

AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington**

Thursday, August 25, 2022 - 6:00 PM

The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 in response to the COVID 19 Pandemic. As of June 1, 2022 Governor Inslee rescinded the Stay-at-Home order issued on March 23, 2020 and accordingly all Council meetings will be held in Council Chambers, 21630 11th Avenue S, Suite C.

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

- (1)** In writing, either by completing a [council comment form](#) or by mail; Attn: City Clerk Office, 21630 11th Avenue S., Des Moines WA 98198 no later than 4:00 p.m. day of the meeting. Please provide us with your first and last name and the city in which you live. Your full name and the subject of your public comment will be read into the record at the Council meeting. Incomplete forms will not be read into the record, however the full correspondence will be attached to the Council packet and uploaded to the website as part of the permanent record.

- (2)** In person at the Council meeting by signing up to speak prior to the public comment portion of the meeting.

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

CITY MANAGER REPORT

- FERRY SERVICE

CONSENT CALENDAR

Item 1. APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers through August 15th, 2022 and the payroll transfers through August 5th, 2022 in the attached list and further described as follows:

ACH/EFT Vendor Payments	#	7043 TO 7121	\$ 1,471,672.46
EFT Voids	#	7071 TO 7071	\$ (450.00)
Electronic Wires	#	2014 TO 2024	\$ 426,532.61
Accounts Payable Checks	#	164192 TO 164239	\$ 444,765.05
Payroll Checks	#	19521 TO 19530	\$ 6,581.75
Payroll Direct Deposit	#	2236 TO 2403	\$ 406,477.52

Total Checks and Wires for A/P and Payroll: \$ 2,755,579.39

[Approval of Vouchers](#)

Item 2. STEPFAMILY DAY PROCLAMATION

Motion is to approve the Proclamation supporting September 16th as National Stepfamily Day.

[National Stepfamily Day](#)

Item 3. NATIONAL RECOVERY MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as National Recovery Month.

[National Recovery Month](#)

Item 4. NATIONAL PREPAREDNESS MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as National Preparedness Month.

[National Preparedness Month](#)

Item 5. INTERAGENCY REIMBURSEMENT AGREEMENT IAA23717 BETWEEN WASHINGTON STATE AOC AND DES MOINES MUNICIPAL COURT

Motion is to approve the Interagency Reimbursement agreement between the Administrative Offices of the Courts (AOC) and the City of Des Moines for extraordinary costs reimbursement and legal financial obligations reimbursement as a result of the *State V Blake* decision and further authorize the Judge of Des Moines Municipal Court to sign the agreement substantially in the form as submitted.

[Interagency Reimbursement Agreement IAA23717 Between Washington State AOC and Des Moines Municipal Court](#)

- Item 6. ACCEPTANCE OF WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS - DES MOINES MUNICIPAL COURT-THERAPEUTIC COURT GRANT
Motion is to accept the grant from the Washington Administrative Office of the Courts in the amount of \$87,000 for the purposes of supplementing operations of the Des Moines Municipal Court-Support Services and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached.
[Acceptance of Washington State Administrative Office of the Courts-Des Moines Municipal Court-Therapeutic Court Grant](#)
- Item 7. INTERLOCAL AGREEMENT FOR JOINT SUPERVISION OF DEFENDANTS-CONSLIDATED SUPERVISION SERVICES BETWEEN SOUTH KING COUNTY MUNICIPAL COURTS
Motion is to approve the Interlocal Agreement between the Municipal Courts of Federal Way, Kent, Renton, Tukwila, Seatac, Maple Valley and the Des Moines Municipal Court for consolidated supervision services of defendants and to authorize the Judge of the Des Moines Municipal Court to sign the agreement substantially in the form attached.
[Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services Between South King County Municipal Courts](#)
- Item 8. AMENDMENT TO GRANT AGREEMENT WITH THE WASHINGTON STATE RECREATION AND CONSERVATION OFFICE, PROVIDING ADDITIONAL FUNDING FOR THE MARINA'S GUEST MOORAGE ELECTRICAL PROJECT
Motion is to approve Amendment No. 1 to the Grant Agreement for project number 19-1532D, increasing the grant amount by \$45,648, to authorize an additional expenditure of Marina operating funds of \$15,216 to provide the required additional matching funds, and to authorize the City Manager to sign the Amendment substantially in the form as attached.
[Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services Between South King County Municipal Courts](#)
- Item 9. DRAFT ORDINANCE NO. 22-043, AMENDING DMMC 9.68.070 TO UPDATE CIVIL PROTECTION ORDER VIOLATIONS
Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-043 on first reading.
Motion 2 is to enact Draft Ordinance No. 22-043, amending DMMC 9.68.070 to adopt by reference certain RCW sections relating to criminal violations of court orders.
[Draft Ordinance No. 22-043, Amending DMMC 9.68.0470 to Update Civil Protection Order Violations](#)

NEW BUSINESS

- Item 1. WASHINGTON STATE OPIOID DISTRIBUTOR SETTLEMENT
Staff Presentation by City Attorney Tim George
[Washington State Opioid Distribution Settlement](#)
- Item 2. CASH HANDLING POLICY
Staff Presentation by Deputy Finance Director Jeff Friend
[Cash Handling Policy](#)

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

(4 minutes per Councilmember) - 30 minutes

EXECUTIVE SESSION

PRESIDING OFFICER'S REPORT

NEXT MEETING DATE

September 08, 2022 Budget Retreat

ADJOURNMENT

CITY OF DES MOINES
Voucher Certification Approval
August 25, 2022
Auditing Officer Certification

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

As of **August 25, 2022** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through August 15th, 2022 and payroll transfers through August 5, 2022 included in the attached list and further described as follows:

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

Beth Anne Wroe

Beth Anne Wroe, Finance Director

	# From	# To	Amounts	
Claims Vouchers:				
EFT Vendor Payments	7043	7121	1,471,672.46	
EFT Voids	7071	7071	(450.00)	
Electronic Wires	2014	2024	426,532.61	
Accounts Payable Checks	164192	164239	444,765.05	
Total claims paid			2,342,520.12	
Payroll Vouchers				
Payroll Checks	8/5/2022	19521	19530	6,581.75
Direct Deposit		2236	2403	406,477.52
Total Paychecks/Direct Deposits paid				413,059.27
Total checks and wires for A/P & Payroll				2,755,579.39

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Stepfamily Day

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration


DATE SUBMITTED: August 8, 2022

ATTACHMENTS:
1. Proclamation

- CLEARANCES:
- Community Development
 - Marina
 - Parks, Recreation & Senior Services _____
 - Public Works

CHIEF OPERATIONS OFFICER: _____

- Legal _____
- Finance
- Courts
- Police
- City Clerk *SK*

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to recognize September 16th as National Stepfamily Day.

Suggested Motion

MOTION: "I move to approve the Proclamation supporting September 16th as National Stepfamily Day"

Background

National Stepfamily Day (NSFD) which was established in 1997 is celebrated on September 16th every year. The day is celebrated with Stepfamily Picnic's across our great nation. This year will mark the 25th anniversary. National Stepfamily Day is enhanced by our strong commitment to support the stepfamilies of our nation in their mission to raise their children, create strong family structures to support the individual members of the family, instill in them a sense of responsibility to all extended family members

Alternatives

None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting September 16th as National Stepfamily Day.



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, National Stepfamily Day is enhanced by our strong commitment to support the stepfamilies of our nation in their mission to raise their children, create strong family structures to support the individual members of the family, instill in them a sense of responsibility to all extended family members; and

WHEREAS, Approximately half of all Americans are currently involved in some form of stepfamily relationship and it is the vision of Christy Tusing-Borgeld and the Stepfamily Foundation, that all stepfamilies in the United States be accepted, supported and successful; and

WHEREAS, Washington has been blessed by thousands upon thousands of loving stepparents and stepchildren who are daily reminders of the joy, trials, and triumphs of the stepfamily experience and of the boundless love contained in the bond between all types of parents and children; and

WHEREAS, National Stepfamily Day is a day to celebrate the many invaluable contributions stepfamilies have made to enriching the lives and life experience of the children and parents of America and to strengthening the fabric of American families and society;

NOW THEREFORE, THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS
September 16th as a day to celebrate

NATIONAL STEPFAMILY DAY

SIGNED this 28th day of August, 2022.

Matt Mahoney, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Recovery Month

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: August 8, 2022

ATTACHMENTS:

- 1. Proclamation

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal _____
- Finance
- Courts
- Police
- City Clerk *SK*

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of Recovery Month is to promote recovery, celebrate those in treatment, and continue to educate our community about how to overcome the barriers of stigma and discrimination associated with mental health issues and/or substance use disorders.

Suggested Motion

MOTION: "I move to approve the Proclamation supporting September as National Recovery Month"

Background

Recovery Month spreads the message that behavioral health is essential to health and overall wellness, and that prevention works, treatment is effective and people with substance use and mental health issues can and do recover. People in recovery lead healthier lifestyles and contribute in positive ways to their communities.

Throughout the years, hundreds of proclamations have been signed to support Recovery Month. Since 2001, the President of the United States has signed a proclamation declaring September as Recovery Month, further recognizing substance use disorders and mental disorders as conditions that need to be addressed, just like any other illness.

Discussion

Council previously approved a Proclamation supporting September as National Recovery Month in August, 2015 and September, 2017, 2018, 2019, 2020, and 2021.

Alternatives

None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting September as National Recovery Month.



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, behavioral health is an essential part of health and one's overall wellness;
and

WHEREAS, prevention of mental and/or substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

WHEREAS, preventing and overcoming mental and/or substance use disorders is essential to achieving healthy lifestyles, both physically and emotionally; and

WHEREAS, we must encourage relatives and friends of people with mental and/or substance use disorders to implement preventive measures, recognize the signs of a problem, and guide those in need to appropriate treatment and recovery support services;

WHEREAS, an estimated 400,000 people in King County are affected by these conditions;

NOW THEREFORE, to help more people achieve and sustain long-term recovery, the U.S. Department of Health and Human Services (HHS), the Substance Abuse and Mental Health Services Administration (SAMHSA), the White House Office of National Drug Control Policy (ONDCP), and the City of Des Moines invites all residents to participate and proclaim the month of September as

NATIONAL RECOVERY MONTH

SIGNED this 28th day of August, 2022.

Matt Mahoney, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Preparedness Month

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

- 1. Proclamation

DATE SUBMITTED: August 08, 2022

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal _____
- Finance
- Courts
- Police
- City Clerk *SK*

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

The purpose of this agenda item is to recommend City Council approval of the attached Proclamation supporting September as National Preparedness Month.

Suggested Motion

Motion: "I move to approve the Proclamation supporting September as National Preparedness Month."

Background

National Preparedness Month, occurring annually in September since 9/11, creates an ideal opportunity for every resident to join citizens across the United States in preparing their homes, businesses, and communities for any type of emergency, including natural disasters and potential terrorist attacks. During an emergency, First Responders may not always be able to reach you quickly. Planning before a disaster happens is the best way to improve community recovery. During National Preparedness Month, community members are encouraged to take time to prepare for emergencies and disasters that can impact them for days at a time.

Discussion

Council previously approved a Proclamation supporting September as National Recovery Month in 2021.

Alternatives

None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting September as National Preparedness Month.

City of Des Moines



ADMINISTRATION
21630 11th AVENUE S, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D: (206) 824-6024 FAX: (206) 870-6540



Proclamation

WHEREAS, National Preparedness Month, occurring annually in September since 9/11, creates an ideal opportunity for every resident to join citizens across the United States in preparing their homes, businesses, and communities for any type of emergency, including natural disasters and potential terrorist attacks; and

WHEREAS, planning now, before a disaster, is the best way to improve community recovery from disasters; and

WHEREAS, when individuals take responsibility for preparing their families and their communities, the chance of survival and return to normalcy following a disaster is greatly increased; and

WHEREAS, First Responders may not always be able to reach you quickly in an emergency or disaster, and the most important step you can take in helping them is being able to take care of yourself and those in your care for at least a short period of time following an incident

WHEREAS, during National Preparedness Month, community members are encouraged to take time to prepare yourself and those in your care for emergencies and disasters that can impact our neighborhoods for days at a time; and

NOW THEREFORE, The Des Moines City Council hereby declares September as

NATIONAL PREPAREDNESS MONTH

and urges all Des Moines residents to make sure that their families are prepared for an emergency by 1) prepare a Disaster Supply Kit and 2) create a Family Emergency Plan.

SIGNED this day 28th of August, 2022.

Matt Mahoney, Mayor

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interagency Reimbursement Agreement IAA23717 Between Washington State AOC and Des Moines Municipal Court

FOR AGENDA OF: Aug 25, 2022

DEPT. OF ORIGIN:

DATE SUBMITTED: Aug 6, 2022

ATTACHMENTS:

- 1. Agreement with Administrative Offices of the Courts (AOC) and Des Moines Municipal court for costs of refunding legal financial obligations (LFO'S)

CLEARANCES:

- Legal
- Court
- Parks, Recreation & Senior Services
- Public Works

CHIEF OPERATIONS OFFICER: _____

- Legal /s/ TG
- Finance _____
- Court /s/ JJ
- Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to request the Council’s approval of the Reimbursement Agreement between the Administrative Offices of the Court (AOC) and the Des Moines Municipal Court for the purposes of reimbursing for extraordinary costs of resentencing and vacating under the State Supreme Court’s *Blake* decision and for the costs of refunding legal financial obligations (LFO’s).

Suggested Motion

“I move to approve the Interagency Reimbursement agreement between the Administrative Offices of the Courts (AOC) and the City of Des Moines for extraordinary costs reimbursement and legal financial obligations reimbursement as a result of the *State v Blake* decision and further authorize the Judge of the Des Moines Municipal Court to sign the agreement substantially in the form as submitted.”

Background

On February 25, 2021, the Washington State Supreme Court entered its decision in *State of Washington v. Blake*, invalidating as unconstitutional the crime of simple possession of a controlled substance under RCW 69.50.4013. The Supreme Court voided the law, not only prospectively, but also retroactively, with the effect that previous convictions were void at the time of conviction.

One consequence of this retroactive application is that prior legal financial obligations paid in connection with these voided convictions are now subject to refund. Additionally, court resources will be required to process requests to vacate convictions and potential resentencing on unrelated matters if a now void conviction affected their sentence. Courts must provide relief to all persons with simple drug possession convictions following *Blake*. The statute invalidated by *Blake* was enacted in 1971, and while pending charges have been dismissed, the number of persons potentially entitled to relief in the state may exceed 100,000.

In 2021, the Washington Legislature appropriated funds in the 2022 budget to cover the costs incurred by cities in the review and possible vacation of convictions for *Blake*-related cases in the local municipal court.

Discussion

At the end of 2021 Legislative session, the Legislation appropriated \$44.5 million to the Administrative Office of the Courts “to assist counties with costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v Blake* decision. In the 2022 supplemental budget, cities received \$21.5 million to offset the financial impacts of vacating simple drug possession charges tied to the *Blake* decision. Of the amount appropriated, approximately \$10 million is earmarked to reimburse legal and financial obligations tied to the vacated conviction. Des Moines has been designated as one of 112 cities to receive reimbursement.

Numerous defendants have been charged and convicted in the Des Moines Municipal Court for violations of RCW 69.50.4013 prior to the *Blake* decision. AOC has informed the City that, according to their methodology, 228 Des Moines Municipal Court cases are potentially affected. Accepting this agreement with AOC will allow the Court to request reimbursement for the costs associated with implementing the Supreme Court’s decision from the funds appropriated by the Legislature.

Alternatives

Approve authorizing execution of the agreement as recommended by staff.
Decline to approve the agreement and receive no reimbursement from AOC.

Financial Impact

Defendants in the Des Moines Municipal Court whose cases are affected by the *Blake* decision are legally entitled to relief. Accepting this agreement with AOC would allow the Court to fulfill its obligation at no cost to the City, up to \$190,065. In the absence of this agreement, the cost of processing petitions for relief and refunding fines and costs paid would come from City funds.

Recommendation

Staff recommends that the Council approve authorizing the Judge to execute an agreement with the Washington State Administrative Office of the Courts for reimbursement of amounts up to \$190,065.

INTERAGENCY REIMBURSEMENT AGREEMENT IAA23717
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
DES MOINES

THIS REIMBURSEMENT AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and DES MOINES, for the purpose of reimbursing DES MOINES (City) for extraordinary costs of resentencing and vacating sentences under *Blake* and for the cost of refunding legal obligations (LFOs) under the *Blake* decision.

1. PURPOSE

The purpose of this Agreement is to provide reimbursements to assist Cities and Municipal Courts with extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences in are affected by the *State v. Blake* decision, and to provide reimbursements to assist Cities and Municipal Courts who have reimbursed or will reimburse LFOs to defendants whose convictions or sentences in Municipal Court are affected by the *State v. Blake* decision.

2. REIMBURSEMENT

- A. Extraordinary Expenses Reimbursement. AOC shall reimburse the City up to a maximum of 101,986 for extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v. Blake* decision incurred during the period of February 25, 2021 to June 30, 2023. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount will be denied. If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by agreement of the parties.
- B. LFO Reimbursement. AOC will reimburse the City up to a maximum of 88,079 for payments made by the City during the period February 25, 2021 to June 30, 2023 pursuant to court order which required reimbursement by the State of Washington of legal and financial obligations. No reimbursement will be made under this Agreement for resentencing or vacation costs incurred after June 30, 2023, and any reimbursement requests in excess of this amount stated in this Section 2 (b) will be denied. If additional funding is appropriated by the Legislature for these purposes, the amount of reimbursement under this Agreement may be increased by

agreement of the parties. Nothing in this Agreement requires the City to make payments pursuant to a court order when the funds available for reimbursement are less than the amount of the payment.

- C. General. AOC shall provide reimbursement to the City for approved and completed reimbursements by warrant or account transfer within 30 days of receipt of a properly completed A-19 invoice and the completed data report as required below.

3. PERIOD OF PERFORMANCE

Performance under this Agreement begins **July 1, 2022**, regardless of the date of execution, and ends on **June 30, 2023**. The period of performance may be amended by mutual agreement of the parties if the Legislature provides additional funding or time for these purposes.

4. TERMS OF REIMBURSEMENT

a) The City shall request reimbursement as follows:

1. The City will submit its A-19 invoices monthly to payables@courts.wa.gov. A-19 invoices submitted under this agreement must include:
 - a. Payment documents from the City indicating the amounts expended, the recipients, and the date of expenditure.
 - b. Sufficient information to allow AOC to determine that the costs reimbursed are extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v. Blake*.
 - c. Proper coding for expenses under both 2.A. and B. For DES MOINES , expenses under 2.A. must be coded **40021070**, and reimbursement under 2.B. must be coded **40022090**.
2. The City shall provide a monthly report to AOC that must contain at a minimum:
 - a. A list of any case numbers associated with the services provided;
 - b. A breakdown of expenses by judicial, prosecutorial, and defense-related costs;
 - c. The amount of LFOs reimbursed, with the case number associated with that amount.
 - d. Any positions supported by these funds, broken down by judicial, prosecutorial, and defense-related positions; and
 - e. Data, including case numbers and aggregate data on the number and type of cases:
 - i. Vacated under *Blake*;

- ii. Resentenced under *Blake*; and
 - iii. Being worked on under *Blake*.
- b) By May 1, 2023, the City agrees to report any allocated funds under either 2. A. or B. that it will be unable to spend during the term of the contract, or any additional funds it anticipates needing during the term of the contract should additional funds become available. AOC reserves the right to reallocate funds that are reported to be unable to be spent.

5. AGREEMENT ALTERATIONS AND AMENDMENTS

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

6. GOVERNANCE

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

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

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

7. WAIVER

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

8. SEVERABILITY

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

9. AGREEMENT MANAGEMENT

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

AOC Program Manager	City Program Manager
Christopher Stanley Chief Financial and Management Officer PO Box 41170 Olympia, WA 98504-1170 christopher.stanley@courts.wa.gov (360) 357-2406	Jennefer Johnson, Court Administrator 21630 11th Ave South, Ste C Des Moines, WA 98198 206-870-6517


10. ENTIRE AGREEMENT


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

AGREED:

Administrative Office of the Courts

DES MOINES

DocuSigned by:

B769CAAF4FE6410...
Signature _____
6/21/2022
Date

DocuSigned by:

E1775F5CC7D34C8...
Signature _____
6/21/2022
Date

Christopher Stanley
Name _____

Lisa Leone
Name _____

Chief Financial and Management Officer
Title _____

Presiding Judge
Title _____

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Acceptance of Washington State Administrative Office of the Courts- Des Moines Municipal Court-Therapeutic Court Grant

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Court

DATE SUBMITTED: August 5, 2022

ATTACHMENTS:

1. Grant Contract GRT23010 between Washington State Administrative Office of the Courts and Des Moines Municipal Court.

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

Legal /s/ TG _____

Finance _____

Court /s/ JJ _____

Police

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *Michael Deo*

Purpose and Recommendation

The purpose of this Agenda Item is to request the Council’s authorization to accept a grant from the Washington State Administrative Office of Courts (AOC) to be used to increase services to clients and victims with matters within Des Moines Municipal Court utilizing a therapeutic approach. The grant will cover housing vouchers for justice involved individuals, electronic monitoring and victim notification, a technology program to allow for text notification of appointments, court dates and cellular phones for indigent clients, subsidized Domestic Violence Moral Reconciliation Therapy, increased drug testing for and labor fees incurred by Court Support Services outside normal operations as needed through June 30, 2023.

Suggested Motion

“I move to accept the grant from the Washington Administrative Office of the Courts in the amount of \$87,000 for the purposes of supplementing operations of the Des Moines Municipal Court-Support Services and authorize the Judge of the Des Moines Municipal Court to sign the contract substantially in the form as attached.”

Background

Over the course of the last five years, Des Moines Municipal Court has expanded the application of therapeutic court principles in all court cases. To that end, in June 2021, our court reorganized and re-evaluated our use of probation. Through a project our Probation Officer, Melissa Patrick, completed for the American Probation and Parole Association's Leadership Academy, we shifted to a "Goal-Based" Supervision approach. Over the course of the last year, our probation department (now called "Support Services") has evolved from a standard conditions-based supervision model to a more inclusive goal-based, responsive model. Utilizing key features of therapeutic courts such as: isolating offense types, not mixing high needs/high risk populations with low needs or low risk populations, providing cognitive based therapies, utilizing a validated risk/needs/responsivity assessment (Ohio Risk Assessment System), expanding our relationships with community stakeholders, and providing robust, individualized case planning.

Discussion

Through this partnership with Washington State AOC our Court Support Services team has been afforded educational opportunities, increased networking and the opportunity to grow the division. Washington State AOC had awarded the court a grant of \$87,000 to cover the expansion of these resources. The grant money requested would allow us to make permanent some of the changes we've already made while also allowing us to provide additional therapeutic services to one target population in particular: high risk/high need domestic violence offenders. This population will be assigned to a specialized caseload, and each client will be assigned a Case Manager or Support Services Specialist who will assist with housing vouchers, cell phones to connect with service providers, their Case Manager or their attorney. Moreover, as we achieved with our DUI Court, we will include stakeholders in this process and continue to build upon our network of partnerships within the City, County, and across jurisdictions in South King County.

To hold Domestic Violence (DV) offenders accountable, we intend to expand court-pay electronic home monitoring, GPS services, random drug testing, and continuous alcohol monitoring (TAD or SCRAM). The grant money would also be used to subsidize DV Moral Reconciliation Therapy for participants. Additionally, program participants will have regularly scheduled court appearances and meet regularly with their Case Manager/Support Services Specialist. The ultimate goal in providing individualized case plans and providing access to needed services and support is to treat the whole person. The focus is on long-term change in thinking and behaviors and fostering adherence rather than simply compliance. Through these efforts, and according to the most recent research in the area of evidence-based practices, this approach will reduce recidivism, return a justice-involved individual to the community with the tools necessary to avoid re-offense, maintain employment, and create a healthy support system.

Alternatives

City Council could choose to not approve the grant/contract. (Not recommended)

Financial Impact

The costs not covered by the grant will be absorbed by already budgeted line items in the court/probation budgets for 2022-2023 as these are not new cases or clients, but rather individuals that would already be serviced. Accordingly, there is no negative financial impact to accepting this grant.

Recommendation

Staff recommends that the Council approve and ratify the Grant with the Washington State Administrative Office of the Courts for the Des Moines Municipal Court-Support Services.

GRANT AGREEMENT - GRT23010
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
Des Moines Municipal Court

THIS AGREEMENT (Agreement) is made by and between, **Washington State Administrative Office of the Courts (AOC)** and Des Moines Municipal Court , (Grantee), (collectively as the **Parties** and individually each as a **Party**).

The Parties hereby enter into this Agreement whereby Grantee will perform certain services for, and provide product deliveries to AOC. Grantee is subject to the terms and conditions specified in Attachment A and agrees to the following terms and conditions.

1. SCOPE OF WORK

Grantee must use funding to identify individuals before their court with substance use disorders or other behavioral health needs and engage those individuals with community-based therapeutic interventions within the Grantee's jurisdiction in accordance with the Grantee's grant application, and Statement of Work (Attachment A). This contract constitutes an official award letter.

2. TERM AND PERIOD OF PERFORMANCE

This Agreement's period of performance runs from July 1, 2022 through June 30, 2023, unless otherwise terminated (Term). Notwithstanding the foregoing, this Agreement and all its terms and conditions shall remain in full force and effect until all deliverables are completed or otherwise terminated, and this Agreement is terminated and/or completed.

3. COMPENSATION AND PAYMENT

The awarded amount is **\$87,000.00** . Grantee will use the funds for the following cost categories (these amounts need to match what the grantee submitted in their application):

Cost Category	Amount
Personnel salaries & benefits	\$ 17,000
Staff equipment & training	\$
Treatment services	\$ 38,000
Other participant services	\$ 32,000
Total	\$ 87,000

Grantee may vary the amount in any particular category by up to 10%, but any adjustments beyond 10% require the explicit written consent of AOC's Project Manager, and in no case

may the total amount exceed the awarded amount above.

This amount includes expenses necessary or incidental to performing the items under the Statement of Work, including, but not limited to, travel, lodging and per diem related expenses. Grantee will submit an invoice after the completion and acceptance of each deliverable noted above.

This amount will be disbursed in two allotments, one in August 2022 and the second in January 2023 upon receipt of a properly filled out Form A-19.

4. REPORTING

The Grantee must submit quarterly reports to AOC documenting the progress of their therapeutic court program. These reports will provide:

- The number of program participants for the corresponding quarter,
- The services provided to program participants for the corresponding quarter,
- The cost of services provided to program participants for the corresponding quarter,
- Other costs accrued by the Grantee to support the therapeutic court program during the corresponding quarter, and
- Any challenges faced by the Grantee in operating their therapeutic court program during the corresponding quarter.

Reports shall be **submitted to** https://inside.courts.wa.gov/apps/therapeuticgrants/view/dsp_therapeuticgrants.cfm on the following schedule:

Period	Report Due
07/01/22 - 09/16/22	09/30/22
09/17/22-02/14/23	02/28/23
02/15/23-06/30/23	07/15/23 (final report)

Failure to submit a report by the due date may adversely affect the Grantee's eligibility for future funding.

5. BILLING PROCEDURES

Grantee will submit properly prepared Form A-19s via email to AOC Financial Services at payables@courts.wa.gov. Invoices shall be submitted no more than twice during the pendency of the contract. Incorrect or incomplete invoices shall be returned by AOC to Grantee for correction and reissuance, and may result in delays in funding. All Invoices shall provide and itemize, at a minimum, the following:

- A. Contract Number GRT23010;
- B. Grantee name, address, phone number;
- C. Grantee Federal Tax Identification Number;

- D. Description of Services to be provided;
- E. Date(s) Services will be provided;
- F. Total Invoice Price.

Payment will be considered timely if made by the AOC within thirty (30) calendar days of receipt of a properly prepared invoice. Payment shall be sent to the address designated by the Grantee.

The AOC may, in its sole discretion, terminate the contract or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AOC.

6. SAFEGUARDING OF INFORMATION

The use or disclosure by the Grantee of any information obtained as a result of performance under this contract concerning the AOC or the Court for any purpose not directly connected with the administration of the AOC's, the Court's or the Grantee's responsibilities with respect to services provided under this contract is prohibited except by written consent of the AOC or the Court.

7. CONFLICT OF INTEREST

Grantee warrants that at the date of execution of this Agreement, no organizational conflict of interest exists or is likely to arise in the performance of its obligations under the Subcontract. Grantee warrants that it shall advise AOC immediately if a conflict of interest arises in the future.

8. PROJECT MANAGEMENT

The Project Manager for each of the parties shall be the contact person for all communications regarding the performance of this Contract.

AOC Project Manager	Grantee Project Manager
Stephanie Oyler PO Box 41170 Olympia, WA 98504-1170 Stephanie.Oyler@courts.wa.gov 360-890-0901	Melissa Patrick 21630 11th Ave S Ste C Des Moines, WA 98198-6317 mpatrick@desmoineswa.gov 206-870-6593

9. ASSIGNMENT

Grantee agrees that none of the deliverables to be furnished under this Agreement shall be assigned or subcontracted (including to independent consultants) without the prior written permission of AOC.

10. TERMINATION

A. Termination for Default

The AOC may, by written notice, terminate this contract, in whole or in part, for failure of the Grantee to perform any of the obligations or provisions required by the contract. In the event of default, the Grantee shall be liable for damages as authorized by law, including but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time; Provided, that if (i) it is determined for any reason the Grantee was not in default, or (ii) the Grantee's failure to perform is without Grantee's and/or SubGrantee's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

B. Termination for Convenience

Except as otherwise provided in this contract, the AOC may terminate this contract by providing written notice of such termination to the Grantee, specifying the effective date thereof, at least five (5) calendar days prior to such date. If this contract is so terminated, the AOC shall be liable only for payment for services rendered prior to the effective date of termination.

11. DISPUTES

The Parties agree to attempt to resolve any dispute arising under this Agreement first by elevating the matter to appropriate levels of management within each organization. Grantee agrees that pending any decision, appeal or judgment on the settlement of any dispute arising under this Agreement, Grantee shall proceed diligently with the performance of this Agreement.

12. INDEMNIFICATION

The Grantee shall defend, protect, and hold harmless the state of Washington, the AOC, or any employees thereof, from and against all claims, suits or actions arising from the Grantee's acts which are libelous or slanderous, which result in injury to persons or property, which violate a right of confidentiality, or which constitute an infringement of any copyright, patent, trademark or trade name through use or reproduction of material of any kind.

13. FORCE MAJEURE

Neither Grantee nor AOC shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to strikes, lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except SubGrantees).

14. REPRESENTATION AND CERTIFICATIONS

Grantee shall complete all required Representations and Certifications as they apply to this Agreement, if any. Grantee further agrees that it will provide additional or annual Representations and Certifications as may be requested by AOC in connection with this Agreement, and also agrees to promptly notify AOC of any changes which modify the information contained in any such Representations and Certifications.

15. COMPLIANCE WITH LAWS

Grantee shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Agreement.

16. INDEPENDENT GRANTEES

Grantee is an independent Grantee in relation to AOC with respect to all matters arising under this Agreement. Nothing herein shall be construed to establish a partnership, joint venture, association or employment relationship between the parties. Neither Party shall be deemed to be an agent of the other or to have any authority to bind or create any obligation, express or implied, on behalf of the other.

17. WHOLE AGREEMENT

This Agreement and the SOW attached hereto contain and embody the entire agreement of the Parties hereto and supersede all prior agreements, negotiations and discussions between the Parties hereto. Any representation, inducement or agreement that is not contained in this Agreement shall not be of any force or effect. Except as otherwise expressly provided in this Agreement, this Agreement may not be modified or changed in whole or in part in any manner other than by an instrument in writing duly signed by both Parties hereto.

18. GOVERNING LAW/VENUE

This Agreement will be governed by and construed and enforced in accordance with the laws of Washington without giving effect to the principles of conflict of laws thereunder.

19. EXECUTION IN COUNTERPARTS

This Agreement may be executed in one or more counterparts and each counterpart shall constitute one and the same Agreement.

20. WAIVER

No Party shall be deemed to have waived any right hereunder unless such waiver is in writing, and the waiver or failure of either Party to exercise in any respect any right provided for herein shall not be a waiver of any further right hereunder.

21. SEVERABILITY

If any portion of this Agreement is held or determined to be invalid or unenforceable, the remaining provisions shall continue in full force and effect as if this Agreement had been executed within the invalid portion eliminated.

Attachment A

Statement of Work:

The Grantee must use funding to identify individuals before their court with substance use disorders or other behavioral health needs and engage those individuals with community-based therapeutic interventions within the Grantee's jurisdiction in accordance with the Grantee's grant application.

Funds can be used for the following costs categories:

- personnel salaries & benefits,
- staff equipment & training,
- treatment services (therapeutic services specifically designed to address SUD and MH) & compliance monitoring, and
- other participant services (other supportive services meant to ensure participant success- i.e. transportation services, including bus passes or car services providing transportation to court related activities and direct provision of meals, water and snacks).

Funds cannot be used for:

- replacing or supplementing the salary of current employees of the Grantee (employees must be taking on additional work or be a new employee to be eligible for funding),
- program incentives that constitute a gift or reward
- items and activities outside of the cost categories listed in the Grantee's contract.

The Grantee shall submit quarterly reports to AOC documenting the progress their therapeutic court program. These reports shall provide:

- the number of program participants for the corresponding quarter,
- the services provided to program participants for the corresponding quarter,
- the cost of services provided to program participants for the corresponding quarter
- other cost accrued by the Grantee to support the therapeutic court program during the corresponding quarter, and
- challenges faced by the Grantee in operating their therapeutic court program during the corresponding quarter.

Reports shall be **submitted to** https://inside.courts.wa.gov/apps/therapeuticgrants/view/dsp_therapeuticgrants.cfm on the following schedule:

Reporting schedule:

Period	Report Due
07/01/22-09/16/22	09/30/22
09/17/22-02/14/23	02/28/23
02/15/23-06/30/23	07/15/23 (final report)

Failure to submit a report by the due date may adversely affect the Grantee's eligibility for future funding.

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services between South King County Municipal Courts

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Court

DATE SUBMITTED: August 4, 2022

ATTACHMENTS:


1. Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal /s/ TG
- Finance _____
- Court /s/ JJ
- Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to request the City Council's approval of the Interlocal Agreement for Joint Supervision of Defendants within South King County Municipal Courts.

Suggested Motion

"I move to approve the Interlocal Agreement between the Municipal Courts of Federal Way, Kent, Renton, Tukwila, Seatac, Maple Valley and the Des Moines Municipal Court for consolidated supervision services of defendants and to authorize the Judge of the Des Moines Municipal Court to sign the agreement in substantially the form attached."

Background

In 2021, Gov. Inslee signed SHB 1294 amending RCW 4.24.760, 39.34.180, and 70.48.090 and reenacting and amending RCW 10.64.120. The enactment authorized limited jurisdiction courts to enter into interlocal agreements for the provision of pretrial and post-judgment probation supervision services, and established criteria governing the formation and scope of the interlocal agreements. Additionally, the bill extends the limited immunity applicable to limited jurisdiction courts for the provision of misdemeanor probation services to persons operating at the direction of the court pursuant to an interlocal agreement.

Discussion

The signatories to this interlocal agreement include neighboring municipal courts, all of whom serve populations in South King County. By consolidating cases for supervision, defendants will continue to be monitored for compliance with court orders across all courts. One of the benefits of the agreement is that defendants with cases among multiple jurisdictions will report to a single supervising officer rather than several officers in different courts. Simplifying the reporting requirement reduces the likelihood that a defendant will fail to appear for regularly scheduled meetings with their supervising officers which, in turn, increases the likelihood that a defendant will comply with court-ordered conditions.

Each court retains original jurisdiction over any case transferred to a neighboring court for supervision; in addition, each court retains the authority accept or decline requests to transfer cases into or (out of) its court for supervision.

Participation in this interlocal agreement will allow the Court and our Support Services Department to share resources and information with neighboring courts and departments to ensure that the risk, needs and responsibility requirements of each individual on supervision are adequately addressed. Improving the quality of criminal case supervision increases the likelihood that a defendant will be successful on supervision thereby reducing the likelihood of recidivism.

Alternatives

The Council could decline to enter into an Interlocal Agreement for Consolidated Supervision Services with Limited Jurisdiction courts of South King County.

Financial Impact

There is no financial impact as the only clients eligible for consolidated supervision services would already be on supervision for convictions within the host jurisdiction.

Recommendation

Staff recommends that the Council approve the Interlocal Agreement for Joint Supervision of Defendants with Courts of Limited Jurisdiction in South King County.

INTERLOCAL AGREEMENT FOR JOINT SUPERVISION OF DEFENDANTS CONSOLIDATED SUPERVISION SERVICES

In an effort to increase the likelihood of success for defendants on supervision in multiple courts the undersigned judges, as representatives of the respective courts, enter into the following Interlocal Agreement (“ILA”) to be effective as of September 1, 2022.

PROVISIONS

- A. **DEFINITIONS:** References to a “supervising department” means the department established by a court to supervise conditions of sentence imposed by that court. The “host jurisdiction” shall be the supervising department that the defendant reports to for supervision under this program. A “participating jurisdiction” is any court and/or supervising department that has imposed conditions or has referred conditions for supervision to a host jurisdiction.
- B. **PURPOSE:** To establish a program that allows defendants to report to one court’s supervising department when they are required to comply with conditions in multiple courts. Eligible individuals can elect to consolidate supervision of conditions by a single supervising department that would report completion of court ordered conditions and violations to all host and participating courts.
- C. **AUTHORITY:** This ILA is established under RCW 39.34.180(6). In addition, ARLJ 11 provides that the “...*method of providing these services shall be established by the presiding judge of the local court to meet the specific needs of the court.*” Each court shall continue to have exclusive original jurisdiction of all criminal law violations committed within the jurisdiction of that court as authorized by statute or ordinance.
- D. **ADMINISTRATION:** The host jurisdiction shall supervise the conditions imposed by all participating courts pursuant to its own established practices and procedures. Nothing herein changes the authority of each court or supervising department to determine its own practices and to follow its own procedures. Participating jurisdiction judges and staff shall have no authority to supervise the host jurisdiction’s staff.
- E. **APPLICATION:** Any defendant with conditions on a criminal conviction in multiple courts that are signatories to this agreement may request or consent to the supervising department in one of those courts to act as the host jurisdiction for supervision. The request may be approved by the respective supervising departments if the presiding judge of the host jurisdiction and participating jurisdictions are signatories to this agreement. Not all jurisdictions need to agree, but the request will be denied unless at least one participating jurisdiction has approved the request along with the host jurisdiction. The decision to admit the defendant to the program will rest within the sole discretion of each jurisdiction. The parties may not agree to consolidate supervision as part of a resolution of the case, unless all applicable supervising departments agree to such supervision, but may recommend that a person be considered for such supervision. No supervising department shall be bound to the program unless consent has been given by that supervising department.
- F. **REPORTING:** The host jurisdiction shall report completion of court ordered conditions and violations to the host jurisdiction and to each participating jurisdiction. Each court and

supervising department will address compliance and violations pursuant to its own established policies and procedures. Staff designated by the presiding judge of each court shall serve as the point of contact. Defendants must still report to supervising departments of any non-participating jurisdiction.

- G. **PROPERTY:** This program does not contemplate the acquisition, holding, or disposal of real or personal property.
- H. **FINANCING:** There shall be no financing of any joint or cooperative undertaking pursuant to this program. There shall be no budget maintained for any joint or cooperative undertaking. supervision fees under RCW 10.64.120 shall only be collected by the host jurisdiction. No supervision fees can be collected by a participating jurisdiction while the defendant is part of the program. Non-participating supervising departments may charge fees pursuant to RCW 10.64.120. Participating supervising departments may charge fees pursuant to RCW 10.64.120 after revocation pursuant to Paragraph I.
- I. **REVOCAION OF SUPERVISION:** The defendant may request that the court revoke the consolidated supervision at any time, except if alleged violations have been reported pursuant to this agreement. The judge of the host jurisdiction (or designee) or the judge (or designee) of any participating jurisdiction may remove its jurisdiction's approval of consolidated supervision at any time. The defendant will then be required to report to the supervising department of the jurisdiction(s) that revoked its participation.
- J. **LIABILITY:** Each supervising department has its own duties and liabilities and nothing herein alters those liabilities or creates a respondeat superior or agency relationship between cities, courts, or supervising departments. All supervising departments are autonomous and nothing herein creates or contemplates a duty or ability to supervise or control the work of host jurisdictions by participating jurisdictions or vice versa.
- K. **AGREEMENT TO MEET AND CONFER:** Participant courts shall meet and confer periodically during the life of this program at mutually agreeable times and dates to review program procedures and effectiveness.
- L. **TERMINATION AND NOTICE:** Any court participating in this program may terminate its participation upon thirty-days written notice to the remaining participant courts. The termination by any one court shall not affect the rights of the remaining participants under this program. Any notice or other communication shall be sufficient if it is in writing and/or by electronic submission.

Signed below in our official capacity as judges of the respective courts.

Judge David Larson, Presiding
Federal Way Municipal Court
Date: _____

Judge Brad Bales
Federal Way Municipal Court
Date: _____

Judge Kara Murphy, Presiding
Renton Municipal Court
Date: _____

Judge Jessica Giner
Renton Municipal Court
Date: _____

Judge Michael Frans, Presiding
Kent Municipal Court
Date: _____

Judge Anthony Gipe
Kent Municipal Court
Date: _____

Judge Pauline Freund, Presiding
SeaTac Way Municipal Court
Date: _____

Judge Kimberly Walden, Presiding
Tukwila Municipal Court
Date: _____

Judge L. Stephen Rochon, Presiding
Maple Valley Municipal Court
Date: _____

Judge Lisa Leone, Presiding
Des Moines Municipal Court
Date: _____

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services between South King County Municipal Courts

ATTACHMENTS:

1. Interlocal Agreement for Joint Supervision of Defendants-Consolidated Supervision Services

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Court


DATE SUBMITTED: August 4, 2022

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal /s/ TG
- Finance _____
- Court /s/ JJ
- Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to request the City Council's approval of the Interlocal Agreement for Joint Supervision of Defendants within South King County Municipal Courts.

Suggested Motion

"I move to approve the Interlocal Agreement between the Municipal Courts of Federal Way, Kent, Renton, Tukwila, Seatac, Maple Valley and the Des Moines Municipal Court for consolidated supervision services of defendants and to authorize the Judge of the Des Moines Municipal Court to sign the agreement in substantially the form attached."

Background

In 2021, Gov. Inslee signed SHB 1294 amending RCW 4.24.760, 39.34.180, and 70.48.090 and reenacting and amending RCW 10.64.120. The enactment authorized limited jurisdiction courts to enter into interlocal agreements for the provision of pretrial and post-judgment probation supervision services, and established criteria governing the formation and scope of the interlocal agreements. Additionally, the bill extends the limited immunity applicable to limited jurisdiction courts for the provision of misdemeanor probation services to persons operating at the direction of the court pursuant to an interlocal agreement.

Discussion

The signatories to this interlocal agreement include neighboring municipal courts, all of whom serve populations in South King County. By consolidating cases for supervision, defendants will continue to be monitored for compliance with court orders across all courts. One of the benefits of the agreement is that defendants with cases among multiple jurisdictions will report to a single supervising officer rather than several officers in different courts. Simplifying the reporting requirement reduces the likelihood that a defendant will fail to appear for regularly scheduled meetings with their supervising officers which, in turn, increases the likelihood that a defendant will comply with court-ordered conditions.

Each court retains original jurisdiction over any case transferred to a neighboring court for supervision; in addition, each court retains the authority accept or decline requests to transfer cases into or (out of) its court for supervision.

Participation in this interlocal agreement will allow the Court and our Support Services Department to share resources and information with neighboring courts and departments to ensure that the risk, needs and responsibility requirements of each individual on supervision are adequately addressed. Improving the quality of criminal case supervision increases the likelihood that a defendant will be successful on supervision thereby reducing the likelihood of recidivism.

Alternatives

The Council could decline to enter into an Interlocal Agreement for Consolidated Supervision Services with Limited Jurisdiction courts of South King County.

Financial Impact

There is no financial impact as the only clients eligible for consolidated supervision services would already be on supervision for convictions within the host jurisdiction.

Recommendation

Staff recommends that the Council approve the Interlocal Agreement for Joint Supervision of Defendants with Courts of Limited Jurisdiction in South King County.

INTERLOCAL AGREEMENT FOR JOINT SUPERVISION OF DEFENDANTS CONSOLIDATED SUPERVISION SERVICES

In an effort to increase the likelihood of success for defendants on supervision in multiple courts the undersigned judges, as representatives of the respective courts, enter into the following Interlocal Agreement (“ILA”) to be effective as of September 1, 2022.

PROVISIONS

- A. **DEFINITIONS:** References to a “supervising department” means the department established by a court to supervise conditions of sentence imposed by that court. The “host jurisdiction” shall be the supervising department that the defendant reports to for supervision under this program. A “participating jurisdiction” is any court and/or supervising department that has imposed conditions or has referred conditions for supervision to a host jurisdiction.
- B. **PURPOSE:** To establish a program that allows defendants to report to one court’s supervising department when they are required to comply with conditions in multiple courts. Eligible individuals can elect to consolidate supervision of conditions by a single supervising department that would report completion of court ordered conditions and violations to all host and participating courts.
- C. **AUTHORITY:** This ILA is established under RCW 39.34.180(6). In addition, ARLJ 11 provides that the “...*method of providing these services shall be established by the presiding judge of the local court to meet the specific needs of the court.*” Each court shall continue to have exclusive original jurisdiction of all criminal law violations committed within the jurisdiction of that court as authorized by statute or ordinance.
- D. **ADMINISTRATION:** The host jurisdiction shall supervise the conditions imposed by all participating courts pursuant to its own established practices and procedures. Nothing herein changes the authority of each court or supervising department to determine its own practices and to follow its own procedures. Participating jurisdiction judges and staff shall have no authority to supervise the host jurisdiction’s staff.
- E. **APPLICATION:** Any defendant with conditions on a criminal conviction in multiple courts that are signatories to this agreement may request or consent to the supervising department in one of those courts to act as the host jurisdiction for supervision. The request may be approved by the respective supervising departments if the presiding judge of the host jurisdiction and participating jurisdictions are signatories to this agreement. Not all jurisdictions need to agree, but the request will be denied unless at least one participating jurisdiction has approved the request along with the host jurisdiction. The decision to admit the defendant to the program will rest within the sole discretion of each jurisdiction. The parties may not agree to consolidate supervision as part of a resolution of the case, unless all applicable supervising departments agree to such supervision, but may recommend that a person be considered for such supervision. No supervising department shall be bound to the program unless consent has been given by that supervising department.
- F. **REPORTING:** The host jurisdiction shall report completion of court ordered conditions and violations to the host jurisdiction and to each participating jurisdiction. Each court and

supervising department will address compliance and violations pursuant to its own established policies and procedures. Staff designated by the presiding judge of each court shall serve as the point of contact. Defendants must still report to supervising departments of any non-participating jurisdiction.

- G. **PROPERTY:** This program does not contemplate the acquisition, holding, or disposal of real or personal property.
- H. **FINANCING:** There shall be no financing of any joint or cooperative undertaking pursuant to this program. There shall be no budget maintained for any joint or cooperative undertaking. supervision fees under RCW 10.64.120 shall only be collected by the host jurisdiction. No supervision fees can be collected by a participating jurisdiction while the defendant is part of the program. Non-participating supervising departments may charge fees pursuant to RCW 10.64.120. Participating supervising departments may charge fees pursuant to RCW 10.64.120 after revocation pursuant to Paragraph I.
- I. **REVOCAION OF SUPERVISION:** The defendant may request that the court revoke the consolidated supervision at any time, except if alleged violations have been reported pursuant to this agreement. The judge of the host jurisdiction (or designee) or the judge (or designee) of any participating jurisdiction may remove its jurisdiction's approval of consolidated supervision at any time. The defendant will then be required to report to the supervising department of the jurisdiction(s) that revoked its participation.
- J. **LIABILITY:** Each supervising department has its own duties and liabilities and nothing herein alters those liabilities or creates a respondeat superior or agency relationship between cities, courts, or supervising departments. All supervising departments are autonomous and nothing herein creates or contemplates a duty or ability to supervise or control the work of host jurisdictions by participating jurisdictions or vice versa.
- K. **AGREEMENT TO MEET AND CONFER:** Participant courts shall meet and confer periodically during the life of this program at mutually agreeable times and dates to review program procedures and effectiveness.
- L. **TERMINATION AND NOTICE:** Any court participating in this program may terminate its participation upon thirty-days written notice to the remaining participant courts. The termination by any one court shall not affect the rights of the remaining participants under this program. Any notice or other communication shall be sufficient if it is in writing and/or by electronic submission.

Signed below in our official capacity as judges of the respective courts.

Judge David Larson, Presiding
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Date: _____

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Date: _____

Judge Anthony Gipe
Kent Municipal Court
Date: _____

Judge Pauline Freund, Presiding
SeaTac Way Municipal Court
Date: _____

Judge Kimberly Walden, Presiding
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Date: _____

Judge L. Stephen Rochon, Presiding
Maple Valley Municipal Court
Date: _____

Judge Lisa Leone, Presiding
Des Moines Municipal Court
Date: _____

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Draft Ordinance No. 22-043,
amending DMMC 9.68.070 to update
references to civil protection order
violations

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: August 18, 2022

ATTACHMENTS:

1. Draft Ordinance No. 22-043

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal /s/ TG
- Finance ____
- Courts ____
- Police ____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider proposed Draft Ordinance 22-043 that would adopt by reference sections in RCW chapter 7.105 criminalizing civil court order violations formerly contained in the newly-repealed RCW 26.50.110.

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 22-043 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 22-043, amending DMMC 9.68.070 to adopt by reference certain RCW sections relating to criminal violations of court orders."

Background

In an effort to clarify and simplify the civil protection order process, the state legislature recently enacted Engrossed Second Substitute House Bill 1320 that recodified Ch. 26.50 RCW into Ch. 7.105 RCW. One unforeseen consequence of this recent legislation is that cities that have adopted the crimes found in Ch. 26.50 RCW are now defending challenges made by defense attorneys that the crimes are not appropriately adopted to allow for their enforcement in municipal court.

Although the City of Des Moines has a broad “catch-all” “all in DMMC 9.04.020(c) that states:

RCW sections that constitute misdemeanors and gross misdemeanors and the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement, and enforcement of misdemeanors and gross misdemeanors ... as currently enacted, as hereafter amended, as subsequently adopted, *or recodified.*”

out of an abundance of caution and to eliminate this potential defense, the legal department is asking the Council to update the DMMC to reflect the updated RCW citations.

Discussion

Violations of civil court protection orders, particularly domestic violence protection orders but also stalking protection orders, sexual assault protection orders, and anti-harassment orders have been a criminal violation of the Des Moines Municipal Code for decades, and the prosecution of these offenses has been a priority for the City Attorney’s office. The action of the Legislature to repeal the statute criminalizing violations and to reenact the same prohibitions in a different RCW title does nothing to change this.

The effect of this draft ordinance is simply to continue to define the same behavior that was illegal when it was defined in RCW 26.50.110 as an offense against the City that can be charged in the Municipal Court. Adopting this draft ordinance does not represent a change in the status quo. Rather, it is maintaining the Council’s existing policy. In short, the Legislature has moved the violations to a different Title, and this ordinance is being updated to reference the new location.

Alternatives

The Council may:

1. Pass the Draft Ordinance as presented.
2. Pass the Draft Ordinance with amendments.
3. Decline to pass the Draft Ordinance. If the Council does not adopt these amendments and Court were to decline jurisdiction, the only recourse would be to contract with King County to prosecute, adjudicate, sentence, and incarcerate the defendant at the City’s cost, through an interlocal agreement.

Financial Impact

The City is responsible for the costs of prosecution, adjudication, sentencing, and incarceration for violations of non-felony civil court order violations occurring in the City, whether or not this draft ordinance is adopted. Should the Council decline to adopt the draft ordinance and should the

Municipal Court decline jurisdiction for these charges, however, the City would need to contract with King County to provide the services through an interlocal agreement at a higher cost than had the cases been prosecuted in the Municipal Court.

Recommendation or Conclusion

Staff recommends approval of the proposed Draft Ordinance.

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CITY ATTORNEY'S FIRST DRAFT 08/18/2022

DRAFT ORDINANCE NO. 22-043

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety, adopting by reference certain RCW sections relating to criminal violations of court orders, and amending DMMC 9.68.070.

WHEREAS, Article XI Section 11 of the Washington State Constitution authorizes Cities to establish such crimes as necessary to protect the public safety, health, and welfare, so long as said crimes do not conflict with state law, and

WHEREAS, the Legislature has authorized Code Cities such as Des Moines to adopt and enforce misdemeanors and gross misdemeanors as appropriate to good government of the City through RCW 35A.11.020, and

WHEREAS, Code Cities may adopt by reference Washington state statutes per RCW 35A.21.180, and

WHEREAS, Title 9 of the Des Moines Municipal Code identifies certain criminal violations designed to provide for public health, welfare and safety within the City, and

WHEREAS, domestic violence offenses are among the most significant criminal violations of City code in terms of both seriousness and impact to the victims and community, and

WHEREAS, the City Council of the City of Des Moines has previously adopted by reference certain sections of RCW chapter 26.50 relating to violations of Domestic Violence Protection Orders and other civil protection orders issued by courts through Ordinance no. 1036, as amended by Ordinance 1604, and

WHEREAS, the Legislature enacted Engrossed Second Substitute House Bill 1320 in 2021 in an attempt to streamline and harmonize the various civil protection order statutes in order to clarify and simplify the process for petitioners, respondents, law enforcement, and courts, and

WHEREAS, section 170 of ESSHB 1320 repealed chapter 26.50 in its entirety, with the exception of two sections not adopted by the City, effective July 1, 2022, and

WHEREAS, ESSHB 1320 enacted a new RCW chapter 7.105, including new RCW sections that continue to define a violation of civil protection orders as a crime, and

WHEREAS, adopting these new sections of RCW chapter 7.105 will define the order violations previously made illegal by RCW 26.50.110 a crime against the City of Des Moines, and

WHEREAS, notwithstanding that DMMC 9.04.020, enacted by the City Council in Ordinance no. 1036, as amended by Ordinance no. 1604, adopts all RCW sections that constitute misdemeanors and gross misdemeanors as crimes against the City of Des Moines, including the newly enacted criminal violations contained in RCW chapter 7.105, and

WHEREAS, the City Council finds that the seriousness of order violations merits affirmatively adopting the criminal provisions of RCW chapter 7.105 to ensure violators may be promptly and effectively prosecuted in the Des Moines Municipal Court, and

WHEREAS, the City Council finds that adoption of this Ordinance is appropriate and necessary for the preservation of the public health and welfare; now therefore,

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

Sec. 1. DMMC 9.68.070 and section 78 of Ordinance No. 1036, as amended by section 30 Ordinance No. 1604 are each amended to read as follows:

Domestic Violence.

The following state statutes are adopted by reference and are applicable within the city:

RCW

10.99.020 Definitions.

10.99.030 Law enforcement officers - Training, powers, duties - Domestic violence reports.

- 10.99.040 Duties of court - No contact orders.
- 10.99.045 Appearances by defendant - Defendant's history - No contact order.
- 10.99.050 Restriction, prohibition - Violation, penalties - Written order - Procedures - Notice of change.
- 10.99.055 Enforcement of orders.
- 10.99.060 Prosecutor's notice to victim - Description of available procedures.
- 10.99.070 Liability of peace officers.

~~26.50.010 Definitions.~~

~~26.50.020 Commencement of action - Jurisdiction - Venue.~~

~~26.50.030 Petition for an order for protection - Availability of forms and instructional brochures - Bond not required.~~

~~26.50.040 Fees not permitted - Filing, service of process, certified copies.~~

~~26.50.050 Hearing - Service - Time.~~

~~26.50.060 Relief - Duration - Realignment of designation of parties - Award of costs, service fees, and attorney's fees.~~

~~26.50.070 Ex parte temporary order for protection.~~

~~26.50.080 Issuance of order - Assistance of peace officer - Designation of appropriate law enforcement agency.~~

~~26.50.090 Order - Service - Fees.~~

~~26.50.100 Order - Transmittal to law enforcement agency - Record in law enforcement information system - Enforceability.~~

~~26.50.110 Violation of order Penalties.~~

~~26.50.120 Violation of order Prosecuting attorney or attorney for municipality may be requested to assist Costs and attorney's fee.~~

~~26.50.130 Order for protection Modification or termination Service Transmittal.~~

~~26.50.140 Peace officers Immunity.~~

7.105.010 Definitions.

7.105.450 Enforcement and penalties-Other than antiharassment protection orders and extreme risk protection orders.

7.105.455 Enforcement and penalties-Antiharassment protection orders.

7.105.460 Enforcement and penalties-Extreme risk protection orders-False petitions.

7.105.550 Orders under this and other chapters-Enforcement and consolidation-Validity and enforcement of orders under prior chapters.

Sec. 2. Severability - Construction.

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

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

Sec. 3. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

Ordinance No. ____
Page 5 of 5

PASSED BY the City Council of the City of Des Moines this
____ day of August, 2022 and signed in authentication thereof this
____ day of August, 2022.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Washington State Opioid Distributor Settlement

FOR AGENDA OF: August 25, 2022

DEPT. OF ORIGIN: Legal

ATTACHMENTS:

1. Letter from Attorney General Bob Ferguson regarding Opioid Settlement
2. Subdivision Settlement Participation Form
3. Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State

DATE SUBMITTED: August 18, 2022

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

Legal TG

Finance [Signature]

Courts ____

Police ____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: [Signature]

Purpose

The purpose of this agenda item is for the City Council to authorize participation in the Washington State Opioid Distributor Settlement Agreement and to execute agreements necessary to participate in the settlement.

Suggested Motion

Motion 1: "I move to approve the City of Des Moines' participation in the Washington State Opioid Distributor Settlement Agreement and to direct the City Manager to sign the attached Settlement Participation Form and the Allocation Agreement substantially in the form as attached."

Background

In May of 2022, the City Council approved entry into the One Washington Memorandum of Understanding that provided a preliminary framework for the settlement of a lawsuit brought on behalf of local jurisdictions against pharmaceutical companies that contributed to the opioid crisis. Since that time, the Attorney General of the State of Washington has entered into a settlement agreement on behalf of the State which requires approval by local jurisdictions of several forms.

According to the State Attorney General’s office, prescriptions and sales of opioids in Washington increased more than 500% between 1997 and 2011, a major driver in the opioid epidemic that has imposed severe economic and social costs locally and nationwide. In 2011, at the peak of overall sales in Washington, more than 112 million daily doses of all prescription opioids were dispensed in the state — enough for a 16-day supply for every woman, man and child in Washington. At one time, there were sixteen Washington counties in which there were more prescriptions than people. Between 2006 and 2021, opioid overdoses killed more than 11,800 Washingtonians, more than were killed by car accidents or firearms. The majority of drug overdose deaths in Washington State involve opioids. Opioids are also devastating families. A 2018 internal survey of Washington State Assistant Attorneys General handling child abuse and neglect cases revealed that nearly half of their child dependency cases and about 40 percent of parental rights termination cases are impacted by opioids.

In 2019, the state of Washington filed a lawsuit against the three largest distributors of prescription opioids in Washington State, alleging that they failed to alert law enforcement of suspicious opioid orders, and illegally shipped those orders into Washington for years, and contributed to the illegal supply of opioids, fueling the state’s opioid epidemic. Between 2006 and 2014, the three companies, McKesson Corp., Cardinal Health Inc., and AmerisourceBergen Drug Corp., supplied more than 2 billion opioid pills to Washington, allegedly in disregard of their legal responsibility to monitor the size and frequency of prescription opioid orders to identify suspicious orders that could be diverted into the illegal drug market. Distributors are required to stop these suspicious shipments and report them to the federal Drug Enforcement Agency (DEA).

The state rejected a proposed national settlement by the three companies and proceeded to trial in November 2021. In May of 2022, the state Attorney General announced a resolution in principle to settle the case that would require the companies to pay \$518 million over 17 years to the state, cities that participated in the lawsuit, and other jurisdictions over 10,000 population to compensate for the damage caused by these companies’ actions. This represents an increase of \$46 million over what was proposed in the settlement accepted by 48 states.

The tentative settlement agreement requires that all of the participating jurisdictions and 90% of the other qualified jurisdictions accept the agreement in writing by September 23, 2022. Failure to meet this deadline will allow the companies to opt out of the agreement.

Discussion

Des Moines, having a population in excess of 10,000, stands to receive proceeds of the settlement and is included among the pool of jurisdictions where 90% must accept the settlement to lock in the settlement. It is estimated that the City of Des Moines’ share of the disbursement will be up to approximately \$253,000 over 17 years, less attorney fees, according to the schedule set out in the agreement. The first payment is scheduled to occur December 1, 2022.

The funds must be used for certain purposes related to combating the opioid epidemic that are specified in the settlement agreement. These strategies can include:

- Supporting treatment programs
- Support to pregnant and postpartum women with opioid use disorder (“OUD”)
- Treatment and recovery support for incarcerated persons

- Prevention programs
- Connection to support services
- Harm reduction strategies
- Support for first responders

The City may spend the funds itself or may partner with the King County Regional Council that will be created to pool and administer settlement funds.

Failing to accept the settlement will be a rejection of the funds that would be allocated to the City under the agreement. Rejection of the agreement may also jeopardize the settlement for the state and the other jurisdictions entitled to funds under the settlement, which will contribute statewide and locally to efforts to combat the opioid epidemic.

The Subdivision Settlement Agreement is official acceptance by the City of Des Moines of the settlement with the three companies and joining the pool of beneficiaries of the settlement proceeds. The Allocation agreement finalizes the terms of the distribution between the state and the participating cities. Signing both is required for Des Moines to receive its distribution from the settlement. This settlement does not affect future settlements or judgments related to suits the state has brought against other opioid distributors.

Alternatives

The Council may:

1. Approve participation in the settlement agreement.
2. Decline to participate. (not recommended) In rejecting the settlement, the City would technically retain the right to pursue its own suits against the companies, but such suits would be extremely costly and specific damages to the City may be difficult to establish at trial. Some or all claims may be foreclosed by applicable statutes of limitation as well. It is extremely unlikely the City would be able to recover damages equal to or greater than that available under the settlement.

Financial Impact

Approval and execution of this agreement will allow the City to receive up to approximately \$253,000, minus attorney fees, which may be used for to combat the opioid epidemic in our community.

Recommendation or Conclusion

Staff recommends approval of the agreement as presented.

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Attachment #1

Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE – PO Box 40100 – Olympia, WA 98504-0100

July 14, 2022

RE: *Opioid Settlement*

Dear Local Elected Leaders:

One of my highest priorities as Attorney General has been to address the opioid crisis that has devastated so many communities and families throughout our state. I know you are already familiar with how destructive the opioid epidemic has been for Washington, and I am grateful for all you've already done to confront the many challenges it presents.

After two years of litigation and a lengthy trial against the three largest pharmaceutical distributors in the nation, my office recently entered into a settlement agreement in which the defendants have agreed to pay \$518 million over 17 years if all conditions are met. These funds will provide much needed resources and assistance to deal with this crisis.

You and your colleagues will have discretion to earmark a significant portion of this settlement to combat the opioid epidemic in your communities.

For the distributor settlement agreement to become effective, we must have sign on to the settlement from (1) all jurisdictions in our state that filed a lawsuit against the distributors and (2) 90% of jurisdictions with a population of over 10,000 that did not file a lawsuit. This structure is similar to the arrangement that 48 other states and local governments have entered into with opioid distributors. Importantly, no group of litigating or non-litigating jurisdictions has decided not to approve the national settlement, and this resolution will bring tens of millions more to our communities.

As a non-litigating jurisdiction, your participation in the settlement agreement is crucial to ensure we receive the funding necessary to provide additional resources to providers and treatment to individuals who desperately need our help. If we do not receive the requisite participation by the local governments, we will not receive the \$518 million to help Washington combat the opioid epidemic.

Your jurisdiction can sign on by executing and returning the enclosed Participation Form. **We have a deadline of Friday, September 23, 2022 for local government approval.**

Please return the completed Participation Form to: comopioidscases@atg.wa.gov

ATTORNEY GENERAL OF WASHINGTON

Local Elected Leaders
July 14, 2022
Page 2

Thank you for all you have already done to address the opioid crisis in our state. I urge you to sign on to the settlement agreement as soon as possible to allow us to begin distributing these funds promptly and get additional treatment and support to those who need it most.

Here are links to Washington's settlement with the distributors and the national distributor settlement, which is an exhibit to Washington's settlement:

- [Washington Distributor settlement](#)
- [National Distributor Settlement](#)

Our office has recovered a total of more than \$730 million from opioid litigation, including \$183 million in recoveries from Purdue Pharma, more than \$18 million from Mallinckrodt, and \$13.5 million from McKinsey to address harms from the opioid crisis. This includes \$159 million in additional resources because we rejected national settlements involving Purdue Pharma and the distributors and took those corporations to court.

If you have any questions, please contact Jeff Rupert, Chief of my Complex Litigation Division at 206-389-2116 or Jeffrey.Rupert@atg.wa.gov.

Sincerely,



BOB FERGUSON
Attorney General

RWF/jlg
Encl.

Exhibit F
Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated May 2, 2022 (“*Distributors Washington Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Distributors Washington Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributors Washington Settlement, including the Distributor Global Settlement Agreement dated July 21, 2021 (“*Global Settlement*”) attached to the Distributors Washington Settlement as Exhibit H, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributors Washington Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of October 1, 2022 and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
4. The Governmental Entity agrees to the terms of the Distributors Washington Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the terms of the Distributors Washington Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after December 1, 2022.
6. The Governmental Entity agrees to use any monies it receives through the Distributors Washington Settlement solely for the purposes provided therein.
7. The Governmental Entity submits to the jurisdiction of the Washington Consent Judgment Court for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Distributors Washington Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the Distributors Washington Settlement.

8. The Governmental Entity has the right to enforce the Distributors Washington Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributors Washington Settlement, including, but not limited to, all provisions of Section XI of the Global Settlement, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributors Washington Settlement are intended by the Agreement Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributors Washington Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributors Washington Settlement.
11. In connection with the releases provided for in the Distributors Washington Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date the Distributors Washington Settlement becomes effective pursuant to Section II.B of the Distributors Washington Settlement, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributors Washington Settlement.

12. Nothing herein is intended to modify in any way the terms of the Distributors Washington Settlement, to which Governmental Entity hereby agrees. To the extent this Participation Form is worded differently from Exhibit F to the Distributors Washington Settlement or interpreted differently from the Distributors Washington Settlement in any respect, the Distributors Washington Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

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**ALLOCATION AGREEMENT GOVERNING THE ALLOCATION OF FUNDS PAID
BY THE SETTLING OPIOID DISTRIBUTORS IN WASHINGTON STATE**

AUGUST 8, 2022

This Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State (the “Allocation Agreement”) governs the distribution of funds obtained from AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation (the “Settling Distributors”) in connection with its resolution of any and all claims by the State of Washington and the counties, cities, and towns in Washington State (“Local Governments”) against the Settling Distributors (the “Distributors Settlement”). The Distributors Settlement including any amendments are attached hereto as Exhibit 1.

1. This Allocation Agreement is intended to be a State-Subdivision Agreement as defined in Section I.VVV of the Global Settlement (the “Global Settlement”), which is Exhibit H of the Distributors Settlement. This Allocation Agreement shall be interpreted to be consistent with the requirements of a State-Subdivision Agreement in the Global Settlement.
2. This Allocation Agreement shall become effective only if all of the following occur:
 - A. All Litigating Subdivisions in Washington and 90% of Non-Litigating Primary Subdivisions in Washington as the terms are used in Section II.C.1 of the Distributors Settlement must execute and return the Subdivision Settlement Participation Form, Exhibit F of the Distributors Settlement (the “Participation Form”) by **September 23, 2022**. This form is also attached hereto as Exhibit 2.
 - B. The Consent Judgment and Stipulation of Dismissal with Prejudice, Exhibit G of the Distributors Settlement, is filed and approved by the Court.
 - C. The number of Local Governments that execute and return this Allocation Agreement satisfies the participation requirements for a State-Subdivision Agreement as specified in Exhibit O of the Global Settlement.
3. Requirements to become a Participating Local Government. To become a Participating Local Government that can participate in this Allocation Agreement, a Local Government must do all of the following:
 - A. The Local Government must execute and return this Allocation Agreement.
 - B. The Local Government must release their claims against the Settling Distributors and agree to be bound by the terms of the Distributors Settlement by timely executing and returning the Participation Form. This form is attached hereto as Exhibit 2.

- C. Litigating Subdivisions must dismiss the Settling Distributors with prejudice from their lawsuits. The Litigating Subdivisions are listed on Exhibit B of the Distributors Settlement.
- D. The Local Government must execute and return the One Washington Memorandum of Understanding Between Washington Municipalities (“MOU”) agreed to by the Participating Local Governments in Washington State, which is attached hereto as Exhibit 3. As specified in Paragraph 10.A of this Allocation Agreement, the Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only.

A Local Government that meets all of the conditions in this paragraph shall be deemed a “Participating Local Government.” Alternatively, if the requirements of Paragraphs 2(A), 2(B), and 2(C) of this Allocation Agreement are satisfied and this Allocation Agreement becomes effective, then all Local Governments that comply with Paragraph 3(B) of this Allocation Agreement shall be deemed a “Participating Local Government.”

- 4. This Allocation Agreement applies to the Washington Abatement Amount as defined in Section IV.A of the Distributors Settlement. The maximum possible Washington Abatement Amount for the Distributors Settlement is \$430,249,769.02. As specified in the Global Settlement, the Washington Abatement Amount varies dependent on the percentage of Primary Subdivisions that choose to become Participating Local Governments and whether there are any Later Litigating Subdivisions as defined in Section I.EE of the Global Settlement.
- 5. This Allocation Agreement does not apply to the Washington Fees and Costs as defined in Section V of the Distributors Settlement. After satisfying its obligations to its outside counsel for attorneys’ fees and costs, the State estimates that it will receive approximately \$46 million for its own attorneys’ fees and costs pursuant to Section V.B.1 of the Distributors Settlement. The State shall utilize any and all amounts it receives for its own attorneys’ fees and costs pursuant to Section V.B.1 of the Distributors Settlement to provide statewide programs and services for Opioid Remediation as defined in Section I.SS of the Global Settlement.
- 6. While this Allocation Agreement does not apply to the Washington Fees and Costs as defined in Section V of the Distributors Settlement, Section V.B.2 of the Distributors Settlement estimates that the Settling Distributors shall pay \$10,920,914.70 to Participating Litigating Subdivisions’ attorneys for fees and costs. The actual amount may be greater or less. This Allocation Agreement and the MOU are a State Back-Stop Agreement. The total contingent fees an attorney receives from the Contingency Fee Fund pursuant to Section II. D in Exhibit R the Global Settlement, the MOU, and this Allocation Agreement combined cannot exceed 15% of the portion of the LG Share paid to the Litigating Local Government that retained that firm (i.e., if City X filed suit with outside counsel

on a contingency fee contract and City X receives \$1,000,000 from the Distributors Settlement, then the maximum that the firm can receive is \$150,000 for fees.)

7. No portion of the Washington Fees and Costs as defined in Section V of the Distributors Settlement and/or the State Share as defined in Paragraph 8.A of this Allocation Agreement shall be used to fund the Government Fee Fund (“GFF”) referred to in Paragraph 10 of this Allocation Agreement and Section D of the MOU, or in any other way to fund any Participating Local Government’s attorneys’ fees, costs, or common benefit tax other than the aforementioned payment by the Settling Distributors to Participating Litigating Subdivisions’ attorneys for fees and costs in Section V.B.2 of the Distributors Settlement.
8. The Washington Abatement Amount shall and must be used by the State and Participating Local Governments for Opioid Remediation as defined in Section I.SS of the Global Settlement, except as allowed by Section V of the Global Settlement. Exhibit 4 is a non-exhaustive list of expenditures that qualify as Opioid Remediation. Further, the Washington Abatement Amount shall and must be used by the State and Participating Local Governments as provided for in the Distributors Settlement.
9. The State and the Participating Local Governments agree to divide the Washington Abatement Amount as follows:
 - A. Fifty percent (50%) to the State of Washington (“State Share”).
 - B. Fifty percent (50%) to the Participating Local Governments (“LG Share”).
10. The LG Share shall be distributed pursuant to the MOU attached hereto as Exhibit 3 as amended and modified in this Allocation Agreement.
11. For purposes of this Allocation Agreement only, the MOU is modified as follows and any contrary provisions in the MOU are struck:
 - A. The MOU is amended to add new Section E.6, which provides as follows:

A Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only. If a Local Government executes the MOU for purposes of this Allocation Agreement only, then the MOU will only bind such Local Government and be effective with respect to this Allocation Agreement and the Distributors Settlement, and not any other Settlement as that term is defined in Section A.14 of the MOU. To execute the MOU for purposes of this Allocation Agreement only, the Local Government may either (a) check the applicable box on its signature page of this Allocation Agreement that is returned or (b) add language below its signature lines in the MOU that is returned indicating that the Local Government is executing or has

executed the MOU only for purposes of the Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State.

- B. Exhibit A of the MOU is replaced by Exhibit E of the Global Settlement, which is attached as Exhibit 4 to this Agreement.
- C. The definition of “Litigating Local Governments” in Section A.4 of the MOU shall mean Local Governments that filed suit against one or more of the Settling Defendants prior to May 3, 2022. The Litigating Local Governments are listed on Exhibit B of the Distributors Settlement, and are referred to as Litigating Subdivisions in the Distributors Settlement.
- D. The definition of “National Settlement Agreement” in Section A.6 of the MOU shall mean the Global Settlement.
- E. The definition of “Settlement” in Section A.14 of the MOU shall mean the Distributors Settlement.
- F. The MOU is amended to add new Section C.4.g.vii, which provides as follows:

“If a Participating Local Government receiving a direct payment (a) uses Opioid Funds other than as provided for in the Distributors Settlement, (b) does not comply with conditions for receiving direct payments under the MOU, or (c) does not promptly submit necessary reporting and compliance information to its Regional Opioid Abatement Counsel (“Regional OAC”) as defined at Section C.4.h of the MOU, then the Regional OAC may suspend direct payments to the Participating Local Government after notice, an opportunity to cure, and sufficient due process. If direct payments to Participating Local Government are suspended, the payments shall be treated as if the Participating Local Government is foregoing their allocation of Opioid Funds pursuant to Section C.4.d and C.4.j.iii of the MOU. In the event of a suspension, the Regional OAC shall give prompt notice to the suspended Participating Local Government and the Settlement Fund Administrator specifying the reasons for the suspension, the process for reinstatement, the factors that will be considered for reinstatement, and the due process that will be provided. A suspended Participating Local Government may apply to the Regional OAC to be reinstated for direct payments no earlier than five years after the suspension.”

- G. Consistent with how attorney fee funds for outside counsel for Participating Local Subdivisions are being administered in most states across the country, the Government Fee Fund (“GFF”) set forth in the

MOU shall be overseen by the MDL Fee Panel (David R. Cohen, Randi S. Ellis and Hon. David R. Herndon (ret.)). The Fee Panel will preside over allocation and disbursement of attorney's fees in a manner consistent with the *Motion to Appoint the Fee Panel to Allocate and Disburse Attorney's Fees Provided for in State Back-Stop Agreements* and the *Order Appointing the Fee Panel to Allocate and Disburse Attorney's Fees Provided for in State Back-Stop Agreements*, Case No. 1:17-md-02804-DAP Doc #: 4543 (June 17, 2022).

- H. The GFF set forth in the MOU shall be funded by the LG Share of the Washington Abatement Amount only. To the extent the common benefit tax is not already payable by the Settling Distributors as contemplated by Section D.8 of the MOU, the GFF shall be used to pay Litigating Local Government contingency fee agreements and any common benefit tax referred to in Section D of the MOU, which shall be paid on a pro rata basis to eligible law firms as determined by the Fee Panel.
- I. To fund the GFF, fifteen percent (15%) of the LG Share shall be deposited in the GFF from each LG Share settlement payment until the Litigating Subdivisions contingency fee agreements and common benefit tax (if any) referred to in Section D of the MOU are satisfied. Under no circumstances will any Non-Litigating Primary Subdivision or Litigating Local Government be required to contribute to the GFF more than 15% of the portion of the LG Share allocated to such Non-Litigating Primary Subdivision or Litigating Local Government. In addition, under no circumstances will any portion of the LG Share allocated to a Litigating Local Government be used to pay the contingency fees or litigation expenses of counsel for some other Litigating Local Government.
- J. The maximum amount of any Litigating Local Government contingency fee agreement (from the Contingency Fee Fund pursuant to Section II. D in Exhibit R the Global Settlement) payable to a law firm permitted for compensation shall be fifteen percent (15%) of the portion of the LG Share paid to the Litigating Local Government that retained that firm (i.e., if City X filed suit with outside counsel on a contingency fee contract and City X receives \$1,000,000 from the Distributors Settlement, then the maximum that the firm can receive is \$150,000 for fees.) The firms also shall be paid documented expenses due under their contingency fee agreements that have been paid by the law firm attributable to that Litigating Local Government. Consistent with the Distributors Settlement and Exhibit R of the Global Settlement, amounts due to Participating Litigating Subdivisions' attorneys under this Allocation Agreement shall not impact (i) costs paid by the subdivisions to their attorneys pursuant to a State Back-Stop agreement, (ii) fees paid to subdivision attorneys from the Common Benefit Fund for common benefit work performed by the attorneys pursuant to Section II.C of Exhibit R of the Global Settlement, or (iii) costs paid to subdivision attorneys from the MDL Expense Fund

for expenses incurred by the attorneys pursuant to Section II.E of the Global Settlement.

- K. Under no circumstances may counsel receive more for its work on behalf of a Litigating Local Government than it would under its contingency agreement with that Litigating Local Government. To the extent a law firm was retained by a Litigating Local Government on a contingency fee agreement that provides for compensation at a rate that is less than fifteen percent (15%) of that Litigating Local Government's recovery, the maximum amount payable to that law firm referred to in Section D.3 of the MOU shall be the percentage set forth in that contingency fee agreement.
 - L. For the avoidance of doubt, both payments from the GFF and the payment to the Participating Litigating Local Governments' attorneys for fees and costs referred to in Paragraph 6 of this Allocation Agreement and Section V.B.2 Distributors Settlement shall be included when calculating whether the aforementioned fifteen percent (15%) maximum percentage (or less if the provisions of Paragraph 10.K of this Allocation Agreement apply) of any Litigating Local Government contingency fee agreement referred to above has been met.
 - M. To the extent there are any excess funds in the GFF, the Fee Panel and the Settlement Administrator shall facilitate the return of those funds to the Participating Local Governments as provided for in Section D.6 of the MOU.
12. In connection with the execution and administration of this Allocation Agreement, the State and the Participating Local Governments agree to abide by the Public Records Act, RCW 42.56 *eq seq.*
 13. All Participating Local Governments, Regional OACs, and the State shall maintain all non-transitory records related to this Allocation Agreement as well as the receipt and expenditure of the funds from the Distributors Settlement for no less than five (5) years.
 14. If any party to this Allocation Agreement believes that a Participating Local Government, Regional OAC, the State, an entity, or individual involved in the receipt, distribution, or administration of the funds from the Distributors Settlement has violated any applicable ethics codes or rules, a complaint shall be lodged with the appropriate forum for handling such matters, with a copy of the complaint promptly sent to the Washington Attorney General, Complex Litigation Division, Division Chief, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104.
 15. To the extent (i) a region utilizes a pre-existing regional body to establish its Opioid Abatement Council pursuant to the Section 4.h of the MOU, and (ii) that

pre-existing regional body is subject to the requirements of the Community Behavioral Health Services Act, RCW 71.24 *et seq.*, the State and the Participating Local Governments agree that the Opioid Funds paid by the Settling Distributors are subject to the requirements of the MOU and this Allocation Agreement.

16. Upon request by the Settling Distributors, the Participating Local Governments must comply with the Tax Cooperation and Reporting provisions of the Distributors Settlement and the Global Settlement.
17. Venue for any legal action related to this Allocation Agreement (separate and apart from the MOU, the Distributors Settlement, or the Global Settlement) shall be in King County, Washington.
18. Each party represents that all procedures necessary to authorize such party's execution of this Allocation Agreement have been performed and that such person signing for such party has been authorized to execute this Allocation Agreement.

FOR THE STATE OF WASHINGTON:

ROBERT W. FERGUSON
Attorney General

JEFFREY G. RUPERT
Division Chief

Date: _____

FOR THE PARTICIPATING LOCAL GOVERNMENT:

Name of Participating Local Government: _____

Authorized signature: _____

Name: _____

Title: _____

Date: _____

A Local Government may elect in its discretion to execute the MOU for purposes of this Allocation Agreement only by checking this box (see Paragraph 10.A of this Allocation Agreement):

Local Government is executing the MOU in the form attached hereto as Exhibit 3, but which is further amended and modified as set forth in this Allocation Agreement, only for purposes of this Allocation Agreement.

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Cash Handling Policy

FOR AGENDA OF: August 25, 2022

ATTACHMENTS:

1. Draft Resolution No. 22-044
2. Exhibit A – Cash Handling Policy

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: August 15, 2022

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

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

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

Purpose and Recommendation

The purpose of this agenda item is for the City Council to authorize a policy for cash handling. The following motion will appear on the consent calendar:

Suggested Motion

Motion 1: “I move to adopt Draft Resolution No. 22-044 establishing a cash handling policy for the City.”

Background

The Washington State Auditor’s Office (SAO) issued a finding to the City on December 4, 2020 for a lack of adequate internal controls over cash receipting in the Parks, Recreation, and Senior Services Department. According to the SAO, “City management is responsible for designing, implementing, and maintaining internal controls to provide reasonable assurance public resources are safeguarded against misappropriation or loss.”

Discussion

To design a policy that strengthens the City’s internal controls related to cash receipting, the Finance Department researched best practices including a review of the Cash Handling Training Manual by the Association of Public Treasurers of the United States and Canada. The Finance Department also reviewed various municipal cash handling policies implemented by other cities.

The recommended policy strengthens the City’s internal controls by establishing processes for cash receipting that include segregation of duties and instructions for securely storing cash. The policy also establishes the action to be taken when a loss is identified, and the proper treatment of non-City funds.

Alternatives

The Council could choose not to approve the recommended cash handling policy.

Financial Impact

There is no financial cost to adopting the cash handling policy.

Recommendation

Staff recommends approval of the motion.

Council Committee Review

CITY ATTORNEY'S FIRST DRAFT 08/18/2022

DRAFT RESOLUTION NO. 22-044

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

WHEREAS, the City regularly receives cash in payment for a variety of transactions, and

WHEREAS, the Washington State Auditor's Office issued the City a finding in 2020 for lack of adequate internal control over cash receipting in the Parks, Recreation and Senior Services Department, and

WHEREAS, the City is required to perform corrective action and strengthen its internal controls related to cash receipting, and

WHEREAS, City staff conducted research into best practices and cash handling policies implemented by other cities which have been incorporated into the City of Des Moines Cash Handling Policy, and

WHEREAS, this policy aims to reduce the risk of fraud and waste of City resources by implementing procedures to safeguard the City's cash receipts, and

WHEREAS, the City Council finds that adoption of this policy is necessary and proper to safeguard taxpayer funds; now therefore,

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

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

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

Resolution No. ____
Page 2 of 2

ADOPTED BY the City Council of the City of Des Moines, Washington this ____ day of August, 2022 and signed in authentication thereof this ____ day of August, 2022.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

EXHIBIT A

CASH HANDLING POLICY

I. PURPOSE

The purpose of this cash handling policy is to provide all City departments with guidelines for handling cash when it is received. This policy establishes proper internal controls for cash handling in order to limit the City's losses as well as the City's involvement in investigations of losses of funds. This policy provides information on how and when to collect and secure payments in accordance with legal and policy requirements. All cash collection processes shall be performed within the delegated scope of authority and in compliance with all Federal, State, and City laws, regulations, and policies.

II. CASH MANAGEMENT CITY-WIDE

The City has instituted this policy to safeguard the resources received and manage those resources according to their intended purposes. This policy is designed to protect against theft, fraud, loss or unauthorized use of cash or cash equivalents that the City has received. The policy should enhance the accuracy and reliability of the City's financial records by reducing the risk of errors and irregularity in the accounting process. The City's financial records shall report cash flows and cash balances in an accurate and timely manner.

III. DEFINITIONS

- A. **Cash** – any device that stores value and can be transferred between parties through a mutually agreed medium of exchange. In day-to-day business operations performed by City departments, “cash” is received in the forms of:
- Coins and bills (US Currency)
 - Checks (personal checks, cashier's checks, money orders)
- B. **Cash handling** – As used in this policy statement, describes the receiving, transmitting, safeguarding, and depositing of all funds of any type received by the City.
- C. **Cash handler** – As used in this policy statement, denotes any employee whose job description includes responsibility for receiving, transmitting, safeguarding, and/or depositing of City funds of any type.

- D. **Overage/Shortage** – A cash handler is short when an unintentional collection error is made, i.e. does not obtain physical custody of money or a change-making error. A cash handler is over when too much money is collected and the excess cannot immediately be returned to the customer.
- E. **Loss** – A cash handler has obtained physical custody of money and then due to reasons like negligence, an act of God or an unlawful action, loses custody of the money and cannot deposit that money in the bank.

IV. DELEGATION OF AUTHORITY

The Finance Director is authorized to promulgate rules for establishing procedures for the receipt, handling and deposit by City officers and employees of City cash into City bank accounts.

V. GENERAL CASH CONTROLS

- A. Cash drawers should be locked when left unattended by the cash handler.
- B. To the extent staffing levels permit, separation of duties from the function of custodian of cash balances and the accounting of record keeping of the same shall be maintained.
- C. Cash received by cash handlers should be kept in a cash bag when not being used in a cash drawer. Cash bags should be kept in a safe until the monies are deposited.
- D. If checks are received regularly in the mail or in a drop box, two persons should be present (ideally) when the mail is opened.
- E. A random cash drawer audit may be conducted under the direction of the Finance Director.

VI. CASH RECEIPTING

- A. A permanent collection record or log (preferably electronic) should be kept of all monies received and transactions including voids, refunds, or cancels. The record should contain the amount received, the name of the payer, and the purpose of the payment as well as its form (cash or check). This requirement can be fulfilled by cashiering systems that retain this information. Cash register tapes are also sufficient.
- B. Upon setting up the cash drawer, the beginning dollar amount should be verified through an opening count.
- C. Currency and coin should be arranged in a consistent manner.

- D. Checks should be restrictively endorsed immediately upon receipt. For example, "For Deposit Only – City of Des Moines, WA".
- E. Each check shall be inspected to ensure the following:
 - a. Current date (postdated checks shall not be accepted)
 - b. Proper signature
 - c. No alterations
 - d. Bank name and routing number printed on check
 - e. If temporary check, payer's name and address written on check
 - f. Not a third party check
 - g. Written amount matches numeric amount
- F. No checks shall be cashed.
- G. Receipts should be physically safeguarded during the operating day and secured in a safe or vault overnight. Access to the cashing area should be appropriately restricted whenever possible.
- H. Cash registers and credit card machines should be balanced daily.
- I. Deposits should be made within 24 hours unless amounts are insignificant (less than \$100) or the Finance Director has granted a written waiver of the 24 hour deposit requirement.
- J. Electronic check scanners should be used to deposit checks into the City's bank accounts.
- K. Occasionally a deposited check may not clear the bank for one or several reasons; such as non-sufficient funds, account closed, stop payment, funds held, stolen checks, forgery, endorsement, or signature. The Finance Department is responsible for collections with cooperation from the receipting department.
- L. The Finance Director has the authority to refuse the acceptance of checks as deemed necessary.

VII. OVERAGES AND SHORTAGES

Every reasonable effort should be made to locate any cash differences.

- A. It is the responsibility of the cash handler to ensure cash on hand equals the cash drawer plus actual receipts at all times.
- B. The Finance Department shall be notified in writing via a memorandum of all overages and shortages, as well as any known circumstances surrounding the overage/shortage.

VIII. LOSS

- A. Once a loss has been identified, it shall be immediately reported to the department director, the Finance Department, and the Des Moines Police Department. Do not conduct any investigation or discuss with other staff prior to notification of proper authority.
- B. All loss shall be documented in a memorandum to the Finance Director within one (1) business day as well as kept on file by the reporting department.

IX. REFUNDS

- A. Refunds will only be made to the original entity (person or company) that submitted the original payment to the City.
- B. Refunds of payments that were originally paid by credit card will be credited back to the credit card in which the payment was made from.

X. NON-CITY MONEY

Non-City money is money that is collected from a non-City entity such as park adoption organizations, employee associations, or by a City office, employee, or agent for non-City use. For such funds, the City is taking on additional fiduciary responsibility; therefore all cash handling requirements in this policy should be met.

- A. Non-City funds should be segregated from City funds and deposited as agreed to between the City and the organization.
- B. The agreement for responsibility of non-City funds while they are in the possession of the City should be clearly stated in a fiduciary agreement approved by the Finance Director.