if it exceeds \$25, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus Public Defender's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

e. Copying Direct Appeal Transcripts Supreme Court Rules for the Administration of Courts of Limited Jurisdiction RALJ Appeals. The cost of making copies of direct appeal transcripts for representation in post-conviction relief cases. Public Defender is limited to no more than two copies;

f. Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs, when the cost of an individual item does not exceed \$75; and

g. Process Service. The normal, reasonable cost for the service of a subpoena.

2.7 Review and Renegotiation.

a. Due to Increases or Decreases in Case Load.

The City and the Public Defender shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. Significant "decrease" shall mean a change of more than ten percent (10%) in the number of cases assigned. If cases are estimated to approach or exceed 400 cases per year or 100 cases per quarter, the parties may renegotiate this contract to increase case coverage and compensation to Public Defender. At the request of either party, the City and Public Defender will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications. Public Defender shall promptly notify the City when quarterly case loads can reasonably be anticipated to require use of overflow or conflict counsel to assure that cases assigned to Public Defender remain within the limits adopted in this contract and comply with state and local standards.

b. Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court, the Washington State Bar or the City significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule or City Ordinance/Resolution.

3. Term of Agreement. The term of this agreement shall be from March 1, 2021 for a two (2) year initial term through February 28, 2023, unless sooner terminated as provided herein. The Agreement may be extended for one (1) additional two (2) year term at the mutual agreement of the parties, not to exceed four (4) years in total.

3.1 For Cause. This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards or the Decision, the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Public Defender or any Public Defender providing service under this agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be

subject to cure. Written notice of contract violation shall be provided to the Public Defender who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

3.2 Termination on Mutual Agreement. The parties may agree in writing to terminate this contract at any time. Unless otherwise agreed to in writing, termination or expiration of this contract does not affect any existing obligation or liability of either party.

3.3 Obligations Survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

a. **Representation.** The compensation established in this agreement compensates Public Defender for services relating to each and every assigned case. Therefore, in the event this agreement is terminated, the Public Defender will continue to represent clients on assigned cases until a case is concluded on the trial court level through dismissal, plea or sentencing, provided however, that the public defender may withdraw after thirty (30) calendar days with respect to any matter which has not been set for trial within sixty (60) days of termination. Probation will be assigned to successor counsel.

b. The provisions of sections 1 through 5 shall survive termination as to the Public Defender. The City shall remain bound by the provisions of section 2.4 with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

4. Nondiscrimination. Neither the Public Defender nor any person acting on behalf of the Public Defender, shall, by reason of race, creed, color, national origin, sex, sexual orientation, honorably discharged doctrine or military status, or the presence of any sensory, mental, or physical disability or the use of a trained guide dog or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates, or in the provision of services under this agreement.

5. Indemnification. The Public Defender agrees to hold harmless and indemnify the City, its officers, officials,

agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, and including claims by Public Defender's own employees to which Public Defender might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Public Defender, his/her officers or agents.

5.1 It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Public Defender's waiver of immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

5.2 The City agrees to hold harmless and indemnify the Public Defender, his/her officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

5.3 This clause shall survive the termination or expiration of this agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

6. Insurance. The Public Defender shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or property which may arise from or in connection with the performance of work hereunder by the Public Defender, or the agents, representatives, employees, or sub-Public Defenders of the Public Defender.

6.1 Public Defenders shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to person or damage to property which may arise from or in connection with the performance of the work hereunder by Public Defender. Public Defenders shall obtain and maintain Professional Liability insurance appropriate to Public Defenders' profession. Professional Liability insurance shall be written with limits no less than \$500,000 per claim and \$1,000,000 policy aggregate limit. Public Defenders' insurance shall be primary insurance as respects the City. Public Defenders' insurance coverage shall not be cancelled except after thirty (30) days prior written notice to the City by certified mail, return receipt requested. Public Defenders shall furnish the City with written certificates evidencing

compliance with insurance requirements within 30 days of commencement of work.

6.2 Verification of Coverage. Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work. Policies shall provide thirty (30) days written notice of cancellation to the City. The Public Defender shall provide the City with proof of insurance for "tail coverage" no later than December 31 of the year of termination of the Contract. The purpose of "tail coverage" is to provide insurance coverage for all claims that might arise from occurrences during the term of the Contract or extension(s) thereof, but not filed during the term of the Contract.

7. Work Performed by Public Defender. In addition to compliance with the Standards, in the performance of work under this Agreement, Public Defender shall comply with all federal, state and municipal laws, ordinances, rules and regulations which are applicable to Public Defender's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

8. Work Performed at Public Defender's Risk. Public Defender shall be responsible for the safety of its employees, agents, and sub-Public Defenders in the performance of work hereunder, and shall take all protections reasonably necessary for that purpose. All work shall be done at the Public Defender's own risk, and the Public Defender shall be responsible for any loss or damage to materials, tools, or other articles used or held in connection with the work. Public Defender shall also pay its employees all wages, salaries and benefits required by law and provide for taxes, withholding and all other employment related charges, taxes or fees in accordance with law and IRS regulations.

9. Personal Services, No Subcontracting. This Agreement has been entered into in consideration of the Public Defender's particular skills, qualifications, experience, and ability to meet the Standards incorporated in this Agreement. Therefore, the Public Defender has personally signed this Agreement below to indicate that he/she is bound by its terms. This Agreement shall not be subcontracted without the express written consent of the City and refusal to subcontract may be withheld at the City's sole discretion. Any assignment of this

Agreement by the Public Defender without the express written consent of the City shall be void.

10. **Modification.** No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representatives of the City and the Public Defender. An additional Public Defender may be added to this Agreement by adding his or her signature to these agreements.

11. **Entire Agreement; Prior Agreement Superseded.** The written provisions in terms of this Agreement, together with any exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statement(s) shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement. Upon execution, this Agreement shall supersede any and all prior agreements between the parties.

12. **Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of 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 the Agreement or such other address as may be hereinafter specified in writing:

CITY:

City of Des Moines
21630 11th Ave. South
Des Moines, WA 98198

PUBLIC DEFENDER:

Stewart MacNichols Harmell
655 West Smith Street, Suite 210
Kent, WA 98032 253-859-8840

13. **Nonwaiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of such covenants, agreements, or options and the same shall be and remain in full force and effect.

14. **Resolutions of Disputes, Governing Law.** Should any dispute, misunderstanding or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be

referred to the Contract Administrator, whose decision shall be final. Provided, however, that any complaint regarding any violation of the Standards or which relate to any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City's Municipal/District Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Public Defender and any indigent defendant. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for reasonable attorney's fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in King County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 26 day of February, 2021.

APPROVED AS TO FORM:

Tim George /s/

City Attorney

CITY OF DES MOINES:



Michael Matthias

City Manager

PUBLIC DEFENDER:



Stewart MacNichols Harmell

Title: Partner, Secretary

Stewart MacNichols

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Discussion on City Appointive
Committee Reorganization

ATTACHMENTS:
1.

FOR AGENDA OF: May 22, 2025

DEPT. OF ORIGIN: City Manager

DATE SUBMITTED: May 14, 2025

CLEARANCES:

- ☐ City Clerk _____
- ☐ Communications _____
- ☐ Community Development _____
- ☐ Courts _____
- ☐ Emergency Management _____
- ☐ Finance _____
- ☐ Human Resources _____
- ☐ Legal _____
- ☐ Marina _____
- ☐ Police _____
- ☐ Parks, Recreation & Senior Services _____
- ☐ Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Katherine Coffey*

Purpose and Recommendation

This item addresses the final steps of the reorganization of the Council-Appointed Committees. At the May 8, 2025 City Council meeting, the Council chose to expand the membership of the Citizen Advisory Committee with seven additional members. The purpose of this item is to receive Council direction on how to proceed with adjusting existing membership and filling the new seats.

Background

At the May 8, 2025 City Council meeting, the Council voted to expand the Citizens Advisory Committee (CAC) by adding seven at-large members to the existing eleven neighborhood representatives. As part of this change, the “alternate” role on the CAC was eliminated. Additionally, the Human Services Advisory Committee, Senior Services Advisory Committee, and Arts Commission were dissolved, with their functions restructured as subcommittees under the newly expanded CAC.

In total, the CAC will now consist of 18 members, with subcommittees formed from this group to focus on Human Services, Senior Services, and Arts. The next step in this reorganization is to determine how to appoint individuals to the new at-large seats and how to handle the participation of members from the dissolved committees. After the revised CAC is established, legal staff will collaborate with the group to finalize the details regarding its structure. At that time, legal staff will also revise the relevant chapters of the DMMC. Staff is presenting three options for Council consideration. As always, the Council may adopt one of these options or modify them to reflect the will of the majority.

Discussion

Regarding the current committee membership of the CAC, Human Services, Senior Services and Arts Commission, many committee member terms have expired or members are inactive. Red indicates the term is expired.

Current status:

Citizen Advisory Committee

Neighborhood	Name	Current Term Expires
Business	Mackenzie Meyers	12/31/24
Business- Alternate	Charlene Bacalzo	12/31/25
Central	Mary Ellen Laird	12/31/25
Central- Alternate	Richard Laycock	12/31/25
Marina District	Vacant	
Marina District- Alternate	Bettina Carey	12/31/25
Marina Tenant	Kersten Hubbard	12/31/24
Marina Tenant- Alternate	Doug Andrews	12/31/24
North Central	Linda Thompson	12/31/25
North Central- Alternate	Eleanor Dugger	12/31/25
North Hill	Vacant	
North Hill- Alternate	Chicana Betsabel	12/31/24
Pac Ridge	Bernice Warren	12/31/24
Pac Ridge- Alternate	Vacant	
Redondo	David Emery	12/31/24
Redondo- Alternate	Chuck Coleman	12/31/24
South	Magdalena Herrera	12/31/24

South- Alternate	Teri Chase	12/31/25
Woodmont	Ryan Crompton	12/31/24
Woodmont- Alternate	Randy Williams	12/31/24
Zenith	Colleen Gants	12/31/25
Zenith- Alternate	Paul Gustafon	12/31/25

Arts Commission

Seat	Name	Current Term Expires
1	Alana Roper*	12/31/26
2	Benji Pierson*	12/31/26
3	Nick Fannin	12/31/27
4	Theresa Jewell*	12/31/27
5	Vacant	

*= Staff notes indicate these members are inactive and no longer involved with group.

Human Services

Seat	Name	Current Term Expires
1	Diane Hoyer	12/31/22
2	Mary Guberson	12/31/22
3	Lin Cashman	12/31/24
4	Corrinne Ketchmark	12/31/22
5	Vacant	

Senior Services

Seat	Name	Current Term Expires
1	Christine Mark	12/31/26
2	Jeff Crompe	12/31/26
3	Aileen Evans	12/31/25
4	Barton DeLacy	12/31/27
5	JoAnn Hayden	12/31/27

6	Randy Richards	12/31/26
7	Vacant	

Options Moving Forward:

Option A:

- Regarding the CAC, primary members with unexpired terms continue serving in their role. If the primary seat is expired or vacant, and there is an alternate with an unexpired term, move that person into the primary seat.
- Invite the most recent members of the CAC (including both primary and alternate members, regardless of whether their terms have expired), as well as members of the Human Services Advisory Committee, Arts Commission, and Senior Services Advisory Committee, to apply for the vacant neighborhood seats and the seven new at-large seats on the expanded CAC. This group will be given a two-week priority application window. After that period, any remaining open seats will be made available to the general public. In short, current and former committee members will have the first opportunity to apply before the process is opened more broadly.

Option B:

- Regarding the CAC, primary members with unexpired terms continue serving in their role. If the primary seat is expired or vacant, and there is an alternate with an unexpired term, move that person into the primary seat.
- For all vacant seats, including both neighborhood and at-large seats, open the application process to the public.

Option C:

- Open the application process for all seats and encourage all existing members and public to apply.

Expanded Recruitment Process for Applicants:

At the May 8 City Council meeting, the Council emphasized the importance of broadening outreach efforts to encourage new applicants and ensure diverse community representation on the committee. In response, staff plan to take the following steps:

- Promote the application process on the City's website and social media platforms
- Share information through local Facebook community groups

- Send an email blast to the email addresses on the City's subscription list (almost 7,000 email addresses)
- Provide application materials in both English and Spanish
- Streamline the online application to make it easy and accessible
- Distribute flyers with a QR code linking to the application at the Activity Center, Field House, and Beach Park
- Install temporary yard signs with QR codes at City parks
- Reach out to local organizations—including the Rotary Club, Marina District Association, Redondo Community Association, North Hill, and others—to help share the application through their mailing lists

These efforts are designed to make the process more visible and accessible to a wide range of residents.

Feedback Sought:

Staff is seeking input on the information presented and the Council's thoughts on the proposed approach.



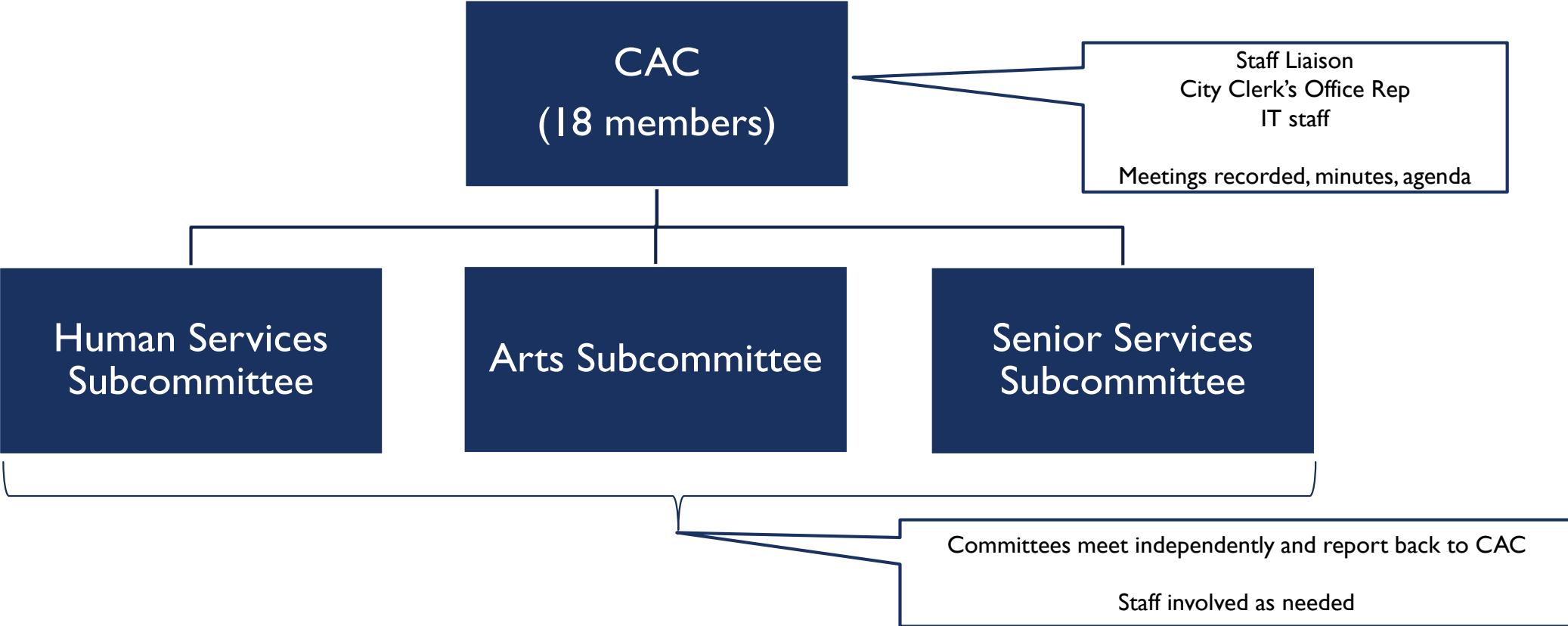
DISCUSSION ON CITY APPOINTIVE COMMITTEES

MAY 22, 2025



MAY 8 MEETING RECAP

- Expand the CAC by adding seven at-large members (nominated by Councilmembers or selected via existing processes), which would be in addition to the current neighborhood representatives (eliminating the Alternate Position).
- Broaden the CAC's role to include three subcommittees for:
 - Arts
 - Human Services
 - Senior Services
- Subcommittees meet independently as needed and report back to the full CAC.



OPTION A

- CAC:
 - Primary members with unexpired terms continue serving in their role
 - If the primary seat is expired or vacant, and there is an alternate with an unexpired term, move that person into the primary seat.
- Invite the most recent members of the CAC, Human Services Advisory Committee, Arts Commission, and Senior Services Advisory Committee, to apply for the vacant neighborhood seats and the seven new at-large seats on the expanded CAC.
- Two-week priority application window
- After that period, any remaining open seats will be made available to the general public.



OPTION B

- CAC:
 - Primary members with unexpired terms continue serving in their role
 - If the primary seat is expired or vacant, and there is an alternate with an unexpired term, move that person into the primary seat.
- Open any vacant seats to general public for application



OPTION C

- Open the application process for all seats to general public (no “incumbents”)

EXPANDED RECRUITMENT EFFORTS

- Promote on City website and social media
- Share in local Facebook groups
- Email blast to nearly 7,000 subscribers
- Provide materials in English and Spanish
- Simplify online application
- Post flyers with QR codes at key City facilities
- Install yard signs with QR codes in parks
- Ask local groups to share with their networks





DISCUSSION AND FEEDBACK



APPENDIX



CURRENT COMMITTEE MEMBERS- CAC

Neighborhood	Name	Current Term Expires
Business	Mackenzie Meyers	12/31/24
Business- Alternate	Charlene Bacalzo	12/31/25
Central	Mary Ellen Laird	12/31/25
Central- Alternate	Richard Laycock	12/31/25
Marina District	Vacant	
Marina District- Alternate	Bettina Carey	12/31/25
Marina Tenant	Kersten Hubbard	12/31/24
Marina Tenant- Alternate	Doug Andrews	12/31/24
North Central	Linda Thompson	12/31/25
North Central- Alternate	Eleanor Dugger	12/31/25
North Hill	Vacant	
North Hill- Alternate	Chicana Betsabel	12/31/24
Pac Ridge	Bernice Warren	12/31/24
Pac Ridge- Alternate	Vacant	
Redondo	David Emery	12/31/24
Redondo- Alternate	Chuck Coleman	12/31/24
South	Magdalena Herrera	12/31/24
South- Alternate	Teri Chase	12/31/25
Woodmont	Ryan Crompton	12/31/24
Woodmont- Alternate	Randy Williams	12/31/24
Zenith	Colleen Gants	12/31/25
Zenith- Alternate	Paul Gustafon	12/31/25

ARTS COMMISSION

Seat	Name	Current Term Expires
1	Alana Roper*	12/31/26
2	Benji Pierson*	12/31/26
3	Nick Fannin	12/31/27
4	Theresa Jewell*	12/31/27
5	Vacant	

Arts Commission

*= Staff notes indicate these members are inactive and no longer involved with group.

HUMAN SERVICES

Seat	Name	Current Term Expires
1	Diane Hoyer	12/31/22
2	Mary Guberson	12/31/22
3	Lin Cashman	12/31/24
4	Corrinne Ketchmark	12/31/22
5	Vacant	

SENIOR SERVICES

Seat	Name	Current Term Expires
1	Christine Mark	12/31/26
2	Jeff Crompe	12/31/26
3	Aileen Evans	12/31/25
4	Barton DeLacy	12/31/27
5	JoAnn Hayden	12/31/27
6	Randy Richards	12/31/26
7	Vacant	

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: City Council Protocol Manual Review

FOR AGENDA OF: May 22, 2025

ATTACHMENTS:

1. City of Des Moines City Council Protocol Manual with updates
2. Councilmember Protocol Update Proposals

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 1, 2025

CLEARANCES:

- ☒ City Clerk JK
☐ Community Development
☐ Courts
☐ Finance
☐ Human Resources _____
☒ Legal /s/ TG
☐ Marina
☐ Police
☐ Parks, Recreation & Senior Services
☐ Public Works

APPROVED BY CITY MANAGER

FOR SUBMITTAL: Katherine Coffey

Purpose and Recommendation

The purpose of this agenda item is for the City Council to continue to review the *City of Des Moines City Council Protocol Manual* and discuss potential amendments or revisions. Following direction from the Council, staff will prepare an updated Protocol Manual for Council consideration at a future meeting.

Suggested Motion

Motion:

Background

At the June 23, 2022 City Council meeting, three Councilmembers supported a request to place an update of the City Council Rules of Procedure on a future agenda.

In July of 2022, an Ad Hoc Rules Committee was created by the Council for the purpose of reviewing the City Council's Rules of Procedure and proposing edits. The Committee, consisting of three Councilmembers, met several times and created a first draft document entitled "City Council Protocol Manual." This draft was forwarded to City staff in October of 2022 to begin a staff review.

Over the next several months, City staff conducted an in-depth review of the newly drafted City Council Protocol Manual to include analysis of how the new protocols aligned with existing City Codes and policies, reviews of similarly situated agency rules, legal analysis and a practical implementation review of the potential impacts. As a result of this process, staff brought forward an amended version of the Protocol Manual with updates intended to clarify the rules, eliminate repetition, ensure conformity with existing Codes and RCW's, and to ensure the intent of the Council was met.

The Ad Hoc Rules Committee met publicly several more times in 2023 to create an updated draft. That draft was then sent to Ann Macfarlane of Jurassic Parliament for her review and comments. She provided her edits to the Committee and the Committee held a final meeting in May of 2023 to create a draft ready for the full Council to review.

A first reading with the full Council was held on June 1, 2023. Several amendments were made by the Council and incorporated into the Draft for a second reading. A second reading was held on June 8, 2023 with additional amendments made and incorporated into the draft. A third and final reading was held on June 23, 2023 and the Council formally adopted the *City of Des Moines City Council Protocol Manual*.

Discussion

Pursuant to Section 9.01 of the Protocol Manual, "the City Council will review and revise the City Council Protocol Manual every two years, or as needed." Given that the final adoption of the Manual occurred in June of 2023, we are approaching the two year timeline for Council review and revisions.

At the April 3, 2025 study session, Councilmembers came prepared with items or language from the existing Protocol Manual that they would like to discuss revising. During the Study Session, the Council began their review of the list. Given the number of items subject to review, this item will continue to be placed on future agendas for Council consideration until a final draft is created.

Alternatives

Staff will prepare amendments to the Manual that are agreed upon by a majority of the Council for future Council consideration and inclusion in the Manual.

Financial Impact

None.

**CITY OF
DES MOINES
CITY COUNCIL PROTOCOL MANUAL**

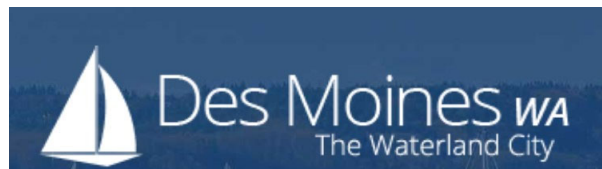


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**CITY OF
DES MOINES
OATH OF OFFICE**

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

I do solemnly swear that I will faithfully and impartially discharge the duties of this office as prescribed by law and to the best of my ability, and that I will support and maintain the Constitution of the State of Washington and the United States of America.

Signed _____

Term of Office:
Month day, year - Month day, year

Subscribed and sworn to before me this

_____ day of _____, _____.

(Name)

Attest:

(Name)
City Clerk

Foreword

In the course of serving as a public official, there are a myriad of issues with which you will become involved. This protocol manual attempts to centralize information on common issues related to local government and your role as a member of the Des Moines City Council.

The issues that are addressed in this publication are often complex and subjective. This manual is intended to be a guide and is not a substitute for the counsel, guidance, or opinion of the City Attorney in accordance with the Revised Code of Washington (RCW).

The protocols included in this reference document have been formally adopted by the City Council. Provisions contained herein will be reviewed as needed.

Mission

Des Moines is a waterfront community committed to maintaining a safe, sustainable environment, while ensuring a high quality of life for all to live, work and play.

Vision

To be the premier waterfront destination in the Pacific Northwest.

Values

Core Values of the City of Des Moines are:

Safety

Sustainability

Integrity

Transparency

Innovation

CHAPTER 1 INTRODUCTION AND OVERVIEW

As a City Councilmember, you not only establish important and often critical policies for the community, you are also a Board Member of a public corporation having an annual budget that may exceed one hundred million dollars.

1.01 Council-Manager Form of Government

The City of Des Moines is a Council-Manager form of government. As described in the Municipal Code and Revised Code of Washington, certain responsibilities are vested in the City Council and the City Manager. This form of government establishes that a City Council's role, in this specific form of government is that of a legislative policy-making body which determines not only the local laws that regulate community life, but also determines what public policy is, and gives direction to the City Manager to administer the affairs of the City government.

1.02 Purpose of City Council Protocol Manual

The City of Des Moines has prepared its own protocol manual to assist the City Council by documenting accepted practices and clarifying expectations. This Manual has been formally adopted by the City Council and is binding on all Councilmembers.

1.03 Association of Washington Cities and Municipal Research & Services Center of Washington

[The Code City Handbook, Report No. 37](#), published by the Municipal Research & Services Center (MRSC), provides a wealth of general information on the major functions of a Councilmember's job as a locally elected official. Another publication from MRSC that goes hand in hand with the handbook is, [Knowing the Territory](#). This report discusses basic powers; basic duties, liabilities, and immunities of officers; conflict of interest and appearance of fairness; prohibited uses of public funds, property, or credit; competitive bidding requirements; the Open Public Meetings Act; Open Government-Public Records-Freedom of Information; and immunities from tort liability. These two documents have been included as resources in creating this protocol manual.

1.04 Overview of Basic City Documents

This protocol manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of the City Council. Many other laws, plans, and documents exist which bind the City Council to certain courses of action and practices. The following is a summary of some of the most notable documents that establish City Council direction.

A. [Revised Code of Washington](#)

The state laws contain many requirements for the operation of city government and administration of meetings of city councils throughout the state. Des Moines is an "optional code city," which means it operates under the general laws of the state. As an optional code city of the State of Washington, Des Moines is vested with all the powers of incorporated cities as set forth in the Revised Code of Washington (RCW), Constitution of the State of Washington, and Des Moines Municipal Code.

B. [Des Moines Municipal Code](#)

The municipal code contains local laws and regulations adopted by ordinances. Titles 2 and 4 of the code address the role of the City Council, describes the organization of City Council meetings and responsibilities and appointment of certain City staff positions and advisory boards and commissions. In addition to these administrative matters, the municipal code contains a variety of laws including, but not limited to, zoning standards, health and safety issues, traffic regulations, building standards, and revenue and finance issues.

C. [Vision/Mission Statement](#)

[Vision, Mission & Business Plan - City of Des Moines, WA \(desmoineswa.gov\)](#)

D. [City Budget](#)

The budget is the primary tool and road map for accomplishing the goals of the City. The budget document is the result of one of the most important processes the City undertakes. By adopting the annual budget, the City Council makes policy decisions, sets priorities, allocates resources, and provides the framework for government operations.

Please note: The City Manager is required, by state statute, to present a recommended budget to the City Council in October of the preceding year of the budget. The City Council must hold at least two public hearings on the budget before they can approve the budget with any adopted changes.

E. [Annual Comprehensive Financial Report \(ACFR\)](#)

The annual financial report includes the financial statements of the City for a calendar year. It includes the financial condition of the City as reflected in the balance sheet, the results of operations as reflected in income statements, an analysis of the uses of City funds, and related footnotes. The annual financial report includes statements for the various groups of funds and a consolidated group of statements for the City as a whole.

F. [Comprehensive Plan](#)

A state-mandated comprehensive plan addresses the City's long-range planning needs relative to land use, transportation, economic development, and other planning elements such as employment and residential growth targets. The City's comprehensive plan, *Imagine Des Moines...* is reviewed on an ongoing basis, but may only be revised once a year, except as provided by State law.

G. [Six-year Capital Improvement Program](#)

The Six year Capital Improvement Program serves as a guide for determining priorities, planning, financing, and constructing capital projects which add to, support, or improve the physical infrastructure, capital assets, or productive capacity of city services.

1.05 Orientation of New Members

It is important for the members of the City Council to gain an understanding of the full range of services and programs provided by the City. As new members join the City Council, the City Manager and City Clerk provide an orientation session for new members to meet with key staff within the first quarter of taking office.

Another training opportunity for new members is the Association of Washington Cities-sponsored newly elected officials' orientation. At any time, if there are facilities or programs about which you would like more information, arrangements will be made to increase your awareness of these operations.

1.06 Medical and Religious Exemptions

The City complies with all requirements of the Americans with Disabilities Act (ADA). Accordingly, exceptions to these Protocols may be granted in accordance with the ADA. A Councilmember who believes he or she needs a reasonable accommodation in order to perform the essential functions of his or her (role as a Councilmember) must submit a request for a reasonable accommodation to the City's Human Resources Department. This request will be processed in accordance with the City Personnel Manual.

A Councilmember, who holds a "sincerely held religious belief, practice or observance" that conflicts with the Protocol requirements, may request a reasonable accommodation. Upon notice of the request, the City will process in the same manner as a reasonable accommodation request as defined by the ADA.

CHAPTER 2

DES MOINES CITY COUNCIL: GENERAL POWERS AND RESPONSIBILITIES

2.01 City Council Generally

Fundamentally, the powers of the City Council are to be utilized for the good of the community and its residents; to provide for the health, safety and general welfare of the citizenry. The City Council is the policy-making and law-making body of the City. State law and local ordinances grant the powers and responsibilities of the Council.

In carrying out their public role and in representing the positions of the Council body, Councilmembers should respect adopted Council policy. In turn, it is staff's responsibility to ensure that the policy of the Council is appropriately executed.

- A. Council Non-Participation in Administration
[RCW 35A.13.120](#) specifically prohibits interference by Councilmembers in the City's administrative service, including the hiring, firing, and work of city staff, with the exception of the City Manager.
- B. Code of Conduct/Ethics Code DMMC 2.44
[Chapter 2.44 CODE OF ETHICS \(codepublishing.com\)](#)

2.02 Role of Councilmembers

Members of the Des Moines City Council are collectively responsible for establishing policy, adopting an annual budget, and providing vision and goals to the City Manager. The following outline is a brief description of the various duties of Councilmembers. The description is not intended to be comprehensive, but rather is an effort to summarize the primary responsibilities of the Council.

Summary of Council Duties and Responsibilities as provided in, but not limited to, the Washington Administrative Code and Revised Code of Washington:

- A. Establish Policy:
 - 1. Adopt goals and objectives
 - 2. Establish priorities for public services
 - 3. Approve/amend the operating and capital budgets
 - 4. Approve contracts over \$50k
 - 5. Adopt resolutions
- B. Adopt City Ordinances
- C. Appoint City Manager:
 - 1. Evaluate performance of City Manager
- D. Boards and Commissions:
 - 1. Establish advisory boards and commissions
 - 2. Approve appointments to advisory bodies
 - 3. Provide direction to advisory bodies
- E. Provide Public Leadership:
 - 1. Communicate the City's vision and goals to constituents
 - 2. Represent the City's interest at regional, county, state, and federal levels through participation in regional boards and commissions, as appointed by Mayor or Council.
 - 3. Call special elections as necessary
 - 4. Constituent communication to City Manager

- F. Decision-Making:
 - 1. Participate in assigned committees
 - 2. Study problems
 - 3. Review alternatives
 - 4. Determine best course of public policy

2.03 Role of Mayor

- A. Presiding Officer:

The Mayor serves as the presiding officer and acts as chair at all meetings of the City Council. The Mayor may participate in all deliberations of the Council in the same manner as any other members and is expected to vote in all proceedings, unless a conflict of interest exists. The Mayor does not possess any power of veto.
- B. Ceremonial Representative:

Responsibility to act as the City Council's ceremonial representative at public events and functions has been assigned to the Mayor. The Mayor shall have no regular administrative or executive duties.
- C. Proclamations:

The Mayor is vested with the authority to initiate and read and sign Council approved proclamations.
- D. See also Section 5.04:

[Chapter 5.04 GENERAL PROVISIONS](#)

2.04 Role of Deputy Mayor

In case of the Mayor's absence or temporary disability, the Deputy Mayor shall act as Mayor during the continuance of the absence. When the Deputy Mayor acts as Mayor by participating in preparation of a council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Deputy Mayor shall have authority only to approve the Council meeting agenda or study session worksheet as to form, without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written.

2.05 Acting Mayor

When both the Mayor and Deputy Mayor are absent, the Council may choose from among its members a person to serve with the powers of the Deputy Mayor.

2.06 Election of Officers

Procedures for electing officers are as follows:

- A. Biennial Election of Mayor and Deputy Mayor

Biennially, at the first meeting of the new Council, Councilmembers will choose a presiding officer from their number who will have the title of Mayor. In addition to the powers conferred upon them as Mayor, they will continue to have all the rights, privileges and immunities of a member of the Council. If a permanent vacancy occurs in the Office of Mayor, the members of the Council at their next regular meeting will select a Mayor from their number for the unexpired term. Following the election of the Mayor, if the Deputy Mayor is selected as the new Mayor, there will be an election for Deputy Mayor. The term of the Deputy Mayor will run concurrently with that of the Mayor.

 - 1. Nominations

The election for Mayor shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the City Council shall be permitted to nominate one (1) person who has previously served on the Council for a minimum of two years, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations

are then closed. The election for Deputy Mayor shall be conducted by the newly-elected Mayor, and nominations shall be made in the manner previously described for the election of the Mayor. Candidates for Deputy Mayor shall have previously served on the Council for a minimum of one year. The minimum experience condition for candidacy for Mayor or Deputy Mayor may be waived by a vote of five Councilmembers.

B. Casting Ballots

Except when there is only one nominee, election will be by audible vote; each Councilmember declaring a vote into the record. The City Clerk will publicly announce and record the results of the election in the official minutes, stating the name of each voting Councilmember and the manner in which the Councilmember voted. Once a nominee receives a majority vote of the members present, the nominee is declared elected to the position.

C. Unable to Agree

In the event that the Council is unable to agree on a Mayor by majority vote of the members present, the Office of Mayor shall be temporarily filled by an Acting Mayor. The Acting Mayor shall be the Councilmember who just previously served as Mayor; or if such person is not a member of the Council, the Councilmember who just previously served as Deputy Mayor; or if such person is not a member of the Council, the Councilmember with the highest seniority as determined by the City Attorney.

In the event that the Council is unable to agree on a Deputy Mayor, the appointment of Deputy Mayor shall be filled in the same manner as described above.

The Acting Mayor and Acting Deputy Mayor shall continue in office and exercise such authority as is described in Chapter [35A.13 RCW](#) until the members of the Council agree on a Mayor, at which time the Office of Acting Mayor and Acting Deputy Mayor shall cease and terminate.

D. Resignation of Mayor or Deputy Mayor

If the Mayor or Deputy Mayor resign, the City Council will appoint a new Mayor or Deputy Mayor using the procedure outlined above, as soon as practical.

2.07 Appointment of City Manager

The City Council is responsible for appointing one position within the City organization, the City Manager. The City Manager serves at the pleasure of the Council.

2.08 Council Board and Committee Service

A. Committees of the Council:

Committees of the Council are comprised of a collaboration of Councilmembers and Staff, and are designed to review, discuss, and vet potential plans and decisions that may come before the Council body. These committees may make recommendations on proposed ordinances, resolutions, or motions within their area of expertise.

The procedures governing all committees of the Council shall be as follows:

1. The following standing committees shall consist of three members of the Council appointed by the Mayor in January following an election, or at such time as new standing committees are authorized; Environment, Municipal Facilities, Public Safety and Emergency Management, Transportation, and Economic Development.
2. In addition to standing advisory committees, special purpose or Ad Hoc committees and task forces may be appointed by the Mayor to address issues of interest or to conduct background work on technical or politically sensitive issues. Special or ad-hoc committees will be dissolved upon completion of the intended task.
3. Minutes shall be kept of each City Council standing and special committee meeting, listing discussion topics, a summary of key points made, without attribution to individuals and any final

recommendations.

4. Standing committees of the Council are open public meetings, shall be noticed to the public, and be recorded and available to the public for viewing.
5. During the appropriate portion of the regular City Council meeting, the Committee Chair shall report back to the Council regarding items of discussion, progress, or plans.
6. Councilmembers may be appointed or removed by the Mayor.

Councilmembers shall not serve on appointed City Advisory Bodies concurrent with their term of office as Councilmember.

However, at the discretion of the Mayor, Councilmembers may be appointed as liaison to one or more Council-established Citizen Advisory Bodies or other Community agencies/organizations. In their capacity as a Council liaison, a Councilmember shall:

1. Attend meetings on time and conduct themselves with respect, honoring the chair and members of the appointed or community body.
2. Participate only as requested by the Chair in answering questions or representing the will or opinion of the Council as a whole, and shall not interact as a member of the body by engaging with questions, discussion, or voting.
3. Report back to Staff and/or Council as appropriate with updates, progress and/or questions posed by community members. This should be done in a timely manner and may be done from the dais during Board and Committee Reports as appropriate.

B. Regional Boards and Committees:

Members of the City Council are often requested to serve on outside boards, councils, commissions, or committees. This type of representation serves to facilitate communication and provide interaction with other governmental bodies.

1. Membership appointment to these groups shall be made, or authorized by the Mayor for a 2-year period. If more than one Councilmember desires to serve as a member of a particular outside group, the member will be appointed by the Mayor.
2. Where applicable, the Mayor will appoint an alternate to attend outside boards, councils, commissions, or committees. The main delegate will notify the alternate as soon as possible after they realize they will be unable to attend an upcoming meeting of the outside group.
3. Councilmembers participating in policy discussions at regional meetings will represent the consensus of the Council, except where regional appointment requires regional opinion. Personal positions, when given, will be identified and not represented as the position of the City.
4. Assignment and direction of staff in relation to regional meetings are at the discretion of the City Manager.

2.09 Citizen Advisory Bodies

The Council policy regarding Citizen Advisory Bodies is found in DMMC Title 4:
[Title 4 COUNCILS AND APPOINTIVE COMMITTEES \(codepublishing.com\)](#)

2.10 Incompatibility of Offices

Councilmembers shall not simultaneously hold any other elected position, an incompatible public office or employment within the City government except as permitted under the provisions of [RCW 42.23](#), [35A.12](#) and [35A.13](#).

CHAPTER 3 SUPPORT PROVIDED TO CITY COUNCIL

3.01 Staff

The use of City staff to provide support for a Councilmember is limited to that which is authorized by the City Manager.

Councilmembers are responsible to keep their own calendars and make their own appointments.

3.02 Electronic Devices

A computer and phone will be provided to each Councilmember for the conducting of City business. The IT staff will ensure that all appropriate software is installed and will also provide an orientation in the use of computers and related software. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. Personal media and programs cannot be stored on City computers. Councilmembers must adhere to all policies under the City of Des Moines IT Security Policies.

Throughout Councilmember terms, City equipment is subject to audit. Virus protection software must not be disabled at any time on City equipment and non-city programs or media found during audits will be removed. When individual Councilmembers have completed their term of office, IT staff will retrieve City computers, software, and phones.

3.03 Mail and Deliveries

Members of the City Council receive mail and other materials that are delivered through the use of mailboxes located at City Hall. Councilmembers are encouraged to check mailboxes often.

CHAPTER 4 FINANCIAL MATTERS

4.01 Council Compensation

The municipal code provides for payment of a stipend to members of the City Council. A seated City Council may not increase or decrease its own compensation. Councils may only pass an ordinance to adjust the compensation of a future City Council. Currently, Council salaries are set as provided in chapter 4.08 DMMC or [RCW 35.21.015](#).

4.02 Business, Education and Travel

When determined by the City Council to be in the best interests of the City, Councilmembers may attend conferences and workshops, take part in educational or leadership opportunities, and conduct City business which may require travel, tuition, fees, or registration costs. Councilmembers may be reimbursed for these expenses under the following guidelines:

- A. The Administration will keep account of Councilmember expenses.
- B. When the Councilmember makes arrangements or incurs eligible expenses as determined by the Council, the Councilmember shall provide receipts for reimbursement.

4.03 Financial Disclosure

Candidates for the office of Councilmember shall file a financial disclosure statement with the State Public Disclosure Commission in accordance with State law. When appointed to fill a vacancy on the Council, the appointee shall file a financial disclosure statement with the Commission, covering the preceding 12-month period, at least two weeks prior to appointment. Councilmembers are required to file a financial disclosure

statement with the Commission on an annual basis after January 1 and before April 15 of each year covering the previous calendar year. Councilmembers whose terms expire on December 31 shall file the statement for the year that ended on that December 31. Statements filed in any of the above cases will be available for public inspection.

Failure to timely file a financial disclosure statement with the State Public Disclosure Commission in accordance with the requirements of State law, or filing a false or incomplete financial disclosure statement, if done knowingly, is a Class 1 Misdemeanor. There are also civil penalties for violations.

CHAPTER 5 COMMUNICATIONS

5.01 Overview

Perhaps the most fundamental role of a Councilmember is communication. This is essential to engage with the public to assess community opinions and needs, and to share the vision and goals of the City with constituents. In addition, connection with the staff provides policy direction and assists in understanding the implications of various policy alternatives.

Because the City Council performs as a body, based on the will of the majority as opposed to individuals, it is important that general guidelines be understood when speaking for the Council. Equally important, when members are expressing personal views and not those of the Council, the public must be advised.

5.02 Councilmember Contact and Information

A page on the City of Des Moines website will display information about each councilmember for community reference, which will include:

- A. A color photo
- B. A short biography/resume
- C. List of assignments or designations
- D. Phone number and email

5.03 Correspondence from Councilmembers

Councilmembers are committed to open communications in their capacity as elected officials. Individual Councilmembers use a variety of methods to communicate with the public, stakeholders, partners, and the media. Social media platforms offer a way to deliver public information and customer service to constituents and give community members another means to interact with their government.

The purpose of this policy is to establish standards for Council communication with the public, when Councilmembers are acting in their official capacity or commenting on City government matters, either through traditional media outlets or the use of social media platforms or personal accounts or pages.

The Council believes that the following standards will provide consistency in procedures and allow for use of more tools to communicate with the public.

- A. The content and tenor of all public communications shall model the same professional behavior displayed during Council meetings and community meetings, and reflect well on the individual Councilmember, the Council as a whole, and the community.

- B. The following disclaimers shall be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums:
1. The views expressed represent the views of the author and may not reflect the views of the City of Des Moines or the Des Moines City Council.
 2. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion or other action taken must be held in an open public meeting if a quorum of the Council participates.
 3. Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under chapter [42.56 RCW](#), the Public Records Act.
- C. Media outlets such as newspapers, radio and television news coverage may be used as communications medium by individual Councilmembers provided that the communication clearly states that the views expressed do not represent those of the City Council or the City of Des Moines, but the views of the individual Councilmember.
- D. Communications initiated by Councilmembers. Guest editorials, letters to the editor and blog posts published by Councilmembers should be provided to the full Council at the same time they are delivered to the media outlet. Drafts of guest editorials, letters to the editor or blog posts which may be submitted on behalf of the Council as opposed to an individual Councilmember may not be circulated for comment to a quorum of the Council prior to publication as this may violate the Open Public Meetings Act.
- E. Use of Social Media. Posts to social media sites such as, blogs, Facebook, and Twitter may be used by individual Councilmembers to communicate with the public provided the following guidelines are used:
1. Blog posts or other posts to social media sites should include, or reference a link which includes the disclaimers listed in Section 5.03.B.
 2. Social media sites are not to be used for the conduct of Council business other than to informally communicate with the public. Public notices, items of legal or fiscal significance that have not been released to the public, and discussion of quasi-judicial matters may not be included in Councilmembers social media posts. Councilmembers are encouraged to maintain social media sites with settings that can restrict users' ability to comment in order to avoid inadvertent discussions of these items. Unsolicited public comments on quasi-judicial matters must be placed on the record by the Councilmember at the time the matter is before the Council for consideration.
 3. In order to demonstrate openness and a willingness to listen to the entire community, Councilmember posts on social media sites should be made through a public-facing page or by marking individual posts as available to the public as a whole.
 4. When commenting on a post or an article published by someone other than a Councilmember, a link to the standard disclaimers in Section 5.03.B should be included within the thread.
- F. If a Councilmember makes a factual error in a public communication, it should be corrected as soon as the error is discovered. Blog posts may be corrected by amending a previous post with a note that a correction was made.
- G. Councilmembers shall not take actions, in writing, speaking, or otherwise, outside the public meeting(s) that undermine the decisions of the body.

5.04 Council Representation

To promote a favorable image of the City and pursue resources or relationships that will benefit the community, the Mayor, or another Councilmember designated by the Council, may take the lead in representing the City of Des Moines to other partners and representatives including, but not limited to; businesses, other local governments, regional agencies and organizations, and state, federal and international governments.

- A. Councilmembers shall not conduct communication or business in this manner without the authorization of the Administration or the City Council.
- B. Neither the Mayor, nor a Councilmember, can commit the City without authorization of a majority of the City Council.
- C. The Mayor, or another Councilmember designated by the City Council, shall be the spokesperson about actions taken by the Council. On behalf of the City Council, the Mayor or designated Councilmember may inform the public, media, and staff about issues affecting the community.

5.05 State Public Disclosure Act

The City Council is bound by State Public Records Act and City records policies. Please refer to Resolution No. 1185 [142.pdf \(civiclive.com\)](#)

5.06 Open Public Meetings Act

The City Council is bound the State Open Public Meetings Act. More information can be found at [Open Government Training | Washington State](#)

5.07 Communication with the public

- A. If a Councilmember receives communication from a member of the community conveying a concern, complaint, or administrative issue, the Councilmember shall not attempt to address it or resolve it individually but will refer that matter directly to the City Manager for their review and/or action. The individual Councilmember may request to be informed of the action or response made to the complaint.
- B. Written Communications:
Letters, correspondence, and memoranda received by the City, addressed to a Councilmember or the Council as a body, shall be provided to all City Councilmembers.
- C. E-mail:
 - 1. If a community member sends an e-mail to a Councilmember and requests that it be included in the record of a particular public hearing, the Councilmember will forward said e-mail to the City Clerk.
 - 2. If a Councilmember wishes that an e-mail be distributed to a City staff member, the Councilmember will forward said e-mail to the City Manager.
 - 3. E-mail communications that are intended to be shared among four or more Councilmembers, whether concurrently or serially must be considered in light of the Open Public Meetings Act. If the intended purpose of the e-mail is to have a discussion that should be held at an open meeting, the electronic discussion may not occur. Further, the use of e-mail communication to form a collective decision of the Council is illegal.
 - 4. E-mail should be used cautiously when seeking legal advice or if discussing matters of pending litigation or other "confidential" City business. In general, e-mail is discoverable in litigation, even deleted e-mail is not necessarily removed from the system, and councilmembers may not delete official email in violation of the Open Public meetings Act. Confidential e-mail communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived:
 - a. E-mail between Councilmembers, and Councilmembers and staff shall not be transmitted to the public or news media unless a public disclosure request has first been filed with the City Clerk.
 - b. City email shall not be used for personal communication.

CHAPTER 6

CONFLICTS OF INTEREST, APPEARANCE OF FAIRNESS DOCTRINE, AND LIABILITY OF ELECTED OFFICIALS

6.01 Conflicts of Interest

In the course of conducting City business, it is essential that Councilmembers understand and are able to identify if and where they may have conflicts of interest. If there is ever a question, Councilmembers should consult with the City Attorney before the meeting at which the issue may be considered.

City Councilmembers are bound by the Conflict of Interest provisions of chapter [2.44 DMMC](#) as well as chapter [42.23 RCW](#).

6.02 Appearance of Fairness Doctrine

Appearance of Fairness Doctrine and its Application.

- A. Appearance of Fairness Doctrine Defined. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a Boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." [Zehring v. Bellevue, 99 Wn.2d 488 \(1983\)](#).
- B. Types of Hearings to Which Doctrine Applies. The appearance of Fairness Doctrine shall apply only to those actions of the Council, which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council, which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents of the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [RCW 42.36.010](#). Some examples of quasi-judicial actions, which may come before the Council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the Hearing Examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits. City staff is advised to notify the City Council upon receipt of an application or decision, which will result in an action before the City Council that is quasi-judicial in nature.
- C. Obligations of Councilmembers, Procedure.
 1. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should disclose such facts to the City Manager who will seek the opinion of the City Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.

2. Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for

disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.

3. The Presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.

4. Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.

D. Specific Statutory Provisions.

1. Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. [RCW 42.36.040](#).
2. A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. [RCW 42.36.050](#).
3. During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. [RCW 42.36.060](#).

6.03 Liability

The City must always approach its responsibilities in a manner that reduces appropriate risk to all involved. Nevertheless, with such a wide variety of high profile services (i.e., police, parks, roads, land use), risk cannot be eliminated. To better manage insurance and risk, the City participates in risk- and loss-control activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in the member being personally liable for damages which would not be covered by the City's insurance.

[DMMC 2.24.030](#) identified the exclusions to insurance coverage as follows:

The obligations assumed under this chapter by the city and the city attorney shall not apply to:

- A. Any dishonest, fraudulent, criminal, or malicious act of any official or employee;
- B. Any act of an official or employee, which is not performed on behalf of the city;
- C. Any act which is outside the scope of an official's or employee's service or employment with the city; or

D. Any lawsuit brought by or on behalf of the city.

The determination of whether an official or employee is entitled to a defense by the City under shall be made by the City Attorney. There shall be no appeal from such determination, except to the superior court by means of an action for declaratory judgment.

For more information, see [Chapter 2.24 DMMC](#).

CHAPTER 7 INTERACTION WITH CITY STAFF/OFFICIALS

7.01 Overview

City Council policy is implemented through dedicated and professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be implemented successfully. To support effective relationships, it is important that roles are clearly recognized.

The employment relationship between the City Council and City Manager honors the fact that the City Manager is the chief executive of the City. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters.

7.02 City Manager Performance Evaluation

In accordance with [DMMC 2.04.050](#), all members of the City Council will be required to participate in a review of the City Manager.

Prior to the process, the City Attorney will distribute evaluation forms to all Councilmembers for review, completion, and return within 14 days of receipt. The forms will be collated into one document for review before the evaluation date.

The members of the Council will use the collated document to review the City Manager during Executive Session.

7.03 City Council/City Clerk Relationship

The City Clerk is appointed by the City Manager. The City Clerk shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council.

7.04 City Council/City Attorney Relationship

The City Attorney is the legal advisor for the Council, its committees, commissions and boards, the City Manager, and all City officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the City.

It is important to note that the City Attorney does not represent, or advise, individual members of Council, but rather the City Council as a whole.

7.05 Non-Interference

In accordance with [RCW 35A.13.120](#), the City Council is to work through the City Manager when dealing with administrative services of the City. In no manner, either directly or indirectly, shall a Councilmember

become involved in, or attempt to influence or criticize personnel matters or individual staff members, who are under the direction of the City Manager.

Any criticism of staff by Councilmembers shall be directed to the City Manager. It is inappropriate and unethical for Councilmembers to publicly criticize individual staff members.

Individual Councilmembers may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities. Following this RCW is necessary in order to protect staff from undue influence and pressure from individual Councilmembers, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal.

The City Council shall not be involved in, or influence, the purchase of any supplies beyond the requirements of the City procurement code/procedures.

If a Councilmember wishes to influence the actions, decisions, recommendations, or priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy.

7.06 Access to Information

The City Manager is the information liaison between Council and City staff. Requests for information from Councilmembers are to be directed to the City Manager. The information requested will be copied to all members of Council so that each member may be equally informed.

There are limited restrictions when information cannot be provided. The City is legally bound to protect certain confidential personnel information. Likewise, certain aspects of police department affairs (i.e., access to restrict or confidential information related to crimes) may not be available to members of the City Council.

No Councilmember shall request or direct the City Manager or Department Directors to initiate any action or prepare any report, or initiate any project or study without the consent of a majority of the Council.

The full City Council retains the authority to accept, reject, or amend the staff recommendation on policy matters.

7.07 Staff Roles

The Council recognizes the primary functions of staff as executing Council policy and actions taken by the Council. Staff is directed to reject any attempts of individual Councilmembers to unduly direct or otherwise pressure them into making, changing, or otherwise influencing recommendations.

7.08 Councilmember Relationship with Staff

Staff support and assistance may be provided to advisory boards, commissions, and task forces. Advisory bodies, however, do not have supervisory authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and, ultimately, the City Manager.

When Councilmembers are acting as Liaisons they shall not direct staff.

CHAPTER 8 CITY COUNCIL MEETINGS

The City Council's collective policy and law-making powers are put into action exclusively at the council meetings. It is here that the Council conducts its business. The opportunity for community members to be

heard, the availability of local officials to the public, and the openness of council meetings all lend themselves to the essential democratic nature of local government.

8.01 Meeting Schedule

Council business meetings are generally held the first, second, and fourth Thursdays of each month, convening at 6:00 p.m., in the Council Chambers at Des Moines City Hall, 21630 11th Ave S, Suite C, Des Moines WA, 98198. The first Thursday is intended to be reserved as a study session.

If Council Meetings are moved to alternate location or conducted remotely they will be noticed publicly at least 24 hours in advance in accordance with the State law.

8.02 Public Notice of Meetings and Hearings

Pursuant to [RCW 35.22.288](#), cities are charged with establishing a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. The procedure followed by the City of Des Moines is as follows:

A. Open to the Public:

All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in [RCW 42.30.110](#) or [RCW 42.30.140](#).

B. Notices of Public Hearing:

Except where a specific means of notifying the public of a public hearing is otherwise provided by law or ordinance, notice of upcoming public hearings before the City Council shall be given by public notice containing the time, place, date, subject, and body before whom the hearing is to be held, using the City's official notification process at least ten (10) days before the date set for the hearing.

C. Preliminary Agenda of Council Meeting:

The public shall be notified of the preliminary agenda for the forthcoming regular City Council meeting by posting a copy of the agenda in the following public places in the City at least 24 hours in advance of the meeting:

Des Moines City Hall
21630 11th Ave So
Des Moines, WA 98198
Website: The City's Official Website: desmoineswa.gov
Des Moines Libraries
Des Moines Marina
Redondo

8.03 Special Meetings

It is the intent of the Des Moines City Council that the procedures of this Council Rule 8.03 are enforceable to the same extent as [RCW 42.30.080](#), as the City's implementation of the Open Public Meetings Act special meeting requirements set forth at [RCW 42.30.080](#). Procedures for setting a special meeting are as follows:

A. A special meeting may be called by the Mayor or any four members of the Council.

B. Notice of the special meeting shall be prepared in writing. The notice shall contain the following information about the meeting: time, place, duration of meeting, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Special Council Meeting, except in case of an emergency.

- C. The notice shall be posted on the City's website and Councilmembers will be notified via email of the special meeting. The notice must be delivered at least twenty-four (24) hours prior to the meeting.
- D. When email notice is given to Councilmembers, the City Clerk shall provide confirming follow up of such email notice by making a personal telephone call directly to each Councilmember who has not acknowledged receipt of the email. The City Clerk shall document the date and time of such follow up telephone call.
- E. The notices provided in this section may be dispensed within the circumstances provided by [RCW 42.30.080](#).

8.04 Placing Items on the Agenda

The Presiding Officer, three Councilmembers, or the City Manager may introduce a new item to the preliminary agenda.

The Presiding Officer shall have the option of postponing any item on the agenda until the next regular Council meeting, unless it was introduced by three Councilmembers.

The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the Council.

After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Regular Council Meeting, except in case of an emergency.

Emergency items may be added to an agenda in accordance with state law.

8.05 Recording and Broadcast of Meetings

The City Clerk, or designee, shall make and keep audio recordings, and video when possible, of all standing committee and business meetings of the Des Moines City Council, except those meetings or portions of meetings conducted in Executive Session.

Recordings and related records of all City Council meetings, except as referenced above, shall be retained by the City in accordance with the Washington State Records Retention Schedule.

All public meetings of a quorum of the City Council not exempt from the Open Public Meetings Act held in the Des Moines City Hall at 21630 11th Avenue South should be video recorded and broadcast within the City.

8.06 Order of Business – Regular Meetings

The City Council, by adoption of this manual, establishes the general order of meetings. This section details the order of meeting components and gives direction for their conduct. The Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

The components of business and their order are as follows:

- A. Call to Order and Pledge of Allegiance
- B. Roll Call
- C. Correspondence not Previously Received by Council
- D. Comments from the Public
- E. Committee Chair Reports
- F. City Manager Report/Presentations/Briefings

- G. Consent Agenda
- H. Ceremonial Matters, Proclamations (reading)
- I. Public Hearings
- J. Unfinished Business
- K. New Business
- L. New Agenda Items for Consideration
- M. Councilmember Reports
- N. Presiding Officer's Report
- O. Executive Session (as required)
- P. Next Meeting Date
- Q. Adjournment
- R. Meeting Materials -

Conduct of Business:

- A. Call to Order/Pledge
- B. Roll Call:
 - 1. (For procedure to excuse an absence see 8.09.E)
- C. Correspondence not previously received by Council.

D. Comments from the Public:

Public Comments are encouraged and appreciated. All Public Comment will be recorded and become part of the Public Record, which is available to the Public on the City website. Public comment is provided as an informational and educational tool for the Council. The information and advice received from citizens helps the City Council make the best possible decisions. Public comment is for the benefit of the Council, and is not provided as an opportunity to speak to, inform, or educate the community.

The following rules have been established in order to ensure that all individuals wishing to address the City Council are fairly heard:

- a. The following language will be added to the published agenda under Public Comment: "During this item, the Presiding Officer will invite public comment. Those testifying or providing public comment will be limited to three minutes. Citizens representing a group will be allowed up to five minutes to speak. No speaker may convey or donate their time for speaking time to another speaker.
- b. Persons wishing to address the Council, who are not specifically scheduled on the agenda shall first fill out a sign-in sheet, stating their name, City of residence, and public comment topic, and the sign-in sheet shall be submitted to the City Clerk prior to the start of Public Comment.
- c. Citizens who have signed in will be invited by the Presiding Officer to the podium. Speakers will first state their name and City of residence and be allowed three minutes to speak.
- d. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated podium and addressed to the Council as a body, and not to individual members, the audience, or the cameras.
- e. No person other than the Council and the person having the floor will be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer.
- f. The Presiding Officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude their remarks. All speakers are encourage to submit supplemental or detailed written remarks for Council consideration.
- g. Public comments with regard to subjects of a Public Hearing must be made during the Public Hearing portion of the meeting. If information pertaining to a public hearing is presented during the general comment period, the speaker will be ruled, "Out of Order" by the Presiding Officer and asked to save their comments for the Public Hearing.
- h. Any person or speaker who engages in behavior that disrupts the meeting so that it may not

continue may be ordered to leave the meeting. The Presiding Officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disrupting the meeting and to enforce these rules.

- i. At the pleasure of the Presiding Officer or by a motion and agreement of a Council majority, following a public comment, a matter may be placed on a future agenda, or be referred to the administration or a council committee for investigation and report. A vote of a Council majority may also overrule the decision of the Presiding Officer in this case.
- j. Residents are encouraged to supplement correspondence through written submittals. Written correspondence may be submitted to the Council at any time by email, citycouncil@desmoineswa.gov or mailing or otherwise delivering to the City Clerk, 21630 11th Ave So, Des Moines, WA 98198. A copy of all correspondence will be distributed to each Councilmember and will be made part of the public record, but will not be read aloud.

E. Committee Chair Reports:

This is a three-minute opportunity for Chairs of standing committees of the Council to update the Council on Board and committee activities, work plans, and other items of interest.

F. City Manager Report/Presentations/Briefings:

The City Manager's report is an opportunity for the City Manager to brief the Council on the progress or plans with regard to items, projects, issues, relationships, or events of significant interest.

G. Consent Agenda:

The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Agenda which are considered to be of a routine and non-controversial nature. The individual items on the consent agenda shall be approved, adopted, or enacted by one motion of the Council. Any item may be removed from the Consent Agenda on the request of a single Councilmember. It will be considered at its regular place in the agenda OR It will be considered immediately after the Consent Agenda.

No discussion shall take place regarding any item on the consent agenda beyond asking questions for simple clarification.

H. Ceremonial Matters, Proclamations, Recognitions:

1. Proclamations:

The Mayor and the Council have authority to introduce proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council.

I. Public Hearings – The procedures of a public hearing are as follows:

1. Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the Clerk, giving their names City of residence, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the Council, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).
2. The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting:

- a. All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name and city of residence. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here.
 - b. It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent
 - c. No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting.
 - d. There will be no demonstrations during or at the conclusion of anyone's presentation
 - e. These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and that every individual who speaks can do so without ridicule or intimidation.to ensure that no individual is embarrassed by exercising their right of free speech.
3. When Council conducts a hearing to which the Appearance of Fairness Doctrine applies (Rule 6.2, and Parliamentary Procedure 11.06B) the Presiding Officer will ask if any Councilmember knows of any reason which would require such member to excuse themselves pursuant to Rule 6.2. The suggested form of the announcement is as follows:
- "All Councilmembers should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Councilmember should answer in the affirmative, then the Councilmember should state the reason for their answer at this time so that the Chair may inquire of Administration as to whether a violation of the Appearance of Fairness Doctrine exists."
- a. When Council conducts a "quasi-judicial" hearing, the Presiding Officer may require that all persons wishing to provide testimony during the course of such hearing provide an oath, on the record, affirming the truth of their testimony. The suggested form and process for such oath is as follows:
 - "The Presiding Officer asks all possible speakers to raise their right hand, asks such individuals to consider the following question and respond "I do", and inquires:
 - "Do you affirm under penalty of perjury under the laws of the State of Washington that the testimony you are about to provide is true and accurate to the best of your knowledge?"
4. At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will call upon City Administration to describe the matter under consideration, including legal standards for approval of the item before the Council, and ask the parties to limit their presentations to information within the scope of the Council standards.
5. The Presiding Officer calls for proponents in quasi-judicial proceedings (and for speakers in non-quasi-judicial proceedings).
6. The proponents now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).
7. The Presiding Officer calls for additional proponents or speakers three times.
8. In non-quasi-judicial proceedings refer to Public Hearing Rule 10a, otherwise the Presiding Officer calls for opponents by announcing the following:
- "At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation. The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."
9. Opponents speak.
10. The Presiding Officer calls for additional opponents three times.

11. The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.
12. The Presiding Officer announces:
"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."
13. The Presiding Officer inquires as to whether any Councilmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Councilmember has questions, the appropriate individual will be recalled to the podium.
14. The Presiding Officer closes the public hearing.
15. After a public hearing is closed, no member of the public shall be permitted to address the Council or the staff. In fairness to members of the public, the City Council shall be considered to be in deliberations from that point forward. Continuance of the item shall place it on the "unfinished business" portion of any forthcoming agenda. Additional public testimony either that evening or at a future meeting would be precluded until public hearing notification procedures required by the Des Moines Municipal Code are concluded.
16. The Presiding Officer inquires if there is a motion by any Councilmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Councilmembers. The Presiding Officer may call on individual Councilmembers in the discussion.
17. The Presiding Officer inquires if there is any further discussion by the Councilmembers.
18. The Presiding Officer inquires if there are any final comments or recommendations from administration.
19. The Presiding Officer inquires of the Councilmembers as to whether they are ready for the question.
20. The Clerk shall conduct a roll call vote.
21. The Presiding Officer directs administration to prepare findings consistent with the action.

J. Unfinished Business.

K. New Business - The following are types of business conducted by the City Council:

1. Ordinances, Resolutions, Proclamations, Contracts:
All Ordinances, Resolutions, Proclamations and Contracts shall, before presentation to the Council, have been approved as to form and legality by the City Attorney, the applicable Department Head(s), and the City Manager.
2. Draft Preparation:
Ordinances and resolutions shall be prepared by the City Attorney and presented to the full Council for consideration. Prior to final passage of all ordinances, resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:
 - a. Proposed Drafts shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the City Council where a vote is taken directing some official action or further consideration.
 - b. Council Drafts shall be documents or proposals which have been presented in open session and voted on by the City Council when the resultant Council action was other than passage or a vote to cease further consideration.
3. Ordinances:
An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance as required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. If a Councilmember requests that the entire ordinance, certain sections, or the title be read, such requests shall be granted.
4. Resolutions:

An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution as required by law and in those instances where an expression of policy more formal than a motion is desired.

5. The title of each resolution shall in all cases be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.

6. Contracts:

Refer to Addendum B, [Resolution No. 1118](#), policies governing City Council participation in public contracts.

7. Motions:

A motion is a formal procedure for taking action. To make a motion, a Councilmember must first be recognized by the Mayor.

L. New Agenda Items for Consideration:

This portion of the meeting allows a Councilmember to present an idea to their colleagues for consideration in placing the item on a future agenda:

1. A presenter should come to the dais prepared with research and answers to questions, and offer a specific, concise request.
2. It is not a time for discussion, deliberation, presentation, or research – other than the minimum amount of information necessary to gain needed support.
3. A minimum of three Councilmembers must agree in order for the item introduced to be placed on a future agenda.

M. Councilmember Reports:

This is an opportunity for Councilmembers to comment on agenda items and update each other regarding community events, activities, or notable regional issues:

1. Reports shall be limited to four minutes, unless extended time is granted by the Presiding Officer. The Presiding Officer shall notify the Councilmember when the allotted time has expired. Discussion or voting during this time will not be considered a part of their time limit.

N. Presiding Officer's Report:

In addition to any special board or committee reports, the Presiding Officer may give a report on any activity participated in as part of the official duties of the Mayor.

O. Executive Session (as needed):

At the call of the presiding officer, or with a majority vote, the City Council may recess to Executive Session to privately discuss and consider matters of confidential concern to the well-being of the City. The purposes for which an Executive Session or Closed Session may be held are identified in [RCW 42.30.110](#) and [RCW 42.30.140](#).

The City Council may also hold an Executive Session to receive confidential advice from the City Attorney under the attorney-client privilege.

Before convening in Executive Session or Closed Session, the presiding officer shall publicly announce the purpose for excluding the public from the meeting place, and the time when the Executive Session/Closed Session will be concluded. ~~An Executive Session/Closed Session may be extended to a stated later time by announcement of the Presiding Officer. If the Executive Session runs long, the presiding officer must come back to the location of the regular meeting and announce the new time the open session will reconvene.~~

Participants in an executive session have a duty under the Open Public Meetings Act to keep information from the session confidential, Pursuant to Attorney General Opinion ([AGO 2017 No. 5](#)).

disclosure of confidential information from an executive session by a municipal officer violates [RCW 42.23.070\(4\)](#) and accordingly may result in the sanction or censure of the violating party.

P. Next meeting date announced by Presiding Officer.

Q. Adjournment. No meeting shall be permitted to continue beyond 9:00 p.m. without approval of three-fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 9:00 PM, the items not acted on shall be deferred to the next regular Council meeting as unfinished business, unless the Council, by a majority vote of members present, determines otherwise.

R. Meeting Materials - Following each meeting, public comment and any materials included at the meeting, which were not in the original packet, will be posted on the City website with a notification.

8.07 Order of Business - Study Sessions

The study session is the forum used by Council to review forthcoming programs of the City, to receive progress reports on current issues, or to receive similar information from the City Manager and others. The purpose of Study Sessions is to allow Councilmembers to do concentrated preliminary work with administration on single subjects of time consuming, complex matters (i.e., budget, complex legislation or reports, research, etc.)

Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. These conditions will allow the Councilmembers to communicate informally about these impending issues. The Presiding Officer retains the option of assuming the function of the Moderator in order to keep the discussion properly focused.

No final Council action on ordinances or resolutions may be taken during a Study Session.

A. In Preparation for a Study Session, the City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall contain the Discussion Item.

B. After the proposed Council Study Session worksheet has been approved by the Presiding Officer, a copy of it along with any available supporting materials shall be prepared for Councilmembers, and the meeting will be noticed by close of business Friday prior to the Council Study Session, except in an emergency.

C. During a Study Session, the Moderator may:

1. Introduce and give background information
2. Identify the discussion goal
3. Act as facilitator to keep the discussion focused
4. Alert the Presiding Officer when/if it is appropriate to call for a motion or other official direction of the Council

8.08 Order of Business – General Procedures

A. Forms of Address:

The Mayor shall be addressed as "Mayor (surname)." The Deputy Mayor shall be addressed as "Deputy Mayor (surname)." Members of the Council shall be addressed as "Councilmember (surname)."

B. Seating Arrangement of the Council:

Councilmembers shall occupy the respective seats in the Council Chamber assigned to them by the Mayor.

C. Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions and other documents which have been adopted by the City Council and require an official signature; except when the City Manager has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Deputy Mayor may sign such documents.

D. Quorum:

At all meetings of the Council, four Councilmembers who are present and eligible to vote shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted in accordance with RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.

E. Attendance:

[RCW 35A.12.060](#) provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or City Clerk, who shall convey the message to the Presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes.

F. Remote Attendance:

A Councilmember may participate remotely in all or part of a Council meeting because of an unanticipated event that prevents a Councilmember from attending in person through no fault of their own. In order to receive compensation for a meeting, a formal recognition of remote attendance must be granted by the Mayor or Presiding Officer.

If the basis for the remote participation is due to the Councilmember attending to City business in another capacity, the Councilmember shall be considered physically present for the purposes of [DMMC 4.08.020](#).

In the event that the Mayor seeks to attend a meeting remotely, the Mayor shall seek prior approval from the Deputy Mayor. If approval is granted, the Deputy Mayor shall act as the Presiding Officer for the meeting.

When participating remotely:

1. A Councilmember must be able to be heard.
2. The Councilmember shall have reviewed all of the applicable material and participated in the relevant portion of the Council Meeting related to the topic of the vote. Any technical prohibitions or difficulties that prevent all parties present at the Council Meeting from adequately communicating, will negate any authorization previously given by the Mayor.
3. The remote participant shall notify the Presiding Officer if they are about to disconnect participation.
4. A remote appearance shall count toward a quorum of the Council for all purposes and shall entitle the Councilmember to vote.

G. Minutes:

The City Clerk or designee shall take minutes at all meetings of the City Council. The minutes shall be made available for public inspection.

H. Voting:

Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice or by raise of hand as requested by the Presiding Officer. A roll call vote shall be taken by the Clerk at the request of a Councilmember. The order of the roll call vote shall be determined by the Presiding Officer:

1. Vote requirements include:
 - a. Majority of the fixed membership of the Council (4 votes)
 - b. Two-thirds of the fixed membership of the Council (5 votes)
 - c. Minimum of a majority of members present and voting (if 4 or 5 members present and voting, this is 3. If 6 or 7 members present and voting, this is 4).
2. In case of a tie in votes on any proposal, the proposal shall be considered lost.
3. Every member who was in the Council chambers when the question was put, shall give their vote unless the Councilmember excuses themselves in accordance with 8.08(e). If any unexcused Councilmember remains silent, they shall be listed in the record as "abstain."
4. Reconsideration of an item will be taken up by a majority vote of members present and voting. A member of the prevailing side must make a motion for reconsideration after the previous vote was taken, and it can be made no later than the next regular meeting after which the previous vote was taken.
5. The passage of any ordinance, grant or revocation of franchise or license, any resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the fixed membership of the Council (four votes)
6. The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency such as a budget amendment shall require the affirmative vote of at least two-thirds of the fixed membership of the Council (five votes).
7. Only those ordinances, resolutions, or motions that receive an affirmative vote by the majority of members present and voting shall be passed or become effective unless other voting requirements are provided by Washington State law, DMMC, or this Resolution as amended.
8. In order for an ordinance or resolution to become effective immediately, the City Council must declare that an emergency exists and approve the ordinance or resolution by the affirmative vote of two-thirds of the fixed membership of the Council (five votes). (See Chapter 8.G.10E).

8.09 Open Public Meetings Act

- A. The Des Moines City Council will comply with all state and federal law in the notice, conduct, recording, storage and dissemination of meetings and associated information.
- B. All writings distributed for discussion or consideration at a public meeting are public records. To that end, except for emergencies and technical issues, Councilmembers shall not communicate digitally, in forms such as, but not limited to; call, text, chat, or social media posting during a council meeting.
- C. Actions:

No legal action can be taken by the Council except in a public meeting. At a *Special Meeting*, action can be taken only on those items appearing on the posted agenda, except for emergency items. At a Regular Meeting of the City Council, the Council is free to take action on non-agenda items, subject to applicable notice requirements in state statutes or local ordinances for the subject matter being considered.

**CHAPTER 9
PROTOCOL ADMINISTRATION**

9.01 Biennial Review

The City Council will review and revise the City Council Protocol Manual every two years, or as needed.

If needed, an Ad Hoc committee may be appointed by the Mayor for the purpose of review and advice to the Council.

9.02 Adherence to Protocol

- A. Each Councilmember shall have the duty and obligation to review this Protocol Manual and understand to be bound by its provisions.
- B. The Mayor will be primarily responsible to ensure that the City Council, staff, and members of the public adhere to the Council's adopted Protocol Manual.
- C. Knowing and/or willful failure to adhere to the provisions of this Protocol Manual may subject a Councilmember to enforcement and sanctions as follows:
 - 1. Upon determining that there is credible evidence that a Councilmember has, or may have, engaged in knowing and/or willful action or omission that constitutes failure to adhere to the provisions of this Protocol Manual, the Mayor or the Deputy Mayor, in the event that the Mayor is the Councilmember alleged to have engaged in such action or omission, may call upon the Council to determine whether such knowing and/or willful action or omission has occurred, and the sanctions, if any, to be imposed.
 - 2. Prior to conducting any hearing on an alleged failure to adhere to the provisions of this Protocol Manual, the Mayor or Deputy Mayor shall provide written notice to the Councilmember alleged to have engaged in such failure to adhere at least ten (10) calendar days prior to calling for such hearing. The written notice shall identify the specific provisions of this Protocol Manual with which the Councilmember is alleged to have failed to adhere and the facts supporting such allegation.
 - 3. Upon call by the Mayor or Deputy Mayor, a majority of the Council shall vote on whether to hold a hearing to determine the existence of an act or omission constituting a failure to adhere and the sanctions, if any, to be imposed. If such hearing is approved by the Council, the hearing shall be held at a time and place specified in the motion approving such hearing.
 - 4. At such hearing, the Council shall determine whether there is a preponderance of credible and substantial evidence indicating that a Councilmember has knowingly and/or willfully acted or failed to act in a manner constituting a failure to adhere to the provisions of this Protocol Manual. The Councilmember alleged to have failed to adhere to the provisions of this Protocol Manual shall have the right to present evidence and testimony. The finding of the existence of such knowing and/or willful failure to adhere shall be determined by motion approved by a majority of the Council.
 - 5. Upon finding that a knowing and/or willful failure to adhere to the provisions of this Protocol Manual has occurred, the Council shall proceed to determine whether the sanctions, if any, should be imposed. Such breaches include, but are not limited to:
 - a. Failure to observe respectful rules of discussion
 - b. Creating disruption at the dais
 - c. Breaching confidentiality of executive session
 - d. Failing to observe ethics guidelines
 - e. Taking action outside the board meeting which undermines the body.
 - f. Appropriate sanctions include, but are not limited to the following:
 - 1. Verbal warning
 - 2. Written warning
 - 3. Public censure
 - 4. Removal of appointment to extra-territorial boards, committees, or commissions; and
 - 5. Removal of appointment to Council boards or committees

9.03 City Attorney as Protocol Advisor

The City Attorney shall assist the Mayor and serve as an advisor for interpreting the City Council's adopted Protocol Manual.

CHAPTER 10

LEAVING OFFICE/FILLING VACANCIES

10.01 Return of Materials and Equipment

During their service on the City Council, members may have acquired or been provided equipment such as computers, cell phone or other items of significant value. These items are to be returned to the City at the conclusion of a member's term. If an item is lost or unable to be returned, the Councilmember will reimburse the City for the current value of the item.

10.02 Filling Council Vacancies

The purpose of this section is to provide guidance to the City Council when a Des Moines Councilmember position becomes vacant before the expiration of the official's elected term of office. Pursuant to state law, a vacancy shall be filled only until the next regular municipal election, to serve the remainder of the unexpired term.

A. References

[RCW 42.30.110 \(H\)](#) – Executive Session Allowed to Consider Qualifications of a Candidate for Appointment to Elective office.

[RCW 42.30.060](#) – Prohibition on Secret Ballots.

[RCW 42.12](#) – Vacant Position.

[RCW 35A.13.020](#) – Vacancies – Filling of Vacancies in Council/Manager Form of Government:

1. A Council position shall be officially declared vacant upon the occurrence of any of the causes of vacancy set forth in [RCW 42.12.010](#), and [RCW 35A.13.020](#), including resignation, recall, forfeiture, written or public statement of intent to resign, or death of a Councilmember. The Councilmember who is vacating their position is not allowed to participate in the appointment process.
2. In order to fill the vacancy with the most qualified person available until an election is held, the City Council shall direct staff to begin the Councilmember appointment process and establish an interview and appointment schedule, so that the position is filled at the earliest opportunity:
 - a. The City Clerk's Office shall prepare and distribute a public notice as required. This notice shall contain information, including but not limited to, time to be served in the vacant position, election information, salary information, Councilmember powers and duties, the deadline date and time for submitting applications, interview and appointment schedules, and such other information that the City Council deems appropriate.
 - b. The City Clerk's Office shall prepare an application form, which requests appropriate information for City Council consideration of the applicants. Applications will be available at City of Des Moines offices and on the City's official website.
 - c. Applications and any attachments received by the deadline date and time will be distributed by the City Clerk's Office, to the Mayor and City Council.
 - d. The City Clerk's Office shall publish the required public notice(s) for the meeting scheduled for interviewing applicants for consideration to the vacant position. This meeting may be a regularly scheduled City Council meeting, or a special City Council meeting.
 - e. The City Clerk's Office shall notify applicants of the location, date and time of City Council interviews, and include instructions about how the interview process will be conducted.
3. Interview Process:
The Interview process will be determined by a vote of the majority of the Council.
4. Voting:
Upon completion of the interviews, Councilmembers may convene into Executive Session to discuss the qualifications of the applicants. However, all interviews, deliberations, nominations and votes taken by the Council shall be in open public session:

- a. The Mayor shall ask for nominations from the Councilmembers for the purpose of creating a group of candidates to consider. No second is needed.
- b. Nominations are closed by a motion, second and majority vote of the Council.
- c. Councilmembers may deliberate on such matters as criteria for selection and the nominated group of candidates.
- d. The Mayor shall poll Councilmembers to ascertain that Councilmembers are prepared to vote.
- e. The City Clerk shall proceed with a roll-call vote.
- f. Elections will continue until a nominee receives a majority vote of the remaining Councilmembers.
- g. At any time during the election process, the City Council may postpone elections until a date certain or regular meeting if a majority vote has not been received.
- h. Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.
- i. The Mayor shall declare the nominee receiving the majority vote as the new Councilmember and shall be sworn into office by the City Clerk at the earliest opportunity or no later than the next regularly scheduled City Council meeting.
- j. If the City Council does not appoint a qualified person to fill the vacancy within 90 days of the declared vacancy, the Revised Code of Washington delegates appointment powers to King County.

CHAPTER 11

PARLIAMENTARY PROCEDURES

Rules of Order not specified by statute, Ordinance or Resolution shall be governed by the most recent edition of *Robert's Rules of Order Newly Revised*.

All items of business placed before the Council that require the expenditure of Council and/or administration resources, shall be in the form of an affirmative motion.

11.01 Meeting Decorum and Order

- A. The presiding officer shall preserve decorum and decide all questions of order, subject to appeal by the Council. During Council meetings, Councilmembers shall preserve order and decorum and shall not delay or interrupt the proceedings or refuse to obey the orders of the chair or the rules of protocol.
- B. Courtesy: Members of the Council, in the discussion, comments or debate of any matter or issue, shall be courteous in the language and demeanor, and shall not engage in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall, at all times, confine their remarks to those facts which are germane and relevant as determined by the Presiding Officer, to the question or matter under discussion.

Interruption: No member of the Council shall interrupt or argue with any other member while such a member has the floor

- C. The City of Des Moines is committed to maintaining a drug and alcohol free workplace. Accordingly, members of the Council shall abide by Sections 6(1) and (6)(J)(I) of the City of Des Moines Personnel Manual while serving at the dais.

Any Councilmember may request the presiding officer to enforce the rules of protocol by using the motion "Point of Order." The Presiding Officer rules on whether the Point of Order is well-taken or not. Any Councilmember may appeal the Presiding Officer's ruling. The Council will decide whether to sustain or overrule the Presiding Officer's ruling by majority vote. The Presiding Officer may vote on the appeal. A

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tie vote sustains the Presiding Officer's decision.

- D. Dress Code: For Council Business meetings and representation assignments, Councilmembers shall adhere to a business casual attire, allowing for appropriate cultural expectations.

11.02 Obtaining the Floor

A Councilmember shall address or signal the presiding officer and gain recognition prior to making a motion or engaging in debate. Cross-exchange between Councilmembers and the public should be avoided. This is to prevent general conversation and to keep the order necessary to maintain decorum and accomplish the business of the Council.

After a member has concluded comments and yielded the floor, if two or more members are trying to obtain the floor at the same time, the general rule is that the person who addresses or signals the chair first is entitled to be recognized. When a motion is open to debate, however, there are two instances in which the presiding officer should assign the floor to a person who may not have been the first to address the chair. These are:

- A. The Councilmember who made the motion currently under debate is entitled to be recognized in preference to other members if that individual is claiming the floor and has not already spoken on the question.
- B. No member is entitled to the floor a second time in the meeting on the same motion as long as another member who has not spoken on the motion desires the floor.

11.03 Interruptions

Once recognized, a Councilmember should not be interrupted while speaking, except when another member makes a point of order. If a Councilmember is called to order while speaking, the individual shall cease speaking until the question order is determined.

Upon being recognized by the presiding officer, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the presiding officer.

11.04 Discussion Limit

- A. Councilmembers should not speak more than once on a particular subject until every other Councilmember has had the opportunity to speak. No member of the Council shall speak more than twice on the same motion except by consent of the majority of the Council present.
- B. Questions and answers by the members of the Council are not considered as speaking to the motion.
- C. Each member of the Council shall speak for not more than five minutes per turn unless granted exception by a majority of the Council present.
- D. No member of the Council may give their allotted time to another member unless there is approval of the majority of the Council present.

11.05 Suspending the Rules

A majority vote of members present and voting may suspend any provision of these meeting rules not governed by state law or ordinance without debate. The Councilmember moving the motion will state, "I move that we suspend the rules to [giving the purpose]." The Council may not suspend rules on fundamental principles of parliamentary procedure or those affecting the rights of individual members.

CHAPTER 12

ADDITIONAL TRAINING AND RESOURCE MATERIALS

12.01 Association of Washington Cities [(800) 562-8981]

<https://wacities.org/> The Association is a voluntary, nonpartisan, nonprofit association comprised of all incorporated cities and towns in Washington.

12.02 National League of Cities [(202) 626-3000]

www.nlc.org A non-partisan organization serving municipal governments, the NLC works to establish unified policy positions, advocates those policies forcefully, and shares information that strengthens municipal government throughout the nation.

12.03 International City/County Management Association [(202) 289-4262]

<https://icma.org/> ICMA is a professional and educational association of local government administrators that serves to enhance the quality of local government through professional management and to support and assist professional local government administration. The Association's *Elected Officials Handbook* series can be of great value to Councilmembers. Publications are also available through ICMA concerning every basic city service.

12.04 Government Finance Officers Association [(312) 977-9700]

www.gfoa.org GFOA is a professional association of state and local finance officers. The Association administers a broad range of services and programs related to government financial management.

12.05 Municipal Research & Services Center of Washington [(206) 625-1300]

www.mrsc.org MRSC is a nonprofit, independent organization created in 1969 to continue programs established in 1934 under the Bureau of Governmental Research at the University of Washington. One of the principal services of MRSC is to respond to inquiries on virtually every facet of local government.

City Council Protocol Manual:

Councilmember Grace-Matsui:

1. Bring back 26a - second reading of all ordinance changes (undecided).
2. Adjournment 8.06 Order of Business – Regular Meetings. "No meeting shall be permitted to continue beyond 9:00 p.m. without approval of three fourths of the Councilmembers who are present and eligible to vote...." I propose this rule be changed to read "...beyond 10:00pm" (undecided).
3. Executive Session 8.06 Order of Business – Regular Meetings. I propose we add a section on how to extend an Executive session. According to MSRC, the "If the executive session runs long, the presiding officer must come back to the location of the regular meeting and announce the new time the open session will reconvene." No vote is needed, three other councilmembers don't need to accompany the Mayor back to the dais. (Included in new draft).
4. The Code of Conduct and Ethics Code are repeated, but what about other City standards that apply to Councilors? I'm thinking Weapons policy, Equal Opportunity/nondiscrimination policies, Drug and Alcohol Free workplace policies, etc
**Note from KC: I am visiting with Tim about this. Technically Councilmembers are not employees--- so we are looking into appropriate way to include these standards if Council wished to. (Staff review).*

Mayor Buxton:

5. Add Vision/Mission/Values to the Forward. (Included in new draft).
6. Recommend eliminate automatic ending time *(also recommended by Grace-Matsui, see #2)* (Undecided).
7. 2.08.A.6 – DMMC needs to be reflected to show that Councilmembers shall not serve on appointed City Advisory Bodies. (Will be addressed with future code updates).
8. 5.03.B – Not practical in real life. Recommend the following:

B. The following disclaimer shall be included in ~~whole or referenced with a link to the disclaimers~~ for all

communications initiated by Councilmembers in open forums; "The following is my view alone and may not represent the views of the Staff or City Council (link)." And the following shall be referenced via a link to a statement posted on the City's website:

1. The link shall include the statement above in the third person, as well as the following:
 - o Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion or other action taken must be held in an open public meeting if a quorum of the Council participates.
 - o Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under chapter 42.56 RCW, the Public Records Act.
9. Update 5.07.A, B, and C Recommend:
 - o A. If a Councilmember receives a communication from a member of the community conveying a concern, complaint, or administrative issue, the Councilmember shall **cc the City Manager in their response. It will be up to the City Manager's discretion as to further dissemination of the information,** and the Councilmember may request to be informed of actions or response to the email.
 - o **A. If a Councilmember wishes to respond to a communication that has been addressed to the entire Council, they shall cc the City Manager in their response in order to eliminate redundancy and create accountability. It will be up to the City Manager as to the further dissemination of the information.**
 - o Eliminate B.
10. 8.08.F – Clarify procedure for remote attendance to Council meetings – remote participant should not preside. Recommend:
 - o (paragraph 3) "In the event that the Mayor or Chair seeks to attend a meeting remotely, they shall notify the Deputy Mayor/Vice Chair, and the Deputy Mayor/Vice Chair shall preside over the meeting."
 - o Unanticipated events do not include; vacations/travel, meetings unconnected with City Council, and ??

Councilmember Mahoney:

11. 4.02 Add C – Any expenses exceeding \$1000 for any councilmember in a calendar year must be approved by the council majority prior to any additional expenses incurred. Failure to Follow this stipulation will require councilmember to be responsible for all additional expenses. The City Manager has the authority to pause any requests outside the normal expenses and bring before the council for approval.
12. 5.07 C Add 5 – Any email received under city email addresses whether as council as a whole or individual must allow time for staff to respond. To ensure transparency any councilmember

responding must use city email for all responses, no personal email can be used as a substitute. Any email using personal email with any official city designation or associated with a campaign address i.e. identity as a councilmember possibly giving the inference of a response in any official capacity is not permitted, any such email should they occur must be forwarded to City Clerk so full transparency is established.

13. 7.06 3rd paragraph – add “shall request or direct the City Manager, Department Directors, Staff or outside entity to initiate any action or prepare any report...”

14. 7.08 End of First Paragraph, add sentence. “Councilmember interactions with staff , including the City Manager, shall be in a respectful and professional manner at all times.”

Councilmember Harris:

15. 2.08 A.4 "Standing committees of the Council are open public meetings.

(amend) "All committee meetings shall be noticed to the public, video recorded, and available to the public for viewing..."

16. 2.08 A.6 "Councilmembers may be appointed or removed by the Mayor." Propose to remove.

17. 2.08 "However, at the discretion of the Mayor, Councilmembers may be appointed as liaison to one or more Council-established Citizen Advisory Bodies or other Community agencies/organizations. In their capacity as a Council liaison," Propose removing this- No more 'liaisons'.

18. 4.03 Strike. It's already a state requirement.

19. 5.01 Strike first paragraph "Perhaps the most fundamental role of a Councilmember is communication..." Actually, the fundamental role of a Councilmember is "Passing a budget and hiring/firing the City Manager." One might add legislation and oversight.

20. 5.04 Strike first paragraph "To promote a favorable image of the City..."

21. 5.04 C. Strike second sentence "On behalf of the City Council, the Mayor or designated Councilmember..." Propose: The City Manager (or their designated comms) should be the sole voice of the government to the community (residents).

22. 5.07 C.4.a (amend) E-mail between Councilmembers, and Councilmembers and staff shall not be transmitted to the public or news media unless a public disclosure request has first been filed with the **Public Records Officer**.

23. 7.04 Second para (amend) "It is important to note that the City Attorney does not represent, or advise, individual members of Council, but rather the City Council as a whole." However, individual members of the Council may ask the City Attorney questions concerning issues of interest to the entire Council. *(Note from KC: My understanding is this is already addressed in the RCW's—will see if additional clarity is needed)*

24. 8.05 -- see below. Strike the word 'standing'.

25. 8.06 L 1 New Agenda Items for Consideration (amend) "A presenter should come to the dais prepared with research, be afforded time for a brief presentation, and then offer a specific, concise request."

26. 9.03 (see below) (amend) "The City Attorney shall assist and serve the Council as an advisor for interpreting the City Council's adopted Protocol Manual.

27. 7.02 re-instate City Manager mid-year performance review should be the same process as the end of year review. *(note from KC: this is also in my contract—quarterly reviews. This was added by the City)*

28. 8.06K Ordinances. Re-instate second reading. Do *not* add a Rule 26b. If there is a real need we can suspend that with 11.05. *(similar to what recommended by Councilmember Grace-Matsui)*

29. 9.01 "If needed, an Ad Hoc committee may be appointed by the Mayor for the purpose of review and advice to the Council." Recommend removal.

30. 11.04 A. (2x rule) Strike second sentence.

31. 11.04 D. (Donating time) Strike. Cms *should* be able to donate time.

32. 12.02 Strike. Until we are members, they are not an official resource.

CITY COUNCIL PROTOCOL MANUAL REVIEW

MAY 22, 2025



Councilmember Grace-Matsui:

1. Bring back 26a - second reading of all ordinance changes, (Undecided).
2. Adjournment 8.06 Order of Business – Regular Meetings. "No meeting shall be permitted to continue beyond 9:00 p.m. without approval of three fourths of the Councilmembers who are present and eligible to vote..." I propose this rule be changed to read "...beyond 10:00pm". (Undecided).
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4. The Code of Conduct and Ethics Code are repeated, but what about other City standards that apply to Councilors? I'm thinking Weapons policy, Equal Opportunity/nondiscrimination policies, Drug and Alcohol Free workplace policies, etc. (Staff Reviewing).



Mayor Buxton:

5. Add Vision/Mission/Values to the Forward (Included in new draft).
6. Recommend eliminate automatic ending time (also recommended by Grace-Matsui, see #2) (Undecided).
7. 2.08.A.6 – DMMC needs to be reflected to show that Councilmembers shall not serve on appointed City Advisory Bodies. (Will be addressed with future Code updates).
8. 5.03.B – Not practical in real life. Recommend: “The following is my opinion alone and may or may not reflect that of City of Des Moines Staff or my colleagues.” The rest can stay as information for the reader without the need to post.



Mayor Buxton:

9. Update 5.07.A, B, and C Recommend:

- o A. If a Councilmember receives a communication from a member of the community conveying a concern, complaint, or administrative issue, the Councilmember shall cc the City Manager in their response. It will be up to the City Manager's discretion as to further dissemination of the information, and the Councilmember may request to be informed of actions or response to the email.
- o A. If a Councilmember wishes to respond to a communication that has been addressed to the entire Council, they shall cc the City Manager in their response in order to eliminate redundancy and create accountability. It will be up to the City Manager as to the further dissemination of the information.
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Recommend:

- o (paragraph 3) "In the event that the Mayor or chair seeks to attend a meeting remotely, they shall notify the Deputy Mayor/Vice Chair, and the Deputy Mayor/Vice Chair shall preside over the meeting."



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CITY COUNCIL REGULAR MEETING

Speaker Sign-Up Sheet

May 22, 2025

NAME (PLEASE PRINT)	ADDRESS	TOPIC	PHONE/E-MAIL ADDRESS
✓ Jo Schadt	22315 6th Ave So. A104 Dm	Marina Devel.	206-618-9206 joschadt1@gmail.com
✓ Jim Lamparello	DES MOINES	Marina Development	
✓ Kelleen Silveira	23237 25th ave S Des Moines	the Steps	206-650-1736
✓ Kyrja Rose	23237 25th ave S Des Moines	the Steps	206-650-1736
✓ Lloyd Lytle	23929 Marie View Dr. S.	steps	323-605-5548