Consent Agenda Item #1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: National Recovery Month

ATTACHMENTS:
1. Proclamation
2. King County Request for Proclamation

FOR AGENDA OF: August 8, 2012

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: July 3, 2013

CLEARANCES:
[ ] Legal NA
[ ] Finance NA
[ ] Marina NA
[ ] Parks, Recreation & Senior Services NA
[ ] Planning, Building & Public Works NA
[ ] Police NA
[ ] Courts NA

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The Mental Health, Chemical Abuse and Dependency Services Division of the King County Department of Community and Human Services has requested a proclamation from the Des Moines City Council declaring that September, 2013 is ***National Recovery Month***. 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/substance use disorders.

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.

Suggested Motion

Motion: "I move that the City of Des Moines support **National Recovery Month** by passing the proposed proclamation."

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

Attachment #1

2013 National Recovery Month

"Join the Voices for Recovery: Together on Pathways to Wellness"

PROCLAMATION

WHEREAS, behavioral health is an essential part of health and one's overall wellness, and prevention works, treatment is effective, and people can and do recover from substance use and mental disorders; and

WHEREAS, all people have the fundamental and inherent value to be accepted and treated with respect, human dignity, and worth; and

WHEREAS, individuals should have access to fully participate in community life including economic advancement and prosperity; fair and decent housing; quality education; positive opportunities to benefit from and contribute to material, cultural, and social progress; and

WHEREAS, it is critical to educate our policymakers, friends and family members, health care providers, and businesses that substance use and mental disorders are treatable, and that people should seek assistance for these conditions, with the same urgency as they would any other health condition; and

WHEREAS, to help more people achieve long-term recovery, and learn how recovery positively benefits the Nation's overall well-being, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy invite all residents of the City of Des Moines to participate in National Recovery Month; and

NOW, THEREFORE, the Des Moines City Council of the City of Des Moines, Washington, does hereby proclaim the month of September 2013 as:

National Recovery Month

Prevention Works, Treatment is Effective, People Recover in Des Moines and call upon the people of Des Moines to observe this month with appropriate programs, activities, and ceremonies supporting this year's theme, Join the Voices for Recovery: It's Worth It.

Signed this 8th day August 2013.

_____

Dave Kaplan, Mayor

The Waterland City
Printed on Recycled Paper

Attachment #2

King County

Mental Health, Chemical Abuse and Dependency Services Division
Department of
Community and Human Services

CNK-HS-0400
The Chinook Building
401 Fifth Avenue, Suite 400
Seattle, WA 98104

206-263-9000
206-296-0583 Fax
206-205-1634 Fax – Clinical Services
205-205-0569 TTY/TDD

July 2, 2013

The Honorable Dave Kaplan
Mayor of Des Moines
21630 11 Avenue South; Suite A
Des Moines, WA 98198

RE: Request for a Proclamation for ***Recovery Month*** September 2013

Dear Mayor Kaplan:

We were pleased that the City of Des Moines declared the month of September 2012 as ***National Recovery Month*** and would again like to thank you for your support. As a follow-up to our January "Save the Date" e-mail and letter, we are writing today to request your assistance in securing a proclamation for September 2013. The theme for this year's ***Recovery Month*** is "**Join the Voices for Recovery: Together on Pathways to Wellness,**" which represents the many ways that people can prevent mental and substance use disorders, seek treatment, and sustain recovery as part of a commitment to living a mentally, physically, emotionally, and spiritually healthy life. The theme also highlights that people are not alone on this journey to seek total health every day. Family, friends, and community members can support individuals throughout the entire recovery process.

The purpose of ***Recovery Month*** is to promote recovery, celebrate those in treatment, and continue to educate our communities about how to overcome the barriers of stigma and discrimination. When a local government endorses ***Recovery Month***, more people in their community are educated about the conditions of substance use disorders and mental health issues as well as the benefits that treatment and recovery support services have on our local communities and society. ***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, both physically and emotionally, and contribute in positive ways to their communities.

Throughout the years, hundreds of proclamations have been signed to support ***Recovery Month***, including 106 issued in communities across the country in 2012. The President of the United States has signed a proclamation declaring September as ***Recovery Month*** for the past 12 years,

further recognizing substance use disorders and mental health issues as conditions that need to be addressed, just like any other illness. Last year, the Governor of the State of Washington, the King County Executive, and Mayors of 30 cities and towns in King County each signed proclamations declaring September ***Recovery Month***. Our goal is that every city and town in King County will celebrate the lives reclaimed and proclaim September 2013 ***Recovery Month***.

Now in its 24th year, ***Recovery Month*** also honors the treatment and recovery service providers who assist the individuals and families with recovery. King County Mental Health, Chemical Abuse and Dependency Services Division (MHCADSD) contracts with service providers who deliver substance abuse and mental health services throughout King County, and we recognize their valuable contributions.

Each September, thousands of treatment and recovery programs and services around the country celebrate the recovery successes and share them with their neighbors, friends, and colleagues in an effort to educate the public about recovery, how it works, for whom, and why. There are millions of Americans whose lives have been transformed through recovery. These successes often go unnoticed by the broader population, therefore ***Recovery Month*** provides a vehicle to acknowledge and celebrate these accomplishments.

As part of our efforts to celebrate ***Recovery Month*** in September, King County MHCADSD is sponsoring the third Annual Recovery and Resiliency Conference as well as the Exemplary Service Awards Event. We would like you to join us in recognizing ***Recovery Month*** by issuing a proclamation.

We have attached for your review two sample proclamations (traditional and modern versions) and have also included a link to the National Recovery Month website for further information. We are available to present additional information or testimony if that would be helpful. Please inform us if you intend to issue a proclamation, or if you have any questions about ***Recovery Month,*** by contacting Cheryl Goluch by e-mail at cheryl.goluch@kingcounty.gov or phone at 206-263-9111.

Thank you in advance for your consideration.

Sincerely,

Jim Vollendroff, MPA, NCACII, CDP
Assistant Division Director/ Substance Abuse
Prevention and Treatment Coordinator
206-263-8903

Jean Robertson, LICSW
Assistant Division Director/ RSN Administrator
206-263-8904

Consent Agenda Item #2

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Draft Ordinance adopting state marijuana infraction

ATTACHMENTS:
1. Draft Ordinance 13-074
2. RCW 69.50.445

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: July 29, 2013

CLEARANCES:
[X] Legal TG
[ ] Finance NA
[ ] Marina NA
[ ] Parks, Recreation & Senior Services NA
[ ] Planning, Building & Public Works NA
[ ] Police NA
[ ] Courts NA
APPROVED BY CITY MANAGER
FOR SUBMITTAL: AI

Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of Draft Ordinance 13-074 which updates DMMC 9.28.010 and adopts by reference the infraction of "Opening or Consuming Marijuana in Public View."

Suggested Motion

First Motion: I move to suspend Rule 26(a) in order to enact Draft Ordinance 13-074 on first reading.

Second Motion: I move to enact Draft Ordinance 13-074, adopting by reference RCW 69.50.445, creating a civil infraction for opening or consuming marijuana in public view.

Background

With the recent passage of Initiative 502, Washington State has legalized the possession of limited amounts of marijuana for individuals over the age of 21. In doing this, state law created a new infraction for opening or consuming marijuana in public view. This is a civil violation and the maximum penalty is $50, plus costs and assessments.

Discussion

Municipal courts are given the authority to hear and determine civil infractions that are established by municipal ordinance. The City has previously adopted state statutes relating to the regulation of controlled substances and drugs. Given the recent change in state law, the municipal code needs to be amended to encompass the new infraction for the offense of Opening or Consuming Marijuana in Public View.

RCW 69.50.445 is entitled "Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public — Penalty" and states:

> It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

Until the passage of this draft ordinance, all infractions for violation of this state law will be filed in King County District Court. Passing this draft ordinance will allow enforcement of the above law in the Des Moines Municipal Court.

Alternatives

1. Pass the Draft Ordinance as written.
2. Pass the Draft Ordinance with amendments.
3. Do not pass the Draft Ordinance and file any potential violations of RCW 69.50.445 into district court.

Financial Impact

It is unlikely there would be any financial impact.

Recommendation or Conclusion

The Legal Department and the Police Department recommend adoption.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 7/15/2013

DRAFT ORDINANCE NO. 13-074

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to controlled substances and drugs, and amending DMMC 9.28.010 adopting state statues by reference.

WHEREAS, municipal courts are given the authority to hear and determine civil infractions that are established by municipal ordinance, and

WHEREAS, the City has previously adopted state statutes relating to the regulation of controlled substances and drugs, and

WHEREAS, state law has changed, creating a new infraction for the offense of Opening or Consuming Marijuana in Public View, and

WHEREAS; the Council finds that DMMC 9.28.010 must be updated to reflect the current state of the law and to allow enforcement of the law in the Municipal Court; now therefore,

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

Sec. 1. DMMC 9.28.010 and section 23 of Ordinance No. 1036 as amended by section 4 of Ordinance No. 1364 are each amended to read as follows:

> **Statutes adopted by reference.** The following state statutes, as presently constituted or as may be subsequently amended, are adopted by reference and are applicable within the City:

RCW	
69.50.101	Definitions.
69.50.102	Drug paraphernalia - Definitions.
69.50.309	Containers.
69.50.4014	Possession of forty grams or less of marijuana - Penalty.
69.50.404	Penalties under other laws.
69.50.405	Bar to prosecution.

69.50.412	Prohibited acts: E - Penalties.
69.50.425	Misdemeanor violations - Minimum ~~imprisonment~~penalties.
69.50.445	Opening or consuming package containing marijuana, useable marijuana, or marijuana - infused product in view of general public - Penalty.
69.50.505	Seizure and forfeiture.
69.50.506	Burden of proof; liabilities.
69.50.509	Search and seizure of controlled substances.
69.50.510	Search and seizure at rental premises - Notification of landlord.

NEW SECTION. 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.

NEW SECTION. 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.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Effective Date: _____

DRAFTORD:

Attachment #2

RCW 69.50.445
Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public — Penalty.

It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

[2013 c 3 § 21 (Initiative Measure No. 502, approved November 6, 2012).]

Notes:

Intent -- 2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Consent Agenda Item #3

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interlocal Agreement – Federal Way School District Impact Fees

ATTACHMENTS:

1. Interlocal Agreement between the City of Des Moines and Federal Way School District

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: July 29, 2013

CLEARANCES:
[X] Legal PB
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda is to approve the Interlocal Agreement (ILA) between the City of Des Moines and the Federal Way School District (Attachment 1) that provides the mechanism by which the City can distribute school impact fees collected from Landmark Homes, LLC for residential permits issued for the Landmarque Development in accordance with the March 26, 2007 Environmental Mitigation Agreement. The following motion will appear on the consent calendar:

Suggested Motion

Motion: "I move to approve the Interlocal Agreement between the City of Des Moines and the Federal Way School District to enable the City to distribute school impact fees collected for the Landmarque Development in accordance with the March 26, 2007 Environmental Mitigation Agreement, and to authorize the City Manager to sign the ILA substantially in the form as submitted."

Background

Federal Way School District has adopted an impact fee program to ensure that adequate public school facilities and improvements are available to serve new development. The impact fee program establishes the standards, procedures and criteria whereby new development pays a proportionate share of the cost for these facilities.

On March 26, 2007, an Environmental Mitigation Agreement was entered into by and between the City of Des Moines (City) and Landmark Homes LLC (Developer) pursuant to Chapter 43.21 RCW, the State Environmental Policy Act (SEPA) and Title 16 Des Moines Municipal Code, to provide for mitigation of existing and known environmental impacts associated with the development of the Landmarque Development. Section 4 of the Environmental Mitigation Agreement states the method by which the school impact fees will be calculated in accordance with the Federal Way School District's impact fee program in place at that time.

Discussion

In late December 2012, city staff was contacted by the Federal Way Public Schools to discuss the options to formalize a process to remit the school impact funds to the District. To date, the City has collected approximately $25,748.24 in school impact fees on behalf of the Ferderal Way School District. In order to distribute these funds to the District, a formal process is needed.

The Interlocal Agreement provided as Attachment 1, is the mechanism that was acceptable to City's Finance, Legal and Planning, Building, and Public Works Departments, and the Federal Way School District for distributing the school impact fees collected by the City to the School District.

Alternatives

An alternative to the Interlocal Agreement approach would be for the City to establish a School Impact Fee Ordinance as the mechanism to collect and distribute school impact fees. At this point, a School Impact Fee Ordinance would only apply to the Federal Way School District as Highline School District currently does not have a school impact fee program. Woodmont Elementary is the Federal Way School District's only school located in Des Moines. However, this alternative may not be best suited to address the immediate need for the distribution of the school impact fees collected for the Landmarque Development.

Financial Impact

There is no financial impact to the City. The ILA provides the mechanism by which the City can distribute school impact fees collected from Landmark Homes LLC for the Landmarque Development to the Federal Way School District.

Recommendation or Conclusion

Staff recommends that City Council approve the suggested motion.

Concurrence

The Planning, Building and Public Works, Finance, and Legal Departments concur.

Attachment #1

INTERLOCAL AGREEMENT
CITY OF DES MOINES AND FEDERAL WAY SCHOOL DISTRICT
REGARDING THE TRANSFER OF SCHOOL IMPACT FEES

This Interlocal Agreement ("ILA") is entered into this ___day of August, 2013, by and between the City of Des Moines, a Washington municipal corporation (the "City"), and the Federal Way School District No. 210, a political subdivision of the State of Washington (the "District") to address the transfer of school impact fees associated with the Landmark Homes, LLC Landmarque Townhouse Development ("Landmarque Development"), collected by the City on behalf of the District.

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

WHEREAS, the District owns and operates one school facility (Woodmont Elementary School) that is located in Des Moines; and

WHEREAS, the City reviews proposed residential development projects under Chapter 43.21 RCW, the State Environmental Policy Act (SEPA) and Title 16 of the Des Moines Municipal Code; and

WHEREAS, during the course of SEPA review, the City reviews whether a proposed residential development will impact the District and, if so, conditions the proposed residential development on the payment of school mitigation; and

WHEREAS, on March 26, 2007, the City of Des Moines executed an Environmental Mitigation Agreement with Landmark Homes, LLC ("Developer") pursuant to Chapter 43.21 RCW, the State Environmental Policy Act (SEPA), and Title 16 Des Moines Municipal Code, to provide for mitigation of existing and known environmental impacts associated with the Development as described in Exhibit A; and

WHEREAS, the Environmental Mitigation Agreement identifies appropriate school mitigation by reference to the District's adopted Capital Facilities Plan and school impact fees; and

WHEREAS, the Mitigation Agreement describes the procedures and criteria by which school impact fees will be calculated for the Landmarque Development; and

WHEREAS, the City collects the school impact fees from the Developer; and

WHEREAS, the Parties mutually desire to establish a process to transfer the school impact fee payments from the City to the District for the Landmarque Development; and

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

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

TERMS

Section 1. Purpose. The purpose of this Agreement is to establish a formal agreement under which the City will collect school impact fees in accordance with the March 26, 2007 Environmental Mitigation Agreement between the City of Des Moines and Landmark Homes, LLC and distribute said fees to the District. The terms, conditions and covenants of this Agreement shall accordingly be interpreted to advance this purpose. This Agreement further seeks to allocate and define the Parties' respective rights, obligations, costs and liabilities concerning the establishment, operation and maintenance of this undertaking.

Section 2. Term. This Agreement shall be effective upon execution by the Parties hereto. Unless terminated in accordance with Section 3 of this Agreement shall remain in effect until one of the following events, whichever is later: (a) the District's written acceptance of and payment for all school impact fees collected pursuant hereto, or (b) the complete buildout of the Landmarque Development for which the school impact fees are being collected. Thereafter, the Agreement shall expire automatically. The Parties may at their option renew this Agreement for a mutually agreed upon term in writing by both Parties.

Section 3. Termination. Either Party may terminate this Agreement with or without cause by providing the other Party with 30 days written notice of its intent to terminate. Termination or expiration shall not alter the City's payment obligations under Section 4 and shall not alter the District's respective obligations under Section 5 of this Agreement.

Section 4. Obligations of the City. The City shall collect school impact fee payments from the Landmark Homes LLC as conditioned under SEPA, and described in the Environmental Mitigation Agreement provided as Exhibit A.

Section 5. Obligations of the District. The District agrees to use the school mitigation payment consistent with the terms of the City's original environmental mitigation payment and SEPA review of the project as described in Exhibit A.

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

A. When the City receives school impact fee payments from a developer, the City shall transfer such payments to the District within thirty (30) days of receipt. The transfer of payment shall include the name of the project, the tax parcel identification number(s) for the project, the number of units for which the fees were paid, and the date of payment.

B. The City shall retain a $2,000 administrative fee for the intake of the school impact fees and processing payment to the District.

C. The City shall transfer payments to the District and notify the District of matters pertaining to SEPA and school mitigation using the following contact information:

Federal Way School District No. 210
Attn: Assistant Superintendent, Business Services
33330 8th Avenue S.
Federal Way, WA 98003
Telephone: (253) 945-2000

Section 7. The City of Des Moines Planning, Building and Public Works Director, or his/her designee, shall serve as the City's administrator of this Agreement. The District's Superintendent, his/her designee, shall serve as the District's administrator of this agreement. No separate legal entity is formed by this Agreement.

Section 8. Release, Indemnification and Hold Harmless Agreement. Each Party to this Agreement shall be responsible for its own negligent and/or wrongful acts or omissions, and those of its own agents, employees, representatives, contractors or subcontractors, to the fullest extent required by laws of the State of Washington. Each Party agrees to protect, indemnify and save the other Party harmless from and against all claims, demands and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with, or arising out of work performed under the terms hereof, caused by its own fault or that of its agents, employees, representatives, contractors or subcontractors. The City further agrees to fully indemnify the District from and against and against any and all costs of defending any such claim or demand to the end that the District is held harmless therefrom. The District shall also indemnify and hold the City harmless against any and all costs of defending any such claim or demand to the end that the City is held harmless therefrom.

Section 9. Mediation/Arbitration Clause: If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation before a mutually agreed alternative dispute resolution entity or by mediation administered under the American Arbitration Association's Commercial or Construction Rules before resorting to arbitration. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

Section 10. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County Superior Court.

Section 11. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between the district and any

employee, agent, representative or contractor of the City, or between the City and any employee, agent, representative or contractor of the District.

Section 12. No Third Party Rights. This Agreement is intended for the sole and exclusive benefit of the parties hereto and no third party rights are created by this Agreement.

Section 13. Notices. Notices to the City shall be sent to the following address:

City of Des Moines
Planning, Building and Public Works Department
Attn: Dan Brewer, P.E., Director
21630 11th Avenue S, Suite D
Des Moines, WA 98198-6398

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

Federal Way School District No. 210
Attn: Assistant Superintendent, Business Services
33330 8th Avenue S.
Federal Way, WA 98003

Section 13. Duty to File Agreement with County Auditor. The City shall, after this Agreement is executed by both Parties, file this Agreement with the King County Auditor.

Section 14. Integration/Entire Agreement. This document constitutes the entire embodiment of the Agreement between the Parties, and, unless modified in writing by an amendment to the Interlocal Agreement signed by the Parties hereto, shall be implemented as described above. This Agreement supersedes any oral representations that are inconsistent with or modify its terms and conditions.

Section 15. Non-Waiver. Waiver by any Party of any of the provisions contained within this Agreement, including but not limited to any performance deadline, shall not be construed as a waiver of any other provisions.

Section 16. Amendment. This Agreement may be amended only upon consent of all Parties hereto. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.

Section 17. Severability. If any provision of this Agreement shall be held invalid, the remainder of this agreement shall not be affected thereby.

Section 18. Counterparts. This Agreement shall be effective whether signed by all Parties on the same document or whether signed in counterparts.

Reviewed and approved as authorized by motion of the City of Des Moines City Council on the ___ day of ____ 2013.

THE CITY OF DES MOINES

_____

By: Tony A. Piasecki
City Manager

FEDERAL WAY SCHOOL
DISTRICT NO. 210

_____

By: Superintendent

APPROVED AS TO FORM:

_____

City Attorney

ATTEST:

_____

City Clerk

Effective Date:_____

Published: _____

EXHIBIT "A"

CITY OF DES MOINES, WASHINGTON
Planning, Building, and Public Works Department
21650 11th Avenue South, Suite D
Des Moines, WA 98198
Phone: (206) 870-7576 Fax: (206) 870-6544

ENVIRONMENTAL MITIGATION AGREEMENT

Project File No:	LUA06-014
Project Name:	Landmarque Townhouse Development
Project Address:	Pacific Highway and South 263rd Street
Owners:	Mitchell Family LLC. Attn: Larry King PO Box 26116 Federal Way, WA 98093 (253) 927-6116 Vahan & Anoush Chamlian Attn: Larry King PO Box 26116 Federal Way, WA 98093 (253) 927-6116
Contact/Applicant:	Landmark Homes Attn: David Litowitz PO Box 26116 Federal Way, WA 98093 (253) 927-6116
Staff Contact:	Jason Sullivan; Land Use Planner II
Date of Decision:	March 26, 2007

THIS AGREEMENT is entered into by and between the City of Des Moines, a municipal corporation hereinafter referred to as the "City" and Landmark Homes LLC hereinafter referred to as the "Developer".

WHEREAS, this agreement is executed pursuant to Chapter 43.21 RCW, the State Environmental Policy Act (SEPA), and Title 16 Des Moines Municipal Code, to provide for mitigation of existing and known environmental impacts associated with the development hereinafter described. This agreement is not, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020, and the provisions of RCW 82.02.020 shall not be applied hereto. This agreement does not preclude any evaluation and determination by the City of Des Moines upon later actions or proposals undertaken by the Developer that may require a determination of significance and environmental review under SEPA;

WHEREAS, the property located in the City is further legally described as:

TAX PARCEL # 2822049067

THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., LYING WESTERLY OF STATE ROAD NO. 1, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER;

THENCE SOUTH 88'03'31" EAST ALONG THE NORTH UNE OF SAID SOUTH HALF A DISTANCE OF 490.0 FEET;

THENCE SOUTH 03'05'51" WEST A DISTANCE OF 160.03 FEET;

THENCE SOUTH 8810'16" EAST A DISTANCE OF 196.56 FEET TO A POINT ON THE WESTERLY MARGIN OF PACIFIC HIGHWAY SOUTH (STATE ROAD NO. 1);

GF _____ DL _____

THENCE ALONG SAID WESTERLY MARGIN SOUTH 20'43'16" WEST A DISTANCE OF 134.70 FEET TO THE NORTH LINE OF THE SOUTH 375.00 FEET, AS MEASURED ALONG THE WEST UNE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 8810'16" WEST ALONG THE NORTH LINE OF SAID SOUTH 375.00 FEET A DISTANCE OF 636.78 FEET TO THE WEST UNE OF SAID SOUTH HALF;

THENCE NORTH ALONG SAID WEST UNE 288.42 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. AU_ SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

TAX PARCEL # 2822049209

THE SOUTH 375 FEET; AS MEASURED ALONG THE WEST LINE OF THAT PORTION OF THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; LYING WESTERLY OF PACIFIC HIGHWAY SOUTH (SR-99), AND TRACT 8, SECOMA HI-WAY TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 37 OF PLATS, PAGE 42, IN KING COUNTY,

WASHINGTON;

EXCEPT THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 8;

THENCE NORTH 8810'17" WEST ALONG THE SOUTH LINE THEREOF A DISTANCE OF 331.14 FEET; THENCE NORTH 01'08'58" EAST PARALLEL WITH THE WEST UNE OF SAID TRACT 8 A DISTANCE OF 200.01 FEET;

THENCE SOUTH 8810'17" EAST PARALLEL WITH THE SOUTH UNE OF SAID TRACT 8 A DISTANCE OF 401.96 FEET TO THE WESTERLY MARGIN OF SAID PACIFIC HIGHWAY SOUTH;

THENCE SOUTH 20'43'24" WEST ALONG SAID MARGIN A DISTANCE OF 211.39 FEET TO THE POINT OF BEGINNING.

(ALSO KNOWN AS LOT B OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER 9711249013.)

TAX PARCEL # 2822049233

THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THE NORTH 390 FEET THEREOF;

AND EXCEPT THE WEST 115 FEET OF THE SOUTH 100 FEET OF THE NORTH 490 FEET OF SAID WEST HALF.

WHEREAS, the Developer has submitted a Modified Subdivision application in order to subdivide 10.06 acres into 66 attached single family lots (townhouses), 2 detached single family lots, and 1 commercial lot;

WHEREAS, the residential lots created by the subdivision will have an average size of approximately 2982 square feet;

WHEREAS, the overall lot area as calculated per DMMC 18.10.040 is 3,600 square feet;

WHEREAS, based upon the Population Local Review Worksheet for the City of Des Moines provided by the Office of Financial Management approximately 183 people (68 lots * 2.7 individuals) will reside within the project site;

WHEREAS, the proposed townhouse subdivision is served by the Federal Way School District;

WHEREAS, based upon the "Housing Generation Factor" established by the Federal Way School District approximately 50 elementary students, 20 junior high students, and 18 high school students will reside within the project site;

WHEREAS, the Federal Way School district has adopted an impact fee program to ensure that adequate public school facilities and improvements are available to serve the new development;

WHEREAS, the Federal Way School district has adopted an impact fee program to establish standards whereby new development pays a proportionate share of the cost for public facilities needed to serve the new development;

WHEREAS, the Federal Way School district has adopted an impact fee program to ensure that the school impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

WHEREAS, the Federal Way School district has adopted an impact fee program to provide needed funding for growth-related school improvements;

WHEREAS, the Federal Way School district has adopted an impact fee program which established a multifamily unit impact fee of $856.00 per unit;

WHEREAS, the Federal Way School district has adopted an impact fee program which established a single family unit impact fee of $3018.00 per unit;

WHEREAS, the Federal Way School district has adopted an impact fee program which defines multifamily as all townhouses and apartments;

WHEREAS, the Federal Way School district has adopted an impact fee program which defines single family as all detached dwelling units;

WHEREAS, the Federal Way School district has adopted an impact fee program which requires that separate fees will be calculated for single family and multifamily units;

WHEREAS, the City has reviewed a study entitled, "Landmarque Wetland Analysis Report and Concept Mitigation" (dated December 9, 2005) and a revised study entitled "Landmarque Wetland Analysis Report and Concept Mitigation" (dated November 7, 2006) prepared by Sewell Wetland Consulting (formally B-12 Wetland Consulting Inc.) which delineated and established mitigation measures for the wetlands located on the project site;

WHEREAS, the applicant has proposed to fill a 9,113 square foot wetland labeled as Wetland "B" on the proposed development plans;

WHEREAS, wetland fills under the jurisdiction of the Army Corps of Engineers require compliance with section 404 of the Clean Water Act;

WHEREAS, wetland fills under the jurisdiction of the Army Corps of Engineers larger than 4,356 square feet are not covered by the Army Corps of Engineers Nationwide Permit 18;

WHEREAS, the Department of Ecology has placed Regional Conditions on Nationwide Permits;

WHEREAS, the City has reviewed a study entitled, "Landmarque Traffic Impact Analysis" (dated June 30, 2006) and a mitigation confirmation letter (dated June 23, 2006) prepared by Traffic Engineers and Transportation Planners which evaluated the traffic impacts associated with the project;

WHEREAS, the City has reviewed a memo entitled "Storm Vault Lateral Pressure and Foundation Design Criteria, Landmarque Plat, Pacific Highway South, Des Moines, WA " (dated March 30, 2006) prepared by GeoResources, LLC., which evaluated surface and subsurface conditions at the project site in order to develop geotechnical recommendations and design criteria;

WHEREAS, the Developer is required to obtain a Clearing, Grading and Filling Permit from the City Planning, Building and Public Works Department for construction of the required infrastructure and the residential structures which emphasizes land development practices that result in a minimal disturbance to the City's vegetation and soils by providing protection to reduce degradation of streams or other water bodies located in and adjacent to the project site via scouring, siltation, and water pollution;

WHEREAS, Native American and other historically and culturally significant artifacts have been uncovered within the City of Des Moines;

WHEREAS, the City of Des Moines Planning, Building, and Public Works Department has determined that the proposed development on the subject property will not result in probable significant adverse environmental impacts and that those environmental impacts identified in the SEPA application will be addressed by entering into an agreement to mitigate such impacts;

GF _____ DL _____

NOW, THEREFORE, the City and Developer agree that the following mitigation measures shall be employed by the Developer to ensure that probable adverse environmental impacts created by the proposed project are minimized or eliminated.

1. The Developer is required to comply with all Federal and State regulations regarding the fill of the wetland labeled "Wetland B" on the development plans. If there are Federal or State permits required to fill the wetland, the applicant must obtain those permits prior to the City's approval of the civil engineering plans

2. The Developer shall send a "Notice of Intent to Commence Work" a minimum of 30 days prior to commencing the grading operations needed to install the required infrastructure improvements together with a project work schedule including the phasing of the construction activity, and a reduced scale map identifying the project to all property owners within 300 feet of the project site and the City.

3. The Developer shall properly dispose of the anticipated unusable excavated soils to the satisfaction of the City of Des Moines. The developer shall submit a grading plan that accurately reflects the amounts and locations of cuts and fills. The plan will also identify the amount of any export soils and a proper disposal method and/or disposal site prior to issuance of the City Grading Permit.

4. The Developer will pay $62,532.00 in school impact fees calculated in the following manner:

   a) $56,496.00 for the townhouses (66 * $856.00)

   b) $6036.00 for the detached dwelling units (2 * $3018.00)

5. Should the Developer or its contractor uncover any landmarks or evidence of archeological, scientific or cultural importance, the Developer shall cease all work and contact the City of Des Moines and the Washington State Department of Historic Preservation.

6. Should a term, provision, condition or other portion of the Agreement be held to be inoperative, invalid, or void, the same shall not affect any other term, provision, condition or other portion of this Agreement; and the remainder of this Agreement shall be effective as if such term, provision, condition or portion had not been contained herein.

CITY: Grant Fredricks

Grant Fredricks, P.E.
Planning, Building, and Public Works Director
City of Des Moines

DEVELOPER: David Litowitz

David Litowitz
Landmark Homes, Inc.

STATE OF WASHINGTON)

) ss.

COUNTY OF King)

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 21st day of March, 2007, David Litowitz personally appeared before me, to me known to be the individual(s) empowered to execute the foregoing instrument, and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public in and for the State of Washington,

Residing at King County

My commission expires 4/29/2008

GF DL

Consent Agenda Item #4

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: North Hill Elementary School Zone Flashing Beacon Project Grant Acceptance

ATTACHMENTS:
1. WTSC Grant Award letters.
2. 8th Avenue South and South 200th Street proposed School Zone Flasher installation location maps.

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: July 30, 2013

CLEARANCES:
[X] Legal TG
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DSB
[ ] Police N/A
[ ] Courts N/A
APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this item is to seek City Council's acceptance of two Washington Traffic Safety Commission (WTSC) grants (Attachment 1) in the amount of $7,500 each ($15,000 total) and authorize staff to prepare a budget amendment to the 2013 – 2018 Transportation CIP for the project. These grants will be used to purchase school zone flasher beacon equipment for North Hill Elementary and Aviation School and be located on South 200th Street and 8th Avenue South. The following motion will appear on the consent calendar.

Suggested Motions

Motion: "I move to accept the Washington Traffic Safety Commission grants for North Hill and Aviation School awarded for a total amount of $15,000 and direct staff to bring forward a budget amendment to include this project as part of the 2013-2018 Transportation CIP."

Background

Two school zones are currently in the North Hill area, Aviation School and North Hill Elementary. Aviation School site was formerly Olympic Intermediate School and is planned to be used as an interim school location for future school re-builds in the District as needed. North Hill Elementary School currently has 488 students attending the school (as of 2012-2013 school year), of which 114 of them walk or bike to school according to a mid-year survey. Any students attending North Hill Elementary

and living south or east/west of the all-way stop at South 200th Street and 8th Avenue South utilize South 200th Street to get to school.

In April 2013 a speed study was taken during the times the school zone flasher would be on. The study recorded an average of 55 vehicles travelling greater than 26 miles per hour during the proposed flashing light times on 8th Ave S southbound and an average of 91 vehicles traveling greater than 26 miles per hour eastbound on South 200th Street during these same times. To increase student safety in this area, school zone flashers would be installed to inform drivers of the speed limit during the times children are present.

In 2011, staff was successful at receiving an identical grant in the amount of $15,000 as well for school zone flashers for Midway Elementary and Pacific Middle School on 24th Avenue South, which included flashers on the side streets of South 224th Street and South 226th Street. Post installation speed studies during the school zone flashing times showed about a 25% reduction in speed violations.

Discussion

Acceptance of these grants would allow the City to purchase four (4) school zone flashing beacons. The school zone beacons will be installed along S 200th St and along 8th Ave S (see Attachment 2). The flashing beacons are to have two 8" amber beacons and to have a cellular communication for programming. The grant will essentially cover the cost of the equipment. Staff solicited quotes from four different manufactures of school zone flashing beacons, shown in Table 1. With the City Council's concurrence and acceptance of the grant, staff will move forward with the purchase of the flashing beacon equipment. The equipment has roughly a 6 week manufacturing and shipping schedule, therefore the equipment needs to be procured in advance of installation to meet WTSC's installation deadline. Staff will return to the Council in September for authorization to award a construction contract for the installation of the equipment.

Table 1. Quotes that meet project specifications - with remote access programming

Manufacturer/Distributer	Quote - Tax Included	Programming Method
JSF/Coral Sales Company	$16,205.34	Cellular - JSF
ELTEC/Intermountain Traffic LLC	$19,649.78	Cellular (Service not included)
Traffic Safety Supply Company	$19,818.13	Cellular - Blink Link
Carmanah/Western Systems	$20,517.67	Cellular - *SIMA service available through Carmanah

Alternatives

Council could direct staff to not accept the grant and seek grant funds at an alternate school zone.

Financial Impact

Costs not covered by the WTSC grant will be funded by the Traffic Safety Fund which is entirely supported by the Automated Speed Enforcement program. The costs to install the equipment will be outlined in a 2013 – 2018 Transportation CIP budget amendment. They are currently estimated at roughly $13,000 - $15,000.

Recommendation

Staff recommends the suggested motion.

Concurrence

Finance, Legal, and Planning, Building, and Public Works concur.

Attachment #1

STATE OF WASHINGTON
WASHINGTON TRAFFIC SAFETY COMMISSION
PO Box 40944, Olympia, Washington 98504-0944, (360) 753-6197

June 17, 2013

Brandon Carver, Acting Transportation Manager
City of Des Moines
21650 11th Ave S.
Des Moines, WA 98198
bcarver@desmoineswa.gov

RE: School Zone Flashing Beacon/Lighting Project

Dear Mr. Carver:

On behalf of the Washington Traffic Safety Commission (WTSC), I am pleased to inform you that you have met the qualifications of the School Zone Flashing Beacon grant. You have agreed to install approved flashing beacons, as outlined in the RFP, in designated and legally marked school zones following the requirements outlined in RCW 46.61.440 (2).

Funding for School Zone Flashing Lights in the amount of $7,500.00 is approved for the following school zone at **North Hill Elementary School**/Highline School District:

- 8th Ave South

Your project(s) must begin **no sooner than July 1, 2013**, and installation must be **completed by January 1, 2014** (6 months from grant approval date as outlined in the signed agreement).

Reporting Requirements

A final post-installation data report must be submitted no later than January 1, 2015, **(within one year of installation)** detailing the impact of this project within the school zone(s), and should include whether or not the goals outlined in your original proposal were achieved. The data collected for the final report should be consistent with the conditions existing during pre-installation data collection (same time of day, same day of the week, same length of time). Post installation collision data should be included as well.

Please use the **Post Installation Data Report Form** enclosed. Additional graphs, diagrams or data reports are not necessary. Fill in the information for each zone that

you were approved for. Print additional pages of the form as needed for additional zone tables.

Invoicing Requirements

Final reimbursement requests must be received by the WTSC no later than **February 28, 2014.**

I have detailed the order/reimbursement procedure below:

1. Your agency must order/purchase the equipment granted and be billed for the equipment or goods and services.

2. Your agency must receive the equipment and install the beacons at the designated sites. Following installation, your agency must submit the required documentation below:

   - The enclosed A19-1A form (every area with an arrow ➡ is required),
   - A duplicate copy of your vendor's billing invoice,
   - Proof of payment, and
   - Photos of installed flashing beacons (photos inside the control panels are not necessary). Label each photo to coordinate with the appropriate zone.

   Please note that we **cannot** accept a FAX or emailed request.

3. Upon receipt of the required documentation above, your agency will be reimbursed.

Failure to submit reimbursement requests or to file the required final report could lead to termination of the project agreement, forfeiture of reimbursement, and denial of future grant requests.

If you have any questions or concerns regarding your project, please contact me at (360) 725-9883, or e-mail me at kdroke@wtsc.wa.gov.

Sincerely,

Kathy Droke

Kathy Droke
Electronic Approval

Enclosure:
A19 Invoice Voucher

STATE OF WASHINGTON
WASHINGTON TRAFFIC SAFETY COMMISSION
PO Box 40944, Olympia, Washington 98504-0944, (360) 753-6197

June 17, 2013

Brandon Carver, Acting Transportation Manager
City of Des Moines
21650 11th Ave S.
Des Moines, WA 98198
bcarver@desmoineswa.gov

RE: School Zone Flashing Beacon/Lighting Project

Dear Mr. Carver:

On behalf of the Washington Traffic Safety Commission (WTSC), I am pleased to inform you that you have met the qualifications of the School Zone Flashing Beacon grant. You have agreed to install approved flashing beacons, as outlined in the RFP, in designated and legally marked school zones following the requirements outlined in RCW 46.61.440 (2).

Funding for School Zone Flashing Lights in the amount of $7,500.00 is approved for the following school zone at **Aviation School**/Highline School District:

- S. 200th Street

Your project(s) must begin **no sooner than July 1, 2013**, and installation must be **completed by January 1, 2014** (6 months from grant approval date as outlined in the signed agreement).

Reporting Requirements

A final post-installation data report must be submitted no later than January 1, 2015, **(within one year of installation)** detailing the impact of this project within the school zone(s), and should include whether or not the goals outlined in your original proposal were achieved. The data collected for the final report should be consistent with the conditions existing during pre-installation data collection (same time of day, same day of the week, same length of time). Post installation collision data should be included as well.

Please use the **Post Installation Data Report Form** enclosed. Additional graphs, diagrams or data reports are not necessary. Fill in the information for each zone that

you were approved for. Print additional pages of the form as needed for additional zone tables.

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I have detailed the order/reimbursement procedure below:

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   - The enclosed A19-1A form (every area with an arrow ➡ is required),
   - A duplicate copy of your vendor's billing invoice,
   - Proof of payment, and
   - Photos of installed flashing beacons (photos inside the control panels are not necessary). Label each photo to coordinate with the appropriate zone.

   Please note that we **cannot** accept a FAX or emailed request.

3. Upon receipt of the required documentation above, your agency will be reimbursed.

Failure to submit reimbursement requests or to file the required final report could lead to termination of the project agreement, forfeiture of reimbursement, and denial of future grant requests.

If you have any questions or concerns regarding your project, please contact me at (360) 725-9883, or e-mail me at kdroke@wtsc.wa.gov.

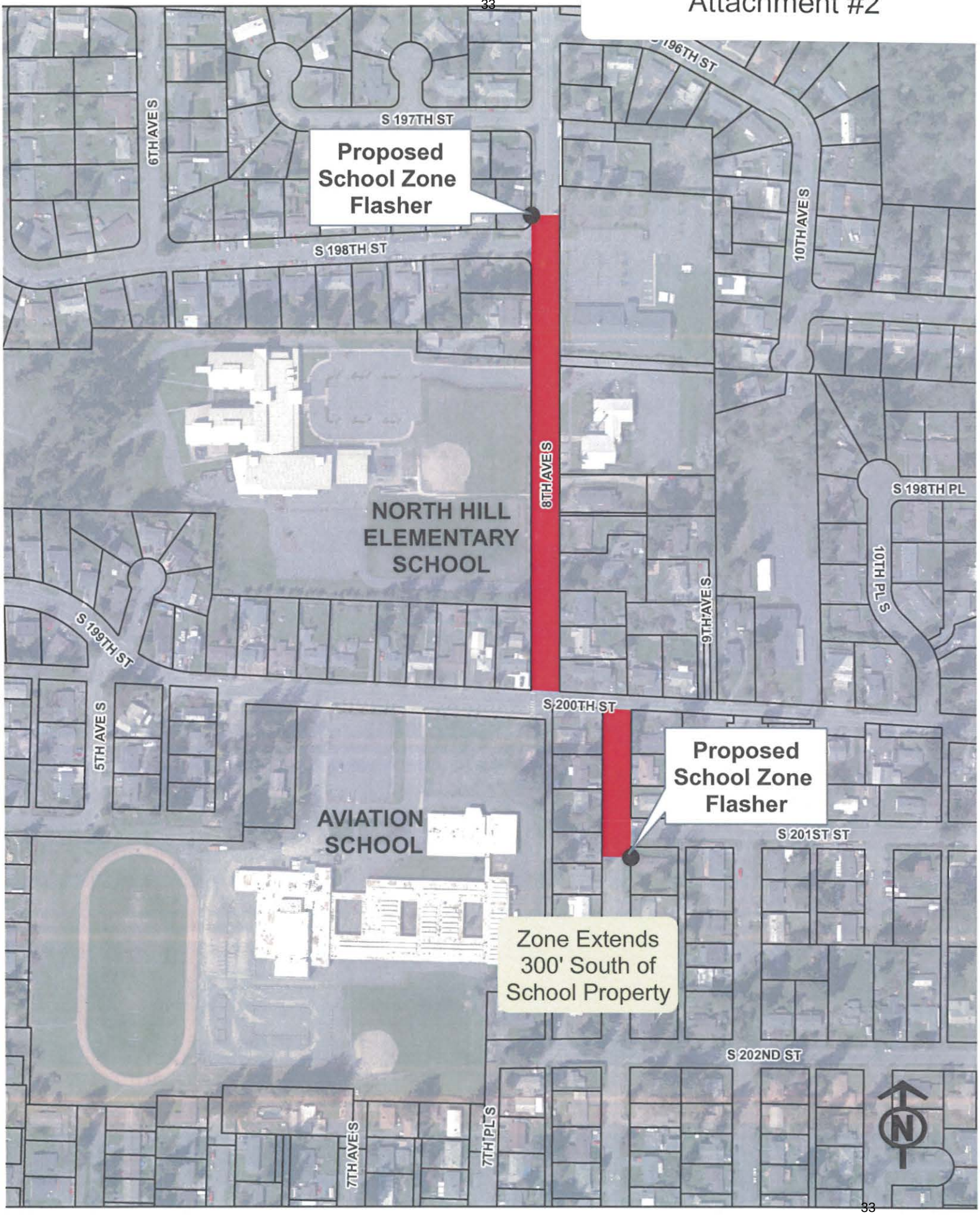
Sincerely,

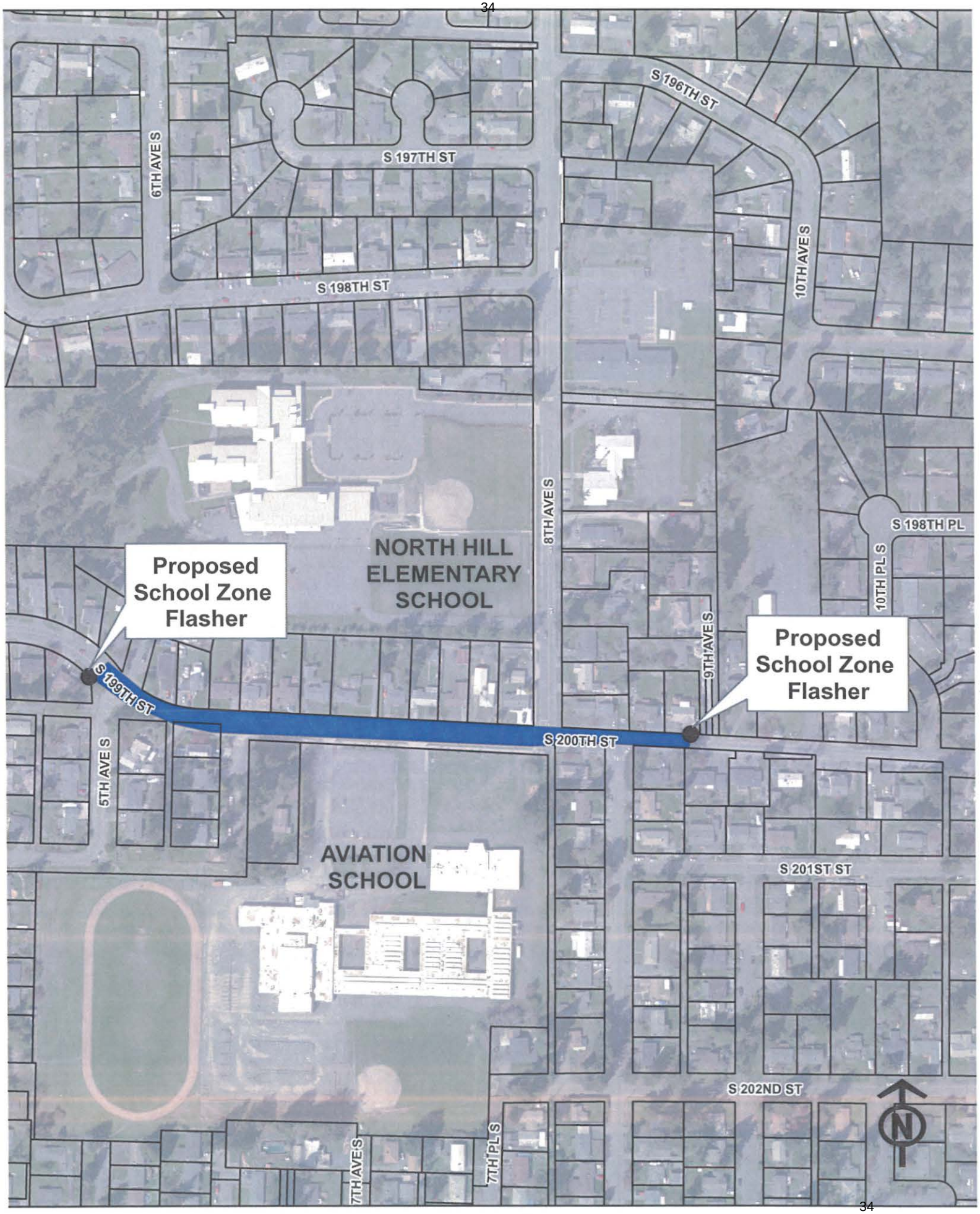
Kathy Droke

Kathy Droke
Electronic Approval

Enclosure:
A19 Invoice Voucher

Attachment #2

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Consent Agenda Item #5

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Draft Resolution 13-180
Setting a Public Hearing for permitted uses within the B-P Zone

ATTACHMENT:
1. Draft Resolution 13-180

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: July 30, 2013

CLEARANCES:
[X] Legal PB
[ ] Finance N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to set a public hearing date for the City Council to consider Draft Ordinance 13-180 which would amend the permitted uses within the B-P Business Park Zone codified in Chapter 18.25 DMMC. The City Council can set the public hearing date by passing the following motion, which will appear on the consent calendar:

Suggested Motion

Motion: "I move to adopt Draft Resolution No. 13-180 setting a public hearing on September 5, 2013 to consider Draft Ordinance 13-180 amending the permitted uses within the B-P Business Park Zone codified in Chapter 18.25 DMMC."

Background

The primary purpose and objective of the business park (B-P) zone is to provide areas of the city for development of compatible business, professional office, light industrial, research and development, service uses, wholesale trade, and limited retail uses. These uses are intended to be developed within master planned sites pursuant to development standards.

The Port buyout area, also referred to as the Des Moines Creek Business Park (DMCBP), is located within the B-P zone and is envisioned as a thriving center for trade-related activity that advances the region's vitality and generates new family wage jobs and revenue for the Port of Seattle, City, and region by linking DMCBP tenants to world markets via Sea-Tac Airport.

The Port and City would like the DMCBP to result in:

- A vibrant employment center that takes advantage of the site's proximity to Sea-Tac Airport.
- A new source of long-term revenue for both the Port and the City.
- Increased trade opportunities for the Puget Sound region.
- An attractive and safe community asset that serves as a prominent entrance to the City along the S. 216th Street corridor.

Development of the DMCBP is one of the City Council's long-term strategic objectives. The City of Des Moines and the Port of Seattle are working together to bring economic development to the city and region through development of the DMCBP site north of South 216th Street in the Port buyout area.

In 2004, the Port of Seattle in partnership with the Cities of Burien, Des Moines, SeaTac, Seattle and the Puget Sound Regional Council commissioned the *New Economic Strategic Triangle (NEST) Study: A Study of Development Properties Around Seattle-Tacoma International Airport*. The report provided an overview and discussion of the potential benefits that development of the NEST Properties, which includes the DMCBP, would bring to the region focusing on the economic environment, identifying the target industries that offer the greatest benefits, providing strategic recommendations and outlining an implementation plan for each property.

In April 2006, the Port published a Conceptual Master Plan (CMP) for the DMCBP. This CMP identified two potential development scenarios for the site that constituted the land use alternatives for the environmental review. The types of business envisioned in the CMP included light manufacturing, office, research and development, and logistics such as air cargo, warehousing, and distribution. The CMP bracketed the range of land use intensities from 900,000 square feet of development to 1.1 million square feet of development based on what the site could accommodate given: (1) the existing *City of Des Moines Comprehensive Plan* land use designation; (2) the existing zoning classification; (3) the stipulations of the First Development Agreement; and (4) site constraints, infrastructure capacity, and market conditions.

Discussion

On June 14, 2013, the Port of Seattle announced the selection of Panattoni Development Company, Inc., a privately-held real estate development firm headquartered in Newport Beach, California as the developer for the Des Moines Creek Business Park. The firm was chosen from a field of four proposers to develop approximately 87 acres of property south of Seattle-Tacoma International Airport with a combination of airport-related commercial and light industrial uses.

The development standards applicable to the site are contained in the Des Moines Municipal Code (DMMC) Chapter 18.25, B-P Business Park Zone. Permitted uses are identified in DMMC 18.25.020. Currently, permitted used for the portion of the business park located north of S 216th Street include: air cargo and distribution facilities; light industry; high technology industry; office; warehousing; wholesale trade of general merchandise, products, supplies, materials and equipment; public facilities, including government offices and facilities; and retail trade.

In an effort to be responsive to market conditions, the Council is asked to consider the following NAICS (North American Industry Classification System) use category to the B-P zone:

> ***221119 Other Electric Power Generation*** *- This U.S. industry comprises establishments primarily engaged in operating electric power generation facilities (except hydroelectric, fossil fuel, nuclear). These facilities convert other forms of energy, such as solar, wind, or tidal power, into electrical energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems.*

2007 NAICS	2012 NAICS	Corresponding Index Entries
221119	221117	Biomass electric power generation
221119	221117	Electric power generation, biomass
221119	221116	Electric power generation, geothermal
221119	221114	Electric power generation, solar
221119	221118	Electric power generation, tidal
221119	221115	Electric power generation, wind
221119	221116	Geothermal electric power generation
221119	221117	Power generation, biomass
221119	221116	Power generation, geothermal
221119	221114	Power generation, solar electric
221119	221118	Power generation, tidal electric
221119	221115	Power generation, wind electric
221119	221114	Solar farms

Note: *the use categories in the DMMC are from the 2007 edition of the NAICS*

As the proposed amendment would modify the City development regulations, the amendments are required to be forwarded to the Department of Commerce for review and comment by the Department and other State Agencies. Pursuant to RCW 36.70A.106, this review period is a minimum of 60 days; during which a local jurisdiction cannot adopt proposed amendments to its development regulations. Staff has requested an expedited review by the Department of Commerce, which if granted, would reduce the review period down to 15 days.

The proposed amendment will also require a SEPA determination. Staff will work to process the SEPA work and hope to issue a decision by August 7th , so that the 15 day public comment period, and 10 day appeal period will lapse prior to the September 5th Hearing.

If the Department of Commerce grants an expedited review, and no appeals are filed prior to the September 5th hearing, the Council would be able to enact an ordinance on first reading.

Alternatives

The City Council may:

1. Adopt the Draft Resolution No. 13-180 as written.

2. Adopt the Draft Resolution establishing a different hearing date.

3. Decline to adopt the Draft Resolution.

Financial Impact
None regarding setting a public hearing date.

Recommendation
Staff recommends the suggested motion.

Concurrence
Legal, and Planning, Building, and Public Works concur.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 07/29/2013

DRAFT RESOLUTION NO. 13-180

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON fixing a time for a public hearing to consider Draft Ordinance No. 13-180 which would amend the Business Park Zone codified as Chapter 18.25 DMMC.

WHEREAS, the City Council is considering amendments to the permitted uses codified in Chapter 18.25 DMMC - Business Park Zone to foster economic development, and

WHEREAS, a public hearing is necessary to receive public comment regarding amendments to Title 18 DMMC, and

WHEREAS, a public hearing is required for adoption of an ordinance which amends a portion of the Title 18 DMMC commonly referred to as the Zoning Code; now therefore,

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

The matter of amendments to Chapter 18.25 DMMC - *Business Park (B-P) Zone*, is set for a public hearing before the City Council on Thursday, September 5, 2013, at 7:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers, 21630 11th Avenue South, Suite B, Des Moines, Washington.

ADOPTED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

Draft Resolution No. 13-180.1
07/29/2013

ATTEST:

_____
City Clerk

Consent Agenda Item #6

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Transportation Gateway Project: Construction Contract Award and Consultant Agreement Supplement for Construction Engineering and Inspection Services for the 24th Avenue S Improvement Project (S. 216th Street to S. 208th Street)

ATTACHMENTS:
1. Construction Contract
2. Consultant Agreement Supplement No. 10
3. Contract Bid Tabulation and pre-award correspondence letters
4. 2013-2018 CIP Budget Worksheet

AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: August 1, 2013

CLEARANCES:
[X] Legal PB
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A

APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this item is to bring the construction contract (Attachment 1) for the Transportation Gateway Project – 24th Avenue South Improvements (S. 216th Street to S. 208th Street) before Council for award approval and seek Council approval of Supplement #10 (Attachment 2) with KPG Consulting Engineers, Inc. for Construction Engineering and Inspection Services. Administration recommends that the Council concurrently award and approve the construction contract and the Consultant Agreement. The following motions will appear on the consent calendar.

Suggested Motions

Motion 1: "I move to award the 24th Avenue South (S. 216th Street to S. 208th Street) construction contract, to DPK, Inc in the amount of $4,858,947.95, which includes all Bid Schedules (A through E), and authorize the City Manager to sign said contract substantially in the form as submitted. I further authorize a contingency for the construction project of up to $485,895 (10%) to cover unforeseen conditions and change orders as determined necessary by the Planning, Building and Public Works Director."

Motion 2: "I move to approve Supplement #10 with KPG Consulting Engineers, Inc. for Construction Engineering and Inspection Services necessary for the 24th Avenue South Improvements (S. 216th Street

to S. 208th Street) in the amount of $688,091.86, bringing the total Agreement amount to $3,577,950.85, and further authorize the City Manager to sign the contract supplement substantially in the form as submitted."

Background

On March 26, 2009, the City Council approved a Consultant Agreement with KPG Consulting Engineers, Inc. (KPG) for the preliminary design phase of the improvements on 24th Avenue South between South 216th Street and South 208th Street, as well as South 216th Street from I-5 to 18th Avenue South. These improvements are collectively referred to as the Transportation Gateway Project.

KPG was recommended as the most qualified team for this work based upon evaluation of five qualified firms who responded to an advertized RFP for professional services. This solicitation covered all aspects of design and construction including provisions that the project may be phased: preliminary design; final engineering plans, specifications and estimates (PS&E); right of way acquisition; as well as construction administration and inspection services upon satisfactory work performance.

The design work for this project has been managed by supplemental agreements with KPG to advance the project from preliminary planning to final design stages including preparation of engineering documents for various segments of the Transportation Gateway Project. On November 29, 2009, based upon the preliminary design report recommendations and extensive citizen involvement, the Council selected an "offset alignment" and approved a supplemental agreement with KPG to conduct final PS&E and right of way acquisition services.

PS&E, environmental work and right of way acquisition processes followed approved Federal guidelines and City of Des Moines procedures. Per direction of the City Council and available funding, two segments of the project S. 216th Street, Segment 2 (between 24th Avenue S. and 18th Avenue S) and 24th Avenue South (between S. 216th Street and S. 208th Street) were advanced into a "shovel ready" project phase including full right of way acquisition. KPG also assisted the City in preparation of materials to successfully compete for full construction funding with the Puget Sound Regional Council (PSRC) and the Washington State Transportation Improvement Board (TIB).

On November 26, 2012, the TIB authorized award of a construction contract and obligated up to $3,780,502 in state funds for construction and construction management services on the S. 216th Street, Segment 2 improvements. On August November 29, 2012 the City Council awarded a contract for construction of S. 216th Street Segment #2 in the amount of $5,156,507, plus a 10% contingency. Simultaneously, the Council also approved a supplemental agreement with KPG (Supplement #9, $559,953.60) to provide construction engineering and inspection services for the project. This project is well under construction, likely to be completed ahead of schedule and expected to fall within the City Council approved budget.

The Transportation Gateway Project, 24th Avenue South improvements were advocated in partnership with the City of SeaTac and the Des Moines segment and was successful in competing for federal Surface Transportation Project (STP) funding before the PSRC as a phase of the regional "Connecting 28th/24th Avenue South". The Federal Highways Administration (FHWA), on April 4, 2013, obligated $3 million funds for construction of the 24th Avenue South segment in the City of Des Moines. The City finalized utility planning and prepared bid documents for the improvements. The documents were then submitted to the Washington State Department of Transportation (WSDOT) to review for conformance to FHWA requirements. WSDOT concurred that the contract terms met requirements for award of a

construction contract to the apparent lowest responsive bidder. The terms of this funding includes, but is not limited to requiring that 15% of the construction contract be used to employ Disadvantaged Business Enterprises as well as 800 hours of employment training. The City is a CA agency (Certification Acceptance) with WSDOT and is authorized to manage design and construction of FHWA funded contracts consistent with Local Area Guidelines. Benefits of CA to a local agency include savings in time and money since the agency has the authority to advertise, award and manage its own projects.

Agreements are in place for all franchise utilities involved in undergrounding of power, water and communications lines. In advance of the call for bids, Midway Sewer District, PSE Gas and PSE high voltage transmission lines were installed and/or relocated in preparation for construction. The Council approved an agreement with Highline Water District to include replacement of a 12" water line as part of the contract, subject to reimbursement of construction and related construction engineering costs.

Discussion

Construction Contract (Motion #1):
On June 20 and June 27, 2013, 24th Avenue South was advertised for bids in the Seattle Times and the Seattle Daily Journal of Commerce. Staff utilized the Builder's Exchange of Washington (an on-line plan center) to reach the majority of contractors and encourage the most competitive bidding atmosphere. A pre-bid meeting was held on July 9, 2013 and bids were publicly opened and read on July 18, 2013 by the City Clerk. A total of eight (8) bids for the project were received. DPK, Inc is the apparent lowest responsive bidder at $4,858,947.95. Bids from the eight (8) contractors are summarized below and in the bid tabulation which is provided as Attachment 3.

BID Results
$4,858,947.95 - DPK Inc (Apparent Low Bid)
$5,032,728.74 - Gary Merlino Construction
$5,134,676.86 - ICON Materials
$5,153,461.02 - RW Scott Construction
$5,155,644.79 - SCI Infrastructure
$5,268,857.35 - Ceccanti
$5,949,706.16 - Tucci & Sons
$6,185,657.80 - Westwater Construction Company

The Engineer's Estimate was $5,476,906.75.

The bid tabulation, as well as the contractor qualifications and references, have been reviewed and KPG recommends award of the contract to DPK, Inc. Highline Water District (HWD) has an additive bid (Schedule E) for water main replacement that will be included in the contract. Of the total bid amount of $4,858,947.95, $540,579.60 is estimated to be paid by HWD for water district improvements within the project. Written confirmation from HWD is expected prior to Council consideration.

The contractor will receive Notice to Proceed on this project as soon as possible after Council approval to award and receipt of all the necessary contract paperwork. The contractor will have 200 working days to complete this project, and construction is anticipated to begin in September, 2013.

Construction Management (Motion #2):
Outside Construction engineering and inspection services are necessary to manage this large construction contract for the City and complete the Transportation Gateway Project's 24th Avenue South improvements. These services are proposed to be provided by KPG, the engineer of record for the project, as provided in Attachment 2. Staff believes that KPG has satisfactorily met engineering expectations for the Transportation Gateway Project as originally envisioned in the solicitation for services and have demonstrated their qualifications for these services on other projects within the City of Des Moines and will be able to maintain valuable overall project history and consistency with the previous phases and segments of the Gateway project.

Construction engineering and inspection services on this project are complex in that it is being constructed with federal funds and must meet extensive FHWA requirements. Steel materials must conform to Buy America requirements and be certified. Requirements include ongoing inspection, monitoring and documentation of contractor compliance to prevailing wage rates, assurance that 15% or more of the contract meets Federal requirements for Disadvantaged Business Enterprises (DBE) and training for minorities. WSDOT is responsible for overseeing FHWA federal funds and will audit work to insure adherence contract requirements. Failure to meet these requirements could result in a loss of Certified Agency (CA) status jeopardizing the city's ability to cost effectively manage federally funded projects. Lack of accurate documentation and inspection could also result in a requirement to reimburse all or a portion of FHWA funds expended on the project. Staff believes KPG is capable of preparing required federal reports and working directly with WSDOT to ensure that FHWA requirements are met.

Oversight of the contractor will also include, but is not limited to, conducting a pre-construction conference involving utilities and key stakeholders; working with property owners to coordinate construction and minimize impacts; preparing daily diaries documenting issues and progress in meeting construction schedule commitments; review and approval of proposed material submittals; responding to contractor requests for information to clarify construction requirements; preparing change orders and work instructions; engineer solutions to unforeseen problems; reviewing materials testing to meet specifications; and performing daily inspections to ensure quality workmanship. Tracking of actual quantities of work is required. KPG will prepare monthly pay estimates to reimburse the contractor. They will also assist the City in providing documentation in the event there are contractor claims that need be evaluated and resolved. At substantial completion, the team will prepare a project punchlist of work to be finished and help guide the work into project closeout and final payment.

Utility coordination is a significant undertaking on this project. Distribution electrical and communication wires are being undergrounded in a joint utility trench and the overhead is distribution systems will be converted by existing agreements with adjoining private properties. KPG has demonstrated success with the City on the 16th Avenue South project, the S. 216th Street Sidewalk Project and the S. 216th Street, Segment 2 project, by developing a team approach in working with utilities and neighboring properties. Staff is also confident that KPG will provide the oversight to coordinate traffic control through the project so it can advance smoothly and minimize delay. The City's experience with this consultant has demonstrated that they are able to expedite construction, avoid expensive contractor delays and closed out projects on time and within budget.

The City's past experience for Construction engineering and inspection services indicates that fees for these services generally run between 14% and 20% of the estimated cost of road construction. KPG's fee is estimated at $688,092 or 14% of the 24th Avenue South construction bid which is reasonable given past practices for roadway construction. Additional documentation management and inspection time is warranted on this project due to the source of the funds (Federal Aid Project classification). Also to

note, of the total estimate amount, approximately $60,000 is to be paid by HWD for inspection of water district improvements within the project. Listed below for comparison are recent construction contracts and approximate CM fee ratios:

Year	Project	Firm	Cost	Fee Ratio
2006	*PAC HWY	Ceccanti Construction	$ 11,171,333	
		CH2M HILL	$ 1,613,397	14%
2008	16TH AVE SOUTH	Scarcella Construction	$ 6,013,708	
		KPG	$ 877,491	15%
2011	*DM CREEK TRAIL	Archer Construction	$ 921,298	
		INCA (TetraTech)	$ 424,926	22%
2012	*NORTH TWIN BRIDGE	CA Carey Construction	$ 1,623,140	
		EXELTECH	$ 608,364	37%
2012	SOUTH 216TH PH 4	TUCCI & SONS	$ 2,216,391	
		KPG	$ 439,612	20%

*Indicates a Federally Funded Project. Typically there is more project documentation and testing required by FHWA and therefore construction management costs are often higher as a percentage of the overall construction costs.

Alternatives

The Council could choose to reject all bids, and not award the contract as well as postpone future efforts to implement the Transportation Gateway project. Attempting to restart this work a later time would be costly and would involve revisiting agreements and engineering details. Delay may also jeopardize federal funding for the project as WSDOT obligated funds for this contract based upon timely expenditure of limited federal funds. PSRC is also monitoring regional expenditures to ensure that funds allocated to the region are being spent. Rejection is not recommended by staff as the bids that were received for the project are very good, many of which were below the engineer's estimate. In fact, the bid by DPK, Inc was $ 617,959 below the engineer's estimate.

It is recommended that the City simultaneously award the construction contract with the consultant supplement. The City does not have the staff resources or expertise to manage a construction project of this magnitude. KPG, the engineer of record, will need to be involved whether or not they provide construction inspection and management services. The most effective and responsive approach would be to engage them directly to oversee the contractor and the interest of the City.

Financial Impact

A copy of the 2013-2018 project budget worksheets from the Transportation CIP is provided as Attachment 4. In summary, the project is within budget.

There are a number of funding partners on the project. Notice from the Federal Highway Administration, obligated $3,000,000 in federal funds for construction. The Port of Seattle, supplemented the City budget by contributing $3,500,000 for 24th Avenue South frontage improvements as part of the Second Development Agreement for the Des Moines Creek Business Park. This contribution from the Port of Seattle was received by the City in May and the Port is now reviewing proposals to develop the property. The Highline Water District Agreement, approved by the Council on June 6, 3013, reimburses the City for 12" water main replacement along the corridor. ($540,580 Schedule E, plus $60,000 for construction administration, engineering, and inspection). HWD was present for the bid opening, the bid is below the engineers estimate and staff verbally approved the additive bid item. Written confirmation is necessary prior to award.

Aerial utilities are being undergrounded as part of the improvement project, including facilities from Puget Sound Energy, CenturyLink, and Comcast. Each of the utilities are partnering with the City on the costs associated with the undergrounding, in accordance with current regulations.

Revenues are consistent with the 2013-2018 budget estimates including full funding for administration, construction, CM, engineering and inspection. The minimum 13.5% local funding match required for federal grant funds has been met.

Recommendation or Conclusion

Staff recommends accepting the apparent low bid for the project and awarding the construction contract to DPK, Inc. Staff also recommends approval of Supplement #10 with KPG for CM and Inspection Services.

Concurrence

The Legal, Finance, Planning, Building and Public Works Departments concur.

Attachment #1

DPK

Proposal

Transportation Gateway Project South 24th Avenue South

TO: Honorable Mayor and City Council
City of Des Moines
21630 11th Avenue South
Des Moines, WA 98198

The undersigned Bidder hereby certifies that he/she has examined the site of all the proposed work under this Contract and that he/she has read and thoroughly understands the Plans, Specifications and other Contract Documents pertaining to this Contract, that he/she is fully aware of the construction problems and costs involved, and proposes to perform all work for the following stated prices.

The undersigned bidder hereby agrees to start construction within ten (10) days after the issue of the Notice to Proceed, and to complete the contract within **[200]** working days thereafter. This period shall be known as the "Contract Time" for the purposes of the project.

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

All schedules on the Bid Proposal must be completed, or the bid shall be considered non-responsive. Basis for award shall be the lowest total Bid for all Schedules A, B, C, D and Additive Schedule E included in the Proposal.

The City reserves the right to award Schedules of work A through D and Additive Schedule E, Schedules of work A through D only, or not award the project.

The Owner will correct obvious mathematical errors in bid proposals.

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

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

SCHEDULE A - ROADWAY IMPROVEMENTS
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00
2	1-04	Contractor's Trailer and Site	1	LS	23,000.00	23,000.00
3	1-05	Roadway Surveying	1	LS	25,000.00	25,000.00
4	1-05	Potholing	1	FA	$ 8,000.00	$ 8,000.00
5	1-05	Resolution of Utility Conflicts	1	FA	$ 15,000.00	$ 15,000.00
6	1-07	SPCC Plan	1	LS	1,000.00	1,000.00
7	1-07	Training	800	HR	1.00	800.00
8	1-08	Type B Progress Schedule (Minimum Bid $5,000)	1	LS	12,000.00	12,000.00
9	1-09	Mobilization	1	LS	268,000.00	268,000.00
10	1-10	Pedestrian Control and Protection	1	LS	45,000.00	45,000.00
11	1-10	Project Temporary Traffic Control	1	LS	100,000	100,000.00
12	2-01	Clearing and Grubbing	1	LS	50,000	50,000.00
13	2-01	Roadside Cleanup	1	FA	$ 5,000.00	$ 5,000.00
14	2-02	Removal of Structures and Obstructions	1	LS	30,000	30,000.00
15	2-03	Roadway Excavation Incl. Haul	4,022	CY	23.00	92,506.00
16	2-03	Unsuitable Foundation Excavation Incl. Haul	387	CY	4.00	1,548.00
17	2-03	Gravel Borrow Incl. Haul	11,228	TON	.01	112.28
18	2-09	Structure Excavation Class B	3,196	CY	8.00	25,568.00
19	2-09	Shoring or Extra Excavation Class B	1	LS	10,000	10,000.00
20	2-11	Trimming and Cleanup	1	LS	5,000	5,000.00
21	4-04	Crushed Surfacing Base Course	4,275	TON	23.00	98,325.00
22	4-04	Crushed Surfacing Top Course	5,806	TON	24.00	139,344.00
23	5-04	HMA Cl. 1/2" PG 64-22	7,659	TON	85.00	651,015.00
24	6-10	Temporary Concrete Barrier	2,600	LF	.01	26.00
25	7-01	Cleanout	5	EA	500.00	2,500.00
26	7-04	Storm Sewer Pipe, 8-in. Diameter	50	LF	55.00	2750.00
27	7-04	Ductile Iron Storm Sewer Pipe, 8-in. Diameter	30	LF	80.00	2,400.00
28	7-04	Storm Sewer Pipe, 12-in. Diameter	2,775	LF	65.00	180,375.00
29	7-04	Ductile Iron Storm Sewer Pipe, 12-in. Diameter	736	LF	85.00	62,560.00
30	7-04	Storm Sewer Pipe, 18-in. Diameter	143	LF	90.00	12,870.00
31	7-04	Storm Sewer Pipe, 24-in. Diameter	259	LF	100.00	25,900.00
32	7-05	Concrete Inlet	4	EA	1,000.00	4,000.00

MODIFIED 7-12-13
ADDENDUM #2

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SCHEDULE A - ROADWAY IMPROVEMENTS
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
33	7-05	Catch Basin Type 1	25	EA	1,200	30,000.00
34	7-05	Catch Basin Type 1-L	3	EA	1,300	3,900.00
35	7-05	Catch Basin Type 2, 48-In. Diameter	8	EA	1,800	14,400.00
36	7-05	Catch Basin Type 2, 54-In. Diameter	1	EA	2,500	2,500.00
37	7-05	Catch Basin Type 2, 60-In. Diameter	1	EA	3,500	3,500.00
38	7-05	Water Quality Manhole (96" Dia.)	1	LS	60,000	60,000.00
39	7-05	Water Quality Vault (8' X 16')	1	LS	70,000	70,000.00
40	7-05	Detention Vault (16' X 180')	1	LS	380,000.00	380,000.00
41	7-05	Detention Vault (10' X 120')	1	LS	215,000	215,000.00
42	7-05	Adjust Catch Basin	1	EA	500.00	500.00
43	7-05	Spill Separator	1	EA	1,600	1,600.00
44	7-05	Adjust Sanitary Sewer Manhole to Grade	6	EA	500.00	3000.00
45	8-01	ESC Lead	200	DAY	50.00	10,000.00
46	8-01	Erosion / Water Pollution Control	1	LS	15,000	15,000.00
47	8-01	Stormwater Pollution Prevention Plan (SWPPP)	1	LS	1,500	1,500.00
48	8-01	Temporary Detention/Retention SWPPP Control Facilities	1	LS	2,000	2,000.00
49	8-01	Silt Fence	3,600	LF	5.00	18,000.00
50	8-01	Inlet Protection	57	EA	70.00	3,990.00
51	8-02	Seeded Lawn Installation	6,200	SY	1.00	6,200.00
52	8-02	Topsoil Type A	800	CY	42.00	33,600.00
53	8-02	Bark Mulch	120	CY	50.00	6,000.00
54	8-02	PSIPE Acer platanoides 'Crimson Sentry'/ Crimson Sentry Maple, 2 1/2" Cal., 12'-14' Ht.	39	EA	310.00	12,090.00
55	8-02	PSIPE Fraxinus americana 'Empire'/ Empire Ash, 2 1/2" Cal., 12'-14' Ht.	23	EA	330.00	7,590.00
56	8-02	PSIPE Cornus 'Eddie's White Wonder'/ Eddie's White Wonder Dogwood, 2 1/2" Cal., 10'-12' Ht.	29	EA	400.00	11,600.00
57	8-02	PSIPE Berberis thunbergii 'Crimson Pygmy'/ Dwarf Japanese Barberry, 2 Gal. Cont.	495	EA	19.00	9,405.00
58	8-02	PSIPE Cornus stolonifera 'Kelseyi'/ Dwarf Redtwig Dogwood, 2 Gal. Cont.	188	EA	16.00	3,008.00
59	8-02	PSIPE Deutzia gracilis 'Nikko'/ Nikko Slender Deutzia, 2 Gal. Cont.	260	EA	20.00	5,200.00
60	8-02	PSIPE Spiraea x japonica 'Goldflame'/ Goldflame Spiraea	528	EA	15.00	7,920.00
61	8-02	PSIPE Helictotrichon sempervirens/ Blue Oat Grass, 1 Gal. Cont.	389	EA	8.00	3,112.00
62	8-02	PSIPE Nassella tenuissima/ Mexican Feathergrass, 1 Gal. Cont.	466	EA	7.00	3,262.00
63	8-02	PSIPE Panicum virgatum 'Rotstrahbusch'/ Red Switch Grass, 1 Gal. Cont.	359	EA	12.00	4,308.00
64	8-02	PSIPE Cotoneaster dammeri 'Coral Beauty'/ Coral Beauty Cotoneaster, 1 Gal. Cont.	605	EA	9.00	5,445.00

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SCHEDULE A - ROADWAY IMPROVEMENTS
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
65	8-02	PSIPE Nandina domestica 'Harbor Dwarf'/ Dwarf Heavenly Bamboo, 1 Gal. Cont.	415	EA	12.00	4,980.00
66	8-02	PSIPE Fragaria 'Lipstick'/ Ornamental Strawberry, 1 Gal. Cont.	245	EA	10.00	2,450.00
67	8-02	PSIPE Rubus Calycinoides 'Emerald Carpet'/ Creeping Bramble, 1 Gal. Cont.	365	EA	9.00	3,285.00
68	8-02	Property Restoration	1	FA	$ 50,000.00	$ 50,000.00
69	8-03	Automatic Irrigation System Complete	1	LS	80,000	80,000.00
70	8-04	Cement Conc. Traffic Curb and Gutter	5,286	LF	22.00	116,292.00
71	8-04	Cement Conc. Traffic Curb	1,169	LF	18.00	21,043.00
72	8-04	Extruded Curb	355	LF	8.00	2,840.00
73	8-04	Dual-Faced Cement Concrete Traffic Curb	315	LF	25.00	7,875.00
74	8-06	Cement Conc. Driveway Entrance Type 1	571	SY	45.00	25,695.00
75	8-06	Cement Conc. Driveway Entrance Type 1 Modified	206	SY	45.00	9,270.00
76	8-09	Raised Pavement Marker Type 1	23	HUND	180.00	4140.00
77	8-09	Raised Pavement Marker Type 2	4	HUND	360.00	1,440.00
78	8-12	Chain Link Fence	318	LF	50.00	15,900.00
79	8-12	Wood Fence	126	LF	50.00	6,300.00
80	8-12	High Visibility Fence	1,356	LF	3.00	4,068.00
81	8-13	Monument Case and Cover	2	EA	1,000.00	2,000.00
82	8-14	Cement Conc. Sidewalk	3,439	SY	35.00	120,365.00
83	8-14	Sidewalk Transition Ramp	2	EA	1,200.00	2,400.00
84	8-14	Concrete Stair Reconstruction	1	LS	6,000.00	6000.00
85	8-18	Mailbox Support	18	EA	500.00	9,000.00
86	8-20	Modification of Traffic Signal System at S 216th Street & 24th Ave S, Complete	1	LS	25,000	25,000.00
87	8-20	Illumination System, Complete	1	LS	340,000	340,000.00
88	8-20	Fiber Optic Interconnect System, Complete	1	LS	50,000.00	50,000.00
89	8-21	Permanent Signing	1	LS	8,000.00	8,000.00
90	8-22	Paint Line	6,863	LF	0.52	3,568.76
91	8-22	Plastic Stop Line	88	LF	6.00	528.00
92	8-22	Plastic Traffic Arrow	20	EA	80.00	1,600.00
93	8-22	Plastic Traffic Letter	12	EA	80.00	960.00
94	8-22	Plastic Bicycle Lane Symbol	21	EA	280.00	5,880.00
95	8-22	Plastic Bicycle Lane Symbol for Loop Detection	1	EA	20.00	20.00
96	8-22	Removing Pavement Markings	5,565	LF	.50	2,782.50

MODIFIED 7-12-13
ADDENDUM #2

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SCHEDULE A - ROADWAY IMPROVEMENTS
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
97	8-23	Temporary Pavement Markings	8,450	LF	.23	1,943.50
98	8-23	Removing Temporary Pavement Markings	8,450	LF	.05	422.50
99	8-26	HMA For Trench Patching Class 1/2" PG 64-22, for Aerial Utility Conversion	36	TON	150.00	5,400.00
100	8-26	Franchise Utility Excavation, Inc. Haul	2,882	CY	20.00	57,640.00
101	8-26	Franchise Utility Trench Bedding, Sand	1,016	CY	26.00	26,416.00
102	8-26	Franchise Utility Trench Backfill, Fluidized Thermal Backfill	143	CY	140.00	20,020.00
103	8-26	Franchise Utility Trench and Structure Backfill, Crushed Surfacing Top Course	2,577	TON	16.00	41,232.00
104	8-26	Shoring or Extra Excavation Class B for Aerial Utility Conversion	1	LS	500.00	500.00
105	8-26	Secondary Electrical Service Connections	1	FA	$ 60,000.00	$ 60,000.00
106	8-27	Adjust Gas Valve	4	EA	450.00	1,800.00
107	7-01	Roof Drain Lateral	150	LF	45.00	6,750.00

TOTAL BID SCHEDULE A

$ 4,024,034.52

In Figures

TOTAL BID SCHEDULE A

$ Four Million, Twenty Four Thousand, Thirty Four Dollars

In Words

And Fifty Two Cents

MODIFIED 7-12-13
ADDENDUM #2

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SCHEDULE B - PSE UNDERGROUNDING
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	1-04	Minor Change	1	EST	$15,000.00	$15,000.00
2	8-26	Install Franchise Utility Conduit, 2-Inch DB 120	802	LF	2.00	1,604.00
3	8-26	Install Franchise Utility Conduit, 3-Inch DB 120	1,362	LF	3.00	4,086.00
4	8-26	Install Franchise Utility Conduit, 4-Inch DB 120	6,711	LF	4.00	26,844.00
5	8-26	Install Franchise Utility Conduit, 6-Inch DB 120	6,064	LF	5.00	30,320.00
6	8-26	Install Franchise Utility Structure - Junction Box 4'8"x7'x5'6"	5	EA	4000.00	20,000.00
7	8-26	Install Franchise Utility Structure - Transformer 42"x48"x36"	4	EA	750.00	3,000.00
8	8-26	Install Franchise Utility Structure - Handhole 2'6"x2'6"x2'	7	EA	700.00	4,900.00
9	8-26	Install Franchise Utility Structure - Pull Vault 6'4"x11'10"x8'2"	3	EA	5,000.00	15,000.00
10	8-26	Install Franchise Utility Structure - Pole Riser	3	EA	600.00	1,800.00

Bid Schedule B Subtotal $ 122,554.00

Bid Schedule B Sales Tax (9.5%) $ 11,642.63

TOTAL BID SCHEDULE B

$ 134,196.63

In Figures

TOTAL BID SCHEDULE B

$ One Hundred Thirty-Four Thousand, One Hundred Ninety Six Dollars

In Words

And Sixty Three Cents.

SCHEDULE C - COMCAST UNDERGROUNDING
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00
2	8-26	Install Franchise Utility Conduit, 4-Inch	10,631	LF	4.00	42,524.00
3	8-26	Install Franchise Utility Structure - Handhole 21.75"x33.25"x24"	7	EA	600.00	4,200.00
4	8-26	Install Franchise Utility Structure - Vault 34.75"x52.25"x36"	5	EA	1,200.00	6,000.00

Bid Schedule C Subtotal $ 67,724.00

Bid Schedule C Sales Tax (9.5%) $ 6,433.78

TOTAL BID SCHEDULE C

$ 74,157.78

In Figures

TOTAL BID SCHEDULE C

$ Seventy Four Thousand, One Hundred Fifty Seven Dollars

In Words

And Seventy Eight cents

SCHEDULE D - CENTURYLINK UNDERGROUNDING
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00
2	8-26	Install Franchise Utility Conduit, 4-Inch	12,405	LF	4.00	49,620.00
3	8-26	Install Franchise Utility Structure - Vault 4484 TA	5	EA	1,500.00	7,500.00
4	8-26	Install Franchise Utility Structure - Handhole 264 TA	2	EA	1,100.00	2,200.00
5	8-26	Install Franchise Utility Structure - Handhole 1730-34	6	EA	700.00	4,200.00

Bid Schedule D Subtotal $ 78,520.00

Bid Schedule D Sales Tax (9.5%) $ 7,459.40

TOTAL BID SCHEDULE D

$ 85,979.40

In Figures

TOTAL BID SCHEDULE D

$ Eighty Five Thousand, Nine Hundred Seventy Nine Dollars

In Words

And Forty Cents

SCHEDULE E (ADDITIVE)- WATER IMPROVEMENTS
CITY OF DES MOINES TRANSPORTATION GATEWAY PROJECT
24TH AVENUE SOUTH

Item	Section	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1		Mobilization (NTE 10% of Contract - Water Schedule)	1	LS	10,000	10,000.00
2		Trench Safety Systems	1	LS	1,000	1,000.00
3		Project Temporary Traffic Control	1	LS	20,000	20,000.00
4		Furnish and Install 12" CL 52 D.I. Pipe	2,915	LF	80.00	233,200.00
5		Furnish and Install 8" CL 52 D.I. Pipe	30	LF	75.00	2,250.00
6		12" Gate Valve and Valve Box	16	EA	2,000	32,000.00
7		8" Gate Valve and Valve Box	1	EA	1,500.00	1,500.00
8		Cut In and/or Connect to Existing System	7	EA	4000.00	28,000.00
9		2" Combination Air Valve Assembly	1	EA	3,500	3,500.00
10		2" Blow Off Assy.	3	EA	2,400	7,200.00
11		Fire Hydrant Assembly	8	EA	3,900	31,200.00
12		Short Service Connections, 5/8"	15	EA	1,250	18,750.00
13		Short Service Connections, 1"	1	EA	1,350	1,350.00
14		Additional Water Main Fittings	2,000	LB	2.50	5,000.00
15		HMA Class 1/2" PG 64-22 Pavement Patch	135	TON	150.00	20,250.00
16		Saw Cut Exist. Asphalt or Concrete Pavement	5,300	LF	1.60	8,480.00
17		5/8" Crushed Surfacing Top Course	400	TON	30.00	12,000.00
18		1-1/4" Crushed Surfacing Base Course for Trench Backfill	1,375	TON	16.00	22,000.00
19		Property Restoration	1	LS	6,000.00	6000.00
20		Temp. Erosion and Sedimentation Control	1	LS	1,000.00	1000.00
21		Resolution of Utility Conflicts	1	FA	$ 15,000.00	$ 15,000.00
22		Survey for Water Main	1	LS	4000.00	4000.00
23		Minor Chage	1	EST	$ 10,000.00	$ 10,000.00

Bid Schedule E Subtotal $ 493,680.00

Bid Schedule E Sales Tax (9.5%) $ 46,899.60

TOTAL BID SCHEDULE E

$ 540,579.60

In Figures

TOTAL BID SCHEDULE E

$ Five Hundred Forty Thousand, Five Hundred Seventy Nine

In Words Dollars and Sixty Cents

Proposal (Continued)

Schedule A Total $ 4,024,054.54

Schedule B Total $ 134,196.63

Schedule C Total $ 74,157.78

Schedule D Total $ 85,979.40

Schedule E (Additive) Total $ 540,579.60

Total Bid Price (in figures) $ 4,858,947.95

Total Bid Price (in words) Four Million, Eight Hundred Fifty Eight Thousand Nine Hundred Forty Seven Dollars and Ninty Five Cents

Attached hereto is the required Bid Security in the amount of $ 242,947.40 ( ) payable to the City of Des Moines which is equal to or more than five percent (5%) of the total bid price.

Signed Dave Keyohane

Title President

Name of Bidder

Registration or license, Division of Professional Licensing:

1. License Number DPK**I*222K6
2. Date July 18, 2013
3. Contractor's Signature Dave Keyohane
4. Title President

Address of Bidder: 7829 S. 206th Street, Kent, WA 98032
Street City Zip

Telephone Number of Bidder (253)872-7916
Office Home

Email Contacts bobk@dpkinc.com

Date of Bid July 18, 2013

Receipt is hereby acknowledged for the following Addenda:

Addendum No.	Date Received	Signature
#1	July 10th, 2013	[illegible]
#2	July 15th, 2013	[illegible]

The bidder acknowledges that bids must be submitted for all Bid Schedules. Partial Bids shall not be considered.

Bid proposal to be submitted in a sealed envelope marked "Bid Enclosed" for Transportation Gateway Project 24th Avenue South.

Form of a Bid Bond

BID BOND DEPOSIT

Herewith find deposit in the form of a Bid Bond (state whether certified check, cashier's check, bid bond, or postal money order)

for the amount of _____, which amount is not less than five percent (5%) of the total bid, including sales tax.

Signature_____

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, DPK, Inc., as Principal, and Travelers Casualty and Surety Company of America, as Surety, are held and firmly bound unto the City of Des Moines, as Obligee, in the penal sum of five percent (5%) of the total amount bid---------- dollars ($----------) for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

The Condition of this obligation is such that if the Obligee shall make award to the Principal for the **Transportation Gateway Project 24th Avenue South**, according to the terms of the proposal or bid made by the Principal therefore and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for the faithful performance thereof, with Surety or Sureties approved by the Obligee; or, if the Principal shall in case of failure so to do, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids; then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS 18th DAY OF July, 20 13.

DPK, Inc.
By:
Principal

Travelers Casualty and Surety Company of America
By: Jim S. Kuich, Attorney-in-fact
Surety

Received return of deposit in the sum of _____

Date 07-18-13

Signature _____

Page 23 Form of a Bid Bond
Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com - Always Verify Scale

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

TRAVELERS

POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 225897

Certificate No. 005297394

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Darlene Jakielski, Julie M. Glover, M.J. Cotton, Nancy J. Osborne, S.M. Scott, Steven K. Bush, Michael A. Murphy, Jim W. Doyle, Brandon K. Bush, Andy D. Prill, Jim S. Kuich, Chad M. Epple, Steve Wagner, Theresa A. Lamb, and Brett N. Meier

of the City of Bothell, State of Washington, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 6th day of December, 2012.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

State of Connecticut
City of Hartford ss.

By: _____
Robert L. Raney, Senior Vice President

On this the 6th day of December, 2012, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.

Marie C. Tetreault
Marie C. Tetreault, Notary Public

58440-8-12 Printed in U.S.A.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 18th day of July, 2013.

Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

Non-collusion Affidavit

City of Des Moines

STATE OF WASHINGTON)

) ss.

County of King)

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

Signature David Kiyohara

Subscribed and sworn to before me this 18th day

of July, 2013.

Notary Public in and for the State of Washington

Kent, WA

Residing at

My commission expires 12/07/2014

Statement of Bidder's Qualifications

Each bidder submitting a proposal on work included in these Plans and Specifications shall prepare and submit as part of this bid the following schedule:

1. Name of bidder: DPK, Inc.

2. Business address and telephone number:

7829 S. 206th Street
Kent, WA 98032
(253) 872-7116

3. How many years has said bidder been engaged in the contracting business under present firm name:

35 years

4. Contracts now in hand (gross amount):

$ 4,011,249

5. General character of work performed by said company:

Water main, Drainage, Earthwork, Sewer, Utilities, Bridge Deck, Roadwork, Storm Sewer

6. List of more important projects constructed by said company, including approximate costs and dates:

See attached list

7. List of company's major equipment:

See attached list.

7829 S. 206TH STREET
KENT, WA 98032
Tel: (253) 872-7916 Tel: (253) 872-5112

Completed Contracts

NAME OF PROJECT	COMPLE-TION DATE	NATURE OF WORK	AMOUNT OF CONTRACT	PERCENT COMPLETE	PERCENT DONE BY DPK	PROJECT LOCATION	PRIME OR SUBCONTRACTOR	OWNER OR PRIME CONTRACTOR	CONTACT PERSON	PHONE NO.
Riverside Bridge Replacement	Oct, 2004	Bridge Deck	1,971,781	100%	95%	Mt. Vernon, WA	Prime	WSDOT	Rob Doyle	360-707-2909
Pacific Hwy. So. HOV Lanes Phase II	Apr, 2006	Utilities	8,046,025	100%	60%	Federal Way, WA	Prime	City of Federal Way	Brian Roberts	253-661-4182
Sylvester Rd SW Roadway Improvements	Jan, 2006	Utilities	1,500,000	100%	80%	Burien, WA	Prime	City of Burien	John O'Brien	206-277-0531
New Middle School in Federal Way	Jan, 2006	Utilities	761,000	100%	100%	Federal Way, WA	Subcontractor	Bayley Construction	Steve Grasso	206-621-8884
Pacific Hwy South - S 316th Street Left Turn	Sep, 2006	Utilities	98,193	100%	80%	Federal Way, WA	Prime	City of Federal Way	Brian Roberts	253-661-4182
Fire Station 10 Replacement Project	Jun, 2006	Utilities	281,217	100%	100%	Seattle, WA	Subcontractor	Hoffman Construction	Bob Vincent	206-286-6697
King Co. International Runway 13R-31L	Aug, 2006	Storm Sewer	849,365	100%	100%	Seattle, WA	Subcontractor	Icon Materials	David Gent	206-574-3903
I-5 Pierce Co. Line to Tukwila	May, 2005	Utilities	2,113,032	100%	100%	Puyallup, WA	Subcontractor	Icon Materials	Dave Basinger	206-575-3200
SE 227th Place Sanitary Sewer	Jan, 2007	Storm Sewer	204,289	100%	98%	Kent, WA	Prime	City of Kent	Nancy Yoshitake	253-856-5508
Third Runway Project	Jun, 2009	Storm Sewer	3,992,821	100%	100%	Sea-Tac, WA	Subcontractor	Icon Materials	Dave Basinger	206-575-3200
Port of Olympia Runway 17-35	Oct 2008	Utilities	404,891	100%	100%	Olympia, WA	Subcontractor	Icon Materials	Dave Basinger	206-575-3200
King Co. International Runway Taxiway	Feb, 2009	Utilities	2,379,952	100%	98%	Seattle, WA	Subcontractor	Icon Materials	Dave Basinger	206-575-3200
City of Burien Town Square	Nov, 2010	Utilities	7,025,205	100%	53%	Burien, WA	Prime	City of Burien	Barnaby Holt	206-267-1045
Wholesale Transmission Main Installation	Jul, 2011	Storm Sewer	2,934,062	100%	91%	Lakewood, WA	Prime	Lakewood Water District	Randall Black	253-588-4423

Contracts in Progress as of July 1, 2013

	(Start Date)				(Est End Date)					
1st Ave South Improvements	OCT, 2011	Road	6,011,249	75%	Jul, 2013	Burien, WA	Prime	Perteen, Inc.	Mark Holmes	206-436-0515
Total In Progress			**6,011,249**							

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7829 S. 206TH STREET
KENT, WA 98032
Tel: (253) 872-7916 Tel: (253) 872-5112

Completed and Uncompleted Contracts as of June 6, 2013

Completed Contracts

NAME OF PROJECT	COMPLE-TION DATE	NATURE OF WORK	AMOUNT OF CONTRACT	PROJECT LOCATION	OWNER OR PRIME CONTRACTOR	CONTACT PERSON	PHONE NO.
Highline Water Main	1992	Water Main	2,100,000	Kent, WA	Highline Water District	Jay Gibson	206-824-0375
Alaskan Way/Royal Brougham	1994	Drainage	565,000	Seattle, WA	Totem Electric	Scott Stevens	206-838-9803
Northup to Bothell	1994	Drainage	409,000	SR405 (Northup to Bothell), WA	Tri-State Construction	Ron Agostino	206-632-7717
Ryan Hill Water Main	1996	Water Main	497,000	Tukwila, WA	City of Tukwila	Bob Giberson	206-433-0179
NE 195th to SW 164th	1996	Drainage	1,667,236	I5 & NE 195th to SW 164th, WA	Max J. Kuney	Steve Bush	509-535-0651
Alki Transfer/CSO Project	1997	Alki Tunnel	1,158,486	Seattle, WA	McNally Tunneling Corp.	Richard Boutelle	216-835-0053
Microsoft Augusta	1998	All Utilities	1,424,000	Microsoft Way - Redmond, WA	City Transfer of Kent	Keith Benson	253-850-1775
1st Avenue South Bridge	1998	Water Main	644,000	Seattle, WA	Gary Merlino Construction	Jay Heuter	206-762-9125
Mariners Baseball Stadium	1998	Drainage	1,590,000	Seattle, WA	Max J. Kuney	Max J. Kuney, Jr.	509-535-0651
Vaults/Conduits at Madison St.	1998	Elec. Ducts	500,000	Seattle, WA	City of Seattle	Mario Babasa	206-684-5851
Myers Way Landslide Repair	1998	Drainage	570,000	Seattle, WA	Wilder Construction	Matt Collins	425-551-3100
Ground Access & Seismic Improve.	1998	Grading	284,000	Sea-Tac Airport, Sea-Tac, WA	Max J. Kuney Company	Kevin Carroll	503-535-0651
Harbor Ave. Bridges	1999	Utilities	1,417,000	Seattle, WA	Max J. Kuney Company	Project Mgr	503-535-0651
1998 Arterial Asphalt Resurfacing	1999	Utilities	677,000	Seattle, WA	Lakeside Industries	Bob Sturgis	206-622-0630
Harbor Ave. Reconstruction	1999	Utilities	466,000	Seattle, WA	Gary Merlino Construction	Project Mgr	206-762-9125
Harbor Avenue Bridges A, B, D, E	2000	Water Main	1,800,000	Seattle, WA	Max J. Kuney Company	Tobin Smith	509-535-0651
SR 520 104th Av NE to W Lk Sammamish	2000	Water Main	1,900,000	Redmond, WA	Max J. Kuney Company	Greg Pindras	509-535-0651
Phase I Parking Lot Expansion	2000	Earthwork	535,000	Federal Way, WA	Enchanted Parks, Inc.	Jeff Stock	253-661-8007
Wild Waves Ride Expansion	2000	Site & Utility	1,050,000	Federal Way, WA	Enchanted Parks, Inc.	Jeff Stock	253-661-8007
118th Ave SE Walkway/Bikeway	2001	Roadwork	1,300,000	Bellevue, WA	City of Bellevue	Teresa Becker	452-452-6998
Sanitary Sewer Extension	2001	Sewer	450,000	Bellevue, WA	City of Bellevue	Richard Green	425-452-6977
Chambers Creek	2001	Drainage	230,210	Tacoma, WA	Malcolm Drilling	Mike Pollock	253-395-3300
Mercer Slough to 128th Ave	2001	Structures	249,511	Bellevue, WA	Lakeside Industries	Bob Sturgis	206-622-0630
23rd Ave S Road Project	2001	Duct Bank	347,635	Federal Way, WA	Qwest	Steve Webb	253-872-3018
S Interceptor Parallel	2002	Structures	922,629	Tukwila, WA	Tri-State Construction	Mike Salmon	206-632-7717
SR202 Evans Creek Drainage	2002	Drainage	287,080	Redmond, WA	Lakeside	Bob Sturgis	206-622-0630
23rd Ave S Road Improvements	2002	Utilities	5,378,522	Federal Way, WA	City of Federal Way	Cary Roe	253-661-4130
Riverside Bridge Replacement	2003	Bridge Deck	1,971,781	Mt. Vernon, WA	WSDOT	Rob Doyle	360-707-2909
SW 152nd St. Improvements	2003	Utilities	4,833,000	Burien, WA	City of Burien	John O'Brien	206-277-0531
Pacific Hwy. So. HOV Lanes Phase II	2005	Utilities	7,500,000	Federal Way, WA	City of Federal Way	Brian Roberts	253-661-4182
Sylvester Rd SW Roadway Improvements	2005	Utilities	1,500,000	Burien, WA	City of Burien	John O'Brien	206-277-0531
New Middle School in Federal Way	2005	Utilities	761,000	Federal Way, WA	Bayley Construction	Steve Grasso	206-621-8884
Pacific Hwy South - S 316th Street Left Turn	2006	Utilities	110,786	Federal Way, WA	City of Federal Way	Brian Roberts	253-661-4182
Fire Station 10 Replacement Project	2006	Utilities	281,217	Seattle, WA	Hoffman Construction	Bob Vincent	206-286-6697
King Co. International Runway 13R-31L	2006	Storm Sewer	849,365	Seattle, WA	Icon Materials	David Gent	206-574-3903
LID 360: SE 227th Place Sanitary Sewer	2007	Storm Sewer	203,629	Kent, WA	City of Kent	Jason Barry	253-856-5546
I-5 Pierce Co. Line to Tukwila	2007	Utilities	2,118,299	Puyallup, WA	Icon Materials	Dave Basinger	206-575-3200
Third Runway Project	2007	Storm Sewer	3,904,439	Sea-Tac, WA	Icon Materials	Dave Basinger	206-575-3200
Town Square & 4th Ave Street Improvements	2008	Utilities	6,903,489	Burien, WA	City of Burien	Peter Lau	206-248-5533
KC International Airport Taxiway	2008	Storm Sewer	2,250,686	Sea-Tac, WA	Icon Materials	David Gent	206-574-3903
Wholesale Transmission Main Installation	2011	Storm Sewer	2,934,062	Lakewood, WA	Lakewood Water District	Randall Black	253-588-4423

Contracts in Progress

1st Avenue South Improvements	2012	Drainage	6,011,249	Burien, WA	Perteet, Inc.	Mark Holmes	206-436-0515

7/1/2013 11:20 AM

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DPK, INC. EQUIPMENT LIST
FOR BIDDING ONLY W/BID DOCUMENT

EQUIP NO.	DESCRIPTION	MODEL YEAR	GAS/ DIESEL	SERIAL NO.	HRLY RATE	STANDBY RATE
K22	MACK TRUCK TRACTOR	1985	DIESEL	1M2T152C4FM002622	33.17	6.63
K22PT	PONY TRAILER END DUMP	1985	N/A	1BN1B1321GK29220C	8.81	2.63
K23	MACK TRUCK TRACTOR	1985	DIESEL	1M2T152C6FM002623	33.17	6.63
K23PT	PONY TRAILER END DUMP	1985	N/A	1BN1B1320GK29220B	8.81	2.63
K24	MACK BOOM TRUCK	1978	DIESEL	RD686S4824	33.89	6.37
K24PT	PONY TRAILER END DUMP	1985	N/A	1BN1B1328GK29220A	8.81	2.63
K25	CASE LOADER 580-C	1978	DIESEL	8970121	14.68	3.99
K26	CATERPILLER WHEEL LOADER 950A	1976	DIESEL	81J9993	37.52	10.19
K27	HITACHI EXCAVATOR UH181	1985	DIESEL	1240131	120.78	38.17
K28	RAYGO ROLLER 320A	1985	DIESEL	37B523	25.11	7.36
K29	KOMATSU DOZER D31-A-17	1985	DIESEL	33161	26.76	7.76
K30	KOMATSU EXCAVATOR PC120-3	1986	DIESEL	21236	35.69	11.62
K31	CATERPILLAR WHEEL LOADER 950E	1989	DIESEL	22Z04178	37.93	10.49
K33	CASE EXTENDAHOE 580K	1990	DIESEL	JJG0023143	17.84	5.32
K34	CASE EXTENDAHOE 580K	1990	DIESEL	JJG0023064	17.84	5.32
K35	CASE EXTENDAHOE 580K	1990	DIESEL	JJG0026532	17.84	5.32
K36	CASE BACKHOE 580K	1990	DIESEL	JJG0021394	17.84	5.32
K37	GMC 2-TON FLATBED	1980	GAS	T17DBAV579246	18.32	1.89
K38	GMC 1-TON FLATBED	1984	GAS	1GDHC34M6EV531752	18.39	1.92
K39	GMC 1-TON FLATBED	1986	GAS	1GDHC34J7GJ531341	14.25	1.40
K40	CHEVY 1-TON FLATBED	1990	DIESEL	1GBJC34J1LE166006	12.28	2.27
K41	CHEVY 1-TON C35BOX	1990	GAS	1GBJC34K5LE189460	18.62	2.04
K43	TRAIL KING TILTBED TRAILER	1990	N/A	1TKC02428MM107924	5.23	1.47
K44	F-600 FORD FUEL TRUCK	1973	GAS	C61EVR1239	N/A	N/A
K45	INTERNATIONAL WATER TRUCK	1970	GAS	231912G389289	25.79	3.77
K46	KOMATSU EXCAVATOR PC120-5	1990	DIESEL	35123	36.87	12.21
K47	MACK TRUCK TRACTOR - HEAVY	1991	DIESEL	1M2P270C7MM10787	42.73	8.84
K47PT	PONY TRAILER END DUMP	1991	N/A	1BN1P1537MK91920A	8.94	2.70
K48	MACK TRUCK TRACTOR - HEAVY	1991	DIESEL	1M2P270C7MM010786	42.73	8.84
K48PT	PONY TRAILER END DUMP	1991	N/A	1BN1P1537MK91920B	8.94	2.70
K49	SULAIR COMPRESSOR	1990	GAS	102421	10.02	1.31
K50	LAY-MORE SWEEPER	1990	DIESEL	8B2206881355	10.93	3.09
K51	BEMIS ARROWBOARD	1993	N/A	9109B201	N/A	N/A
K52	CHEVY 25-3500 FLATBED	1994	GAS	1GBJC34K3RE100168	18.94	2.20
K53	CHEVY 25-3500 FLATBED (Mike Ayers)	1994	GAS	1GBJC34K7RE100142	18.94	2.20
K54	FORD SERVICE TRUCK	1981	DIESEL	1FDNK74H9BVJ14253	N/A	N/A
K55	V-180-B LIFT TRUCK	1979	DIESEL	68Y1365	N/A	N/A
K56/A	DITCH WITCH 3500/H312	1993	DIESEL	3J0808 / 8K0078	15.33	5.39
K57/A	DITCH WITCH 3500/H331	1993	N/A	3K0368 / 8J0513	15.33	5.39
K59	INGERSOLL-RAND AIR COMPRESSOR	1993	DIESEL	222200UAD328	10.10	1.90
K60	ALLIED HOLE HOG 1000C	1993	N/A	9878	N/A	N/A
K61	ALLIED HOLE HOG 1000C	1993	N/A	9849	N/A	N/A
K62	KOMATSU EXCAVATOR PC200-LC	1993	DIESEL	68333	55.61	17.88
K64	RAMMER HAMMER S26	1994	N/A	26B012961BO1	11.50	4.78
K65	CATERPILLAR WHEEL LOADER 938-F	1997	DIESEL	1KM01041	34.65	10.10
K66	KOMATSU PC300LC-5 EXCAVATOR	1997	DIESEL	23418	90.42	29.61
K69	CHEVY FLATBED 1.5 TON	1998	GAS	1GBKC34J8WF046660	19.16	2.31
K70	CHEVY FLATBED 1.5 TON (Terry Taylor)	1999	GAS	1GBKC34J3XF062931	19.16	2.31
K71	CHEVY PICKUP	1999	GAS	1GCECK19VXXZ164334	N/A	N/A
K72	CHEVY TRUCK G3 VAN	2000	GAS	1GBJG31R6Y1160876	N/A	N/A
K73	KOMATSU PC120-6	1999	DIESEL	58007	43.58	15.44
K74	LINCOLN WELDER		N/A	A1088760	N/A	N/A
K75	BOMAG ROLLER VIB 3-5 TON	1998	DIESEL	101750000218	N/A	
K76	HOPAK ALLIED 9700-C	2000	N/A	3700	6.95	2.73
K77	HOPAK ALLIED 9700	1998	N/A	27781	6.87	2.69

DPK, INC. EQUIPMENT LIST
FOR BIDDING ONLY W/BID DOCUMENT

EQUIP NO.	DESCRIPTION	MODEL YEAR	GAS/ DIESEL	SERIAL NO.	HRLY RATE	STANDBY RATE
K78	HOPAK STANLEY HS 600 580 CASE	1995	N/A		4.46	1.78
K79	RAMMER HAMMER E-64	1998	N/A	E-640059	19.70	7.95
K80	ALLIED 730 HYDRAULIC BREAKER	1985	N/A		10.71	4.41
K81	NPK HO-PAC	1986	N/A		6.85	2.65
K82	4X15 STEEL PLATES					4.00
K83	5X8 STEEL PLATES					3.00
K84	8X10 STEEL PLATES					5.00
K85	8X12 STEEL PLATES					6.00
K86	8X20 STEEL PLATES					7.00
K87	4X20 STEEL PLATES					5.00
K88	6X6 DITCH BOXES				7.00	
K89	8X12 DITCH BOXES				7.50	
K90	8X16 DITCH BOXES				8.00	
K91	8X20 DITCH BOXES				8.50	
K92	8X22 DITCH BOXES				9.00	
K93	8X24 DITCH BOXES				10.00	
K94	ALMAND ECL25 ARROW BOARD			9902B425		
K95	ALMAND ECL25 ARROW BOARD			9903B408		
K96	SANDBLASTER EBE 350 S			0110445000M		
K96	SANDBLASTER EBE 350 DAAM			0110445000D		
K97	SANDBLASTER EBE 350			61030298		
K97	SANDBLASTER EBE 350 DAAM			61030298		
K98	GILCREST 413 PRO PAVER			2148		
K99	CHEVY 1500 SILVERADO (Tony DePiano)	2003	GAS	2GCEK19T231149649	21.18	2.10
K100	CHEVY 1500 SILVERADO (Pete Steere)	2004	GAS	1GCEK19T34E148719	21.18	2.10
K101	ROSCOE RB 38 SWEEPER					
K102	JOB TRAILER - 10' X 32'	1993	MP934259			
K103	JOB TRAILER - 10' X 32'	1993	MP934261			
K104	DIALGRADE LASER	2001		9168		
K105	DIALGRADE LASER	2001		9570		
K106	WHIRLY BIRD LASER	2001		54870		
K115	SCHMIDT SANDBLASTER MODEL 3.5	1999		L-6242		
K116	BT CONCRETE GRINDER/MDEL WS2328	2007		60795		
K117	ALPHA 9" GRINDER	2007		40-88-0448		
K118	BOMAG RAMMER BT60/4	2007		101540503296		
K119	2000 CAT FORK LIFT	2000		AT82C04911		
K120	ARAMSCO 3 MOTOR VACUUM 110 VOLT	2007				
K122	8X20 STEEL PLATES	2007				
K123	ALPHA 9" GRINDER	2007		40-88-0524		
K124	JOHN DEERE MODEL 650 H			T0650HX902912		
K125	SOL-AIR MODEL DPQ JD			004-122903		
K126	7YD GRAVEL SKIFF - GME			98071100 343058		

8. Bank references:

See info sheet.

9. Dept. of Labor and Industries' firm number:

391,944-00 (L&I),

10. Dept. of Revenue registration number:

600 274 789

Name of Bidder DPK, Inc.

By [signature]

Title President

Date 7/18/2013

BID DOCUMENT INFORMATION

July 1, 2013

FIRM NAME:	**DPK, Inc.** 7829 S. 206th St. Kent, WA 98032
PHONE/FAX:	253-872-7916 / 253-872-5112
TYPE OF BUSINESS:	Corporation
INCORPORATION DATE:	04-06-78 (State of Washington)
YEARS IN BUSINESS:	34 Years (Prime/Subcontractor/Same Business Name)
FEDERAL TAX ID NO:	91-1024724
MASTER BUSINESS NO:	C 600 274 789 (UBI # & STATE TAX EXEMPT #) (Expires 04/30/2013)
CONTRACTOR NO:	DPK**I*222K6 (Expires 04/06/14)
MBE NO:	M4M0901446
L& I ACCOUNT NO.:	391-944,00
EMPLOYMENT SECURITY NO:	436144003
BOND NO:	SG4630 (Effective 03/01/02)
SURETY:	Travelers Casualty and Surety Company of America Centry Square - Suite 1650 Fourth Avenue Seattle, WA 98101 **Rating:** A+ XV
AGENT:	Hub International Northwest PO Box 3018 Bothell, WA 98041 (425) 489-4500
BANK REFERENCE:	Bank of America WA1-501-21-01 Commercial Accounts Service Center P.O. Box 34414 Seattle, WA 98024-1414 Phone: (206) 358-3621 Boston Private Bank & Trust Company Marilyn Storey - Vice President, Office Manager 10885 NE 4th Street, Ste 100 Bellevue, WA 98004 Phone: (425) 586-5038

TRADE REFERENCES

Del-Mar 152 - 100th Street S. Tacoma, WA 98444 (253) 537-0109	Transportation Systems, Inc. 3218 142nd Avenue E Sumner, WA 98390 (206) 510-6533	Oldcastle Precast 2808 A Street SE Auburn, WA 98002 253-839-3500 Office
HD Waterworks Branch - 302 602 Valley Ave NE Puyallup, WA 98372 (253) 840-5505	Icon Materials, Inc. PO Box 88050 Tukwila, WA 98138 (206) 575-3200	
RAM Surveying & Mapping Cell: (425) 931-5170 tmiles@ramsm.com 13110 111th Ave NE Kirkland, WA 98034 Fax: (425) 526-5685	Penhall Company PO Box 842911 Los Angeles, CA 90084 503-253-9500	

CORPORATE OFFICERS:	President	David Kiyohara
	Secretary	Margaret Kiyohara
	Treasurer	David Kiyohara
KEY FIELD PERSONNEL:	Tony DePiano (30 yrs)	Superintendent
	Bob Kiyohara (19 yrs)	Project Manager
	Pete Steere (30 yrs)	Foreman

"An Equal Opportunity Employer"

Rate Notice: WA Workers' Compensation

State of Washington
Department of Labor and Industries
PO Box 44140
Olympia WA 98504-4140

Not a bill.

12-06-12

RECEIVED
DEC 14 2012
BY:

Effective Date:	January 1, 2013
Experience Period:	July 1, 2008 - June 30, 2011
WA Unified Business Identifier (UBI):	600 274 789
L&I Account ID:	391,944-00
Your account manager's phone number:	(360)902-4873
Your experience factor:	0.6000

Policyholder

D P K INC
7829 S 206TH ST
KENT WA 98032

These are your rates for: 2013

Your claim-free discount is: 40% Thank you for your safe workplace.

Pay your premiums online: www.QuarterlyReports.Lni.wa.gov Use PAC code: 96435887

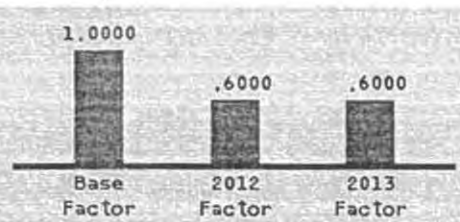
Need help understanding this notice? Call your account manager at the phone number shown above.

Have a payroll service?
Send them a copy of this notice.

Your Rate Information

Class Code	Class Code Description	Accident Fund (AF)	Medical Aid Fund (MA)	Stay at Work Program	Supp. Pension Fund (SP)	Hourly* Employer Contribution	+ Hourly* Employee Witholding	= Your Total Hourly* Rate
0107-01	Pipelaying NOC	1.8473	0.6658	0.0410	0.0928	$1.36685	$0.25845	$1.6253
0201-01	Bridge/OVHD Crossing Const/Rpr	4.0605	1.0336	0.0907	0.0928	$2.82000	$0.38370	$3.2037
0214-00	Concrete Paving - Roadways	2.2407	0.8127	0.0497	0.0928	$1.64960	$0.30510	$1.9547
0502-04	Floor & Counter Covrng Install	2.0864	0.7219	0.0463	0.0928	$1.52875	$0.27685	$1.8056
4904-00	Clerical Office NOC & Draftsmn	0.0321	0.0216	0.0007	0.0928	$0.07230	$0.05310	$0.1254
5206-79	Contractors Perm Yard or Shop	0.5550	0.2626	0.0122	0.0928	$0.46185	$0.12885	$0.5907

Your experience factor history:



What's an experience factor?
See back for an explanation.

This is the employer's contribution to workers' comp coverage.

Withhold this amount from employee pay for each hour* they work. It is their contribution to workers' comp coverage.

On the Quarterly Report, the employer will multiply this number by the hours* worked to calculate premiums.

F225-004-000 [12-2011]

CN: 44,444

* Hours or units.

UNIFIED BUSINESS IDENTIFIER
600 274 789 000

STATE OF WASHINGTON

EMPLOYMENT SECURITY DEPARTMENT

TAX RATE NOTICE

D P K INC
7829 SO 206TH ST
KENT WA 98032-1354

A

ES REFERENCE #	MAILING DATE
436144 00 3	12/07/12

IMPORTANT NOTICE: If YOU WANT US TO REVIEW YOUR TAX RATE, THE LAW SAYS YOU MUST SEND US A REQUEST IN WRITING NO LATER THAN 30 DAYS FROM THE MAILING DATE ABOVE.

2013 ANNUAL TAXABLE WAGE BASE FOR EACH EMPLOYEE	TAX RATE	YOUR TAX RATE FOR 2013
$39,800	5.82%	UNEMPLOYMENT INSURANCE TAX RATE
	0.02%	EMPLOYMENT ADMINISTRATION FUND (EAF)
	5.84%	COMBINED TOTAL TAX RATE

RATE FROM YOUR EXPERIENCE	5.40%
RATE FROM SOCIAL COSTS	0.42%
NO SOLVENCY SURCHARGE FOR 2013	N/A
TOTAL OF UNEMPLOYMENT INSURANCE TAX RATES	5.82%

YOUR TAX RATE IS BASED UPON AN EXPERIENCE RATE CALCULATION FOR A REGULAR TAXABLE EMPLOYER.

THE FOLLOWING BENEFIT CHARGES AND TAXABLE WAGES WERE USED TO DETERMINE YOUR TAX RATE FOR 2013:

EXPERIENCE YEAR	BENEFIT CHARGES $ AMOUNT	TAXABLE WAGES $ AMOUNT	TAXES PAID (INFO. ONLY) $ AMOUNT
7/1/11-6/30/12	69,132.37	351,569.69	20,621.45
7/1/10-6/30/11	139,519.10	302,594.66	18,155.67
7/1/09-6/30/10	63,408.16	966,471.56	57,988.29
7/1/08-6/30/09	69,023.65	748,998.14	44,939.89
TOTAL	$341,083.28	$2,369,634.05	$141,705.30

BENEFIT RATIO FOR 2013	BENEFIT CHARGES	DIVIDED BY	TAXABLE WAGES	EQUALS	BENEFIT RATIO
	$341,083.28	÷	$2,369,634.05	=	.143939

A BENEFIT RATIO OF .143939 QUALIFIES FOR A TAX RATE CLASS OF 40 FOR 2013

FOR QUESTIONS OR CORRECTIONS ABOUT THIS NOTICE, CONTACT:
EMPLOYMENT SECURITY DEPARTMENT
EXPERIENCE RATING UNIT
P O BOX 9046
OLYMPIA WA 98507-9046
(360) 902-9670
(360) 902-9202 - FAX

FOR QUESTIONS ABOUT THIS NOTICE, SEE WEBSITE:
WWW.ESD.WA.GOV/TAX-RATES

FOR QUESTIONS ABOUT YOUR ACCOUNT, CONTACT:
EMPLOYMENT SECURITY DEPARTMENT
SOUTH SOUND TAX OFFICE
1301 TACOMA AV S
TACOMA WA 98402-1903
(253) 593-7380
(253) 593-7314 - FAX

Department of Labor and Industries
PO Box 44450
Olympia, WA 98504-4450

D P K INC

Reg: CC DPK**I*222K6
UBI: 600-274-789

Registered as provided by Law as:
Construction Contractor
(CC01) - GENERAL

Effective Date: 5/26/1978
Expiration Date: 4/6/2014

D P K INC
7829 S 206TH ST
KENT WA 98032

RECEIVED
MAR 16 2012

STATE OF
WASHINGTON

BUSINESS LICENSE

Unified Business ID #: 600 274 789
Business ID #: 1
Location: 1

Domestic Profit Corporation

D.P.K., INC.
7829 S 206TH ST
KENT WA 98032 1354

TAX REGISTRATION
INDUSTRIAL INSURANCE
UNEMPLOYMENT INSURANCE

CITY LICENSES/REGISTRATIONS:
BELLEVUE GENERAL BUSINESS #060081

LICENSING RESTRICTIONS:
Not licensed to hire minors without a Minor Work Permit.

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Director, Department of Revenue

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Statement of Proposed Subcontractors and Material Suppliers

Subcontractors Name, Address and Telephone Number		Description of Work	
T. Horch Landscaping	13535 3rd Ave So Tukwila, WA 98168	Landscaping	206-600-7706
W.E. Coates.	9875 Old Olympic Hwy Sequim, WA 98382	Survey	360-683-1510
Bellevue Co.	PO Box 684 Woodinville, WA 98072	Conc. Flatwork	425-376-2500
Miles Resources	400 Valley Ave NE Puyallup, WA 98372	Asphalt Paving	253-383-3585
Northwest Traffic Inc	PO Box 1915 Milton, WA	Channelization	253-862-4402
Northwest Conc. Waterproofing	10410 40th Ave E. Tacoma, WA 98446	Grout + Slope Vaults	253-537-7228
GHG Inc.	18044 SE 224th St. Kent, WA 98042	Electrical	425-432-1325
Tyee Concrete	6423 Pacific Hwy East Fife, WA 98424	Conc. Flatwork	253-507-Tyee

Material Suppliers	Material (major items only)
Furney's Nursery	Plants
Miles Sand & Gravel	Concrete
US OIL	Asphalt Paving
Graybar	Light Poles
Cortes Sub	Concrete

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com - Always Verify Scale

Washington State Department of Transportation

Disadvantaged Business Enterprise Utilization Certification

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract. The Bidder must submit good faith effort documentation within 48 hours of bid opening ***only in the event*** the bidder's efforts to solicit sufficient DBE participation has been unsuccessful. If submitting a good faith effort bidder needs to check Box 4 agreeing to submit good faith effort within 48 hours. The successful bidder's Disadvantage Business Enterprise Utilization Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMWBE, telephone 360-664-9750 or Toll Free 1-866-208-1064.

DPK, Inc. certifies that the Disadvantaged Business Enterprise (DBE)
(Box 1) Name of Bidder

Firms listed below have been contacted regarding participation on this project. If this bidder is successful on this project and is awarded the contract, it shall assure that subcontracts or supply agreements are executed with those firms where an "Amount to be Applied Towards Goal" is listed. (If necessary, use additional sheet.)

Column 1 Name of DBE Certificate Number	Column 2 * Project Role (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer)	Column 3 Description of Work	Column 4 ** Amount to be Applied Towards Goal	Form 422-05
1. WE COATES SURVEYING L.L.C. *D3T8019952	SUBCONTRACTOR	541370 SURVEYING, CONSTRUCTION STAKING	26,990.00	✓
2. T. YOROZU GARDENING D4M0100085	SUBCONTRACTOR	LANDSCAPE CONTRACTOR 561730 IRRIGATION PIPELINE CONSTRUCTION 237110	194,413.00	✓
3. CHANDLER CONSTRUCTION INC D2F1401154	SUBCONTRACTOR	EROSION CONTROL, FENCE INSTALLATION PERM SIGNS	61,868.00	✓
4.		238990, 237310, 561730		
5. B+G INC. D2F5010391	SUBCONTRACTOR	ELECTRICAL WORK 238210, 238240	360,000.00	✓
6				
7				
8. BELARDE CO INC. D5M2316842	SUBCONTRACTOR	CONCRETE WORK 237310	89,862.00	✓
9.				
10.				

Disadvantaged Business Enterprise Subcontracting Goal: 15% (Box 2) DBE Total $ 733,133.00 *** (Box 3)

☐ Box 4. By checking Box 4 the bidder is stating that their attempts to solicit sufficient DBE participation has been unsuccessful and good faith effort will be submitted within 48 hours of bid opening.

* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.

** See the section "Crediting DBE Participation Toward Meeting the Goal" in the Contract Document.

*** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly. Participation in excess of the goal amount will be considered voluntary or race-neutral participation.

DOT Form 272-056 EF
Revised 05/2012

Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

Contract Title: Transportation Gateway Project 24th Ave S.

Bidder's Business Name: DPK, Inc.

DBE's Business Name: CHANDLER CONSTRUCTION, INC.

DBE Signature: Lynda Chandler

DBE's Title: PRESIDENT

Date: 7-17-13

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision, *Disavantaged Business Enterprise Condition of Award Participation.*

Description of Work: EROSION CONTROL FENCE - PERMANENT SIGNS -

Amount to be Applied Towards Goal: $61,868.00

SR

DOT Form 422-031A EF 07/2011

Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

Contract Title: TRANSPORTATION GATEWAY PROJECT SOUTH 24TH AVE S.

Bidder's Business Name: _____

DBE's Business Name: BELARDE COMPANY, INC.

DBE Signature: [signature]

DBE's Title: JOHN F. BELARDE

Date: JULY 18, 2013

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disavantaged Business Enterprise Condition of Award Participation.*

Description of Work: NAISC 237310

Amount to be Applied Towards Goal: CURB + GUTTER 5236 LF @ $17/LF = $89,862.00

SR

DOT Form 422-031A EF 07/2011

Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

Contract Title: Transportation Gateway 24th AVE

Bidder's Business Name: DPK INC.

DBE's Business Name: G: G INC

DBE Signature: [signature]

DBE's Title: President

Date: July 18th 2013

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disavantaged Business Enterprise Condition of Award Participation.*

Description of Work: Electrical Work

Amount to be Applied Towards Goal: $ 360,000.00

SR

DOT Form 422-031A EF 07/2011

Page 29 Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document
Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com - Advance Media Group

Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

Contract Title: Transportation Gateway Project / Des Moines

Bidder's Business Name: DPK. Inc

DBE's Business Name: T. Yorozu Gardening Co., Inc

DBE Signature: Kenneth J Y

DBE's Title: President

Date: 7/18/13

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disavantaged Business Enterprise Condition of Award Participation.*

Description of Work: Landscape / Irrigation

Amount to be Applied Towards Goal: $194,413.00

SR

DOT Form 422-031A EF 07/2011

Provided to Builders Exchange of WA, Inc. For usage Conditions Agreement see www.bxwa.com - Always Verify Scale

Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder's Disadvantaged Business Enterprise Utilization Certification.

Contract Title: TRANSPORTATION GATEWAY 24TH AVE SOUTH

Bidder's Business Name: DPK INC

DBE's Business Name: W.E. COATES SURVEYING L.L.C.

DBE Signature: [signature]

DBE's Title: OWNER

Date: JULY 17, 2013

The entries must be consistent with what is shown on the bidder's Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; *Disavantaged Business Enterprise Condition of Award Participation.*

Description of Work: SURVEYING

Amount to be Applied Towards Goal: $26,990.00

SR

DOT Form 422-031A EF 07/2011

Failure to return this Declaration as part of the bid proposal package will make the bid nonresponsive and ineligible for award.

NON-COLLUSION DECLARATION

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

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. **That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.**

NOTICE TO ALL BIDDERS

To report rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

Certification for Federal-Aid Contracts

The prospective participant certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

Local Agency Name
Local Agency Address

Local Agency Subcontractor List

Prepared in compliance with RCW 39.30.060 as amended

To Be Submitted with the Bid Proposal

Project Name Transportation Gateway Project 24th Ave South

Failure to list subcontractors with whom the bidder, if awarded the contract, will directly subcontract for performance of the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical, as described in Chapter 19.28 RCW or naming more than one subcontractor to perform the same work will result in your bid being non-responsive and therefore void.

Subcontractor(s) with whom the bidder will directly subcontract that are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW **must** be listed below. The work to be performed is to be listed below the subcontractor(s) name.

To the extent the Project includes one or more categories of work referenced in RCW 39.30.060, and no subcontractor is listed below to perform such work, the bidder certifies that the work will either (i) be performed by the bidder itself, or (ii) be performed by a lower tier subcontractor who will not contract directly with the bidder.

ELECTRICAL

Subcontractor Name GTE INC.
Work to be Performed BI I # 86, 87, 88

Subcontractor Name
Work to be Performed

Subcontractor Name
Work to be Performed

Subcontractor Name
Work to be Performed

Subcontractor Name
Work to be Performed

* Bidder's are notified that is the opinion of the enforcement agency that PVC or metal conduit, junction boxes, etc, are considered electrical equipment and therefore considered part of electrical work, even if the installation is for future use and no wiring or electrical current is connected during the project.

SR

DOT Form 271-015A EF
Revised 08/2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60; 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630; 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly; and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

7829 S. 206th STREET
KENT, WA 98032
TEL: (253) 872-7916 FAX: (253) 872-5112

July 1, 2013

DPK, Inc., and any subsidiary companies or affiliated companies under majority ownership or under control by the owners of the bidder's company have never been in the past three years, been disqualified from bidding on any public work contract under RCW 39.06.010 or 39.12.065 (3).

DPK, Inc. has certified that none of the subcontractors listed in the bid documents, and listed below have been debarred.

NONE

David Kiyohara
President

Attachment #2

Washington State Department of Transportation

Supplemental Agreement Number 10	Organization and Address KPG 753 9th Avenue North Seattle, WA 98199 Phone: (206) 286-1640	
Original Agreement Number		
Project Number	Execution Date 08/08/2013	Completion Date 12/31/2014
Project Title Transportation Gateway Project	New Maximum Amount Payable $ 3,557,950.86	
Description of Work Construction services for: City of Des Moines Transportation Gateway Project - 24th Avenue South		

The Local Agency of the City of Des Moines

desires to supplement the agreement entered into with KPG

and executed on 08/08/2013 and identified as Agreement No. _____

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

Provide construction services in accordance with Exhibit A-10.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Time for completion shall be December 31st, 2014.

III

Section V, PAYMENT, shall be amended as follows:

Cost for this work shall not exceed $688,091.86, as shown on Exhibit E-10 without separate authorization from the City.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Nelson Davis, KPG

Consultant Signature

By: City of Des Moines

Approving Authority Signature

Date

DOT Form 140-063 EF
Revised 9/2005

EXHIBIT A-10

City of Des Moines

Transportation Gateway Project

Scope, Hour and Fee Estimate

June 28th, 2013

Supplement 10 – Construction Services

Des Moines Transportation Gateway Project – 24th Avenue South

Federal Aid No. STPUL-1231(006)

Contract No. TA4991

This work will provide construction management services for the construction contract to complete the City of Des Moines Transportation Gateway Project – 24th Avenue South (hereinafter called "Project"). These services will include project management, documentation control, inspection, materials testing, public involvement, and contract administration during the construction of the project, as detailed below. KPG ("Consultant") will provide to the City of Des Moines, Washington ("City") construction management and engineering services for the project. A detailed scope for the Contract follows:

I. INTRODUCTION

The following scope of services and associated costs are based upon the assumptions outlined below.

Assumptions:

- The **proposed project team** will include a part-time project manager, a part-time project engineer, one full-time documentation control specialist, one full-time & one part-time inspector during construction activities, necessary sub-consultants to provide services for materials testing, and other supporting tasks as deemed necessary. The level of services is based on a project duration of approximately 10 months, or approximately **200 working days**. It is anticipated that full time site observation will be required for the entire duration of construction and that supplemental observation will be necessary for specialized work elements such as urban design, landscaping, signals, illumination, and major storm facilities.

- Services will be performed in accordance with the WSDOT Local Agency Guidelines (LAG), the WSDOT Construction Manual, the interlocal Agreements between Highline Water District, PSE, CenturyLink, and Comcast ("Utilities"), and the City of Des Moines street standards.

- For work on Utility Schedules, the Consultant will coordinate with the Utilities as lead in administering the work of the Contractor as per the terms of the Interlocal Agreement between

the Utilities and the City of Des Moines. The Utilities will provide field inspection for all work surrounding the construction of the utility systems, as described in the interlocal agreement, and bid documents. The Consultant will provide administrative support for inspection and field duties relating to the Utilities work, including all documentation control and testing as needed. Simultaneous work will be ongoing with roadway improvements, requiring separate observation and management by the Consultant.

- Services considered incidental to this work include management of temporary construction licenses secured by the City. The consultant will also administer the work of the Contractor consistent with said licenses as well as the terms of any easements secured for project improvements.

- Hours of work. Work is anticipated to take place during daylight hours on a single shift of 8 hours per day, 5 days per week. No night or weekend work is anticipated as part of this scope of services.

- **Field office:** It is recognized that the Contractor will provide a field office and other items for use by field staff. Other items and supplies may be needed for the field office, including marking paint, and other items, which will be invoiced.

- The Consultant shall coordinate work with the adjacent development of the Port of Seattle's Des
- Moines Creek Business Park as well as ongoing construction of South 216th Street - Segment 2, Including but not limited to coordination of potential driveway cuts on the west side as well as possible modification of the size and location of the center landscape medians..

Project Objectives

The objective and purpose of this Construction Management Services Agreement is for the Consultant to successfully deliver the construction of the Project to the City by ensuring that the improvements are constructed in accordance with the approved Plans and Specifications, as may be amended or revised, that all of the required Project documentation is accounted for, and ultimately that the City receives an outstanding review by WSDOT local programs at the end of the Project.

II. SCOPE OF WORK

TASK 1 – MANAGEMENT/COORDINATION/ADMINISTRATION

Provide overall project management, coordination with the City, monthly progress reports, and invoicing. This effort will include the following elements.

- Organize and layout work for project staff. Prepare project instructions on contract administration procedures to be used during construction.

- Review monthly expenditures and CM team scope activities. Prepare and submit project progress letters to the City along with invoices describing CM services provided each month. Prepare and submit reporting required by funding source(s), if any.

Deliverables

- Monthly invoices and progress reports

TASK 2 – ON-CALL SURVEYING

The City's Contractor will be providing construction staking for the project Control has been provided in the bid documents. No construction staking has been provided as part of this scope.

- The Consultant will provide quality control survey to spot check critical location and/or control information. A total of 40 hours of crew time are included in the estimated costs for these services.

TASK 3 – PRECONSTRUCTION SERVICES

3.1 **Preconstruction Conference:** The Consultant will prepare an agenda for, distribute notices of, and conduct a preconstruction conference in the City's offices. The Consultant's project manager, project engineer, document control specialist, and inspector(s) will attend the preconstruction conference. The Consultant will prepare a written record of the meeting and distribute copies of the minutes to all attendees and affected agencies, staff, etc.

At the Pre-construction conference, the Consultant shall facilitate discussions with the Contractor concerning the plans, specifications, schedules, issues with utilities, unusual conditions, federal, state, and local requirements, EEO, DBE and training requirements, and any other items that will result in better project understanding among the parties involved.

3.2 **Preconstruction Photos:** Preconstruction photographs will include existing condition of the project right-of-way, and all relevant buildings adjoining the site. Photos will be cataloged as to their location, date, and other relevant information. Consultant will provide one set of preconstruction photographs to the City in digital format.

Deliverables

- Preconstruction conference agenda with meeting minutes
- Preconstruction photos
-

TASK 4 – COMMUNITY OUTREACH

4.1 **Community Communication:** The Consultant shall serve as the primary contact for public inquiries about the project. The Consultant will develop responses to inquiries within 24 hours. The Consultant will produce and distribute monthly e-mails with updated project information. The consultant will develop and regularly maintain a communications log that documents all inquiries and their resolution. This will include utilizing the answering machine to collect phone calls from the public, and responding to inquiries. All calls will be recorded in a phone memorandum. Three project flyers will be prepared as part of the community communication. The flyers will be mailed by the City and prepared by the Consultant.

4.2 **Project Website Assistance:** The Consultant shall develop draft text for the project website and provide regular updates of the project schedule and progress every month. These updates will be provided in e-mail format with four pictures per update to document progress. The City will host and post updates to the project website. Information on traffic control impacts to local residents can be included as part of the project update.

4.3 **Council Meeting Assistance**: The Consultant shall provide assistance to City staff in preparing for Council meeting reports and presentations as needed during the course of the construction Project. The Consultant will attend up to two Council meetings, and assist City staff in making presentations to the City Council on issues related to the Construction of the Project. Graphic support may be needed, but in electronic format only (PowerPoint etc.).

Deliverables

- Distribute monthly emails with updated project information.
- Prepare project flyers for the City to distribute
- Develop draft text for project website with regular updates.

TASK 5 – CONSTRUCTION SERVICES - FIELD

5.1 The Consultant shall provide the services of one part-time project engineer, one full-time inspector, one part time inspector, the equivalent of one full time documentation control specialist, and other tasks necessary to monitor the progress of the work. Construction staff shall oversee the following items of Work, on the project site, and will observe the technical progress of the construction, including providing day-to-day contact with the Contractor and the City.

- Roadway widening - construct curb, gutter, and sidewalks along both sides of 24th Avenue South from South 216th Street to South 208th Street.
- Clearing, grubbing, roadway and structure excavation.
- Paving with hot mix asphalt and cement concrete approaches.
- Storm drainage improvements including flow control and water quality facilities.
- Adjustment of surface utilities to grade.
- Installation of lane markers, signs, and other channelization.
- Overhead utility conversion.
- Installation of irrigation, landscaping, fencing, and property restoration.
- Installation of illumination and modifications to existing traffic signal systems.
- Highline Water District water main construction – Additive Bid Schedule E

- And all incidental items necessary to complete the Work as described in the Plans and/or Specifications.
- Coordination of Traffic Control with the City of SeaTac at S. 208th Street
- Coordination of the DMCBP development with potential new driveway cuts to the west and possible modifications to the size and location of the center landscape medians.

The Utilities will provide inspection for work associated with the Utility Schedules; however, the Consultant shall administer the work of the Contractor as provided under the agreements between the City and the Utilities. The presence of the Consultant's personnel at the construction site is for the purpose of providing to the City a greater degree of confidence that the completed work will generally conform to the Contract Documents, meet all applicable federal funding requirements, and ensure that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the construction Contractor(s). The Consultant's personnel shall act in accordance with Section 1-05.1 and 1-05.2 of the current WSDOT Standard Specifications. The Consultant will endeavor to protect the city against defects and deficiencies in the work of the Contractor(s), but cannot guarantee the Contractors' performance and shall not be responsible for construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the work performed by the construction contractor(s) and any subcontractors.

Field inspection staff will perform the following duties as a matter of their daily activities:

i. Observe technical conduct of the construction, including providing day-to-day contact with construction contractor, City, utilities, and other stakeholders, and monitor for adherence to the Contract Documents. The Consultant's personnel will act in accordance with Sections 1-05.1 and 1-05.2 of the Standard Specifications.

ii. Observe material, workmanship, and construction areas for compliance with the Contract Documents and applicable codes, and notify construction contractor of noncompliance. Advise the City of any non-conforming work observed during site visits.

iii. Document all material delivered to the job site in accordance with the LAG Manual.

iv. Prepare daily inspection reports, recording the construction contractor's operations as actually observed by the Consultant; includes quantities of work placed that day, contractor's equipment and crews, and other pertinent information. All daily inspection reports will adhere to WSDOT Local Agency Guidelines.

v. Interpret Contract Documents in coordination with City and KPG.

vi. Resolve questions which may arise as to the quality and acceptability of material furnished, work performed, and rate of progress of work performed by the construction contractor.

vii. Establish communications with adjacent property owners. Respond to questions from property owners and the general public.

viii. Coordinate with permit holders on the Project to monitor compliance with approved permits, if applicable.

ix. Prepare field records and documents to help assure the Project is administered in accordance with funding agency requirements (Construction Manual 10-2.1B). The Utilities will provide measurement and payment information to the consultant for development of monthly pay estimates.

x. Collect and calculate delivery tickets and scalesmans daily reports of aggregate. All tickets will be initialed with correct bid item and stationing identified. Construction Manual 10-2

xi. Attend and actively participate in regular on-site meetings.

xii. Take periodic digital photographs during the course of construction.

xiii. Coordinate with the City's and/or WSDOT's utility and traffic signal operations and maintenance personnel.

xiv. Conduct wage rate interviews, DBE interviews and Training Interviews in accordance with the LAG Manual.

xv. Punch list. Upon substantial completion of work, coordinate with the Client and affected agencies, to prepare a 'punch list' of items to be completed or corrected. Coordinate final inspection with those agencies.

xvi. Audits: Provide oversight during audits performed by WSDOT Local Programs and others.

Assumptions:

- Consultant will provide observation services for the days/hours that their Inspector(s) personnel is/are on-site. The Inspector(s) will not be able to observe or report construction activities, or collect documentation, during the time they are not on-site.

- The Consultant's monitoring of the construction contractor's activities is to ascertain whether or not they are performing the work in accordance with the Contract Documents; in case of noncompliance, Consultant will reject non-conforming work, and pursue the other remedies in the interests of the City, as detailed in the Contract Documents. The Consultant cannot guarantee the construction contractors' performance, and it is understood that Consultant shall assume no responsibility for: proper construction means, methods, techniques; project site safety, safety precautions or programs; or for the failure of any other entity to perform its work in accordance with laws, contracts, regulations, or City's expectations.

5.2 **Materials Testing:** Coordinate and manage materials testing sub-consultants for construction services, who will provide materials testing services as required, up to $60,000. Coordinate the work of the materials testing technicians and testing laboratories in the observation and testing of materials used in the construction; document and evaluate results of testing; and address deficiencies. Frequency of testing shall be as prescribed in the WSDOT Construction Manual and LAG manual for the following materials: structural concrete, roadway asphalt, roadway surfacing, roadway base material, and structural grout and any other testing as prescribed within the project Specifications and WSDOT Standard Specifications 2012.

Qualified tester requirements as identified in WSDOT LAG 52.3.32 illustrate that for projects on non-NHS highway systems, there is no requirement for qualified testers, but the requirements within the manual must be followed if federal funding applies. Therefore, material testing will be conducted by contracted subconsultant laboratories services that meet the following accreditations: AASHTO R18, A2LA, USACE, Ecology, AMRL, CCRL. The subconsultant laboratory personnel will hold certifications from ACI and NICET.

Assumptions:

It is assumed that materials that require fabrication inspection per WSDOT LAG 52.3.32 will be conducted by WSDOT through contract with the City. Materials that fall within this

category include: structural steel beams or fabricated welded items, structural precast concrete items, and signs.

5.3 **Substantial Completion:** Upon substantial completion of work, coordinate with the City and other affected agencies, to perform a project inspection and develop a comprehensive list of deficiencies or 'punchlist' of items to be completed. A punchlist and Certificate of Substantial Completion will be prepared by the Consultant and issued by the City.

Deliverables

- Daily Construction Reports with project photos – submitted on a weekly basis
- Punch List, Certificate of Substantial Completion
- Review test reports for compliance

TASK 6 – CONSTRUCTION SERVICES - OFFICE

6.1 **Document Control.** Original documentation will be housed at the Consultant's office, and filed in accordance with standard filing protocol to meet WSDOT Highways & Local Program Requirements. A copy of working files will be maintained in the field office.

Document Control also consists of preparing Final Project Reports for the City for WSDOT and FHWA acceptance and include:

- Final Estimate (Approving Authority File)
- Comparison of Preliminary and Final Quantities (Approving Authority File)
- Final Records as identified in WSDOT LAG (Approving Authority File)
- Record of Material Samples and Tests
- Materials Certification
- Affidavit of Wages Paid
- Release for the Protection of Property Owners and General Contractor
- DOT Form 422-102 EF, Quarterly Report of Amounts Credited as DBE Participation

6.2 **Project Coordination**: Liaison with City, construction contractor, engineer, utilities and property owners on a regular basis to discuss project issues and status.

6.3 **Plan Interpretations:** Provide technical interpretations of the drawings, specifications, and contract documents, and evaluate requested deviations from the approved design or specifications. Coordinate with City for resolution of issues involving scope, schedule, and/or budget changes.

6.4 **Weekly Meetings:** Lead weekly meetings, including preparation of agenda, meeting minutes, and distribution of minutes to attendees. Outstanding issues to be tracked on a weekly basis.

6.5 **Initial Schedule Review**: Perform detailed schedule review of contractor provided CPM for conformance with the contract documents.

6.6 **Lump Sum Breakdown:** Evaluate construction contractors' Schedule of Values for lump sum items. Review the Contract Price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Lump Sum Breakdowns for payment each month will be calculated with detailed data per WSDOT LAG Requirements.

6.7 **Monthly Pay Requests:** Prepare monthly requests for payment, review with the City, highline Water District, and contractor and approve, as permitted. Utilize City provided format for pay estimates, or Consultant format. The Utilities to provide quantities for payment for work associated with Utility Schedules.

6.8 **Monthly Schedule Review:** At the monthly cutoff, review contractor's updated schedule and compare with field-observed progress, as described in Section 1-08 of the Special Provisions. In addition, perform schedule analysis on contractor provided CPM updates and review schedule for delays and impacts. Coordinate with Contractor in the development of recovery schedules, as needed, to address delays caused by either events or issues within the Contractor's control or other events or issues beyond the Contractor's control.

6.9 **Certified Payroll**: Process and track all certified payroll per WSDOT Highways & Local Program Requirements. This includes verifying 30% of all payrolls submitted and tracking payroll each week. Payroll and payroll logs will adhere to WSDOT LAG requirements.

6.10 **Weekly Statement of Working Days**: Prepare and issue weekly statement of working day report each week.

6.11 **WSDOT & FHWA Reporting**: Prepare and track all necessary reports per WSDOT Highways & Local Program Requirements. This will include DBE condition of award tracking throughout the project. DBE Reporting. EEO reporting. Training Goal tracking via certified payroll. DBE on site reviews. Training Questionnaires. Periodically meet with WSDOT Highways and Local Programs staff as requested to review project status.

6.12 **Subcontractor Documentation**: Process / Approve all required subcontractor documentation per WSDOT Highways & Local Program Requirements. Request to Sublets will be verified and logged. Certification for Federal Aid will be obtained from all subcontractors. This includes checking System Award Management System (SAMS), verifying OM/WBE, verifying business licensing, reviewing insurance documentation, verifying city business licensing, Intent to Pay Prevailing Wage and Affidavit of Wages Paid. All subcontractor documentation will be logged into WSDOT's subcontractor logs.

6.13 **Property Owner Matrix**: Develop a matrix of property owners that will document commitments to each property owners, property restoration, and other related impacts.

6.14 **Cost Projections:** Prepare up to two cost projections for the project. Projections to be based on the current amount paid to date, pending change orders, quantity projections, and other information. A verbal memo to file at substantial completion will be written outlining all of the over/under-run in accordance with the WSDOT LAG and CM Manual.

6.15 **Record Drawings:** Review record drawings prepared by the Contractor and Utilities, and prepare a conformed set of project record drawings based on Contractor provided information and from inspection notes. Record drawings to be verified on a monthly basis, as part of the

progress payment to the Contractor. Upon project completion, contractor provided markups will be verified for completeness and supplemented with inspection information. The Consultant will prepare record drawings for Schedule A in AutoCAD format based on construction records provided by the Contractor. Electronic and full size mylar record drawings will be provided to the City.

6.16 **Audit Oversight**: Provide oversight during audits performed by WSDOT Local Programs and others.

6.17 **Physical Completion Letter:** Following completion of all punchlist work, prepare physical completion letter to the contractor and WSDOT, and recommend that City and/or Utilities accept the project.

6.18 **Project Closeout:** Transfer all project documents to the City for permanent storage.

- Schedule review comments
- As-built schedule
- Meeting agendas and notes
- Monthly Pay Estimates
- WSDOT Reporting
- Subcontractor Packets
- Cost Projection
- Physical Completion Letter
- Final Project Documents

TASK 7 – SUBMITTAL/RFI PROCESSING

7.1 **Submittals:** Coordinate review process for shop drawings, samples, traffic control plans, test reports, and other submittals from the Contractor for compliance with the contract documents. Key submittals to be transmitted to the City for their review and approval. Submittals shall be logged and tracked.

7.2 **Request for Information (RFI):** Review and respond to RFI's. RFI's shall be logged and tracked.

7.3 **Record of Materials (ROM):** Utilize ROM prepared by WSDOT and update based on Special Provisions and Plans for use on the project, based on the contract specifications and WSDOT/LAG requirements. Maintain the ROM according to WSDOT Highways & Local Program Requirements. The ROM will track all of the materials delivered to the site including manufacturer/supplier, approved RAM's, QPL items, material compliance documentation, and all other required documentation.

Deliverables

- Submittal log
- RFI Log
- Completed Record of Material for Material Certification

TASK 8 – CHANGE MANAGEMENT

8.1 **Case Log:** Develop and maintain a case log which includes change orders, RFP's, Field Work Directives per Highway & Local Programs Guidelines

8.2 **Change Orders:** Develop change orders per Highway & Local Programs Guidelines, provide technical assistance to negotiate change orders, and assist in resolution of disputes which may occur during the course of the project. A total of 160 hours have been included in the cost for services. Each change order will be executed in accordance with WSDOT Local Agency Guidelines and contain the following:

- Change order
- Independent Cost Estimate
- Time Impact Analysis
- Contractor's Pricing
- Verbal Approval Memo
- Change Order Checklist (LAG Manual)
- Change Order Request Form
- Back up documentation

8.3 **Field Work Directives:** Prepare field work directives as necessary to keep the contractor on schedule.

8.4 **Minor Change Orders:** Develop minor change orders per WSDOT Highways & Local Program Requirements. Each minor change order will be executed in accordance with WSDOT Local Agency Guidelines and contain the following:

- Independent Cost Estimate
- Verbal Approval Memo
- Back up documentation

8.5 **Force Account:** Track contractor force account labor, equipment and materials. Provide payment according to WSDOT requirements. All force account calculations will be verified by the engineer and double checked by the documentation specialist per WSDOT LAG Manual.

Deliverables

- Change Order(s)
- Case Management Log
- RFI Log
- Minor Change Order(s)
- Force Account Records

TASK 9 – Management Reserve

The services described under this task, and any other additional services requested by the City, will be performed only when authorized by the City. Authorization to perform additional services will be in writing, specifying the work to be performed, and basis of payment. A total of $10,000 has been included in the cost for services as a placeholder.

- Produce traffic advisories and other news releases at project milestones.

- Provide any additional services resulting from changes in scope or design of the project. Changes include, but are not limited to, changes in size, complexity, the schedule, character of construction, or method of financing.

- Preparation of award submittal for APWA, ASCE, and other agencies.

- Provide claims analysis and assistance in resolving claims that are protracted in nature and beyond the scope of the change order process described herein.

- Ribbon Cutting Ceremony: Conduct a ribbon cutting ceremony that provides information about the project elements and schedule, and that provides information about how to stay informed through the project. Handouts to be prepared for this task. Refreshments, tables, and other necessary items to be provided by the Consultant

- Media Relations: Produce and distribute periodic press releases at key milestones about the project and its progress. Meet with press to help develop stories about the project.

- Other activities deemed necessary by the City.

EXHIBIT E-10

FEE SUMMARY

KPG
Architecture
Landscape Architecture
Civil Engineering

Project: **City of Des Moines**
Transportation Gateway Project - 24th Avenue South
Supplement No. 10 - Construction Services

Description		Estimated Fee
Task 1 - Management/Coordination/Administration	$	25,771.41
Task 2 - On-Call Surveying	$	9,392.35
Task 3 - Preconstruction Services	$	9,087.97
Task 4 - Community Outreach	$	12,847.94
Task 5 - Construction Services - Field	$	384,492.32
Task 6 - Construction Services - Office	$	182,977.68
Task 7 - Submittal/RFI Processing	$	35,579.02
Task 8 - Change Management	$	17,943.17
Subtotal:	$	678,091.86
Management Reserve:	$	10,000.00
Total:	**$**	**688,091.86**

7/30/2013

HOUR AND FEE ESTIMATE

EXHIBIT E-10

KPG
Architecture
Landscape Architecture
Civil Engineering

Project: City of Des Moines
Transportation Gateway Project - 24th Avenue South
Supplement No. 10 - Construction Services

Task	Description	Labor Hour Estimate									Total Fee
		*Project Manager $ 183.52	*Senior Engineer $ 135.95	*Project Engineer $ 117.83	*Design Engineer $ 101.65	Const *Technician $ 84.71	*Survey Crew $ 136.68	*Doc Specialist $ 97.20	*Const Inspector $ 99.90	*Const Admin $ 70.47	Fee
Task 1 - Management/Coordination/Administration											
1.1	Project Organization and Layout	24	8	8	8	0	0	40	8	40	$ 14,754.01
1.2	Monthly Review and Invoicing (10 months)	40	0	16	0	0	0	0	0	24	$ 10,917.40
	Reimbursable expenses - see breakdown for details										$ 100.00
	Task Totals	**64**	**8**	**24**	**8**	**0**	**0**	**40**	**8**	**64**	**$ 25,771.41**
Task 2 - On-Call Surveying											
2.1	On-Call survey allowance	0	0	8	0	24	40	0	8	0	$ 9,242.35
	Reimbursable expenses - see breakdown for details										$ 150.00
	Task Totals	**0**	**0**	**8**	**0**	**24**	**40**	**0**	**8**	**0**	**$ 9,392.35**
Task 3 - Preconstruction Services											
3.1	Preconstruction Conference	4	0	8	4	8	0	4	24	16	$ 6,675.00
3.2	Preconstruction Photos	0	0	0	0	0	0	0	8	8	$ 1,362.97
	Reimbursable expenses - see breakdown for details										$ 1,050.00
	Task Total	**4**	**0**	**8**	**4**	**8**	**0**	**4**	**32**	**24**	**$ 9,087.97**
Task 4 - Community Outreach											
4.1	Community Communication	8	4	4	0	16	0	4	8	16	$ 6,154.22
4.2	Project Website Assistance	4	0	16	0	16	0	8	0	24	$ 6,443.72
	Reimbursable expenses - see breakdown for details										$ 250.00
	Task Total	**12**	**4**	**20**	**0**	**32**	**0**	**12**	**8**	**40**	**$ 12,847.94**
Task 5 - Construction Services - Field											
5.1	Construction Observation	16	40	160	120	80	0	80	2400	40	$ 296,558.12
5.2	Material Testing	8	4	24	16	0	0	24	40	24	$ 14,486.55
5.3	Substantial Completion	8	0	16	0	0	0	24	24	8	$ 8,647.66
	Reimbursable expenses - see breakdown for details										$ 64,800.00
	Task Total	**32**	**44**	**200**	**136**	**80**	**0**	**128**	**2464**	**72**	**$ 384,492.32**
Task 6 - Construction Services - Office											
6.1	Document Control	4	0	0	0	80	0	360	0	24	$ 44,194.36
6.2	Project Coordination	12	0	24	0	24	0	0	0	8	$ 7,627.10
6.3	Plan Interpretation	2	16	32	24	8	0	0	0	4	$ 9,712.22
6.4	Weekly Meetings	0	16	36	0	20	0	72	20	4	$ 17,389.75
6.5	Initial Schedule Review	2	0	8	0	20	0	6	0	0	$ 3,587.15
6.6	Lump Sum Breakdown	0	0	4	0	4	0	2	0	0	$ 1,004.58
6.7	Monthly Pay Requests (est. 10)	6	0	80	0	40	0	80	0	24	$ 23,383.61

HOUR AND FEE ESTIMATE

EXHIBIT E-10

KPG
Architecture
Landscape Architecture
Civil Engineering

Project: **City of Des Moines**
Transportation Gateway Project - 24th Avenue South
Supplement No. 10 - Construction Services

Task	Description	Labor Hour Estimate									Total Fee
		*Project Manager $ 183.52	*Senior Engineer $ 135.95	*Project Engineer $ 117.83	*Design Engineer $ 101.65	Const *Technician $ 84.71	*Survey Crew $ 136.68	*Doc Specialist $ 97.20	*Const Inspector $ 99.90	*Const Admin $ 70.47	Fee
6.8	Monthly Schedule Review	0	0	4	0	16	0	8	8	0	$ 3,403.53
6.9	Certified Payroll	0	0	16	0	80	0	40	0	0	$ 12,550.32
6.10	Weekly Statement of Working Days	0	0	0	0	0	0	8	0	0	$ 777.60
6.11	WSDOT & FHWA Reporting	0	0	0	0	24	0	76	0	0	$ 9,420.29
6.12	Subcontractor Documentation	0	0	24	0	36	0	16	0	0	$ 7,432.85
6.13	Property Owner Matrix	0	0	8	0	8	0	8	0	0	$ 2,397.97
6.14	Cost Projections	4	0	32	0	0	0	24	0	0	$ 6,837.55
6.15	Record Drawings	2	16	32	24	40	0	24	16	0	$ 16,072.33
6.16	Audit Oversight	4	0	8	0	0	0	24	0	0	$ 4,009.54
6.17	Physical Completion Letter	2	0	8	0	0	0	16	0	0	$ 2,864.91
6.18	Project Closeout	8	0	24	0	24	0	16	0	16	$ 9,011.99
	Reimbursable expenses - see breakdown for details										$ 1,300.00
	Task Total	**46**	**48**	**340**	**48**	**424**	**0**	**780**	**44**	**80**	**$ 182,977.68**
Task 7 - Submittal/RFI Processing											
7.1	Submittals	8	24	40	24	16	0	24	0	16	$ 16,699.76
7.2	Request for Information (RFI)	4	8	24	24	16	0	0	16	8	$ 10,606.97
7.3	Record of Materials (ROM)	2	4	16	4	0	0	40	4	4	$ 7,772.28
	Reimbursable expenses - see breakdown for details										$ 500.00
	Task Total	**14**	**36**	**80**	**52**	**32**	**0**	**64**	**20**	**28**	**$ 35,579.02**
Task 8 - Change Management											
8.1	Case Log	4	0	8	0	0	0	4	0	0	$ 2,065.54
8.2	Change Orders	0	0	20	0	20	0	4	8	0	$ 5,238.92
8.3	Field Work Directives	0	0	16	0	8	0	4	8	0	$ 3,751.04
8.4	Minor Change Orders	0	0	16	0	16	0	8	4	0	$ 4,417.94
8.5	Force Account	0	0	4	0	0	0	0	16	0	$ 2,069.73
	Reimbursable expenses - see breakdown for details										$ 400.00
	Task Total	**4**	**0**	**64**	**0**	**44**	**0**	**20**	**36**	**0**	**$ 17,943.17**

Subtotal: $ 678,091.86
Management Reserve (Task 9): $ 10,000.00
Total: $ 688,091.86

* *Hourly rates are based on the following:*

										Totals
Direct Salary Costs	*$ 62.50*	*$ 46.30*	*$ 40.13*	*$34.62*	*$28.85*	*$ 46.55*	*$ 36.00*	*$ 37.00*	*$ 24.00*	*$ 230,934.12*
Overhead Rate					*163.63%*					*$ 377,877.50*
Fixed Fee					*30%*					*$ 69,280.24*

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HOUR AND FEE ESTIMATE

EXHIBIT E-10

KPG
Architecture
Landscape Architecture
Civil Engineering

Project: City of Des Moines
Transportation Gateway Project - 24th Avenue South
Supplement No. 10 - Construction Services

Reimbursable Breakdown		Cost
Task 1 - Management/Coordination/Administration		
Mileage	$	50.00
Reproduction	$	50.00
Task 1 - Total	**$**	**100.00**
Task 2 - On-Call Surveying		
Mileage	$	100.00
Reproduction	$	50.00
Task 2 - Total	**$**	**150.00**
Task 3 - Preconstruction Services		
Mileage	$	50.00
Reproduction	$	1,000.00
Task 3 - Total	**$**	**1,050.00**
Task 4 - Community Outreach		
Mileage	$	-
Reproduction	$	250.00
Task 4 - Total	**$**	**250.00**
Task 5 - Construction Services - Field		
Mileage	$	4,000.00
Misc. Field Supplies	$	800.00
Material Testing Allowance (HWA GeoSciences)	$	60,000.00
Task 5 - Total	**$**	**64,800.00**

KPG
Architecture
Landscape Architecture
Civil Engineering

Project: City of Des Moines
Transportation Gateway Project - 24th Avenue South
Supplement No. 10 - Construction Services

Reimbursable Breakdown		Cost
Task 6 - Construction Services - Office		
Mileage	$	700.00
Reproduction	$	600.00
Task 6 - Total	**$**	**1,300.00**
Task 7 - Submittal/RFI Processing		
Mileage	$	-
Reproduction	$	500.00
Task 7 - Total	**$**	**500.00**
Task 8 - Change Management		
Mileage	$	150.00
Reproduction	$	250.00
Task 8 - Total	**$**	**400.00**
Total Reimbursable Costs:	**$**	**68,550.00**

Attachment #3

KPG
An Interdisciplinary Design Firm
2502 Jefferson Avenue
Tacoma, WA 98402
P | 253.627.0720
F | 253.627.4144

July 26, 2013

Dan Brewer
Public Works Director
City of Des Moines
21630 11th Ave. S., Suite A
Des Moines, WA 98198

RE: Transportation Gateway Project - 24th Avenue South Bid Package Review

Dear Dan,

As requested, KPG has tabulated the bids and reviewed the bid packages submitted for the City of Des Moines 24th Avenue South Project. The lowest bidder in the amount of $4,858,947.95 is DPK, Inc.

During the review process two of the subcontractors listed on DPK's Disadvantage Business Enterprise Utilization Certification were on the Excluded Parties List. We have contacted WSDOT Local Programs and have a supporting email that both parties are not excluded. The DBE verification for all of DPK's subcontractors is also enclosed for your review.

As part of our review, we called Lakewood Water District where DPK completed five miles of storm and sewer installation. The water district had no issues with them and commended them for a very successful project. The second reference that we contacted was for the City of Burien's drainage project. The construction manager was impressed with their work and stated DPK was a non-confrontational contractor. We have also checked the status of DPK, Inc. on the Washington State Labor and Industries web page to confirm they are currently insured, bonded, and licensed.

It is KPG's recommendation that the Transportation Gateway Project – 24th Avenue South be awarded to DPK, Inc.

We have enclosed the original bid package along with the bid tabulation for your review.

Sincerely,
KPG, Inc.

Andrew Merges, P.E.

cc: Brandon Carver, Len Madsen, Scott Romano, Nelson Davis

Enclosures: DPK, Inc. bid package including DBE Verification
Final bid tabulation spreadsheet

Des Moines Transportation Gateway Project

24th Avenue South

Bid Tab Analysis

7/18/13

KPG SEATTLE · TACOMA

Verified By: AM 7/26/13 @ 10:00am

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK Unit Cost	DPK Total	Merlino Unit Cost	Merlino Total
SCHEDULE A - ROADWAY IMPROVEMENTS										
1	1-04	Minor Change	1	EST	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2	1-04	Contractor's Trailer and Site	1	LS	40,000.00	40,000.00	23,000.00	23,000.00	20,000.00	20,000.00
3	1-05	Roadway Surveying	1	LS	40,000.00	40,000.00	25,000.00	25,000.00	33,000.00	33,000.00
4	1-05	Potholing	1	FA	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
5	1-05	Resolution of Utility Conflicts	1	FA	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
6	1-07	SPCC Plan	1	LS	1,000.00	1,000.00	1,000.00	1,000.00	300.00	300.00
7	1-07	Training	800	HR	3.00	2,400.00	1.00	800.00	1.00	800.00
8	1-08	Type B Progress Schedule (Minimum Bid $5,000)	1	LS	5,000.00	5,000.00	12,000.00	12,000.00	5,000.00	5,000.00
9	1-09	Mobilization	1	LS	340,000.00	340,000.00	268,000.00	268,000.00	322,000.00	322,000.00
10	1-10	Pedestrian Control and Protection	1	LS	5,000.00	5,000.00	45,000.00	45,000.00	7,000.00	7,000.00
11	1-10	Project Temporary Traffic Control	1	LS	215,000.00	215,000.00	100,000.00	100,000.00	50,000.00	50,000.00
12	2-01	Clearing and Grubbing	1	LS	35,000.00	35,000.00	50,000.00	50,000.00	70,000.00	70,000.00
13	2-01	Roadside Cleanup	1	FA	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
14	2-02	Removal of Structures and Obstructions	1	LS	45,000.00	45,000.00	30,000.00	30,000.00	33,000.00	33,000.00
15	2-03	Roadway Excavation Incl. Haul	4,022	CY	18.00	72,396.00	23.00	92,506.00	33.00	132,726.00
16	2-03	Unsuitable Foundation Excavation Incl. Haul	387	CY	24.00	9,288.00	4.00	1,548.00	24.00	9,288.00
17	2-03	Gravel Borrow Incl. Haul	11,228	TON	18.00	202,104.00	0.01	112.28	23.00	258,244.00
18	2-09	Structure Excavation Class B	3,196	CY	15.00	47,940.00	8.00	25,568.00	14.00	44,744.00
19	2-09	Shoring or Extra Excavation Class B	1	LS	30,000.00	30,000.00	10,000.00	10,000.00	8,000.00	8,000.00
20	2-11	Trimming and Cleanup	1	LS	5,000.00	5,000.00	5,000.00	5,000.00	9,000.00	9,000.00
21	4-04	Crushed Surfacing Base Course	4,275	TON	22.00	94,050.00	23.00	98,325.00	19.00	81,225.00
22	4-04	Crushed Surfacing Top Course	5,806	TON	25.00	145,150.00	24.00	139,344.00	21.00	121,926.00
23	5-04	HMA Cl. 1/2" PG 64-22	7,659	TON	75.00	574,425.00	85.00	651,015.00	75.00	574,425.00
24	6-10	Temporary Concrete Barrier	2,600	LF	15.00	39,000.00	0.01	26.00	1.00	2,600.00
25	7-01	Cleanout	5	EA	300.00	1,500.00	500.00	2,500.00	400.00	2,000.00
26	7-04	Storm Sewer Pipe, 8-In. Diameter	50	LF	40.00	2,000.00	55.00	2,750.00	23.00	1,150.00
27	7-04	Ductile Iron Storm Sewer Pipe, 8-In. Diameter	30	LF	65.00	1,950.00	80.00	2,400.00	47.00	1,410.00
28	7-04	Storm Sewer Pipe, 12-In. Diameter	2,775	LF	37.00	102,675.00	65.00	180,375.00	42.00	116,550.00
29	7-04	Ductile Iron Storm Sewer Pipe, 12-In. Diameter	736	LF	65.00	47,840.00	85.00	62,560.00	64.00	47,104.00
30	7-04	Storm Sewer Pipe, 18-In. Diameter	143	LF	60.00	8,580.00	90.00	12,870.00	56.00	8,008.00
31	7-04	Storm Sewer Pipe, 24-In. Diameter	259	LF	85.00	22,015.00	100.00	25,900.00	69.00	17,871.00
32	7-05	Concrete Inlet	4	EA	1,000.00	4,000.00	1,000.00	4,000.00	900.00	3,600.00
33	7-05	Catch Basin Type 1	25	EA	1,200.00	30,000.00	1,200.00	30,000.00	1,400.00	35,000.00
34	7-05	Catch Basin Type 1-L	3	EA	1,300.00	3,900.00	1,300.00	3,900.00	1,500.00	4,500.00
35	7-05	Catch Basin Type 2, 48-In. Diameter	8	EA	2,600.00	20,800.00	1,800.00	14,400.00	3,100.00	24,800.00
36	7-05	Catch Basin Type 2, 54-In. Diameter	1	EA	3,000.00	3,000.00	2,500.00	2,500.00	5,700.00	5,700.00
37	7-05	Catch Basin Type 2, 60-In. Diameter	1	EA	4,600.00	4,600.00	3,500.00	3,500.00	8,300.00	8,300.00
38	7-05	Water Quality Manhole (96" Dia.)	1	LS	40,000.00	40,000.00	60,000.00	60,000.00	50,000.00	50,000.00
39	7-05	Water Quality Vault (8' X 16')	1	LS	75,000.00	75,000.00	70,000.00	70,000.00	68,000.00	68,000.00
40	7-05	Detention Vault (16' X 180')	1	LS	415,000.00	415,000.00	380,000.00	380,000.00	408,000.00	408,000.00
41	7-05	Detention Vault (10' X 120')	1	LS	275,000.00	275,000.00	215,000.00	215,000.00	262,000.00	262,000.00
42	7-05	Adjust Catch Basin	1	EA	500.00	500.00	500.00	500.00	160.00	160.00
43	7-05	Spill Separator	1	EA	3,000.00	3,000.00	1,600.00	1,600.00	1,100.00	1,100.00
44	7-05	Adjust Sanitary Sewer Manhole to Grade	6	EA	500.00	3,000.00	500.00	3,000.00	400.00	2,400.00
45	8-01	ESC Lead	200	DAY	100.00	20,000.00	50.00	10,000.00	10.00	2,000.00
46	8-01	Erosion / Water Pollution Control	1	LS	25,000.00	25,000.00	15,000.00	15,000.00	45,000.00	45,000.00
47	8-01	Stormwater Pollution Prevention Plan (SWPPP)	1	LS	5,000.00	5,000.00	1,500.00	1,500.00	10,000.00	10,000.00
48	8-01	Temporary Detention/Retention SWPPP Control Facilities	1	LS	40,000.00	40,000.00	2,000.00	2,000.00	12,000.00	12,000.00
49	8-01	Silt Fence	3,600	LF	5.00	18,000.00	5.00	18,000.00	5.00	18,000.00
50	8-01	Inlet Protection	57	EA	75.00	4,275.00	70.00	3,990.00	75.00	4,275.00
51	8-02	Seeded Lawn Installation	6,200	SY	2.50	15,500.00	1.00	6,200.00	1.00	6,200.00
52	8-02	Topsoil Type A	800	CY	35.00	28,000.00	42.00	33,600.00	29.00	23,200.00
53	8-02	Bark Mulch	120	CY	35.00	4,200.00	50.00	6,000.00	36.00	4,320.00
54	8-02	PSIPE Acer platanoides 'Crimson Sentry'/ Crimson Sentry Maple, 2 1/2" Cal., 12'-14' Ht.	39	EA	350.00	13,650.00	310.00	12,090.00	250.00	9,750.00
55	8-02	PSIPE Fraxinus americana 'Empire'/ Empire Ash, 2 1/2" Cal., 12'-14' Ht	23	EA	350.00	8,050.00	330.00	7,590.00	275.00	6,325.00
56	8-02	PSIPE Cornus 'Eddie's White Wonder'/ Eddie's White Wonder Dogwood, 2 1/2" Cal., 10'-12' Ht.	29	EA	350.00	10,150.00	400.00	11,600.00	375.00	10,875.00
57	8-02	PSIPE Berberis thunbergii 'Crimson Pygmy'/ Dwarf Japanese Barberry, 2 Gal. Cont.	495	EA	22.00	10,890.00	19.00	9,405.00	15.00	7,425.00
58	8-02	PSIPE Cornus stolonifera 'Kelseyi'/ Dwarf Redtwig Dogwood, 2 Gal. Cont.	188	EA	22.00	4,136.00	16.00	3,008.00	15.00	2,820.00
59	8-02	PSIPE Deutzia gracilis 'Nikko'/ Nikko Slender Deutzia, 2 Gal. Cont.	260	EA	18.00	4,680.00	20.00	5,200.00	18.00	4,680.00
60	8-02	PSIPE Spiraea x japonica 'Goldflame'/ Goldflame Spiraea	528	EA	18.00	9,504.00	15.00	7,920.00	15.00	7,920.00
61	8-02	PSIPE Helictotrichon sempervirens/ Blue Oat Grass, 1 Gal. Cont.	389	EA	9.00	3,501.00	8.00	3,112.00	6.50	2,528.50
62	8-02	PSIPE Nassella tenuissima/ Mexican Feathergrass, 1 Gal. Cont.	466	EA	9.00	4,194.00	7.00	3,262.00	6.50	3,029.00
63	8-02	PSIPE Panicum virgatum 'Rotstrahbusch'/ Red Switch Grass, 1 Gal. Cont.	359	EA	9.00	3,231.00	12.00	4,308.00	6.50	2,333.50
64	8-02	PSIPE Cotoneaster dammeri 'Coral Beauty'/ Coral Beauty Cotoneaster, 1 Gal. Cont.	605	EA	10.00	6,050.00	9.00	5,445.00	6.50	3,932.50
65	8-02	PSIPE Nandina domestica 'Harbor Dwarf'/ Dwarf Heavenly Bamboo, 1 Gal. Cont.	415	EA	10.00	4,150.00	12.00	4,980.00	10.00	4,150.00
66	8-02	PSIPE Fragaria 'Lipstick'/ Ornamental Strawberry, 1 Gal. Cont.	245	EA	8.00	1,960.00	10.00	2,450.00	9.00	2,205.00
67	8-02	PSIPE Rubus Calycinoides 'Emerald Carpet'/ Creeping Bramble, 1 Gal. Cont.	365	EA	8.00	2,920.00	9.00	3,285.00	9.00	3,285.00
68	8-02	Property Restoration	1	FA	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00
69	8-03	Automatic Irrigation System Complete	1	LS	55,000.00	55,000.00	80,000.00	80,000.00	60,000.00	60,000.00
70	8-04	Cement Conc. Traffic Curb and Gutter	5,286	LF	15.00	79,290.00	22.00	116,292.00	12.50	66,075.00
71	8-04	Cement Conc. Traffic Curb	1,169	LF	20.00	23,380.00	18.00	21,042.00	21.00	24,549.00
72	8-04	Extruded Curb	355	LF	9.00	3,195.00	8.00	2,840.00	8.00	2,840.00
73	8-04	Dual-Faced Cement Concrete Traffic Curb	315	LF	10.00	3,150.00	25.00	7,875.00	20.00	6,300.00
74	8-06	Cement Conc. Driveway Entrance Type 1	571	SY	50.00	28,550.00	45.00	25,695.00	71.00	40,541.00
75	8-06	Cement Conc. Driveway Entrance Type 1 Modified	206	SY	75.00	15,450.00	45.00	9,270.00	71.00	14,626.00
76	8-09	Raised Pavement Marker Type 1	23	HUND	300.00	6,900.00	180.00	4,140.00	190.00	4,370.00
77	8-09	Raised Pavement Marker Type 2	4	HUND	400.00	1,600.00	360.00	1,440.00	385.00	1,540.00
78	8-12	Chain Link Fence	318	LF	35.00	11,130.00	50.00	15,900.00	55.00	17,490.00
79	8-12	Wood Fence	126	LF	40.00	5,040.00	50.00	6,300.00	32.00	4,032.00
80	8-12	High Visibility Fence	1,356	LF	2.00	2,712.00	3.00	4,068.00	4.00	5,424.00

No.	ICON Unit Cost	ICON Total	RW Scott Unit Cost	RW Scott Total	SCI Unit Cost	SCI Total
1	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2	34,000.00	34,000.00	19,000.00	19,000.00	25,000.00	25,000.00
3	29,500.00	29,500.00	38,000.00	38,000.00	40,000.00	40,000.00
4	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
5	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
6	2,500.00	2,500.00	1,000.00	1,000.00	500.00	500.00
7	4.00	3,200.00	5.00	4,000.00	3.00	2,400.00
8	5,000.00	5,000.00	7,000.00	7,000.00	5,000.00	5,000.00
9	80,000.00	80,000.00	503,700.00	503,700.00	400,000.00	400,000.00
10	15,000.00	15,000.00	10,000.00	10,000.00	5,000.00	5,000.00
11	315,000.00	315,000.00	211,824.00	211,824.00	180,000.00	180,000.00
12	26,000.00	26,000.00	86,000.00	86,000.00	55,000.00	55,000.00
13	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
14	112,000.00	112,000.00	52,000.00	52,000.00	85,000.00	85,000.00
15	17.00	68,374.00	17.77	71,470.94	18.75	75,412.50
16	21.00	8,127.00	22.00	8,514.00	30.00	11,610.00
17	21.00	235,788.00	15.60	175,156.80	15.00	168,420.00
18	0.01	31.96	14.60	46,661.60	20.00	63,920.00
19	7,260.00	7,260.00	15,000.00	15,000.00	5,000.00	5,000.00
20	18,500.00	18,500.00	10,000.00	10,000.00	6,500.00	6,500.00
21	24.00	102,600.00	17.60	75,240.00	19.00	81,225.00
22	25.00	145,150.00	17.60	102,185.60	19.00	110,314.00
23	77.00	589,743.00	75.00	574,425.00	74.50	570,595.50
24	15.00	39,000.00	6.00	15,600.00	1.00	2,600.00
25	700.00	3,500.00	900.00	4,500.00	500.00	2,500.00
26	43.00	2,150.00	70.00	3,500.00	75.00	3,750.00
27	60.00	1,800.00	76.00	2,280.00	100.00	3,000.00
28	37.00	102,675.00	36.00	99,900.00	40.00	111,000.00
29	82.00	60,352.00	84.00	61,824.00	93.00	68,448.00
30	57.00	8,151.00	65.00	9,295.00	75.00	10,725.00
31	59.00	15,281.00	80.00	20,720.00	66.00	17,094.00
32	1,020.00	4,080.00	2,000.00	8,000.00	800.00	3,200.00
33	1,260.00	31,500.00	800.00	20,000.00	875.00	21,875.00
34	1,270.00	3,810.00	1,200.00	3,600.00	900.00	2,700.00
35	3,060.00	24,480.00	4,000.00	32,000.00	1,925.00	15,400.00
36	3,710.00	3,710.00	4,500.00	4,500.00	2,800.00	2,800.00
37	4,660.00	4,660.00	5,000.00	5,000.00	3,150.00	3,150.00
38	45,500.00	45,500.00	60,000.00	60,000.00	53,000.00	53,000.00
39	53,500.00	53,500.00	76,000.00	76,000.00	70,000.00	70,000.00
40	275,000.00	275,000.00	371,616.00	371,616.00	440,000.00	440,000.00
41	220,000.00	220,000.00	175,650.00	175,650.00	300,000.00	300,000.00
42	685.00	685.00	750.00	750.00	450.00	450.00
43	1,310.00	1,310.00	6,500.00	6,500.00	1,000.00	1,000.00
44	600.00	3,600.00	1,000.00	6,000.00	450.00	2,700.00
45	95.00	19,000.00	100.00	20,000.00	80.00	16,000.00
46	37,000.00	37,000.00	50,000.00	50,000.00	75,000.00	75,000.00
47	3,000.00	3,000.00	2,000.00	2,000.00	1,000.00	1,000.00
48	13,500.00	13,500.00	20,000.00	20,000.00	40,000.00	40,000.00
49	5.00	18,000.00	8.00	28,800.00	3.50	12,600.00
50	84.00	4,788.00	60.00	3,420.00	80.00	4,560.00
51	0.50	3,100.00	1.10	6,820.00	1.00	6,200.00
52	35.00	28,000.00	33.00	26,400.00	37.00	29,600.00
53	38.00	4,560.00	41.00	4,920.00	40.00	4,800.00
54	355.00	13,845.00	285.00	11,115.00	335.00	13,065.00
55	365.00	8,395.00	312.00	7,176.00	335.00	7,705.00
56	520.00	15,080.00	375.00	10,875.00	490.00	14,210.00
57	18.00	8,910.00	15.00	7,425.00	17.00	8,415.00
58	12.00	2,256.00	15.00	2,820.00	12.00	2,256.00
59	17.00	4,420.00	15.00	3,900.00	16.00	4,160.00
60	12.00	6,336.00	15.00	7,920.00	11.50	6,072.00
61	7.50	2,917.50	9.00	3,501.00	7.25	2,820.25
62	7.50	3,495.00	9.00	4,194.00	7.25	3,378.50
63	7.50	2,692.50	9.00	3,231.00	7.25	2,602.75
64	7.00	4,235.00	9.00	5,445.00	6.65	4,023.25
65	11.00	4,565.00	10.50	4,357.50	10.50	4,357.50
66	7.00	1,715.00	8.50	2,082.50	6.60	1,617.00
67	7.00	2,555.00	8.50	3,102.50	6.60	2,409.00
68	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00
69	88,000.00	88,000.00	66,000.00	66,000.00	88,000.00	88,000.00
70	13.00	68,718.00	9.50	50,217.00	10.00	52,860.00
71	13.00	15,197.00	9.50	11,105.50	12.30	14,378.70
72	8.00	2,840.00	8.00	2,840.00	7.40	2,627.00
73	19.00	5,985.00	21.00	6,615.00	33.00	10,395.00
74	61.00	34,831.00	29.00	16,559.00	26.00	14,846.00
75	62.00	12,772.00	29.00	5,974.00	26.00	5,356.00
76	205.00	4,715.00	200.00	4,600.00	200.00	4,600.00
77	405.00	1,620.00	390.00	1,560.00	375.00	1,500.00
78	51.00	16,218.00	56.00	17,808.00	48.00	15,264.00
79	50.00	6,300.00	35.00	4,410.00	52.00	6,552.00
80	3.00	4,068.00	3.00	4,068.00	3.50	4,746.00

No.	Ceccanti Unit Cost	Ceccanti Total	Tucci Unit Cost	Tucci Total	Westwater Unit Cost	Westwater Total
1	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2	18,000.00	18,000.00	40,000.00	40,000.00	25,000.00	25,000.00
3	50,000.00	50,000.00	30,000.00	30,000.00	30,000.00	30,000.00
4	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00
5	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
6	500.00	500.00	500.00	500.00	2,500.00	2,500.00
7	1.00	800.00	5.00	4,000.00	23.00	18,400.00
8	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
9	450,000.00	450,000.00	282,000.00	282,000.00	350,000.00	350,000.00
10	5,500.00	5,500.00	49,000.00	49,000.00	10,000.00	10,000.00
11	480,000.00	480,000.00	475,000.00	475,000.00	250,000.00	250,000.00
12	55,000.00	55,000.00	45,000.00	45,000.00	75,000.00	75,000.00
13	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
14	60,000.00	60,000.00	170,000.00	170,000.00	87,000.00	87,000.00
15	37.00	148,814.00	30.00	120,660.00	25.00	100,550.00
16	18.00	6,966.00	50.00	19,350.00	35.00	13,545.00
17	15.00	168,420.00	23.00	258,244.00	23.00	258,244.00
18	15.00	47,940.00	25.00	79,900.00	33.00	105,468.00
19	12,000.00	12,000.00	1,500.00	1,500.00	50,000.00	50,000.00
20	25,000.00	25,000.00	2,500.00	2,500.00	50,000.00	50,000.00
21	20.00	85,500.00	22.00	94,050.00	32.00	136,800.00
22	20.00	116,120.00	26.00	150,956.00	30.00	174,180.00
23	75.00	574,425.00	77.00	589,743.00	73.00	559,107.00
24	0.10	260.00	22.00	57,200.00	21.00	54,600.00
25	450.00	2,250.00	500.00	2,500.00	500.00	2,500.00
26	40.00	2,000.00	100.00	5,000.00	60.00	3,000.00
27	60.00	1,800.00	125.00	3,750.00	85.00	2,550.00
28	50.00	138,750.00	55.00	152,625.00	77.00	213,675.00
29	70.00	51,520.00	110.00	80,960.00	90.00	66,240.00
30	60.00	8,580.00	70.00	10,010.00	90.00	12,870.00
31	70.00	18,130.00	85.00	22,015.00	150.00	38,850.00
32	1,200.00	4,800.00	900.00	3,600.00	1,100.00	4,400.00
33	1,200.00	30,000.00	1,000.00	25,000.00	1,200.00	30,000.00
34	1,300.00	3,900.00	1,250.00	3,750.00	1,300.00	3,900.00
35	3,000.00	24,000.00	2,150.00	17,200.00	3,400.00	27,200.00
36	4,000.00	4,000.00	3,150.00	3,150.00	4,200.00	4,200.00
37	5,200.00	5,200.00	4,700.00	4,700.00	5,200.00	5,200.00
38	40,000.00	40,000.00	53,000.00	53,000.00	45,000.00	45,000.00
39	65,000.00	65,000.00	67,000.00	67,000.00	77,000.00	77,000.00
40	360,000.00	360,000.00	400,000.00	400,000.00	380,000.00	380,000.00
41	215,000.00	215,000.00	250,000.00	250,000.00	260,000.00	260,000.00
42	350.00	350.00	500.00	500.00	700.00	700.00
43	1,400.00	1,400.00	1,100.00	1,100.00	7,800.00	7,800.00
44	350.00	2,100.00	500.00	3,000.00	1,000.00	6,000.00
45	1.00	200.00	25.00	5,000.00	80.00	16,000.00
46	8,000.00	8,000.00	20,000.00	20,000.00	40,000.00	40,000.00
47	500.00	500.00	500.00	500.00	2,000.00	2,000.00
48	8,000.00	8,000.00	15,000.00	15,000.00	70,000.00	70,000.00
49	4.00	14,400.00	4.00	14,400.00	10.00	36,000.00
50	80.00	4,560.00	80.00	4,560.00	100.00	5,700.00
51	1.00	6,200.00	1.00	6,200.00	1.00	6,200.00
52	29.00	23,200.00	29.00	23,200.00	40.00	32,000.00
53	36.00	4,320.00	36.00	4,320.00	40.00	4,800.00
54	250.00	9,750.00	250.00	9,750.00	400.00	15,600.00
55	280.00	6,440.00	275.00	6,325.00	400.00	9,200.00
56	380.00	11,020.00	375.00	10,875.00	400.00	11,600.00
57	15.00	7,425.00	15.00	7,425.00	20.00	9,900.00
58	15.00	2,820.00	15.00	2,820.00	20.00	3,760.00
59	15.00	3,900.00	18.00	4,680.00	20.00	5,200.00
60	15.00	7,920.00	15.00	7,920.00	20.00	10,560.00
61	7.00	2,723.00	6.50	2,528.50	10.00	3,890.00
62	7.00	3,262.00	6.50	3,029.00	10.00	4,660.00
63	7.00	2,513.00	6.50	2,333.50	10.00	3,590.00
64	7.00	4,235.00	6.50	3,932.50	10.00	6,050.00
65	7.00	2,905.00	8.50	3,527.50	10.00	4,150.00
66	7.00	1,715.00	7.00	1,715.00	10.00	2,450.00
67	7.00	2,555.00	6.50	2,372.50	10.00	3,650.00
68	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00
69	70,000.00	70,000.00	64,100.00	64,100.00	70,000.00	70,000.00
70	12.00	63,432.00	13.00	68,718.00	25.00	132,150.00
71	17.00	19,873.00	14.00	16,366.00	26.00	30,394.00
72	7.00	2,485.00	7.00	2,485.00	10.00	3,550.00
73	18.00	5,670.00	19.00	5,985.00	29.00	9,135.00
74	46.00	26,266.00	38.00	21,698.00	110.00	62,810.00
75	46.00	9,476.00	40.00	8,240.00	115.00	23,690.00
76	180.00	4,140.00	180.00	4,140.00	250.00	5,750.00
77	360.00	1,440.00	360.00	1,440.00	400.00	1,600.00
78	45.00	14,310.00	29.00	9,222.00	30.00	9,540.00
79	50.00	6,300.00	34.00	4,284.00	40.00	5,040.00
80	2.00	2,712.00	2.00	2,712.00	4.00	5,424.00

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK Unit Cost	DPK Total	Merlino Unit Cost	Merlino Total	ICON Unit Cost	ICON Total	RW Scott Unit Cost	RW Scott Total	SCI Unit Cost	SCI Total	Ceccanti Unit Cost	Ceccanti Total	Tucci Unit Cost	Tucci Total	Westwater Unit Cost	Westwater Total
81	8-13	Monument Case and Cover	2	EA	$ 800.00	$ 1,600.00	$ 1,000.00	$ 2,000.00	$ 800.00	$ 1,600.00	$ 825.00	$ 1,650.00	$ 500.00	$ 1,000.00	$ 300.00	$ 600.00	$ 350.00	$ 700.00	$ 500.00	$ 1,000.00	$ 1,300.00	$ 2,600.00
82	8-14	Cement Conc. Sidewalk	3,439	SY	$ 35.00	$ 120,365.00	$ 35.00	$ 120,365.00	$ 35.00	$ 120,365.00	$ 31.00	$ 106,609.00	$ 22.00	$ 75,658.00	$ 24.00	$ 82,536.00	$ 26.00	$ 89,414.00	$ 29.00	$ 99,731.00	$ 40.00	$ 137,560.00
83	8-14	Sidewalk Transition Ramp	2	EA	$ 1,200.00	$ 2,400.00	$ 1,200.00	$ 2,400.00	$ 700.00	$ 1,400.00	$ 1,270.00	$ 2,540.00	$ 700.00	$ 1,400.00	$ 650.00	$ 1,300.00	$ 1,200.00	$ 2,400.00	$ 750.00	$ 1,500.00	$ 1,500.00	$ 3,000.00
84	8-14	Concrete Stair Reconstruction	1	LS	$ 8,000.00	$ 8,000.00	$ 6,000.00	$ 6,000.00	$ 4,200.00	$ 4,200.00	$ 4,560.00	$ 4,560.00	$ 3,500.00	$ 3,500.00	$ 8,000.00	$ 8,000.00	$ 4,000.00	$ 4,000.00	$ 8,000.00	$ 8,000.00	$ 4,000.00	$ 4,000.00
85	8-18	Mailbox Support	18	EA	$ 400.00	$ 7,200.00	$ 500.00	$ 9,000.00	$ 200.00	$ 3,600.00	$ 520.00	$ 9,360.00	$ 500.00	$ 9,000.00	$ 600.00	$ 10,800.00	$ 450.00	$ 8,100.00	$ 750.00	$ 13,500.00	$ 300.00	$ 5,400.00
86	8-20	Modification of Traffic Signal System at S 216th Street & 24th Ave S, Complete	1	LS	$ 23,000.00	$ 23,000.00	$ 25,000.00	$ 25,000.00	$ 22,000.00	$ 22,000.00	$ 22,500.00	$ 22,500.00	$ 22,000.00	$ 22,000.00	$ 14,000.00	$ 14,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 20,000.00	$ 25,000.00	$ 25,000.00
87	8-20	Illumination System, Complete	1	LS	$ 422,000.00	$ 422,000.00	$ 340,000.00	$ 340,000.00	$ 333,000.00	$ 333,000.00	$ 340,000.00	$ 340,000.00	$ 330,000.00	$ 330,000.00	$ 340,000.00	$ 340,000.00	$ 300,000.00	$ 300,000.00	$ 300,000.00	$ 300,000.00	$ 350,000.00	$ 350,000.00
88	8-20	Fiber Optic Interconnect System, Complete	1	LS	$ 48,000.00	$ 48,000.00	$ 50,000.00	$ 50,000.00	$ 44,000.00	$ 44,000.00	$ 55,500.00	$ 55,500.00	$ 43,000.00	$ 43,000.00	$ 40,000.00	$ 40,000.00	$ 40,000.00	$ 40,000.00	$ 40,000.00	$ 40,000.00	$ 45,000.00	$ 45,000.00
89	8-21	Permanent Signing	1	LS	$ 5,450.00	$ 5,450.00	$ 8,000.00	$ 8,000.00	$ 10,000.00	$ 10,000.00	$ 7,030.00	$ 7,030.00	$ 9,500.00	$ 9,500.00	$ 6,500.00	$ 6,500.00	$ 8,500.00	$ 8,500.00	$ 9,000.00	$ 9,000.00	$ 8,000.00	$ 8,000.00
90	8-22	Paint Line	6,863	LF	$ 0.50	$ 3,431.50	$ 0.52	$ 3,568.76	$ 0.40	$ 2,745.20	$ 0.40	$ 2,745.20	$ 0.40	$ 2,745.20	$ 0.40	$ 2,745.20	$ 1.00	$ 6,863.00	$ 0.40	$ 2,745.20	$ 0.25	$ 1,715.75
91	8-22	Plastic Stop Line	88	LF	$ 12.00	$ 1,056.00	$ 6.00	$ 528.00	$ 6.00	$ 528.00	$ 7.00	$ 616.00	$ 7.00	$ 616.00	$ 6.30	$ 554.40	$ 6.00	$ 528.00	$ 6.00	$ 528.00	$ 15.00	$ 1,320.00
92	8-22	Plastic Traffic Arrow	20	EA	$ 200.00	$ 4,000.00	$ 80.00	$ 1,600.00	$ 80.00	$ 1,600.00	$ 87.00	$ 1,740.00	$ 82.00	$ 1,640.00	$ 85.00	$ 1,700.00	$ 80.00	$ 1,600.00	$ 77.00	$ 1,540.00	$ 100.00	$ 2,000.00
93	8-22	Plastic Traffic Letter	12	EA	$ 100.00	$ 1,200.00	$ 80.00	$ 960.00	$ 80.00	$ 960.00	$ 87.00	$ 1,044.00	$ 82.00	$ 984.00	$ 85.00	$ 1,020.00	$ 80.00	$ 960.00	$ 77.00	$ 924.00	$ 100.00	$ 1,200.00
94	8-22	Plastic Bicycle Lane Symbol	21	EA	$ 125.00	$ 2,625.00	$ 280.00	$ 5,880.00	$ 300.00	$ 6,300.00	$ 315.00	$ 6,615.00	$ 300.00	$ 6,300.00	$ 300.00	$ 6,300.00	$ 270.00	$ 5,670.00	$ 277.00	$ 5,817.00	$ 150.00	$ 3,150.00
95	8-22	Plastic Bicycle Lane Symbol for Loop Detection	1	EA	$ 100.00	$ 100.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 23.00	$ 23.00	$ 40.00	$ 40.00	$ 100.00	$ 100.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 200.00	$ 200.00
96	8-22	Removing Pavement Markings	5,565	LF	$ 0.25	$ 1,391.25	$ 0.50	$ 2,782.50	$ 0.50	$ 2,782.50	$ 0.50	$ 2,782.50	$ 0.51	$ 2,838.15	$ 0.50	$ 2,782.50	$ 0.10	$ 556.50	$ 0.50	$ 2,782.50	$ 0.50	$ 2,782.50
97	8-23	Temporary Pavement Markings	8,450	LF	$ 0.25	$ 2,112.50	$ 0.23	$ 1,943.50	$ 0.20	$ 1,690.00	$ 0.20	$ 1,690.00	$ 0.30	$ 2,535.00	$ 0.25	$ 2,112.50	$ 0.10	$ 845.00	$ 0.20	$ 1,690.00	$ 0.20	$ 1,690.00
98	8-23	Removing Temporary Pavement Markings	8,450	LF	$ 0.25	$ 2,112.50	$ 0.05	$ 422.50	$ 0.03	$ 253.50	$ 0.05	$ 422.50	$ 0.10	$ 845.00	$ 0.10	$ 845.00	$ 0.10	$ 845.00	$ 0.20	$ 1,690.00	$ 0.10	$ 845.00
99	8-26	HMA For Trench Patching Class 1/2" PG 64-22, for Aerial Utility Conversion	36	TON	$ 100.00	$ 3,600.00	$ 150.00	$ 5,400.00	$ 90.00	$ 3,240.00	$ 140.00	$ 5,040.00	$ 150.00	$ 5,400.00	$ 130.00	$ 4,680.00	$ 100.00	$ 3,600.00	$ 150.00	$ 5,400.00	$ 125.00	$ 4,500.00
100	8-26	Franchise Utility Excavation, Inc. Haul	2,882	CY	$ 45.00	$ 129,690.00	$ 20.00	$ 57,640.00	$ 58.00	$ 167,156.00	$ 27.00	$ 77,814.00	$ 56.00	$ 161,392.00	$ 33.00	$ 95,106.00	$ 85.00	$ 244,970.00	$ 52.00	$ 149,864.00	$ 10.00	$ 28,820.00
101	8-26	Franchise Utility Trench Bedding, Sand	1,016	CY	$ 25.00	$ 25,400.00	$ 26.00	$ 26,416.00	$ 27.00	$ 27,432.00	$ 52.00	$ 52,832.00	$ 20.00	$ 20,320.00	$ 30.00	$ 30,480.00	$ 25.00	$ 25,400.00	$ 69.00	$ 70,104.00	$ 45.00	$ 45,720.00
102	8-26	Franchise Utility Trench Backfill, Fluidized Thermal Backfill	143	CY	$ 100.00	$ 14,300.00	$ 140.00	$ 20,020.00	$ 90.00	$ 12,870.00	$ 140.00	$ 20,020.00	$ 149.00	$ 21,307.00	$ 105.00	$ 15,015.00	$ 100.00	$ 14,300.00	$ 150.00	$ 21,450.00	$ 240.00	$ 34,320.00
103	8-26	Franchise Utility Trench and Structure Backfill, Crushed Surfacing Top Course	2,577	TON	$ 25.00	$ 64,425.00	$ 16.00	$ 41,232.00	$ 12.00	$ 30,924.00	$ 29.00	$ 74,733.00	$ 17.00	$ 43,809.00	$ 18.00	$ 46,386.00	$ 20.00	$ 51,540.00	$ 37.00	$ 95,349.00	$ 14.00	$ 36,078.00
104	8-26	Shoring or Extra Excavation Class B for Aerial Utility Conversion	1	LS	$ 40,000.00	$ 40,000.00	$ 500.00	$ 500.00	$ 400.00	$ 400.00	$ 3,740.00	$ 3,740.00	$ 15,000.00	$ 15,000.00	$ 3,500.00	$ 3,500.00	$ 4,500.00	$ 4,500.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
105	8-26	Secondary Electrical Service Connections	1	FA	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00
106	8-27	Adjust Gas Valve	4	EA	$ 300.00	$ 1,200.00	$ 450.00	$ 1,800.00	$ 300.00	$ 1,200.00	$ 455.00	$ 1,820.00	$ 500.00	$ 2,000.00	$ 450.00	$ 1,800.00	$ 350.00	$ 1,400.00	$ 500.00	$ 2,000.00	$ 1,000.00	$ 4,000.00
107	7-01	Roof Drain Lateral	150	LF	$ 30.00	$ 4,500.00	$ 45.00	$ 6,750.00	$ 24.00	$ 3,600.00	$ 22.00	$ 3,300.00	$ 30.00	$ 4,500.00	$ 28.00	$ 4,200.00	$ 20.00	$ 3,000.00	$ 41.00	$ 6,150.00	$ 60.00	$ 9,000.00
						$ 4,586,709.75		$ 4,024,034.54		$ 4,251,837.70		$ 4,135,873.16		$ 4,370,003.29		$ 4,390,327.55		$ 4,646,403.50		$ 4,974,051.20		$ 5,128,423.25

$.02 cents adding error *

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK	Merlino	ICON	RW Scott	SCI	Ceccanti	Tucci	Westwater
SCHEDULE B - PSE UNDERGROUNDING														
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00
2	8-26	Install Franchise Utility Conduit, 2-Inch DB 120	802	LF	$ 2.00	$ 1,604.00	$ 2.00	$ 3.00	$ 4.00	$ 3.85	$ 1.50	$ 1.00	$ 3.50	$ 4.00
3	8-26	Install Franchise Utility Conduit, 3-Inch DB 120	1,362	LF	$ 3.00	$ 4,086.00	$ 3.00	$ 3.00	$ 4.50	$ 4.18	$ 2.20	$ 2.00	$ 3.80	$ 4.00
4	8-26	Install Franchise Utility Conduit, 4-Inch DB 120	6,711	LF	$ 4.00	$ 26,844.00	$ 4.00	$ 3.50	$ 5.00	$ 4.95	$ 2.95	$ 3.00	$ 4.50	$ 5.00
5	8-26	Install Franchise Utility Conduit, 6-Inch DB 120	6,064	LF	$ 5.50	$ 33,352.00	$ 5.00	$ 4.00	$ 6.00	$ 5.50	$ 3.70	$ 4.00	$ 5.00	$ 5.00
6	8-26	Install Franchise Utility Structure - Junction Box 4'8"x7'x5'8"	5	EA	$ 850.00	$ 4,250.00	$ 4,000.00	$ 1,300.00	$ 1,860.00	$ 1,250.00	$ 500.00	$ 500.00	$ 1,000.00	$ 4,700.00
7	8-26	Install Franchise Utility Structure - Transformer 42"x48"x36"	4	EA	$ 1,200.00	$ 4,800.00	$ 750.00	$ 700.00	$ 1,590.00	$ 750.00	$ 295.00	$ 500.00	$ 1,000.00	$ 1,600.00
8	8-26	Install Franchise Utility Structure - Handhole 2'6"x2'6"x2'	7	EA	$ 450.00	$ 3,150.00	$ 700.00	$ 350.00	$ 1,340.00	$ 700.00	$ 210.00	$ 500.00	$ 1,000.00	$ 1,100.00
9	8-26	Install Franchise Utility Structure - Pull Vault 6'4"x11'10"x8'2"	3	FA	$ 2,200.00	$ 6,600.00	$ 5,000.00	$ 4,000.00	$ 2,720.00	$ 2,000.00	$ 800.00	$ 1,200.00	$ 2,500.00	$ 13,000.00
10	8-26	Install Franchise Utility Structure - Pole Riser	3	EA	$ 1,500.00	$ 4,500.00	$ 600.00	$ 1,800.00	$ 4,000.00	$ 2,390.00	$ 1,000.00	$ 500.00	$ 500.00	$ 1,000.00
		Subtotal				$ 104,186.00	$ 122,554.00	$ 107,686.50	$ 134,646.00	$ 113,502.31	$ 71,383.65	$ 76,015.00	$ 108,502.10	$ 167,131.00
		Sales Tax (9.5%)				$ 9,898.00	$ 11,642.63	$ 10,230.22	$ 12,791.37	$ 10,782.72	$ 6,781.45	$ 7,221.43	$ 10,307.70	$ 15,877.45
						$ 114,084.00	$ 134,196.63	$ 117,916.72	$ 147,437.37	$ 124,285.03	$ 78,165.10	$ 83,236.43	$ 118,809.80	$ 183,008.45

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK	Merlino	ICON	RW Scott	SCI	Ceccanti	Tucci	Westwater
SCHEDULE C - COMCAST UNDERGROUNDING														
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00
2	8-26	Install Franchise Utility Conduit, 4-Inch	10,631	LF	$ 3.00	$ 31,893.00	$ 4.00	$ 3.50	$ 6.00	$ 4.95	$ 2.95	$ 3.00	$ 4.50	$ 5.00
3	8-26	Install Franchise Utility Structure - Handhole 21.75"x33.25"x24"	7	EA	$ 450.00	$ 3,150.00	$ 600.00	$ 350.00	$ 1,340.00	$ 750.00	$ 225.00	$ 500.00	$ 1,000.00	$ 1,000.00
4	8-26	Install Franchise Utility Structure - Vault 34.75"x52.25"x36"	5	EA	$ 600.00	$ 3,000.00	$ 1,200.00	$ 350.00	$ 1,740.00	$ 1,250.00	$ 350.00	$ 500.00	$ 1,000.00	$ 2,400.00
		Subtotal				$ 53,043.00	$ 67,724.00	$ 56,408.50	$ 96,866.00	$ 79,123.45	$ 49,686.45	$ 52,893.00	$ 74,839.50	$ 87,155.00
		Sales Tax (9.5%)				$ 5,040.00	$ 6,433.78	$ 5,358.81	$ 9,202.27	$ 7,516.73	$ 4,720.21	$ 5,024.84	$ 7,109.75	$ 8,279.73
						$ 58,083.00	$ 74,157.78	$ 61,767.31	$ 106,068.27	$ 86,640.18	$ 54,406.66	$ 57,917.84	$ 81,949.25	$ 95,434.73

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK	Merlino	ICON	RW Scott	SCI	Ceccanti	Tucci	Westwater
SCHEDULE D - CENTURYLINK UNDERGROUNDING														
1	1-04	Minor Change	1	EST	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00
2	8-26	Install Franchise Utility Conduit, 4-Inch	12,405	LF	$ 3.00	$ 37,215.00	$ 4.00	$ 3.50	$ 5.50	$ 4.95	$ 2.95	$ 3.00	$ 4.50	$ 5.00
3	8-26	Install Franchise Utility Structure - Vault 4484 TA	5	EA	$ 600.00	$ 3,000.00	$ 1,500.00	$ 1,600.00	$ 2,110.00	$ 2,800.00	$ 90.00	$ 500.00	$ 3,000.00	$ 2,600.00
4	8-26	Install Franchise Utility Structure - Handhole 264 TA	2	EA	$ 550.00	$ 1,100.00	$ 1,100.00	$ 750.00	$ 1,910.00	$ 800.00	$ 450.00	$ 500.00	$ 3,000.00	$ 1,200.00
5	8-26	Install Franchise Utility Structure - Handhole 1730-34	6	EA	$ 600.00	$ 3,600.00	$ 700.00	$ 350.00	$ 1,270.00	$ 300.00	$ 220.00	$ 500.00	$ 3,000.00	$ 1,200.00
		Subtotal				$ 59,915.00	$ 78,520.00	$ 70,017.50	$ 105,217.50	$ 93,804.75	$ 54,264.75	$ 58,715.00	$ 109,822.50	$ 99,625.00
		Sales Tax (9.5%)				$ 5,692.00	$ 7,459.40	$ 6,651.66	$ 9,995.66 **	$ 8,911.45	$ 5,155.15	$ 5,577.93	$ 10,433.14	$ 9,464.38
						$ 65,607.00	$ 85,979.40	$ 76,669.16	$ 115,213.16	$ 102,716.20	$ 59,419.90	$ 64,292.93	$ 120,255.64	$ 109,089.38

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK	Merlino	ICON	RW Scott	SCI	Ceccanti	Tucci	Westwater
SCHEDULE E (ADDITIVE)- WATER IMPROVEMENTS														
1		Mobilization (NTE 10% of Contract - Water Schedule)	1	LS	$40,000.00	$ 40,000.00	$ 10,000.00	$ 5,000.00	$ 3,270.00	$ 10,000.00	$ 41,500.00	$ 10,000.00	$ 20,000.00	$ 10,000.00
2		Trench Safety Systems	1	LS	$5,000.00	$ 5,000.00	$ 1,000.00	$ 300.00	$ 3,350.00	$ 4,000.00	$ 10,000.00	$ 800.00	$ 5,000.00	$ 4,000.00

No.	Sect.	Item	Qty	Unit	Engineer Estimate Unit Cost	Engineer Estimate Total	DPK Unit Cost	DPK Total	Merlino Unit Cost	Merlino Total	ICON Unit Cost	ICON Total	RW Scott Unit Cost	RW Scott Total	SCI Unit Cost	SCI Total	Ceccanti Unit Cost	Ceccanti Total	Tucci Unit Cost	Tucci Total	Westwater Unit Cost	Westwater Total
3		Project Temporary Traffic Control	1	LS	$10,000.00	$ 10,000.00	$ 20,000.00	$ 20,000.00	$ 400.00	$ 400.00	$ 21,000.00	$ 21,000.00	$ 10,000.00	$ 10,000.00	$ 3,500.00	$ 3,500.00	$ 8,000.00	$ 8,000.00	$ 35,000.00	$ 35,000.00	$ 10,000.00	$ 10,000.00
4		Furnish and Install 12" CL 52 D.I. Pipe	2,915	LF	$103.00	$ 300,245.00	$ 80.00	$ 233,200.00	$ 87.00	$ 253,605.00	$ 85.00	$ 247,775.00	$ 51.40	$ 149,831.00	$ 88.00	$ 256,520.00	$ 65.00	$ 189,475.00	$ 96.00	$ 279,840.00	$ 100.00	$ 291,500.00
5		Furnish and Install 8" CL 52 D.I. Pipe	30	LF	$90.00	$ 2,700.00	$ 75.00	$ 2,250.00	$ 105.00	$ 3,150.00	$ 120.00	$ 3,600.00	$ 95.00	$ 2,850.00	$ 167.00	$ 5,010.00	$ 60.00	$ 1,800.00	$ 121.00	$ 3,630.00	$ 140.00	$ 4,200.00
6		12" Gate Valve and Valve Box	16	EA	$2,000.00	$ 32,000.00	$ 2,000.00	$ 32,000.00	$ 2,200.00	$ 35,200.00	$ 2,820.00	$ 45,120.00	$ 2,200.00	$ 35,200.00	$ 2,175.00	$ 34,800.00	$ 1,500.00	$ 24,000.00	$ 2,300.00	$ 36,800.00	$ 3,000.00	$ 48,000.00
7		8" Gate Valve and Valve Box	1	EA	$1,200.00	$ 1,200.00	$ 1,500.00	$ 1,500.00	$ 1,500.00	$ 1,500.00	$ 1,890.00	$ 1,890.00	$ 1,400.00	$ 1,400.00	$ 1,300.00	$ 1,300.00	$ 1,000.00	$ 1,000.00	$ 1,500.00	$ 1,500.00	$ 1,000.00	$ 1,000.00
8		Cut In and/or Connect to Existing System	7	EA	$3,500.00	$ 24,500.00	$ 4,000.00	$ 28,000.00	$ 1,700.00	$ 11,900.00	$ 3,190.00	$ 22,330.00	$ 2,500.00	$ 17,500.00	$ 1,600.00	$ 11,200.00	$ 1,000.00	$ 7,000.00	$ 3,500.00	$ 24,500.00	$ 7,000.00	$ 49,000.00
9		2" Combination Air Valve Assembly	1	EA	$3,000.00	$ 3,000.00	$ 3,500.00	$ 3,500.00	$ 5,000.00	$ 5,000.00	$ 6,100.00	$ 6,100.00	$ 4,000.00	$ 4,000.00	$ 3,680.00	$ 3,680.00	$ 3,400.00	$ 3,400.00	$ 5,000.00	$ 5,000.00	$ 3,000.00	$ 3,000.00
10		2" Blow Off Assy.	3	EA	$2,500.00	$ 7,500.00	$ 2,400.00	$ 7,200.00	$ 2,200.00	$ 6,600.00	$ 3,470.00	$ 10,410.00	$ 3,700.00	$ 11,100.00	$ 2,800.00	$ 8,400.00	$ 1,200.00	$ 3,600.00	$ 2,550.00	$ 7,650.00	$ 1,500.00	$ 4,500.00
11		Fire Hydrant Assembly	8	EA	$5,500.00	$ 44,000.00	$ 3,900.00	$ 31,200.00	$ 5,300.00	$ 42,400.00	$ 5,060.00	$ 40,480.00	$ 5,000.00	$ 40,000.00	$ 5,000.00	$ 40,000.00	$ 4,200.00	$ 33,600.00	$ 5,300.00	$ 42,400.00	$ 8,000.00	$ 64,000.00
12		Short Service Connections, 5/8"	15	EA	$1,300.00	$ 19,500.00	$ 1,250.00	$ 18,750.00	$ 1,600.00	$ 24,000.00	$ 1,920.00	$ 28,800.00	$ 1,300.00	$ 19,500.00	$ 1,500.00	$ 22,500.00	$ 1,200.00	$ 18,000.00	$ 1,500.00	$ 22,500.00	$ 2,000.00	$ 30,000.00
13		Short Service Connections, 1"	1	EA	$1,600.00	$ 1,600.00	$ 1,350.00	$ 1,350.00	$ 1,900.00	$ 1,900.00	$ 1,920.00	$ 1,920.00	$ 1,500.00	$ 1,500.00	$ 2,000.00	$ 2,000.00	$ 1,300.00	$ 1,300.00	$ 1,700.00	$ 1,700.00	$ 2,100.00	$ 2,100.00
14		Additional Water Main Fittings	2,000	LB	$2.50	$ 5,000.00	$ 2.50	$ 5,000.00	$ 3.00	$ 6,000.00	$ 6.00	$ 12,000.00	$ 5.00	$ 10,000.00	$ 3.00	$ 6,000.00	$ 1.00	$ 2,000.00	$ 4.00	$ 8,000.00	$ 4.00	$ 8,000.00
15		HMA Class 1/2" PG 64-22 Pavement Patch	135	TON	$125.00	$ 16,875.00	$ 150.00	$ 20,250.00	$ 90.00	$ 12,150.00	$ 115.00	$ 15,525.00	$ 140.00	$ 18,900.00	$ 10.00	$ 1,350.00	$ 100.00	$ 13,500.00	$ 125.00	$ 16,875.00	$ 125.00	$ 16,875.00
16		Saw Cut Exist. Asphalt or Concrete Pavement	5,300	LF	$1.50	$ 7,950.00	$ 1.60	$ 8,480.00	$ 1.00	$ 5,300.00	$ 2.00	$ 10,600.00	$ 3.00	$ 15,900.00	$ 2.00	$ 10,600.00	$ 0.01	$ 53.00	$ 1.50	$ 7,950.00	$ 1.00	$ 5,300.00
17		5/8" Crushed Surfacing Top Course	400	TON	$25.00	$ 10,000.00	$ 30.00	$ 12,000.00	$ 20.00	$ 8,000.00	$ 30.00	$ 12,000.00	$ 20.00	$ 8,000.00	$ 19.00	$ 7,600.00	$ 20.00	$ 8,000.00	$ 30.00	$ 12,000.00	$ 15.00	$ 6,000.00
18		1-1/4" Crushed Surfacing Base Course for Trench Backfill	1,375	TON	$22.00	$ 30,250.00	$ 16.00	$ 22,000.00	$ 21.00	$ 28,875.00	$ 26.00	$ 35,750.00	$ 21.00	$ 28,875.00	$ 19.00	$ 26,125.00	$ 20.00	$ 27,500.00	$ 20.00	$ 27,500.00	$ 15.00	$ 20,625.00
19		Property Restoration	1	LS	$2,500.00	$ 2,500.00	$ 6,000.00	$ 6,000.00	$ 500.00	$ 500.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 1,500.00	$ 1,500.00	$ 1,200.00	$ 1,200.00	$ 5,000.00	$ 5,000.00	$ 4,000.00	$ 4,000.00
20		Temp. Erosion and Sedimentation Control	1	LS	$3,500.00	$ 3,500.00	$ 1,000.00	$ 1,000.00	$ 250.00	$ 250.00	$ 10,000.00	$ 10,000.00	$ 2,500.00	$ 2,500.00	$ 2,500.00	$ 2,500.00	$ 800.00	$ 800.00	$ 5,000.00	$ 5,000.00	$ 2,500.00	$ 2,500.00
21		Resolution of Utility Conflicts	1	FA	$15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00
22		Survey for Water Main	1	LS	$3,500.00	$ 3,500.00	$ 4,000.00	$ 4,000.00	$ 2,000.00	$ 2,000.00	$ 8,500.00	$ 8,500.00	$ 3,000.00	$ 3,000.00	$ 2,500.00	$ 2,500.00	$ 800.00	$ 800.00	$ 5,000.00	$ 5,000.00	$ 2,000.00	$ 2,000.00
23		Minor Change	1	EST	$10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00	$ 10,000.00
					Subtotal	$ 595,820.00		$ 493,680.00		$ 479,030.00		$ 575,420.00		$ 429,056.00		$ 523,585.00		$ 380,828.00		$ 597,845.00		$ 611,600.00
					Sales Tax (9.5%)	$ 56,603.00		$ 46,899.60		$ 45,507.85		$ 54,664.90		$ 40,760.32		$ 49,740.58		$ 36,178.66		$ 56,795.28		$ 58,102.00
						$ 652,423.00		$ 540,579.60		$ 524,537.85		$ 630,084.90		$ 469,816.32		$ 573,325.58		$ 417,006.66		$ 654,640.28		$ 669,702.00
					TOTAL	$ 5,476,906.75		$ 4,858,947.95		$ 5,032,728.74		$ 5,134,676.82 **		$ 5,153,461.02		$ 5,156,644.79		$ 5,268,857.35		$ 5,943,706.16		$ 6,185,657.80

Notes: * DPK bid total for Schedule A equals $4,024,034.54. The amount entered on Exhibit A: Bid Documents page 11 equals $4,024,034.52. There is a $.02 (cent) adding error that has been corrected on this bid tab analysis. ** ICON: The amount entered on Exhibit A: Bid Documents page 14 for Bid Schedule D Sales Tax equals $9,995.62. The correct calculation is $9,995.66. This effects ICON's total bid amount by $.04 (cents). In addition the total on Exhibit A: Bid Documents page 16, there is an addition error - Original Bid Amount equals $5,134,676.60. Corrected Bid Amount equals $5,134,676.82.

City of Des Moines

PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596

July 22, 2013

DPK Inc
ATTN: BOB KIYOHARA
7829 S. 206th Street
Kent, WA. 98032

RE: TRANSPORTATION GATEWAY PROJECT 24TH AVENUE SOUTH BID PROPOSAL

Dear Mr. Kiyohara;

In the process of reviewing your proposal, and performing our due diligence, we have come across what appears to be a possible irregular proposal per the 2012 WSDOT Standard Specifications Section 1-02.13 2.b. Specifically, the abnormally low prices for bid items A17 – Gravel Borrow Incl. Haul and A48 – Temporary Detention/Retention SWPPP Control Facilities. Pursuant to Section 1-02.15 of the 2012 WSDOT Standard Specifications, please provide us with the following information pertaining to these bid items:

1. Bid Item A17 -- A complete statement of the origin, composition, and manufacture of the material to ensure compliance with the 2012 WSDOT Standard Specifications and associated Contract Documents.
2. Bid Item A17 – A breakdown of costs associated with this bid item to ensure compliance with the 2012 WSDOT Standard Specifications and associated Contract Documents.
3. Bid Item A48 -- A breakdown of costs associated with this bid item to ensure compliance with the 2012 WSDOT Standard Specifications and associated Contract Documents.

We look forward to receiving this information promptly [prior to 4:30 PM tomorrow (7/23/2013)], so that we may conclude our review of your proposal.

Respectfully,

R. Brandon Carver, P.E., P.T.O.E.
Engineering Services Manager

Cc: Dan Brewer, Planning, Building & Public Works Director
Scott Romano, CIP Project Manager
Len Madsen, Gateway Project Manager
Andrew Merges, KPG

DPK INC
GENERAL CONTRACTING
7829 S. 206TH STREET • KENT, WASHINGTON 98032
TEL: (253) 872-7916 • FAX: (253) 872-5112

RECEIVED
JUL 23 2013

JULY 23, 2013

CITY OF DES MOINES

ATTN: R. Brandon Carver

RE: TRANSPORTATION GATEWAY PROJECT 24TH AVE BID PROPOSAL

Dear Mr Carver,

We are providing you with the following information pertaining to the bid items:

BID ITEM # A17

1) On site utility excavation will provide 5100 cubic yards for the storm sewer, 2882 cubic yards from the overhead utility conversion. This leaves a total of 7982 cubic yards, converted at 1.5 TN/CY = 11,973 TNS.
2) We anticipate using all of the excavated material, instead of the gravel borrow bid item for fill work.
3) Previous project on Highway 99 for Highline Water District were constructed with native fill material in the traveled roadway.
4) The unit price per TN is not detrimental to the Owner, and DPK INC. is aware of the unit price and its consequences. If native material proves unsuitable for roadway base, gravel borrow will be provided by Icon Materials Pit # A464.

BID ITEM #A48

1) Will use existing drainage and new construction structures and piping for runoff.
2) $2000.00 in the proposal is for any new or existing pipe connections to treat the runoff.
3) If needed, possibly will use the detention tank to hold the runoff.
4) Will use the existing Westside outfalls at sta: 132+75 and 139+25 and any additional BMP's to treat the runoff.

DPK INC
GENERAL CONTRACTING
7829 S. 206TH STREET • KENT, WASHINGTON 98032
TEL: (253) 872-7916 • FAX: (253) 872-5112

Also I have included the Stormwater Pollution Prevention Plan prepared by Perteet Engineering and DPK INC. for the current project, City of Burien, 1st Ave So. Imp.

I hope this will clear up any concerns in the proposal.

Sincerely,

Bob Kiyohara

DPK INC

City of Des Moines

PLANNING, BUILDING AND PUBLIC WORKS
www.desmoineswa.gov
21650 11TH AVENUE SOUTH
DES MOINES, WASHINGTON 98198-6317
(206) 870-6522 FAX (206) 870-6596

July 25, 2013

DPK Inc
ATTN: BOB KIYOHARA
7829 S 206th Street
Kent, WA 98032

RE: TRANSPORTATION GATEWAY PROJECT 24TH AVENUE SOUTH BID PROPOSAL

Dear Mr. Kiyohara:

We appreciate DPK's responses dated July 23, 2013 in regards to the City's Transportation Gateway Project 24th Avenue South Bid Proposal inquiry dated July 22, 2013.

In reviewing your responses to Bid Item #A17 "Gravel Borrow Incl. Haul", and your assumption that excavated native material will be suitable for use in-lieu-of imported gravel borrow; we would like to make sure you are aware of the following:

1) All material for use as gravel borrow shall meet WSDOT Standard Specifications 2-03 and 9-03.14(1) in accordance with the Contract Documents.
2) Compacting earth embankments shall meet WSDOT Standard Specification 2-03.3(14)C, Method C, per Contract Special Provision 2-03.3(14).
3) Based on adjacent project experience, as well as the geotechnical report included within the Contract Documents, native material does not appear to meet the WSDOT Standard Specification for gravel borrow.

Please acknowledge that DPK Inc accepts the risk associated with the Bid Proposal unit bid price for Bid Item #A17 "Gravel Borrow Incl. Haul" and wishes to proceed with the project award process.

Sincerely,

R. Brandon Carver, P.E., P.T.O.E.
Engineering Services Manager

cc: Dan Brewer, Planning, Building & Public Works Director
Scott Romano, CIP Project Manager
Len Madsen, Gateway Project Manager
Andrew Merges, KPG

DPK INC
GENERAL CONTRACTING
7829 S. 206TH STREET • KENT, WASHINGTON 98032
TEL: (253) 872-7916 • FAX: (253) 872-5112

JULY 26, 2013

CITY OF DES MOINES

ATTN: R.Brandon Carver

RE: TRANSPORTATION GATEWAY PROJECT 24TH AVE SO.

Dear Mr. Carver

DPK INC. has reviewed your letter dated July 25th 2013 and accepts the risk associated with the Bid Proposal unit bid price for B/I # A17 GRAVEL BORROW INCL HAUL.

DPK INC. wishes to proceed with the project award process.

Sincerely

Bob Kiyohara

DPK INC.

DPK

VERIFICATION

- Contact us
- Forms
- About us

- Home
- Start your business
- Change or update your business information
- How to renew your license

Search Business Licenses

License Information:

Entity Name: D.P.K., INC.
Business Name: D.P.K., INC.
License Type: Washington State Business
Entity Type: Profit Corporation
UBI: 600274789 Business ID:001 Location ID:0001
Status: To check the status of this company, go to Secretary of State and Department of Revenue.

Location Address:
7829 S 206TH ST
KENT, WA, 98032-1354

Mailing Address:
7829 S 206TH ST
KENT, WA, 98032-1354

Governing People:
DAVID KIYOHARA
MARGARET KIYOHARA

Information Current as of 07/22/2013 5:43AM Pacific Time

New Search

This site is limited to searching for business licenses issued through the Washington State Business Licensing Service.

- Contact us
- Forms
- About us
- Privacy

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Lookup business information

Back to search results

If "Non-revenue" appears after Tax Registration Number, the account is not registered with the Department of Revenue. However, it may be registered with other agencies in the state.

Washington State Department of Revenue
State Business Records Database Detail

TAX REGISTRATION NO: 600274789
UBI: 600274789
ENTITY NAME: D P K INC
BUSINESS NAME:

ACCOUNT OPENED: 04/01/1978
ACCOUNT CLOSED: OPEN

MAILING ADDRESS:
7029 S 206TH ST
KENT, WA 98032-1354

BUSINESS LOCATION:
7029 S 206TH ST
KENT, WA 98032-1354

ENTITY TYPE: CORPORATION

RESELLER PERMIT NO: A16 0543 13
PERMIT EFFECTIVE: 01/01/2012
PERMIT EXPIRES: 12/31/2013

NAICS CODE: 237130
NAICS DEFINITION: POWER AND COMMUNICATION LINE AND RELATED STRUCTURES CONSTRUCTION (PT)

FOR NON-COMMERCIAL USE ONLY

07/22/2013 10:32 AM

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Access Washington
Voter registration assistance (SECRETARY OF STATE)

Corporations Division - Registration Data Search

D.P.K., INC.

Purchase Documents for this Corporation »

UBI Number	600274789
Category	REG
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
WA Filing Date	04/07/1978
Expiration Date	04/30/2014
Inactive Date	
Duration	Perpetual
Registered Agent Information	
Agent Name	ROD KAWAKAMI
Address	T&C BUILDING 671 S JACKSON ST STE 201
City	SEATTLE
State	WA
ZIP	98104
Special Address Information	
Address	
City	
State	
Zip	

Governing Persons

Title	Name	Address
President,Treasurer,Chairman	KIYOHARA , DAVID	7829 S 206TH STREET KENT , WA 98032
Secretary	KIYOHARA , MARGARET	7829 S 206TH STREET KENT , WA 98032

Purchase Documents for this Corporation »

Search Results

Current Search Terms: DPK*

Your search for "DPK*" returned the following results...

Notice: This printed document represents only the first page of your SAM search results. More results may be available. To print your complete search results, you can download the PDF and print it.

Entity	DPK MARKETING SOLUTIONS L L C		Status: Active
DUNS: 115624996		CAGE Code: 3VLH3	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	ARD, INC.		Status: Active
DUNS: 829085617		CAGE Code: 692T6	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	DPK Consulting		Status: Active
DUNS: 824961353		CAGE Code: 3NUP4	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	DPK Trucking LLC		Status: Active
DUNS: 829480800		CAGE Code: 5BG27	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	Keeney, Daniel		Status: Active
DUNS: 144276719		CAGE Code: 3SAN3	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	DPK, LLC		Status: Active
DUNS: 832419720		CAGE Code: 5S8V6	View Details
Has Active Exclusion?: No		DoDAAC:	
Entity	DPK SERVICES INC		Status: Active
DUNS: 078505184		CAGE Code: 6S7K9	View Details
Has Active Exclusion?: No		DoDAAC:	

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7/22/13 # DPK, Inc. Not listed KE

DBE VERIFICATION

OMWBE Directory Profile: W E COATES SURVEYING LLC

Name: W E COATES SURVEYING LLC
Business Description: CONSTRUCTION SURVEYING **NAICS Index Entries:** 541370 - SURVEYING & MAPPING (EXCEPT GEOPHYSICAL) SERVICES
Street: 9825 GLORY DR SE
City: OLYMPIA **State:** WA **Zip:** 98513
Voice: (360) 413-0510 **Fax:** (360) 584-9914 **E-mail:** WECOATES@COMCAST.NET
Contact: WADE E COATES
Owner: WADE COATES
Certification No.: D3M8019952
Washington Cert.: MBE **Federal Cert.:** DBE
Prime NAICS: 541370
2nd NAICS: **3rd NAICS:** **4th NAICS:** **5th NAICS:** **6th NAICS:** **7th NAICS:** **8th NAICS:**

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OMWBE Directory Profile: T YOROZU GARDENING COMPANY INC

Name: T YOROZU GARDENING COMPANY INC
Business Description: CONTRACTOR; LANDSCAPE, IRRIGATION, HYDROSEEDING, DESIGN MODULAR BLOCK WALLS **NAICS Index Entries:** 561730 - LANDSCAPE CONTRACTORS (EXCEPT CONSTRUCTION); 561730 - LANDSCAPING SERVICES; 237110 - IRRIGATION PROJECT CONSTRUCTION (EXCEPT LAWN); 238990 - INTERLOCKING BRICK AND BLOCK INSTALLATION
Street: 13335 32ND AVENUE SOUTH
City: TUKWILA **State:** WA **Zip:** 98168
Voice: (206) 660-7706 **Fax:** (425) 427-8405 **E-mail:** TYOROZU@COMCAST.NET
Contact: KEN YOROZU
Owner:
Certification No.: D4M0100085
Washington Cert.: MBE **Federal Cert.:** DBE
Prime NAICS: 561730
2nd NAICS: 561730 **3rd NAICS:** 237110 **4th NAICS:** 238990 **5th NAICS:** **6th NAICS:** **7th NAICS:** **8th NAICS:**

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OMWBE Directory Profile: CHANDLER CONSTRUCTION INC

Name: CHANDLER CONSTRUCTION INC
Business Description: HIGHWAY SIGNS, JOINT AND CRACK SEALING ROADS, BRIDGE DECK EXPANSION JOINTS, FENCING, TRAFFIC CONTROL, EROSION CONTROL, MAILBOXES, GUIDEPOSTS, IRON ADJUSTMENTS, MEMBRANE WATERPROOFING, BRIDGE DECK REPAIR **NAICS Index Entries:** 237310- REPAIR, HIGHWAY, ROAD, STREET, BRIDGE OR AIRPORT RUNWAY; 237310- BRIDGE DECKING CONSTRUCTION; 561990- FLAGGING (I.E.; TRAFFIC CONTROL) SERVICES; 238990- FENCING CONTRACTORS (EXCEPT ELECTRONIC CONTAINMENT FENCING FOR PETS); 237310- SIGN ERECTION, HIGHWAY, ROADS, STREET, OR BRIDGE; 561730 - HYDROSEEDING SERVICES (I.E.; DECORATIVE, EROSION CONTROL PURPOSES); 238390 - WATERPROOFING CONTRACTORS
Street: PO BOX 100
City: BURLINGTON **State:** WA **Zip:** 98233
Voice: (360) 755-9541 **Fax:** (360) 755-0306 **E-mail:** TCHANDLER.CCI@FRONTIER.COM
Contact: CHANDLER LYNDA
Owner: CHANDLER LYNDA
Certification No.: D2F1401154
Washington Cert.: WBE **Federal Cert.:** DBE
Prime NAICS: 237310
2nd NAICS: 237310 **3rd NAICS:** 561990 **4th NAICS:** 238990 **5th NAICS:** 237310 **6th NAICS:** 561730 **7th NAICS:** 238390 **8th NAICS:**

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OMWBE Directory Profile: G & G INCORPORATED

Name: G & G INCORPORATED
Business Description: ELECTRICAL CONTRACTING, TRAFFIC SIGNALS, LOOPS, STREET LIGHTING, ROAD SIGN ERECTION, POLE REMOVAL AND INSTALLATION, CONCRETE CUTTING FOR TRAFFIC SIGNAL WORK. **NAICS Index Entries:** 238210- ELECTRICAL CONTRACTORS; 238210 - HIGHWAY, STREET AND BRIDGE LIGHTING AND ELECTRICAL SIGNAL INSTALLATION; 237310 - SIGN ERECTION, HIGHWAY, ROADS, STREET, OR BRIDGE; 238990 - POLE (E.G., TELEPHONE) REMOVAL; 237310 - CONCRETE PAVING (I.E.; HIGHWAY, ROAD, STREET, PUBLIC SIDEWALK) * LIMITED TO: THIS CODE IS RESTRICTED ONLY FOR THE FIRM'S USE OF CUTTING CONCRETE ON ROADS, STREETS AND PUBLIC SIDEWALKS FOR THE PURPOSE OF INSTALLING UNDERGROUND TRAFFIC SIGNAL ELECTRICAL COMPONENTS.
Street: 18044 SE 224TH ST
City: KENT **State:** WA **Zip:** 98042
Voice: (425) 432-8125 **Fax:** (425) 432-8155 **E-mail:** GGINC1992@AOL.COM
Contact: BONNIE GRAHAM
Owner: GRAHAM BONNIE
Certification No.: D2F5010391
Washington Cert.: WBE **Federal Cert.:** DBE
Prime NAICS: 238210
2nd NAICS: 238210 **3rd NAICS:** 237310 **4th NAICS:** 238990 **5th NAICS:** 237310 **6th NAICS:** **7th NAICS:** **8th NAICS:**

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OMWBE Directory Profile: BELARDE CONSTRUCTION

Name: BELARDE CONSTRUCTION
Business Description: GENERAL CONSTRUCTION, SPECIALTY CONCRETE WORK RELATED TO ARCHITECTURAL AND SLIP FORM CONSTRUCTION, STRUCTURAL CONCRETE, PRECAST CONCRETE; CONCRETE FINISHING; CONCRETE CURB AND GUTTER WORK **NAICS Index Entries:** 238120 - CONCRETE PRODUCT (E.G.; STRUCTURAL PRECAST, STRUCTURAL PRESTRESSED) INSTALLATION; 238120 - PRECAST CONCRETE PANEL, SLAB, OR FORM INSTALLATION; 237310 - CONCRETE PAVING (I.E.; HIGHWAY, ROAD, STREET, PUBLIC SIDEWALK)
Street: P O BOX 684
City: WOODINVILLE **State:** WA **Zip:** 98072
Voice: (425) 376-2500 **Fax:** (425) 376-0332 **E-mail:** JOHN@BELARDECO.COM
Contact: BELARDE JOHN F
Owner: BELARDE JOHN F
Certification No.: D5M2316842
Washington Cert.: MBE **Federal Cert.:** DBE
Prime NAICS: 238120
2nd NAICS: 238120 **3rd NAICS:** 237310 **4th NAICS:** 238110 **5th NAICS:** 238990 **6th NAICS:** **7th NAICS:** **8th NAICS:**

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EPLS

APPROVAL

Kelly Clark

From: Larsen, Renae L. <LarsenR@wsdot.wa.gov>
Sent: Monday, July 22, 2013 2:15 PM
To: Kelly Clark
Cc: Schuyler, Sam
Subject: FW: Excluded Parties List
Attachments: DPK Bid Tab and DBE.pdf

From: Schuyler, Sam
Sent: Monday, July 22, 2013 2:07 PM
To: Kelli Owen
Cc: Segami, Phil; Larsen, Renae L.
Subject: FW: Excluded Parties List
Importance: High

Hi Kelli,

Renae forwarded your email to me for response. She and I have reviewed the S.A.M. excluded party list and find we've determined that both subcontractors in question, Chandler and Belarde, are **not** excluded from participation in federally funded projects.

Please let me know if you have any questions.

Sam Schuyler
Assistant Local Programs Engineer
North King and Snohomish Counties
206-440-4729 (W)
425-772-9729 (C)
schuyls@wsdot.wa.gov
WSDOT

From: Larsen, Renae L.
Sent: Monday, July 22, 2013 11:31 AM
To: Schuyler, Sam
Subject: FW: Excluded Parties List
Importance: High

Here you go. Kelly thinks Belarde and Chandler are on the EPLS list. When I look them up, it says "no active exclusions" for both. I have not used this new SAM system before so I could be mistaken. I do know that WSDOT uses these contractors regularly.

From: Kelly Clark [mailto:kellyc@kpg.com]
Sent: Monday, July 22, 2013 11:19 AM
To: Larsen, Renae L.
Subject: RE: Excluded Parties List

Here you go and thank you very much

Kelly Clark
Construction Services
KPG
2502 Jefferson Ave
Tacoma, WA 98402
Direct Phone | 253.344.5265
Cell Phone | 253.737.9253
Fax | 253.627.4144

Please consider the environment before printing this email.

From: Larsen, Renae L. [mailto:LarsenR@wsdot.wa.gov]
Sent: Monday, July 22, 2013 11:16 AM
To: Kelly Clark
Subject: RE: Excluded Parties List

Sam is going to work on it ASAP in Phil's absence.

From: Kelly Clark [mailto:kellyc@kpg.com]
Sent: Monday, July 22, 2013 11:13 AM
To: Larsen, Renae L.
Subject: Excluded Parties List

Hello,

We had bid opening for the City of DesMoines on Thursday afternoon. DPK is low bidder. I looked up their proposed DBE subcontractors and two of them are on the EPLS website.

1. Chandler Construction with a status of "work in progress"
2. Belarde Company, Inc. AKA Belarde Construction Inc. with a status of "Active"

Can we still use DPK's bid with two of their subcontractor's on the EPLS list?

Thanks,

Kelly Clark
Construction Services
KPG
2502 Jefferson Ave
Tacoma, WA 98402
Direct Phone | 253.344.5265
Cell Phone | 253.737.9253
Fax | 253.627.4144

Please consider the environment before printing this email.

Search Results

Current Search Terms: W E coates*

No records found for current search.

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Search Results

Current Search Terms: t.yorozu* gardening*

No records found for current search.

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Chandler Construction, Inc.
DUNS: 173818972
Status: Work In Progress

300 N Oak St
Burlington, WA, 98233-1233 ,
UNITED STATES

Entity Overview

Entity Information

Name: Chandler Construction, Inc.
Business Type: Business or Organization
POC Name: Trena Chandler
Registration Status: Work In Progress
Registration passed IRS consent validation but is still incomplete. This registration will not be activated until it has been submitted and passed CAGE validation.

Exclusions

Active Exclusion Records? No

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WWW1

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Search Results

Current Search Terms: "G&G Incorporated*"

No records found for current search.

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Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.

BELARDE COMPANY, INC.
DUNS: 107541646 CAGE Code: SERY4
Status: Active

20011 87TH AVE SE
SNOHOMISH, WA, 98296-7971 ,
UNITED STATES

Entity Overview

Entity Information

Name: BELARDE COMPANY, INC.
Doing Business As: BELARDE CONSTRUCTION
Business Type: Business or Organization
POC Name: None Specified
Registration Status: Active
Expiration Date: 11/15/2013

Exclusions

Active Exclusion Records? No

Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.

2013 - 2018 CAPITAL IMPROVEMENT PLAN
Transportation CIP Fund

CAPITAL IMPROVEMENT PLAN
REQUEST FORM

CATEGORY	Transportation	PROJECT NO.	319.131-01
PROGRAM	Des Moines Transportation Gateway	Project Type:	Capacity
PROJECT	24th Avenue South Improvement Project	Council Goals met:	1, 2, 3
		Council Objectives met:	
		Project Status	Adopted
LOCATION	24th Avenue South - South 216th Street to South 208th Street		

DESCRIPTION: Reconstruct roadway to five-lane cross section.

EXPENDITURE SCHEDULE

COST ELEMENTS	TOTAL*	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Est	FY 12 Amend	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
ADMIN (CITY STAFF)	$ 166,459	$ 12,624	$ 28,835	$ 37,606	$ 27,394	$ 22,394	$ 60,000					
CIP PROJ MANAGEMENT	20,000				5,000	10,000	15,000					
DESIGN / ENGINEERING	1,009,736	271,036	396,845	207,532	69,323	69,323	65,000					
LAND	392,960			322,460	70,500	85,593						
LAND - Prologis	208,390		208,390									
LAND - Port of Seattle	488,370			488,370								
ROW SERVICES	142,519	56	17,267	54,790	70,406	70,406						
IMPROVEMENTS	4,905,776				-	4,072,686	4,905,776					
INSPECTION	700,000				-	525,000	700,000					
CONTINGENCY	765,000				15,000	275,000	750,000					
Underground PSE Utilities	124,502				-	127,615	124,502					
Comcast	250,000				-	51,948	250,000					
CenturyLink (Qwest)	50,965				-	63,351	50,965					
Midway Sewer	63,950				-	294,116	63,950					
Highline Water District	188,866				-	421,575	188,866					
TOTAL	$ 10,115,331	$ 283,716	$ 651,337	$ 1,110,758	$ 257,623	$ 6,089,007	$ 7,811,897					

FUNDING SOURCES	TOTAL*	FY 09 Act	FY 10 Act	FY 11 Act	FY 12 Est	FY 12 Amend	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
PWTF Loan - Design (Confirmed)	$ 330,000	$ 247,500	$ 82,500		$ -	$ -	$ -					
PWTF Loan - Construction (Unconfirmed)							-					
WSDOT Ped & Bike Program (Unconfirmed)							-					
FHWA - STP (Confirmed)	3,000,000						3,000,000					
POS D.A. FEES (Confirmed)	3,500,000				-	1,800,000	3,500,000					
POS ROW Agreement	488,370			488,370								
ROW In-Lieu - Prologis (Received)	208,390		208,390									
IN-LIEU FEES - Prologis (Received)	820,000	36,216	360,447	423,337								
TIB (Unconfirmed)	-				-	3,000,000	-					
Traffic Impact Fees	90,000			27,952	-	32,048	62,048					
Comcast	84,938				-	86,575	84,938					
CenturyLink (Qwest)	-				-	63,351	-					
PSE Gas	74,787				-	74,787	74,787					
Midway Sewer District	207,753				-	324,116	207,753					
Highline Water District	701,622				-	463,575	701,622					
Transportation CIP Fund	609,471		-	171,099	257,623	244,555	180,749					
TOTAL	$ 10,115,331	$ 283,716	$ 651,337	$ 1,110,758	$ 257,623	$ 6,089,007	$ 7,811,897					

*Excludes FY 12 Amd

Attachment #4

CAPITAL IMPROVEMENT PLAN
REQUEST FORM

CATEGORY	Transportation	PROJECT NO.	319.131-01
PROGRAM	Des Moines Transportation Gateway	Project Type:	Capacity
PROJECT	24th Avenue South Improvement Project	Council Goals met:	1, 2, 3
		Council Objectives met:	
		Project Status	Adopted
LOCATION	24th Avenue South - South 216th Street to South 208th Street		

JUSTIFICATION:

The need for five-lane roadway with pedestrian and bicycle facilities along 24th Avenue South is identified in the City's Comprehensive Transportation Plan and the six-year Transportation Improvement Plan. Numerous development projects are planned along this corridor, including the Des Moines Creek Business Park and aviation logistics facilities in the City of SeaTac. 24th Avenue South is part of a planned corridor connection to a future SR509 interchange via the 24th/28th Avenue alignment planned by the City of SeaTac.

This project includes improvements that will be required when the Des Moines Creek Business Park and other business projects develop. These improvements include, but are not limited to, frontage and access improvements on 24th Avenue South. It is anticipated that in-lieu fees will be collected for these development-related improvements. The in-lieu fees indicated should be considered a place holder, and the actual in-lieu fee amount is subject to change as determined during plan review.

With the development of the Des Moines Creek Business Park and other potential developments in the immediate area, planning and design for the 24th Avenue South corridor cannot be delayed. The City secured a PWTF planning loan to design improvements for this corridor.

SCOPE OF WORK:

An 85% design level estimate of probable costs are included in this budget including revisions to the S. 216th St/24th Avenue S. intersection with roadway transitions and median improvements. A design report (December 2010) includes design recommendations for this project including final engineering, environmental analysis, and permit documents. Preparation of final plans specifications and estimates to be completed by a consultant in March 2011. The project includes construction by a contractor of the following improvements: installation of curbs, gutters, sidewalks, planters, and bicycle lanes on both sides of the street, widening the road with asphalt pavement, installing center medians where feasible, constructing a new street lighting system, undergrounding storm water, overhead communications, and electrical distribution lines. Midway Sewer District may request and fund additional improvements. Right-of-way is scheduled to be acquired and cleared in 2011 allowing construction to proceed in 2012 if funding becomes available. Construction engineering and inspection will be done by a consultant.

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Public Hearing Item #1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing for Draft Ordinance 13-080, Planning Agency Dissolution

ATTACHMENTS:
1. Draft Ordinance No. 13-080

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building, and Public Works

DATE SUBMITTED: July 29, 2013

CLEARANCES:
[X] Legal PB
[ ] Finance N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Bldg. & Public Works DJB
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER FOR SUBMITTAL

Purpose and Recommendation

The purpose of this agenda item is to conduct a public hearing for the City Council to consider Draft Ordinance 13-080 (provided as Attachment 1) relating to the dissolution of the Des Moines Planning Agency.

Suggested Motions

Motion 1A: "I move to suspend City Council Rule 26(a) in order to enact Draft Ordinance No. 13-080 on first reading."

Motion 1B: "I move to enact Draft Ordinance No. 13-080 to dissolve the Des Moines Planning Agency."

Alternate Motion 2: "I move to pass Draft Ordinance No. 13-080 to dissolve the Des Moines Planning Agency to a second reading on _____."

Background

The City Council discussed the dissolution of the City's Planning Agency at its April 6, 2013 Council Budget Retreat and asked staff to prepare an Ordinance that would dissolve the Planning Agency. On

Background

The City Council discussed the dissolution of the City's Planning Agency at its April 6, 2013 Council Budget Retreat and asked staff to prepare an Ordinance that would dissolve the Planning Agency. On May 23, 2013 City Council discussed the matter and set a public hearing on August 8, 2013 to consider Draft Ordinance No. 13-080.

Discussion:

A "Planning Agency" is any person, body, or organization designated by the legislative body to perform a planning function or portion thereof for a municipality, and includes, without limitation, any commission, committee, department, or board together with its staff members, employees, agents, and consultants. Code cities are not required by law to have a formal citizen's Planning Agency. The definition of what constitutes a Planning Agency in the state laws applying to code cities specifically provides the option of having a City department or staff perform this function.

Code cities have considerable flexibility in establishing a Planning Agency to perform planning functions, which may or may not include a traditional citizens' planning commission. Des Moines Planning Agency is currently responsible for reviewing Type IV and Type VI land use actions and for making recommendations on Type IV and Type VI land use actions to the City Council.

The City of Des Moines Planning Agency is authorized under chapter 4.28 DMMC. This chapter defines the duties and responsibilities of the Agency which include:

> 4.28.030 Powers – Duties – Generally.
> The planning agency shall have all powers and perform each and all of the duties specified by chapter 35A.63 RCW, together with any other duties or authority which may be conferred upon it by ordinance. The performance of such duties and the exercise of such authority shall be subject to each and all of the limitations expressed in such legislative enactment or enactments. [Ord. 611 § 3, 1984.]
>
> 4.28.040 Powers – Duties – Parks.
> In addition to the powers and duties specified in DMMC 4.28.030, the planning agency may provide comprehensive planning recommendations to the city council for the acquisition of sites or lands for use as park and recreational facilities, consistent with long-range comprehensive planning of the city. Detailed development planning of each specific park or recreation site shall be according to procedures specifically directed by the city council as deemed appropriate for the particular project. Prior to approval of any detailed development park plan, such plan may be presented to the planning agency for its comments as to the consistency of the development plan with the long-range comprehensive park and recreation plan of the city. [Ord. 1287 § 23, 2001: Ord. 689 § 1, 1987: Ord. 611 § 4, 1984.]
>
> 4.28.050 Referral to planning agency – Recommendations.
> The city council may refer to the planning agency, for its recommendations and report, any ordinance, resolution, or other proposal and the planning agency shall promptly report to the city council thereon, making such recommendations and giving such counsel as it may deem proper in the premises. [Ord. 611 § 5, 1984.]

If passed, all actions that were previously the responsibility of the Planning Agency would instead be handled by either the City Council or City staff.

Amendments to Titles 17 Subdivisions and 18 Zoning DMMC are considered Type VI Land Use Actions pursuant to DMMC 18.56.080(1) and as such require a public hearing with the City Council pursuant to DMMC 18.56.200 and 18.60.040.

Alternatives:
The City Council has the following alternatives:

(1) Waive Council Rule 26(a) and enact Draft Ordinance 12-080 on 1st reading as written, which would dissolve the Des Moines Planning Agency.
(2) Waive Council Rule 26(a) and enact Draft Ordinance 12-080 on 1st reading with amendments by the City Council modifying the current functions and responsibilities of the Des Moines Planning Agency.
(3) Pass Draft Ordinance 12-080 to a second reading.
(4) Decline to enact Draft Ordinance 12-080, which would maintain the current functions and responsibilities of the Des Moines Planning Agency

Financial Impact:
The financial impact of dissolving the Planning Agency is unknown at this time.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 07/29/2013

DRAFT ORDINANCE NO. 13-080

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the dissolution of the City's Planning Agency, repealing chapter 4.28 DMMC, DMMC 17.16.080, and 18.64.060, and all underlying ordinances effective January 1, 2014; and amending DMMC 17.16.100, 18.56.180, 18.56.200, 18.60.030, 18.60.120, 18.64.010, 18.64.040, 18.84.040, 18.84.060, and 18.84.080.

WHEREAS, Ordinance No. 611 established the Planning Agency on November 15, 1984, and

WHEREAS, at the April 6, 2013, City Council Retreat, the City Council considered the dissolution of the City's Planning Agency, and

WHEREAS, pursuant to DMMC 18.56.080, amendments of the Subdivision Code (Title 17 DMMC) and Zoning Code (Title 18 DMMC) are a legislative (Type VI) land use decision, and

WHEREAS, pursuant to DMMC 18.56.200, amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

WHEREAS, DMMC 18.60.120(3) requires that the date of the public hearing to consider amendments to Title 18 DMMC be set by motion of the City Council, and

WHEREAS, The City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1226, fixing the public hearing for August 8, 2013, and

WHEREAS, the textual code amendments proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, the changes proposed by this Ordinance have been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), and the responsible official has determined that this Ordinance relates solely to governmental procedures and contains no substantive standards respecting use or modification of the environment, and is accordingly exempt from threshold determination and EIS requirements under WAC 197-11-800, and

WHEREAS, notice of the public hearing was issued on July 18, 2013 in accordance with the DMMC, and

WHEREAS, a public hearing was held on August 8, 2013, and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary, and

WHEREAS, the City Council hereby dissolves the Planning Agency, effective January 1, 2014; now therefore,

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

NEW SECTION. Sec. 1. Chapter 4.28 DMMC, *Planning Agency,* and all underlying ordinances, are each repealed, effective January 1, 2014.

NEW SECTION. Sec. 2. DMMC 17.16.080 and section 22 of Ordinance No. 931 as amended by section 40 of Ordinance No. 1174 as amended by section 9 of Ordinance No. 1287 are each repealed, effective January 1, 2014.

Sec. 3. DMMC 17.16.100 and section 24 of Ordinance No. 931 as amended by section 11 of Ordinance No. 1287 as amended by section 6 of Ordinance No. 1341 are each amended to read as follows:

City Council review.

(1) General. As specified by chapter 18.56 DMMC, the City Council shall hold a public hearing on each proposed Type IV land use action. No later than the first regular public meeting after receiving the recommendation of the ~~planning agency planning official~~Planning, Building and Public Works Director on the preliminary subdivision, the City Council shall set by motion the date of the hearing.

(2) Notice. The Planning, Building and Public Works Director~~planning official~~ shall prepare and distribute public notice of the hearing as set forth in DMMC 17.40.070.

(3) Electronic sound recording. The City Council shall make a complete electronic sound recording of each public meeting involving the review of a Type IV land use action.

Sec. 4. DMMC 18.56.180 and section 18 of Ordinance No. 1174 are each amended to read as follows:

Review process for Type IV land use action.

~~(1) The planning agency shall conduct a public meeting for review of the proposed land use action. The planning agency may recommend approval, approval with conditions or amendments, or denial of a Type IV land use action. The recommendation(s) of the planning agency shall be forwarded to the city council.~~

(~~2~~1) Upon conclusion of the 15-day comment period and any applicable SEPA appeal period, the City Council may approve, approve with conditions, or deny a Type IV land use action upon compliance

with the procedural requirements of chapter 18.94 DMMC (Hearing Examiner Code).

(~~3~~2) The City Council's decision regarding a Type IV land use action is appealable to the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the City Council).

Sec. 5. DMMC 18.56.200 and section 20 of Ordinance No. 1174 as amended by section 5 of Ordinance No. 1193 are each amended to read as follows:

Review process for Type VI land use action.

~~(1) For all Type VI land use actions except textual code amendments, the planning agency shall conduct a public hearing for review of the proposed land use action. The planning agency may recommend approval, approval with conditions, or denial of a Type VI land use action. The recommendation(s) of the planning agency shall be forwarded to the city council.~~

(~~2~~1) For textual code amendments, the Planning, Building and Public Works Director~~eCommunity dDevelopment dDirector~~ may schedule a public ~~meeting~~ hearing before the ~~planning agency~~ City Council as provided in DMMC 18.60.120.

(~~3~~2) Upon conclusion of the 15-day comment period, the City Council may approve, approve with conditions, or deny a Type VI land use action upon compliance with the procedural requirements of chapter 18.60 DMMC (Amendments, Unclassified Use Permits, Planned Unit Developments, and Appeals).

(~~4~~3) Except for matters subject to review by the Central Puget Sound Growth Management Hearings Board as provided by RCW 36.70A.280 as presently

constituted or as may be subsequently amended, the City Council's decision regarding a Type VI land use action is appealable the Superior Court of Washington for King County as specified by DMMC 18.94.300 (Appeal from decision of the City Council).

Sec. 6. DMMC 18.60.030 and section 1(24.60.030) of Ordinance No. 175 as amended by section 1 of Ordinance No. 553 as amended by section 67 of Ordinance 770 are each amended to read as follows:

Initiation of amendment. Amendments to this Title and the zoning map of the ~~e~~City are initiated as follows:

(1) Amendments to the zoning map of the ~~e~~City may be initiated by:

(a) The verified application of one or more owners of property which is proposed to be reclassified or rezoned;

(b) Adoption of a motion by the ~~e~~City ~~e~~Council directing the ~~eCommunity dDevelopment~~Planning, Building and Public Works ~~d~~Department to initiate the amendment;

~~(c) Adoption of a motion by the planning agency requesting the city manager to initiate the amendment through the community development department;~~

(~~d~~c) The ~~eCommunity dDevelopment~~Planning, Building and Public Works ~~d~~Department with the approval of the ~~e~~City ~~m~~Manager.

(2) In the case of textual changes to the Zoning Code, in the manner provided in DMMC 18.60.120.

Sec. 7. DMMC 18.60.120 and section 2 of Ordinance No. 553 as amended by section 68 of Ordinance No. 770 as amended by section 1 of Ordinance No. 1062 as amended by section 65 of Ordinance No. 1174 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

Textual changes to zoning code. Amendments to this Title that constitute a textual change are made in the following manner:

(1) As used in this section, unless the context or subject matter clearly requires otherwise, "textual change" means a change or amendment to this Title except:

(a) Amendments changing the zone of a particular parcel of property (commonly known as a rezone); or

(b) Actions relating to adoption or amendment to the comprehensive plan.

(2) No textual change is made without at least one public hearing before the City Council.

(3) The City Council shall set a date for the public hearing by motion. Notice of the public hearing shall generally conform with DMMC 17.44.030 (Notice). Continued hearings may be held at the discretion of the City Council but no additional notice is required.

~~(4) The Community Development Director may schedule a public meeting of the planning agency to allow for review of a proposed textual code amendment. The planning agency may recommend approval, approval with conditions or amendments, or denial of the proposed textual code amendment. The recommendation(s) of the planning agency shall~~

~~be forwarded to the city council for review during the public hearing.~~

Sec. 8. DMMC 18.64.010 and section 1(24.62.010) of Ordinance No. 175 as amended by section 70 of Ordinance No. 770 are each amended to read as follows:

Establishment of rules for conduct of hearings.

~~(1)~~ The ~~h~~Hearing ~~e~~Examiner shall conduct public hearings in accordance with the provisions of the ~~h~~Hearing ~~e~~Examiner ~~e~~Code.

~~(2) The planning agency may establish rules governing the conduct of public hearings and meetings conducted by it on matters within its jurisdiction. Modifications or changes in such rules may be made, but such changes or modifications shall not become effective until 30 days following the date of the meeting at which such changes or modifications are determined. Copies of the rules shall be made available to the public at the community development department office.~~

Sec. 9. DMMC 18.64.040 and section 1(24.62.040) of Ordinance No. 175 are amended to read as follows:

Records. The ~~agency~~ City shall cause to be kept a brief minute record of the proceeding. Such record, applications filed pursuant to this title, the written order or motion showing the action and the reasons therefore and the evidence of notice, and other material shall become a part of the records of the ~~agency~~ City to which application is made. Provisions for custody of such additional records or minutes may be adopted by the ~~agency~~City.

NEW SECTION. Sec. 10. DMMC 18.64.060 and section 1(24.62.060) of Ordinance No. 175 as amended by section 67 of Ordinance No. 1174 are repealed.

Sec. 11. DMMC 18.84.040 and section 89 of Ordinance No. 1174 as amended by section 4 of Ordinance No. 1376 are each amended to read as follows:

> **Initiation of amendment.** Amendments to the City of Des Moines Comprehensive Plan may be initiated as follows:
>
> (1) Application by the owner(s) of property proposed for redesignation;
>
> (2) Adoption of a motion by the City Council directing the Planning, Building and Public Works Department to initiate the amendment; or
>
> ~~(3) Adoption of a motion by the planning agency requesting the city manager to initiate the amendment through the planning, building and public works department; or~~
>
> (~~4~~3) The Planning, Building and Public Works Department with the approval of the City Manager.

Sec. 12. DMMC 18.84.060 and section 1 of Ordinance No. 1193 as amended by section 6 of Ordinance No. 1376 are amended to read as follows:

> (1) Applications for amendment of the City of Des Moines Comprehensive Plan may be submitted to the Planning, Building and Public Works Department between January 1st and June 30th of each calendar year.
>
> (2) Applications for amendment of the City of Des Moines Comprehensive Plan that do not require an environmental impact statement as determined by

the Planning, Building and Public Works Director shall be acted upon by the ~~planning agency and the~~ City Council between September 1st and December 31st of the calendar year of application. In the event the City Council cannot act upon the applications for amendment by December 31st of the calendar year, the City Council may extend its review to the following calendar year.

(3) Applications for amendment of the City of Des Moines Comprehensive Plan that require an environmental impact statement as determined by the Planning, Building and Public Works Director may be acted upon by the ~~planning agency and~~ City Council between September 1st and December 31st of the year following completion of the environmental impact statement.

(4) By resolution, the City Council may adopt an alternative review schedule from the schedule specified by this section for a particular calendar year.

Sec. 13. DMMC 18.84.080 and section 3 of Ordinance No. 1193 as amended by section 3 of Ordinance No. 1237 as amended by section 8 of Ordinance No. 1376 are amended to read as follows:

Decision criteria.

(1) Amendment of the City of Des Moines Comprehensive Plan is a legislative action (Type VI land use action) and the ~~planning agency and the~~ City Council shall be afforded the broadest possible discretion during review of amendment requests. ~~The planning agency may recommend approval, approval with modifications, or denial of any application for amendment.~~ The City Council may approve, approve with modifications, or deny any application for amendment.

(2) The ~~planning agency may recommend and the~~ City Council may approve or approve with modifications an amendment to the City of Des Moines Comprehensive Plan when:

(a) The amendment would correct a technical error; or

(b) The amendment addresses changing circumstances or the needs of the City as a whole, and will benefit the City as a whole; and

(c) All of the following conditions are satisfied:

(i) The amendment is consistent with the Growth Management Act.

(ii) The amendment is not inconsistent with other elements or policies of the City of Des Moines Comprehensive Plan.

(iii) The amendment will not adversely impact community facilities and bears a reasonable relationship to public health, safety, and welfare.

(iv) For amendments relating to a specific property:

(A) The amendment is compatible with adjacent land use and the surrounding development pattern as existing or as specified by the City of Des Moines Comprehensive Plan; and

(B) The subject property is suitable for development as allowed by the development regulations of the potential zone.

(3) During the review of a proposed amendment to the City of Des Moines Comprehensive Plan, factors that may be considered by the Planning, Building and Public Works Director~~, planning agency,~~ and the City Council include, but are not limited to, the following:

(a) The effect upon the physical environment.

(b) The effect upon the economic environment.

(c) The effect upon the social environment.

(d) The effect upon open space, surface waters, and environmentally critical areas.

(e) The effect upon parks of local significance.

(f) The effect upon historic and archaeological resources of local significance.

(g) The compatibility with an impact upon adjacent land uses and surrounding neighborhoods.

(h) The adequacy of and impact upon capital facilities, utilities, and public services.

(i) The quantity and location of land planned for the proposed land use type and density.

(j) The current and forecasted population in the area or City.

(k) The effect upon other aspects of the City or the City of Des Moines Comprehensive Plan.

NEW SECTION. Sec. 14. 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.

NEW SECTION. Sec. 15. Savings clause. Chapter 4.28 DMMC, DMMC 17.16.080, and DMMC 18.64.060 which are repealed and replaced by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

NEW SECTION. Sec. 16. Effective date. This Ordinance shall be in full force and effect on January 1, 2014.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Effective Date: _____

DRAFTORD:

Draft Ordinance No. 13-080.5
July 29, 2013

Public Hearing Item #2

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing for Draft Ordinance 13-086, Pacific Ridge Zone

ATTACHMENTS:

1. Draft Ordinance 13-086 amending Chapter 18.31 DMMC, Pacific Ridge Zone with Exhibit A, new Zoning Map.
2. Chapter 18.31 DMMC showing Track Changes
3. Staff Presentation (preliminary)

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: July 23, 2013

CLEARANCES:
[X] Legal PB
[ ] Finance N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[X] Economic Development Manager

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to conduct a public hearing for the City Council to consider Draft Ordinance 13-086 which amends the Pacific Ridge Zone Code codified as Chapter 18.31 DMMC. The City Council may not enact the Ordinance until the SEPA comment period and 10-day appeal window is closed. Because the SEPA appeal period is still open until September 11, 2013, the public hearing must be continued to allow the Council to consider any appeals received, as part of the continued public hearing.

Suggested Motion

Motion: "I move to continue the public hearing on Draft Ordinance No.13-086 amending DMMC 18.31, Pacific Ridge Zone Code, to September 12, 2013 or as soon thereafter as the matter may be heard."

Background

The 1990 Growth Management Act is codified in RCW 36.70A. It requires, among other things, that "cities … take action to review and, if needed, revise their … ***development regulations*** *(emphasis*

added) to ensure the plan and regulations comply with the requirements of this chapter . . . Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan."

The City Council continues to support the redevelopment of the Pacific Ridge Neighborhood as a high density, commercially viable mixed use neighborhood, transforming Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, stable soils, and view potential. The transformation of Pacific Ridge will include replacement of lower-scale, existing buildings with taller structures that will dramatically enhance the appearance, character, economy, and safety of the area.

Many Pacific Ridge properties are not improved to the extent presently allowed by the City of Des Moines Comprehensive Plan and the Zoning Code and are unlikely to be redeveloped in the near future without changes to the City's development regulations. It has been over thirteen years since the City's development regulations for the Pacific Ridge Neighborhood were established, and there has been very little successful commercial development and no new residential development.

Comprehensive Plan Policy 11-03-05 and Policy 11-03-07 seeks to promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge and encourages affordable homeownership within Pacific Ridge, but the marketplace does not now nor is it expected in the foreseeable future to make this economically feasible.

Strategy 2-04-08 of the Land Use Element of the Comprehensive Plan states that the City should "encourage improvement of the Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan". To implement this Policy, the Des Moines City Council has been asking for help from the development and design community and Pacific Ridge property owners since 2000, commissioning studies, and holding multiple stakeholder forums, meetings and tours. Those development professionals and property owners have encouraged the City to expand the permitted uses, increase building heights, reduce or remove dimensional standards, relax use percentages, reduce parking requirements and restrictions, relax building placement requirements, and modify other restrictive language, allowing the marketplace to decide how best to achieve the City's broad development goals.

Discussion

Current development regulations in the commercial and residential zones appear to be unduly burdensome and restrictive, making it uneconomically feasible for property owners to redevelop their properties under current and projected future market conditions according to these stakeholders. Accepting this representation, the City Council directed City staff to prepare an ordinance for its consideration which creates more flexible development regulations for Pacific Ridge.

Staff and the City Council Finance and Economic Development Committee have been researching and working on these development regulation changes for the past eight months and believe these goals can be achieved with changes implemented by this Draft Ordinance in conjunction with the Pacific Ridge Design Guidelines; more land assemblage (lot consolidation) so that larger-scale development proposals can be considered; fewer restrictions on land uses such as commercial parking lots, automobile sales, car washes, drive-through facilities and other automobile oriented uses that capitalize on the 33,000 cars per day which use Pacific Highway South, and acceptance that the highest and best uses in this area should be more auto-friendly and capitalize on the proximity to Seattle-Tacoma International Airport.

The Draft Ordinance offered for full Council consideration today:

1. Re-designates a portion of the PR-R (residential) zone to PR-C (commercial) and combines the old PR-C1 and PR-C2 into a single PR-C commercial zone.

2. Expands permitted uses in both the PR-R and PR-C zones and allows commercial uses in the PR-R zone based on two assumptions: ultimately the market will decide what gets built (or not) based on commercial viability, and if the City doesn't like choices the market is making, the City Council can change the zoning regulations.

3. Limits residential uses on property fronting directly on and south of South 216th and fronting directly on SR99 to mixed use buildings above the ground floor. The rest of the PR-C zone south of South 216th can have single purpose or mixed use residential. Residential is still <u>not</u> permitted north of South 216th Street.

4. Increases unrestricted maximum building heights in PR-R zone from 35 to 70 feet and in PR-C zone from 55 to 85 feet.

5. Eliminates requirement that buildings must be owner-occupied before increased heights up to 200 feet are allowed.

6. Eliminates 35 feet minimum building height in old PR-C1 zone.

7. Eliminates requirement that buildings fronting SR99 abut the highway.

8. Reduces or removes other dimensional, use percentages, parking restrictions and grandfather date restrictions.

The Finance & Economic Development Committee was not able to reach consensus on all of the issues on the Pacific Ridge Zone Draft Ordinance 13-086 and the Committee is referring nine policy questions to the full City Council for its consideration. The Draft Ordinance will be changed to include any Council-directed changes.

1. Should the City require a minimum recreation space? (See marginal comment [gf11] at bottom of p. 12 of Attachment 2).

2. Should 18.31.080(1)(e) be eliminated as redundant with other parts of the DMMC and/or because the section is vague and unnecessary? (Comment [gf12] at top of p. 13 of Attachment 2)

3. Should new 18.31.080(1)(f) be eliminated because it could be considered especially vague and therefore unconstitutional? (Comment [gf13] near bottom of p. 14 of Attachment 2)

4. Should outright permitted driveway accesses be increased from 1 to 2 in 18.31.080(3)(b)(iii)? Or, alternatively, should the Ordinance simply state that the number and location of driveway access

points shall be consistent with the City's Street Design and Construction Standards? (Comment [gf15] in middle of p. 16 on Attachment 2)

5. Should vehicle storage be permitted if inside or shielded in 18.31.080(3)(b)(vi)? (Comment [gf16] on p. 16 on Attachment 2)

6. Should there be further changes in Dimensional Standards (18.31.090) to encourage more development? (Comment [gf17] beginning at bottom of p. 16 and extending to top of p. 21 of Attachment 2)

7. Should General Site Design Guidelines and Building Design Guideline Standards be eliminated for both commercial (PR-C) and residential (PR-R) zones (or just apply to PR-R zone)? (Comments [gf21] and [gf22] for Sections 9 and 10 of Draft Ordinance or 18.31.100 and 18.31.110(1) beginning on p. 21 through p. 22 of Attachment 2)

8. Should the regulations in 18.31.110(4)(c), (d), (e), (f) and (g) be relaxed or eliminated? (Comment [gf24] on p. 24 on Attachment 2)

9. Should the Pacific Ridge zone chapter have its own sign code regulations rather than leaving all City sign code regulations consolidated in Chapter 18.42?

The proposed textual code amendments are believed to be consistent with the range of impacts studied under the SEPA Planned Action Environmental Impact Statement, the Pacific Ridge Neighborhood Improvement Plan and the Comprehensive Plan. The Planning, Building & Public Works Director acting as the SEPA Responsible Official will review these proposed and any Council-directed non-project actions and determine if the proposed textual code amendments are within the scope of the existing environmental documents and fulfill the SEPA requirements established by chapter 197-11 WAC and chapter 165.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108 before final Council action is requested on September 12th.

Pursuant to DMMC 18.56.080, amendments of the Zoning Code (Title 18 DMMC) are legislative (Type VI) land use decisions, and pursuant to DMMC 18.56.200 require the City Council to conduct a public hearing to receive public comment regarding these proposals. City Council set the public hearing date of August 8th by Resolution No. 1234 on July 11th.

The textual and zoning map code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106. The Finance and Economic Development Committee completed its final review of Draft Ordinance 13-086, Pacific Ridge Zone, on May 28th and asked staff to highlight any unresolved Committee member issues for consideration by the full Council.

Because of the extensive changes to Chapter 18.31 DMMC, Draft Ordinance 13-086, Pacific Ridge Zone, repeals the entire chapter and replaces it with the proposed text. To help facilitate Council's review, Attachment 2 is a version of Chapter 18.31 with track changes to identify proposed changes and also show where no changes to the Code are recommended and the existing Code is simply re-codified.

Alternatives

None. Because the SEPA appeal period is still open until September 11, 2013, the public hearing must be continued to allow the Council to consider any appeals received, as part of the continued public hearing.

Recommendation or Conclusion

Staff recommends that the City Council continue the public hearing on Draft Ordinance No. 13- 086 to September 12th.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 07/30/2013

DRAFT ORDINANCE NO. 13-086

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to land use and development regulations for the Pacific Ridge area, adopting a new zoning map, repealing chapter 18.31 DMMC and all underlying ordinances, replacing chapter 18.31 DMMC as "*Pacific Ridge Zone*" as provided in this Ordinance, and amending DMMC 14.12.010 14.12.060, 18.41.315, 18.42.310, and 18.80.010.

WHEREAS, the City Council supports the redevelopment of the Pacific Ridge Neighborhood as a high density, commercially viable mixed use neighborhood, and

WHEREAS, many Pacific Ridge properties are not improved to the extent presently allowed by the City of Des Moines Comprehensive Plan and the Zoning Code and are unlikely to be redeveloped in the near future without changes to the City's development regulations, and

WHEREAS, Comprehensive Plan Policy 11-03-05 encourages affordable homeownership within Pacific Ridge, but the marketplace does not now nor is it expected in the foreseeable future to make this economically feasible, and

WHEREAS, the Des Moines City Council has been reaching out to the development and design community and Pacific Ridge property owners since 2000 and those stakeholders have encouraged the City to expand the permitted uses, increase building heights, reduce or remove dimensional standards, relax use percentages, reduce parking requirements and restrictions, relax building placement requirements, and modify other restrictive language, allowing the marketplace to decide how best to achieve the City's broad development goals, and

WHEREAS, the City Council directed City staff to prepare an ordinance for its considerations which creates more flexible development regulations for Pacific Ridge, and

WHEREAS, some parts of Comprehensive Plan Strategy 11-04-03 which do not allow or restrict the establishment of new land uses such as commercial parking lots, automobile sales, car washes, drive-through facilities and other automobile oriented uses fail to fully capitalize on the 33,000 cars per day which use Pacific Highway South, nor acknowledge that in many cases, the highest and best uses in this area should be more auto-friendly and capitalize on the proximity to Seattle-Tacoma International Airport, and

WHEREAS, the Planning, Building and Public Works Director acting as the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents and fulfilled the SEPA requirements established by chapter 197-11 WAC and chapter 165.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, the City Council set the date for the public hearing by Draft Resolution No. 1234, fixing the public hearing for August 8, 2013 as required by DMMC 18.56.200, and

WHEREAS, the textual code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on July 17, 2013 in accordance with the DMMC, and

WHEREAS, a public hearing was held on _____, 2013 and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this Draft Ordinance are appropriate and necessary; now therefore,

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

Sec. 1. Title. This chapter shall be entitled "Pacific Ridge Zone, Uses Allowed and Special Conditions."

Sec. 2. Application. The principal objective and purpose to be served by this zone and its application is to create a working and living environment of the highest standards for commercial and residential properties. Other related uses contributing directly to a complete living environment are considered compatible and therefore also permitted. A further related consideration is to make it possible to more efficiently and economically design, install, and maintain all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting from a defined intensity of land use.

Sec. 3. Purpose. The principal objective and purpose of this zone and its application is to implement the City of Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, the City's Economic Development Strategy, and other adopted policies for the commercial and residential areas of Pacific Ridge.

Furthermore, it is the objective and purpose of this zone to provide development regulations that will promote redevelopment of Pacific Ridge properties in order to create attractive, safe, and desirable areas to work and reside. Redevelopment of Pacific Ridge is appropriate because this area has excellent access to transportation facilities, view opportunities, and higher-density development which can help Des Moines meet or exceed population and employment growth targets specified by the countywide planning policies for King County. Also, redevelopment of Pacific Ridge properties is appropriate because many of the existing structures and land uses have resulted in social problems such as: high crime rates (especially major felony crimes); declining property values; unsafe and undesirable housing conditions; insufficient building and property maintenance; absentee property ownership/management; violation of zoning, construction, and health codes; transient residency; and marginal businesses.

A related consideration is to make it possible to efficiently and economically plan for, design, finance, and provide public services, capital facilities, and utilities for the populations and activities within this zone. For all of the above reasons, the purpose of this chapter is to promote public health, safety, and welfare through redevelopment of Pacific Ridge properties.

Sec. 4. Authority. This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 36.70A RCW and other applicable laws.

Sec. 5. DMMC 18.80.010 and section 1 of Ordinance No. 179 as amended by section 1 of Ordinance No. 1235 as amended by section 8 of Ordinance No. 1237 as amended by section 1 of Ordinance No. 1261 as amended by section 1 of Ordinance No. 1267 as amended by section 1 of Ordinance No. 1289 as amended by section 1 of Ordinance No. 1372 as amended by section 5 of Ordinance No. 1397 as amended by section 1 of Ordinance No. 1420 as amended by section 2 of Ordinance No. 1431 as amended by section 2 of Ordinance No. 1520 as amended by section 3 of Ordinance No. 1546 are each amended to read as follows:

18.80.010 Designated.

The map filed in the City Clerk's office and marked Exhibit "~~C~~A" to Ordinance No. ~~12-107~~ _____ and adopted ~~July 25, 2012~~ _____, 2013, constitutes the zoning map for the City. The map referenced herein supersedes all previously adopted maps. If the designations of the map are found to be in conflict with other land use designations, the map is deemed to control. ~~Conditional rezones or other special zoning designations shall be clearly outlined on the map along with the associated ordinance number.~~

Sec. 6. Chapter 18.31 DMMC, *Pacific Ridge Zone,* and applicable portions of underlying ordinances, are repealed and replaced with the provisions of this Ordinance.

Sec. 7. 18.31.020 Subareas within Pacific Ridge Zone.

(1) Except as provided below, properties within the Pacific Ridge Zone are located within one of two subareas as illustrated by the zoning map designated by DMMC 18.80.010. The two subareas, hereinafter referred to as zones, have unique land use and development regulations, and some general regulations apply to each zone. The two Pacific Ridge zones are as follows:

(a) PR-R, Pacific Ridge Residential, and

(b) PR-C, Pacific Ridge Commercial.

(2) For application of the general provisions of this title, PR-R is a multifamily residential zone while PR-C is a commercial zone.

Sec. 8. 18.31.030 PR-R - Permitted uses. Only those uses listed below, and uses similar in nature as determined by the City Manager or City Manager's designee, are permitted in the PR-R zone. Uses are more fully described in the "North American Industrial Classification System" (hereinafter "NAICS") Listed uses are subject to conditions by the DMMC. The numbers in parentheses following each of the following listed uses refer to NAICS code numbers:

(1) Uses permitted in PR-C zone when part of a contiguous PR-C development under single ownership.

(2) Multifamily dwellings (no NAICS code);

(3) Religious organizations (813110);

(4) Nursing care facilities (623110) and community care facilities for the elderly (6233);

(5) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area;

(6) A mix of residential and nonresidential uses compatible with residential uses, subject to the limitations below and the limitations provided in DMMC 18.31.090, Environmental performance standards and general limitations:

(a) Retail trade (44-45), limited to the following:

(i) Food and beverage stores (445);

(ii) Health and personal care stores (446);

(b) Real estate and rental and leasing (53), limited to the following:

(i) Lessors of residential buildings and dwellings (531110);

(ii) Offices of real estate agents and brokers (531210);

(iii) Real estate property managers (53131);

(iv) Offices of real estate appraisers (531320)

(v) Other activities related to real estate (531390); and

(c) Professional, scientific, and technical services (54);

(d) Management of companies and enterprises (55);

(e) Health care and social assistance (62), except for temporary shelters (624221);

(f) Arts, entertainment and recreation (71);

(g) Food services and drinking places (722), further limited to the following:

(i) Full-service restaurants (722511);

(ii) Limited-service restaurants (722513);

(iii) Cafeterias, grill buffets and buffets (722514); and

(iv) Snack and nonalcoholic beverage bars (722515).

(h) Other services (81), further limited to the following:

(i) Footwear and leather goods repair (811430);

(ii) Personal care services (81211-812199);

(iii) Dry-cleaning and laundry services (except coin operated) (812320);

(iv) One-hour photofinishing (812922);

(v) Religious organizations (813110);

(vi) Civic and social organizations (813410);

(vii) Business associations (813910);

(viii) Professional organizations (813920);

(ix) Labor unions and similar labor organizations (813930);

(x) Political organizations (813940)

(i) Public administration (92);

(j) Public parks (no NAICS code);

(7) The following buildings, structures and uses are allowed when accessory to a use otherwise permitted by this chapter:

(a) Ancillary and incidental indoor storage and maintenance facilities related to on-site buildings and uses;

(b) Telecommunication facilities as allowed by Title 20 DMMC;

(c) Recreation facilities for use by residents of the property;

(d) Child and adult day care as regulated and licensed by the Washington State Department of Social and Health Services, or its successor agency;

(e) Home occupation, subject to the following limitations:

(i) The occupation shall be conducted entirely within the dwelling;

(ii) The occupation shall not require structural features that are not customary or incidental in a dwelling;

(iii) No sign identifying or advertising the home occupation shall be allowed;

(iv) A business license as provided by Title 5 DMMC is required by the city for the home occupation;

(v) In authorizing a home occupation, the City Manager may impose conditions of approval as necessary to ensure the activity is compatible with the surrounding uses;

(vi) In the event the City Manager determines that the home occupation has resulted in adverse land use impacts, the City Manager is authorized to impose additional conditions of approval as necessary to mitigate the adverse land use impacts; and

(viii) In the event the nature or extent of the home occupation changes so that the adverse land use impacts cannot be satisfactorily mitigated, the City Manager may revoke all approvals and licenses related to the home occupation.

Sec. 9. 18.31.040 PR-C - Permitted uses. Only those uses listed below, and uses similar in nature as determined by the City Manager or City Manager's designee are permitted in the PR-C zone. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Retail trade (44-45), except exclusive used car dealers (441120).

(2) Taxi (485310) and limousine service (485320);

(3) Postal service (491110);

(4) Couriers and express delivery services(492110);

(5) Information establishments (51);

(6) Finance and insurance (52);

(7) Real estate rental and leasing (53), except mini-warehouses and self storage units (53113) may not front on SR99;

(8) Professional, scientific, and technical services (54);

(9) Management of companies and enterprises (55);

(10) Administrative (561110) and support services (561210),

(11) Educational services (61);

(12) Health care and social assistance (62);

(13) Arts, entertainment, and recreation (71) except that adult entertainment facilities and adult motion picture theaters (no NAICS code) are prohibited north of South 216th Streets and within 500 feet of the property lines of churches, common schools, day care centers, public facilities, or other adult entertainment facilities or adult motion picture theaters;

(14) Accommodation and food services (72), limited to the following:

(a) Hotels (except casino hotels) and motels (72111), except that these must contain a minimum of 75 guest rooms;

(b) Casino hotels (721120);

(c) Food services (722310-7223515), however, mobile food services (722330) are also regulated by chapter 5.57 DMMC;

(15) Other services (except public administration) (81)

(a) General automotive repair (811111), automotive exhaust system repair (811112), automotive

transmission repair (811113), automotive body, paint, and interior repair and maintenance (811121), automotive glass replacement shops (811122), and automotive oil change and lubrication shops (811191) shall be allowed in the PR-C zone; provided, that all of the following requirements shall be met:

(i) The proposed use shall be fully located within an enclosed building area; and

(ii) Any business owner proposing to use a building or structure that the proposed use is located or proposed to be located within shall demonstrate to the City of Des Moines, South King Fire and Rescue, and Puget Sound Clean Air Agency that quantities, storage, and transport of hazardous materials are properly managed, work areas provide adequate containment to avoid pollution runoff, and facilities are equipped with proper pre-treatment devices to avoid discharge of pollutants to the air or public drainage systems.

(16) Public administration (92), except correctional institutions (92214).

(17) Single purpose multi-family dwellings (no NAICS code) except for properties fronting on SR 99 and South 216th Street, and properties north of South 216th Street.

(18) Mixed use (no NAICS code), except:

(i) In that part of PR-C fronting on SR99 and/or South 216th Street, dwellings may be located on the ground floor provided that they are accessed from the rear of the property, and provided that the commercial uses in that portion of the building must front and be accessed from SR99 or South 216th Street;

(ii) When a project fronting SR 99 or South 216th Street contains more than one building, those buildings not fronting on SR 99 or South 216th Street may be single purpose multi-family residential buildings; and

(iii) No residential use is permitted north of South 216th Street.

(19) Public parks (No NAICS code).

(20) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area.

Sec. 10. 18.31.080 Environmental performance standards and general limitations. Every use permitted within the PR zone shall conform to the following general limitations and standards:

(1) Provisions applicable to all PR zones:

(a) Accessory uses are permitted that are customarily appurtenant or incidental to the principally permitted uses.

(b) Landscaping and screening are required in accordance with chapter 18.41 DMMC.

(c) Off-street parking and loading areas are required in accordance with chapter 18.44 DMMC.

(d) Mixed-use development shall conform to the following limitations and standards:

(i) Within the PR-C zone, structures containing only residential uses are allowed except for properties located north of South 216th Street, properties fronting on SR 99, and properties fronting on South 216th Street; and

(ii) On-site multifamily recreation area is required for developments with four or more dwelling units as provided by chapter 18.45 DMMC, except the minimum area of common recreation space per dwelling unit shall be 50 square

feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.

(e) Capital Facilities, Utilities, and Public Services.

(i) All capital facilities, utilities, and public services must be adequate to support the proposed land use or structure, including but not limited to drainage; street and walkway systems, both on-site and off-site; sewer and water systems; fire protection; police service; electrical power; and telecommunications. Improvements to capital facilities, utilities, and public services shall conform to adopted plans, policies, and regulations.

(ii) All development shall be required to install or pay for a proportional share of any new facilities or utilities required to serve the development. Mechanisms such as latecomer's agreements and impact fees may be used to equitably distribute the cost of required improvements.

(iii) Except for high-voltage (i.e., 115 kV) transmission circuitry, all preexisting and newly installed utilities on site and within the abutting rights-of-way shall be placed underground.

(f) In reviewing a proposed permitted use, the City Manager or City Manager's designee may include minimal conditions of approval as may be reasonably needed to ensure that the use is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts.

(2) Provisions Applicable to the PR-R Zone.

(a) Parking and loading areas within the PR-R zone are further allowed but parking spaces not within a parking garage structure shall be subject to maximum lot coverage limitations.

(b) New construction shall conform to applicable Federal Aviation Administration regulations, including Part 77, Federal Aviation Regulations, Objects Affecting Navigable Airspace, as presently constituted or as may be subsequently amended.

(3) Provisions Applicable to the PR-C Zone.

(a) All uses shall be primarily contained within an enclosed structure except the following:

(i) Outdoor seating and dining;

(ii) Signs;

(iii) Loading areas;

(iv) Motor vehicle fuel pumps;

(v) Nursery, garden center, and farm supply stores (44422);

(vi) Incidental outdoor display areas for merchandise sold on site as approved through the design review process;

(vii) Play/recreation areas; and

(viii) Miscellaneous storage as an accessory use when limited to 10 percent of the site area and when perimeter landscaping and fencing is provided as approved through the design review process.

(b) Automobile repair, automobile service stations, and similar uses shall conform to the following limitations and standards:

(i) Automobile repair and the installation of automobile parts and accessories shall be primarily contained within an enclosed structure;

(ii) Unless specifically authorized by the City Manager or City Manager's designee, views into automobile service bays from Pacific Highway shall be diminished by building orientation, screening, or other means;

(iii) Unless specifically authorized by the City Manager or City Manager's designee, vehicular access shall be limited to one driveway per street frontage;

(iv) Motor vehicle fuel pump islands shall be set back a minimum of 15 feet from property lines;

(v) A six-foot-high, 100 percent sight-obscuring fence shall be provided along property lines that abut residential properties as designated by the Des Moines Comprehensive Plan; and

(vi) Vehicle storage shall be limited to those vehicles contracted for repair or service.

(c) Social service facilities shall conform to the following limitations and standards:

(i) Outdoor play/recreation areas for children shall be set back a minimum of five feet from property lines; and

(ii) Unless specifically authorized by the City Manager or City Manager's designee, passenger loading and unloading areas shall be provided on site.

Sec. 11. 18.31.090 Dimensional standards for new development.

(1) **Lot area.** Every lot shall have a minimum area of 7,500 square feet.

(2) **Lot width.** Every lot shall have a minimum width of 75 feet.

(3) **Front yard.**

(a) In the PR-R zone, not less than 15 feet except that no front yard is required if the project is at least 55 feet in height.

(b) In the PR-C zone, no front yard is required.

(4) **Side yard.**

(a) In the PR-R zone, not less than 10 feet when abutting a single family residence, except that no side yard is required if the project is at least 55 feet in height and does not abut a single family residence.

(b) In the PR-C zone, no side yard is required.

(5) **Rear yard.** Every lot shall have a rear yard of not less than 15 feet, except as otherwise permitted in DMMC 18.31.090(13).

(6) **Measurement of building height.**

(a) PR-R zone: Building height shall be measured from average finish grade.

(b) PR-C zone: Building height shall be measured from mean sidewalk grade as follows:

(i) Building height for properties abutting SR99 is measured from SR99.

(ii) Building height for properties extending from SR99 to 24th Avenue South is measured from SR99.

(iii) Building height for properties abutting South 216th Street is measured from average finish grade on South 216th Street.

(iv) Building height shall be measured from average finish grade for properties not abutting SR 99 or South 216th.

(7) **Minimum building height.**

(a) Except for buildings containing only a full-service restaurant or a gasoline service station, and other instances specifically authorized by the City Manager or City Manager's designee in writing, no building shall be less than the height specified below:

(i) PR-R zone: 35 feet.

(ii) PR-C zone: No minimum building height for commercial projects and 55 feet for residential or mixed use projects.

(b) For the purposes of this subsection, minimum building height shall not include decorative towers or appurtenances, roof slopes out of character with the building's architecture, or other contrivances provided solely for achievement of the required minimum building height. In calculating minimum building height, the City Manager or City Manager's designee shall include regular architectural features enclosing functional, occupiable building areas.

(8) **Maximum building height.** Buildings and structures may be built to the height specified below unless restricted by subsection (9) of this section:

(a) PR-R zone: 75 feet, except that buildings may be built to a height of 200 feet with approval of a floor area clustering height bonus when the minimum building site area is 43,560 square feet and useable pedestrian plazas and open space are provided.

(b) PR-C zone: 85 feet, except that buildings may be built to a height of 200 feet with approval of a floor area clustering height bonus when the minimum building site area

is 43,560 square feet and useable pedestrian plazas and open space are provided.

(9) **Building height limitation adjacent to single-family.** When an abutting property is designated single-family residential by the Des Moines Comprehensive Plan and being used as such, building height shall be limited as follows:

(a) Within 20 feet of the abutting single-family residential property, maximum building height shall be 35 feet.

(b) Within 40 feet of the abutting single-family residential property, maximum building height shall be 45 feet.

(c) During the design review and environmental review, the City Manager or City Manager's designee may impose other conditions of approval in order to mitigate potential height, bulk, and scale impacts upon adjacent single-family residents not sufficiently mitigated by existing regulations.

(10) **Floor area clustering building height bonus.** In the PR-R and PR-C zones south of South 216th Street, the City Manager or City Manager's designee may authorize buildings up to 200 feet in height when all of the following provisions are met:

(a) The minimum building site area is 43,560 square feet.

(b) Useable pedestrian plazas and open space are provided.

(11) **Height allowance for enhanced design of distinctive rooflines.** In the PR-C, and PR-R zones, a portion of a building may exceed the maximum building height; provided that the following provisions are met:

(a) The purpose of the additional height for the building is to provide a roofline that is of distinctive form through the use of design elements such as pitched roofs, sloped

roofs, vertical offsets or other similar roof features that achieve the goals of Pacific Ridge Design Guideline 2.B.2.

(b) The maximum building height established in subsections (8) and (9) of this section shall only be increased by a maximum of 10 percent.

(c) Architectural features associated with the distinctive roofline shall be used to emphasize significant architectural elements of the building such as the main entrance of the building or the building's orientation to a corner, or to provide for pitched or sloped roofs for the building.

(d) Height allowed for distinctive rooflines under this section shall not be used to determine the building height for the purposes of establishing the maximum gross floor area under DMMC 18.31.110(3).

(e) The building area or amount of building structure extending above the maximum height established in subsection (9) of this section shall be limited to 30 percent of the building roof deck area. When multiple building rooflines exist at different building levels or stories, the 30 percent requirement shall only apply to the area of the roof deck of the tallest portion of a building.

(12) **Placement of buildings.**

(a) The distance between a building containing dwelling units and any other building shall be not less than 10 feet.

(b) On the rear third of an interior lot, accessory buildings not containing dwellings may be built to the side lot lines and the rear lot line

(c) On the rear one-third of a corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line and the rear lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(d) On the rear third of a reverse corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(iii) No building shall be erected closer than five feet to the rear lot line.

(13) **Adjustment of required yards.** In the PR-C and PR-R zones, the required rear yard area shall be reduced to a minimum of 5 feet provided that:

(a) A development site or potential project area is planned or may be planned for multiple buildings together as one development or in different development phases either under common ownership or separate ownership; and

(b) Building on a site or potential project area are served by a private, joint-use access or street which separates the rear yard area of one development site or project area from another development site or project area; and

(c) A physical separation of not less than 30 feet is provided between buildings which shall include the space or distance located within any such shared, joint-use access or street

together with the yard areas adjoining and abutting buildings and said shared streets.

Sec. 12. 18.31.100 General site design requirements.

(1) **Design guidelines.** All development proposals shall demonstrate substantial compliance, as determined by the City Manager or City Manager's designee, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address site design issues including, but not limited to, the following:

(a) Placement and orientation of buildings and building entrances;

(b) Vehicular access, parking, and circulation;

(c) Pedestrian orientation and access;

(d) Orientation to transit;

(e) Placement and screening of service and loading areas;

(f) Landscaping;

(g) Freestanding signage;

(h) Screening of parking and other site features;

(i) Placement and design of open space;

(j) Crime prevention; and

(k) Exterior lighting.

Sec. 13. 18.31.110 General building design requirements.

(1) **Design guidelines.** All development proposals shall demonstrate substantial compliance, as determined by the City Manager or City Manager's designee, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address building design issues including, but not limited to, the following:

(a) Building height, bulk, and scale;

(b) Building modulation and fenestration;

(c) Building silhouette and roof design;

(d) Placement and orientation of building entrances, common areas, activity areas, balconies, and other features;

(e) Exterior building materials;

(f) Window and door detailing;

(g) Continuity/variety in building design;

(h) Orientation to transit;

(i) Wall signage;

(j) Crime prevention;

(k) Awnings, covered walkways, and other weather protection; and

(l) Placement and screening of mechanical equipment.

(2) **Minimum floor-to-ceiling height for dwellings.** Dwellings shall have a minimum floor-to-ceiling height of eight feet, six inches.

(3) **Maximum gross floor area.**
(a) The maximum gross floor area for buildings within Pacific Ridge neighborhood shall be determined by multiplying the lot area of the site by the floor area ratio (FAR) number established in the following table:

Building Height	PR-C and PR-R FAR
35 Feet or Less	2.8
35 - 50	3.5
50 - 60	4
60 -70	4.5
70 - 80	5
80 - 90	5.5
90 - 100	6.5
100 - 110	7.5
110 - 120	9
> 120	Increases by 0.5 per floor above 120 feet

(b) Gross floor area shall include the total square footage of the enclosed building; provided that:

(i) For properties located adjacent to Pacific Highway South, the area of parking garages constructed

below the adjacent sidewalk grade on Pacific Highway South shall not be included in the calculation of gross floor area.

(ii) For all other properties in the Pacific Ridge neighborhood, the area of parking garages constructed below the lowest sidewalk grade adjacent to the property line shall not be included in the calculation of gross floor area.

(4) Within the PR-C zone, structural encroachments into the right-of-way, such as cornices, signs, eaves, sills, awnings, bay windows, balconies, facade treatment, marquees, etc., shall conform to the provisions set forth by Title 12 DMMC, the International Building Code, and the following provisions:

(a) Structural encroachments into the right-of-way shall be capable of being removed without impact upon the structural integrity of the primary building;

(b) Structural encroachments into the right-of-way shall not result in additional building floor area than would otherwise be allowed;

(c) Except for awnings, signs, and marquees, the maximum horizontal encroachment into the right-of-way shall be two feet;

(d) The maximum horizontal encroachment in the right-of-way by signs shall be four feet;

(e) The maximum horizontal encroachment in the right-of-way by awnings and marquees shall be six feet;

(f) The minimum horizontal distance between the structural encroachment and the curbline shall be two feet;

(g) Except for awnings over the public sidewalk which may be continuous, the maximum length of each balcony, bay

window, or similar feature that encroaches the right-of-way shall be 12 feet;

(h) Structural encroachments into the right-of-way shall maintain adequate distance away from utility, transportation, or other facilities as determined by the City Manager or designee in consultation with the Public Works Director;

(i) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(j) Owners of structural encroachments into the right-of-way must clear the public right-of-way when ordered to do so by City authorities for reasons of public health or safety; and

(k) In reviewing a proposed structural encroachment into the public right-of-way, the City Manager or City Manager's designee may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts. The City Manager or City Manager's designee shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

Sec. 14. DMMC 14.12.010 and section 1(1) of Ordinance No. 1411 are each amended to read as follows:

Purpose - General. The purpose of this chapter is to authorize for Pacific Ridge Commercial~~-1~~, Pacific Ridge Residential, and Business Park North Subarea the construction of five-story wood frame buildings as an approved alternate design and construction method for Pacific Ridge Commercial~~-1~~, Pacific Ridge Residential, and Des Moines Creek Business Park North Subarea under Section 104.11 of the 2006 Edition of the International Building Code, and to set forth the criteria and standards which must be met before a building permit may be issued for a five-story wood frame building.

Sec. 15. DMMC 14.12.060 and section 1(6) of Ordinance No. 1411 are each amended to read as follows:

Height. The maximum height of buildings designed and constructed pursuant to this section shall be 75 feet for the areas zoned Pacific Ridge Commercial~~-1~~, Pacific Ridge Residential, and Business Park North Subarea. The height shall be measured as provided in the 2006 International Building Code as presently constructed or hereafter amended.

Sec. 16. Section 18.41.315 and section 4 of Ordinance No. 1267 are each amended to read as follows:

Pacific Ridge, PR-R, and PR-C~~1, and PR-C2~~ zones.

(1) The perimeter of properties abutting a single-family residential zone shall provide a Type I landscaping strip with a minimum depth of 10 feet.

(2) The perimeter of properties abutting a multifamily residential zone shall provide a Type II landscaping strip with a minimum depth of five feet.

(3) A Type III landscaping strip, an average of five feet in depth, shall be provided along all property lines abutting a public right-of-way excluding alleys. When the building setback from a public right-of-way is not more than 10 feet, or when such setback is utilized as a public open space plaza not accompanying parking, no perimeter landscaping strip shall be permitted, but street trees as set forth in DMMC 18.41.360 shall be provided within tree planters. Such tree planters shall have a minimum interior dimension of three and one-half feet and shall be protected by a cast iron grate.

(4) Parking facilities landscaping as set forth in DMMC 18.41.320.

Sec. 17. DMMC 18.42.310 and section 3 of Ordinance No. 1509 are amended to read as follows:

Commercial zones. The following signs are permitted in the Pacific Ridge Commercial ~~z~~Zone ~~1~~, ~~Pacific Ridge commercial zone 2, b~~Business ~~p~~Park ~~z~~Zone and all commercial zones abutting Pacific Highway South that are not within the Pacific Ridge neighborhood:

(1) Freestanding signs. For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows:

(a) Number of freestanding signs.

(i) For building sites with up to 300 feet of street frontage, one sign is allowed.

(ii) For building sites with more than 300 feet of street frontage and having more than one vehicular access, two signs are allowed; provided, that the total allowable sign area is not exceeded and the signs are more than 100 feet apart.

(b) Freestanding sign size.

(i) Each sign allowed shall not exceed 80 square feet in area.

(ii) For properties with less than 80 feet of street frontage, sign area shall not exceed one square foot of sign area for each lineal foot of street frontage.

(c) Freestanding Sign Height.

(i) For single business properties and multiple business properties, freestanding signs shall not exceed 15 feet in height as measure from median sidewalk grade.

(ii) For shopping centers and multi-building complexes freestanding signs shall not exceed 20 feet in height as measured from median sidewalk grade.

(d) Allowed signs, sign area, or sign height may not be transferred from one street frontage to another.

(e) Off-premises signs, including but not limited to billboards, are prohibited. The City Manager or City Manager's designee may approve monument signs located on a separate parcel of

property within a multiple-building complex or shopping center when the following conditions exist.

(i) The multiple-building complex or shopping center appears and functions as one building site; and

(ii) The monument sign appears and functions as an on-premises sign; and

(iii) The approval would not result in additional signs or sign area for the multiple-building complex or shopping center than would otherwise be allowed; and

(iv) All monument and wall signs within the multiple-building complex or shopping center conform to the provisions of this chapter.

(f) Freestanding signs shall not be located on, above, nor project over the public right-of-way.

(2) Wall signs.

(a) Each single business property is permitted a total sign area not to exceed one square foot per lineal foot of street frontage, up to a maximum of 100 square feet.

(b) Each multiple business property is permitted a total sign area not to exceed 20 square feet plus 40 square feet per licensed business; provided, however, that each

business must be guaranteed a minimum of at least 25 square feet signage.

(c) Each multi-building complex and shopping center is permitted a total sign area not to exceed 150 square feet plus 40 square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 35 square feet signage.

(d) Except for buildings containing multiple business, wall signage shall not extend horizontally a distance greater than 50 percent of the width of the building wall on which it is displayed.

(e) Allowed wall signage is not transferable from one property to another; except within a shopping center or multi-building complex.

(f) Wall signs shall not be placed higher than 35 feet above median sidewalk grade.

(g) Projecting signs may not project further than six feet from the surface of the building. A right-of-way use permit shall be required for signs projecting over the public right-of-way.

(3) Internally illuminated signs shall be constructed using individual letters/characters, or sign cabinets with an opaque field or background so that only the individual letters/characters are illuminated.

(4) Reader board signs and changeable message center signs are permitted as per the requirements established in DMMC 18.42.220.

(5) Gasoline price signs shall not be located in, nor project over, the public right-of-way and shall not be portable. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(6) Temporary signs shall be permitted as provided in DMMC 18.42.090.

Sec. 18. Repealer. The previously codified provisions of chapter 8.31 DMMC and section 2 (part) of Ordinance No. 1267 as amended by section 1 of Ordinance No. 1405 as amended by section 1 of Ordinance No. 1406 as amended by section 1 of Ordinance No. 1410 as amended by section 1 of Ordinance No. 1467 as amended by sections 1 and 2 of Ordinance No. 1513 are each repealed and replaced by this Ordinance.

Sec. 19. Codification. Sections 1 through 10 of this Ordinance shall be codified as a new chapter 18.31 DMMC entitled "*Pacific Ridge Zone.*"

Sec. 20. 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. 21. Effective date. This Ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Attachment #2

Chapter 18.31
PACIFIC RIDGE (PR) ZONE

(Changes made by Draft Ordinance 13-086)

Sections

18.31.010 Title

18.31.020 Application

18.31.0310 Purpose.

18.31.040 Authority

18.31.020 Subareas within Pacific Ridge zone.

18.31.030 PR-R – Permitted uses.

18.31.040 PR-C1 – Permitted uses.

~~18.31.050 PR-C1 – Uses allowed in conjunction with a permitted use.~~

~~18.31.060 PR-C2 – Permitted uses.~~

~~18.31.070 PR-C2 – Uses allowed in conjunction with a permitted use.~~

18.31.080 Environmental performance standards and general limitations.

18.31.090 Dimensional standards.

18.31.100 General site design requirements.

18.31.110 General building design requirements.

Comment [gf1]: PR-C1 and PR-C2 proposed to be consolidated and expanded.

18.31.010. Title. This chapter shall be entitled "Pacific Ridge Zone, Uses Allowed and Special Conditions."

18.31.020. Application. The principal objective and purpose to be served by this zone and its application is to create a working and living environment of the highest standards for commercial and residential properties. Other related uses contributing directly to a complete living environment are considered compatible and therefore also permitted. A further related consideration is to make it possible to more efficiently and economically design, install, and maintain all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting from a defined intensity of land use.

18.31.0~~1~~30 Purpose. The principal objective and purpose of this zone and its application is to implement the City of Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, the City's Economic Development Strategy, and other adopted policies for the commercial and residential areas of Pacific Ridge.

Furthermore, it is the objective and purpose of this zone to provide development regulations that will promote redevelopment of Pacific Ridge properties in order to create attractive, safe, and desirable areas to work and reside. Redevelopment of Pacific Ridge is appropriate because this area has excellent access to transportation facilities, view opportunities, and higher-density development which can help Des Moines meet or exceed population and employment growth targets specified by the countywide planning policies for King County. Also, redevelopment of Pacific Ridge properties is appropriate because many of the existing structures and land uses have resulted in social problems such as: high crime rates (especially major felony crimes); declining property values; unsafe and undesirable housing conditions; insufficient building and property maintenance; absentee property ownership/management; violation of zoning, construction, and health codes; transient residency; and marginal businesses.

A related consideration is to make it possible to efficiently and economically plan for, design, finance, and provide public services, capital facilities, and utilities for the populations and activities within this zone. For all of the above reasons, the purpose of this chapter is to promote public health, safety, and welfare through redevelopment of Pacific Ridge properties.

18.31.040 Authority. This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63 and 36.70A RCW and other applicable laws.

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18.31.0~~2~~50 Subareas within Pacific Ridge zone.

(1) Except as provided below, properties within the Pacific Ridge zone are located within one of ~~three~~ two subareas as illustrated by the zoning map designated by DMMC 18.80.010. The ~~three~~ two subareas, hereafter referred to as zones, have unique land use and development regulations, and some general regulations apply to each zone. The ~~three~~ two Pacific Ridge zones are as follows:

(a) PR-R, Pacific Ridge Residential.

~~(b) PR-C1, Pacific Ridge Commercial 1.~~

~~(c) PR-C2, Pacific Ridge Commercial 2.~~

(b) PR-C, Pacific Ridge Commercial

Comment [gf2]: PR-C1 and PR-C2 proposed to be combined into single PR-C expanded zone. That part of the old PR-C1 zone from 216th to 221st is proposed to be expanded to the east to the I-5 right of way except for the area between 29th, I-5, 216th and 219th which will remain PR-R.

~~(2) Other zones may be applied to existing and planned public facilities, parks, utilities, and similar land uses.~~

(~~3~~2) For application of the general provisions of this title, PR-R is a multifamily residential zone while PR-C~~1 and PR-C2 are~~ is a commercial zone~~s~~. [Ord. 1267 § 2(part), 2000.]

18.31.06~~3~~0 PR-R – Permitted uses. Only those uses listed below, and uses similar in nature as determined by the ~~planning, building and public works~~ City Manager or the City Manager's designee ~~director~~, are permitted in the PR-R zone. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Uses permitted in PR-C zone when part of a contiguous PR-C development under single ownership.

(2) Multifamily dwellings (no NAICS code);

(~~2~~3) Religious organizations (813110);

(~~3~~4) Nursing care facilities (623110) and community care facilities for the elderly (6233);

(~~4~~5) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area;

(~~5~~6) A mix of non-residential and commercial uses compatible with residential uses.~~Mixed use (no NAICS code),~~ subject to the limitations below and the limitations provided in DMMC 18.31.090, Environmental performance standards and general limitations:

(a) ~~Total nonresidential floor area shall not exceed 15 percent of the total floor area of the individual building and a minimum of 25 percent of commercial space must be located along the ground floor;~~

Comment [gf3]: Allows the market place to decide what these ratios should be. If we don't like what's happening, the City Council can change it in the future.

~~(b) Permitted nonresidential uses shall be limited to the following:~~

(~~i~~a) Retail trade (44-45), limited to the following:

(~~A~~i) Food and beverage stores (445);

(~~B~~ii) Health and personal care stores (446);

(~~ii~~b) Real estate and rental and leasing (53), limited to the following:

(~~A~~i) Lessors of residential buildings and dwellings (531110);

(ii) Offices of real estate agents and brokers (531210);

(~~B~~iii) Real estate property managers (531311);

(~~C~~iv) Offices of real estate appraisers (531320);

(~~D~~v) Other activities related to real estate (531390); and

~~(E) Video tape and disc rental (53223);~~

(~~iii~~c) Professional, scientific, and technical services (54);

(~~iv~~d) Management of companies and enterprises (55);

(~~iii~~e) Health care and social assistance (62), ~~limited to the following~~except for temporary shelters (624221);

~~(A) Ambulatory health care services (621) except blood and organ banks (621991); and~~

~~(B) Child care facilities (6244)~~;

(~~v~~if) Arts, entertainment and recreation (71);

(~~iv~~g) Food services and drinking places (722), further limited to the following:

(~~A~~i) Full service restaurants (722511); and

(~~B~~ii) Limited-service ~~eating places~~restaurants (~~7222~~722513);

(iii) Cafeterias, grill buffets and buffets (722514); and

(iv) Snack and nonalcoholic beverage bars (722515).

(~~v~~h) Other services (81), further limited to the following:

(~~A~~i) Footwear and leather goods repair (811430);

(~~B~~ii) Personal care services (8121);

(~~C~~iii) Dry-cleaning and laundry services (812320); ~~and~~

(~~D~~iv) Photofinishing (81292);

(~~E~~v) Religious organizations (813110);

(~~F~~vi) Civic and social organizations (813410);

(~~G~~vii) Business associations (813910);

(~~H~~viii) Professional organizations (813920);

(~~I~~ix) Labor unions and similar labor organizations (813930);

(~~J~~x) Other similar organizations (813990).

(~~vi~~7) Public administration (92~~), limited to police protection (92212);~~);

~~(6) Botanical gardens (712130);~~

(~~7~~8) Public parks (no NAICS code);

(~~8~~9) The following buildings, structures and uses are allowed when accessory to a use otherwise permitted by this chapter:

(a) Ancillary and incidental indoor storage and maintenance facilities related to on-site buildings and uses;

(b) Telecommunication facilities as allowed by Title 20 DMMC;

(c) Recreation facilities for use by residents of the property;

(d) Child and adult day care as regulated and licensed by the Washington State Department of Social and Health Services, or its successor agency;

(e) Home occupation, subject to the following limitations:

(i) The occupation shall be conducted entirely within the dwelling;

(ii) The occupation shall not require structural features that are not customary or incidental in a dwelling;

(iii) No signs identifying or advertising the home occupation, or other exterior evidence of the home occupation is allowed;

(iv) A business license as provided by Title 5 DMMC is granted by the city for the home occupation;

(v) In authorizing a home occupation, the ~~city~~ City ~~manager~~ Manager may impose conditions of approval as necessary to ensure the activity is compatible with the surrounding uses;

(vi) In the event the ~~city~~ City ~~manager~~ Manager determines that the home occupation has resulted in adverse land use impacts, the City Manager is authorized to impose additional conditions of approval as necessary; and

(viii) In the event the nature or extent of the home occupation changes so that the adverse land use impacts cannot be satisfactorily mitigated, the ~~city~~ City ~~manager~~ Manager may revoke all approvals and licenses related to the home occupation. [Ord. 1406 § 1, 2007: Ord. 1267 § 2(part), 2000.]

18.31.0470 PR-C~~1~~ – Permitted uses. Only those uses listed below, and uses similar in nature as determined by the ~~community development director,~~City Manager or the City Manager's designee are permitted in the PR-C~~1~~ zone. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Retail trade (44-45~~),~~) except exclusive used car dealers (441120). ~~except the following~~:

Comment [gf4]: Any type of retail trade under NAICS 44 or 45 is allowed if this change is made including new car dealers and used car sales in conjunction with new car dealers. Exclusively used car dealers would still not be permitted.

~~(a) Automobile dealers (4411);~~

~~(b) Other motor vehicle dealers (4412);~~

~~(c) Tire dealers (44132);~~

~~(d) Manufactured (mobile) home dealers (45393);~~

~~(e) Heating oil dealers (454311); and~~

~~(f) Other fuel dealers (454319);~~

~~(2) A maximum of one gasoline station (447) is permitted within the PR-C1 zone. Buildings containing only a gasoline station are not subject to the minimum building height provisions contained in this chapter;~~

(~~3~~2) Taxi (485310) and ~~L~~limousine service (485320) when primarily contained within an enclosed structure;

(~~4~~3) Postal service (491110);

(~~5~~4) Couriers and messengers (492110);

(~~6~~5) Information establishments (51), ~~except telecommunication (5133), which is regulated by Title 20 DMMC;~~

(~~7~~6) Finance and insurance (52);

(~~8~~7) Real estate and rental and leasing (53), except ~~the following~~mini-warehouses and self storage units (53113) may not front on SR99~~:~~;

~~(a) Lessors of miniwarehouses and self-storage units (53113);~~

~~(b) Automotive equipment rental and leasing (5321); and~~

~~(c) Commercial and industrial machinery and equipment rental and leasing (5324);~~

(~~9~~8) Professional, scientific, and technical services (54~~), except off-premises signs (billboards) which are regulated by chapter 18.42 DMMC~~);

(~~10~~9) Management of companies and enterprises (55);

(~~11~~10) Administrative (561110) and support services (561210), ~~except the following:~~

~~(a) Repossession services (561491);~~

~~(b) Services to buildings and dwellings (5617); and~~

~~(c) Waste management and remediation services (562);~~

(~~12~~11) Educational services (61);

(~~13~~12) Health care and social assistance (62)~~:, subject to the following limitations:~~

~~(a) The following uses are prohibited:~~

~~(i) Outpatient mental health and substance abuse centers (62142);~~

~~(ii) Hospitals (622);~~

~~(iii) Residential mental retardation, mental health, and substance abuse facilities (6232);~~

~~(b) Permitted nursing and residential care facilities (623) and community care facilities for the elderly (6233) are allowed only within the residential portion of a mixed-use building;~~

(~~14~~13) Arts, entertainment, and recreation (71) except that adult entertainment facilities and adult motion picture theaters (no NAICS code) are prohibited north of South 216th Street and within 500 feet of the property lines of churches, common schools, day care centers, public facilities, or other adult entertainment facilities or adult motion picture theaters; ~~subject to the following limitations:~~

~~(a) The following uses are prohibited:~~

~~(i) Spectator sports (7112);~~

~~(ii) Amusement, gambling, and recreation industries;~~

(~~b~~) ~~Adult entertainment facilities and adult motion picture theaters (no NAICS code) are prohibited within 500 feet of the property lines of churches, common schools, day care centers, public facilities, or other adult entertainment facilities or adult motion picture theaters~~;

(~~15~~14) Accommodation and food services (72), limited to the following:

(a) Hotels (72111 (except casino hotels) and motels (72111), except that these must contain a minimum of 75 guest rooms;~~subject to the following:~~

(b) Casino hotels (721120);

~~(i) Casino hotels and motels are prohibited; and~~

(~~ii~~) ; and ~~Hotels and resort hotels are further allowed as follows:~~

Comment [gf5]: Minimum size is the only limitation with this change. The market place will control the rest.

~~(A) Hotels and resort hotels shall contain a minimum of 125 guest rooms; and~~

~~(B) Hotels and resort hotels shall contain meeting room facilities; and~~

~~(C) A maximum of six hotel and/or resort hotel developments shall be allowed within the PR-C1 zone; and~~

~~(D) A maximum of 1,500 guestrooms shall be allowed within the PR-C1 zone;~~

(~~b~~c) Food services and drinking places (722), however, mobile food services (72233) are also regulated by chapter 5.57 DMMC; ~~subject to the following provisions:~~

~~(i) Fast food restaurants (722211) are allowed only in conjunction with a permitted use;~~

~~(ii) Mobile food services (72233) are regulated by chapter 5.57 DMMC~~;

~~(iii) Drive-through facilities are prohibited;~~

~~(iv) Buildings containing only a full-service restaurant (72211) are not subject to the minimum building height provisions contained in this chapter;~~

Comment [gf6]: Minimum building heights are eliminated in 18.31.090 (7)

(~~16~~15) Other services (81) (except public administration) (81)), ~~subject to the following limitations:~~

~~(a) The following uses are prohibited:~~

~~(i) Carwashes (811192), except automotive detail shops;~~

~~(ii) Other automotive repair and maintenance (811198);~~

~~(iii) Death care services (8122);~~

~~(iv) Industrial launderers (812332); and~~

~~(v) Commercial parking lots and garages (812930);~~

(~~b~~a) ~~Automobile body, paint, interior, and/or glass repair (81112), general~~ General automotive repair (811111), automotive exhaust system repair (811112), automotive transmission repair (811113), automobile body, paint, and interior repair and maintenance, (811121), automotive glass replacement shops (811122), and automotive oil change and lubrication shops (811191) shall be allowed in the PR-C~~1~~ zone; provided, that all of the following requirements shall be met:

~~(i) The proposed use shall be located within a building constructed on or before October 30, 2009, and said building is or has been previously used for such use; and~~

(~~ii~~i) The proposed use shall be fully located within an enclosed building area; and

~~(iii) Any building or structure that the proposed use is located or proposed to be located within shall not be expanded or enlarged in gross floor area or volume after October 30, 2009; and~~

(~~iv~~ii) Any business owner proposing to use a building or structure that the proposed use is located or proposed to be located within shall demonstrate to the city of Des Moines, South King Fire and Rescue, and Puget Sound Clean Air Agency that quantities, storage, and transport of hazardous materials are properly managed, work areas provide adequate containment to avoid pollution runoff, and facilities are equipped with proper pre-treatment devices to avoid discharge of pollutants to the air or public drainage systems;

~~(c) Pet boarding (812910) is allowed only in conjunction with a permitted use;~~

(~~17~~16) Public administration (92), except correctional institutions (92214)~~the following:~~

~~(a) Correctional institutions (92214); and.~~

~~(b) Parole offices and probation officers (92215);~~

(17) Single purpose multi-family dwellings (no NAICS code) except for properties fronting on SR 99 and South 216th Street, and properties north of South 216th Street.

(18) Mixed use (no NAICS code), except ~~when dwellings are located above the second story of the building~~

(i) ~~(i)~~ In that part of PR-C fronting on SR99 and/or South 216th Street, dwellings may be located on the ground floor provided that they are accessed from the rear of the property, and provided that the commercial uses in that portion of the building must front and be accessed from SR99 or South 216th. Street;

(ii) When a project fronting SR 99 or South 216th Street contains more than one building, those building not fronting on SR 99 or South 216th Street may be single purpose multi-family residential buildings; and

(iii) No residential use is permitted north of South 216th Street.

(19) Public parks (No NAICS code); ~~and~~

(20) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area. [Ord. 1467 § 1, 2009: Ord. 1267 § 2(part), 2000.];

~~**18.31.050 PR-C1 – Uses allowed in conjunction with a permitted use.**~~

~~The uses listed below, and uses similar in nature as determined by the community development director, are only allowed in the PR-C1 zone when located within the same building as a permitted use. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:~~

~~(1) Fast food restaurants (722211);~~

~~(2) Pet boarding (812910). [Ord. 1267 § 2(part), 2000.]~~

~~18.31.060 PR-C2 – Permitted uses.~~

~~Only those uses listed below, and uses similar in nature as determined by the community development director, are permitted in the PR-C2 zone. Uses identified in this section are~~

Comment [gf7]: Single purpose multi-family allowed except for old PR-C2 zone and properties on arterials.

Comment [gf8]: Note that some ground floor space accessed from the rear of the property may be designed for non-commercial space.

Comment [dl9]: Long-term, this could limit TOD potential around SR-99/S 216th node (e.g., front part of Safeway lot could redeveloped with mixed use and compliment residential across from SeaTac residential.

Comment [gf10]: This section eliminated in its entirety since there is no longer a need for "uses allowed in conjunction with a permitted use" because of the expanded permitted uses.

~~more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:~~

~~(1) Except for the uses listed below, uses permitted in the PR-C1 zone are permitted in the PR-C2 zone:~~

~~(a) Hospitals (622);~~

~~(b) Nursing and residential care facilities (623);~~

~~(c) Community housing services (62422);~~

~~(d) Hotels and motels (72111);~~

~~(e) Mixed use (no NAICS code);~~

~~(f) Adult entertainment facilities and adult motion picture theaters (no NAICS code);~~

~~(2) Tire dealers (44132);~~

~~(3) Gasoline stations (447);~~

~~(4) Automotive repair and maintenance (8111). [Ord. 1267 § 2(part), 2000.]~~

~~18.31.070 PR-C2 – Uses allowed in conjunction with a permitted use.~~

~~The uses listed below, and uses similar in nature as determined by the community development director, are only allowed in the PR-C2 zone when located within the same building as a permitted use. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:~~

~~(1) Fast food restaurants (722211);~~

~~(2) Pet boarding (812910);~~

~~(3) Light manufacturing, processing, and assembly of goods sold onsite at retail (no NAICS code). [Ord. 1267 § 2(part), 2000.]~~

18.31.080 Environmental performance standards and general limitations. Every use permitted within the PR zone shall conform to the following general limitations and standards:

(1) Provisions applicable to all PR zones:

(a) Accessory uses are permitted that are customarily appurtenant or incidental to the principally permitted uses.

(b) Landscaping and screening are required in accordance with chapter 18.41 DMMC.

(c) Off-street parking and loading areas are required in accordance with chapter 18.44 DMMC.

(d) Mixed-use development shall conform to the following limitations and standards:

~~(i) Within a mixed-use building, nonresidential building area shall be located at or near street level, and shall be visible from the public right-of-way;~~

(~~ii~~) Within the PR-C~~1~~ zone, structures containing only residential uses are allowed ~~on corner and through lots when a commercial or mixed-use structure is located along the Pacific Highway South frontagein the PR zone;~~ except for properties north of South 216th Street, fronting on SR 99 and properties fronting on South 216th Street; and

(~~iii~~) **On-site multifamily recreation area is required for developments with four or more dwelling units as provided by chapter 18.45 DMMC, except the minimum area of common recreation space per dwelling unit shall be 50 square feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.**

(e) Capital Facilities, Utilities, and Public Services.

(i) All capital facilities, utilities, and public services must be adequate to support the proposed land use or structure, including but not limited to drainage; street and walkway systems, both on-site and off-site; sewer and water systems; fire protection; police service; electrical power; and telecommunications. Improvements to capital facilities, utilities, and public services shall conform to adopted plans, policies, and regulations.

(ii) All development shall be required to install or pay for a proportional share of any new facilities or utilities required to serve the development. Mechanisms such as latecomer's agreements and impact fees may be used to equitably distribute the cost of required improvements.

(iii) Except for high-voltage (i.e., 115 kV) transmission circuitry, all preexisting and newly installed utilities on site and within the abutting rights-of-way shall be placed underground.

~~(f) Nuisances.~~

Comment [gf11]: Policy Question 1: Should the City require a minimum recreation space? Already reduced from 200sf to 50sf for common and from 60sf to 40sf for private as required by 18.45 DMMC. Note that 18.45 allows developer to buy out of the common recreation space requirement. Ultimately, the goal is to ensure quality recreation space is developed for the end user (i.e., tenants). The goal is to provide flexibility to allow developers to demonstrate, through either a combination of private/common recreation space or larger common space that is much higher quality, that the need is being met.

Comment [gf12]: Policy Question 2: Should (e) be eliminated as redundant with other parts of the DMMC and/or because the section is vague and unnecessary?

~~(i) As provided by chapter 9.64 DMMC, no use, activity, or equipment shall be permitted that creates a nuisance or is offensive, objectionable, or hazardous by reason of creation of odors, noise, sound, light or glare, steam, vibrations, dust, dirt, smoke, or other pollutants, fumes or gases (toxic or nontoxic), radiation, explosion or fire hazard, or by reason of the generation, disposal, or storage of hazardous or dangerous wastes or materials in a manner(s) inconsistent with Title 70 RCW as presently constituted or as may be subsequently amended.~~

~~(ii) In addition to the uses, activities and equipment deemed a nuisance under the provisions of subsection (1)(f)(i) of this section, the following are declared to be nuisances in all PR zones: all houses, housing units, other buildings, premises or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other means.~~

~~(iii) Any person, firm or corporation found by a court of competent jurisdiction to be keeping or maintaining a nuisance as provided in this chapter shall be liable for all costs and expenses of abating the same, when the nuisance is abated by any officer of the city, and the costs and expenses shall be taxed as part of the cost of said prosecution against the party liable, to be recovered as other costs are recovered. In addition to other powers given in the Des Moines Municipal Code and other applicable law to collect such costs and expenses, the city may bring suit for the same in any court of competent jurisdiction against the person, firm or corporation allowing, creating, enabling, keeping, maintaining or otherwise failing to correct the nuisance so abated.~~

~~(g) Hazardous Substances.~~

~~(i) No use permitted in this chapter, with the exception of public utility and service facilities, shall store any hazardous substance, except that for the purposes of this chapter the following substances shall be exempt:~~

~~(A) Heating oil stored in an underground tank sufficiently contained so as to preclude soil and ground water contamination;~~

~~(B) Gasoline stored in an approved Underwriters Laboratory container;~~

~~(C) Prepackaged retail quantities of fertilizers, pesticides, and auto and home care products only for home use.~~

~~(ii) Failure to comply with any of the requirements of this section shall be deemed a violation and shall result in enforcement by civil penalty as set forth in DMMC 18.72.060 and/or civil violation enforcement penalties or abatement procedures as established in chapter 1.28 DMMC. Any person or business who fails to comply with the provisions of this chapter, or allows a violation to continue after receiving written notice of violation from the community development director, shall be deemed to be~~

~~causing or permitting a public nuisance and shall be liable in an action for abatement filed by the city in superior court.~~

(~~h~~f) In reviewing a proposed permitted use, the ~~community development direct~~City Manager or the City Manager's designee or may include minimal conditions of approval as may be reasonably needed to ensure that the use is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts.

Comment [gf13]: Policy Question 3: Should (f) be eliminated because it could be considered especially vague and therefore unconstitutional?

(2) Provisions Applicable to the PR-R Zone.

(a) Parking and loading areas within the PR-R zone are further allowed ~~as follows:~~but parking spaces not within a parking garage structure shall be subject to maximum lot coverage limitations.

~~(i) For land uses with more than 20 required off-street parking spaces, a minimum of 70 percent of the total off-street spaces provided shall be located within a parking garage structure.~~

~~(ii) Parking spaces not within a parking garage structure shall be subject to maximum lot coverage limitations.~~

~~(b) Multifamily recreation area is required in accordance with chapter 18.45 DMMC, except that the minimum area of common recreation space per dwelling unit shall be 50 square feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.~~

(~~c~~b) New construction shall conform to applicable Federal Aviation Administration regulations, including Part 77, Federal Aviation Regulations, Objects Affecting Navigable Airspace, as presently constituted or as may be subsequently amended.

~~(3) Provisions Applicable to the PR-C1 Zone.~~

~~(a) Off-street parking not within a parking garage structure shall occupy not more than 35 percent of the building site.~~

Comment [gf14]: Note that 35% off street parking maximum is proposed to be eliminated.

(~~4~~3) Provisions Applicable to the PR-C~~1 and PR-C2~~ Zones.

(a) All uses shall be primarily contained within an enclosed structure except the following:

(i) Outdoor seating and dining;

(ii) Signs;

(iii) Loading areas;

(iv) Motor vehicle fuel pumps;

(v) Retail nursery and garden centers (44422) in the PR-C~~2~~ zone;

(vi) ~~Minor and incidental~~ Incidental outdoor display areas for merchandise sold on site as approved through the design review process;

(vii) Play/recreation areas; and

(viii) Miscellaneous storage when limited to 10 percent of the site area and when perimeter landscaping and fencing is provided as approved through the design review process.

(b) Automobile repair, automobile service stations, and similar uses shall conform to the following limitations and standards:

(i) Automobile repair and the installation of automobile parts and accessories shall be primarily contained within an enclosed structure;

(ii) Unless specifically authorized by the ~~community development director~~City Manager or the City Manager's designee, views into automobile service bays from Pacific Highway South shall be diminished by building orientation, screening, or other means;

(iii) Unless specifically authorized by the ~~public works director~~City Manager or the City Manager's designee, vehicular access shall be limited to **one driveway per street** frontage;

Comment [gf15]: Policy Question 4: Should outright permitted driveway accesses be increased from 1 to 2? Or, alternatively, should the ordinance simply state that the number and location of driveway access points shall be consistent with the City's Street Design and Construction Standards?

(iv) Motor vehicle fuel pump islands shall be set back a minimum of 15 feet from property lines;

(v) A six-foot-high, 100 percent sight-obscuring fence shall be provided along property lines that abut residential properties as designated by the ~~Greater~~ Des Moines Comprehensive Plan; and

(vi) **Vehicle storage shall be limited to those vehicles contracted for repair or service.**

Comment [gf16]: Policy Question 5: Should vehicle storage be permitted if inside or shielded?

(c) Social service facilities shall conform to the following limitations and standards:

(i) Outdoor play/recreation areas for children shall be set back a minimum of five feet from property lines; and

(ii) Unless specifically authorized by the ~~community development director~~City Manager or the City Manager's designee, passenger loading and unloading areas shall be provided on site. [Ord. 1410 § 1, 2007: Ord. 1267 § 2(part), 2000.]

18.31.090 Dimensional standards.

Comment [gf17]: Policy Question 6: Should there be additional changes in dimensional standards in addition to those proposed below to encourage more development?

(1) Lot Area. Every lot shall have a minimum area of 7,500 square feet.

(2) Lot Width. Every lot shall have a minimum width of 75 feet.

(3) Front Yard.

(a) In the PR-R zone, not less than 15 feet except that no front yard is required provided that the project is at least 55 feet in height ~~every lot shall have a front yard of not less than 15 feet~~.

Comment [gf18]: The 55 feet requirement is to prevent additions to existing underdeveloped residential properties in transitional areas.

(b) In the PR-C~~1 and PR-C2~~ zones, no front yard is required.

(4) Side Yard.

(a) In the PR-R zone, ~~every lot shall have a~~ not less than 10 foot ~~side yard on each side of the lot.~~ when abutting a single family residence, except that no side yard is required if the project is a least 55 feet in height and does not abut~~ting~~ a single family residence. ~~The side yards shall have a width of not less than 10 feet.~~

(b) In the PR-C~~1 and PR-C2~~ zones, no side yard is required.

(5) Rear Yard. Every lot shall have a rear yard of not less than 15 feet, except as otherwise permitted in DMMC 18.31.090(13)..

(6) Measurement of Building Height.

(a) PR-R zone: Building height shall be measured from average finish grade.

~~(b) PR-C1 zone: Building height shall be measured from mean sidewalk grade of Pacific Highway South.~~

(c) PR-C~~2~~ zone: Building height shall be measured from mean sidewalk grade as follows:

(i) Building height for properties abutting ~~Pacific Highway South~~ SR99 is measured from ~~Pacific Highway South~~SR99.

(ii) Building height for properties ~~abutting 24th Avenue South~~extending from SR99 to 24th Avenue South is measured from ~~24th Avenue South.~~SR99.

(iii) Building height for properties abutting South 216th Street ~~that do not abut Pacific Highway South or 24th Avenue South~~ is measured from from average finish grade on South 216th Street.

(iv) Building height shall be measured from average finish grade for properties not abutting SR 99 or South 216th.

(7) Minimum Building Height.

(a) Except for buildings containing only a full-service restaurant or a gasoline service station, and other instances specifically authorized by the City Manager or designee in writing, no building shall be less than the height specified below:

(i) PR-R zone: 35 feet.

~~(ii) PR-C1 zone: 35 feet.~~

(iii) PR-C~~2~~ zone: No minimum building height for commercial projects and 55 feet for residential or mixed use projects.

Comment [gf19]: Note - this means that any residential/mixed use projects under 55' would not be permitted thereby helping the City achieve the density we are looking for.

(b) For the purposes of this subsection, minimum building height shall not include decorative towers or appurtenances, roof slopes out of character with the building's architecture, or other contrivances provided solely for achievement of the required minimum building height. In calculating minimum building height, the City Manager or designee shall include regular architectural features enclosing functional, occupiable building areas.

(8) Maximum Building Height. Buildings and structures may be built to the height specified unless restricted by (9) below:

(a) PR-R zone: ~~35~~ 75feet,except that b~~. B~~uildings may be built to a height of ~~120~~ 200 feet with ~~approval of a condominium height bonus or with~~ approval of a floor area clustering height bonus ~~as provided by this chapter~~when the minimum building site area is 43,560 square feet and useable pedestrian plazas and open space are provided.

(b) PR-C~~1~~ zone: 85 feet, except that buildings may be built to a height of 200 feet with approval of a floor area clustering height bonus when the minimum building site area is 43,560 square feet and useable pedestrian plazas and open space are provided.

~~(i) Except as provided by subsection (8)(b)(ii) of this section, 55 feet.~~

~~(ii) In that portion of the PR-C1 zone east of Pacific Highway: 85 feet.~~

~~(c) PR-C2 zone: 55 feet.~~

(9) Building Height Limitation Adjacent to Single-Family. When an abutting property is designated single-family residential by the Des Moines comprehensive plan and being used as such, building height shall be limited as follows:

(a) Within 20 feet of the abutting single-family residential property, maximum building height shall be 35 feet.

(b) Within 40 feet of the abutting single-family residential property, maximum building height shall be 45 feet.

(c) During the design review and environmental review, the ~~city~~ City ~~manager~~ Manager or City Manager's designee may impose other conditions of approval in order to mitigate potential height, bulk, and scale impacts upon adjacent single-family residents not sufficiently mitigated by existing regulations.

~~(10) Condominium Building Height Bonus. In the PR-R zone, the~~ City Manager ~~or designee may authorize buildings 36 to 120 feet in height when a condominium declaration which satisfies chapter 64.34 RCW is recorded for all dwellings within the building.~~

(~~11~~10) Floor Area Clustering Building Height Bonus. In the PR-R zone, the ~~city~~ City ~~manager~~ Manager or City Manager's designee may authorize buildings up to 200 feet in height when all of the following provisions are met:

~~(a) A condominium height bonus was granted pursuant to the condominium building height bonus established by subsection (10) of this section.~~

~~(b) The total floor area of the building does not exceed the total maximum floor area of a building that could have been built under the condominium building height bonus established by subsection (10) of this section.~~

(~~c~~a) The minimum building site area is 43,560 square feet.

(~~d~~b) Useable pedestrian plazas and open space are provided.

(~~12~~11) Height Allowance for Enhanced Design of Distinctive Rooflines. In the PR-C~~1~~, ~~PR-C2~~ and PR-R zones, a portion of a building may exceed the maximum building height; provided, that the following provisions are met:

(a) The purpose of the additional height for the building is to provide a roofline that is of distinctive form through the use of design elements such as pitched roofs, sloped roofs, vertical offsets or other similar roof features that achieve the goals of Pacific Ridge Design Guideline 2.B.2.

(b) The maximum building height established in subsections (8) and (9) of this section shall only be increased by a maximum of 10 percent.

(c) Architectural features associated with the distinctive roofline shall be used to emphasize significant architectural elements of the building such as the main entrance of the building or the building's orientation to a corner, or to provide for pitched or sloped roofs for the building.

(d) Height allowed for distinctive rooflines under this section shall not be used to determine the building height for the purposes of establishing the maximum gross floor area under DMMC 18.31.110(3).

(e) The building area or amount of building structure extending above the maximum height established in subsection (9) of this section shall be limited to 30 percent of the building roof deck area. When multiple building rooflines exist at different building levels or stories, the 30 percent requirement shall only apply to the area of the roof deck of the tallest portion of a building.

(~~13~~12) Placement of Buildings.

~~(a) Where a building site abuts the public right-of-way of Pacific Highway South, at least one of the main buildings on the site shall be placed as follows:~~

Comment [gf20]: This eliminates all set back requirements for commercial projects fronting on SR99

~~(i) Except as provided below, the building shall abut, or be in close proximity to, the public right-of-way of Pacific Highway South. (ii) Through the permit review process, the~~ City Manager ~~or designee may determine it is in the public interest to allow the proposed building to be set back from the right-of-way. In considering a request for setback, the director shall consider matters such as adopted land use policies, vehicular and pedestrian circulation, sight distances, landscaping, existing site improvements, adjacent site improvements, easements or other encumbrances, and public benefit features such as plazas and public artwork.~~

(~~b~~a) The distance between a building containing dwelling units and any other building shall be not less than 10 feet.

(~~c~~b) On the rear third of an interior lot, accessory buildings not containing dwellings may be built to the side lot lines and the rear lot line ~~; provided, not less than 10 feet of the rear lot line shall be free and clear of buildings.~~

(~~d~~c) On the rear one-third of a corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line and the rear lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(~~e~~d) On the rear third of a reverse corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(iii) No building shall be erected closer than five feet to the rear lot line. [Ord. 1559 § 1, 2012: Ord. 1513 § 1, 2011: Ord. 1405 § 1, 2007: Ord. 1267 § 2(part), 2000.]

18.31.100 General site design requirements.

Comment [gf21]: Policy Question 7: Should Site Design Guidelines be eliminated for PR-C and/or PR-R?

~~(1)~~ Design Guidelines. ~~Design guidelines shall be adopted for new construction within Pacific Ridge~~. All development proposals shall demonstrate substantial compliance, as determined by the ~~community development director~~City Manager or the City Manager's designee, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address site design issues including, but not limited to, the following:

(a) Placement and orientation of buildings and building entrances;

(b) Vehicular access, parking, and circulation;

(c) Pedestrian orientation and access;

(d) Orientation to transit;

(e) Placement and screening of service and loading areas;

(f) Landscaping;

(g) Freestanding signage;

(h) Screening of parking and other site features;

(i) Placement and design of open space;

(j) Crime prevention; and

(k) Exterior lighting. [Ord. 1267 § 2(part), 2000.]

18.31.110 General building design requirements.

Comment [gf22]: Policy Question 7 (continued): Should Building Design Guidelines be eliminated for PR-C and/or PR-R zones?

(1) Design Guidelines. ~~Design guidelines shall be adopted for new construction within Pacific Ridge.~~ All development proposals shall demonstrate substantial compliance, as determined by the ~~community development director~~City Manager or the City Manager's designee, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address building design issues including, but not limited to, the following:

(a) Building height, bulk, and scale;

(b) Building modulation and fenestration;

(c) Building silhouette and roof design;

(d) Placement and orientation of building entrances, common areas, activity areas, balconies, and other features;

(e) Exterior building materials;

(f) Window and door detailing;

(g) Continuity/variety in building design;

(h) Orientation to transit;

(i) Wall signage;

(j) Crime prevention;

(k) Awnings, covered walkways, and other weather protection; and

(l) Placement and screening of mechanical equipment.

(2) Minimum floor-to-ceiling height for dwellings. Dwellings shall have a minimum floor-to-ceiling height of eight feet, six inches.

(3) Maximum Gross Floor Area.

(a) The maximum gross floor area for buildings within Pacific Ridge neighborhood shall be determined by multiplying the lot area of the site by the floor area ratio number established in the following table:

Comment [gf23]: Allows larger floor area ratios and allows buildings to be less skinny (and more economical)

Building Height	PR- ~~C1 and PR-C2~~ and PR-R FAR	~~PR-R FAR~~
35 Feet or Less	2.8	~~2.8~~
35 – 50	3.5	~~3.5~~
50 – 60	4	~~4.0~~

Building Height	PR- ~~C1 and PR-~~C2 and PR-R FAR	~~PR-R FAR~~
60 -70	4.5	~~4.5~~
70 – 80	5	~~5~~
80 – 90	5.5	~~5.5~~
90 – 100	~~Not Applicable~~6.5	~~6.5~~
100 – 110	~~Not Applicable~~7.5	~~7.5~~
110 – 120	~~Not Applicable~~9	~~9~~
> 120	Increases by 0.5 per floor above 120 feet~~Not Applicable~~	9

(b) Gross floor area shall include the total square footage of the enclosed building; provided, that:

(i) For properties located adjacent to Pacific Highway South, the area of parking garages constructed below the adjacent sidewalk grade on Pacific Highway South shall not be included in the calculation of gross floor area.

(ii) For all other properties in the Pacific Ridge neighborhood, the area of parking garages constructed below the lowest sidewalk grade adjacent to the property line shall not be included in the calculation of gross floor area.

(4) Within the PR-C~~1~~ ~~and PR-C2~~ zone~~s~~, structural encroachments into the right-of-way, such as cornices, signs, eaves, sills, awnings, bay windows, balconies, facade treatment, marquees, etc., shall conform to the provisions set forth by Title 12 DMMC, the ~~Uniform~~ International Building Code, and the following provisions:

(a) Structural encroachments into the right-of-way shall be capable of being removed without impact upon the structural integrity of the primary building;

(b) Structural encroachments into the right-of-way shall not result in additional building floor area than would otherwise be allowed;

(c) Except for awnings, signs, and marquees, the maximum horizontal encroachment into the right-of-way shall be two feet;

Comment [gf24]: Policy Question 8: Should any of the yellow-highlighted sections (c)-(g) be relaxed or eliminated?

(d) The maximum horizontal encroachment in the right-of-way by signs shall be four feet;

(e) The maximum horizontal encroachment in the right-of-way by awnings and marquees shall be six feet;

(f) The minimum horizontal distance between the structural encroachment and the curbline shall be two feet;

(g) Except for awnings over the public sidewalk which may be continuous, the maximum length of each balcony, bay window, or similar feature that encroaches the right-of-way shall be 12 feet;

(h) Structural encroachments into the right-of-way shall maintain adequate distance away from utility, transportation, or other facilities as determined by the ~~community development director~~City Manager or the City Manager's designee in consultation with the ~~public~~ Public ~~works~~ Works ~~director~~Director;

(i) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(j) Owners of structural encroachments into the right-of-way must clear the public right-of-way when ordered to do so by city authorities for reasons of public health or safety; and

(k) In reviewing a proposed structural encroachment into the public right-of-way, the ~~community development director~~ City Manager or the City Manager's designee_may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts. The ~~community development director~~City Manager or the City Manager's designee shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily. [Ord. 1513 § 2, 2011: Ord. 1267 § 2(part), 2000.]

PACIFIC RIDGE ZONE CODE
AUGUST 8, 2013

Grant Fredricks
Denise Lathrop

Recent Modified Sections

- Ordinances
  - 1406 (2007) - PR-R Permitted Uses
  - 1467 (2009) - PR-C1 Permitted Uses
  - 1410 (2007) - Environmental Performance Standards
  - 1559 (2012), 1513 (2011) & 1405 (2007) – Dimensional Standards
  - 1513 (2011) - General Building Design Requirements

Proposed Policy Changes
Draft Ordinance 13-086

1. Re-designates a portion of the PR-R (residential) zone to PR-C (commercial) and combines the old PR-C1 and PR-C2 into a single PR-C commercial zone.
2. Expands permitted uses in both the PR-R and PR-C zones and allows commercial uses in the PR-R zone.
3. Limits residential uses on property fronting directly on and south of South 216th and fronting directly on SR99 to mixed use buildings above the ground floor. The rest of the PR-C zone south of South 216th can have single purpose or mixed use residential. Residential is still not permitted north of South 216th Street.

Proposed Policy Changes
Draft Ordinance 13-086

4. Increases unrestricted maximum building heights in PR-R zone from 35 to 70 feet and in PR-C zone from 55 to 85 feet.
5. Eliminates requirement that buildings must be owner-occupied before increased heights up to 200 feet are allowed.
6. Eliminates 35 feet minimum building height in old PR-C1 zone.
7. Eliminates requirement that buildings fronting SR99 abut the highway.
8. Reduces or removes other dimensional, use percentages, parking restrictions and grandfather date restrictions.

Policy Questions

(refer to Attachment 2 for more detail)

1. Should the City require a minimum recreation space? (See marginal comment [gf11] on p. 12 of Attachment 2).
2. Should 18.31.080(1)(e) be eliminated as redundant with other parts of the DMMC and/or because the section is vague and unnecessary? (Comment [gf12] on p. 13)
3. Should new 18.31.080(1)(f) be eliminated because it could be considered especially vague and therefore unconstitutional? (Comment [gf13] on p. 14)
4. Should outright permitted driveway accesses be increased from 1 to 2 in 18.31.080(3)(b)(iii)? Or, alternatively, should the Ordinance simply state that the number and location of driveway access points shall be consistent with the City's Street Design and Construction Standards? (Comment [gf15] on p. 16)
5. Should vehicle storage be permitted if inside or shielded in 18.31.080(3)(b)(vi)? (Comment [gf16] on p. 16)

Policy Questions

(refer to Attachment 2 for more detail)

6. Should there be further changes in Dimensional Standards (18.31.090) to encourage more development? (Comment [gf17] on p. 16 and extending to top of p. 21)
7. Should General Site Design Guidelines and Building Design Guideline Standards be eliminated for both commercial (PR-C) and residential (PR-R) zones (or just apply to PR-R zone)? (Comments [gf21] and [gf22] for Sections 9 and 10 of Draft Ordinance or 18.31.100 and 18.31.110(1) on p. 21 through p. 22)
8. Should the regulations in 18.31.110(4)(c), (d), (e), (f) and (g) be relaxed or eliminated? (Comment [gf24] on p. 24)
9. Should the Pacific Ridge Zone chapter have its own sign code regulations rather than leaving all City sign code regulations consolidated in Chapter 18.42?

Public Hearing Item #3

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing for Draft Ordinance 13-108, Parking Code

ATTACHMENTS:

1. Draft Ordinance 13-108 amending Chapter 18.44 DMMC, Parking Code.
2. Chapter 18.44 DMMC showing Track Changes
3. Staff Presentation (preliminary)

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: July 29, 2013

CLEARANCES:
[X] Legal
[ ] Finance N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[X] Economic Development Manager

APPROVED BY CITY MANAGER
FOR SUBMITTAL:

Purpose and Recommendation

The purpose of this agenda item is to conduct a public hearing for the City Council to consider Draft Ordinance 13-108 which amends the Parking Code codified as Chapter 18.44 DMMC. The City Council may not enact the Ordinance until the SEPA comment period and 10-day appeal window is closed. Because the SEPA appeal period is still open, the public hearing must be continued to allow the Council to consider any appeals received, as part of the continued public hearing.

Suggested Motion

Motion: "I move to continue the public hearing on Draft Ordinance No. 13-108 amending DMMC 18.44, Parking Code, to September 12, 2013 or as soon thereafter as the matter may be heard."

Background

The 1990 Growth Management Act is codified in RCW 36.70A. It requires, among other things, that "cities … take action to review and, if needed, revise their … ***development regulations*** *(emphasis added)* to ensure the plan and regulations comply with the requirements of this chapter . . . Any

amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan."

The majority of the City's off-street parking requirements are found in Chapter 18.44 DMMC entitled "Loading Areas and Off-Street Parking." The purpose of the chapter is to specify off-street parking and loading requirements and to describe design and other required improvements in order to provide for adequate, convenient, and safe off-street parking.

Through the City Council's continued support of the redevelopment of the Pacific Ridge Neighborhood as a high density, commercially viable mixed use neighborhood, it has become clear that many Pacific Ridge properties are not improved to the extent presently allowed by the City of Des Moines Comprehensive Plan and the Zoning Code and are unlikely to be redeveloped in the near future without changes to the City's development regulations including parking. Current parking regulations in the Pacific Ridge commercial zone make it uneconomically feasible for property owners to redevelop their properties under current and projected future market conditions.

Strategy 2-04-08 of the Land Use Element of the Comprehensive Plan states that the City should "encourage improvement of the Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan". To implement this Policy, the Des Moines City Council has been asking for help from the development and design community and Pacific Ridge property owners since 2000, commissioning studies, and holding multiple stakeholder forums, meetings and tours. Those development professionals and property owners have encouraged the City to be more flexible in waiving required parking and reducing parking requirements by capitalizing on the proximity to Seattle-Tacoma International Airport and allowing the marketplace to decide how best to achieve the City's broad development goals.

Additionally, the enforcement of certain provisions of Chapter 18.44 DMMC has proven to be difficult as some of the current language is ambiguous and can result in differing interpretations of a single provision. In accordance with the Council's direction to staff to provide clarity in the code to promote consistent and effective code enforcement, staff has prepared amendments to specific sections including the parking of vehicles in required landscaped areas, the use of recreational vehicles, and the parking of commercial vehicles in residential zones. It is the intent of these amendments to clarify the code so that the public is aware of the City's regulations and that the enforcement process is transparent and uniform.

The proposed textual code amendments in Draft Ordinance 18-108 are consistent with the range of impacts studied under the SEPA Planned Action Environmental Impact Statement, the Pacific Ridge Neighborhood Improvement Plan and the Comprehensive Plan. The SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents and that fulfilled the SEPA requirements established by State and City SEPA regulations.

Pursuant to DMMC 18.56.080, amendment of the Parking Code (Title 18 DMMC) is a legislative (Type VI) land use decision, and requires the City Council to conduct a public hearing to receive public comment regarding this proposal. The City Council set the date for the public hearing by Resolution No. 1235 for August 8, 2013.

The textual code amendments proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and notice of the public hearing was issued on July 17, 2013 in accordance with the DMMC.

Discussion

Staff and the City Council Finance and Economic Development Committee have been researching and working on development regulation changes for the past eight months and believe these goals can be achieved with changes implemented by this Draft Ordinance in conjunction with changes to the Pacific Ridge Zone and Sign Codes.

The Draft Ordinance offered for full Council consideration today:

1. Authorizes the City Manager or City Manager's designee, not the hearing examiner, to formally waive or modify number of parking spaces required. Most cities delegate this waiver authority to the Community Development Director.

2. Reduces the amount of required parking when hotels offer airport shuttle services to their guests.

3. Removes ambiguous language from the DMMC regarding parking in required yard areas and limits regulation of vehicles on private property to the removal of junk vehicles. The Junk Vehicle Ordinance prohibits damaged and inoperable vehicles from being on private property and sets discernible standards with effective enforcement capabilities. This proposal recognizes available resources and priorities of enforcement and wouldn't prohibit working or undamaged vehicles from being parked or stored in required yard areas, but would set a discernible standard for violations and would allow Code Enforcement to focus on higher priorities such as building and sanitation issues.

4. Permits tandem or valet stacked parking which is currently not allowed. The requirements of the tandem or valet parking plan are added based on the City of SeaTac's Code and their many years of experience.

5. Clarifies that recreational vehicles may be occupied for up to four weeks or longer when approved as a building permit condition.

6. Clarifies several sections of the Parking Code to address long standing code enforcement or judicial issues with antiquated DMMC language.

The Finance & Economic Development Committee was not able to reach consensus on all of the issues on the Parking Code Draft Ordinance 13-108 and the Committee is referring one policy question to the full City Council for its consideration. The Draft Ordinance will be changed to include any Council-directed changes.

1. Referring to 5 above, should the City allow more than four weeks for recreational vehicles to be temporarily occupied?

Alternatives

None. Because the SEPA appeal period is still open, the public hearing must be continued to allow the Council to consider any appeals received, as part of the continued public hearing.

Recommendation or Conclusion

Staff recommends that the City Council continue the public hearing on Draft Ordinance No. 13- 108 to September 12th.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 07/25/2013

DRAFT ORDINANCE NO. 13-108

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Des Moines Parking Code amending DMMC 18.44.040, 18.44.060, 18.44.097, 18.44.099 and 18.44.110.

WHEREAS, DMMC 18.44 establishes regulations for loading areas and off-street parking throughout the City as well as in the Pacific Ridge Neighborhood specifically, and

WHEREAS, the City Council supports reducing restrictive development regulations in the Pacific Ridge Neighborhood to facilitate redevelopment as a high density, commercially viable mixed use neighborhood, and

WHEREAS, the City Council supports reducing ambiguity and increasing clarity in the code related to parking regulations throughout the City to ensure a better understanding of what is currently allowed and prohibited, and

WHEREAS, many Pacific Ridge properties are not improved to the extent presently allowed by the City of Des Moines Comprehensive Plan and the Zoning Code and are unlikely to be redeveloped in the near future without changes to the City's development regulations, and

WHEREAS, Strategy 2-04-08 of the Land Use Element of the Comprehensive Plan states that the City should "encourage improvement of the Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan", and

WHEREAS, those development professionals and Pacific Ridge property owners have encouraged the City to be more flexible in waiving required parking and reducing parking requirements by capitalizing on the proximity to Seattle-Tacoma International Airport and allowing the marketplace to decide how best to achieve the City's broad development goals, and

WHEREAS, the City Council directed City staff to prepare ordinances for its considerations which create more flexible development regulations for Pacific Ridge, and

WHEREAS, the City believes these goals can be achieved with changes implemented by this Ordinance in conjunction with changes to the Pacific Ridge Zone City-wide sign regulations as envisioned by Policies 11-03-14 and 11-03-15, and

WHEREAS, the proposed textual code amendment is consistent with the range of impacts studied under the SEPA Planned Action Environmental Impact Statement, the Pacific Ridge Neighborhood Improvement Plan and the Comprehensive Plan, and

WHEREAS, the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents, and

WHEREAS, the SEPA responsible official determined that the existing environmental documentation fulfilled the SEPA requirements established by Chapter 197-11 WAC and Chapter 16.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, pursuant to DMMC 18.56.080 amendment of the Zoning Code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

WHEREAS, pursuant to DMMC 18.56.200 amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

WHEREAS, DMMC 18.60.120(3) requires that the date of the public hearing to consider amendments to Title 18 DMMC be set by motion of the City Council, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. 1235, fixing the public hearing for August 8, 2013, and

WHEREAS, the textual code amendments proposed in this Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on July 17, 2013 in accordance with the DMMC, and

WHEREAS, a public hearing was held on August 8, 2013 and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.44.040 and section 4 of Ordinance No. 695 as amended by section 62 of Ordinance No. 770 as amended by section 1 of Ordinance No. 1448 as amended by section 1 of Ordinance No. 1453 as amended by section 1 of Ordinance No. 1475 as amended by section 1 of Ordinance No. 1530 are amended to read as follows:

Modification of parking provisions.

(1) **Number of spaces.** The ~~hearing Examiner~~City Manager or City Manager's designee may, by formal action, waive or modify the number of spaces required, establishing the amount of required parking for uses involving very limited number of employees or which do not require personnel and daily attendance or for which the number of parking spaces proposed is demonstrated sufficient to fully serve the use, is consistent with the intent of this chapter and when strict application of the code would result in

unnecessary hardship. The Institute of Transportation Engineers (ITE) Parking Generation Manual or an independent consultant study are examples that could be used to demonstrate sufficiency of proposed parking.

(2) **Dimensions.** In cases where the strict application of this title would unreasonably limit full utilization of a site for parking, the code official may authorize a reduction of up to three percent of any minimum dimension required in this chapter, except where such reduction would substantially restrict ease of travel or maneuverability of vehicles using the parking facility.

(3) **Marina District.** The parking provisions for commercial uses established by DMMC 18.44.060 are waived; provided, that there is compliance with all the following standards:

(a) The property is zoned downtown commercial according to the official zoning map.

(b) Residential uses within a mixed-use development are not included in this exemption. Residential uses in a mixed use building shall comply with the requirements established by DMMC 18.44.060.

(c) The property owner shall enter into a no protest agreement regarding the formation of a downtown business or parking improvement district.

(d) This provision is only valid until December 31, 2013.

Sec. 2. DMMC 18.44.060 and section 6 of Ordinance No. 695 as amended by section 9 of Ordinance No. 793 as amended by section 9 of Ordinance No. 1104 as amended by section 7 of

Ordinance No. 1140 as amended by section 6 of Ordinance No. 1170 as amended by section 13 of Ordinance No. 1197 as amended by section 10 of Ordinance No. 1267 as amended by section 12 of Ordinance No. 1378 as amended by section 2 of Ordinance No. 1409 are amended to read as follows:

Required number of off-street parking spaces. The minimum number of off-street parking spaces required of each use shall be provided as follows:

(1) Appliance (retail), bakeries, cabinet shops, dry-cleaning, furniture stores, heating services: one parking space per 400 square feet of gross floor area.

(2) Auto and boat sales, new and used: one space per 1,000 square feet of floor space of showroom and service facilities; but in no case shall there be less than six spaces provided.

(3) Day care centers and mini-day care programs: one space for each 10 children or one for each staff member, whichever is greater, and one passenger loading and unloading space for each 20 children.

(4) Hardware and building supplies: one space per 400 square feet of gross floor area.

(5) Industrial and Manufacturing Activities.

(a) Freight terminals and wholesale facilities: one parking space per two employees on a maximum work shift, or one per 1,000 square feet of gross floor area; use whichever is greater.

(b) Manufacturing, including but not limited to the following, except that no retail operations are included: research and testing

laboratories, creameries, bottling establishments, bakeries, upholstery shops, printing and engraving shops: two parking spaces for each three employees on a maximum work shift, or one space per 700 square feet of gross floor area; use whichever is greater.

(c) Uncovered storage area: one parking space for each 2,000 square feet of area.

(d) Warehouse and storage: two parking spaces for each three employees or one space for each 1,500 square feet of gross floor area; use whichever is greater.

(6) Laundry, self-service: one parking space per 250 square feet of gross floor area.

(7) Medical Facilities.

(a) Convalescent, rest homes, retirement homes, nursing and health institutions: one parking space for each two employees, plus one space for each four beds.

(b) Hospitals: one parking space for each three beds, plus one parking space for each staff doctor, plus one parking space for each three employees.

(8) Motels, motor hotels, and hotels: one parking space per ~~sleeping unit~~hotel room plus two parking spaces for a resident manager or employees. In Pacific Ridge, this is reduced to 0.9 parking spaces per hotel room when no airport shuttle is provided and to 0.75 parking spaces per hotel room when airport shuttle is provided.

(9) Motor vehicle, small engine, and boat repair and services: one parking space for each 600 square feet of gross floor area.

(10) Offices, including professional and business, banks, and related activities: one space per 350 square feet of gross floor area.

(11) Offices not providing customer services on the premises: one space for each 800 square feet of gross floor area.

(12) Personal Services.

(a) C-C zone: one parking space per 300 square feet of gross floor area.

(b) D-C and PR zones: one parking space per 350 square feet of gross floor area.

(c) H-C zone: one parking space per 200 square feet of gross floor area.

(13) Pleasure craft moorage: one parking space for each two moorage stalls.

(14) Public Assembly and Recreation.

(a) Assembly halls, auditoriums, stadiums, sports arenas, and community clubs: one parking space for every three persons based on occupancy load.

(b) Churches: one parking space per five seats in the principal place of assembly for worship, including balconies and choir loft.

Where fixed seats consist of pews or benches, the seating capacity is computed upon not less than 20 lineal inches of pew or bench length per seat. If there are no fixed seats, then one parking space for each 40 square feet of gross floor area in such principal place of assembly or worship shall be provided.

(c) Libraries and museums: one parking space per 250 square feet of gross floor area.

(d) Parks: as determined by the planning agency.

(e) Theaters: one parking space for each three seats.

(15) Residences.

(a) Single-family: two parking spaces per dwelling unit.

(b) Duplex and townhouse: two parking spaces per dwelling unit and one parking space for every five dwellings for use as visitor parking. A minimum of one visitor parking space shall be provided.

(c) Multifamily.

(i) Two parking spaces per dwelling.

(ii) One guest parking space shall be provided per each 10 dwellings.

(iii) For one-bedroom dwellings within the PR zone: one and one-half parking spaces per dwelling.

(d) Retirement apartments: One parking space per dwelling unit, except that the plan shall show two parking spaces, spaces not initially installed. The additional parking spaces plus required landscaping shall be installed at such time that the structure is not used for retirement apartment purposes.

(e) Rooming and lodging houses: one space per occupant.

(f) Children's institutions, homes for the retired (group homes): one space for each five employees plus one for each four beds.

(g) Mixed Use.

(i) Except as provided below, two parking spaces per dwelling.

(ii) For one-bedroom dwellings within the PR zone: one and one-half parking spaces per dwelling.

(iii) On-site parking for nonresidential areas shall be provided based upon the ratio specified by this section.

(h) Accessory living quarters: one parking space.

(16) Restaurants, including drive-in restaurants, night clubs, taverns, and lounges: one parking space for each 125 square feet of gross floor area, except that none shall be required for establishments under 2,000 square feet located in the D-C and PR zones.

(17) Retail, Other.

(a) C-C zone: one parking space per 300 square feet of gross floor area.

(b) D-C and PR zones: one parking space per 350 square feet of gross floor area.

(c) H-C zone: one parking space per 250 square feet of gross floor area, except there are a minimum of six spaces.

(18) Uses Not Specified. The parking requirements for a use not provided for in this section is determined in the manner set forth in DMMC 18.36.050, and such determination is based upon the requirements for the most comparable use specified in this section.

(19) Fractional Spaces. When units of measurement determining the number of required parking spaces result in requirements of a fractional space, a fraction one-half or more shall require one parking space.

(20) Maximum Number of Off-Street Spaces. Within the Pacific Ridge area, the number of off-street spaces provided shall not exceed 150 percent of the minimum number of spaces specified by this section.

Sec. 3. DMMC 18.44.097 and section 10(B) of Ordinance No. 695 and section 1 of Ordinance No. 800, and section 33 of Ordinance No. 1197 are amended to read as follows:

On-site ~~parking facilities~~ driveway location. ~~In no case shall a motor vehicle or trailer of any kind be parked or stored, nor shall internal aisles or roadways be permitted, in any required yard, open space or landscaped area; provided, however, that~~ T~~t~~he following ~~exceptions~~ requirements shall apply:

(1) Single-Family Dwellings. ~~Parking shall be permitted on a~~ A driveway serving individual single-family dwellings shall ~~provided the driveway~~ maintain~~s~~ a minimum five-foot setback from an interior lot line, a 20-foot setback from any alley right-of-way parallel to

the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial street right-of-way parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets the ~~community development director upon consultation with the public works director~~City Manager or City Manager's Designee shall be authorized to permit the location of a driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of the ~~community development director upon consultation with the public works director~~City Manager or City Manager's Designee, documented in writing, dangerous traffic conditions may result.

(2) Duplexes. ~~Parking shall be permitted on~~ A driveway~~s~~ serving a duplex constructed on a single lot, except in planned unit developments; ~~provided, that the driveways~~ shall have a maximum width of 24 feet at their intersections with the street; ~~that~~ the width of all driveways serving a particular lot shall consist of not more than 40 percent of the lot frontage footage; ~~that~~ the driveway~~s~~ shall maintain a 20-foot setback from any alley right-of-way parallel to the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial right-of-way street parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets the City Manager or City Manager's Designee ~~community development director upon consultation~~

~~with the public works director~~ shall be authorized to permit the location of the driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~, documented in writing, dangerous traffic conditions may result.

(3) Townhouse Dwellings. ~~Parking shall be permitted on a~~ A driveway serving one or more townhouse dwellings ~~provided the driveway~~ shall have ~~has~~ a maximum width of 24 feet at its intersection with the street, a minimum 20-foot setback from any alley right-of-way parallel to the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial street right-of-way parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~ shall be authorized to permit the location of a driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~, documented in writing, dangerous traffic conditions may result.

Sec. 4. DMMC 18.44.099 and section 10(D) of Ordinance No. 695 and section 343 of Ordinance No. 1197, and section 4 of Ordinance No. 1237 are amended to read as follows:

Driveways and maneuverability.

(1) Adequate ingress to and from each parking space shall be provided without moving another vehicle and without backing more than 50 feet, except that vehicles may be parked in a stacked or tandem way upon City approval of a stacked or valet parking plan developed in accordance with section 18.44.097 (7) below. All parking spaces shall be so arranged that ingress and egress is possible without backing over a sidewalk or walkway/ bicycle area unless specifically approved by the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~.

(2) Turning and maneuvering space shall be located entirely on private property except that the usable portion of an alley may be credited as aisle space subject to approval as to safety by the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~.

(3) Backing onto public streets to exit a parking stall shall be prohibited, except in single-family residential and RA zones.

(4) When off-street parking is provided in the rear of a building and a driveway lane alongside the building provides access to the rear parking area, such driveway shall require a minimum width of 12 feet and a sidewalk of at least a three-foot section, adjoining the building, curbed or raised six inches above the driveway surface.

(5) Ingress and egress to any off-street parking lot shall not be located closer than 20 feet from point of tangent to an intersection or crosswalk. They may not be permitted where, in the opinion of the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~, dangerous or confusing traffic patterns would result.

(6) Driveway intersections with north-south bearing streets shall be minimized to the extent possible in order to diminish traffic hazards, to conserve space and to promote orderly development generally. Driveways shall be limited to one per building site per street frontage, except the lesser of one driveway for each 150 feet of street frontage or three driveways for two lots having common parking may be permitted upon a finding of the City Manager or City Manager's Designee~~community development director upon consultation with the public works director~~ that smoother or safer flow of traffic can result without significant disruption of the streetscape.

(7) Stacked or valet parking plan requirements.

(a) Stacking spaces for vehicle parking or for auto rental/sales uses may be allowed; provided, that the area utilized for stacking spaces conforms with the parking lot landscaping requirements of DMMC 18.44.105. Stacking of required off-street parking spaces shall not be allowed for employee or customer parking. Stacking aisle widths shall be a minimum of eight (8) feet, six (6) inches.

(b) Stacking spaces for commercial uses other than vehicle parking or auto rental/sales may be allowed through the use of valet parking, upon approval of a valet parking plan, by the City

Manager or City Manager's designee. The area of the lot utilized for stacking spaces shall conform with the parking lot landscaping requirements of DMMC 18.44.105. Stacking aisle widths shall be a minimum of eight (8) feet, six (6) inches. At a minimum, the valet parking plan shall include, but not be limited to:

(i) A site plan showing the location of the valet parking on the property;

(ii) The hours of operations;

(iii) A detailed description of the valet parking system's operation including methods to control noise, glare from impacting adjacent properties, and methods to eliminate any impacts on adjacent or nearby residential neighborhoods;

(iv) The name, address and phone number of the operator of the valet parking.

Valet parking is allowed on or off-site. No valet parking shall be allowed on public rights-of-way.

Sec. 5. DMMC 18.44.110 and section 11 of Ordinance No. 695 are amended to read as follows:

Parking and storage of recreational, utility, and commercial vehicles in residential neighborhoods.

(1) Exemptions. ~~Pickup or light trucks,~~ Vehicles 10,000 pounds gross weight or less and not exceeding 20 feet in length or 7.5 feet in width, with or without a mounted camper unit, which are primarily used by the property owner for

transportation purposes are exempt from this subsection.

(2) Recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. Recreational and utility vehicles may be parked in residential areas provided the following conditions are met:

(a) Vehicles shall not intrude into publicly maintained ~~public~~ rights-of-way or obstruct sight visibility from adjacent driveways.

(b) Vehicles shall not be parked in the front building setback unless there is no reasonable access to the building side yards or rear yards because of topography or other physical conditions of the site.

(c) Vehicles shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area.

(d) At no time shall parked or stored recreational vehicles be occupied or used as ~~a~~ permanent or temporary dwelling units on the host's premises for more than four (4) weeks except when specifically allowed under DMMC 18.36.130. ~~that guests may not reside in a recreational vehicle on the host's premises on a temporary basis.~~

(e) For the purposes of this section, commercial vehicles are defined as any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals or passengers for hire.

(f) For the purposes of this section, publicly maintained right-of-way is defined as right-of-way currently opened and maintained by the ~~c~~City.

(3) **Truck Tractors, Trailers, and Large Commercial Vehicles.** Parking of commercial vehicles ~~over 10,000 pounds gross weight, exceeding 20 feet in length and/or 7.5 feet in width,~~ is prohibited in residential areas, except on a temporary and nonregular basis not exceeding ~~six~~ twenty four (24) hours when sight visibility is not obstructed.

NEW SECTION. Sec. 6. 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.

NEW SECTION. Sec. 7. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Effective Date: _____

Attachment #2

Chapter 18.44
LOADING AREAS AND OFF-STREET PARKING[1]

Sections

18.44.010 Purpose.
18.44.020 Off-street parking and loading areas required.
18.44.030 General requirements.
18.44.040 Modification of parking provisions.
18.44.050 Parking spaces to serve one use, building, or complex – Exceptions.
18.44.060 Required number of off-street parking spaces.
18.44.070 Compact car allowance.
18.44.080 Off-site parking.
18.44.090 *Repealed.*
18.44.095 Design requirements.
18.44.096 Parking area dimensions.
18.44.097 On-site parking facilities location.
18.44.098 Parking area and parking area entrance and exit slopes.
18.44.099 Driveways and maneuverability.
18.44.100 Surface.
18.44.101 Lighting.
18.44.102 Curb cuts.
18.44.103 Vehicle circulation between adjoining properties required.
18.44.104 Obstructions.
18.44.105 Landscaping and screening.
18.44.106 Walkways required.
18.44.107 Parking for the handicapped.
18.44.110 Parking and storage of recreational, utility, and commercial vehicles in residential neighborhoods.
18.44.120 Required loading areas.
18.44.130 Code official.
18.44.140 Enforcement.

18.44.010 Purpose.

It is the purpose of this chapter to specify off-street parking and loading requirements, describing design standards and other required improvements, in order to provide for adequate, convenient, and safe off-street parking and loading areas for the different land uses described in this title. [Ord. 695 § 1, 1987.]

18.44.020 Off-street parking and loading areas required.

Every parking space or facility and vehicle sales areas, trailer sales areas, and boat sales areas, shall be developed, improved, and maintained as provided within this chapter.

(1) Pre-Existing Parking Spaces. A development in existence prior to May 8, 1987, or at the time of its annexation to the city if later, which does not have sufficient parking space on the basis of this section, may continue to operate with the parking deficiency as long as no enlargement or other change is made which would require additional parking spaces.

(2) Off-street parking and loading areas shall be provided as an accessory use in accordance with the provisions of this chapter for every building hereafter erected, altered, enlarged, relocated, or at the time there is a change in its principal use.

(3) When there are alterations or additions to a nonresidential building or when an alteration or addition results in an increase in the number of dwelling units in a multifamily residential structure, off-street parking shall be provided for any increase in the number of dwelling units or increase in gross floor area in accordance with the requirements of DMMC 18.44.060; however, no parking spaces need be provided in the case of an enlargement or expansion where the number of parking spaces required for expansion or enlargement is less than 10 percent of the parking spaces specified for a similar structure. [Ord. 695 § 2, 1987.]

18.44.030 General requirements.

(1) Off-street Parking Development Permit Required. No off-street parking facility or spaces, nor enlargement thereof, shall be constructed without having first secured an off-street parking development permit from the code official; provided, that no such permit shall be required if a building permit is required. Such permit shall be authorized upon the approval of a parking plan as provided in subsection (2) of this section and adherence to the provisions of this chapter and shall be subject to such inspections deemed necessary by the code official to ensure compliance.

(2) Parking Plan Required. Prior to issuance of a building permit for any new building or structure or for the enlargement of the floor area of an existing building or structure, the use of which requires off-street parking facilities to be provided as set forth in this title, and prior to issuance of an off-street parking development permit; a plan of the parking area accurately showing grades and other required design features, shall be approved by the code official.

(3) Compliance Required Prior to Certificate of Occupancy or Issuance of Business License. Parking facilities and traffic-control devices such as parking stripes designating car stalls, directional arrows, etc., as provided in this chapter, shall be installed and completed prior to issuance of an occupancy permit or business license.

(4) Parking Stall Use Restricted – Commercial Zones. Parking stalls shall be used for the temporary parking of motor vehicles only of patrons, personnel, residents, and the like. Parking stalls shall not be used for storage of motor vehicles or materials, signs, sales, repair work, or dismantling of motor vehicles, etc.

(5) Maintenance. Maintenance of all areas provided for off-street parking shall be required and shall include removal and replacement of dead and dying trees, grass, and shrubs, removal of

trash and weeds, and repair of traffic-control devices, signs, light standards, fences, walls, surfacing materials, curbs, and railings. [Ord. 695 § 3, 1987.]

18.44.040 Modification of parking provisions.

(1) Number of Spaces. The ~~hearing examiner~~City Manager or City Manager's designee may, by formal action, waive or modify the number of spaces required, establishing the amount of required parking for uses involving very limited number of employees or which do not require personnel and daily attendance or for which the number of parking spaces proposed is demonstrated sufficient to fully serve the use, is consistent with the intent of this chapter and when strict application of the code would result in unnecessary hardship. The Institute of Transportation Engineers (ITE) Parking Generation Manual or an independent consultant study are examples that could be used to demonstrate sufficiency of proposed parking.

(2) Dimensions. In cases where the strict application of this title would unreasonably limit full utilization of a site for parking, the code official may authorize a reduction of up to three percent of any minimum dimension required in this chapter, except where such reduction would substantially restrict ease of travel or maneuverability of vehicles using the parking facility.

(3) Marina District. The parking provisions for commercial uses established by DMMC 18.44.060 are waived; provided, that there is compliance with all the following standards:

(a) The property is zoned downtown commercial according to the official zoning map.

(b) Residential uses within a mixed-use development are not included in this exemption. Residential uses in a mixed use building shall comply with the requirements established by DMMC 18.44.060.

(c) The property owner shall enter into a no protest agreement regarding the formation of a downtown business or parking improvement district.

(d) This provision is only valid until December 31, 2013. [Ord. 1530 § 1, 2011: Ord. 1475 § 1, 2009: Ord. 1453 § 1, 2009: Ord. 1448 § 1, 2008: Ord. 770 § 62, 1988: Ord. 695 § 4, 1987.]

18.44.050 Parking spaces to serve one use, building, or complex – Exceptions.

(1) Off-street parking facilities approved in conjunction with one use, building, or complex of buildings shall not be considered as providing required parking facilities for any other use, except as hereinafter provided.

(2) Exception for Cooperative Use. Where adjoining parking facilities of two or more land uses can be joined or coordinated to achieve efficiency of vehicular and pedestrian circulation, provision of additional landscaping or usable public open space, economy of space, and a superior grouping of buildings or uses, a reduction of 20 percent of the total combined required

parking may be permitted when consistent with the intent of this chapter. The common parking facilities for residential and nonresidential uses within a mixed use development may be included in the Pacific Ridge zone established by chapter 18.31 DMMC. The residential allowance shall not apply to residential land uses within other commercial zones of the city. Where cooperative use is permitted, assignment of parking spaces to individual uses or buildings shall be prohibited.

(3) Exception for Nonconflicting Time in Use. A reduction of up to 50 percent of required parking stalls, except for residential, may be authorized under the following conditions, as long as the total reduction doesn't fall below the levels for residential uses:

(a) The building or use for which application is made to utilize off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities and shall be connected by continuous pedestrian walkways or sidewalks to the parking facility.

(b) The applicant must show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed, i.e., no more than one hour overlap in operating hours exists.

(i) For the purposes of this chapter, the following uses are considered as daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings, and other similar primarily daytime uses.

(ii) Nighttime or Sunday uses include: auditoriums incidental to a public or private grade school, churches, bowling alleys, dance halls, theaters, bars, or restaurants, and other similar primarily nighttime uses.

(4) Exemptions granted under the above provisions shall be made after filing with the city a record of covenant or other contract between the cooperating property owners approved by the city attorney. Joint-use privilege shall continue in effect only so long as such agreement, binding on all parties, remains in force. If such agreement becomes legally ineffective due to changed circumstances including but not limited to a change in the type or nature of business activities, then parking shall be provided as otherwise required by this chapter.

(5) Nothing in this section shall be construed to prevent cooperative provision of off-street parking facilities for two or more buildings or uses when the total off-street parking is not less than the sum of the required parking facilities for the various uses computed separately. [Ord. 1409 § 1, 2007: Ord. 1267 § 9, 2000: Ord. 695 § 5, 1987.]

18.44.060 Required number of off-street parking spaces.

The minimum number of off-street parking spaces required of each use shall be provided as follows:

(1) Appliance (retail), bakeries, cabinet shops, dry-cleaning, furniture stores, heating services: one parking space per 400 square feet of gross floor area.

(2) Auto and boat sales, new and used: one space per 1,000 square feet of floor space of showroom and service facilities; but in no case shall there be less than six spaces provided.

(3) Day care centers and mini-day care programs: one space for each 10 children or one for each staff member, whichever is greater, and one passenger loading and unloading space for each 20 children.

(4) Hardware and building supplies: one space per 400 square feet of gross floor area.

(5) Industrial and Manufacturing Activities.

(a) Freight terminals and wholesale facilities: one parking space per two employees on a maximum work shift, or one per 1,000 square feet of gross floor area; use whichever is greater.

(b) Manufacturing, including but not limited to the following, except that no retail operations are included: research and testing laboratories, creameries, bottling establishments, bakeries, upholstery shops, printing and engraving shops: two parking spaces for each three employees on a maximum work shift, or one space per 700 square feet of gross floor area; use whichever is greater.

(c) Uncovered storage area: one parking space for each 2,000 square feet of area.

(d) Warehouse and storage: two parking spaces for each three employees or one space for each 1,500 square feet of gross floor area; use whichever is greater.

(6) Laundry, self-service: one parking space per 250 square feet of gross floor area.

(7) Medical Facilities.

(a) Convalescent, rest homes, retirement homes, nursing and health institutions: one parking space for each two employees, plus one space for each four beds.

(b) Hospitals: one parking space for each three beds, plus one parking space for each staff doctor, plus one parking space for each three employees.

(8) Motels, motor hotels, and hotels: one parking space per ~~sleeping unit~~hotel room plus two parking spaces for a resident manager or employees. In Pacific Ridge, this is reduced to 0.9 parking spaces per hotel room when no airport shuttle is provided and to 0.75 parking spaces per hotel room when airport shuttle is provided.

(9) Motor vehicle, small engine, and boat repair and services: one parking space for each 600 square feet of gross floor area.

(10) Offices, including professional and business, banks, and related activities: one space per 350 square feet of gross floor area.

(11) Offices not providing customer services on the premises: one space for each 800 square feet of gross floor area.

(12) Personal Services.

(a) C-C zone: one parking space per 300 square feet of gross floor area.

(b) D-C and PR zones: one parking space per 350 square feet of gross floor area.

(c) H-C zone: one parking space per 200 square feet of gross floor area.

(13) Pleasure craft moorage: one parking space for each two moorage stalls.

(14) Public Assembly and Recreation.

(a) Assembly halls, auditoriums, stadiums, sports arenas, and community clubs: one parking space for every three persons based on occupancy load.

(b) Churches: one parking space per five seats in the principal place of assembly for worship, including balconies and choir loft.

Where fixed seats consist of pews or benches, the seating capacity is computed upon not less than 20 lineal inches of pew or bench length per seat. If there are no fixed seats, then one parking space for each 40 square feet of gross floor area in such principal place of assembly or worship shall be provided.

(c) Libraries and museums: one parking space per 250 square feet of gross floor area.

(d) Parks: as determined by the planning agency.

(e) Theaters: one parking space for each three seats.

(15) Residences.

(a) Single-family: two parking spaces per dwelling unit.

(b) Duplex and townhouse: two parking spaces per dwelling unit and one parking space for every five dwellings for use as visitor parking. A minimum of one visitor parking space shall be provided.

(c) Multifamily.

(i) Two parking spaces per dwelling.

(ii) One guest parking space shall be provided per each 10 dwellings.

(iii) For one-bedroom dwellings within the PR zone: one and one-half parking spaces per dwelling.

(d) Retirement apartments: One parking space per dwelling unit, except that the plan shall show two parking spaces, spaces not initially installed. The additional parking spaces plus required landscaping shall be installed at such time that the structure is not used for retirement apartment purposes.

(e) Rooming and lodging houses: one space per occupant.

(f) Children's institutions, homes for the retired (group homes): one space for each five employees plus one for each four beds.

(g) Mixed Use.

(i) Except as provided below, two parking spaces per dwelling.

(ii) For one-bedroom dwellings within the PR zone: one and one-half parking spaces per dwelling.

(iii) On-site parking for nonresidential areas shall be provided based upon the ratio specified by this section.

(h) Accessory living quarters: one parking space.

(16) Restaurants, including drive-in restaurants, night clubs, taverns, and lounges: one parking space for each 125 square feet of gross floor area, except that none shall be required for establishments under 2,000 square feet located in the D-C and PR zones.

(17) Retail, Other.

(a) C-C zone: one parking space per 300 square feet of gross floor area.

(b) D-C and PR zones: one parking space per 350 square feet of gross floor area.

(c) H-C zone: one parking space per 250 square feet of gross floor area, except there are a minimum of six spaces.

(18) Uses Not Specified. The parking requirements for a use not provided for in this section is determined in the manner set forth in DMMC 18.36.050, and such determination is based upon the requirements for the most comparable use specified in this section.

(19) Fractional Spaces. When units of measurement determining the number of required parking spaces result in requirements of a fractional space, a fraction one-half or more shall require one parking space.

(20) Maximum Number of Off-Street Spaces. Within the Pacific Ridge area, the number of off-street spaces provided shall not exceed 150 percent of the minimum number of spaces specified by this section. [Ord. 1409 § 2, 2007: Ord. 1378 § 12, 2006: Ord. 1267 § 10, 2000: Ord. 1197 § 13, 1997; Ord. 1170 § 6, 1996; Ord. 1140 § 7, 1995: Ord. 1104 § 9, 1994: Ord. 793 § 9, 1989; Ord. 695 § 6, 1987.]

18.44.070 Compact car allowance.

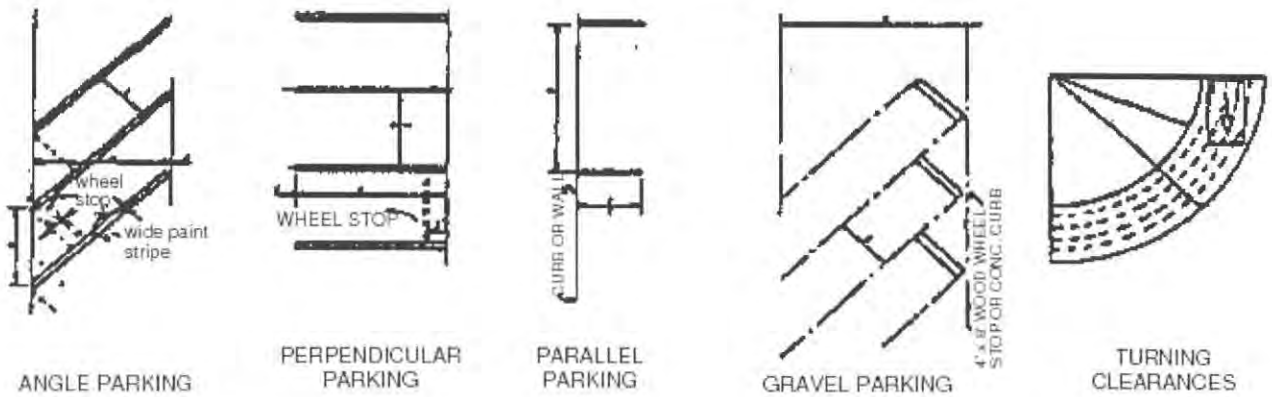
(1) A maximum of 50 percent of the total required off-street parking stalls may be permitted and designated for compact cars.

(2) Each compact stall shall be designated as such.

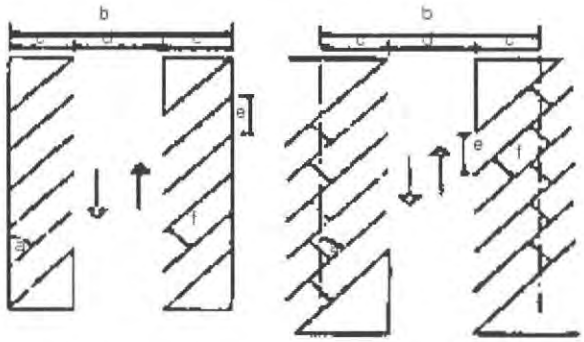
(3) Dimensions of compact parking stall shall be eight feet by 16 feet, 128 square feet, as depicted in the table on the following page.

(4) Compact stalls shall be dispersed throughout the parking facility. [Ord. 695 § 7, 1987.]

Table 1

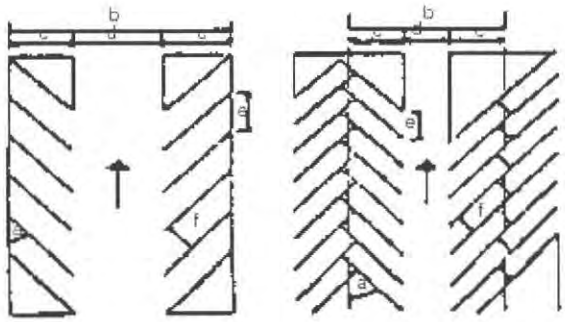


TWO-WAY TRAFFIC



a	b	c	d	e	f	b'	c'
Parking Angle	Parking Section Width	Parking Stall Width	Traffic Aisle Width	Curb Length Per Car	Car Stall Width	Parking Section Width	Parking Stall Width
0°	56'	8'	20'	23'	8'		
—	—	—	—	—	—	—	—
35°	56'	18'	20'	14.8'	8.5'	49'	14.5'
40°	57'	18.5'	20'	13.2'	8.5'	50'	15'
45°	58'	19'	20'	12.0'	8.5'	51'	15.5'
50°	59'	19.5'	20'	11.1'	8.5'	53'	16.5'
55°	60'	20'	20'	10.4'	8.5'	55'	17.5'
60°	60'	20'	20'	9.8'	8.5'	55'	17.5'
65°	60'	20'	20'	9.7'	8.8'	56'	18'
70°	60'	20'	20'	9.6'	9'	57'	18.5'
—	—	—	—	—	—	—	—
90°	64'	20'	24'	9'	9'		

ONE-WAY TRAFFIC



a	b	c	d	e	f	b'	c'
Parking Angle	Parking Section Width	Parking Stall Width	Traffic Aisle Width	Curb Length Per Car	Car Stall Width	Parking Section Width	Parking Stall Width
0°	28'	8'	12'	23'	8'		
—	—	—	—	—	—	—	—
35°	48'	10'	12'	14.8'	8.5'	41'	14.5'
40°	49'	18.5'	12'	13.2'	8.5'	42'	15'
45°	50'	19'	12'	12.0'	8.5'	43'	15.5'
50°	51'	19.5'	12'	11.1'	8.5'	45'	16.5'
55°	53'	20'	13'	10.4'	8.5'	48'	17.5'
60°	55'	20'	15'	9.8'	8.5'	50'	17.5'
65°	57'	20'	17'	9.7'	8.8'	53'	18'
70°	59'	20'	19'	9.6'	9'	56'	18.5'
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—

Compact Car Stall Dimensions: minimum 8' x 16', 128 square feet.

18.44.080 Off-site parking.

(1) Use Agreement. Off-site parking areas shall be provided through:

(a) Deed, Easement, or Covenant. The term of such legal agreement shall be at least as long as the reasonable life of the premises served thereby. Evidence shall be provided of such covenant, deed, or other agreement prior to parking plan approval. The document shall be filed with the King County director of records and elections, providing that the area used for parking shall not be diverted or converted to any other use as long as the principal building or use to which the parking is accessory continues to exist; or

(b) Ground Lease. The ground lease shall include a legal description of the area being leased, the purpose of the lease and the terms of the lease and signatures of all parties with an interest in the lease. Evidence of the ground lease must be submitted prior to approval of the parking plan. A copy of the ground lease shall accompany the application for a city business license and all subsequent yearly renewals. If the ground lease expires or is not provided then the city shall deny the business license application or yearly renewal. In order to obtain a new business license after a denial the applicant shall demonstrate that sufficient parking is provided based on the parking requirements effective at the time of the new application either on site or off site through a new easement, deed, covenant, or ground lease.

(2) Off-Site Parking Permitted. The city manager or designee shall have the authority to approve an off-street parking facility; provided, adherence to the following:

(a) Compliance with subsection (1) of this section.

(b) The location of the parking facility off the subject property will conform to the intent and purpose of this chapter, and safe vehicular and pedestrian connections between the parking facility and the principal use exist. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building that such facility is required to serve.

(i) For single-family, duplex, and medium-density multiple dwellings, parking facilities shall be located on the same lot or building site as the building they are required to serve. For townhouse dwellings, parking shall be located not more than 200 feet from the townhouse dwelling it is required to serve, with connecting permanent pedestrian access;

(ii) For high-density and maximum-density multiple dwellings, the parking facilities shall be located on the same site as the dwellings they are required to serve;

(iii) For churches located in a single-family residential, RA-3,600 or RM-2,400 zone, parking facilities shall be located on site; for churches located in any other zone, parking facilities shall be located not farther than 150 feet and not in a single-family residential zone;

(iv) For hospitals, sanitariums, homes for the aged, children's institutions, homes for the retired, nursing and convalescent homes, dormitories, boarding, rooming, and lodging houses, community clubs, and fraternity, sorority, and group student houses, not more than 400 feet from the building they are required to serve; and

(v) For uses other than those specified, parking facilities shall be located not over 600 feet from the building served.

(c) Any parking facility not on the same lot with the principal use to which it is accessory shall be considered, for bulk regulation purposes, a principal use on the lot on which located. [Ord. 1454 § 1, 2009: Ord. 1237 § 4, 1999; Ord. 1197 § 32, 1997; Ord. 695 § 8, 1987.]

18.44.090 Off-street parking facilities location – In-lieu fees in B-C and C-C zones.
Repealed by Ord. 1104. [Ord. 695 § 9, 1987.]

18.44.095 Design requirements.
Any off-street parking facility shall be developed in accordance with the design specifications set forth in DMMC 18.44.096 through 18.44.107. [Ord. 695 § 10(part), 1987.]

18.44.096 Parking area dimensions.
Minimum parking area dimensions for surface and structured parking facilities shall be as provided in Table 1 following DMMC 18.44.070. [Ord. 695 § 10(A), 1987.]

18.44.097 On-site ~~parking facilities~~driveway location.
~~In no case shall a motor vehicle or trailer of any kind be parked or stored, nor shall internal aisles or roadways be permitted, in any required yard, open space or landscaped area; provided, however, that t~~The following ~~exceptions~~ requirements shall apply:

(1) Single-Family Dwellings. ~~Parking shall be permitted on a~~ A driveway serving individual single-family dwellings shall ~~provided the driveway~~ maintains a minimum five-foot setback from an interior lot line, a 20-foot setback from any alley right-of-way parallel to the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial street right-of-way parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets the ~~community development director upon consultation with the public works director~~City Manager or City Manager's designee shall be authorized to permit the location of a driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of City Manager or City Manager's designee~~the community development director upon consultation with the public works director~~, documented in writing, dangerous traffic conditions may result.

(2) Duplexes. ~~Parking shall be permitted on~~ A driveways serving a duplex constructed on a single lot, except in planned unit developments; ~~provided, that the driveways~~ shall have a maximum width of 24 feet at their intersections with the street; ~~that~~ the width of all driveways serving a particular lot shall consist of not more than 40 percent of the lot frontage footage; ~~that~~

the driveways shall maintain a 20-foot setback from any alley right-of-way parallel to the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial right-of-way street parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets City Manager or City Manager's designee ~~the community development director upon consultation with the public works director~~ shall be authorized to permit the location of the driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of the City Manager or City Manager's designee~~community development director upon consultation with the public works director~~, documented in writing, dangerous traffic conditions may result.

(3) Townhouse Dwellings. ~~Parking shall be permitted on a~~ A driveway serving one or more townhouse dwellings ~~provided the driveway~~ shall have ~~has~~ a maximum width of 24 feet at its intersection with the street, a minimum 20-foot setback from any alley right-of-way parallel to the driveway (except where access to the driveway is from the alley), a 25-foot setback from any street right-of-way parallel to the driveway, and a 45-foot setback from any arterial street right-of-way parallel to the driveway; provided further, however, that with regard to the 45-foot setback from arterial streets City Manager or City Manager's designee ~~the community development director upon consultation with the public works director~~ shall be authorized to permit the location of a driveway at a point less than 45 feet but not less than 25 feet from an arterial street where the size of the lot is such that the 45-foot requirement is impractical; and provided further, that no driveway in which parking is permitted may be located under this subsection where in the professional opinion of the City Manager or City Manager's designee~~community development director upon consultation with the public works director~~, documented in writing, dangerous traffic conditions may result. [Ord. 1197 § 33, 1997; Ord. 800 § 1, 1989: Ord. 695 § 10(B), 1987.]

18.44.098 Parking area and parking area entrance and exit slopes.

In order to encourage the construction of usable, convenient, and safe parking areas, a maximum pavement slope of five percent shall be permitted. A maximum slope of 14 percent shall be permitted for driveways or aisles between separated parking areas. The long dimension of a parking stall shall be generally parallel to ground contours. If existing ground slopes in a proposed parking area exceed 10 percent, the code official may require the submission of a topographic survey showing existing and proposed contours. Parking lots depressed two or three feet below the level of the street shall be encouraged wherever possible. Plans for adequate drainage shall be approved by the public works director. [Ord. 695 § 10(C), 1987.]

18.44.099 Driveways and maneuverability.

(1) Adequate ingress to and from each parking space shall be provided without moving another vehicle and without backing more than 50 feet, except that vehicles may be parked in a stacked

or tandem way upon City approval of a stacked or valet parking plan developed in accordance with section 18.44.097 (7) below. All parking spaces shall be so arranged that ingress and egress is possible without backing over a sidewalk or walkway/ bicycle area unless specifically approved by the ~~community development director upon consultation with the public works director~~City Manager or City Manager's designee.

(2) Turning and maneuvering space shall be located entirely on private property except that the usable portion of an alley may be credited as aisle space subject to approval as to safety by the City Manager or City Manager's designee~~community development director upon consultation with the public works director~~.

(3) Backing onto public streets to exit a parking stall shall be prohibited, except in single-family residential and RA zones.

(4) When off-street parking is provided in the rear of a building and a driveway lane alongside the building provides access to the rear parking area, such driveway shall require a minimum width of 12 feet and a sidewalk of at least a three-foot section, adjoining the building, curbed or raised six inches above the driveway surface.

(5) Ingress and egress to any off-street parking lot shall not be located closer than 20 feet from point of tangent to an intersection or crosswalk. They may not be permitted where, in the opinion of City Manager or City Manager's designee~~the community development director upon consultation with the public works director~~, dangerous or confusing traffic patterns would result.

(6) Driveway intersections with north-south bearing streets shall be minimized to the extent possible in order to diminish traffic hazards, to conserve space and to promote orderly development generally. Driveways shall be limited to one per building site per street frontage, except the lesser of one driveway for each 150 feet of street frontage or three driveways for two lots having common parking may be permitted upon a finding of the City Manager or City Manager's designee~~community development director upon consultation with the public works director~~ that smoother or safer flow of traffic can result without significant disruption of the streetscape.

(7) Stacked or valet parking plan requirements.

(a)Stacking spaces for vehicle parking or for auto rental/sales uses may be allowed; provided, that the area utilized for stacking spaces conforms with the parking lot landscaping requirements of DMMC 18.44.105. Stacking of required off-street parking spaces shall not be allowed for employee or customer parking. Stacking aisle widths shall be a minimum of eight (8) feet, six (6) inches.

(b)Stacking spaces for commercial uses other than vehicle parking or auto rental/sales may be allowed through the use of valet parking, upon approval of a valet parking plan, by the

City Manager or City Manager's designee. The area of the lot utilized for stacking spaces shall conform with the parking lot landscaping requirements of DMMC 18.44.105. Stacking aisle widths shall be a minimum of eight (8) feet, six (6) inches. At a minimum, the valet parking plan shall include, but not be limited to:

(i) A site plan showing the location of the valet parking on the property;

(ii) The hours of operations;

(iii) A detailed description of the valet parking system's operation including methods to control noise, glare from impacting adjacent properties, and methods to eliminate any impacts on adjacent or nearby residential neighborhoods;

(iv) The name, address and phone number of the operator of the valet parking.

Valet parking is allowed on or off-site. No valet parking shall be allowed on public rights-of-way. [Ord. 1237 § 4, 1999; Ord. 1197 § 34, 1997; Ord. 695 § 10(D), 1987.]

18.44.100 Surface.[2]

(1) The surface of any required off-street parking or loading facility and accessory accessways (driveways) shall be paved with asphalt or concrete to a standard comparable to the standard for the public street providing access thereto and shall be graded and drained as to dispose of all surface water, but shall not drain across sidewalks.

(2) Paved parking areas except in single-family residential zones shall use paint or similar devices to delineate car stalls and direction of traffic.

(3) Pedestrian walks, used for the use of foot traffic only, shall be curbed or raised six inches above the lot surface. All pedestrian walks shall be conspicuously delineated.

(4) Wheel stops shall be required to protect landscaping and to prevent vehicles from striking buildings, overhanging walkways, property lines, or other limits of a parking facility. Wheel stops shall be installed a minimum of two feet from the end of parking stalls, except in single-family residential zones. [Ord. 695 § 10(E), 1987.]

18.44.101 Lighting.

Any lighting on a parking lot shall illuminate only the parking lot, and be designed to avoid undue glare or reflection on adjoining premises, including public streets. Where a common boundary is shared with any residential property, illuminating devices shall be so shaped and directed to play their light away from residential property. Parking lot lighting shall not exceed 14 feet in height. [Ord. 1237 § 4, 1999; Ord. 695 § 10(F), 1987.]

18.44.102 Curb cuts.

All parking facilities shall have specific entrance and/or exit areas to a street or alley. Access roads and curb cuts shall be minimized and shall not exceed 24 feet in width for combined ingress/egress points and 12 feet for one-way entrances or exits unless recommended by the public works director to facilitate left turn lanes or otherwise foster safe movement of vehicles and upon a finding that pedestrian safety is not adversely affected. [Ord. 695 § 10(G), 1987.]

18.44.103 Vehicle circulation between adjoining properties required.
Parking lots shall be designed to provide for off-street vehicle circulation to adjoining properties and parking areas where physically feasible. [Ord. 695 § 10(H), 1987.]

18.44.104 Obstructions.
No obstruction which would restrict car door opening shall be permitted within five feet of the centerline of a parking space. [Ord. 695 § 10(I), 1987.]

18.44.105 Landscaping and screening.
Landscaping and screening shall be provided in accordance with chapter 18.41 DMMC. [Ord. 695 § 10(J), 1987.]

18.44.106 Walkways required.
Marked walkways, separated from traffic lanes and vehicle overhangs, shall be provided from parking areas to the entrances of establishments and from parking areas to right-of-way sidewalks/ walkways. [Ord. 695 § 10(K), 1987.]

18.44.107 Parking for the handicapped.
Parking and access for physically handicapped shall be provided in accordance with Section 7503 of the regulations adopted pursuant to chapter 19.27 RCW (State Building Code), chapter 70.92 RCW (Public Buildings – Provision for Aged and Handicapped), and RCW 46.61.581. [Ord. 695 § 10(L), 1987.]

18.44.110 Parking and storage of recreational, utility, and commercial vehicles in residential neighborhoods.
(1) Exemptions. ~~Pickup or light trucks~~Vehicles, 10,000 pounds gross weight or less and not exceeding 20 feet in length or 7.5 feet in width, with or without a mounted camper unit, which are primarily used by the property owner for transportation purposes are exempt from this subsection.

(2) Recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. Recreational and utility vehicles may be parked in residential areas provided the following conditions are met:

(a) Vehicles shall not intrude into publicly maintained rights-of-way or obstruct sight visibility from adjacent driveways.

(b) Vehicles shall not be parked in the front building setback unless there is no reasonable access to the building side yards or rear yards because of topography or other physical conditions of the site.

(c) Vehicles shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area.

(d) At no time shall parked or stored recreational vehicles be occupied or used as ~~a~~ permanent or temporary dwelling units on the host's premises for more than four (4) weeks except when specifically allowed under DMMC 18.36.130 .~~that guests may reside in a recreational vehicle on the host's premises on a temporary basis.~~

(e) For the purposes of this section, commercial vehicles are defined as any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals or passengers for hire.

(f) For the purposes of this section, publicly maintained right-of-way is defined as right-of-way currently opened and maintained by City.

(3) Truck Tractors, Trailers, and Large Commercial Vehicles. Parking of commercial vehicles ~~over 10,000 pounds gross weight, exceeding 20 feet in length and/or 7.5 feet in width~~, is prohibited in residential areas, except on a temporary and nonregular basis not exceeding ~~six hours~~twenty four (24) hours when sight visibility is not obstructed. [Ord. 695 § 11, 1987.]

18.44.120 Required loading areas.

(1) Every department store, freight terminal or railroad yard, hospital or sanitarium, industrial or manufacturing establishment, retail or wholesale store or storage warehouse establishment, or any similar use, which has or is intended to have an aggregate gross floor area of 10,000 square feet or more, shall provide truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area	Required Number of Berths
10,000 up to and including 16,000	1
16,001 up to and including 40,000	2
40,001 up to and including 64,000	3
64,001 up to and including 96,000	4
96,001 up to and including 128,000	5
128,001 up to and including 160,000	6
160,001 up to and including	7

196,000	
For each additional 36,000	1 additional

(2) Every auditorium, convention hall, exhibition hall, sports arena, hotel, office building, restaurant, or any similar use, which has or is intended to have an aggregate gross floor area of 40,000 square feet or more, shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area	**Required Number of Berths**
40,000 up to and including 60,000	1
60,001 up to and including 160,000	2
160,001 up to and including 264,000	3
264,001 up to and including 388,000	4
388,001 up to and including 520,000	5
520,001 up to and including 652,000	6
652,001 up to and including 784,000	7
784,001 up to and including 920,000	8
For each additional 140,000	1 additional

(3) Each loading space shall measure not less than 30 feet by 12 feet, and shall have an unobstructed height of 14 feet 6 inches, shall be made permanently available for such purpose, and shall be surfaced, improved, and maintained as required. Such facilities shall be located so that trucks using the loading space do not interfere with areas reserved for off-street parking nor project into any public right-of-way or off site, or be situated along any street frontage, and shall be adjacent to the building to be served thereby.

(4) Any floor area provided by additions to or structural alterations to a building shall be provided with loading space or spaces as set forth in this chapter whether or not loading spaces have been provided for the original floor space. [Ord. 695 § 12, 1987.]

18.44.130 Code official.

The code official is the city manager or his/her designated representative. [Ord. 695 § 13, 1987.]

18.44.140 Enforcement.

Enforcement of the parking requirements contained in this chapter for new construction, alterations to a structure, or change in principal use, shall be in accordance with the enforcement sections of the buildings and construction code (Title 14 DMMC) or the provisions of the DMMC regulating business licenses (chapter 5.04 DMMC), as the case may be. [Ord. 695 § 14, 1987.]

PARKING CODE
AUGUST 8, 2013

Grant Fredricks
Tim George

Recent Modified Sections

- Ordinances
  - 1530 (2011) - Modification of Parking Provisions in Marina District
  - 1409 (2007) - Shared Parking, Required Number
  - 1454 (2009) - Off-Site Parking

Everything else in Parking Code was adopted in1999, 1997 or 1987

Proposed Policy Changes
Draft Ordinance 13-108

1. Authorizes the City Manager or City Manager's designee, not the hearing examiner, to formally waive or modify number of parking spaces required.
2. Reduces the amount of required parking when hotels offer airport shuttle services to their guests.
3. Removes ambiguous language from the DMMC regarding parking in required yard areas and limits regulation of vehicles on private property to the removal of junk vehicles.
4. Permits tandem or valet stacked parking which is currently not now allowed.
5. Clarifies that recreational vehicles may be occupied for up to four weeks or longer when approved as a building permit condition.
6. Clarifies several sections of the Parking Code to address long standing code enforcement or judicial issues with antiquated DMMC language.

Policy Question

1. Should the City allow more than four weeks for recreational vehicles to be temporarily occupied?

Public Hearing Item #4

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Continued Public Hearing on Draft Ordinance 13-011, Sign Code Changes

ATTACHMENT:
1. Draft Ordinance 13-011
2. Annotated Sign Code, DMMC 18.42
3. July 31, 2013 Letter from Grace Lutheran Church
4. Councilmember-Requested Amendments
5. WSDOT Highway Advertising Control Act Extract

Note: City Councilmembers are asked to bring their July 25th Council packets on this Draft Ordinance.

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: August 1, 2013

CLEARANCES:
[X] Legal RB
[ ] Finance N/A
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[ ] Courts N/A
[X] Economic Development Manager _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: _____

Purpose and Recommendation

The purpose of this agenda item is to complete a public hearing on Draft Ordinance 13-011 which amends the Sign Code codified as Chapter 18.42 DMMC. The SEPA appeal period will close on August 5, 2013 and the City Council may now take action on the Ordinance.

Suggested Motions

Motion 1A: "I move to waive Council Rule 26(a) in order to enact Draft Ordinance No.13-011 amending DMMC 18.42, Sign Code, on first reading."

Motion 1B: "I move to enact Draft Ordinance No.13-011 amending DMMC 18.42, Sign Code."

Or

Motion 2: "I move to pass Draft Ordinance No.13-011 amending DMMC 18.42, Sign Code, to a second reading on September 12, 2013."

Background

Draft Ordinance 13-011will amend a portion of Title 18 of the DMMC. Changes to Title 18 are Type VI land use actions and as such require a public hearing to provide an opportunity for the public to comment. The date of the public hearing to consider Draft Ordinance 13-011 was set by Resolution No. 1232 pursuant to DMMC 18.60.120(3). The public hearing was held on July 25, 2013, and was continued until August 8, 2013 after the staff presentation, public testimony and clarifying questions from Councilmembers.

The SEPA determination of nonsignificance (DNS) was issued on July 25, 2013, which has a 10 day appeal period ending on August 5, 2013. Unless there is an appeal to the City's SEPA DNS, the Council may close the hearing and consider the Ordinance. If there is a SEPA appeal, that appeal must first be heard by the Council before considering the Ordinance.

Discussion

The public hearing will continue with staff answers to clarifying questions from Council and entering correspondence received after the July 25th public hearing and other material into the public hearing record. Once the public hearing is closed, staff will ask for direction on the 12 policy questions beginning on page 3 that were referred to the full Council by the Finance & Economic Development Committee or requested by Grace Lutheran Church during their testimony and follow-up correspondence (Attachment 3). It would then be appropriate for a Councilmember to move Motion 1A or 2 followed by amending motions, if any.

Councilmembers have requested that staff draft 13 amendments. Those amendments plus alternative motions for two are included as Attachment 4.

Also included as Attachment 5 in this packet is an extract from WSDOT's Highway Advertising Control rules that implement federal and state laws regarding signs. Our current regulations plus those proposed in this Draft Ordinance conform to those rules. Staff is reviewing the proposed amendments to identify any potential conformance problems.

The major Draft Ordinance policy changes recommended for full Council consideration today include the following:

1. Church Signs. DMMC 18.08.020, Single Family Zone Permitted Uses, currently contains sign code regulations which are different than some sign code regulations in DMMC 18.42, Sign Code. All such sign regulations are recommended to be combined in 18.42, Sign Code, and reconciled to be consistent. If combined in 18.42, however, Equal Protection issues arise and it becomes clear that churches are being treated more restrictively than community centers, schools and other residentially zoned permitted uses. Therefore, 18.08.020 (6)(i) is proposed to be referenced to 18.42.290 and the more restrictive language deleted by Section 1 of Draft Ordinance 13-011.

2. Readerboards. The City wants to communicate more effectively with the public about events or issues of City-wide importance. In addition to banners, public kiosks, and wayfinding improvements, electronic readerboard devices provide an opportunity to effectively provide information, notices, and direction to the public. The City's Sign Code does not clearly allow these types of signs as off premise signs. Allowing the public readerboards to be off premise

signs would allow them to contain content about events and activities that may be located in areas other than where the sign is physically located. Generally, signs are allowed to advertise business or functions located on the site where the sign is located only. Staff believes that these devices and the ability to advertise for a broader public purpose is in the public interest. They will serve to notify the public and promote events that enhance the sense of community as well as provide a tool to help mobilize and direct efforts in a time of emergency or crisis.

3. Real Estate Directional Signs. More flexibility is recommended for the number of directional signs and the hours which they are allowed to be in place.

4. Business Identification Signs. These are allowed to be bigger and have fewer content restrictions.

5. Roof Signs. These would be allowed only in Pacific Ridge within existing building height and free standing sign standards subject to permit review and permitting.

Comments in the margin of Attachment 2 provide more explanation on the reasons for each of the changes proposed in Draft Ordinance 13-011.

The Finance & Economic Development Committee was not able to reach consensus on eleven issues in the Sign Code, Chapter 18.42, and the Committee is referring these policy questions to the full City Council for its consideration. A twelfth issue was just identified by a local church. Attachment 2 is the entire Sign Code with these policy questions identified in the right margin. These policy questions, highlighted in yellow on Attachment 2, include:

1. Should business identification sign size be increased beyond the 12 square feet proposed? (See marginal comment [gf3] on p. 8 of Attachment 2.

2. Should on-premises charitable or religious organization bulletin board size be increased above the 12 square feet currently allowed? (Comment [gf4] at top of p. 9)

3. Should the prohibition of off-premises signs be deleted in its entirety allowing businesses to advertise whatever and wherever they want? (Comment [gf7] near top of p. 15 and comment [gf13] near top of p. 18 and comment [gf20] in middle of p. 20)

4. Should (1) the prohibition against signs installed on fences be relaxed or even eliminated with strict time limits if property owner permission is given?, and (2) signs affixed to fences on Marine View Drive and Des Moines Memorial Drive be outright permitted for a limited time with a City-approved temporary sign permit? (Comment [gf9] in the middle of p. 15)

5. Should temporary owner approved signs on private property be allowed with a City permit? (Comment [gf11] in middle of p. 15)

6. Should a single 6 square feet with no lights be allowed for licensed Home Occupations? (Comment [gf12] in middle of p. 15) If so, an additional change to Section 1 of Draft Ordinance 13-011 amending 18.020(18)(d) will also be required.

7. Should the 24 square feet maximum allowed for community centers, schools and churches in 18.42.290(4) in ***residential*** zones be the same as the 80 square feet maximum size allowed in

18.42.310 for readerboard or freestanding signs in ***commercial*** zones? Alternatively, should the size be adjusted to 32 square feet, which would allow for a 4 foot by 8 foot sign? (Comment [gf14] near bottom of p. 18 and comment [gf20] on p. 20)

8. Should on-premises Neighborhood Commercial Zone business identification sign size be increased beyond the 12 square feet proposed? (Comment [gf17] in middle of p. 19)

9. Should signs on Pacific Highway South be subject to a different set of sign regulations (e.g., bigger and taller signs) since speeds on Pac Highway are higher? (Comment [gf18] at bottom of p. 19)

10. Should the number of allowed freestanding signs be increased? (See Comment [gf19] near bottom of p. 19 of Attachment 2)

11. Should allowable freestanding sign size be increased from 80 square feet to 250 square feet on Pacific Highway and 150 square feet on other arterials? (Comment [gf21] on p. 20)

12. Should freestanding signs be allowed to be up to 50 feet tall on Pac Hwy and 25 feet on other properties? (Comment [gf22] on p. 20)

Alternatives

The City Council may:

1. Waive Rule 26(a) and enact the Ordinance on 1st Reading, with or without amendments.
2. Pass the Draft Ordinance to a 2nd Reading on September 12th if: (a) amendments are extensive and more time is needed to carefully incorporate them into the 1st Draft Ordinance and/or (b) amendments require additional SEPA review to consider impacts not considered when the original DNS was issued and potentially a new 10-day appeal period which would prevent action on August 8th.

Financial Impact

Amended regulations may help drive more customers to businesses and will allow the City to communicate more effectively with the community.

Recommendation or Conclusion

Staff recommends that the City Council waive Rule 26(a) and enact the Ordinance on 1st Reading.

Attachment #1

CITY ATTORNEY'S FIRST DRAFT 07/17/2013

DRAFT ORDINANCE NO. 13-011

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the City of Des Moines Sign Code codified as chapter 18.42 DMMC, and amending chapter 18.08 DMMC, to clarify that public readerboard signs are allowed as off premise signs, to help promote economic development, and to address community concerns.

WHEREAS, the City Council is considering a variety of means by which wayfinding and communication to the public for civic and other important events can be achieved, and

WHEREAS, the City is undergoing significant street improvements in the Gateway of South 216th Street and seeking a means to enhance communications to the public near City facilities in this area as well as throughout the Marina District and in other areas having high public visibility, and

WHEREAS, the City Council is considering some refinements in the Sign Code to help promote economic development and address community concerns, and

WHEREAS, the Des Moines City Council has been reaching out to the development and design community and Pacific Ridge property owners since 2000 and those stakeholders have encouraged the City to be more flexible with its sign code and other development regulations, allowing the marketplace to decide how best to achieve the City's broad development goals, and

WHEREAS, the City Council directed City staff to prepare an ordinance for its considerations which creates more flexible sign regulations for Pacific Ridge and other commercial neighborhoods, and

WHEREAS, the Planning, Building and Public Works Director acting as the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents and fulfilled the SEPA requirements established by

chapter 197-11 WAC and chapter 165.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. 1232, fixing the public hearing for July 25, 2013 as required by DMMC 18.56.200, and

WHEREAS, the textual code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on July 8, 2013 in accordance with the DMMC, and

WHEREAS, a public hearing was held on July 25, 2013 and all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the amendments contained in this Draft Ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.08.020 and sections 1 (24.08.020), 5 and 6 of Ordinance No. 175 as amended by section 2 of Ordinance No. 255 as amended by section 2 of Ordinance No. 295 as amended by section 1 of Ordinance No. 338 as amended by section 2 of Ordinance No. 445 as amended by section 1 of Ordinance No. 463 as amended by section 10 of Ordinance No. 532 as amended by section 1 of Ordinance No. 557 as amended by section 7 of Ordinance No. 584 as amended by section 2 of Ordinance No. 628 as amended by sections 5 and 6 of Ordinance No. 793 as amended by section 2 of Ordinance No. 806 as amended by section 1 of Ordinance No. 1100 as amended by section 5 of Ordinance No. 1106 as amended by section 2 of Ordinance No. 255 as amended by section 60 of Ordinance No. 1174 as amended by sections 3 and 4 of Ordinance No. 1237 as amended by section 1 of Ordinance No. 1282 are each amended to read as follows:

18.08.020 Permitted uses. In a single-family residential zone the following uses only are

permitted and as specifically provided in and allowed by this chapter, subject to the off-street parking requirements and the general provisions and exceptions set forth in this title beginning with chapter 18.36 DMMC:

(1) A one-family dwelling;

(2) Accessory buildings and uses including, but not limited to, the following:

(a) Accessory living quarters;

(b) Private garages designed to accommodate not more than four cars;

(c) (Repealed by Ord. 532);

(d) Lodgers limited to two;

(e) Private docks and mooring facilities and a private boathouse or hangar for the sole use of occupants of the premises to accommodate private noncommercial pleasure craft. Boathouses, hangars, docks and moorings shall be accessory to the primary use on the property to which they are contiguous, provided:

(i) No part of the boathouse or hangar shall extend more than 16 feet above the mean high water level;

(ii) A structure shall not be located closer to a property side line, or property side line extended, than the width of the required side yard on the lot to which such facilities are accessory;

(iii) The total area of covered moorages, boathouses, or hangars shall not exceed 1,000 square feet;

(iv) Covered structures shall abut upon the natural shoreline;

(v) Such structure shall not have a width greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;

(vi) A boat using such moorage shall not be used as a place of residence when so moored;

(f) Foster family day care home;

(g) Greenhouses, private and noncommercial, for propagation and culture only and no sales from the premises are permitted;

(h) One antenna system that exceeds the maximum building height specified for the residential zone and which:

(i) Does not exceed 15 feet in height above the building height limitation specified for the zone;

(ii) Is set back the greater of the applicable building setback for the zone where located, or the vertical height of the antenna system measured from the center point of the base of the mast horizontally to the nearest property line;

(iii) Has a maximum horizontal cross-sectional area for that part of the mast that is above the building height limitation for the zone such that an imaginary four-inch diameter circle would encompass all points of the horizontal cross-section;

(iv) Has a maximum allowable three-dimensional space intrusion of 1,200 cubic feet for single ground plane antennas with a single driven element, and 200 cubic feet for beams, quads, and other multi-element antennas; except these limitations on three-dimensional space intrusion are not applicable to single long-wire antennas, single whip antennas, and single coaxial antennas. In this paragraph, "three-dimensional space intrusion" means the space within an imaginary rectangular prism that contains all extremities of an antenna;

(v) Does not encroach into the front, side, or rear setbacks required for the zone. A guy wire and anchor point for an antenna system is prohibited in the required front yard or within three feet of the side or rear property lines; except if an alley abuts a rear property line, a guy wire and anchor point may extend to the rear property line;

(vi) A variation from the above limitations not to exceed 10 percent may be granted by the department of community development; such variation shall be granted when it will not significantly increase the hazard factor, the aesthetic impact, or the economic consequences of such antenna systems;

(i) Swimming pools and other recreational facilities for the sole use of occupants of premises and their guests;

(3) Art galleries and museums, when located in a public park;

(4) Boat moorages for pleasure craft only in connection with community and noncommercial recreational facilities as set forth in this chapter, whether the moorage is publicly or privately owned, subject to the issuance of a conditional use permit provided the following minimum conditions are conformed to:

(a) No boat sales, service, repair, boat charter, or rental are permitted on the premises;

(b) The deck of a pier shall be no more than five feet above high water level;

(c) On-shore toilet facilities shall be provided;

(d) Boats using such moorage facilities shall not be used as a place of residence;

(e) No overhead wiring shall be permitted on piers or floats except within covered moorage structures;

(f) All covered structures over water shall abut upon the shore and be at least 40 feet apart when placed side by side; when covered structures are placed end to end or side to end,

one of the structures shall abut upon the shore and the structures shall be at least 15 feet apart;

(g) No covered structures over water shall be permitted to extend out from shore a distance greater than 50 percent of the maximum permitted distance from shore of a pier on subject premises, but in no case a distance of more than 300 feet from shore, unless the outer line of the property is less than 200 feet from shore, a covered structure may be permitted to extend to the outer property line;

(h) No pier, including finger piers, shall occupy more than 10 percent of the water area of a lot upon which the same is built, nor shall the total area of covered structures over water occupy more than 20 percent of the water area of such lot;

(i) All covered structures over water under one ownership shall be built in a uniform manner and design and no point in the roof of such structure shall be higher than 16 feet above high water in fresh water and no floating moorage located in fresh or tidal water shall have a structure higher than 16 feet from the water line;

(j) The roofs of covered moorage shall contain no more than 7,200 square feet of area in any one unit and such roofs shall not be supported directly by extended piling;

(k) Side walls on covered structures shall not exceed 50 percent of the area of any

three sides and shall be of rigid or semirigid material and shall cover from external view all roof bracing;

(5) Cemeteries that were legally in existence prior to August 3, 1964;

(6) Churches, providing the following conditions are conformed to:

(a) All buildings and structures on the site shall not cover more than 40 percent of the area of the site;

(b) The depth of the required front yard shall be the same as that required for the zone in which the site is located as identified on the zoning map;

(c) Buildings and structures on the site shall not be closer than 30 feet to any property line that is a common property line with residential property, except that a detached one-family dwelling on such site need conform only to the yard requirements and required distance between buildings as prescribed by the zone in which the site is located;

(d) The height limits of the zone in which the site is located shall apply, except that the height shall be measured to the mean height of the roof;

(e) On interior lots the required side yards may be used to provide off-street parking areas and on corner lots the interior side yard may be similarly used. Under no circumstances

may the required front yard or the side yard on the side street be used for off-street parking;

(f) Where areas devoted to off-street parking are contiguous to residentially zoned property, then on the property line common with such residentially zoned property there shall be erected and maintained a solid wall or view-obscuring fence or hedge not less than five feet nor more than six feet in height, and such walls or fences may be built progressively as the parking facilities are installed;

(g) All lights provided to illuminate a parking area or building on such site shall be so arranged as to direct the light away from adjoining premises;

(h) Church sites shall abut and be accessible from at least one public street having two moving traffic lanes and a dedicated width that will permit not less than a 36-foot roadway;

(i) ~~The following signs only are permitted:~~Signs are allowed as provided in DMMC 18.42.

~~(i) One unlighted sign area on the outside wall of the main building and parallel thereto, having an area not greater than 20 square feet;~~

~~(ii) A detached sign having dimensions totaling not more than 20 square feet and on which both faces may be utilized, such sign being securely mounted on the ground on supports and the top of which sign shall be not more than~~

~~six feet above the natural level of the ground upon which it rests. On corner and reverse corner lots one such sign may be placed facing each street;~~

(j) For purposes of determining conformance to the foregoing conditions and the parking requirements, a plot plan showing ultimate location and use of all buildings, location of signs, location and amount of off-street parking areas, location and adequacy of ingress to and egress from parking areas, landscaping and sketches to scale showing the building elevations and floor space to be devoted to seating or assembly purposes shall be filed with and approved by the building department prior to the issuance of any building permit and thereafter the issuance of building permits shall be governed by and conform to the approved plot plan. If, later, a modified plot plan is submitted, the modified plan shall conform to the conditions and requirements of this title or any amendments in effect at the time the modified plan is submitted;

(7) Nursery schools, day care centers, or mini-day care programs when located on the same site with public or private schools or churches;

(8) Foster care home, 24-hour;

(9) Golf courses, private or public, including clubhouse, accessory driving range, pitch and putt courses except the following minimum conditions are required:

(a) A building or structure shall maintain a distance of not less than 50 feet from an exterior boundary line that is a common property line with residential property and from a street boundary line;

(b) A service area, a side of which constitutes a common property line with residential property, shall be screened from such property line by the erection and maintenance on such common property line of a solid wall or view-obscuring fence or hedge not less than five or more than six feet in height;

(c) No required yard or open space on the premises shall be used to provide parking spaces for cars or vehicles;

(d) Where property devoted to these purposes is bounded by a street, then on a street property line, no entrance-exit facilities for automobiles shall be located closer than 100 feet to a street intersection;

(10) Libraries (publicly operated);

(11) Parks, publicly owned and operated, except the following minimum conditions are required:

(a) No bleachers or stadiums are permitted if the site is less than 10 acres, and no public amusement devices for hire are permitted;

(b) Lights provided to illuminate a building or recreational area shall be so arranged

as to reflect the light away from a lot upon which a dwelling unit is located;

(c) A building or structure or service yard on the site shall maintain a distance not less than 50 feet from a property line that is a common property line with residential property and from a public street;

(12) Public utility facilities:

(a) Public utility distribution permitted by DMMC 18.36.140 (Public utilities - Distribution) is not affected by this section;

(b) Public utility facilities necessary for the transmission and distribution of services for the area when the facilities are located underground below the natural grade of the site, except that surface-mounted transformers, telephone terminals, and metering devices less than five feet in height required in connection with underground services are permitted above ground;

(c) Public utilities facilities, such as but not limited to telephone exchanges, sewage or water pumping stations, electrical distribution substations, water storage reservoirs or tanks necessary for distribution, but not including business offices, warehousing, storage buildings or yards, service yards, sewage treatment plants or bulk gas storage or the like, are permitted above ground, subject to the following minimum standards:

(i) Any equipment or structure except architectural screens and fences shall observe a distance of one foot for each one foot the equipment or structure rises above the grade but in no case less than 20 feet from a property line that is a common property line with a street, alley, or with residential property;

(ii) When security fences are used, they shall be supplemented with a Type II landscaping strip so as to minimize the industrial character of such fences;

(iii) Public utility facilities shall be landscaped as required in DMMC 18.41.300 (Public or institutional uses);

(iv) When the facility includes bulky structures such as water towers or standpipes, the landscaping shall include either existing or planted trees of such size as will partially screen and effectively break up the massive appearance of such structures;

(v) Landscaping shall be planted according to industry standards and chapter 18.41 DMMC, Article II (General landscaping requirements). The landscaping will be maintained in good condition at all times. Landscaping shall be planted as a yard improvement at or before the time of completion of the first structure or within a reasonable time thereafter considering weather and planting conditions;

(vi) Site plans, elevation and landscape plans shall be submitted and approved by

the building department prior to the issuance of a building permit. The building department may require the posting of a surety bond guaranteeing to the city the installation and improvement of the site in accordance with the approved screening and landscape plans in an amount estimated to be equal to the cost of such screening and landscaping;

(13) Recreational facilities, community and noncommercial, including clubhouse facilities, subject to the issuance of a conditional use permit, except the following minimum conditions are required:

(a) A solid wall or view-obscuring fence or hedge not less than five feet nor more than six feet in height shall be erected and maintained on any exterior boundary line that is a common property line with residential property, except that on a portion of the common property line constituting the depth of the required front yard on the adjoining residential property such wall, fence, or hedge shall be not less than 36 inches nor more than 42 inches in height. Wherever a six-foot wall, fence, or hedge is permitted, open wire mesh screens may be erected to heights greater than six feet where needed for protective purposes;

(b) A building or structure on the site shall maintain a distance not less than 25 feet from any abutting residential property;

(c) Lights provided to illuminate a building or recreational area shall be so arranged

as to reflect the light away from a lot upon which a dwelling unit is located;

(d) The site shall be located upon, or have adequate access to a public thoroughfare;

(14) Schools, elementary, junior high, middle, and high, and community colleges, public and private; provided, the following minimum conditions are required:

(a) No less than the following minimum site areas shall be provided for public schools:

(i) For elementary schools, five acres;

(ii) For junior high or middle schools, 10 acres;

(iii) For senior high schools, 15 acres;

(iv) For community colleges, 20 acres;

(b) For private elementary, junior high or middle, and senior high schools, the minimum site area shall be three acres. These private schools shall be approved by the State Board of Education;

(c) Buildings or structures on the site shall maintain all yards required in the zone in which the site is located as identified on the zoning map;

(d) Buildings and structures shall maintain a distance not less than 30 feet from a property line that is a common property line with residential property;

(e) Buildings, including accessory buildings and structures, shall not cover more than 40 percent of the area of the site;

(f) Renovation, rehabilitation, or construction of schools, both public and private, shall be processed as a Type II land use action;

(15) (Repealed by Ord. 584);

(16) Planned unit development as provided in chapter 18.52 DMMC (Planned Unit Development);

(17) Unclassified uses as provided in chapter 18.32 DMMC (Unclassified Uses);

(18) Home occupation, except the following minimum conditions are required:

(a) Occupation shall be conducted entirely within the dwelling and not in an accessory building, except for a bona fide garage;

(b) Such use does not involve construction features not customary or incidental in a dwelling;

(c) The entrance to the area used for the home occupation shall be only from an entrance customary to a residential use and not exceeding four feet in width at its opening;

(d) There shall be no signs related to the home occupation or other exterior evidence of the occupation being conducted within the dwelling, including functional evidence;

(e) Such home occupation is approved by the city manager, the criteria for such approval to be whether such home occupation will adversely affect the residential qualities of the location in which it will operate. Without limitation, factors for such decision may be size of building, parking, potential noise, potential nuisance, potential traffic, and the like;

(f) The decision of the city manager may be appealed to the hearing examiner by filing a written notice of appeal with the City Clerk within 10 days of the mailing of the notification of denial. The appeal is heard as provided in the hearing examiner code, except the decision of the hearing examiner is final and is not appealable to the City Council. The decision of the hearing examiner is appealable by filing a land use petition with the King County superior court in accordance with chapter 36.70C RCW, as presently constituted or as may be subsequently amended;

(g) Should a business license be granted and should the nature of the business thereafter acquire features that may have resulted in a denial of a business license in the first instance, the city manager shall have authority to revoke the business license and the provisions codified in DMMC 5.04.020 (License required - Transfer prohibited), 5.04.030 (Licenses - Fees - Appeal), 5.04.060 (License revocation - Appeal),

5.04.070 (Renewal - Appeal), and 5.04.090 (Reasons for enactment of chapter) shall become effective;

(h) Motor vehicle repair operations are prohibited;

(19) The keeping of horses or cattle for private use only shall be permitted in any residential zone, except the following minimum conditions are required:

(a) The minimum area of land shall not be less than one acre, in which area the animal shall be restrained or controlled in such a manner that the animal cannot freely leave the premises;

(b) Not more than one horse or one cow for each one-half acre of the total site area is permitted;

(c) To restrain an animal from causing damage to adjacent property, the owner of that property where animals are to be kept shall be responsible to erect and maintain an animal-control fence no closer than five feet from the adjacent property line;

(d) Stables, corrals, exercise yards, or rings shall not be located closer than 35 feet to any boundary property line or closer than 45 feet to a building containing a dwelling unit or accessory living quarters on the same premises; and there shall be no open-air storage of hay, straw, shavings, or similar organic materials closer than 35 feet to any boundary property line

or closer than 45 feet to any dwelling unit or accessory living quarters on the same premises;

(e) A person keeping horses or cattle in a residential zone under the provisions of this section is required to file a declaration of ownership form with the City Clerk. The declaration of ownership form shall be specified by the City Clerk and is filed without fee. The declaration of ownership form shall provide the name and address of the legal owner of the property, the legal description of the property, the name and address of the owner of the horse or cow if the horse or cattle owner is not the legal owner of the property;

(20) Adult family homes, subject to the following conditions:

(a) The adult family home is licensed as an adult family home by the Department of Social and Health Services of the state of Washington or successor agency; and

(b) The adult family home shall meet city licensing, zoning, building, housing, and fire regulations.

Sec. 2. DMMC 18.42.040 and section 3(part) of Ordinance No. 584 as amended by section 5 of Ordinance No. 1509 are each amended to read as follows:

18.42.040 Required. No sign shall be erected, re-erected, constructed, painted, posted, applied, altered, structurally revised, or repaired except as provided in this chapter~~ and pursuant to a permit issued by the city manager or designee~~. A separate permit shall be required for

a sign or signs for each business entity and/or a separate permit for each group of signs or a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate permit.

Sec. 3. DMMC 18.42.050 and section 3(A) of Ordinance No. 584 as amended by section 1 of Ordinance No. 637 as amended by section 1 of Ordinance No. 1139 as amended by section 7 of Ordinance No. 1509 are each amended to read as follows:

18.42.050 Exemptions. The following shall not require a sign permit; these exemptions shall not be construed as relieving the owner of a sign from the responsibility of its erection and maintenance and its compliance with the provisions of this chapter or any other law or ordinance regulating the same:

(1) The changing of the advertising copy or message on a lawfully erected, painted, or printed sign, theater marquee, or similar signs specifically designed for the use of replaceable copy.

(2) Painting, repainting or cleaning of a lawfully erected sign structure or the changing of the advertising copy or message thereon and other normal maintenance unless a structural or electrical change is made.

(3) Temporary decorations customary for special holidays, such as Christmas and Independence Day, erected entirely on private property.

(4) Real estate signs subject to the following requirements:

(a) Signs shall not exceed eight square feet in residential zones and 24 square feet in commercial zones.

(b) Signs shall be limited to one sign per street frontage on the premises for sale, lease, or rent, and ~~three~~ five portable directional signs to such property.

(c) Portable off-premises directional real estate signs providing directions to an open house at a specified residence or commercial building that is offered for sale or rent are permitted only when:

(i) Signs are not placed on trees, foliage, utility poles, or placed on or interfere with official traffic control devices and their support structures installed by the ~~city~~ City ~~traffic~~ Traffic ~~engineer~~ Engineer or the ~~state~~State.

(ii) Each sign does not exceed four square feet in area and 36 inches in height.

(iii) The agent or seller is physically present at the property for sale or rent.

(iv) The total number of directional signs is limited to ~~three~~five.

(v) Each sign if located in the public right-of-way is subject to the requirements and regulations of subsection (12)(e) through (k) of this section.

(vi) The signs may only be in place ~~during the hours~~on the day of the open house.

(5) On-premises information signs guiding or directing traffic onto or off of a lot or within a lot, incidental signs, and internal information signs not over eight square feet in area and do not exceed six feet in height. The information or copy displayed by or on any internal informational sign shall be limited to only those letters and/or symbols necessary to convey the required message in as brief a manner as reasonably possible and shall not advertise in any manner the facility occupying the premises nor goods or services available nor hours of operation.

(6) Political signs subject to the following requirements:

(a) Political signs promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property. Such signs shall be removed within 10 days following the election; provided, that signs promoting successful candidates in a primary election may remain displayed until 10 days following the immediately subsequent general election.

(b) It is prohibited for any person to paste, paint, affix, or fasten a political sign on any tree, foliage, utility pole, on any public building or structure, or on or to interfere with any official traffic control device and their support structures installed by the ~~city~~ City T~~t~~raffic ~~engineer~~ Engineer or the ~~state~~State.

(c) Political signs posted within public right-of-way are subject to the requirements and regulations of subsection (12)(e) through (k) of this section.

Additionally, political signs in the right-of-way are limited to a maximum surface area of four square feet and a maximum height of five feet.

(d) It shall be the responsibility of the candidate to have the signs removed.

(7) One nonelectrical and nonilluminated business identification sign ~~containing no advertising matter~~ over ~~four~~ twelve square feet in area.

(8) One on-premises nonilluminated bulletin board not over 12 square feet in area for a charitable or religious organization.

(9) For each street frontage of the premises, one nonilluminated temporary construction sign denoting the architect, engineer, and/or contractor when placed on work under construction, and not exceeding 32 square feet in area.

(10) Memorial signs or tablets, including names of buildings, and date of erection when cut into a masonry surface or when constructed of bronze or other noncombustible materials.

(11) Nonelectrical identification signs which contain no more than the name and address of the dweller or tenant of a residence shall be allowed. Only one such sign not over two square feet in area shall be allowed for each street frontage of a residential dwelling within the ~~city~~City.

(12) Portable signs located in the public right-of-way subject to the following requirements:

(a) Signs shall not be affixed to the ground, including through the use of stakes or other means that may damage property.

(b) No more than two signs are allowed per business and no person may have more than two signs at any one time.

(c) Sign area shall neither exceed six square feet per sign face nor 36 inches in height.

(d) Signs are allowed only during the hours of operation of the business or for the duration of special events and must be taken indoors each day.

(e) Signs may not be placed on or attached to other objects, including but not limited to buildings, structures, trees, plants, utility poles, utility boxes, utility equipment, other signs, or on or to interfere with any official traffic control device and their support structures installed by the ~~city~~ City T~~t~~raffic ~~engineer~~ Engineer or the ~~state~~State.

(f) Signs shall not be placed in a manner that interferes with vehicle, bicycle, wheelchair, or pedestrian sight line views, or travel.

(g) Signs shall not be placed in street medians or traffic islands.

(h) Signs shall not be placed in a manner that will damage ~~city~~ City landscaping, irrigation or other ~~city~~ City infrastructure or obstruct a drainage system. Any damage as the result of the placement of the portable sign will be the responsibility of the owner of the sign.

(i) Signs shall be professionally prepared and maintained in good condition so as to preserve the aesthetic value of the total environment.

(j) Signs shall have a name and contact phone number or other contact information on them.

(k) Signs placed in violation of this subsection (12) are subject to immediate removal and may be subject to destruction by the ~~city~~City, without prior notice. If the owner of the sign is present at the time of removal, the owner is given an opportunity to remove the sign immediately.

(13) Signs used exclusively for:

(a) Display of official notices used by any court, public body, or official, or for the posting of notices by any public officer in the performance of a public duty, or by any person in giving legal notice; provided, however, that such notices are subject to the requirements and regulations of subsection (12)(e) through (k) of this section.

(b) Official directional, warning, or information signs of a public or ~~semipublic~~ nonprofit entity erected by or with the approval of the city; provided, however, the design and placement of such signs shall be subject to the approval of the ~~city~~ City ~~manager~~ Manager or the City Manager's designee and, if located in the public right-of-way, shall require a right-of-way use permit and shall be subject to the requirements and regulations of subsection (12)(e) through (k) of this section. All such signs shall be installed by or under the direction of the ~~city~~ City ~~manager~~ Manager or the

City Manager's designee and may be removed by the ~~city~~ City if they become damaged, unsightly, or otherwise fall into a state of disrepair. Upon such removal, replacement signs may be installed. The ~~city~~ City ~~manager~~ Manager is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of signs and/or posts.

(14) Official traffic control devices and their support structures installed by the ~~city~~ City ~~traffic~~ Traffic ~~engineer~~ Engineer or ~~state~~State.

(15) Signs not intended to be viewed from and not readable from off premises.

(16) Window merchandise displays.

(17) Point-of-purchase advertising displays, such as product dispensers.

(18) National flags, flags of political subdivisions and symbolic flags of an institution.

(19) Barber poles.

(20) Historic site markers and plaques.

(21) Gravestones.

(22) Structures intended for separate use, such as phone booths.

(23) Identification signs upon recycling collection containers or other collection containers for public, charitable or nonprofit organizations.

(24) Lettering or symbols painted directly onto or flush-mounted magnetically onto an operable motor vehicle operating in the normal course of business.

(25) Sculptures, fountains, mosaics, or other public art features that do not incorporate advertising or identification of a business or product.

(26) Temporary construction signs subject to the following standards:

(a) Sign shall not exceed 32 square feet.

(b) No more than one sign is allowed per street frontage.

(c) Sign shall be removed upon completion of the project, except as provided in DMMC 18.42.120.

Sec. 4. DMMC 18.42.150 and section 4(B) of Ordinance No. 584 as amended by section 15 of Ordinance No. 1509 are each amended to read as follows:

18.42.150 Prohibited signs. The following signs are prohibited:

(1) Abandoned signs;

(2) Signs or sign structures, which by coloring, shape, wording, or location resemble or conflict with official traffic control signs or devices;

(3) Signs that create a safety hazard for pedestrian, wheelchair, bicycle, or vehicular traffic;

(4) All flashing signs;

(5) Signs attached to or placed on a vehicle or trailer parked on public or private property or public right-of-way; provided, however, that this provision shall not be construed as prohibiting the identification of a firm or its products on a vehicle operating during the normal course of business or political signs exempted under DMMC 18.42.050(6) above. Public transit vehicles and taxis are exempt from this provision;

(6) Off-premises signs, except ~~real estate signs, political signs, and portable signs as expressly allowed in DMMC 18.42.050, public service/civic event signs, garage sale signs, and off-premises signs permitted by special use permit~~ as provided in DMMC ~~18.42.090~~18.42.270;

(7) Any sign affixed to or painted on trees, rocks, or other natural features, or utility poles and the like including advertising signs affixed to or painted on fences, except as provided by DMMC 18.42.090;

(8) Roof signs, except in Pacific Ridge provided that signs do not exceed the allowable building height or freestanding signs standards in DMMC 18.42.310(1);

(9) All portable reader board signs;

(10) Strings of pennants, banners, posters, ribbons, streamers, balloons, spinners, searchlights, or other devices of a carnival nature, except as provided in DMMC 18.42.090;

(11) Home occupation signs;

(12) Any sign that is not specifically permitted by this chapter.

Sec. 5. DMMC 18.42.270 and section 4(N) of Ordinance No. 584 as amended by section 16 of Ordinance No. 1509 are each amended to read as follows:

18.42.270 Placement. All signs, except real estate directional signs, political signs, City operated signs communicating information on City services, community events and emergency management, ~~and~~ portable signs expressly allowed under DMMC 18.42.050, and off-premises signs approved under DMMC 18.42.090, must be located on the premises or events or activities of the business that they identify or advertise. All other a~~A~~dvertising signs located on premises other than the premises of the business or events or activities ~~—~~they advertise are ~~forbidden~~prohibited, notwithstanding single ownership of more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings or properties are joined and/or interior access is provided from one to the other.

Sec. 6. DMMC 18.42.300 and section 5(B) of Ordinance No. 584 as amended by section 2 of Ordinance No. 1237 as amended by section 19 of Ordinance No. 1509 are each amended to read as follows:

18.42.300 Neighborhood commercial zones. The following signs are permitted in the neighborhood commercial zone (N-C) and commercially zoned properties located in the Redondo neighborhood:

(1) One nonelectrical and nonilluminated business identification sign ~~containing no advertising matter~~ more than ~~four~~ twelve square

feet in area which is permanently affixed to a wall;

(2) Total sign area for a single business shall not exceed one square foot per lineal foot of street frontage up to a maximum of 100 square feet and freestanding signs may not exceed 40 square feet. No freestanding sign shall exceed the height of the primary use structure;

(3) Revolving signs are prohibited;

(4) Temporary signs are permitted as provided in DMMC 18.42.050;

(5) Projecting signs are prohibited.

NEW SECTION. Sec. 7. Severability - Construction.

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

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

NEW SECTION. Sec. 8. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Effective Date: _____

Attachment #2

Chapter 18.42
SIGNS

Sections

ARTICLE I. GENERAL PROVISIONS

18.42.010 Purpose.
18.42.020 *Repealed.*
18.42.030 Definitions.

ARTICLE II. PERMITS

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18.42.050 Exemptions.
18.42.060 Application.
18.42.070 Inspections.
18.42.080 Variances.
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ARTICLE III. COMPREHENSIVE DESIGN PLAN PERMITS

18.42.100 Purpose.
18.42.110 Application – Supplementary material.
18.42.120 Criteria for granting.

ARTICLE IV. ZONES GENERALLY

18.42.130 Applicability.
18.42.140 Structural requirements.
18.42.150 Prohibited signs.
18.42.160 Maintenance.
18.42.170 Abandoned signs.
18.42.180 Illumination.
18.42.190 Landscaping.
18.42.200 Clearance and sight distance.
18.42.210 Exposed angle irons and guy wires prohibited.
18.42.220 Electronic reader board and changeable message center signs.
18.42.230 *Repealed.*
18.42.240 *Repealed.*
18.42.250 Bonus provisions.
18.42.260 Signs prohibited on, above, or over right-of-way.
18.42.270 Placement.

ARTICLE V. REGULATIONS BY ZONE

18.42.280 Applicability.
18.42.290 Residential.
18.42.300 Neighborhood commercial zones.
18.42.310 Commercial zones.
18.42.320 Marina district.
18.42.325 *Repealed.*
18.42.327 *Repealed.*

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

18.42.330 *Repealed.*
18.42.340 Removal of unlawful signs – Notice.
18.42.350 Nonconforming signs.
18.42.360 City not liable.
18.42.370 *Repealed.*

ARTICLE I. GENERAL PROVISIONS

18.42.010 Purpose.
It is the purpose of this chapter to safeguard the life, health, property, and welfare of the citizens of the city by regulating and controlling the design, construction, location, use, illumination, and maintenance of signs and sign structures visible from any portion of public property or rights-of-way. The intent of the standards set forth in this chapter is:

(1) To protect the right of business to identify its premises and advertise its products through the use of signs without undue hindrance or obstruction.

(2) To encourage the design of signs that attract and invite rather than demand the public's attention and to curb the proliferation of signs.

(3) To encourage the use of signs that enhance the visual environment of the city.

(4) To assure equal protection and fair treatment under the law through consistent application of the regulations and consistent enforcement.

(5) To promote the enhancement of business and residential properties and neighborhoods by fostering the erection of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings. [Ord. 1509 § 4, 2011: Ord. 584 § 1(part), 1983.]

18.42.020 Exceptions.
Repealed by Ord. 1509. [Ord. 584 § 1(part), 1983.]

18.42.030 Definitions.

(1) "Abandoned sign" means a sign that no longer correctly identifies, exhorts, or advertises any person, business, lessor, owner, product, or activity conducted or available on the premises where the sign is located.

(2) "Advertising copy" means any letters, figures, symbols, logos, or trademarks which identify or promote the sign user or any product or service; or which provides information about the sign user, the building or the products or services available.

(3) "Awning" means a cloth structure attached to, supported by, and projecting from a building and providing protection of the weather elements. Also called a "canopy."

(4) "Awning sign" means any sign which forms part of or is integrated into an awning and which does not extend beyond the limits of the awning.

(5) "Building" means a roofed and walled structure built for permanent use.

(6) "Changing message center" means an electronically controlled message center with different copy changes of a public service or commercial nature.

(7) "Comprehensive design plan" means building, design, landscaping, and signs integrated into one architectural plan, the comprehensive plan being complete in all other building, structural, and electrical requirements.

(8) "Double-faced sign" means a sign that has a sign on opposite sides of a single display surface or sign structure.

(9) "Electrical sign" means a sign or sign structure in which electrical wiring, connections and/or fixtures are used as part of the sign proper.

(10) "Facade" means the entire building front or street wall face of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation or elevations.

(11) "Flashing sign" means a sign with any portion thereof which changes light intensity or switches on and off in a constant pattern or contains moving parts or the optical illusion of motion caused by use of electrical energy or illumination.

(12) "Freestanding sign" means a sign attached to the ground and supported by uprights placed on or in the ground.

(13) "Frontage" means the measurement of the length of the property line along a street.

(14) "Grade" means the elevation as measured at the relative ground level in the immediate vicinity of the sign.

(15) "Ground sign" means a freestanding sign that is less than five feet in height.

(16) "Incidental sign" means a small nonelectric information sign two square feet or less in area which pertains to goods, products, services, or facilities which are available on the premises where the sign occurs and is intended primarily for the convenience of the public while on those premises.

(17) "Information sign" means a sign which gives directional information or identifies specific use areas and which is necessary to maintain the orderly internal use of the premises, such as those signs which identify employee parking, shipping, clearance, or which restrict ingress and egress. Excluded from this definition are signs which are not directly related to an identified need for orderly internal use of the property and off-premises or portable signs.

(18) "Inspector" includes any city employee working under the authority and direction of the city manager or designee.

(19) "Landscaping" means any material used as a decorative feature, such as textured concrete bases, planter boxes, rockeries, driftwood, pole covers, decorative framing, and shrubbery or planting materials, used in conjunction with a sign, which expresses the theme of the sign but does not contain advertising copy.

(20) "Mansard roof" means a sloped roof or roof-like facade architecturally able to be treated as a building wall.

(21) "Marquee" means a permanent structure attached to, supported by, and projecting from a building and providing protection from the weather elements, but does not include a projecting roof. For the purposes of this chapter, a freestanding permanent roof-like structure providing protection from the elements, such as a service station gas pump island, will also be considered a marquee.

(22) "Marquee sign" means any sign which forms part of or is integrated into a marquee and which does not extend beyond the limits of the marquee.

(23) "Monument sign" means a sign above grade which is mounted or attached to a wide base or grade. These signs are composed of a sign face and a sign base. The base and architectural detail must be consistent with the character of the primary structure.

(24) "Multiple-building complex" means a group of structures housing at least one retail business, office, commercial venture, or independent or separate part of a business located on different properties but with shared accesses and parking facilitates.

(25) "Multiple business property" means a single property housing more than one retail business, office, or commercial venture in a single structure; but not including residential apartment buildings or shopping centers.

(26) "Off-premises directional sign" means a sign erected for the purpose of directing pedestrian or vehicular traffic to a facility, service, or business located on other premises.

(27) "On-premises sign" means a sign which carries only advertisements strictly applicable to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, principal services rendered, and goods sold or produced on the premises, name of the business, name of the person, firm, or corporation occupying the premises.

(28) "Perimeter" means the boundary lines used to define the extent of an area.

(29) "Person" means any person, firm, partnership, association, corporation, company, institution, or organization.

(30) "Pole sign" means any freestanding sign more than five feet in height that does not meet the definition of monument sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

(31) "Portable sign" means a sign which is not permanently affixed and is designed for or capable of being moved, except those signs explicitly designed for people to carry on their person.

(32) "Premises" means the real estate (as a unit) which is involved by the sign or signs mentioned in this chapter.

(33) "Projecting sign" means a sign which is attached to and projects more than one foot from a structure or building face.

(34) "Public commercial parking area" means an open area other than a street, alley, or private parking area serving the occupants, patrons, or employees of a dwelling, hotel, business, or apartment to which the private parking area is appurtenant, which area is used for the parking of more than four automobiles.

(35) "Reader board" means a sign face designed with readily changeable letters allowing frequent changes of copy either manually or electronically.

(36) "Real estate sign" means a portable or freestanding sign erected by the owner or his agent advertising the real estate upon which the sign is located for rent, lease, or sale or directing to the property.

(37) "Revolving sign" means a sign which rotates or turns in motion in a circular pattern.

(38) "Roof line" means the top edge of a roof or parapet; the top line of a building silhouette.

(39) "Roof sign" means a sign supported by and erected on or above the roof line of a building or structure.

(40) "Shopping center" means a grouping of retail business and/or service uses on a single development site consisting of five acres or more housed in multiple structures or a single building with common parking facilities.

(41) "Sign" means any visual communication device, structure, or fixture which is visible from off premises and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization, business, or building. Painted wall designs or patterns which do not represent a product, service, or trademark or which do not identify the user are not considered signs.

(42) "Sign area" means the entire area within a circle or polygon enclosing the extreme limits of the advertising message together with any frame or decoration forming an integral part of the display or used to differentiate the sign from the background against which it is placed. If the sign is composed of more than two sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single square or rectangular figure is the area of the sign. Multi-sided signs, signs composed of two or more sides of equal area attached to each other but occupying different planes, shall have their areas computed by excluding the area of one side from the sum of the areas of all other sides. The total surface area of spherical or cylindrical signs is the sign area.

(43) "Sign height" means the vertical distance from grade to the highest point of a sign or any vertical projection thereof, including its supporting columns.

(44) "Sign structure" means any structure which supports or is designed to support any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

(45) "Single business property" means a single structure housing one business located on a single property without shared access and/or parking facilities.

(46) "Street" means a right-of-way, dedicated to the public use, which provides vehicular access to adjacent properties.

(47) "Street frontage" means the linear frontage of a single parcel of property or common development site abutting a public street.

(48) "Temporary construction sign" means a sign jointly erected and maintained on premises undergoing construction, by an architect, contractor, subcontractor, and/or materialman, upon which property the individual is furnishing labor or material.

(49) "Temporary sign" means any sign or advertising display constructed of cloth, canvas, light fabric, paper, cardboard, or other light materials, with or without frames, intended to be displayed for a limited time only. Signs painted upon window surfaces which are readily removed by washing shall be considered temporary signs.

(50) "Under marquee sign" means a sign attached to and suspended from the underside of a marquee or canopy.

(51) "Wall sign" means a sign attached or erected parallel to and extending not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of the wall or facade. Signs incorporated into mansard roofs, marquees, or canopies shall be treated as wall signs. [Ord. 1509 § 6, 2011: Ord. 1267 § 11, 2000; Ord. 584 § 2, 1983.]

ARTICLE II. PERMITS

18.42.040 Required.

No sign shall be erected, re-erected, constructed, painted, posted, applied, altered, structurally revised, or repaired except as provided in this chapter ~~and pursuant to a permit issued by the city manager or designee~~. A separate permit shall be required for a sign or signs for each business entity and/or a separate permit for each group of signs or a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate permit. [Ord. 1509 § 5, 2011: Ord. 584 § 3(part), 1983.]

Comment [gf1]: All exemptions in .050 below do not require permits. This proposed change eliminates this inconsistency.

18.42.050 Exemptions.

The following shall not require a sign permit; these exemptions shall not be construed as relieving the owner of a sign from the responsibility of its erection and maintenance and its compliance with the provisions of this chapter or any other law or ordinance regulating the same:

(1) The changing of the advertising copy or message on a lawfully erected, painted, or printed sign, theater marquee, or similar signs specifically designed for the use of replaceable copy.

(2) Painting, repainting or cleaning of a lawfully erected sign structure or the changing of the advertising copy or message thereon and other normal maintenance unless a structural or electrical change is made.

(3) Temporary decorations customary for special holidays, such as Christmas and Independence Day, erected entirely on private property.

(4) Real estate signs subject to the following requirements:

(a) Signs shall not exceed eight square feet in residential zones and 24 square feet in commercial zones.

(b) Signs shall be limited to one sign per street frontage on the premises for sale, lease, or rent, and ~~three~~ five portable directional signs to such property.

(c) Portable off-premises directional real estate signs providing directions to an open house at a specified residence or commercial building that is offered for sale or rent are permitted only when:

(i) Signs are not placed on trees, foliage, utility poles, or placed on or interfere with official traffic control devices and their support structures installed by the city traffic engineer or the state.

(ii) Each sign does not exceed four square feet in area and 36 inches in height.

(iii) The agent or seller is physically present at the property for sale or rent.

(iv) The total number of directional signs is limited to ~~three~~five.

(v) Each sign if located in the public right-of-way is subject to the requirements and regulations of subsection (12)(e) through (k) of this section.

(vi) The signs may only be in place ~~during the hours~~on the day of the open house.

(5) On-premises information signs guiding or directing traffic onto or off of a lot or within a lot, incidental signs, and internal information signs not over eight square feet in area and do not exceed six feet in height. The information or copy displayed by or on any internal informational sign shall be limited to only those letters and/or symbols necessary to convey the required message in as brief a manner as reasonably possible and shall not advertise in any manner the facility occupying the premises nor goods or services available nor hours of operation.

(6) Political signs subject to the following requirements:

(a) Political signs promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property. Such signs shall be removed within 10 days following the election; provided, that signs promoting successful candidates in a primary election may remain displayed until 10 days following the immediately subsequent general election.

(b) It is prohibited for any person to paste, paint, affix, or fasten a political sign on any tree, foliage, utility pole, on any public building or structure, or on or to interfere with any official traffic control device and their support structures installed by the city traffic engineer or the state.

(c) Political signs posted within public right-of-way are subject to the requirements and regulations of subsection (12)(e) through (k) of this section. Additionally, political signs in the right-of-way are limited to a maximum surface area of four square feet and a maximum height of five feet.

(d) It shall be the responsibility of the candidate to have the signs removed.

(7) One nonelectrical and nonilluminated business identification sign ~~containing no advertising~~ matter over ~~four~~ twelve square feet in area.

Comment [gf2]: This would make it more clear that a picture or logo on the sign besides the name of a business is allowed.

Comment [gf3]: Policy Question 1: Should this be increased even more?

(8) One on-premises nonilluminated bulletin board not over 12 square feet in area for a charitable or religious organization.

Comment [gf4]: Policy Question 2: Should this be increased?

(9) For each street frontage of the premises, one nonilluminated temporary construction sign denoting the architect, engineer, and/or contractor when placed on work under construction, and not exceeding 32 square feet in area.

(10) Memorial signs or tablets, including names of buildings, and date of erection when cut into a masonry surface or when constructed of bronze or other noncombustible materials.

(11) Nonelectrical identification signs which contain no more than the name and address of the dweller or tenant of a residence shall be allowed. Only one such sign not over two square feet in area shall be allowed for each street frontage of a residential dwelling within the city.

(12) Portable signs located in the public right-of-way subject to the following requirements:

(a) Signs shall not be affixed to the ground, including through the use of stakes or other means that may damage property.

(b) No more than two signs are allowed per business and no person may have more than two signs at any one time.

(c) Sign area shall neither exceed six square feet per sign face nor 36 inches in height.

(d) Signs are allowed only during the hours of operation of the business or for the duration of special events and must be taken indoors each day.

(e) Signs may not be placed on or attached to other objects, including but not limited to buildings, structures, trees, plants, utility poles, utility boxes, utility equipment, other signs, or on or to interfere with any official traffic control device and their support structures installed by the city traffic engineer or the state.

(f) Signs shall not be placed in a manner that interferes with vehicle, bicycle, wheelchair, or pedestrian sight line views, or travel.

(g) Signs shall not be placed in street medians or traffic islands.

(h) Signs shall not be placed in a manner that will damage city landscaping, irrigation or other city infrastructure or obstruct a drainage system. Any damage as the result of the placement of the portable sign will be the responsibility of the owner of the sign.

(i) Signs shall be professionally prepared and maintained in good condition so as to preserve the aesthetic value of the total environment.

(j) Signs shall have a name and contact phone number or other contact information on them.

(k) Signs placed in violation of this subsection (12) are subject to immediate removal and may be subject to destruction by the city, without prior notice. If the owner of the sign is present at the time of removal, the owner is given an opportunity to remove the sign immediately.

(13) Signs used exclusively for:

(a) Display of official notices used by any court, public body, or official, or for the posting of notices by any public officer in the performance of a public duty, or by any person in giving legal notice; provided, however, that such notices are subject to the requirements and regulations of subsection (12)(e) through (k) of this section.

(b) Official directional, warning, or information signs of a public or ~~semipublic~~ nonprofit entity erected by or with the approval of the city; provided, however, the design and placement of such signs shall be subject to the approval of the city manager or designee and, if located in the public right-of-way, shall require a right-of-way use permit and shall be subject to the requirements and regulations of subsection (12)(e) through (k) of this section. All such signs shall be installed by or under the direction of the city manager or designee and may be removed by the city if they become damaged, unsightly, or otherwise fall into a state of disrepair. Upon such removal, replacement signs may be installed. The city manager is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of signs and/or posts.

Comment [gf5]: Changed to be more clear.

(14) Official traffic control devices and their support structures installed by the city traffic engineer or state.

(15) Signs not intended to be viewed from and not readable from off premises.

(16) Window merchandise displays.

(17) Point-of-purchase advertising displays, such as product dispensers.

(18) National flags, flags of political subdivisions and symbolic flags of an institution.

(19) Barber poles.

(20) Historic site markers and plaques.

(21) Gravestones.

(22) Structures intended for separate use, such as phone booths.

(23) Identification signs upon recycling collection containers or other collection containers for public, charitable or nonprofit organizations.

(24) Lettering or symbols painted directly onto or flush-mounted magnetically onto an operable motor vehicle operating in the normal course of business.

(25) Sculptures, fountains, mosaics, or other public art features that do not incorporate advertising or identification of a business or product.

(26) Temporary construction signs subject to the following standards:

(a) Sign shall not exceed 32 square feet.

(b) No more than one sign is allowed per street frontage.

(c) Sign shall be removed upon completion of the project, except as provided in DMMC 18.42.120. [Ord. 1509 § 7, 2011: Ord. 1139 § 1, 1995: Ord. 637 § 1, 1985; Ord. 584 § 3(A), 1983.]

18.42.060 Application.

Applications for sign permits shall be made to the city manager or designee upon forms provided by the city.

(1) Applications for sign permits shall be accompanied by:

(a) Two site (plat) plans showing the location of the affected lot, building or buildings, and sign or signs, showing both existing signs and awnings and the proposed sign;

(b) Two copies of a scale drawing of the proposed sign or sign revision, including size, height, copy, structural and footing details, material specifications, methods of attachment, illumination, landscaping, front and end views of awning, sample of canvas, calculations for dead load and wind pressure, photograph of site and building marked to show where sign or awning is proposed, and any other information required to ensure compliance with appropriate laws;

(c) Written consent of the owner of the building, structure, or property where the sign is to be erected;

(d) A permit fee as set by written administrative directive.

(2) Exceptions.

(a) The city manager or designee may waive submission of plans and specifications when the structural aspect is of minor importance.

(b) If the sign to be installed is to replace a nonconforming sign, the permit and plan check fees may be waived at the discretion of the city manager or designee. [Ord. 1509 § 8, 2011: Ord. 584 § 3(B), 1983.]

18.42.070 Inspections.

(1) All signs controlled by this chapter are subject to periodic inspection by the inspector. The inspector shall keep records reflecting inspection dates and results thereof.

(2) Footing inspections shall be made by the inspector for all signs having footings.

(3) Every new sign shall bear the permit number and date of issue prominently and permanently affixed.

(4) Every temporary sign requiring a permit shall bear a legible notation of its expiration date.

(5) If the inspector is required to reinspect a new installation due to no fault of the inspector, a reinspection fee shall be charged in accordance with administration directive. [Ord. 1509 § 9, 2011: Ord. 584 § 3(C), 1983.]

18.42.080 Variances.

No variances are permitted from the requirement of this chapter; provided, however, that nothing prevents any interested party from appealing administrative decisions in accordance with the hearing examiner code. [Ord. 770 § 61, 1988: Ord. 584 § 3(D), 1983.]

18.42.090 Special use permits.

The city manager or designee is authorized to grant a special use permit for the following purposes:

(1) Temporary signs, banners and/or posters not exceeding 40 square feet, strings of pennants, ribbons, flags, streamers, balloons, spinners, or other devices of a carnival nature may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed 45 days within a three-month period. No more than three types of temporary signs may be displayed at any one time.

(2) Temporary signs exceeding 40 square feet but not exceeding 200 square feet may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed 45 days. Only five such permits shall be issued to any business during a calendar year. The total aggregate of temporary signs shall be no more than 400 square feet.

(3) Inflatable displays exceeding 40 square feet and searchlights may be permitted for temporary or special events, such as a grand opening, but such use shall not exceed 10 days. Only three such permits shall be issued to any business during a calendar year.

(4) Off-premises directional signs advertising group sales of single-family residences or condominiums; provided, the following conditions shall apply:

> (a) Each sign permitted under this section may contain two sign faces, each of which is no larger than 16 square feet, and no more than two signs per group sale shall be permitted;
>
> (b) The maximum height of any such sign shall be eight feet from grade;

(c) The maximum duration of any such sign shall be 90 days or whenever the property advertised in the sign is sold, whichever occurs first; provided, the special permit may be renewed and reissued for additional 90-day periods if the property advertised in the sign has not been sold;

(d) An applicant who is granted a permit under this section shall relinquish the general privilege to place three off-premises directional signs per property under the provisions of DMMC 18.42.050(4) but shall be permitted to place an additional three off-premises directional signs for the entire group sale; provided, such signs comply with the requirements in DMMC 18.42.050(4). [Ord. 1509 § 10, 2011: Ord. 1139 § 2, 1995: Ord. 873 § 1, 1990: Ord. 584 § 3(E), 1983.]

ARTICLE III. COMPREHENSIVE DESIGN PLAN PERMITS

18.42.100 Purpose.

The requirements and restrictions of this chapter may be modified by the city manager or designee when an applicant is using a comprehensive design plan to integrate signs into the framework of the building or buildings, landscaping, and other design features of the property, utilizing an overall design theme. Comprehensive design may be used on an existing building where the facade is being altered, new construction or in freestanding signs. [Ord. 1509 § 11, 2011: Ord. 584 § 3(F)(part), 1983.]

18.42.110 Application – Supplementary material.

Applications for comprehensive design plan permits shall be submitted on forms provided by the city manager or designee and shall be accompanied by the following:

(1) A narrative describing the proposed plan, including, but not limited to, the following information:

(a) How the physical components of the sign structure relate to the copy area, detailing legibility and readability factors based on traffic speed, sign placement, and letter size;

(b) How the sign(s) relate to the immediate surroundings, including buildings, other signs, landscaping, and other decorative features;

(c) How the sign or signs relate to the desired land use characteristics promoted by the comprehensive plan and this chapter;

(d) How the elements and design of the sign(s) promote and enhance the overall design theme established by the adopted design guidelines for the marina district or the Pacific Ridge neighborhood;

(e) Evaluation of potential adverse effects on adjacent property.

(2) A site plan and colored renderings of the sign(s) and building faces on which the signs will be mounted. Graphic submittals shall illustrate how the total sign proposal will appear from the street(s) from which the signage is intended to be seen.

(3) Regular sign permit application. [Ord. 1509 § 12, 2011: Ord. 584 § 3(F)(1), 1983.]

18.42.120 Criteria for granting.
The city manager or designee shall employ the following criteria when evaluating the proposed comprehensive signage plan;

(1) Whether the proposal manifests an exceptional effort toward creating visual harmony between the sign, buildings, and other components of the subject property through the use of a consistent design theme;

(2) Whether the sign or signs promote the planned land use in the area of the subject property and enhance the aesthetics of the surrounding area;

(3) Whether the sign placement and size obstructs or interferes with any other signs or property in the area or obstructs natural or scenic views;

(4) Whether the proposed sign or signs is/are better coordinated, more harmonious with surrounding development including other signage and the architectural concepts employed in the building's site then could be installed under existing criteria in this chapter. [Ord. 1509 § 13, 2011: Ord. 584 § 3(F)(2), 1983.]

ARTICLE IV. ZONES GENERALLY

18.42.130 Applicability.
The regulations in this article shall apply in all zones and to all signs governed by this chapter, subject to the specific regulations of each zone. [Ord. 1509 § 14, 2011: Ord. 1237 § 3, 1999; Ord. 584 § 4(part), 1983.]

18.42.140 Structural requirements.
The structure and installation of all signs within the city shall be governed by the applicable provisions of Title 14 DMMC. [Ord. 977 § 1, 1992: Ord. 584 § 4(A), 1983.]

18.42.150 Prohibited signs.
The following signs are prohibited:

(1) Abandoned signs;

(2) Signs or sign structures, which by coloring, shape, wording, or location resemble or conflict with official traffic control signs or devices;

(3) Signs that create a safety hazard for pedestrian, wheelchair, bicycle, or vehicular traffic;

(4) All flashing signs;

(5) Signs attached to or placed on a vehicle or trailer parked on public or private property or public right-of-way; provided, however, that this provision shall not be construed as prohibiting the identification of a firm or its products on a vehicle operating during the normal course of business or political signs exempted under 18.42.050(6) above. Public transit vehicles and taxis are exempt from this provision;

(6) Off-premises signs, except ~~real estate signs, political signs, and portable signs as expressly allowed in DMMC 18.42.050, public service/civic event signs, garage sale signs, and off-premises signs permitted by special use permit~~ as provided in DMMC ~~18.42.090~~18.42.270;

(7) Any sign affixed to or painted on trees, rocks, or other natural features, or utility poles and the like including advertising signs affixed to or painted on fences;

(8) Roof signs, except in Pacific Ridge provided that signs do not exceed the allowable building height or freestanding signs standards in DMMC 18.42.310(1);

(9) All portable reader board signs;

(10) Strings of pennants, banners, posters, ribbons, streamers, balloons, spinners, searchlights, or other devices of a carnival nature, except as provided in DMMC 18.42.090;

(11) Home occupation signs;

(12) Any sign that is not specifically permitted by this chapter. [Ord. 1509 § 15, 2011: Ord. 584 § 4(B), 1983.]

Comment [gf6]: Language added to resolve inconsistencies.

Comment [gf7]: Policy Question 3: Should this prohibition of off-premises signs be deleted in its entirety allowing businesses to advertise whatever and wherever they want?

Comment [gf8]: Changed to always be consistent with 18.42.270, Placement

Comment [gf9]: Policy Question 4: (1)Should this prohibition against signs installed on fences be relaxed or even eliminated within strict time limits if property owner permission is given? (2) Should signs affixed to fences on Marine View Drive and Des Moines Memorial Drive be outright permitted for a limited time with a City-approved temporary sign permit.

Comment [gf10]: Allows commercial properties below Pacific Highway to be more visible.

Comment [gf11]: Policy Question 5: Should temporary owner approved signs on private property be allowed with a City permit?

Comment [gf12]: Policy Question 6: Should a small 6 square foot sign with no lights be allowed?

18.42.160 Maintenance.

All signs, together with all of their supports, braces, guys, and anchors, shall be maintained in good repair and in a safe, neat, clean, and attractive condition. [Ord. 584 § 4(C), 1983.]

18.42.170 Abandoned signs.

Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within 90 days after the business or service advertised by the sign is no longer conducted on the premises. [Ord. 584 § 4(D), 1983.]

18.42.180 Illumination.

The light directed on, or internal to, any sign shall be so shaded, shielded and/or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises or adversely affect safe vision of operators of vehicles moving on private or public roads, highways, or parking areas, or adversely affect safe vision of pedestrians on a public right-of-way. Light shall not shine upon nor reflect into residential structures. Beacon lights or searchlights shall not be permitted for advertising purposes except within the commercial zones and in conjunction with temporary or special events not exceeding 10 days as permitted by special use permit. Luminosity shall not exceed 100 foot lamberts measured at the sign face. [Ord. 1237 §§ 3, 4, 1999; Ord. 584 § 4(E), 1983.]

18.42.190 Landscaping.
At the time of installation, all freestanding signs shall include landscaping and curbing around the base of the sign to prevent automobiles from hitting the sign structure and to improve the overall visual appearance of the structure. Landscaping shall be in proportion to the size and height of the signs, with a minimum of one-half square foot of landscaping for each square foot of sign area and shall be maintained throughout the life of the sign. No dead shrubs, broken parts, cracked, or extremely chipped material shall be allowed to remain without repair. [Ord. 584 § 4(F), 1983.]

18.42.200 Clearance and sight distance.
Marquees or projecting signs which project over areas where motor trucks may be required to pass beneath them shall maintain a minimum vertical clearance of 15 feet. No marquee or projecting sign may project closer than two feet from the curbline of the street. Signs must maintain a minimum of eight feet of vertical clearance over pedestrian ways. [Ord. 584 § 4(G), 1983.]

18.42.210 Exposed angle irons and guy wires prohibited.
No angle irons, guy wires, or braces used in conjunction with a projecting sign shall be visible, except those which are an integral part of the overall design. [Ord. 584 § 4(H), 1983.]

18.42.220 Electronic reader board and changeable message center signs.
Except as provided in subsection (11) of this section, all electronic reader board signs and changeable message center signs shall comply with the following:

(1) Advertising messages on electronic reader boards and message centers may contain words, phrases, sentences, symbols, trademarks, and logos. A single message or a message segment must have a static display time of at least two seconds after moving onto the reader board or message center, with all segments of the total message to be displayed within 10 seconds. A one-segment message may remain static on the reader board or message center with no duration limit.

(2) Displays may travel horizontally or scroll vertically onto electronic reader boards or message centers, but must hold in a static position for two seconds after completing the travel or scroll.

(3) Displays shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights. Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or animate as it moves onto, is displayed on, or leaves the reader board or message center.

(4) Electronic signs requiring more than four seconds to change from one single message display to another shall be turned off during the change interval.

(5) Maximum brightness shall not exceed 5,000 nits during daylight hours when measured from the face of the sign and 500 nits from sunset to sunrise when measured from the face of the sign.

(6) Signs shall have programmable dimming capacity.

(7) Audio speakers associated with signs allowed under this section are prohibited.

(8) Signs allowed under this section shall not exceed or be in addition to the total allowable freestanding sign area allowed in the various zones established in Article V of this chapter.

(9) Signs allowed under this section shall not be used as wall signs and shall not be used as individual tenant signs.

(10) Electronic reader board and changeable message center signs shall not be placed on, above, or over the right-of-way.

(11) This section shall not apply to official traffic control devices installed by the city traffic engineer or the state. [Ord. 1509 § 2, 2011.]

18.42.230 Political signs.
Repealed by Ord. 1509. [Ord. 584 § 4(J), 1983.]

18.42.240 Temporary construction signs.
Repealed by Ord. 1509. [Ord. 1139 § 3, 1995: Ord. 584 § 4(K), 1983.]

18.42.250 Bonus provisions.
In each of the zones, total sign area may be increased by 25 percent if the business uses only wall signs. Allowable sign area for freestanding signs may be increased by 25 percent if ground signs or monument signs are used instead of pole signs. [Ord. 1237 § 3, 1999; Ord. 584 § 4(L), 1983.]

18.42.260 Signs prohibited on, above, or over right-of-way.
(1) Except as provided in subsections (2) and (3) of this section and DMMC 18.42.050, 18.42.310, and 18.42.320, no person shall place a sign of any size or description:

(a) On, above, or over the right-of-way of a city street;

(b) On, above, or over the right-of-way of a state highway;

(c) On a bridge or overpass; or

(d) On a public or utility improvement.

(2) For a period of 30 days or less, signs advertising community events sponsored by public service organizations may be placed on, above, or over the right-of-way of a city street or a state highway with the written permission of the city manager, and an approved right-of-way permit.

(3) Banners installed over a state highway shall be subject to the requirements established by WAC 468-95-148 and chapter 47.42 RCW. The city manager is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of banners.

(4) This section shall not apply to official traffic control devices installed by the city traffic engineer, or the state. [Ord. 1509 § 1, 2011.]

18.42.270 Placement.

All signs, except real estate directional signs, political signs, City operated signs communicating information on City services, community events and emergency management, and portable signs expressly allowed under DMMC 18.42.050, and off-premises signs approved under DMMC 18.42.090, must be located on the premises or events or activities of the business that they identify or advertise. All other aAdvertising signs located on premises other than the premises of the business or events or activities they advertise are ~~forbidden~~prohibited, notwithstanding single ownership of more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings or properties are joined and/or interior access is provided from one to the other. [Ord. 1509 § 16, 2011: Ord. 584 § 4(N), 1983.]

Comment [gf13]: Policy Question 3 (continued): Should this prohibition of off-premises signs be deleted in its entirety allowing businesses to advertise whatever and wherever they want? If so, this section and 18.42.150(6) will need to be further modified.

ARTICLE V. REGULATIONS BY ZONE

18.42.280 Applicability.

In addition to the provisions in Article IV, the regulations in this article shall apply within the various zones. [Ord. 1509 § 17, 2011: Ord. 1237 § 3, 1999; Ord. 584 § 5(part), 1983.]

18.42.290 Residential.

The following signs are permitted in all residential zones:

(1) One nonelectrical identification sign per street frontage not exceeding two square feet which contains no more than the name and address of the dweller or tenant of the residence;

(2) One nonelectric identification sign per entrance to a subdivision; providing, that the sign does not exceed 24 square feet in area;

(3) Except in the PR-R zone where a wall sign for a nonresidential use within a mixed-use development may be illuminated, one nonelectric identification sign, not exceeding 24 square feet, per street frontage for nonresidential uses allowed in the residential zones;

(4) Community centers, schools, and churches are permitted one readerboard sign not exceeding 24 square feet, not exceeding eight feet in height;

Comment [gf14]: Policy Question 7: Should the 24 square feet maximum allowed for community centers, schools and churches in 18.42.290(4) in ***residential*** zones be the same as the 80 square feet maximum size allowed in 18.42.310 for readerboard or freestanding signs in ***commercial*** zones?

~~(5)~~ Signs are allowed as provided in DMMC 18.42. ~~In single family residential zones, only the following church signs only are permitted:~~

~~(a) One unlighted sign area on the outside wall of the main building and parallel thereto, having an area not greater than 20 square feet;~~

~~(b) A detached sign having dimensions totaling not more than 20 square feet and on which both faces may be utilized, such sign being securely mounted on the ground on supports and the top~~

Comment [gf15]: This section currently exists in 18.08.020, Single Family Zone Permitted Uses, and all such sign regulations are recommended to be combined in 18.42, Sign Code. If combined in 18.42, however, Equal Protection issues arise and it becomes clear that churches are being treated differently than community centers, schools and other residentially zoned permitted uses. Therefore, 18.08.020 (6)(i) is proposed to be referenced to 18.42.290 and the more restrictive language deleted in Draft Ordinance 13-011.

~~of which sign shall be not more than six feet above the natural level of the ground upon which it rests. On corner and reverse corner lots one such sign may be placed facing each street;~~

(5) Temporary signs not exceeding 16 square feet per street frontage for nonresidential uses in a residential zone;

(6) In areas zoned for multiple-family residences, other than duplexes, one nonelectric identification sign not exceeding 24 square feet per street frontage and appropriate to the architectural design and landscape;

(7) In the PR-R zone, on-site real estate signs for the individual dwellings shall be displayed together within or on a sign cabinet or display board. One display cabinet or board shall be allowed per street frontage;

(8) No pole signs shall be permitted and monument signs may not exceed 10 feet in height except by special use permit. No off-premises signs shall be permitted except as authorized by this chapter;

(9) Internally illuminated signs shall be constructed using individual letters/characters, or sign cabinets with an opaque field or background so that only the individual letters/characters are illuminated. [Ord. 1509 § 18, 2011: Ord. 1267 § 5, 2000: Ord. 584 § 5 (A), 1983.]

18.42.300 Neighborhood commercial zones.

The following signs are permitted in the neighborhood commercial zone (N-C) and commercially zoned properties located in the Redondo neighborhood:

(1) One nonelectrical and nonilluminated business identification sign ~~containing no advertising matter~~ more than ~~four~~ twelve square feet in area which is permanently affixed to a wall;

Comment [gf16]: This would make it more clear that a picture or logo on the sign besides the name of a business is allowed.

Comment [gf17]: Policy Question 8: Should this be increased?

(2) Total sign area for a single business shall not exceed one square foot per lineal foot of street frontage up to a maximum of 100 square feet and freestanding signs may not exceed 40 square feet. No freestanding sign shall exceed the height of the primary use structure;

(3) Revolving signs are prohibited;

(4) Temporary signs are permitted as provided in DMMC 18.42.050;

(5) Projecting signs are prohibited. [Ord. 1509 § 19, 2011: Ord. 1237 § 2, 1999; Ord. 584 § 5 (B), 1983.]

18.42.310 Commercial zones.

The following signs are permitted in the Pacific Ridge commercial zone 1, Pacific Ridge commercial zone 2, business park zone and all commercial zones abutting Pacific Highway South that are not within the Pacific Ridge neighborhood:

Comment [gf18]: Policy Question 9: Should signs on Pacific Highway South be subject to a different set of sign regulations (e.g., bigger and taller signs) since speeds on Pac Highway are higher?

(1) Freestanding Signs. For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows:

(a) Number of Freestanding Signs.

Comment [gf19]: Policy Question 10: Should number of allowed signs be increased?

(i) For building sites with up to 300 feet of street frontage, one sign is allowed.

(ii) For building sites with more than 300 feet of street frontage and having more than one vehicular access, two signs are allowed; provided, that the total allowable sign area is not exceeded and the signs are more than 100 feet apart.

(b) Freestanding Sign Size.

Comment [gf20]: Policy Question 7 (continued): Should the 24 square feet maximum allowed for community centers, schools and churches in 18.42.290(4) in ***residential*** zones be the same as the 80 square feet maximum size allowed in 18.42.310 for readerboard or freestanding signs in ***commercial*** zones?

(i) Each sign allowed shall not exceed 80 square feet in area.

Comment [gf21]: Policy Question 11: Should allowable sign size be increased from 80 sf to 250 sf on Pacific Highway and 150 sf on other arterials?

(ii) For properties with less than 80 feet of street frontage, sign area shall not exceed one square foot of sign area for each lineal foot of street frontage.

(c) Freestanding Sign Height.

Comment [gf22]: Policy Question 12: Should signs be allowed to be up to 50 feet tall on Pac Hwy and 25 feet tall on other properties? Pole signs are defined as any sign taller than 5 feet so this section allows pole signs up to 15 feet for single business properties and 20 feet for multi-building sites.

(i) For single business properties and multiple business properties, freestanding signs shall not exceed 15 feet in height as measure from median sidewalk grade.

(ii) For shopping centers and multi-building complexes freestanding signs shall not exceed 20 feet in height as measured from median sidewalk grade.

(d) Allowed signs, sign area, or sign height may not be transferred from one street frontage to another.

(e) Off-premises signs, including but not limited to billboards, are prohibited. The city manager or designee may approve monument signs located on a separate parcel of property within a multiple-building complex or shopping center when the following conditions exist.

Comment [gf23]: Policy Question 3(continued): Should off premises signs be outright permitted?

(i) The multiple-building complex or shopping center appears and functions as one building site; and

(ii) The monument sign appears and functions as an on-premises sign; and

(iii) The approval would not result in additional signs or sign area for the multiple-building complex or shopping center than would otherwise be allowed; and

(iv) All monument and wall signs within the multiple-building complex or shopping center conform to the provisions of this chapter.

(f) Freestanding signs shall not be located on, above, nor project over the public right-of-way.

(2) Wall Signs.

(a) Each single business property is permitted a total sign area not to exceed one square foot per lineal foot of street frontage, up to a maximum of 100 square feet.

(b) Each multiple business property is permitted a total sign area not to exceed 20 square feet plus 40 square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 25 square feet signage.

(c) Each multi-building complex and shopping center is permitted a total sign area not to exceed 150 square feet plus 40 square feet per licensed business; provided, however, that each business must be guaranteed a minimum of at least 35 square feet signage.

(d) Except for buildings containing multiple business, wall signage shall not extend horizontally a distance greater than 50 percent of the width of the building wall on which it is displayed.

(e) Allowed wall signage is not transferable from one property to another; except within a shopping center or multi-building complex.

(f) Wall signs shall not be placed higher than 35 feet above median sidewalk grade.

(g) Projecting signs may not project further than six feet from the surface of the building. A right-of-way use permit shall be required for signs projecting over the public right-of-way.

(3) Internally illuminated signs shall be constructed using individual letters/characters, or sign cabinets with an opaque field or background so that only the individual letters/characters are illuminated.

(4) Reader board signs and changeable message center signs are permitted as per the requirements established in DMMC 18.42.220.

(5) Gasoline price signs shall not be located in, nor project over, the public right-of-way and shall not be portable. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(6) Temporary signs shall be permitted as provided in DMMC 18.42.090. [Ord. 1509 § 3, 2011.]

18.42.320 Marina district.

The following signs are permitted on commercially zoned properties within the marina district as established by the Des Moines Comprehensive Plan:

(1) Each public commercial parking lot may have one sign per street frontage not exceeding 24 square feet in sign area.

(2) Reader board signs and changeable message center signs are permitted as per the requirements established in DMMC 18.42.220.

(3) Projecting signs may not project further than six feet from the surface of the building. A right-of-way use permit shall be required for signs projecting over the public right-of-way.

(4) Freestanding signs may not exceed 15 feet in height as measured from the sidewalk grade, and shall not be located on or above, nor project over the public right-of-way.

(5) No more than one freestanding sign is permitted for properties with less than 300 feet of street frontage. Multiple business properties or multi-building complexes with over 300 feet of street frontage and more than one vehicular access are allowed one additional freestanding sign; provided, that the total allowable sign area is not exceeded and the signs are over 100 feet apart.

(6) Each single business property is permitted a total sign area not to exceed two square feet per lineal foot of street frontage, up to a maximum of 200 square feet. Freestanding signs may not exceed 50 square feet.

(7) Each multiple business property or multi-building complex is permitted one freestanding sign not to exceed one square foot per lineal foot of street frontage up to a maximum of 100 square feet. Each business within shall be permitted a wall sign not to exceed one square foot per lineal foot of street frontage; provided, however, that each business must be guaranteed a minimum of at least 24 square feet regardless of street frontage.

(8) Gasoline price signs shall not be located in, nor project over, the public right-of-way, and shall not be hand written. Such signs may be freestanding or attached to canopy columns. The area of the price sign shall not count towards the allowed total wall or freestanding signage.

(9) Temporary signs shall be permitted as provided in DMMC 18.42.050. [Ord. 1509 § 20, 2011: Ord. 584 § 5(D), 1983.]

18.42.325 Business park zone.
Repealed by Ord. 1509. [Ord. 920 § 10, 1991.]

18.42.327 Pacific Ridge commercial zones.
Repealed by Ord. 1509. [Ord. 1267 § 7, 2000.]

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

18.42.330 Authority of code administrator.
Repealed by Ord. 1509. [Ord. 584 § 6(part), 1983.]

18.42.340 Removal of unlawful signs – Notice.

The city manager or designee may order the removal of any sign erected, installed, or maintained in violation of this chapter.

(1) Signage, General. Any property owner or occupant erecting or maintaining signage not in compliance with the provisions of this chapter, except portable signs which are regulated in subsection (2) of this section, shall be given written notice, by certified letter, specifying the violation and a direction to correct the violation or remove the sign within 30 days. Such notice shall be given to the holder of the sign permit or, if no permit exists, to the named owner of the land where the sign is erected. In the event the violation is not corrected within the 30-day period, the city manager or designee shall thereupon revoke the permit and remove, or cause the removal of the sign, and shall assess all costs and expenses incurred against the named owner of the sign and/or named owner of the land. Any sign which is a source of immediate peril to persons or property may be removed summarily and without notice. Alternatively, this subsection may be enforced pursuant to chapter 18.72 DMMC.

(2) Portable Signage. Portable signage includes any sign not permanently affixed; real estate signs; political signs; portable reader board signs; streamers; pennants; banners; signs attached to or mounted on trees, fences, utility poles, or vehicles parked in proximity to a business with the purpose of attracting attention to such business; or any similar signs. Except as provided for in DMMC 18.42.050(12)(k), portable signs in violation of this chapter located in the right-of-way must be removed upon 24-hour notice. Such notice shall be given by delivering a written notice of violation to the owner, occupant, or person ostensibly in charge or control of the real property upon which the sign is located. Such notice shall state the violation and shall require that the violation be corrected within 24 hours. In the event the violation is not corrected within 24 hours, the city manager or designee shall cause the sign or signs to be impounded. If the portable sign is located off site of the premises to which the sign reasonably relates, or if ownership of the sign cannot be reasonably determined, no notice of violation shall be provided and the sign shall be impounded forthwith. In the event a sign is removed, there shall be a removal fee and a storage fee as set by administrative order of the city manager. No sign shall be returned until the removal and storage fee is paid in full. The sign shall be stored for not less than 10 days, and thereafter the city manager or designee shall dispose of the sign in any manner. No cause of action shall be maintained against the city for damage to signs properly impounded, whether such damage occurred during the impoundment or storage. A second violation occurring within a 12-month period shall be considered a Class 1 civil infraction. A third violation occurring within a 12-month period shall result in a criminal prosecution and immediate impoundment of the sign without notice. This enforcement provision supersedes the processes contained in DMMC 18.72.060, and provides for immediate prosecution pursuant to DMMC 18.72.070. For such repeat offenses sign alteration or substitution shall be no defense. [Ord. 1509 § 21, 2011: Ord. 791 § 1, 1989: Ord. 584 § 6(A), 1983.]

18.42.350 Nonconforming signs.

(1) Nonconforming signs that were legally and permanently installed prior to May 15, 2011, shall be allowed to continue in use so long as they are continuously maintained, are not relocated, are not structurally altered or made more nonconforming in any way.

(2) Nonconforming off-premises signs shall be abated in accordance with DMMC 18.48.090. [Ord. 1509 § 22, 2011: Ord. 1267 § 8, 2000: Ord. 584 § 6(C), 1983.]

18.42.360 City not liable.

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, building, altering, constructing, or removing any sign in the city for damages to anyone injured or damaged either in person or property by any defect or action therein, nor shall the city, or any agent thereof, be held as assuming such liability by reason of permit or inspection authorized in this chapter or a certificate of inspection issued by the city or any of its agents. [Ord. 584 § 6(D), 1983.]

18.42.370 Other enforcement.

Repealed by Ord. 1509. [Ord. 584 § 6(B), 1983.]

Attachment #3

GRACE
LUTHERAN
CHURCH

22975 24th Ave S
Des Moines, WA
98198

206.878.2460

JOHN K. O'NEAL
Lead Pastor

JASON LUKIS
Associate Pastor

STAN JACOBSON
Associate Pastor

DICK LEHMANN
Visitation Pastor

DENNY BURDA
Youth Ministry

KATHY BEKKERUS
Children's Ministry

E-mail:
graceoffice@golgrace.com

www.golgrace.com

July 31, 2013

Dave Kaplan, Mayor
City of Des Moines
21630 11th Ave. S.
Des Moines, WA 98198

Dear Mayor Kaplan,

We would like to thank you for allowing representatives from Grace Lutheran Church to present comments during the July 25th, 2013 City Council meeting discussing changes to the sign code ordinance. As questions arose after the presentations, we concluded that further explanation may be helpful. To this end, we have prepared the following for your consideration.

Current regulations limit church signs in residential zones to a total size of 20 square feet. The total size of the sign is considered to be the combination of both the permanent lettering (area containing static information such as name, address, web site, etc.) and the electronic, reader-board portion of the sign. This limitation would make any sign both impractical and a safety concern. Considering the speed limit of 35 mph along Kent Des Moines Road near Grace Lutheran Church, the size of the font on both the permanent and electronic portions of the sign would be unreadable and a safety concern for passing traffic.

As concluded in the Draft Ordinance 13-011, we agree that the sign size should be increased to 80 square feet maximum for community centers, schools, and churches. This would allow for improved communication to the community, increased standardization of sign sizes for organizations involved in community outreach, enhance the look of the church and surrounding community, eliminate the need for hanging banners, and enhanced safety along streets and roads near the signs.

Please see the attached examples of existing and proposed signs. Example 1 shows the sign installed during construction of the new Mount Rainier High School, where the sign is slightly over 80 square feet total and the local speed limit is 20 mph. Example 2 shows a proposed concept for a sign to be installed at Grace Lutheran Church adjacent to Kent Des Moines Road.

We appreciate the opportunity to provide these clarifying statements as well as to voice our strong support for the proposed changes listed in the Draft Ordinance 13-011, Sign Code Changes. Should you have further questions, please feel to contact the undersigned at 206-718-5461.

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CHURCH

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July 31, 2013
Dave Kaplan, Mayor
Page Two

We thank you for your dedication and hard work in making Des Moines a caring, livable, diversified, and vibrant community, which are the goals we share at Grace Lutheran Church.

Sincerely,

Malcolm Case
President - Grace Lutheran Church

CC: Des Moines City Council
Grant Fredricks, Management Consultant
Denise Lathrop, Community Development Manager

attachments

EXAMPLE 1

WIDTH = 8.5'

HEIGHT = 10'

APPROXIMATE SQ. FT. = 85'

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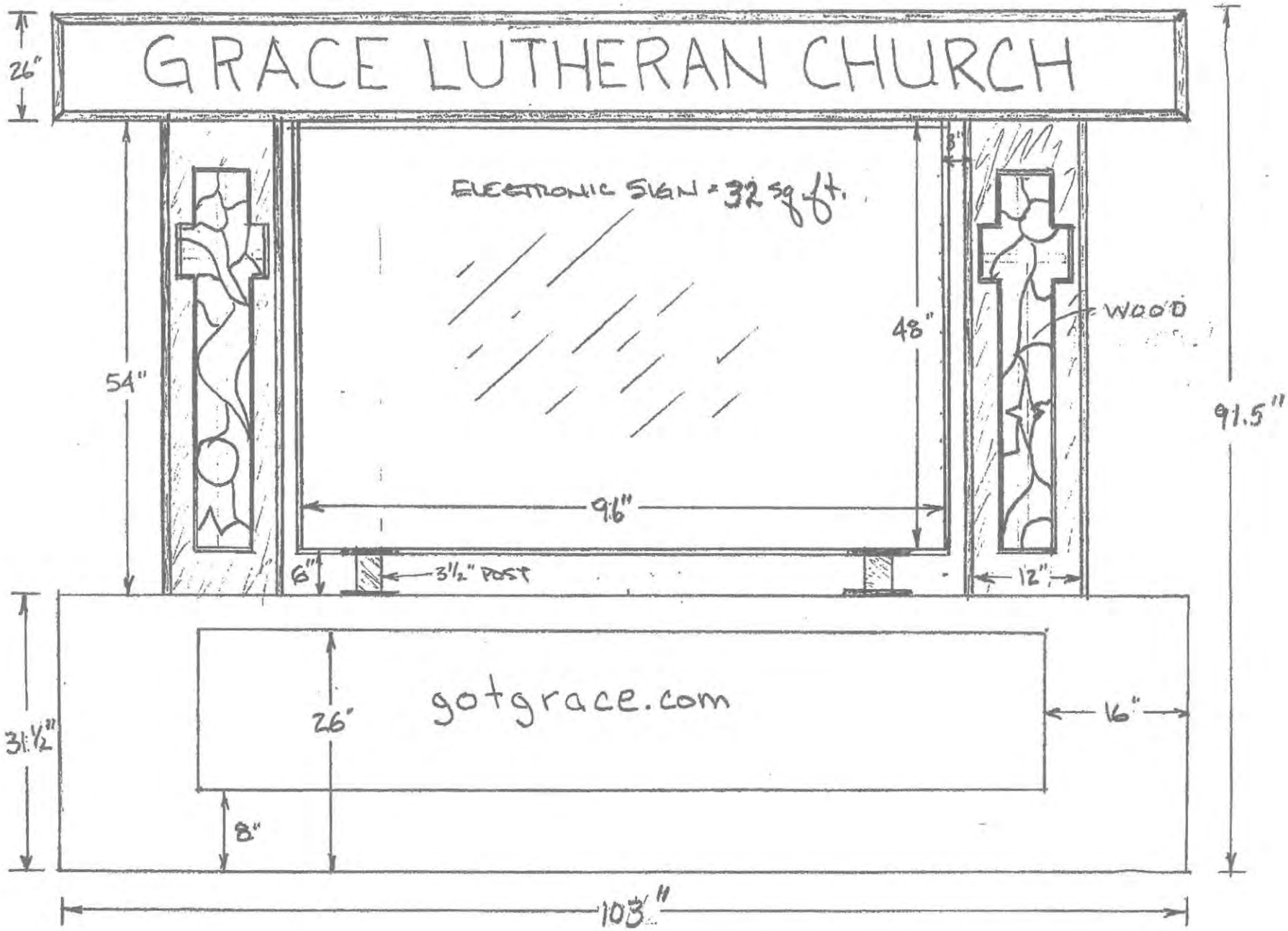
EXAMPLE 2. GRACE LUTHERAN CHURCH SIGN - CONCEPT



OVERALL HEIGHT - 9' 3-½"

OVERALL LENGTH = 8' 7"

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Attachment #4

MOTION	DRAFT ORD/MOTIONS FROM FLOOR	ACTION
1. Motion to amend Sec. 3 of Draft Ordinance 13-011, DMMC 18.42.050(7) on p. 21 to read:	**18.42.050 Exemptions.** One nonelectrical and nonilluminated business identification sign ~~containing no advertising matter~~ over ~~four twelve~~ thirty six square feet in area.	1. 2. Pass Fail
2. Motion to amend Sec. 3 of Draft Ordinance 13-011, DMMC 18.42.050(12) (i) on p. 23 to read:	**18.42.050 Exemptions.** Portable signs located in the public right-of-way subject to the following requirements: i) Signs shall be professional~~ly prepared~~ looking and maintained in good condition so as to preserve the aesthetic value of the total environment.	1. 2. Pass Fail
3. Motion to amend Sec. 3 of Draft Ordinance 13-011, DMMC 18.42.050(8) on p. 21 to read:	**18.42.050 Exemptions.** (8) One on-premises nonilluminated bulletin board not over ~~12~~ 24 square feet in area for a charitable or religious organization.	1. 2. Pass Fail
4. Motion to amend Sec. 4 of Draft Ordinance 13-011, DMMC 18.42.150(6) on p. 26 to read:	**18.42.150 Prohibited signs.** The following signs are prohibited: (6) Off-premises signs, except ~~real estate signs, political signs, and portable signs as expressly allowed in DMMC 18.42.050, public service/civic event signs, garage sale signs, and off-premises signs permitted by special use permit~~ as provided in DMMC ~~18.42.090~~ 18.42.270; or any one sign for a Des Moines business that is 12 square feet or under.	1. 2. Pass Fail

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MOTION	DRAFT ORD/MOTIONS FROM FLOOR	ACTION
5. Motion to amend Sec. 5 of Draft Ordinance 13-011, DMMC 18.42.270 on p. 27 to read:	**18.42.270 Placement.** All signs, except real estate directional signs, political signs, City operated signs communicating information on City services, community events and emergency management, ~~and~~ portable signs expressly allowed under DMMC 18.42.050 and off-premises signs approved under DMMC 18.42.090, must be located on the premises or events or activities of the business that they identify or advertise. All other a~~A~~dvertising signs located on premises other than the premises of the business or events or activities they advertise are ~~forbidden~~prohibited, notwithstanding single ownership of more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings or properties are joined and/or interior access is provided from one to the other. Except those signs approved pursuant to DMMC 18.42.090 and one sign per business location under 12 square feet. *(See Alternative Motion 5 A as possible substitute)*	1. 2. Pass Fail
Alternative 5A. Motion to amend Sec. 5 of Draft Ordinance 13-011, DMMC 18.42.270 on p. 27 to read:	**18.42.270 Placement.** All signs, except real estate directional signs, political signs, City operated signs communicating information on City services, community events and emergency management, ~~and~~ portable signs expressly allowed under DMMC 18.42.050 and off-premises signs approved under DMMC 18.42.090, must be located on the premises or events or activities of the business that they identify or advertise. All other a~~A~~dvertising signs located on premises other than the premises of the business or events or activities they advertise are ~~forbidden~~prohibited, notwithstanding single ownership of more than one premises, except where the premises are contiguous. For the purposes of this section "contiguous" means that such buildings or properties are joined and/or interior access is provided from one to the other. Except those signs approved pursuant to DMMC 18.42.090 and DMMC 18.42.150.	1. 2. Pass Fail

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MOTION	DRAFT ORD/MOTIONS FROM FLOOR	ACTION
6.(FROM THE FLOOR) Motion to amend DMMC 18.42.290(4) to add subsections (a)-(c) to read:	**18.42.290 Residential.** The following signs are permitted in all residential zones. (4)(a) Community centers, schools, and churches are permitted one readerboard sign not exceeding 24 square feet, not exceeding eight feet in height, and reader boards may be added to either sign below; (b) one unlighted wall sign no larger than 40 square feet; (c) a detached sign no more than 40 square feet and no taller than 10 feet. *(See Alternative Motion 6A)*	1. 2. Pass Fail
Alternative Motion 6A.(FROM THE FLOOR) Motion to amend DMMC 18.42.290(4) to add subsections (a)-(c) to read:	**18.42.290 Residential.** (4) The following signs are permitted in all residential zones. (4) Community centers, schools, and churches are permitted one unlit wall sign no larger than 40 square feet in area and one ~~readerboard sign not exceeding 24 squre feet, not exceeding eight feet in height~~ freestanding sign not exceeding 80 square feet in area and 10 feet in height including a readerboard not exceeding 32 square feet in area.	1. 2. Pass Fail
7.Motion to amend Sec.6 of Draft Ordinance 13-011 to delete DMMC 18.42.300(1) on p. 27 to read:.	**18.42.300 Neighborhood commercial zones.** The following signs are permitted in the neighborhood commercial zone (N-C) and commercially zoned properties located in the Redondo neighborhood: ~~(1) One nonelectrical and nonilluminated business identification sign containing no advertising matter more than four square feet in area which is permanently affixed to a wall;~~	1. 2. Pass Fail

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MOTION	DRAFT ORD/MOTIONS FROM FLOOR	ACTION
8. (FROM THE FLOOR) Motion to amend DMMC 18.42.310(1((a)(i)- (ii) and add (iii) to read:	**18.42.310 Commercial zones.** The following signs are permitted in the Pacific Ridge commercial zone: 1, Pacific Ridge commercial zone 2, business park zone and all commercial zones abutting Pacific Highway South that are not within the Pacific Ridge neighborhood: (1) Freestanding Signs. For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows: (a) Number of Freestanding Signs. (i) For building sites with up to ~~300~~ 200 feet of street frontage, one sign is allowed. (ii) For building sites with more than ~~300~~200 feet of street frontage and having more than one vehicular access, two signs are allowed; provided, that the total allowable sign area is not exceeded. ~~and the signs are more than 100 feet apart.~~ (iii) If the building site is on two arterials one additional freestanding sign is allowed	1. 2. Pass Fail
9.(FROM THE FLOOR) Motion to amend DMMC 18.42.310(1)(b) to read:	**(1)(b) Freestanding Sign Size.** For single business properties, multiple-tenant buildings, multiple-building complexes, and shopping centers, freestanding signs are allowed as follows: (i) Each sign allowed shall not exceed ~~80~~ 100 square feet in area.	1. 2. Pass Fail
10.(FROM THE FLOOR) Motion to amend DMMC 18.42.310(1) (c)to read: In (c) change as measured from sign location and within 30 feet of the sign averaged. Since it is the same for shopping centers you could combine them.	(1)**(c) Freestanding Sign Height.** (i) For single business properties and multiple business properties, freestanding signs shall not exceed ~~15~~ 20 feet in height as measured from median sidewalk grade.	1. 2. Pass Fail
11.(FROM THE FLOOR) Motion to amend DMMC 18.42.310(1)(e), to read:	**(1)(e)** ~~Off-premises signs, including but not limited to billboards, are prohibited~~. The city manager or designee may approve monument signs located on a separate parcel of property within a multiple-building complex or shopping center when the following conditions exist.	1. 2. Pass Fail

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MOTION	DRAFT ORD/MOTIONS FROM FLOOR	ACTION
12. (FROM THE FLOOR) Motion to amend DMMC18.42.310(2) to read:	**(2) Wall Signs.** (a) Each single business property is permitted a total sign area not to exceed ~~one~~ two square feet per lineal foot of street frontage, up to a maximum of ~~100~~ 200-square feet or no more than 10% of the front wall size, whichever is larger.	1. 2. Pass Fail
13.(FROM THE FLOOR)Motion to amend DMMC 18.42.320(5) to read:	**18.42.320 Marina District** (5) No more than one freestanding sign is permitted for properties with less than ~~300~~ 200 feet of street frontage. Multiple business properties or multi-building complexes with over ~~300~~ 200 feet of street frontage and more than one vehicular access are allowed one additional freestanding sign; provided, that the total allowable sign area is not exceeded and the signs are over 100 feet apart.	1. 2. Pass Fail

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Attachment #5

Washington State
Department of Transportation

Highway Advertising Control

M 22-95.02

July 2013

Washington State Revised Code and Administrative Rules

Legislative Statues
Scenic Vistas Act (Chapter 47.42 RCW)

Rules and Regulations
Highway Advertising Control Act (Chapter 468-66 WAC)

(3) In addition to signs permitted by subsections (1) and (2) of this section, the commission may adopt regulations permitting one type 3 sign visible to traffic proceeding in any one direction on an interstate, primary or scenic system highway on premises which, on June 25, 1976, are used wholly or in part as an operating business, farm, ranch or orchard which sign bears only the name of the business, farm, ranch or orchard and a directional arrow or short directional message. Regulations adopted under this subsection shall prohibit the erection or maintenance of such type 3 signs on narrow strips of land a substantial distance from but connected with a business, farm, ranch or orchard. Signs permitted under this subsection shall not exceed fifty square feet in area.

(4) The commission with advice from the parks and recreation commission shall adopt specifications for a uniform system of official tourist facility directional signs to be used on the scenic system highways. Official directional signs shall be posted by the commission to inform motorists of types of tourist and recreational facilities available off the scenic system which are accessible by way of public or private roads intersecting scenic system highways.

[1975-'76 2nd ex.s. c 55 § 2; 1974 ex.s. c 154 § 1; 1974 ex.s. c 138 § 1; 1971 ex.s. c 62 § 5.]

47.42.048 State and local prohibitions

Nothing in this chapter shall be construed to permit a person to erect or maintain a sign that is otherwise prohibited by statute or by the resolution or ordinance of any county, city or town of the state of Washington.

[1974 ex.s. c 80 § 3.]

47.42.050 Information signs by governmental units

Information signs may be erected and maintained by the state, any county, city, or town.

[1961 c 96 § 5.]

47.42.055 Roadside area information panels or displays

The department is authorized to erect roadside area information panels or displays adjacent to the state highway system within this state. The department may contract with private persons for the erection and operation of the information panels or displays. Compensation to the contractors shall be derived solely from the reasonable fees that the contractors will be permitted to charge participating businesses for making and exhibiting business signs and displays and for rendering services to tourists.

[1985 c 376 § 5; 1984 c 7 § 225; 1977 ex.s. c 258 § 2.]

Notes:

Legislative intent -- 1985 c 376: See note following RCW 47.42.020.

Severability -- 1984 c 7: See note following RCW 47.01.141.

47.42.060 Rules for signs visible from interstate and scenic systems — Judicial review

The department shall adopt rules for the erection and maintenance of signs that are visible from the main traveled way of the interstate system and the scenic system and that are permitted by this chapter and other rules for the administration of this chapter consistent with the policy of this chapter and the national policy set forth in section 131, title 23, United States Code as codified and enacted by Public Law 85-767 and amended only by section 106, Public Law 86-342 and the regulations promulgated thereunder by the secretary of commerce or the secretary of transportation. Proceedings for review of any action taken by the department pursuant to this chapter shall be instituted by filing a petition only in the superior court of Thurston county.

[1984 c 7 § 226; 1971 ex.s. c 62 § 6; 1961 c 96 § 6.]

Notes:

Severability -- 1984 c 7: See note following RCW 47.01.141.

47.42.062 Signs visible from primary system in commercial and industrial areas — Requirements, restrictions, and prohibitions

Signs within six hundred and sixty feet of the nearest edge of the right of way which are visible from the main traveled way of the primary system within commercial and industrial areas and whose size, lighting, and spacing are consistent with the customary use of property for the effective display of outdoor advertising as set forth in this section may be erected and maintained: PROVIDED, That this section shall not serve to restrict type 3 signs located along any portion of the primary system within an incorporated city or town or within any commercial or industrial area.

(1) General: Signs shall not be erected or maintained which (a) imitate or resemble any official traffic sign, signal, or device; (b) are erected or maintained upon trees or painted or drawn upon rocks or other natural features and which are structurally unsafe or in disrepair; or (c) have any visible moving parts.

(2) Size of signs:

(a) The maximum area for any one sign shall be six hundred seventy-two square feet with a maximum height of twenty-five feet and maximum length of fifty feet inclusive of any border and trim but excluding the base or apron, supports and other structural members: PROVIDED, That cut-outs and extensions may add up to twenty percent of additional sign area.

(b) For the purposes of this subsection, double-faced, back-to-back, or V-type signs shall be considered as two signs.

(c) Signs which exceed three hundred twenty-five square feet in area may not be double-faced (abutting and facing the same direction).

(3) Spacing of signs:

(a) Signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

(b) On limited access highways established pursuant to Chapter 47.52 RCW no two signs shall be spaced less than one thousand feet apart, and no sign may be located within three thousand feet of the center of an interchange, a safety rest area, or information center, or within one thousand feet of an intersection at grade. Double-faced signs shall be prohibited. Not more than a total of five sign structures shall be permitted on both sides of the highway per mile.

(c) On noncontrolled access highways inside the boundaries of incorporated cities and towns not more than a total of four sign structures on both sides of the highway within a space of six hundred sixty feet shall be permitted with a minimum of one hundred feet between sign structures. In no event, however, shall more than four sign structures be permitted between platted intersecting streets or highways. On noncontrolled access highways outside the boundaries of incorporated cities and towns minimum spacing between sign structures on each side of the highway shall be five hundred feet.

(d) For the purposes of this subsection, a back-to-back sign and a V-type sign shall be considered one sign structure.

(e) Official signs, and signs advertising activities conducted on the property on which they are located shall not be considered in determining compliance with the above spacing requirements. The minimum space between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply to signs located on the same side of the highway.

(4) Lighting: Signs may be illuminated, subject to the following restrictions:

(a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(d) All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state.

[1975 1st ex.s. c 271 § 3; 1974 ex.s. c 154 § 2; 1974 ex.s. c 138 § 2; 1971 ex.s. c 62 § 7.]

47.42.063 Signs visible from primary system in commercial and industrial areas — Preexisting signs — Permissible signs — Spacing

(1) Signs within six hundred and sixty feet of the nearest edge of the right of way lawfully erected and maintained which are visible from the main traveled way of the primary system within commercial and industrial areas on June 1, 1971 shall be permitted to remain and be maintained.

(2) Signs within six hundred and sixty feet of the nearest edge of the right of way which are visible from the main traveled way of the primary system within commercial and industrial areas whose size, lighting, and spacing are consistent with customary use as set forth in RCW 47.42.062 may be erected and maintained. Signs lawfully erected and maintained on June 1, 1971 shall be included in the determination of spacing requirements for additional signs.

[1975 1st ex.s. c 271 § 4; 1971 ex.s. c 62 § 8.]

47.42.065 Signs viewable from other highways or streets — Requirements

Notwithstanding any other provision of Chapter 47.42 RCW, signs may be erected and maintained more than six hundred and sixty feet from the nearest edge of the right of way which are visible from the main traveled way of the interstate system, primary system, or scenic system when designed and oriented to be viewed from highways or streets other than the interstate system, primary system, or the scenic system and the advertising or informative contents of which may not be clearly comprehended by motorists using the main traveled way of the interstate system, primary system or scenic system.

[1975 1st ex.s. c 271 § 5; 1971 ex.s. c 62 § 9.]

47.42.070 State and local prohibitions

Nothing in this chapter shall be construed to permit a person to erect or maintain any sign that is otherwise prohibited by statute or by the resolution or ordinance of any county, city, or town of the state of Washington.

[1961 c 96 § 7.]

47.42.080 Public nuisance — Abatement — Penalty

(1) Any sign erected or maintained contrary to the provisions of this chapter or rules adopted hereunder that is designed to be viewed from the interstate system, the primary system, or the scenic system is a public nuisance, and the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall notify the permittee or, if there is no permittee, the owner of the property on which the sign is located, by certified mail at his last known address, that it constitutes a public nuisance and must comply with the chapter or be removed.

(2) If the permittee or owner, as the case may be, fails to comply with the chapter or remove any such sign within fifteen days after being notified to remove the sign he or she is guilty of a misdemeanor. In addition to the penalties imposed by law upon conviction, an order may be entered compelling removal of the sign. Each day the sign is maintained constitutes a separate offense.

(3) If the permittee or the owner of the property upon which it is located, as the case may be, is not found or refuses receipt of the notice, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall post the sign and property upon which it is located with a notice that the sign constitutes a public nuisance and must be removed. If the sign is not removed within fifteen days after such posting, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall abate the nuisance and destroy the sign, and for that purpose may enter upon private property without incurring liability for doing so.

(4) Nothing in this section may be construed to affect the provisions contained in RCW 47.42.102 requiring the payment of compensation upon the removal of any signs compensable under state law.

(5) Any sign erected or maintained on state highway right of way contrary to this chapter or rules adopted under it is a public nuisance, and the department is authorized to remove any such sign without notice.

[1985 c 376 § 6; 1984 c 7 § 227; 1975-'76 2nd ex.s. c 55 § 1; 1971 ex.s. c 62 § 10; 1961 c 96 § 8.]

Notes:

Legislative intent -- 1985 c 376: See note following RCW 47.42.020.

Severability -- 1984 c 7: See note following RCW 47.01.141.

47.42.090 Revocation of permit

If any person is convicted of a violation of this chapter, or any rule adopted hereunder, the department may revoke any permit issued to that person under this chapter.

[1984 c 7 § 228; 1961 c 96 § 9.]

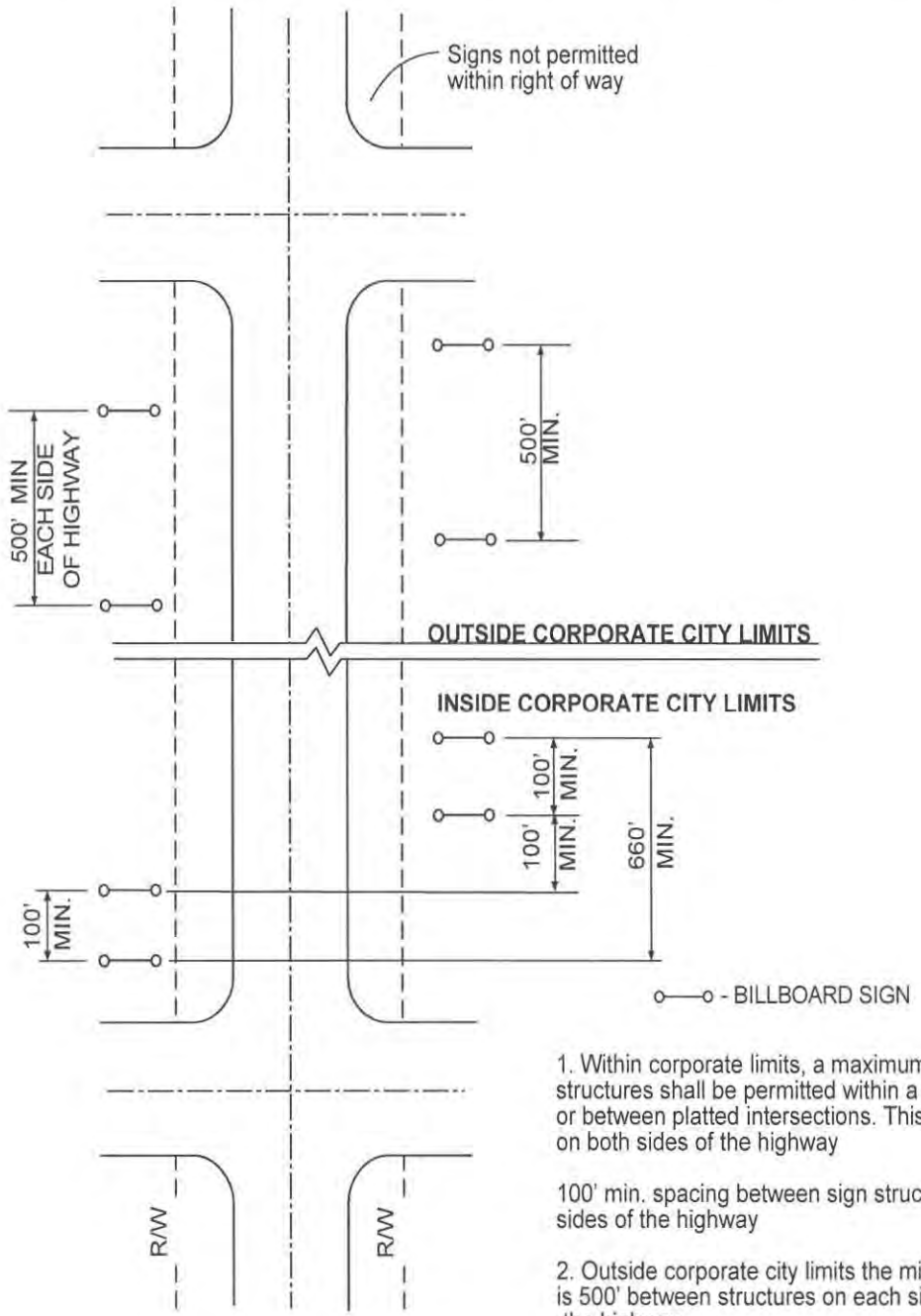
Notes:

Severability -- 1984 c 7: See note following RCW 47.01.141.

47.42.100 Preexisting signs — Moratorium

(1) No sign lawfully erected in a protected area as defined by section 2, chapter 96, Laws of 1961 (before the amendment thereof), prior to March 11, 1961, within a commercial or industrial zone within the boundaries of any city or town, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate system is subject to municipal regulation or control but which does not comply with the provisions of this chapter or any regulations promulgated hereunder, shall be maintained by any person after March 11, 1965.

Appendix C Type 4/5 Sign Spacing – NHS Non-Interstate Non-Controlled Access



1. Within corporate limits, a maximum of 4 sign structures shall be permitted within a space of 660', or between platted intersections. This includes signs on both sides of the highway

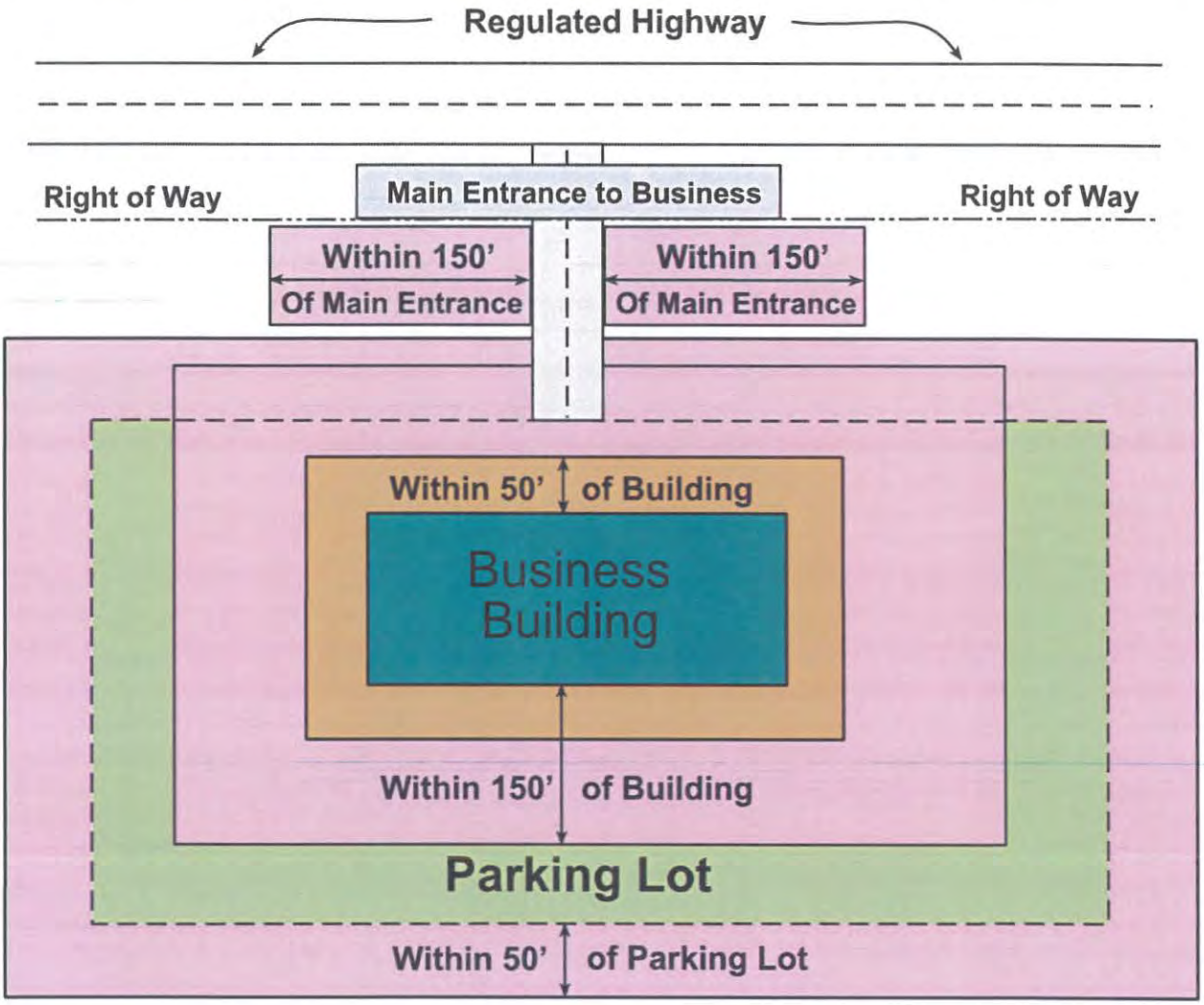
100' min. spacing between sign structures on both sides of the highway

2. Outside corporate city limits the minimum spacing is 500' between structures on each side of the highway

3. In areas where one side of a highway is within corporate limits and the other side of the highway is outside corporate limits, the appropriate sign spacing shown above applies

NHS Non-Interstate Non-Controlled Access
WAC 468-66-050(5)(e)(ii) & (iii)

Appendix E — Type 3(a) Sign Location Map



- One Sign per Direction of Travel - Maximum 150 Sq. Ft.

- Signs Not Regulated by Scenic Vistas Act

Not to Scale - Dimensions are typical

Type 3(a) Sign Location Map
WAC 468-66-050(3)(e) & (f)

Old Business Item #1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Modification to Short Subdivision Frontage Improvement Requirements

FOR AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: July 30, 2013

ATTACHMENTS:
1. Draft Ordinance 13-118
2. Priority Pedestrian Network Map
3. Department of Commerce expedited review acknowledgment letter.
4. SEPA Determination of NonSignificance Notice

CLEARANCES:
[X] Legal PB
[X] Finance NA
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Bldg & Public Works DSG
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER FOR SUBMITTAL: AT

Purpose and Recommendation:
The purpose of this agenda item is for the City Council to consider Draft Ordinance 13-118 which amends DMMC 17.36.050 by adding a modification for 2 lot short subdivision frontage improvements when certain criteria is met. First reading of Draft Ordinance 13-118 has held on July 25, 2013. Provided that no SEPA Appeals are filed prior to the August 5, 2013 deadline, the Council may enact the Draft Ordinance by passing the following motion:

Suggested Motion

Motion 1: "I move to enact Draft Ordinance No. 13-118 creating a new section to DMMC 17.36.050, allowing for modifications to 2 lot short subdivision frontage improvements when certain criteria are met."

Background:
Title 17 Des Moines Municipal Code (DMMC) – Subdivisions – requires that all subdivisions and short subdivisions improve all rights-of-way within and abutting the subdivision in accordance with the standards set forth in the City's Street Development Standards (DMMC 17.36.050 and chapter

12.28 DMMC). Depending upon the street classification, this could include additional paving, sidewalk, curb, gutter, and/or streetlight installation.

At the June 28, 2012 Council Meeting, a North Hill resident spoke during the public comment period. The resident had attended a Pre-Application meeting regarding the applicable applications and codes for a short subdivision to divide his lot into two lots for the purposes of building an additional single family residence. At the meeting, he was informed of the requirements for frontage improvements along both frontages of his corner lot. Stating a lack of similar improvements in the surrounding area and the time and costs associated with installing such improvements, the resident requested that the City Council consider modifying the code to include language that allows for deferments or modifications for circumstances such as his.

A motion was made and seconded that staff look into the issue and bring back to Council a list of recommendations for the Council's consideration regarding this matter.

Discussion:

Staff has researched several surrounding cities and found a variety of approaches to the issue. While some cities do not provide processes for deviating from the street improvement requirements, others provide for some discretion in granting modifications, deferments, and/or waivers. An example of each of these approaches follows:

1. Modification: A modification to the nature or extent of required improvements due to circumstances such as surrounding improvements or topographic/physical conditions.
2. Deferment: Defer installation of required improvements to a later time such as in cases in which the improvement is part of a larger project already scheduled as part of the City's transportation improvement plan. A concomitant agreement to install or reimburse the City at a later date; or collection of funds may be required as part of a deferment.
3. Waiver: Waive requirements for one or all required improvements due to circumstances such as significant adverse environmental impacts, or if it is unlikely that surrounding properties would have improvements installed in the foreseeable future.

Examples of circumstances in which installation of frontage improvements would be advisable are properties which abut Priority Pedestrian routes (see Attachment 2) in the Comprehensive Transportation Plan.

Staff discussed the issue with the Public Safety & Transportation Committee on April 4, 2013 and provided a presentation to the Council on April 11, 2013. At the May 9, 2013 Public Safety and Transportation Committee meeting, the Committee provided direction to staff to draft an ordinance which created a new modification section that would apply to short subdivisions of 2 lots, and less than 100 lineal feet or not located on a street identified on the Pedestrian Priority Network map (see Attachment 2).

As the proposed amendments would modify the City development regulations, the amendments are required to be forwarded to the Department of Commerce for review and comment by the Department and other State Agencies. Pursuant to RCW 36.70A.106, this review period is a minimum of 60 days; during which a local jurisdiction cannot adopt proposed amendments to its development regulations. Staff requested and was granted an expedited review by the Department of Commerce (refer to

Attachment 3). Staff issued a SEPA comment notice on July 10th, 2013 under the optional DNS process in WAC 197-11-355 and issued a DNS on July 26, 2013.

Alternatives:

The City Council has the following alternatives:

1. Enact Draft Ordinance 13-118 as written.

2. Enact Draft Ordinance 13-118 with amendments by the Council.

3. Decline to enact Draft Ordinance 13-118 at this time (No action). Under this alternative, applications would continue to be required to improve rights-of-way within and abutting the subdivisions under all circumstances.

Financial Impact:
Providing a modification section could potentially shift the cost of some future frontage improvements on certain streets to the City. Modifying some of the required frontage improvements may lower some of the costs associated with residential in-fill developments and be seen as an incentive to subdivide lots that are large enough to qualify.

Recommendation/Conclusion:
Administration recommends that the City Council pass the suggested motion.

Concurrence:
The Legal and Planning, Building and Public Works Departments concur.

Attachment #1

CITY COUNCIL DRAFT 07/29/2013

DRAFT ORDINANCE NO. 13-118

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON amending DMMC 17.36.050 relating to the construction of Street System Improvements on Rights-of-Way Abutting a subdivision.

WHEREAS, the City of Des Moines requires a new subdivision to possibly dedicate rights-of-way to serve adjacent properties in order to provide a safe and efficient circulation system within the city, and

WHEREAS, the City of Des Moines also requires improvements on rights-of-way abutting the subdivision which typically include curb, gutter, sidewalk, surface water improvements, and possibly streetlights, and

WHEREAS, the City Council recognizes the need for pedestrian improvements in the city, and

WHEREAS, a request was made for the Council to consider providing an option for waiving or modifying the street system improvements when there is no existing surrounding sidewalk to connect the required new sidewalk to, and

WHEREAS, this request was discussed at the April 4, 2013 and May 9th, 2013 Public Safety and Transportation Committee meeting, and

WHEREAS, this request was discussed at the April 11, 2013 City Council Meeting, and

WHEREAS, the Public Safety and Transportation Committee recommended to the City Council that a modification section be added to title 17.36.050 of the DMMC, and

WHEREAS, the ordinance was properly noticed in accordance with Chapter 17.44.030 DMMC, and

WHEREAS, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary; now therefore,

WHEREAS; now therefore,

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

Sec. 1. DMMC 17.36.050 and section 57 of Ordinance No. 931 as amended by section 1 of Ordinance No. 1003 are each amended to read as follows:

17.36.050 Access - Rights-of-way.

(1) General. All rights-of-way within and abutting the subdivision shall be improved in accordance with the standards set forth in chapter 12.28 DMMC.

(2) Designation of rights-of-way. If a new right-of-way is proposed within a subdivision, the Planning, Building and Public Works Director shall classify the right-of-way based on the projections for that right-of-way using the right-of-way definitions established in "City of Des Moines Street Development Standards" as adopted by chapter 12.28 DMMC.

(3) Dedication. The City may require the dedication of rights-of-way to serve adjacent properties in order to provide a safe and efficient circulation system within the City.

(4) Construction of street system improvements on rights-of-way abutting the subdivision and off-site from the subdivision. Such street system improvements as are defined in chapter 12.44

shall be constructed on rights-of-way abutting the subdivision and off-site from the subdivision as directed by the City Council in the course of discretionary review of the subdivision. The subdivision applicant required to construct off-site street system improvements are entitled to reimbursement as provided in chapter 12.44 DMMC.

(5) Modifications. The applicant may request and the Public Works Director may grant a modification of the right-of-way improvements defined in the current Street Development Standards for subdivisions that do not yield more than two lots based upon the following criteria:

1. The subdivision contains less than 100 lineal feet of street frontage and would not match existing improvements; or
2. The subdivision does not front on a street identified in the Priority Pedestrian Network in the current Comprehensive Transportation Plan and would not match existing improvements; or
3. The subdivision does not front on a street identified in the Priority Pedestrian Network in the current Comprehensive Transportation Plan and unusual topographic or physical conditions preclude the construction of the improvements as required.

NEW SECTION. Sec. 3. 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.

NEW SECTION. Sec. 4. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2013 and signed in authentication thereof this ____ day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published: _____

Effective Date: _____

R:\1-Legal Files\2013\13-118 - Ordinance, Title 17 Frontage Improvements\Draft Ordinance No. 13-118.docx

Draft Ordinance No. 13-118.2
July 29, 2013

Attachment #2

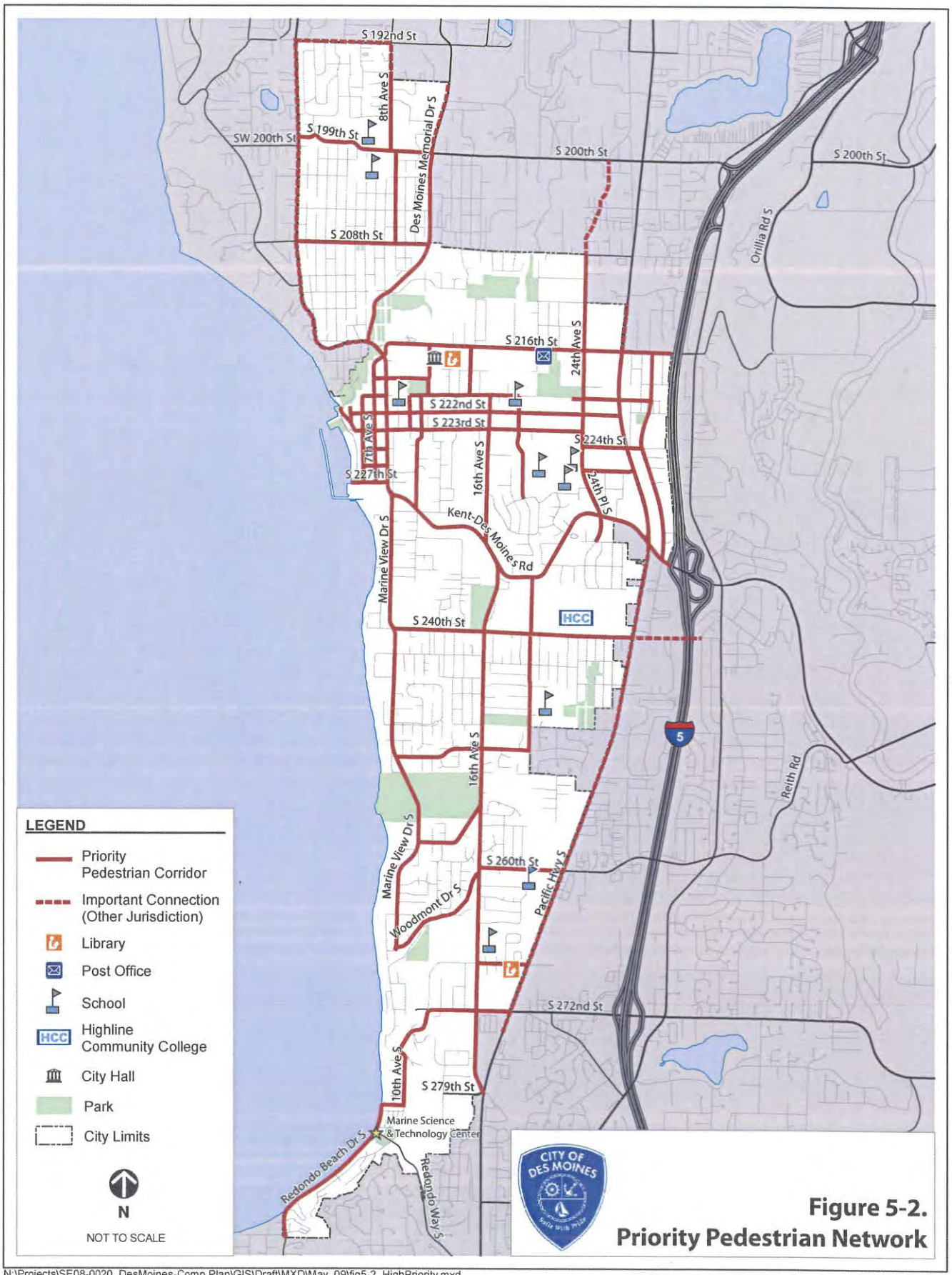


Figure 5-2. Priority Pedestrian Network

N:\Projects\SE08-0020_DesMoines-Comp Plan\GIS\Draft\MXD\May_09\fig5-2_HighPriority.mxd

Attachment #3

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

June 4, 2013

Denise Lathrop
Planning Manager
City of Des Moines
21650 - 11th Avenue South Suite D
Des Moines, Washington 98198

Dear Ms. Lathrop:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Des Moines - Proposed text code amendment to Title 17 Subdivisions DMMC to add a modification section to Chapter 17.36 DMMC related to short plat frontage improvements. These materials were received on May 22, 2013 and processed with the material ID # 19165. Expedited Review is requested under RCW 36.70A.106(3)(b).

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment requesting expedited review, then we have forwarded a copy of this notice to other state agencies for expedited review and comment. If one or more state agencies indicate that they will be commenting, then Commerce will deny expedited review and the standard 60-day review period (from date received) will apply. Commerce will notify you by e-mail regarding of approval or denial of your expedited review request. If approved for expedited review, then final adoption may occur no earlier than fifteen calendar days after the original date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

Attachment #4

CITY OF DES MOINES, WASHINGTON
Planning, Building, and Public Works Department
21630 11th Avenue South, Suite D
Des Moines, WA 98198
Phone: (206) 870-7576 Fax: (206) 870-6544

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: Draft Ordinance 13-118 amending the Subdivision Code – Chapter 17.36 DMMC – to allow for modifications to short subdivision frontage improvements when specific requirements are met.

Proponent: City of Des Moines

Location of proposal: Area Wide

Project File No: LUA2012-0020

Lead Agency: City of Des Moines

The City of Des Moines has determined that the above-described proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340. The lead agency will not take final action on this proposal for 10 days from the date below*. The Optional DNS process was utilized as authorized by WAC 197-11-355; there will not be an additional comment period. **The required comment period was provided from July 10, 2013 – July 25, 2013.**

Responsible Official: Daniel J. Brewer

Position/Title: Planning, Building, and Public Works Director
21650 11th Avenue South, Suite D
Des Moines, WA 98198

July 26, 2013
(Date*)

(Signature)

Project Lead Contact: Jason Sullivan, Senior Planner, Phone (206) 870-6551

AGENCY APPEAL

APPEAL: Any agency or person may appeal this SEPA determination by filing a written appeal with the Des Moines City Clerk. Such appeal must be filed within ten (10) days of the date this Determination of Nonsignificance (DNS) is final and shall be consistent with all provisions of sections 16.04.210 and 18.94.113, if applicable, of the Des Moines Municipal Code. The last date for filing such an appeal as to this proposal will be 4:30 p.m. on **August 5, 2013**. Procedural determinations include the adequacy of the DNS, whether proper notice has been given, and whether the commenting period has been observed. The pendency of a procedural appeal shall stay any action on a permit/approval until a final determination on the appeal is issued by the Hearing Examiner; except if the City Council is required to issue the determination of the underlying permit/approval. In such cases, the City Council will issue the final determination of the appeal concurrently with its determination on the underlying permit/approval.

Old Business Item #2

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Surface Water Management Rates

ATTACHMENTS:
1. City Council Draft Ordinance No. 13-123 (showing markups)
2. Final Report for the Stormwater Rate Structure Study – July 2013 by FCS Group
3. 7/25/2013 Council Agenda Packet (without attachments)
4. City Attorney Memo
5. FCS Group Memo on Private Streets

AGENDA OF: August 8, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: July 31, 2013

CLEARANCES:
[X] Legal PB
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJG
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this agenda item is to enact an Ordinance for adjusting the Surface Water Management Utility rate structure based on the results of a study that was prepared by the Financial Consulting Solutions Group (FCS Group). At the first reading of the Ordinance held on July 25th, 2013, the Council was presented with two Ordinances for consideration, Draft Ordinance No. 13-123 and No. 13-123 (Alternate A). Council moved to pass Draft Ordinance No. 13-123 (Alternate A) to a second reading on August 8, 2013. Draft Ordinance 13-123 (Alternate A), now titled City Council Draft Ordinance 13-123, is provided as Attachment 1.

Suggested Motions:

Motion: "I move to enact Draft Ordinance No. 13-123, revising the definition the Equivalent Billing Unit, eliminating the 70% rate discount for private streets, revising the classification base rate calculations, and providing rate adjustments for non-single family residences and private streets that mitigate water quality and water quantity impacts to current development standards."

Background:

Council was briefed on the Rate Structure Study by the Financial Consulting Solutions (FCS) Group on May 23, 2013. The Rate Structure Study has now been finalized as "Final Report for Stormwater Rate Structure Study – July 2013" and is provided as Attachment 2. No changes were made to the report

since the July 25, 2013 Council meeting. The July 25th, 2013 Council Agenda packet (without the attachments) is provided as Attachment 3, and a legal opinion prepared by the City Attorney is provided as Attachment 4, for additional background information.

Discussion:
Several questions were raised by Council at the July 25th, 2013 meeting that should be clarified. One question that was asked was whether single family properties with associated private streets pay a higher SWM fee than single family properties with public streets. While both properties would pay the same "rate" as shown in the base rate schedule of Appendix A of the Ordinance, the "fee" for a single family property with a private street would be higher because of the additional fee paid for that portion of the private street owned by the property owner. The fee for the single family properties (with private streets) would account for the impervious areas of the property plus the prorated portion of the impervious area of the private street (as shared with other properties along the private street).

A second question was asked was that if the fee is a fee for service and if the fee is charged to private streets, why services cannot be provided to the private streets. Currently, the rates that are charged under the SWM program, are used to manage stormwater that is discharged into the public stormwater from private properties and private streets. So, presently, the amount of fees collected only provide for the services for managing the stormwater that is released from the private properties as well as stormwater generated from the public parts of the stormwater system. A memo on this topic prepared by FCS Group is provided as Attachment 5. In that memo, the Consultant states "The City provides service to all developed property by operating the MS4 (Municipal Separate Storm Sewer System). Requiring property owners to maintain stormwater facilities associated with private streets is entirely consistent with the requirement that commercial property owners maintain their on-site stormwater facilities."

Financial Impact:
The recommendations of this Rate Structure study are revenue neutral and therefore no financial impacts are anticipated to the SWM Utility. However, most of the recommendations impact the various rate classifications by lowering the rate for most or all commercial and multifamily properties as well as single family properties that qualify for the small impervious tier consisting of less than 2,800 square feet of impervious area. Single family properties that meet the medium or large tiers as well as those that exceed 7,500 square feet of impervious area would be charged a higher rate.

Alternatives:
The City Council has the following alternatives:

(1) Enact Draft Ordinance 13-123 as written, which follows the recommendations of the consultant.
(2) Enact Draft Ordinance 13-123 with amendments. Deviating from the recommendations of the Rate Structure Study is not recommended by the consultant, staff or the Environment Committee. The FCS Study and staff believes that changes to the ordinance, particularly changes that would fully exempt private streets from utility fees as well as providing SWM services on private streets may be challenged as it would create a classification of private street owners with no public benefit and no consideration for the services.
(3) Decline to enact Draft Ordinance 13-123. This is not recommended by staff given that the study is addressing concerns raised about the equity of the current rates.

Recommendation/Conclusion:
Staff recommends that Council enact Ordinance No. 13-123.

Concurrence:
Legal, Planning, Building and Public Works and the Finance Departments concur.

Attachment #1

CITY COUNCILATTORNEY'S FIRST DRAFT 07/2517/2013

(FORMERLY DRAFT ORDINANCE 13-123 (Alternate A)

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to surface water management, adding new sections to chapter 11.12 DMMC applying Findings and Authority and adopting by reference the "Draft Final Report for the Stormwater Rate Structure Study - July 2013"; amending DMMC 11.12.010 to revise the definition of the equivalent billing unit (EBU); amending DMMC 11.12.020 to replace the property classification base rates in Appendix A attached to this Ordinance; amending DMMC 11.12.060 to eliminate the 70% discount for private streets; and amending 11.12.080 for rate adjustments to provide for adjustment in service charges for non-single family properties that provide water quality and/or water quantity mitigation above to that required under the current development standards.

WHEREAS, the City Council of the City of Des Moines first established surface water utility rates and charges in Ordinance No. 860, enacted October 11, 1990, and

WHEREAS, Ordinance No. 860 was amended by Ordinance No. 990, enacted November 19, 1992, to apply a cost of living increase of approximately 3.15 percent, effective in 1993, and

WHEREAS, Ordinance No. 990 was amended by Ordinance No. 1065, enacted November 18, 1993, to apply a cost of operation increase of approximately 2 percent, effective in 1994, and

WHEREAS, Ordinance No. 1065 was amended by Ordinance No. 1173, enacted November 21, 1996, to apply a cost of operation increase of approximately five percent (5%), effective in 1997, and

WHEREAS, Ordinance No. 1173 was amended by Ordinance No. 1220-A, enacted October 29, 1998, to apply a cost of operation adjustment to charges for surface water drainage services to be consistent with the Surface Water Management Financial Forecast, and

WHEREAS, Ordinance No. 1220-A was amended by Ordinance No. 1246, enacted November 18, 1999, to apply a cost of operation adjustment to charges for surface water drainage services and to add participation charges for new development permits, and

WHEREAS, on October 13, 2005, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and

WHEREAS, Ordinance No. 1368 was enacted on November 13, 2005, to adjust surface water drainage service charges, to amend participation charges for development permits, and to apply an inflation adjustment, and

WHEREAS, Ordinance No. 1437 was enacted on September 25, 2008, to adjust surface water drainage services charges, to revise the annual inflation rate calculation, and to specify an effective date for applying the drainage service charges to new development, and

WHEREAS, Ordinance No. 1441 was enacted on November 13, 2008, imposing a six percent (6%) Surface Water Management Utility Tax, and

WHEREAS, Ordinance No. 1496 was enacted on November 18, 2010, to revise the annual inflation index calculation to a minimum rate increase of zero percent, and

WHEREAS, the City Council finds that surface water management is an essential service of the City of Des Moines, and

WHEREAS, on May 23, 2013, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Structure Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and the City Council having considered~~; now therefore~~, and

WHEREAS, on July 25, 2013, the City Council heard the first reading of the Draft Ordinance, and moved to pass Draft

Ordinance 13-123 (Alternate A) to a Second Reading on August 8, 2013; now therefore,

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

NEW SECTION. Sec. 1. A new section shall be added to chapter 11.12 DMMC to read as follows:

The following Findings and Authority shall apply to this Ordinance.

The City has prepared a study for determining an equitable method for calculating the Surface Water Management Service Fees for the rate classes as set forth in Appendix A of this Ordinance. The "~~Draft~~ Final Report for the Stormwater Rate Structure Study - July 2013", by FCS Group, complies with RCW 35.67.020 by applying three uniform rates for small, medium, and large single-family properties and a measured rate for single-family properties exceeding 7,500 square feet of impervious surface and a measured rate for all multi-family, commercial and non-profit properties. The measured rate charge shall be based on per billing unit per 3,450 square feet of impervious surface area. A copy of the rate study, Appendix B of this Ordinance, shall be kept on file with the City Clerk and is available to the public for review.

NEW SECTION. Sec. 2. A new section shall be added to chapter 11.12 DMMC to read as follows:

The following is adopted by reference:

The "~~Draft~~ Final Report for Stormwater Rate Structure Study - July 2013", is hereby adopted as set forth in Appendix B, which is attached to the Ordinance codified in this chapter and incorporated herein by reference.

Sec. 3. DMMC 11.12.010 and section 1 of Ordinance No. 860 as amended by section 1 of Ordinance No. 1000 as amended by section 2 of Ordinance No. 1211 as amended by section 1 of Ordinance No. 1246 are each amended to read as follows:

Definitions.

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(1) Use of ~~W~~words and ~~P~~phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Commercial property" means: (a) all property in the ~~city~~City, private or public, used for a purpose other than single-family, multifamily, or nonprofit uses; and (b) for the purposes of this chapter, "mixed uses" as defined in the zoning code of the ~~city~~City and nonprofit homes for the aging as that expression is used in chapter 84.36 RCW.

(3) "Development permit charge" means a one time payment made at the time of development or redevelopment of a property to compensate the ~~city~~City for the costs previously incurred by the ~~city~~City in providing the surface water system serving the property at the time of development.

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(4) "Developed property" means a property that has been changed from the natural state, resulting in 500 square feet or more of impervious area occurring on the property.

(5) "Development permit" means, for the purposes of this chapter, a required permit leading to a project that will result in 500 square feet or more of new impervious area on previously undeveloped or developed property.

(6) "Disabled person" means a person who has been granted special parking privileges for disabled persons under RCW 46.16.381 as presently constituted or as may be subsequently amended.

(7) "Equivalent billing unit (EBU)" means a measure of the impact of commercial/multifamily properties on the surface water system. It is equal to each ~~2,400~~3,450 square feet of impervious area that has been determined to be the average amount of impervious area on single-family properties in the ~~city~~City.

(8) "Impervious surface" or "area" means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purpose of this chapter.

(9) "Multifamily property" means all property zoned and/or used for purposes of multifamily housing. For the purposes of this chapter, trailer parks are considered multi-family property, and "mixed uses" are not considered multifamily property.

(10) "Nonprofit property" means property upon which a facility exists that is owned and operated by a governmental agency or by an organization that has been granted nonprofit

status under the rules of the Internal Revenue Code of the United States.

(11) "Nonprofit residential property" means multifamily residential developments or nonprofit homes for the aging, owned and operated by a governmental agency or by an organization that has been granted nonprofit status under the rules of the Internal Revenue Code of the United States.

(12) "Private streets" means tracts of land, not publicly owned, that are generally open to the public in the same manner as public rights-of-way and that serve residential developments, but shall not include driveways or paved surfaces providing vehicle access within a multifamily or commercial development.

(13) "Rate Structure Study" means the rate study identified in Section 2 of this ~~ordinance~~Ordinance.

(14~~3~~) "Single-family unit" means those properties on which one dwelling unit is established, and that unit is used for dwelling purposes and not commercial activity, except for approved home occupations. "Single-family unit" also means an individually owned dwelling unit in planned unit developments (hereinafter "PUD" or "PUDs"), except for condominiums therein.

(15~~4~~) "Surface water system" means the surface water utility system of the ~~city~~City.

Sec. 4. DMMC 11.12.020 and section 2 of Ordinance No. 860 as amended by section 1 of Ordinance No. 927 as amended by section 1 of Ordinance No. 990 as amended by section 1 of Ordinance No. 1065 as amended by section 1 of Ordinance 1083 as amended by section 1 of Ordinance 1173 as amended by section 1

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of Ordinance No. 1220-A as amended by section 2 of Ordinance No. 1246 as amended by section 1 of Ordinance No. 1368 as amended by section 1 of Ordinance No. 1437 as amended by section 1 of Ordinance 1496 are each amended to read as follows:

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Service charge established for surface water service.

There is established a system of service charges for surface water drainage service against all developed properties in the ~~city~~City.

(1) Monthly surface water utility rates shall be established on the basis of whether the developed property is used for a single-family unit, multifamily units, commercial properties, or nonprofit properties. Rates for all other surface water goods and services shall be established by executive order of the ~~city~~City manager and published at the office of the planning, building, and public works department.

___(2) The rates for surface water drainage service shall be as reflected on Appendix "A" attached to the ~~ordinance~~Ordinance codified in this section, which is incorporated herein by this reference. The baseline rates contained in Appendix "A" shall take effect January 1, 20~~09~~14. Effective January 1, 2015~~0~~ and January 1st of each succeeding year thereafter, rates for surface water drainage service shall be established by, first, taking the rate service charge for the previous year (this figure is hereinafter referenced as the "base sum"); second, multiplying the base sum by a combination index of the Engineering News Record (ENR) Construction Cost Index (CCI) for the ~~city~~City of Seattle on March 31st of the current year and the

Seattle Consumer Price Index (CPI-Urban Consumers), as measured for the 12-month period ending in June of the previous year as published by the U.S. Bureau of Labor and Statistics. The applicable index shall be calculated for the upcoming year as 30 percent of the ENR CCI for Seattle plus 70 percent of the Seattle CPI; and, third, adding the results to the base sum. Beginning January 1, 2010, and on January 1st of each succeeding year, the rates shall be established by applying updated CCI, CPI, and the end figures in like manner to the rates of the previous year. Beginning January 1, 2011, and on each succeeding year, should the combined CCI/CPI inflation index as calculated above be less than zero, then the base sum shall remain the same as the previous year.

___(3) The monthly surface water service charge as applied to new development activity resulting in 500 square feet or more impervious area shall become effective on the date the land was cleared, graded or modified for the development as documented by the ~~public works director~~Planning, Building and Public Works Director. For new subdivisions, the effective date shall be approval date of the plat.

Sec. 5. DMMC 11.12.060 and section 6 of Ordinance No. 860 as amended by section 2 of Ordinance No. 1187 as amended by section 1 of Ordinance No. 1230 are each amended to read as follows:

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Service charges for private streets.

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The monthly service charge for private streets shall be computed on the same basis as commercial property~~, except that the number of equivalent billing units derived therefrom shall be~~

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~~multiplied by 0.30 in computing the overall service charge. Where private streets are in single ownership, the owner shall be responsible for all charges.~~. Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.

Sec. 6. DMMC 11.12.080 and section 8 of Ordinance No. 860 as amended by section 3 of Ordinance No. 1083 as amended by section 3 of Ordinance No. 1211 are each amended to read as follows:

Rate adjustments.

(1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

(2) Requests for rate adjustment may be granted or approved only when the ~~public works director~~Planning, Building and Public Works Director determines that one or more of the following conditions exist:

(a) T~~t~~he rate or service charge bill was not calculated in accordance with the terms of this chapter or the amount charged is in error;

(b) The request is for a private street or a non-single family residential parcel, which includes a constructed or natural on-site storm water mitigation facility that meets all of the following conditions:

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(i) The constructed or natural facility provides storm or storm water detention, retention, water quality treatment, and/or conveyance; and,

(ii) The ~~director~~Planning, Building and Public Works Director has determined that the property owner is capable of maintaining and operating the facility; and,

(iii) The facility is maintained by the property owner to the City's design specifications; and,

(iv) The facility is available for inspection by the City; and,

(v) Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and

(vi) The rate adjustment is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.

(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.

(4) Decisions on requests for rate adjustments shall be made by the ~~director~~Planning, Building and Public Works Director based on information submitted by the applicant and by the division within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the ~~director~~Planning, Building and Public Works Director's decision. If an adjustment is granted

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which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

(5) Rate adjustments granted for on-site mitigation as set forth in DMMC 11.12.080(2)(b) shall not exceed 30% of the unadjusted service charge: 14% of the unadjusted service charge for full water quality mitigation and 16% of the unadjusted service charge for full water quantity mitigation. The percentage of the rate adjustment to be granted up to the maximum amount will be the percentage achievement of on-site facilities against current development requirements as determined by the ~~director~~Planning, Building and Public Works Director.

(6) If the ~~director~~Planning, Building and Public Works Director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in DMMC 11.12.020. The ~~director~~Planning, Building and Public Works Director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

Sec. 7. Codification. Sections 1 and 2 of this Ordinance shall be codified as new sections in chapter 11.12 DMMC.

Sec. 8. 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.9. Effective date. This Ordinance shall take effect and be in full force five (5) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this __th day of _____, 2013 and signed in authentication thereof this __th day of _____, 2013.

_____
M A Y O R

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Published:

Attachment #2

City of Des Moines Stormwater Utility

Final Report for STORMWATER RATE STRUCTURE STUDY

July 2013

FCS GROUP
7525 166th Avenue NE, Suite D-215
Redmond, WA 98052
T: 425.867.1802 | F: 425.867.1937

This entire report is made of readily recyclable materials, including the bronze wire binding and the front and back cover, which are made from post-consumer recycled plastic bottles.

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SECTION I: INTRODUCTION

In October 2012, the City of Des Moines (City) engaged FCS GROUP to perform a comprehensive stormwater rate structure study. The City asked FCS GROUP to evaluate its existing stormwater rate structure, provide policy recommendations, and develop new rates in a revenue neutral manner. The study scope did not include a revenue requirement analysis for the utility.

The revenue requirement is defined as the total amount of rate revenue needed to meet an enterprise's financial obligations, including capital, operating, and policy driven commitments.

The rate structure study included an evaluation, based on available engineering and customer information, of "who should pay" in order to equitably recover adequate revenues. If the revenue requirement analysis determines the size of the pie, the rate structure study determines how you slice it among customer classes. The results of the study are revenue neutral rate alternatives that equitably charge utility customers based on the unique demands of their class.

A. STUDY ELEMENTS

The major scope elements of the study included:

- Participating in a project kickoff meeting with City staff and identifying the list of key policy questions to address in establishing a policy framework,
- Analyzing each issue with a brief issue paper that defines the issue, presents alternative solutions (including industry standards and comparable utility practices, if applicable), and recommends a course of action,
- Developing technical analyses and designing rates by guiding City staff in their equivalent billing unit (EBU) recalculation effort, and incorporating policy direction,
- Preparing for and participating in review meetings with City staff to evaluate draft results, and presenting study findings to the City Council and Council sub-committees, and
- Documenting study assumptions, analyses, and results in a study report.

B. STUDY PROCESS

The methods used to complete our work are based on analytical principals that are generally accepted and widely followed throughout the utility rate consulting industry, e.g. that rates must recover stormwater program costs without undue discrimination toward or against any customer or class of customer.

The study process involved several planned as well as requested ad hoc iterations of data analyses and the development of scenarios for cost-of service analyses and rate structure alternatives. Several meetings were held with City staff to validate input parameters, review interim findings, identify new or missing information and data, and receive policy direction. In addition, draft study findings and alternative policy considerations and their potential impacts were presented to the Council Public

Works Committee at several meetings to obtain their input and feedback on key policy choices, and study results were presented to the City Council.

C. REPORT ORGANIZATION

The following sections provide an overview of the policy recommendations, major analytical methods employed by FCS GROUP to complete this work, and well as study findings and recommendations. The remainder of this report provides separate sections for Existing Rate Structure and Policy Recommendations (Section 2); Cost of Service Analysis (Section 3); and Proposed Rates (Section 4). The issue papers developed as part of the policy evaluation and recommendations, spreadsheet model outputs, and presentation materials are provided at the end of the report in Appendices I, II, and III.

SECTION II: EXISTING RATE STRUCTURE & POLICY RECOMMENDATIONS

A. EXISTING RATE STRUCTURE

The City's stormwater rate is applied on a "per equivalent billing unit (EBU)" basis. A single family residential customer is considered one EBU. The number of EBUs for other customers is calculated based on the amount of impervious surface area present on the parcel using the assumption that one ERU is 2,400 sq. ft. of impervious surface area.

The monthly stormwater rate consists of two components: one for water quantity and one for water quality. The water quality portion of the rate is currently $2.56 a month, while the water quantity portion is $9.64 a month. Single family homes are charged the total $12.20 per month. Commercial properties are charged for both components based on measured impervious square footage divided by the EBU value of 2,400 square feet of impervious surface area. Multi-family customers are charged for water quality on a per dwelling unit basis and for water quantity based on measured impervious area the same as the commercial rate.

Low-income elderly or disabled customers receive a 30% rate discount. Private streets receive a 70% rate discount. The City does not offer any other rate credits or discounts to customers. The City public streets are exempt from the rate.

B. POLICY RECOMMENDATIONS

To establish a policy framework for the technical analysis, FCS GROUP prepared five (5) issue papers on specific stormwater rate related topics for discussion with the City. The following topics were addressed:

- Stormwater Rate Structure
- Stormwater Fees for Private Streets
- Stormwater Rate Credits
- Stormwater Multi-family Rates
- Stormwater Public Institution Rates

Each issue paper defined and analyzed the specific issue being considered, presented alternative solutions (including industry standards and comparable utility practices, if applicable), and recommended (for discussion) a course of action. The issue papers are provided in **Appendix I**. The recommendations presented in these issue papers are summarized below.

B.1 Stormwater Rates & Treatment of Specific Customer Classes

Regarding the stormwater rates and treatment of specific customer classes such as multifamily residential customers, private streets, and public institutions, we recommended that the City

- maintain its current stormwater rate structure basis of impervious surface area, with single family residential customers defined as one EBU and non-SFR customer charges based on the actual measured impervious surface area per parcel,
- consider a tiered structure for SFR customers,
- measure the impervious surface area of a sample of single family residential homes, and update equivalent billing unit value,
- charge its multifamily residential customers similar to commercial customers -- based on a impervious surface area both for water quality and water quantity rate components, and eliminate the current per dwelling unit water quality rates,
- charge public property the same as any other customers. (Credits, as we have laid out in Issue Paper #3 and summarized below, would also apply to all customer types, including schools).
- continue exempting public streets from the stormwater rates as they are considered a key part of the stormwater conveyance system, and
- charge private streets as non-residential property, discounting the rate only to offset qualifying mitigation.

B.2 Stormwater Rate Credits

The following recommendations assume that properties subject to stormwater rate credits would be meeting or exceeding the City's development requirements, hence allowing the City to delay capital projects. As a result, the utility would be able to reduce its capital as well as operating costs by as a result of qualifying on-site mitigation. Credits would be based on site-specific evaluations, and would be available only up to a maximum credit amount determined by examining program component fixed and variable costs. The following guidelines may be used for site-specific evaluations.

B.2.a Quantity Credits

- Infiltration:
  - A full credit for the quantity-related portion of the utility should bill be granted to customers that have capacity to infiltrate the current design storm size.
  - A minimal quantity credit should be offered to customers with less infiltration capacity than for the design storm size.
- Detention facilities:
  - Customers that are able to detain to current standards should receive a quantity-related credit that is less than a full credit for this portion of the bill.
  - Customers with less detention capacity than for the design storm size should receive a minimal credit for the quantity component of the bill.
- Development methods which incorporate features that mitigate stormwater runoff such as low impact development, green building, rainwater harvesting:
  - Quantity-related mitigation should be eligible for a minimal credit against the quantity rate component.
  - When paired with detention facilities sized for the design storm, customers should receive a full credit against the quantity rate component.

No credit or adjustment should be granted to customers without meaningful quantity mitigation capability.

B.1.b Quality Credits

- A full credit for the quality-related portion of the utility bill should only be granted to customers that provide on-site quality mitigation and source controls that meet current standards.
- A minimal credit to the quality portion of the stormwater utility bill should be provided to customers that, while not meeting current requirements, do maintain a basic treatment capacity on-site and/or implement some source control measures.

No credit should be granted to customers that have no on-site quality controls or provide only nominal quality mitigation

B.1.c Other Credits

Customers with individual NPDES stormwater permits should be eligible for the same rate credits as any other non-residential customer. No dedicated credit for simply possessing a permit should be established.

SECTION III: COST OF SERVICE ANALYSIS

The cost of service analysis is intended to provide the analytical basis for equitably recovering the forecasted revenue requirement from classes of customers according to their use of the system. The analysis typically involves a two-step process. First, capital and O&M costs are allocated to functional categories. Second, based on customer class characteristics derived from utility billing system data (such as number of customers, equivalent billing units, customers that provide on-site mitigation measures, etc.), these functionally allocated costs are distributed to the customer classes.

Typically, a cost of service analysis is not required for establishing stormwater utility rates. However, a cost of service analysis provides an analytical basis for determining cost savings from on-site mitigation measures, and hence, establishing rate credits based on estimated cost savings. This provides for recovering stormwater utility costs from customers more equitably and fairly.

Cost of service allocations are made for a "test year" considered representative of the period in which proposed rates are expected to be in effect. For this study, the allocation of functional costs is based on the 2013 budget, and 2013 was used as the test year for designing rates. As mentioned earlier, rates are developed in a revenue neutral manner for this study.

A. FUNCTIONAL ALLOCATION

The functional categories used for allocating the costs of the stormwater utility are:

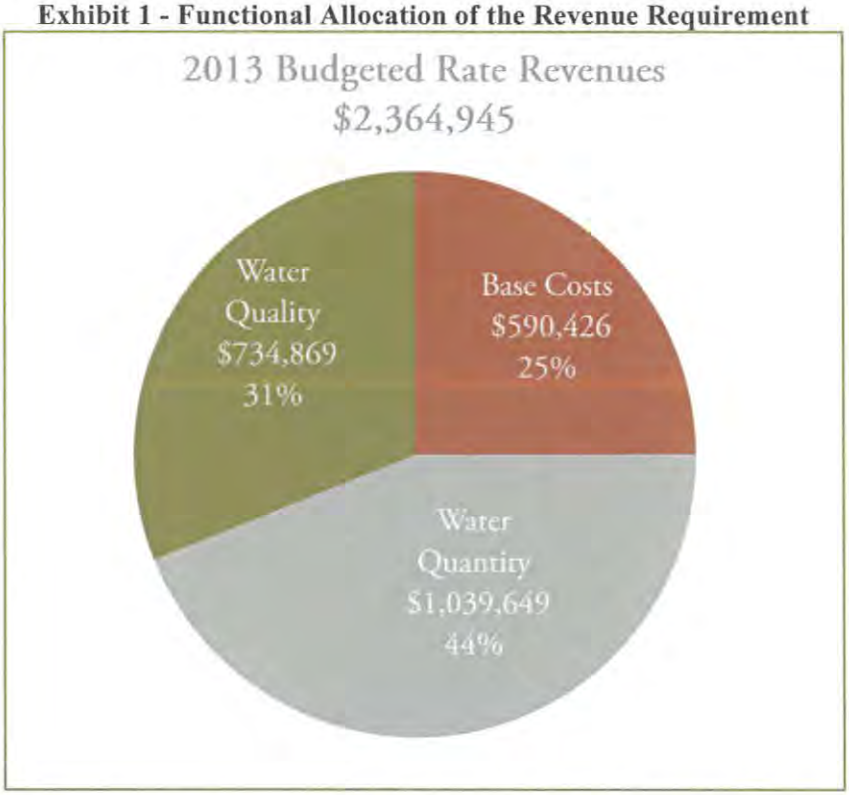
- ***Base Costs***: Those costs that are not affected by on-site stormwater mitigation measures. These costs are born by the utility regardless of the quantity and quality of stormwater runoff; they should be shared by all utility ratepayers.
- ***Use Costs***: Those costs that are affected by on-site mitigation. If a customer provides (and operates) on-site mitigation, and therefore reduces utility costs, then that customer should be given the rate credit. Use costs are comprised of two components:
  - ***Water quality*** related costs are those costs that are born by the utility to manage non-source water pollution of stormwater runoff, and
  - ***Water quantity*** related costs are those cost that are incurred by the utility to manage amount of stormwater runoff.

The cost of service analysis simply allocates the utility's annual revenue requirement to these functional categories. The utility's budgeted rate revenues for 2013 are $2,364,945. This amount is allocated to functional cost categories as follows:

- The utility's budgeted 2013 operating and maintenance costs are allocated based on a detailed review of line items, such as salaries, office and operating supplies, and materials and services, etc., and assigned to functions based on assumed cost causation.
- Other operating income (non-rate revenues, interest earnings), transfers to capital fund and/or capital expenditures, and net cash flow from operations are allocated as all other.

Exhibit 1 provides a summary of the functional cost allocation results.

Exhibit 1 - Functional Allocation of the Revenue Requirement



Water quality and water quantity components are further broken down into two sub-categories; direct costs and indirect cost. ***Direct costs*** are those costs that are directly benefit utility customers or impacted by on-site mitigation measures such as maintenance of stormwater detention facilities, cleaning of culverts, etc. On the other hand, ***indirect costs*** are those costs that are part of the water quality and/or water quantity related programs, yet they do not directly impact customers or being impacted by on-site mitigation measures such as public outreach and education costs.

Exhibit 2 provides a more detailed breakdown of the utility's 2013 revenue requirement.

Exhibit 2 – 2013 Revenue Requirement by Functional Cost Components

Functional Allocation of 2013 Revenue Requirements	Base	Water Quality		Water Quantity		Total
		Direct	Indirect	Direct	Indirect	
Revenue Requirements	$ 590,426	$ 320,943	$ 413,927	$ 369,874	$ 669,775	$2,364,945

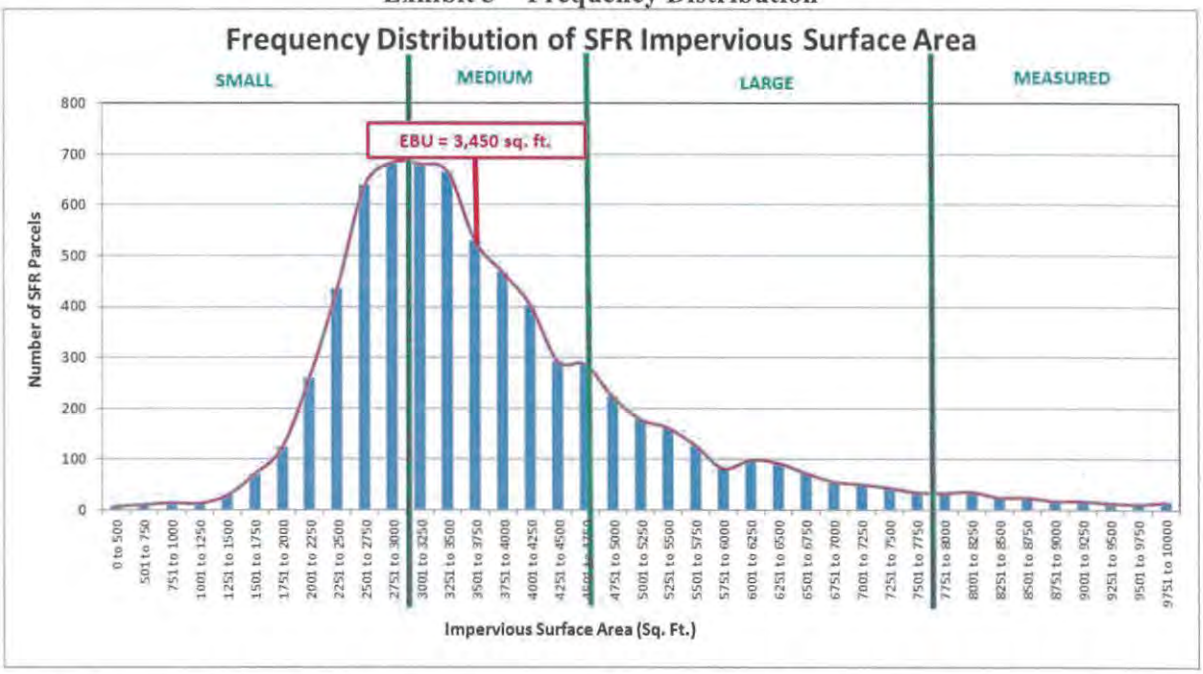
B. CUSTOMER BASE AND CUSTOMER ALLOCATION

B.1 Updating the EBU definition value

As explained above, the City's existing rates are based on the assumption that the average impervious surface area of single family residences is 2,400 sq. ft. -- thought to no longer reflect the actual average for City SFRs. If 2,400 is in fact low, leaving the EBU unadjusted would mean that non-single family residential customers would pay more than their fair share and single family residential customers would be subsidized. By employing GIS analysis techniques and a work plan provided by FCS GROUP, City staff measured the impervious surface area for all single family residences within the City.

Exhibit 3 provides the frequency distribution of single family residential parcels' impervious surface area measurements that are less than 10,000 square feet.

Exhibit 3 – Frequency Distribution



As can be seen from Exhibit 3, the impervious surface area of single family residential parcels varies significantly. For the purpose of developing a tiered rate option, single family residential customers were divided into four categories. These categories were as follows:

- ***Small:*** This category accounted for the first quartile of single family residential customers that were in the first three categories (i.e. small, medium, and large), and included parcels with up to 2,800 square feet of impervious surface area. Average impervious surface area within this category is calculated to be approximately 2,341 square feet, and it is rounded to 2,350 square feet for EBU calculation purposes.
- ***Medium:*** This category accounted for the middle two quartiles of single family residential customers that were in the first three categories, and included parcels with impervious surface area greater than 2,800 and less than 4,350 square feet. Average impervious surface area within this category is calculated to be approximately 3,471 square feet, and it is rounded to 3,450 square feet for EBU calculation purposes.
- ***Large:*** This category accounted for the largest quartile of single family residential customers that were in the first three categories, and included parcels with greater than 4,350 and less than 7,500 square feet of impervious surface area. Average impervious surface area within this category is calculated to be approximately 5,402 square feet, and it is rounded to 5,400 square feet for EBU calculation purposes.
- ***Extra Large:*** Single family residential parcels that have larger than 7,500 square feet of impervious surface area are placed into this category, to be treated the same as commercial customers. In other words, single family residential customers that fall into this category are charged based on actual measured impervious surface area rather than unitized EBU values.

One EBU is set equal to the average impervious surface area of the medium category, or 3,450 square feet. EBU values for small and large single family residential categories are determined relative to each category's rounded average prorated by the new EBU definition. As a result, a small single family residential customer is estimated to have 0.68 EBU, while a large single family residential customer is estimated to have 1.57 EBUs. Based on the new EBU definition, the number of EBUs for each non-single family residential customers were re-calculated.

A summary of the customer characteristics of each single family residential customer category is provided in **Exhibit 4**.

Exhibit 4 – Single Family Residential Customer Categories

Tier Classifications & Tresholds	No of Customers	% Shares	Avg. ISA
Small *(0 to 2,800 sq. ft.)*	1,739	25.5%	2,341
Medium *(2,800 to 4,350 sq. ft.)*	3,408	50.1%	3,471
Large *(4,350 to 7,500 sq. ft.)*	1,660	24.4%	5,402
subtotal	**6,807**	**100.0%**	**3,653**
Measured *(> 7,500 sq. ft.)*	440		
TOTAL	**7,247**		

Equivalent Billing Unit Conversions			
Small (0 to 2,800 sq. ft.)	2,350 / 3,450 =	0.68	EBU
Medium (2,800 to 4,350 sq. ft.)	3,450 / 3,450 =	1.00	EBU
Large (4,350 to 7,500 sq. ft.)	5,400 / 3,450 =	1.57	EBU

It should be noted that the impervious surface area measurements include the area of associated private streets. Under this approach, private streets without qualifying mitigation would be charged like other developed property.

B.2 Customer Allocation

Customer allocation of functional costs basically establishes stormwater rates and credits. When considering how to charge, or credit, different types of customers, it is important to remember that the level of a customer's charge must somewhat relate to that customer's share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption or credit policies because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

The cost of service analysis explicitly provides for (1) situations under which a rate credit would be implemented and (2) the amount of credit.

After allocating utility costs to functional categories, each functional cost pool is allocated to each customer class in a manner that reflects each group's use of or demands on the stormwater system.

- Base costs were allocated to all customers,
- Indirect water quality and water quantity costs were allocated to all customers, and
- Direct water quality and water quantity costs were allocated to customers without qualifying on-site mitigation.

SECTION IV: PROPOSED RATES

Designing rates for a stormwater utility is a straightforward exercise. The results of customer cost allocation are the unit cost for each functional category. By dividing functional costs to number of customers that benefit from related function, building blocks of stormwater rates are calculated. The sum of unit costs for the services received further divided by 12 results in the monthly stormwater rate for each customer class.

The proposed rates are provided in **Exhibit 5**.

Exhibit 5 - Proposed Stormwater Rate Structure

Rate Design	Base	Water Quality		Water Quantity		Total
		Direct	Indirect	Direct	Indirect	
Revenue Requirements	$ 590,426	$ 320,943	$ 413,927	$ 369,874	$ 669,775	$2,364,945
Weighted Number of EBUs [a]	14,311	13,752	14,311	13,752	14,311	
Monthly Rates per EBU	**$ 3.44**	**$ 1.94**	**$ 2.41**	**$ 2.24**	**$ 3.90**	**$ 13.93**
Single Family Residential Customers						
Small (0.68 EBU)	$ 3.44	$ 1.32	$ 1.64	$ 1.53	$ 2.66	$ 10.59
Medium (1 EBU)	$ 3.44	$ 1.94	$ 2.41	$ 2.24	$ 3.90	$ 13.93
Large (1.57 EBU)	$ 3.44	$ 3.04	$ 3.77	$ 3.51	$ 6.10	$ 19.87
Discounted Rate for On-site Mitigation (per EBU)						
With Full Credit	$ 3.44	$ -	$ 2.41	$ -	$ 3.90	$ 9.75
With Partial Credit [b]	$ 3.44	$ 0.97	$ 2.41	$ 1.12	$ 3.90	$ 11.84

[a] Assumes 5% of non-single family residential customers would benefit from full discount, and 10% of non-single family residential customers would benefit from partial discount.

[b] Assumes partial credit amount is 50% of direct water quality and water quantity costs.

The resulting monthly rate per EBU is calculated to be $13.93. A medium SFR parcel would pay this amount on a monthly basis. As explained earlier a small SFR parcel is assigned 0.68 EBU; therefore, these customers would pay 68% of the calculated monthly rate, or $10.50 per parcel per month. Similarly a large SRF customer is assigned 1.57 EBUs; therefore, these customers would pay 157% of the calculated monthly rate, or $19.87 per parcel per month. All other customers, including extra large SRF customers (i.e. parcels with greater than 7,500 sq. ft. impervious surface area), will pay the estimated monthly rate per EBU times the number of EBUs they have.

If a customer provides (and maintains) qualifying on-site mitigation, and therefore reduces utility costs, then that customer may be granted a rate credit composed of water quality and/or water quantity "use" costs. This reflects the utility's cost savings as a result of on-site mitigation measures. Credits for on-site mitigation measures would be available only for qualifying non-single family residential customers and qualifying private streets. The maximum rate credit for on-site mitigation is the sum of direct water quality component (i.e. $1.94 per EBU per month) and the direct water quantity component (i.e. $2.24 per EBU per month). In other words, a customer that qualifies for the maximum credit amount would pay $9.75 per EBU per month. The amount of credit up to the maximum for each qualifying customer will be dependent on site-specific analysis by City staff.

We recommend the City regularly inspect for proper maintenance of on-site facilities, and require periodic renewal / application process for rate credits.

TECHNICAL APPENDICES

APPENDIX I: ISSUE PAPERS

Issue Paper #1: Stormwater Rate Structure February 1, 2013

Issue:

The City of Des Moines stormwater utility rate is currently based on impervious surface area with two rate components: water quantity and water quality. Single family homes are charged a flat rate for both components based on an assumed average of 2,400 square feet of impervious surface area, commercial properties are charged a variable rate for both components based on actual impervious square footage divided by one Equivalent Billing Unit (EBU; equal to 2,400 square feet of impervious surface area), and multi-family customers are charged a flat rate for water quality on a per dwelling unit basis and a variable rate for water quantity based on actual impervious area that is calculated the same as the commercial rate.

The City has requested an evaluation to determine if the current rate structure continues to be the most appropriate for purposes of rate equity and administration. City staff indicated that newer single family homes are much larger now, and it might be reasonable to reevaluate the EBU size to ensure it remains accurate.

Alternatives:

There are a number of rate structures which can fulfill the need for an appropriate and equitable stormwater rate.

- **Impervious surface area.** The most common basis for charging stormwater fees is impervious surface area (ISA). The term refers to hard surface area that prevents or slows water permeation into the ground. Impervious surface area is widely accepted as an appropriate measure of a property's contribution of runoff, providing a clear relationship, or "rational nexus," to service received from a stormwater program. This has been the basis of charging since the inception of the City's stormwater utility.

  Rate structures based on impervious surface area require per-parcel data quantifying the applicable impervious surface area. Similar to the approach adopted by the City, stormwater utilities typically develop a uniform rate for single family residential (SFR) customers based on an estimated average amount of ISA per residential parcel to minimize administrative and data collection costs. The charge basis for all other customer types (non-SFR) is generally actual measured impervious surface area by parcel. The charge itself is most commonly calculated as a dollar amount per unit of impervious surface area, or EBU in the City's case. For the City, one impervious unit is 2,400 square feet of

ISA, with all single family residences charged for one EBU.

Note that, under this structure, while all non-SFR impervious surface area is accounted for in the monthly rate, all single family residential developments are typically assessed the same monthly fee. In so doing, in essence, some (smaller) homes are charged for impervious area that they do not have, and other (larger) homes are not charged for impervious area that they do have. This has been thought to be a worthwhile tradeoff for the added administrative burden of distinguishing among single family residences.

- **Density of development.** An alternative measurement of runoff contribution, known as density of development, can also be used. The term refers to density factors that can be applied to parcel size. Density factors may also be used in combination with actual ISA measurements to adjust charges depending on the percentage of the parcel covered by hard surface. As an adjusting factor, it is used to acknowledge that, for example, 3,000 square feet of impervious surface on a 5,000 square foot lot more directly impacts the public system than 3,000 square feet of hard surface on a one-acre lot. As with impervious surface area, density of development is an appropriate charge basis because it adequately quantifies the relationship between the rate paid and the amount of service received.
- **Runoff coefficients.** Yet another measurement of a property's contribution to stormwater impacts is the runoff coefficient. The factor is similar to density of development, but it is more closely associated with the physical characteristics of properties. When applied to lot size, runoff coefficients are generally accepted as a measure of stormwater contribution and hence, service received. Information required to charge under this basis includes basic physical characteristics of land (such as slope and soil type), land use, and lot size. Under this approach, undeveloped parcels may also be charged depending upon slope variables and soil characteristics. Runoff coefficients are typically charged either as a fee per unit of area or as an adjustment factor to impervious surface area to modify the final charge based on a parcel's runoff characteristics. In measuring contribution to stormwater runoff by evaluating property-specific characteristics that cause impacts, this approach rationally recovers the costs of several aspects of the stormwater program.
- **Land use.** Another basis that can be used to develop rates is land use. Using this fee approach, runoff characteristics are linked to types of land use. For example, empirical analysis may find that industrial land use has a more significant contribution to water quality problems from stormwater runoff than undeveloped land and therefore, should be charged a proportionately higher rate for its share of program costs.
- **Trip generation.** While the fee structures discussed above focus on

runoff contribution, trip generation as a fee basis attempts to relate automobile traffic to non-point source pollution contributed by properties. Data used to measure traffic is available from the Institute of Transportation Engineers' Trip Generation manual, which assigns a number of daily trips generated by specific categories of land use. In addition to this information, customer land uses and lot size would be required to accurately calculate rates. This fee approach would be best used to recover the costs of water quality activities within the stormwater program.

Analysis: A rate may be found legally valid if the funded services generally benefit those who pay the fee. There need not be a property-specific link between the fee paid and level of service delivered. In fact, case law (Teter v. Clark County) has supported that a reasonable effort must be made to link services delivered to fees charged, but that the linkage need only be indirect.

Throughout the United States, impervious surface area is a widely accepted measure of contribution of runoff, providing the basis for stormwater rates in most utilities. Additionally, the "functional" nexus between impervious surface area, contribution of runoff, and increased flooding, water quality degradation, and damage to habitat is "scientifically" strong and supportable.

The following selection from Stormwater Strategies: Community Responses to Runoff Pollution describes this nexus clearly:

> "The problem of polluted stormwater runoff has two main components: the increased volume and rate of runoff from impervious surfaces and the concentration of pollutants in the runoff. Both components are highly related to development in urban and urbanizing areas. When impervious cover (roads, highways, parking lots, and rooftops) reaches 10 and 20 percent of the area of a watershed, ecological stress becomes clearly apparent. Everyday activities, including driving and maintaining vehicles, maintaining lawns and parks, disposing of waste, and even walking pets, often cover these impervious surfaces with a coating of various harmful materials. Construction sites, power plants, failed septic systems, illegal discharges, and improper sewer connections also contribute substantial amounts of pollutants to runoff. Sediments, toxic metal particles, pesticides and fertilizers, oil and grease, pathogens, excess nutrients, and trash are common stormwater pollutants. Many of these constituents end up on roads and parking lots during dry weather only to be washed into waterbodies when it rains or when snow melts.
>
> Together, these pollutants and the increased velocity and volume of runoff cause dramatic changes in hydrology and water quality that result in a variety of problems. These include increased flooding, stream channel degradation, habitat loss, changes in water temperature, contamination of water resources, and increased erosion and sedimentation. These changes affect ecosystem functions, biological diversity, public health, recreation, economic activity, and general community well-being. Urban stormwater is not alone in causing these impacts. Industrial and agricultural runoff are equal or greater contributors. But the environmental, aesthetic, and public health impacts of diffuse pollution will not be eliminated until urban stormwater pollution is controlled." [1]

[1] *Peter H. Lehner, George P. Aponte Clarke, Diane M. Cameron, and Andrew G. Frank,* Stormwater Strategies Community Responses to Runoff Pollution *(Natural Resources Defense Council, May 1999), xi.*

In addition to increasing the deposition of pollutants, supporting scientific research shows that the impervious surface area in even moderately developed areas greatly increases peak flows to streams, while decreasing base flows. The higher peak flows cause flooding and erosion, increasing sediment deposition and damage to aquatic habitat. The lower base flows can also damage habitat.

So, the impervious surface area rate basis is widely supported and accepted. That is not to say, however, that the method with which it has been typically applied does not warrant examination.

For example, it may be beneficial to create individual distinctions or size classes for single family residential customers in those cases where there is a wide range in the amount of ISA on single family parcels.

Additionally, an ISA-based rate structure can also be enhanced by incorporating density of development – as the City does for non-SFR customers – based on the fact that more intense development more directly impacts the public stormwater system.

The runoff coefficient approach is more difficult to administer than an ISA-based charge, would require a relatively extensive data collection effort on the part of the City, and is less defensible as a fee basis, because it incorporates physical land characteristics over which the property owner has little or no control.

A land use based approach, while administratively simple compared to an ISA-based approach, is typically used only when property-specific ISA information is unavailable. Finally, trip generation, while supportable for water quality-related functions, provides little if any advantage over impervious surface area at greater administrative effort and associated cost.

Recommendation: We recommend that the City maintain its current stormwater rate structure that is based on impervious surface area, with single family residential customers defined as one EBU and non-SFR customer charges based on the actual measured impervious surface area per parcel. We also recommend that the City charge its multifamily residential customers - similar to commercial customers - based on a impervious surface area both for water quality and water quantity rate components, and eliminate the current per dwelling unit water quality rates. Please note that, at the request of City staff, a separate issue paper has been prepared discussing multifamily residential rates and recommended charges in more detail. An impervious-based rate structure defines a linkage between a parcel's contribution of runoff impacting the system infrastructure and the fee that parcel pays. The fee basis creates a standard of charging that quantifies how different amounts of impervious surface area cause proportionately different impacts on the environment in terms of flooding, water quality, and habitat degradation. By recognizing that relationship, the fee structure basis proportionately charges different customers their share of the system's cost burden and provides an equitable, defensible means of cost

recovery for stormwater management. This proportionality is strengthened with the addition of a tiered residential rate, however preliminary data suggests that the impact to the stormwater rate may not be sufficient to justify the expense of generating home-by-home ISA data.

Finally, we recommend that the City account for the updated average ISA per SFR home since utility inception. This could be accomplished either through an updated equivalent billing unit value or by increasing the assumed number of EBUs for single family residences. We have attached directions for sampling and measuring the average impervious surface area of single family residences that we would recommend.

CITY OF DES MOINES

COMPREHENSIVE STORMWATER RATE STRUCTURE STUDY

MEASURING THE AVERAGE IMPERVIOUS SURFACE AREA OF SINGLE FAMILY RESIDENCES

By employing GIS analysis techniques, the City can determine the average impervious surface area for single family residences and establish its equivalent service unit (EBU) definition. Based on the new EBU definition, the number of EBUs for each non-single family residential customer could be subsequently calculated.

To assist the City in determining the average impervious surface area for single family residences, FCS GROUP has developed the following preliminary work plan.

Proposed Approach

1. Segregate single-family residential (SFR) and non-SFR (all other) accounts in the selected billing list.
2. Number single-family residential accounts sequentially in an unused field, starting with the number 1. For example, assuming there are 7,000 single family parcels, number these parcels 1 through 7,000 in their existing order, *regardless of any other recorded numbering system*, e.g., assessor parcels number or location identification number. These numbered parcels will make up the population from which the sample will be taken.
3. Using random numbers generated in Excel[2] to identify parcels to be sampled, extract the following information from each sampled parcel and record it on the worksheet provided:
    - Sample number
    - Property address
    - Other common identifier (if applicable)
    - Utility billing account number
4. Continue sampling and recording data until a sample of 126 parcels has been compiled. *Note: Appendix A details the methodology used to determine the recommended sample size.*
5. Using the common parcel identifier and corresponding maps, identify each sampled parcel on the system.
6. Measure impervious surface area on each of the sampled parcels using AutoCAD or ArcView. Record measured impervious surface area on worksheet. Note any anomalies or irregularities on the worksheet, identifying the parcel(s) concerned by the sample number or common identifier.
7. Deliver completed worksheets to FCS GROUP for statistical analysis.

[2] *FCS GROUP can provide the random numbers if desired.*

APPENDIX A

SAMPLE SIZE DETERMINATION

Recommended sample sizes were determined in the following manner.

For residential parcels, the sampling program is intended to verify the *average amount of impervious area per dwelling unit* in order to determine the value of an equivalent dwelling unit. In order to state with confidence that the sample is representative of the entire customer class, the sample size is determined by using a standard estimating technique.[3] This technique is based on: (1) the maximum probable error *B* we are willing to tolerate, (2) the expected range of responses to the sample, and (3) a desired level of confidence.

A sampling error *B* of 100 square feet was chosen for all residential customer classes because this value yields a manageable sample size, while still providing a reasonably accurate point estimate for the mean.

Assuming we wish to be 90% confident that the sample mean represents the population mean ± 100 square feet, the following formula may be used to determine sample size.

$$n = \frac{1.645\,(s)^2}{B^2}\ ; \quad \text{where } B = 100, \text{ and } s = \frac{(\text{expected high - expected low})}{4}$$

If we assume that responses for single-family residences will range between 5,000 and 1,500 square feet of impervious area per unit, this formula yields a sample size of 126 developed single-family parcels.

[3] Statistics for Business and Economics; S. Christian Albright; 1987.

Issue Paper #2: Stormwater Fees for Private Streets July 12, 2013 (revised)

Issue: The City's current practice is to charge private streets for their impervious surface area at 30 percent of the base rate, to recognize their offsetting role in stormwater conveyance. The City currently exempts publicly owned streets from the stormwater fee. The main issue in question - Should the City charge private streets a stormwater fee?

Analysis: Applicable statute (RCW 35.67.020 and RCW 35.92.020) grants discretion to city legislative bodies in the setting of rates and allowing for the consideration of such factors as differences in the cost and/or character of service provided and capital contributions made to the system.

When considering how to charge different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must substantially relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

When a cost of service approach is used as the basis for fee evaluation, exemptions and credits should only be granted when the characteristics of a parcel or improvements to that property cause runoff to differ when compared to similar parcels.

The City's Right-of-Way Construction Standards and Requirements apply to both private and public streets. In comparing the characteristics of the private and public streets it does not appear that the characteristics for stormwater contribution would differ in a significant way. This would indicate they should both be treated in a similar manner.

However, the similar treatment of public streets and private streets diverges when considering the following regarding public streets: first, costs and revenues are coming from comparable "public" sources and, second, public streets can be considered part of the stormwater conveyance system. The conveyance system is a network of pipes primarily designed to intercept drainage from paved streets and transport it underground (generally under a roadway) to an open drainage way. Cities often choose to exempt their streets in recognition of the key role they play in this system.

It is commonly thought that charging public streets simply transfers money from one City fund to another. Administratively, this may be a valid perception. However, by not charging public property, the City may

not accurately and equitably allocate what can be viewed as an overhead cost borne to support the departments that use stormwater services because of their land holdings. Effectively, utility ratepayers bear the costs of stormwater management provided to other user-supported services or the general public. This is not an issue for private streets.

Private streets do not provide such a system-wide benefit. The streets are owned by private owners, homeowners associations, or management groups that are responsible only for stormwater related to the specific development.

The stormwater fee is collected for the purpose of maintaining the City's public stormwater system. The City's stormwater conveyance system includes much more than storm drains. Ditches, curbs, gutters, culverts and open stream channels all make up the citywide drainage system that conveys stormwater runoff away from structures and sites in a manner that minimizes the potential for flooding and erosion to ALL properties. Customers always benefit from adequate, properly functioning drainage and flood control systems that decrease the likelihood of flooding, erosion, and unlimited pollutants from surface and stormwater runoff. Customers also benefit from the regulation and monitoring of the properties above and around the property. Although, the property may have its own stormwater system that complies with best management practices, these devices are not absolute and pollutants generally still exit a property depending on a number of factors such as the intensity and duration of rainfall. The stormwater runoff is still conveyed to the public drainage system.

It is more common than not that each unit of a development with common property (private streets, common driveways and parking areas) such as townhouse developments, cluster unit developments or condominiums is responsible for the pro rata share of the total impervious surfaces of the common areas of the development.

Alternatives: Arguably, there might be some alternative ways to address the issue of stormwater fees for private streets, among them, (1) condominiums could be charged on a per dwelling unit basis and (2) both private streets and sidewalks could be exempted.

First, charging condominiums as residential property would require a change to all multi-family properties. The stormwater rates currently charged to multi-family properties in the City are based mainly on impervious surface area, a common industry practice. Most instances where the rate per multi-family dwelling unit is higher than the single-family residential rate are when properties have a large amount of private streets and roadways.

Charging each multi-family unit the same rate as a single-family residential customer would penalize those many multi-family units who have less impervious surface area per unit. This approach would also move away from the relationship of impervious area as an equitable basis for stormwater contribution and instead be a per unit charge for multi-family that is less related to runoff contribution.

Exempting private streets and sidewalks, is perhaps a more problematic approach. The City would require public ownership or access to the private streets and sidewalks; otherwise the exemption could be considered a gifting of public funds – prohibited by law. Any change would have to be offered to all other private streets and sidewalks for consistency. This would result in a loss of revenue for the City that would need to be met through an increase in the rate to other customers.

On the contrary, the City has full access to public streets. Transportation improvement projects on these streets also address storm related elements and issues. The City maintains public streets to their required standards including the street sweeping program, which is not a requirement for private streets. This maintenance can also be considered stormwater conveyance system maintenance that is paid for by City streets.

Recommendation: Public streets should continue to be exempted from the stormwater rates as they are considered a key part of the stormwater conveyance system. Private streets should be charged for measured impervious surface area, as developed non-residential property, and charged a discounted stormwater fee only if they provide qualifying mitigation. Such an approach appropriately captures contribution runoff, and offsetting benefit (if applicable) to determine individual charges to private streets.

Issue Paper #3: Stormwater Rate Credits February 1, 2013

Issue:

City of Des Moines Municipal Code Section 11.12.080 provides for rate adjustments when the amount charged "was not calculated in accordance with the terms of this chapter." When is it reasonable (or required) to provide additional rate credits / adjustments for stormwater customers who mitigate their stormwater impacts and what is a rational basis for such credits?

RCW 90.03.510 authorizes such credits, stating that:

> "Whenever a county, city, town, water-sewer district, or flood control zone district imposes rates or charges to fund storm water control facilities or improvements and the operation and maintenance of such facilities or improvements under RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, 57.08.005, or 57.08.081, it may provide a credit for the value of storm water control facilities or improvements that a person or entity has installed or located that mitigate or lessen the impact of storm water which otherwise would occur."

Alternatives:

A review of potential credit bases / approaches reveals a number of alternatives.

- **On-site retention / detention.** Many residential subdivisions and commercial developments provide on-site retention / detention facilities as a condition of development, often maintaining such facilities as well. There are several ways to structure a potential rate credit for on-site retention / detention, the following among them:
  - **Performance against current standards.** Rate credits may be structured to reward customers who provide mitigation to current development standards, while offering lesser or no credits for mitigation that does not meet current development standards.
  - **Current vs. older standards for quantity and quality management.** Quantity and quality standards have increased greatly over the years. The City could offer credits by time of development, in order to reflect the benefit received from customers who help meet this historical change in stormwater management standards.
- **Customers covered by NPDES stormwater permits.** In order to protect the quality of receiving waters, the federal Clean Water Act requires a National Pollutant Discharge Elimination System (NPDES) permit for stormwater generated by specific industrial activities. The NPDES permit typically requires performance standards, monitoring,

and additional treatment of runoff generated by permitted industrial activities.

Under the NPDES permitting program, the specific stormwater detention and treatment measures that are required vary from permittee to permittee. Furthermore, industrial sites, which typically are subject to NPDES permitting requirements, are exempt from the program if 100% of their stormwater runoff is detained and treated.

As a result, the fact that a development is subject to NPDES permitting requirements may not tell the whole story regarding the stormwater mitigation measures it must incorporate. In the consideration of granting credits for individual permittees, it is important to remember that the City could instead provide credits for customers providing qualifying on-site mitigation including detention, treatment, and infiltration.

- **Infiltration.** Impervious surfaces, among other development features, prevent water from infiltrating the soil and replenishing the groundwater supply (if any). Customers that infiltrate their runoff may benefit both the City's drinking water system, by recharging the aquifer, and the City's stormwater system and receiving waters, by reducing the required size of system facilities. However, allowing infiltration also requires that the City work with owners to reduce contamination risks from such systems. Another factor to consider is the fact that not all stormwater is actually infiltrated; instead, infiltration systems are still connected to the public system via overflow piping.

- **Low-impact development, green building, and rainwater harvesting.** Low-impact development (LID) techniques, such as rainwater harvesting, permeable pavement, open space retention, bio-retention swales and rain gardens could also be worthy of credits. Other aspects of LID – such as green "vegetated" roofs – may affect the "effective" impervious area of a development or home if properly maintained.

  Green building techniques include site planning to take greater advantage of natural site features, achieving LEED or Built Green certification, planting drought-resistant native landscaping, amending soils with compost, reducing impervious surface area, minimizing site disturbance during development, and previously noted low-impact development features. Implementing these techniques will result in increased natural resource conservation, lower home operating costs, and better stewardship of the City's drinking water aquifer. Other than its LID aspects, green building techniques are not strongly linked to a reduction in stormwater utility costs. The one aspect that is directly related to smaller service requirements is the minimization of impervious surface area.

A credit for low-impact development would recognize the fact that effective impervious area can be much smaller than the impervious surface area that is measured from aerial photographs (due to roof rainwater collection systems, permeable paving, vegetated roofs, etc.). An LID credit may be further supported by the fact that even when the effective impervious area of such a development is the same as other, conventional residential developments, other LID practices such as vegetation replacement typically result in reduced runoff from the property.

- **Dedicated open space.** Developments incorporate design techniques that concentrate residences or other buildings in a compact area of the development site (lot clustering) and provide open space and natural areas elsewhere, protected by an easement. Such techniques can reduce runoff, mitigate stormwater quality, and help maintain the amount of water recharging the City's aquifer.

  Open space developments have many benefits in comparison to the conventional subdivisions that they replace: they can reduce impervious surface area (ISA), stormwater pollutants, construction costs, grading, and the loss of natural areas. In addition to the minimization of ISA, the preserved natural areas and tree canopy can significantly mitigate the stormwater runoff created by the buildings on site. Therefore, although affected by the slope characteristics of the property, the preserved portion of the site acts to reduce the effective impervious area of the development and provides a meaningful benefit to the public system when runoff is adequately dispersed.

Analysis:

When considering how to charge, or credit, different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must somewhat relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption or credit policies because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

A stormwater utility's service to its customers and the community it serves can be analyzed in two functional categories: controlling and reducing stormwater runoff (i.e. water quantity), and controlling and managing pollutants (i.e. water quality). The broader questions to address in establishing credits are (1) whether a rate payer help the utility reduce its costs (or not to incur additional costs) by providing certain mitigation measures in these two functional areas or not, and (2) if yes, how much of a cost savings is provided.

Comparatively, properties with on-site mitigation have a reduced effect on the public system than similar property lacking this mitigation. Therefore, it might be argued that to the extent that such facilities reduce costs to the City utility, they may warrant a rate credit.

However, it is also debatable that meeting the City's development standards reduces costs for the utility. Instead, it may simply keep the utility whole. As a result, granting a rate credit for such activities could actually reduce the amount of resources available for basic services to the remainder of the customer base. In fact, it may be argued that the cost of meeting City standards and constructing on-site mitigation should be considered a "cost of doing business," since on-site mitigation only partially neutralizes the impact of developing the property in the first place.

On the other hand, exceeding standards – that is, providing capacity in addition to that needed by developing (or developed) property – in theory does reduce cost to the utility by, in effect, reducing the net utility service area. How much of a credit to grant can then be sized according to the extent to which on-site controls exceed the standards.

Therefore, the two criteria to check for may be (1) effectiveness in reducing stormwater runoff and (2) whether these on-site systems are designed to handle greater amount stormwater than would be required as a condition of development approval. The additional capacity provided by the new development then may become the basis for the service charge credit amount.

It is true that property lines do not follow stormwater basin boundaries. Net impacts and/or benefits of a parcel align better with basin boundaries than property lines. However, estimating net impacts/benefits of each parcel, and developing a rate structure and credit policy around these estimates would be extremely difficult and very costly to administer. Additionally, it would be open to challenge since these estimates would be considered somewhat subjective, and difficult to explain to ratepayers.

Recommendation: Many of the stormwater program's costs are essentially "fixed" and do not decrease no matter what services customers provide on-site. As a first step, we recommend that the City determine the portion of program costs which can be reduced by the on-site activities of the customer base. We further recommend that the City classify the portion of those variable or use related costs as either attributable to managing water quantity or to managing water quality.

Once an allocation of program revenue requirements among fixed or base program costs, water quantity costs, and water quality costs has been made, their component shares of the stormwater utility charge can be determined. All customers would pay the base rate component. However, credits would be made available for the water quantity and quality components depending on on-site activities. (Customers with on-site features that result in reduced runoff – such as those that infiltrate or practice low-impact development – would be eligible for a rate credit that would vary in size based on the level of mitigation, not to exceed the sum of the quantity and quality components of the charge.)

The following recommendations assume that properties subject to stormwater rate credits would be meeting or exceeding the City's development requirements, and hence allowing the City to delay capital projects. As a result, the utility would be able to reduce its capital as well as operating costs by implementing the recommended credit policies.

Quantity Credits

Customers with on-site quantity controls, such as detention or infiltration facilities, provide a direct benefit to the utility by reducing peak flow and thereby reducing the necessary size of system pipes downstream.

In the case of customers that infiltrate their runoff, not only is peak flow reduced, but their total runoff is reduced or eliminated (to the extent there is capacity). Given this, we recommend that a full credit for the quantity-related portion of the utility bill be granted to customers that have capacity to infiltrate the current design storm size. Customers with less infiltration capacity than for the design storm size should receive a minimal quantity credit.

Detention facilities, on the other hand, do not prevent runoff from entering the public system. Instead, peak stormwater flows are simply reduced and extended over a longer duration. For that reason, customers that are able to detain to current standards should receive a quantity-related credit that is less than a full credit for this portion of the bill. Customers with less detention capacity than for the design storm size should receive a minimal credit for the quantity component of the bill.

Additionally, there are several development methods which incorporate features that mitigate stormwater runoff. Such features that reduce peak flows or prevent stormwater runoff from entering the public system include aspects of low impact developments, green building methods, and rainwater harvesting. On their own, such development features provide a quantity mitigation benefit that is typically less than dedicated detention facilities sized for the design storm. Accordingly, quantity-related mitigation should be eligible for a minimal credit against the quantity rate component. However, when paired with detention facilities sized for the design storm, customers should receive a full credit against the quantity rate component.

Note: For crediting purposes, we recommend that the eligibility of rainwater harvesting systems for credit be conditioned upon inspections to ensure regular use of the harvested water (due to the fact that, once collection cisterns are full, they no longer reduce runoff). Also, the system benefit provided by customers with quantity-mitigating development features is dependent upon proper maintenance of the on-site features, so we further recommend that they be subject to regular inspection in order to renew the credit every two years.

Customers that discharge their runoff directly into flow-exempt receiving waters where detention is not required (in Des Moines, these include Puget

Sound and Green/Duwamish River below RM 6 and above SR 18) perform another type of quantity mitigation. There are two types of such customers: those that utilize private systems to convey their runoff to receiving waters, and those that utilize the City's stormwater system, in whole or in part, to convey runoff to receiving waters. As customers of the first type are equivalent to customers with on-site detention facilities sized for the design storm, we recommend that they be granted the maximum detention credit for the quantity component of the utility fee. For customers of the second type, we recommend that a minimal credit for the quantity component be granted, to account for the use of and cost of maintaining the City infrastructure relied upon by the customer.

No credit or adjustment should be granted to customers without meaningful quantity mitigation capability.

Quality Credits

There are a number of factors, in addition to the installation of on-site quality controls, which relate to a customer's ability to manage the quality of their stormwater runoff. The most important of these are controls for on-site sources of pollution. Examples of source controls would be roofs and coverings for pollution-generating surfaces, equipment, and materials.

To meet the City's stormwater quality mitigation requirements, a customer must have on-site quality controls as well as source controls. Accordingly, a full credit for the quality-related portion of the utility bill should only be granted to customers that provide on-site quality mitigation and source controls that meet current standards.

Even in those cases where full mitigation capability is not present, on-site quality control facilities and source control measures can still provide a benefit to the City's stormwater system. Accordingly, we recommend that a minimal credit to the quality portion of the stormwater utility bill be provided to customers that, while not meeting current requirements, do maintain a basic treatment capacity on-site and/or implement some source control measures.

No credit should be granted to customers that have no on-site quality controls or provide only nominal quality mitigation (such as a downturned elbow to control floatables).

Other Credits

Customers with individual NPDES stormwater permits should be eligible for the same rate credits as any other non-residential customer. No dedicated credit for simply possessing a permit should be established.

Please note that the percentage or number of impervious units that will obtain quantity, quality, and/or runoff reduction credits will be forecasted and incorporated into the current rate analysis to ensure adequate revenue generation under the proposed program.

Issue Paper #4: Stormwater Multifamily Rates February 1, 2013

Issue:

The City of Des Moines Stormwater Utility currently charges its multifamily customers a water quality charge on a per dwelling unit basis and a water quantity charge on a per equivalent billing unit (EBU) basis. This is a mix between single family residential customers, which are charged both quality and quantity per dwelling unit, and commercial customers, which are charged both quality and quantity per EBU.

The City is seeking feedback as to how other jurisdictions charge multifamily customers, if the current method is equitable, and what other methods are available.

Alternatives:

There are two other rate structures that can fulfill the need for an appropriate and equitable multifamily stormwater rate.

- **Per Dwelling Unit.** One common basis for charging stormwater rates to multifamily customers is per dwelling unit. To account for the fact that condos and apartments are smaller than single family homes, multifamily dwelling units are charged a fraction of a full EBU.
- **By Impervious Area.** Another common basis for charging stormwater rates to multifamily customers is by impervious area, which is reflected in the EBU calculation. Like for any other developed commercial parcel, multifamily dwelling units would only be charged for the actual amount of area that generates runoff into the stormwater system.

Analysis:

The City's statutory authority for setting rates is found in RCW 36.89.080 and states:

> (1) Subject to subsections (2) and (3) of this section, any county legislative authority may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any storm water control facility or contributing to an increase of surface water runoff. In fixing rates and charges, the county legislative authority may in its discretion consider:
>
> (a) Services furnished or to be furnished;
>
> (b) Benefits received or to be received;
>
> (c) The character and use of land or its water runoff characteristics;
>
> (d) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user;
>
> (e) Income level of persons served or provided benefits under this chapter, including senior citizens and disabled persons; or

(f) Any other matters which present a reasonable difference as a ground for distinction.

Impervious surface area is now widely accepted as a measure of contribution of runoff, and as such, serves as the basis for stormwater rates in the vast majority of stormwater utilities in the region. Most of those programs charge multi-family residential developed property based on the amount of impervious surface area, rather than the number of dwelling units for the simple fact that the number of dwelling units does not necessarily relate to the impervious footprint of the complex.

Depending on the configuration, multi-story multi-family residential complexes may generate no more runoff than large single story houses with comparable footprints, bringing the equity of a per dwelling unit approach into question for multi-family residential customers. Treating such customers as "commercial" for rate purposes will result in rate changes that could simplify the rate approach and be accounted for in the current rate study.

It is also worth noting that multi-family residential development is defined as commercial for other purposes.

In Washington Administrative Code WAC 458-20-250 addressing refuse-solid waste collection business taxes, paragraph (4)(ii) states, in part, "in the case of multiple housing units in a single structure such as apartments, condominiums, or duplexes, ..., the service is deemed commercial unless each occupier of a housing unit is individually provided can service and is individually billed for such service".

Recommendation: We recommend that that City change their current multifamily rates to mirror the commercial rates and charge by EBU, calculated based on impervious area. If the City were to treat multifamily as commercial customers, the water quality rate would need to be increased in order to collect the same amount of revenue due to the fact that there are less EBUs than dwelling units in the current multifamily customer class. This could be easily accounted for in the current rate design study.

Issue Paper #5: Stormwater Public Institution Rates February 1, 2013

Issue:

The City of Des Moines stormwater utility currently charges public institutions, including public schools, government buildings, colleges, parks, and sewer and water facilities, a non-profit or commercial rate per EBU.

The City has requested an evaluation to determine if the current public institution rates are the most appropriate or if they should be discounted or exempted.

Analysis:

When considering how to charge different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must substantially relate to that customer's proportionate share of the utility's costs. A rate may be found legally valid if the funded services generally benefit those who pay the fee. There need not be a property-specific link between the fee paid and level of service delivered. In fact, case law (Teter v. Clark County) has supported that a reasonable effort must be made to link services delivered to fees charged, but that the linkage need only be indirect.

When a cost of service approach is used as the basis for fee evaluation, exemptions, discounts and credits should only be granted when the characteristics of a parcel or improvements to that property cause runoff to differ when compared to similar parcels.

Developed properties that are publicly owned still contribute runoff that places a cost burden on the utility system. If the City wishes to pursue a social policy to grant discounts or exemptions, a utility and its ratepayers should not bear the costs of that policy. To preserve the cost of service approach to rate design and avoid causing stormwater utility customers to subsidize a general City policy, the General Fund could possibly be used to fund the costs of public institution credits or exemptions.

Some jurisdictions do not charge publicly-owned land because there is a general sense that charging simply transfers money from one City fund to another. Administratively, this may be a valid perception; however, by not charging public lands, the City may not accurately and equitably allocate what can be viewed as an overhead cost borne to support the departments that use stormwater services because of their land holdings. Effectively, utility ratepayers would bear the costs of stormwater management utilized by other user-supported services or the general public.

The one common exception to this general approach has to do with

charging city streets. City streets, while impervious and generating runoff, also serve as part of the stormwater conveyance system. Cities often choose to exempt their streets in recognition of this fact.

Recommendation: We recommend that the City charge public property the same as any other customers. Credits, as we have laid out in Issue Paper #3, would also apply to all customer types, including schools. The City should, however, exempt or discount City streets because they serve as part of the stormwater conveyance system.

APPENDIX II: ANALYTICAL SPREADSHEETS

City of Des Moines
2012 Rate Study
Customer Data

Customer Counts and EBU Definitions

Code	Customer Class	Customer Parcels (excl. Private Streets)		
		Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence			
	Small	1,739	-	
	Medium	3,408	-	
	Large	1,660	-	
	Measured	440	-	5,128,740
R	Single Family Residence - Sr Discount	145	-	-
M	Mobile Home	40	-	-
C	Commercial	333	-	13,176,351
	Nonprofit	-	-	-
B	Apartment	-	2,958	3,970,760
S	Condo Unit	-	1,551	2,138,321
	Other	-	-	-
	TOTAL	7,765	4,509	24,414,172

Code	Customer Class	Water Quantity EBU Definitions			Water Quality EBU Definitions		
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence						
	Small	0.68			0.68		
	Medium	1.00			1.00		
	Large	1.57			1.57		
	Measured			3,450			3,450
R	Single Family Residence - Sr Discount	0.30			0.30		
M	Mobile Home			3,450			3,450
C	Commercial			3,450			3,450
	Nonprofit			3,450			3,450
B	Apartment			3,450			3,450
S	Condo Unit			3,450			3,450
	Other			3,450			3,450

Code	Customer Class	Number of Water Quantity EBUs				Number of Water Quality EBUs			
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL	Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL
R	Single Family Residence								
	Small	1,185	-	-	1,185	1,185	-	-	1,185
	Medium	3,408	-	-	3,408	3,408	-	-	3,408
	Large	2,598	-	-	2,598	2,598	-	-	2,598
	Measured	-	-	1,487	1,487	-	-	1,487	1,487
R	Single Family Residence - Sr Discount	44	-	-	44	44	-	-	44
M	Mobile Home	-	-	-	-	-	-	-	-
C	Commercial	-	-	3,819	3,819	-	-	3,819	3,819
	Nonprofit	-	-	-	-	-	-	-	-
B	Apartment	-	-	1,151	1,151	-	-	1,151	1,151
S	Condo Unit	-	-	620	620	-	-	620	620
	Other	-	-	-	-	-	-	-	-
	TOTAL	7,234	-	7,077	14,311	7,234	-	7,077	14,311

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City of Des Moines
2012 Rate Study
Customer Data

Customers with On-site Water Quantity Measures

Discount Factor for Full Discount Customers	100.0%
Discount Factor for Partial Discount Customers	50.0%

Code	Customer Class	Full Discount				Partial Discount			
		Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence								
	Small		-	-	-		-	-	-
	Medium		-	-	-		-	-	-
	Large		-	-	-		-	-	-
	Measured		-	-	-		-	-	-
R	Single Family Residence - Sr Discount		-	-	-		-	-	-
M	Mobile Home		-	-	-		-	-	-
C	Commercial	5.0%	17	-	658,818	10.0%	33	-	1,317,635
	Nonprofit	5.0%	-	-	-	10.0%	-	-	-
B	Apartment	5.0%	-	148	198,538	10.0%	-	296	397,076
S	Condo Unit	5.0%	-	78	106,916	10.0%	-	155	213,832
	Other	5.0%	-	-	-	10.0%	-	-	-
	TOTAL		**17**	**225**	**964,272**		**33**	**451**	**1,928,543**

Code	Customer Class	TOTAL				WEIGHTED TOTAL			
		Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence								
	Small	0.0%	-	-	-	0.0%	-	-	-
	Medium	0.0%	-	-	-	0.0%	-	-	-
	Large	0.0%	-	-	-	0.0%	-	-	-
	Measured	0.0%	-	-	-	0.0%	-	-	-
R	Single Family Residence - Sr Discount	0.0%	-	-	-	0.0%	-	-	-
M	Mobile Home	0.0%	-	-	-	0.0%	-	-	-
C	Commercial	15.0%	50	-	1,976,453	10.0%	33	-	1,317,635
	Nonprofit	15.0%	-	-	-	10.0%	-	-	-
B	Apartment	15.0%	-	444	595,614	10.0%	-	296	397,076
S	Condo Unit	15.0%	-	233	320,748	10.0%	-	155	213,832
	Other	15.0%	-	-	-	10.0%	-	-	-
	TOTAL		**50**	**676**	**2,892,815**		**33**	**451**	**1,928,543**

Code	Customer Class	Number of Weighted EBUs Benefiting from Discount			
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL
R	Single Family Residence				
	Small	-	-	-	-
	Medium	-	-	-	-
	Large	-	-	-	-
	Measured	-	-	-	-
R	Single Family Residence - Sr Discount	-	-	-	-
M	Mobile Home	-	-	-	-
C	Commercial	-	-	382	382
	Nonprofit	-	-	-	-
B	Apartment	-	-	115	115
S	Condo Unit	-	-	62	62
	Other	-	-	-	-
	TOTAL	**-**	**-**	**559**	**559**

City of Des Moines
2012 Rate Study
Customer Data

Customers with On-site Water Quality Measures

Discount Factor for Full Discount Customers	100.0%
Discount Factor for Partial Discount Customers	50.0%

Code	Customer Class	Full Discount				Partial Discount			
		Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence		-	-	-		-	-	-
	Small		-	-	-		-	-	-
	Medium		-	-	-		-	-	-
	Large		-	-	-		-	-	-
	Measured		-	-	-		-	-	-
R	Single Family Residence - Sr Discount		-	-	-		-	-	-
M	Mobile Home		-	-	-		-	-	-
C	Commercial	5.0%	17	-	658,818	10.0%	33	-	1,317,635
	Nonprofit	5.0%	-	-	-	10.0%	-	-	-
B	Apartment	5.0%	-	148	198,538	10.0%	-	296	397,076
S	Condo Unit	5.0%	-	78	106,916	10.0%	-	155	213,832
	Other	5.0%	-	-	-	10.0%	-	-	-
	TOTAL		**17**	**225**	**964,272**		**33**	**451**	**1,928,543**

Code	Customer Class	TOTAL				WEIGHTED TOTAL			
		Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence	0.0%	-	-	-	0.0%	-	-	-
	Small	0.0%	-	-	-	0.0%	-	-	-
	Medium	0.0%	-	-	-	0.0%	-	-	-
	Large	0.0%	-	-	-	0.0%	-	-	-
	Measured	0.0%	-	-	-	0.0%	-	-	-
R	Single Family Residence - Sr Discount	0.0%	-	-	-	0.0%	-	-	-
M	Mobile Home	0.0%	-	-	-	0.0%	-	-	-
C	Commercial	15.0%	50	-	1,976,453	10.0%	33	-	1,317,635
	Nonprofit	15.0%	-	-	-	10.0%	-	-	-
B	Apartment	15.0%	-	444	595,614	10.0%	-	296	397,076
S	Condo Unit	15.0%	-	233	320,748	10.0%	-	155	213,832
	Other	15.0%	-	-	-	10.0%	-	-	-
	TOTAL		**50**	**676**	**2,892,815**		**33**	**451**	**1,928,543**

Code	Customer Class	Number of Weighted EBUs Benefiting from Discount			
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL
R	Single Family Residence	-	-	-	-
	Small	-	-	-	-
	Medium	-	-	-	-
	Large	-	-	-	-
	Measured	-	-	-	-
R	Single Family Residence - Sr Discount	-	-	-	-
M	Mobile Home	-	-	-	-
C	Commercial	-	-	382	382
	Nonprofit	-	-	-	-
B	Apartment	-	-	115	115
S	Condo Unit	-	-	62	62
	Other	-	-	-	-
	TOTAL	**-**	**-**	**559**	**559**

City of Des Moines
2012 Rate Study
Customer Data

Private Streets (INCLUDED IN THE ORIGINAL CUSTOMER DATA INPUT ABOVE)

Select Preferred Option for Private Streets ==>	3
Discount Factor for Private Streets Option 1	0.0%

Options for Charging Private Streets

1	Charge each property for allocated private street surface
2	Charge each property for a uniform private street multiplier
3	Do not charge for private streets

Code	Customer Class	Option One			Option Two				
		Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	ISA per Account	Private Street Multiplier	Impervious Surface Area (sq. ft.)	ISA per Account	Private Street Multiplier
R	Single Family Residence	715		804,222					
	Small	-		-					
	Medium	-		-					
	Large	-		-					
	Measured	-		-					
R	Single Family Residence - Sr Discount	-		-					
M	Mobile Home	10		9,836					
C	Commercial	-		-					
	Nonprofit	-		-					
B	Apartment	-		-					
S	Condo Unit	-		-					
	Other	-		-					
	TOTAL	725	-	814,058	1,123		-	-	-

Code	Customer Class	Selected Option			Weighted for Discount Factor		
		Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence	-	-	-	-	-	-
	Small	-	-	-	-	-	-
	Medium	-	-	-	-	-	-
	Large	-	-	-	-	-	-
	Measured	-	-	-	-	-	-
R	Single Family Residence - Sr Discount	-	-	-	-	-	-
M	Mobile Home	-	-	-	-	-	-
C	Commercial	-	-	-	-	-	-
	Nonprofit	-	-	-	-	-	-
B	Apartment	-	-	-	-	-	-
S	Condo Unit	-	-	-	-	-	-
	Other	-	-	-	-	-	-
	TOTAL	-	-	-	-	-	-

Code	Customer Class	Number of Water Quantity EBUs				Number of Water Quality EBUs			
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL	Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL
R	Single Family Residence	-	-	-	-	-	-	-	-
	Small	-	-	-	-	-	-	-	-
	Medium	-	-	-	-	-	-	-	-
	Large	-	-	-	-	-	-	-	-
	Measured	-	-	-	-	-	-	-	-
R	Single Family Residence - Sr Discount	-	-	-	-	-	-	-	-
M	Mobile Home	-	-	-	-	-	-	-	-
C	Commercial	-	-	-	-	-	-	-	-
	Nonprofit	-	-	-	-	-	-	-	-
B	Apartment	-	-	-	-	-	-	-	-
S	Condo Unit	-	-	-	-	-	-	-	-
	Other	-	-	-	-	-	-	-	-
	TOTAL	-	-	-	-	-	-	-	-

City of Des Moines
2012 Rate Study
Customer Data

Other Discounts

Discount Factor for Full Discount Customers	0.00%

Code	Customer Class	Full Discount				WEIGHTED TOTAL			
		Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)	Percent of Customer Parcels	Number of Accounts	Number of Dwelling Units	Impervious Surface Area (sq. ft.)
R	Single Family Residence	0.0%	-	-	-		-	-	-
	Small	0.0%	-	-	-		-	-	-
	Medium	0.0%	-	-	-		-	-	-
	Large	0.0%	-	-	-		-	-	-
	Measured	0.0%	-	-	-		-	-	-
R	Single Family Residence - Sr Discount	0.0%	-	-	-		-	-	-
M	Mobile Home	0.0%	-	-	-		-	-	-
C	Commercial	0.0%	-	-	-		-	-	-
	Nonprofit	0.0%	-	-	-		-	-	-
B	Apartment	0.0%	-	-	-		-	-	-
S	Condo Unit	0.0%	-	-	-		-	-	-
	Other	0.0%	-	-	-		-	-	-
	TOTAL		-	-	-		-	-	-

Code	Customer Class	Number of Water Quantity EBUs				Number of Water Quality EBUs			
		Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL	Accounts	Dwelling Units	Impervious Surface Area (sq. ft.)	TOTAL
R	Single Family Residence	-	-	-	-	-	-	-	-
	Small	-	-	-	-	-	-	-	-
	Medium	-	-	-	-	-	-	-	-
	Large	-	-	-	-	-	-	-	-
	Measured	-	-	-	-	-	-	-	-
R	Single Family Residence - Sr Discount	-	-	-	-	-	-	-	-
M	Mobile Home	-	-	-	-	-	-	-	-
C	Commercial	-	-	-	-	-	-	-	-
	Nonprofit	-	-	-	-	-	-	-	-
B	Apartment	-	-	-	-	-	-	-	-
S	Condo Unit	-	-	-	-	-	-	-	-
	Other	-	-	-	-	-	-	-	-
	TOTAL	-	-	-	-	-	-	-	-

City of Des Moines
2012 Rate Study
Customer Data

Customer Bases: Number of EBUs by Rate Component

Code	Customer Class	WATER QUANTITY FULL SERVICE CUSTOMERS (Number of EBUs)				WATER QUANTITY DISCOUNT CUSTOMERS (Number of EBUs)		
		Total Customer Parcels	less: Other Discounts	plus: Private Streets	NET CUSTOMER BASE	Full Service Net Customer Base	less: Water Quantity Discounts	NET CUSTOMER BASE
R	Single Family Residence	-	-	-	-	-	-	-
	Small	1,185	-	-	1,185	1,185	-	1,185
	Medium	3,408	-	-	3,408	3,408	-	3,408
	Large	2,598	-	-	2,598	2,598	-	2,598
	Measured	1,487	-	-	1,487	1,487	-	1,487
R	Single Family Residence - Sr Discount	44	-	-	44	44	-	44
M	Mobile Home	-	-	-	-	-	-	-
C	Commercial	3,819	-	-	3,819	3,819	(382)	3,437
	Nonprofit	-	-	-	-	-	-	-
B	Apartment	1,151	-	-	1,151	1,151	(115)	1,036
S	Condo Unit	620	-	-	620	620	(62)	558
	Other	-	-	-	-	-	-	-
	TOTAL	14,311	-	-	14,311	14,311	(559)	13,752

Code	Customer Class	WATER QUALITY FULL SERVICE CUSTOMERS (Number of EBUs)				WATER QUALITY DISCOUNT CUSTOMERS (Number of EBUs)		
		Total Customer Parcels	less: Other Discounts	plus: Private Streets	NET CUSTOMER BASE	Full Service Net Customer Base	less: Water Quality Discounts	NET CUSTOMER BASE
R	Single Family Residence	-	-	-	-	-	-	-
	Small	1,185	-	-	1,185	1,185	-	1,185
	Medium	3,408	-	-	3,408	3,408	-	3,408
	Large	2,598	-	-	2,598	2,598	-	2,598
	Measured	1,487	-	-	1,487	1,487	-	1,487
R	Single Family Residence - Sr Discount	44	-	-	44	44	-	44
M	Mobile Home	-	-	-	-	-	-	-
C	Commercial	3,819	-	-	3,819	3,819	(382)	3,437
	Nonprofit	-	-	-	-	-	-	-
B	Apartment	1,151	-	-	1,151	1,151	(115)	1,036
S	Condo Unit	620	-	-	620	620	(62)	558
	Other	-	-	-	-	-	-	-
	TOTAL	14,311	-	-	14,311	14,311	(559)	13,752

City of Des Moines
2012 Rate Study
Cost Allocation

Rate Revenues	Estimated Actual 2012	Budget 2013
Rate Revenues		
Budgeted Rate Revenue	$ 2,263,681	$ 2,364,945
Single Family Residence	-	-
Single Family Residence - Sr Discount	-	-
Mobile Home	-	-
Commercial	-	-
Nonprofit	-	-
Apartment	-	-
Condo Unit	-	-
Total Rate Revenues	**$ 2,263,681**	**$ 2,364,945**

Non-Rate Revenues	2012	2013
Non-Rate Revenues		
Partial Year Storm Drainage Fees	$ -	$ 5,000
Utility Tax on Storm Drainage Fees	-	141,897
SWM - Engineering Plan Review Fees	-	45,836
Interest Income	-	3,500
Other Misc. Charges	-	13,000
FEMA Grant	-	-
NPDES Grant	-	-
Salary CIP Reimbursement	-	30,000
Total Rate Revenues	**$ -**	**$ 239,233**

City of Des Moines
2012 Rate Study
Cost Allocation

Expenses	Estimated Actual 2012	Budget 2013
B&O State Tax	$ 43,586	$ 45,123
Utility Tax	137,061	141,897
Engineering		
Salaries & Wages	$ 200,420	$ 208,524
Overtime	1,000	2,000
Personnel Benefits	84,377	94,046
Employee Med. Contribution	(2,975)	(2,815)
Office/Operating Supplies	2,000	2,500
Unleaded Fuel (ISF)	1,788	1,860
SM Tools & Equipment	1,500	1,500
SM Tools & Equipment>$1,000<$5,000	3,500	3,500
Professional Services	55,000	93,200
Janitorial Services	1,118	650
Communications	250	1,450
Travel	1,401	3,000
Advertising	2,000	250
Copier Lease	975	975
Utilities	1,223	1,275
Repairs and Maintenance	1,000	1,000
Miscellaneous	2,000	2,500
Dues, Schools, and Conf.	5,000	5,000
Printing and Binding	500	500
Interfund Admin Charges-Gen Fund	185,000	190,000
Computer Interfund-Maintenance	7,955	7,955
Computer Interfund-Replacement	1,548	1,553
Interfund Insurance	9,280	11,429
Facility Repair/Replacement	499	499
Principal-Copier Capital Lease	872	910
Interest-Copier Capital Lease	148	110

City of Des Moines
2012 Rate Study
Cost Allocation

	Estimated Actual	Budget
Maintenance		
Salaries & Wages	346,169	394,941
Overtime	13,575	8,100
Personnel Benefits	129,445	159,361
Employee Med. Contribution	(1,484)	(2,356)
Uniforms	1,000	1,600
Office Supplies	1,000	2,000
Repair Supplies	43,000	43,000
Unleaded Fuel (ISF)	8,412	8,749
Diesel Fuel (ISF)	22,775	23,390
SM Tools & Equipment	2,000	2,000
SM Tools & Equipment>$1,000<$5,000	5,500	5,000
Professional Services	60,291	87,500
Janitorial Services	1,804	1,850
Communications	1,986	2,050
Travel	500	500
Advertising	500	500
Operating Rentals & Leases	6,000	6,000
Copier Lease	58	75
Utilities	22,567	31,549
Street Sweeping Disposal	22,500	22,500
Repairs & Mtc (Vehicles & Equipment)	17,000	25,000
Street Sweeping	53,000	53,000
Contracted Drainage Repair	50,000	50,000
West Nile Virus Mosquito Control	-	25,000
Miscellaneous	500	3,800
Laundry	3,100	3,100
Dues, Schools, and Conf.	700	700
Computer Maintenance	4,520	4,522
Computer Replacement	1,111	1,115
Equipment Rental Maintenance	32,944	42,120
Equipment Rental Replacement	35,262	49,094
Interfund Insurance	21,110	22,107
Facility Repair/Replacement	1,362	1,362
Equipment - Ford F450 Truck	46,754	-

City of Des Moines
2012 Rate Study
Cost Allocation

	Estimated Actual	Budget
NPDES Permit Program		
Salaries & Wages	149,972	186,084
Overtime	525	900
Personnel Benefits	66,057	90,301
Employee Med. Contribution	(1,192)	(2,528)
Office/Operating Supplies	200	400
SM Tools & Equipment	575	1,000
SM Tools & Equipment>$1,000<$5,000	-	5,000
Professional Services	4,000	15,000
Travel Expenses	60	500
Miscellaneous	725	5,000
Dues, Schools, and Conference	1,500	1,500
NPDES Permit Fee	15,286	16,000
Computer Interfund-Maintenance	9,389	6,556
Computer Interfund-Replacement	1,667	1,115
Interfund Insurance	10,009	5,804
Equipment - Cityworks Program	56,581	-
Equipment - GPS Mapping Tool	8,160	-
Capital		
Allocation	-	-
Capital Projects	-	-
Other		
Energy Savings Program	-	-
Transfer Out - Fund 220	657	657
Add'l O&M from CIP	-	-
Total Cash O&M Expenditures	**$ 2,027,158**	**$ 2,232,909**

City of Des Moines
2012 Rate Study
Capital Improvement Plan

Capital Projects	2012	2013
TRANSFER TO CAPITAL FUND FROM OPERATING FUND	$ -	$ 709,484
Barnes Creek/Kdm Rd Culvert	-	-
Des Moines Creek Basin Projects	6,000	-
DMMD Pipline S. 212th to S. 213th	29,000	-
Redondo Heights Culvert Replacement	330,000	-
216th Place Culvery Replacement	35,100	-
Barnes Creek 223rd Culvert Replacement	343,000	-
2012 Actual Adjustment	(60,229)	-
Total CIP	**$ 682,871**	**$ 709,484**

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City of Des Moines
2012 Rate Study
Cost Allocation

Functional Allocations	2013	Base	Water Quality		Water Quantity		As All Others	TOTAL	Allocation Basis
			Direct	Indirect	Direct	Indirect			
B&O State Tax	$ 45,123	0%	0%	0%	0%	0%	100%	100%	
Utility Tax	141,897	0%	0%	0%	0%	0%	100%	100%	
Engineering									
Salaries & Wages	208,524	100%	0%	0%	0%	0%	0%	100%	
Overtime	2,000	100%	0%	0%	0%	0%	0%	100%	
Personnel Benefits	94,046	100%	0%	0%	0%	0%	0%	100%	
Employee Med. Contribution	(2,815)	100%	0%	0%	0%	0%	0%	100%	
Office/Operating Supplies	2,500	100%	0%	0%	0%	0%	0%	100%	
Unleaded Fuel (ISF)	1,860	0%	0%	20%	0%	80%	0%	100%	
SM Tools & Equipment	1,500	0%	0%	20%	0%	80%	0%	100%	
SM Tools & Equipment>$1,000<$5,000	3,500	0%	0%	20%	0%	80%	0%	100%	
Professional Services	93,200	0%	0%	20%	0%	80%	0%	100%	
Janitorial Services	650	100%	0%	0%	0%	0%	0%	100%	
Communications	1,450	100%	0%	0%	0%	0%	0%	100%	
Travel	3,000	100%	0%	0%	0%	0%	0%	100%	
Advertising	250	100%	0%	0%	0%	0%	0%	100%	
Copier Lease	975	100%	0%	0%	0%	0%	0%	100%	
Utilities	1,275	100%	0%	0%	0%	0%	0%	100%	
Repairs and Maintenance	1,000	0%	20%	0%	80%	0%	0%	100%	
Miscellaneous	2,500	0%	0%	0%	0%	0%	100%	100%	
Dues, Schools, and Conf.	5,000	100%	0%	0%	0%	0%	0%	100%	
Printing and Binding	500	100%	0%	0%	0%	0%	0%	100%	
Interfund Admin Charges-Gen Fund	190,000	100%	0%	0%	0%	0%	0%	100%	
Computer Interfund-Maintenance	7,955	0%	0%	0%	0%	0%	100%	100%	
Computer Interfund-Replacement	1,553	0%	0%	0%	0%	0%	100%	100%	
Interfund Insurance	11,429	0%	0%	20%	0%	80%	0%	100%	
Facility Repair/Replacement	499	0%	0%	20%	0%	80%	0%	100%	
Principal-Copier Capital Lease	910	0%	0%	0%	0%	0%	100%	100%	
Interest-Copier Capital Lease	110	0%	0%	0%	0%	0%	100%	100%	

City of Des Moines
2012 Rate Study
Cost Allocation

Functional Allocations	2013	Base	Water Quality		Water Quantity		As All Others	TOTAL	Allocation Basis
			Direct	Indirect	Direct	Indirect			
Maintenance									
Salaries & Wages	394,941	0%	10%	10%	40%	40%	0%	100%	
Overtime	8,100	0%	10%	10%	40%	40%	0%	100%	
Personnel Benefits	159,361	0%	10%	10%	40%	40%	0%	100%	
Employee Med. Contribution	(2,356)	0%	10%	10%	40%	40%	0%	100%	
Uniforms	1,600	0%	10%	10%	40%	40%	0%	100%	
Office Supplies	2,000	0%	10%	10%	40%	40%	0%	100%	
Repair Supplies	43,000	0%	10%	10%	40%	40%	0%	100%	
Unleaded Fuel (ISF)	8,749	0%	10%	10%	40%	40%	0%	100%	
Diesel Fuel (ISF)	23,390	0%	10%	10%	40%	40%	0%	100%	
SM Tools & Equipment	2,000	0%	0%	20%	0%	80%	0%	100%	
SM Tools & Equipment>$1,000<$5,000	5,000	0%	0%	20%	0%	80%	0%	100%	
Professional Services	87,500	0%	0%	20%	0%	80%	0%	100%	
Janitorial Services	1,850	0%	0%	20%	0%	80%	0%	100%	
Communications	2,050	0%	0%	20%	0%	80%	0%	100%	
Travel	500	0%	0%	20%	0%	80%	0%	100%	
Advertising	500	0%	0%	20%	0%	80%	0%	100%	
Operating Rentals & Leases	6,000	0%	0%	20%	0%	80%	0%	100%	
Copier Lease	75	0%	0%	20%	0%	80%	0%	100%	
Utilities	31,549	0%	0%	20%	0%	80%	0%	100%	
Street Sweeping Disposal	22,500	0%	50%	50%	0%	0%	0%	100%	
Repairs & Mtc (Vehicles & Equipment)	25,000	0%	20%	0%	80%	0%	0%	100%	
Street Sweeping	53,000	0%	50%	50%	0%	0%	0%	100%	
Contracted Drainage Repair	50,000	0%	20%	0%	80%	0%	0%	100%	
West Nile Virus Mosquito Control	25,000	0%	0%	20%	0%	80%	0%	100%	
Miscellaneous	3,800	0%	10%	10%	40%	40%	0%	100%	
Laundry	3,100	0%	0%	20%	0%	80%	0%	100%	
Dues, Schools, and Conf.	700	0%	0%	20%	0%	80%	0%	100%	
Computer Maintenance	4,522	0%	0%	20%	0%	80%	0%	100%	
Computer Replacement	1,115	0%	0%	20%	0%	80%	0%	100%	
Equipment Rental Maintenance	42,120	0%	0%	20%	0%	80%	0%	100%	
Equipment Rental Replacement	49,094	0%	0%	20%	0%	80%	0%	100%	
Interfund Insurance	22,107	0%	0%	20%	0%	80%	0%	100%	
Facility Repair/Replacement	1,362	0%	0%	20%	0%	80%	0%	100%	
Equipment - Ford F450 Truck	-	0%	0%	20%	0%	80%	0%	100%	

City of Des Moines
2012 Rate Study
Cost Allocation

Functional Allocations	2013	Base	Water Quality		Water Quantity		As All Others	TOTAL	Allocation Basis
			Direct	Indirect	Direct	Indirect			
NPDES Permit Program									
Salaries & Wages	186,084	0%	50%	50%	0%	0%	0%	100%	
Overtime	900	0%	50%	50%	0%	0%	0%	100%	
Personnel Benefits	90,301	0%	50%	50%	0%	0%	0%	100%	
Employee Med. Contribution	(2,528)	0%	50%	50%	0%	0%	0%	100%	
Office/Operating Supplies	400	0%	50%	50%	0%	0%	0%	100%	
SM Tools & Equipment	1,000	0%	50%	50%	0%	0%	0%	100%	
SM Tools & Equipment>$1,000<$5,000	5,000	0%	50%	50%	0%	0%	0%	100%	
Professional Services	15,000	0%	50%	50%	0%	0%	0%	100%	
Travel Expenses	500	0%	0%	100%	0%	0%	0%	100%	
Miscellaneous	5,000	0%	50%	50%	0%	0%	0%	100%	
Dues, Schools, and Conference	1,500	0%	0%	100%	0%	0%	0%	100%	
NPDES Permit Fee	16,000	0%	50%	50%	0%	0%	0%	100%	
Computer Interfund-Maintenance	6,556	0%	0%	100%	0%	0%	0%	100%	
Computer Interfund-Replacement	1,115	0%	0%	100%	0%	0%	0%	100%	
Interfund Insurance	5,804	0%	0%	100%	0%	0%	0%	100%	
Equipment - Cityworks Program	-	0%	0%	100%	0%	0%	0%	100%	
Equipment - GPS Mapping Tool	-	0%	0%	100%	0%	0%	0%	100%	
Capital									
Allocation	-	0%	0%	0%	0%	0%	100%	100%	
Capital Projects	-	0%	0%	0%	0%	0%	100%	100%	
Other									
Energy Savings Program	-	0%	0%	0%	0%	0%	100%	100%	
Transfer Out - Fund 220	657	0%	0%	0%	0%	0%	100%	100%	
Add'l O&M from CIP	-	0%	0%	0%	0%	0%	100%	100%	
Total Operating Expenses	$ 2,232,909	$ 507,355	$ 275,787	$ 355,688	$ 317,834	$ 575,540	$ 200,705		
Percentages		24.97%	13.57%	17.50%	15.64%	28.32%			
Allocation of "As All Others"		$ 50,108	$ 27,237	$ 35,129	$ 31,390	$ 56,842	$ (200,705)		
TOTAL O&M	**$ 2,232,909**	**$ 557,463**	**$ 303,024**	**$ 390,817**	**$ 349,224**	**$ 632,381**	**$ -**		
Allocation Percentages		**24.97%**	**13.57%**	**17.50%**	**15.64%**	**28.32%**	**0.00%**		

City of Des Moines
2012 Rate Study
Cost Allocation

Functional Allocations	2013	Base	Water Quality		Water Quantity		As All Others	TOTAL	Allocation Basis
			Direct	Indirect	Direct	Indirect			
Cash Operating Expenses	$ 2,232,909	24.97%	13.57%	17.50%	15.64%	28.32%	0.00%	100%	As O&M
Transfers to Capital Fund / Capital Expenses	709,484	0%	0%	0%	0%	0%	100%	100%	As All Others
less: Non-Rate Revenues	(239,233)	0%	0%	0%	0%	0%	100%	100%	As All Others
Net Cash Flow	(338,215)	0%	0%	0%	0%	0%	100%	100%	As All Others
Rate Revenue Requirement	$ 2,364,945	$ 557,463	$ 303,024	$ 390,817	$ 349,224	$ 632,381	$ 132,036		
Percentages		24.97%	13.57%	17.50%	15.64%	28.32%			
Allocation of "As All Others"		$ 32,964	$ 17,918	$ 23,110	$ 20,650	$ 37,394	$ (132,036)		
TOTAL RATE REVENUE REQUIREMENT	**$ 2,364,945**	**$ 590,426**	**$ 320,943**	**$ 413,927**	**$ 369,874**	**$ 669,775**	**$ -**		
Allocation Percentages		**24.97%**	**13.57%**	**17.50%**	**15.64%**	**28.32%**	**0.00%**		

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City of Des Moines
2012 Rate Study
Rate Design

Rate Design	Base	Water Quality		Water Quantity		Total
		Direct	Indirect	Direct	Indirect	
Revenue Requirements	$ 590,426	$ 320,943	$ 413,927	$ 369,874	$ 669,775	$ 2,364,945
Weighted Number of EBUs **[a]**	14,311	13,752	14,311	13,752	14,311	
Monthly Rates per EBU	**$ 3.44**	**$ 1.94**	**$ 2.41**	**$ 2.24**	**$ 3.90**	**$ 13.93**
Single Family Residential Customers						
Small (0.68 EBU)	$ 3.44	$ 1.32	$ 1.64	$ 1.53	$ 2.66	$ 10.59
Medium (1 EBU)	$ 3.44	$ 1.94	$ 2.41	$ 2.24	$ 3.90	$ 13.93
Large (1.57 EBU)	$ 3.44	$ 3.04	$ 3.77	$ 3.51	$ 6.10	$ 19.87
Discounted Rate for On-site Mitigation (per EBU)						
With Full Credit	$ 3.44	$ -	$ 2.41	$ -	$ 3.90	$ 9.75
With Partial Credit **[b]**	$ 3.44	$ 0.97	$ 2.41	$ 1.12	$ 3.90	$ 11.84

[a] Assumes 5% of non-single family residential customers would benefit from full discount, and 10% of non-single family residential customers would benefit from partial discount.

[b] Assumes partial credit amount is 50% of direct water quality and water quantity costs.

APPENDIX III: COUNCIL PACKET

City of Des Moines

Stormwater Rate Study Results

May 23, 2013

FCS GROUP 7525 – 166th Ave. NE, Suite D-215, Redmond, WA 98052 ■ 425-867-1802

440

Work Plan

- Develop Rate Structure Policy Framework
  - Rate structure alternatives
  - Private streets and public right-of-way
  - Rate credits
  - Multi-family rates
  - Rates to public entities
- Revenue Neutral Rate Analysis
  - Recalculate equivalent billing unit (EBU) value and resulting total EBUs
  - Develop rate structure alternatives incorporating outcomes of the policy discussion

441

Existing Rate Structure

- Existing rate structure consists of two components:

Water Quality Portion ($2.56 / month) → *Per dwelling unit* for multi-family residential customers; *Per EBU* for all other customers

Water Quantity Portion ($9.64 / month) → *Per EBU* for all customers

+

$12.20 / month

- One equivalent billing unit (EBU) is equal to one single family residential dwelling; 2,400 sq. ft. of impervious surface area for non-single family residential customers.

442

Existing Credit Policy

- Low-income elderly or disabled customers receive a 30% rate discount.
- Private streets are charged 30% of the rate to other developed property (70% rate discount).
- There are no other rate credits or discounts offered to customers.

443

Rate Structure Recommendations

- Maintain the impervious rate basis
  - Impervious surface area is widely used and accepted as an appropriate measure of a property's contribution of runoff, providing a clear relationship, or "rational nexus", to service received from a stormwater program.
- Update the EBU definition to reflect the current average impervious surface area of single family residential customers.
  - Create tiered approach for small, medium, large, and extra large footprints
  - Charge extra large parcels based on measured impervious surface area
- Recalculate the water quality and water quantity rate components based on the utility's current program costs.
- Charge multi-family residential customers based on impervious surface area for both the water quality and water quantity components – similar to commercial customers. Eliminate per dwelling unit approach for multi-family customers.

444

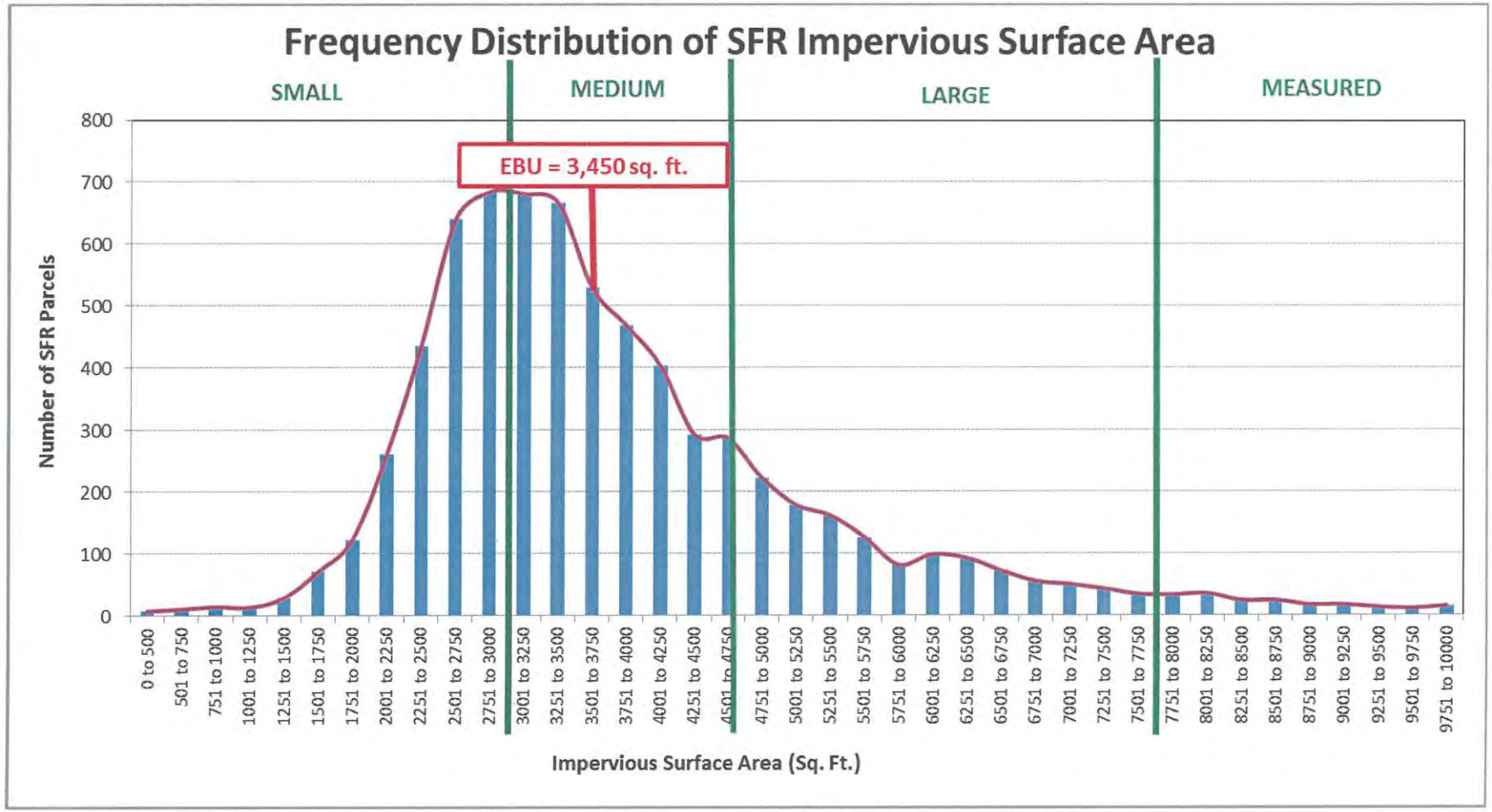
Rate Structure Recommendations (continued)

- Private Streets and Public Right-of-Ways
  - Continue to exempt public streets because they are part of the stormwater conveyance system.
  - Continue charging private streets, provide rate credits within the framework of a broader credit policy for on-site mitigation measures.
- Rate Credits / Discounts
  - Continue providing low-income senior or disabled rate discounts.
  - Institute a rate credit policy for qualifying on-site mitigation.

445

EBU Definition Update

- City staff measured each single family residential parcel using geographic information system (GIS) data and techniques.



446

EBU Definition Update

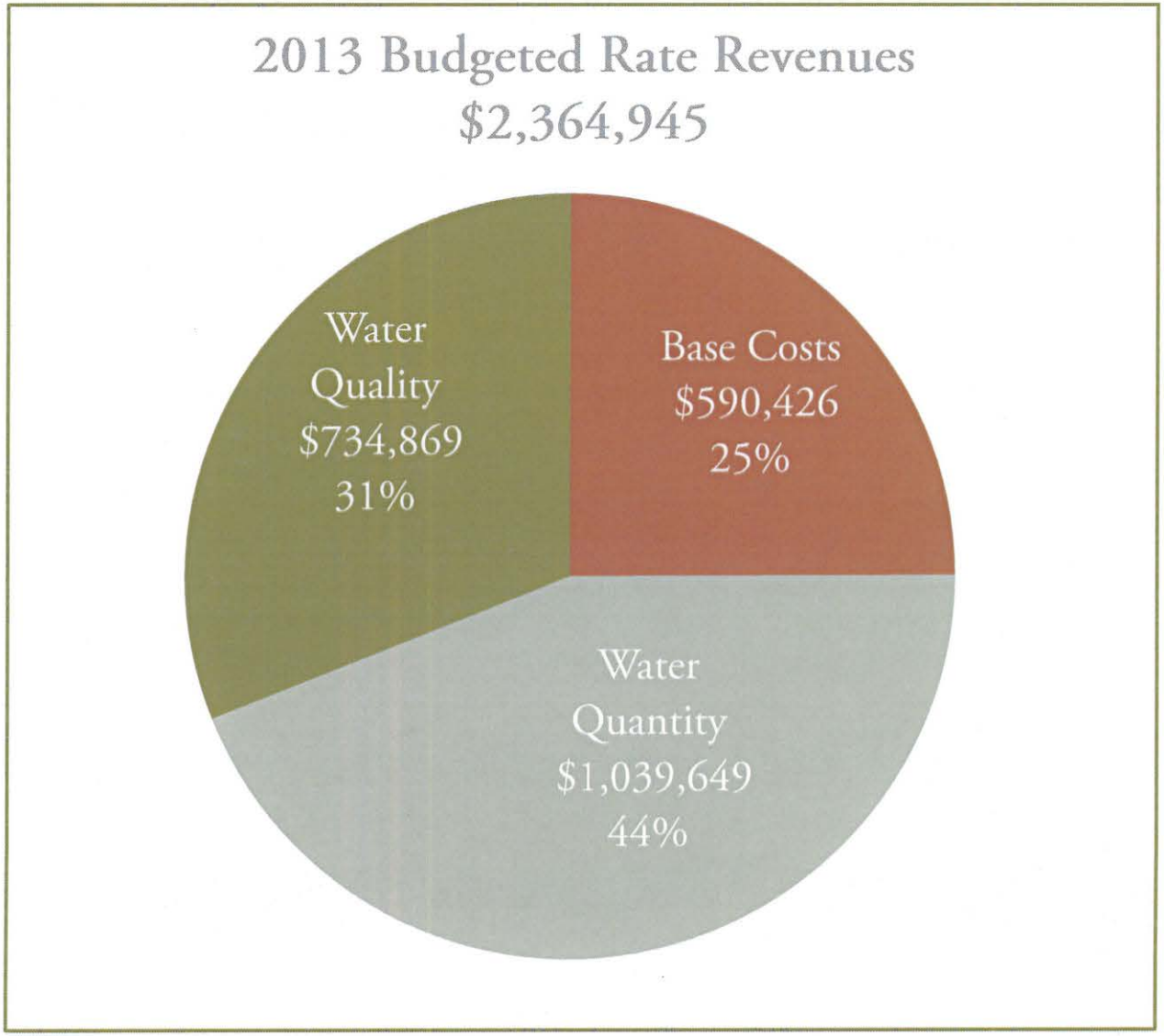
- One EBU is set equal to 3,450 square feet of impervious surface area.

Tier Classifications & Tresholds	No of Customers	% Shares	Avg. ISA
Small *(0 to 2,800 sq. ft.)*	1,739	25.5%	2,341
Medium *(2,800 to 4,350 sq. ft.)*	3,408	50.1%	3,471
Large *(4,350 to 7,500 sq. ft.)*	1,660	24.4%	5,402
subtotal	**6,807**	**100.0%**	**3,653**
Measured *(> 7,500 sq. ft.)*	440		
TOTAL	**7,247**		

Equivalent Billing Unit Conversions			
Small (0 to 2,800 sq. ft.)	2,350 / 3,450 =	0.68	EBU
Medium (2,800 to 4,350 sq. ft.)	3,450 / 3,450 =	1.00	EBU
Large (4,350 to 7,500 sq. ft.)	5,400 / 3,450 =	1.57	EBU

447

Functional Breakdown of Utility Costs



448

Calculated Monthly Rates

Rate Design	Base	Water Quality		Water Quantity		Total
		Direct	Indirect	Direct	Indirect	
Revenue Requirements	$ 590,426	$ 320,943	$ 413,927	$ 369,874	$ 669,775	$2,364,945
Weighted Number of EBUs **[a]**	14,311	13,752	14,311	13,752	14,311	
Monthly Rates per EBU	**$ 3.44**	**$ 1.94**	**$ 2.41**	**$ 2.24**	**$ 3.90**	**$ 13.93**
Single Family Residential Customers						
Small (0.68 EBU)	$ 3.44	$ 1.32	$ 1.64	$ 1.53	$ 2.66	$ 10.59
Medium (1 EBU)	$ 3.44	$ 1.94	$ 2.41	$ 2.24	$ 3.90	$ 13.93
Large (1.57 EBU)	$ 3.44	$ 3.04	$ 3.77	$ 3.51	$ 6.10	$ 19.87
Discounted Rate for On-site Mitigation (per EBU)						
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With Partial Credit **[b]**	$ 3.44	$ 0.97	$ 2.41	$ 1.12	$ 3.90	$ 11.84

[a] Assumes 5% of non-single family residential customers would benefit from full discount, and 10% of non-single family residential customers would benefit from partial discount.

[b] Assumes partial credit amount is 50% of direct water quality and water quantity costs.

Creditable Rate Portion

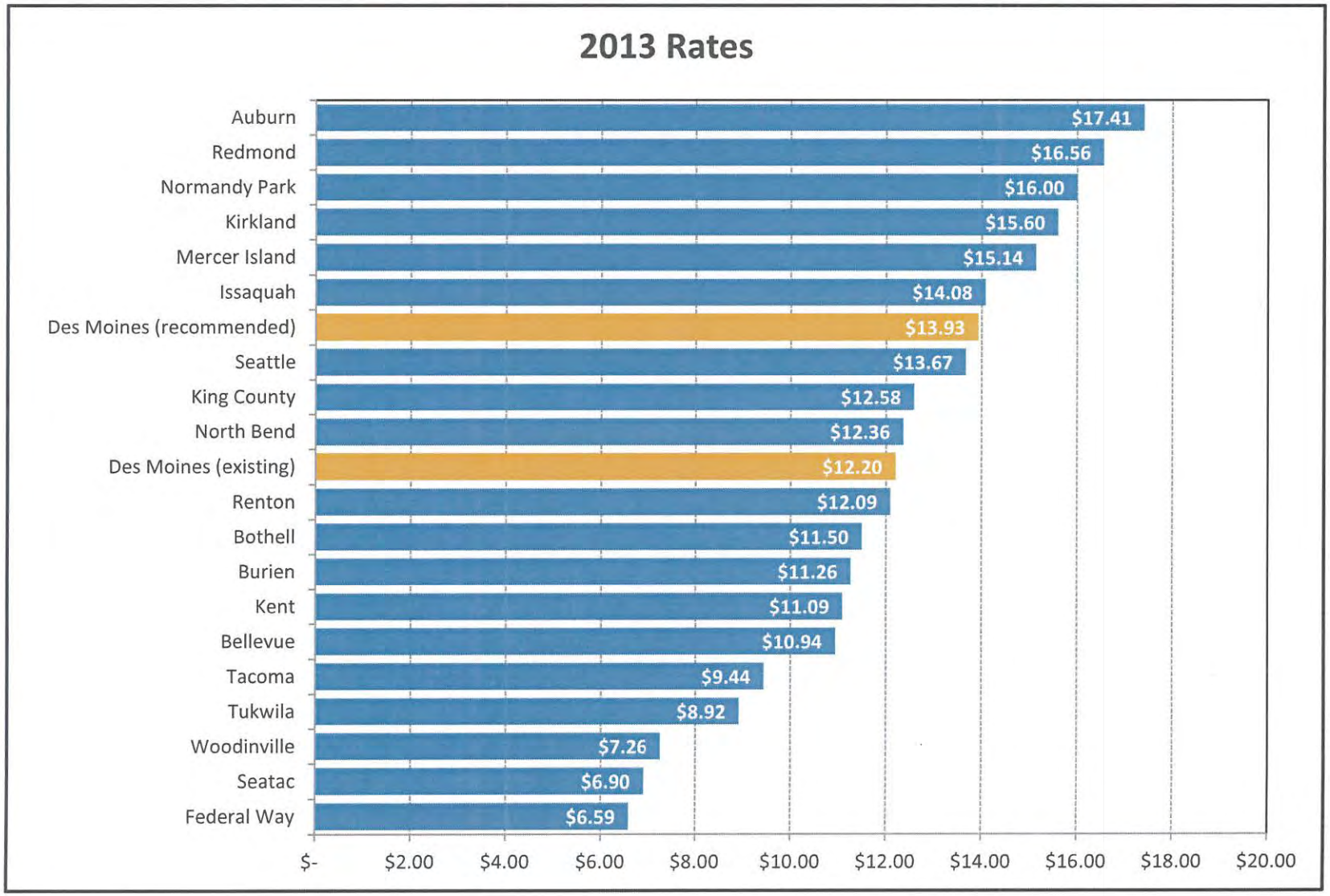
449

Implementation of the New Rate Structure

- Regularly inspect for proper maintenance of on-site facilities, and require periodic renewal / application process for rate credits.
- Amount of credit will be dependent on site-specific analysis by City staff.
- Credits for on-site mitigation measures will be only available for qualifying non-single family residential customers and qualifying private streets.

450

Comparison of Rates with Other Jurisdictions

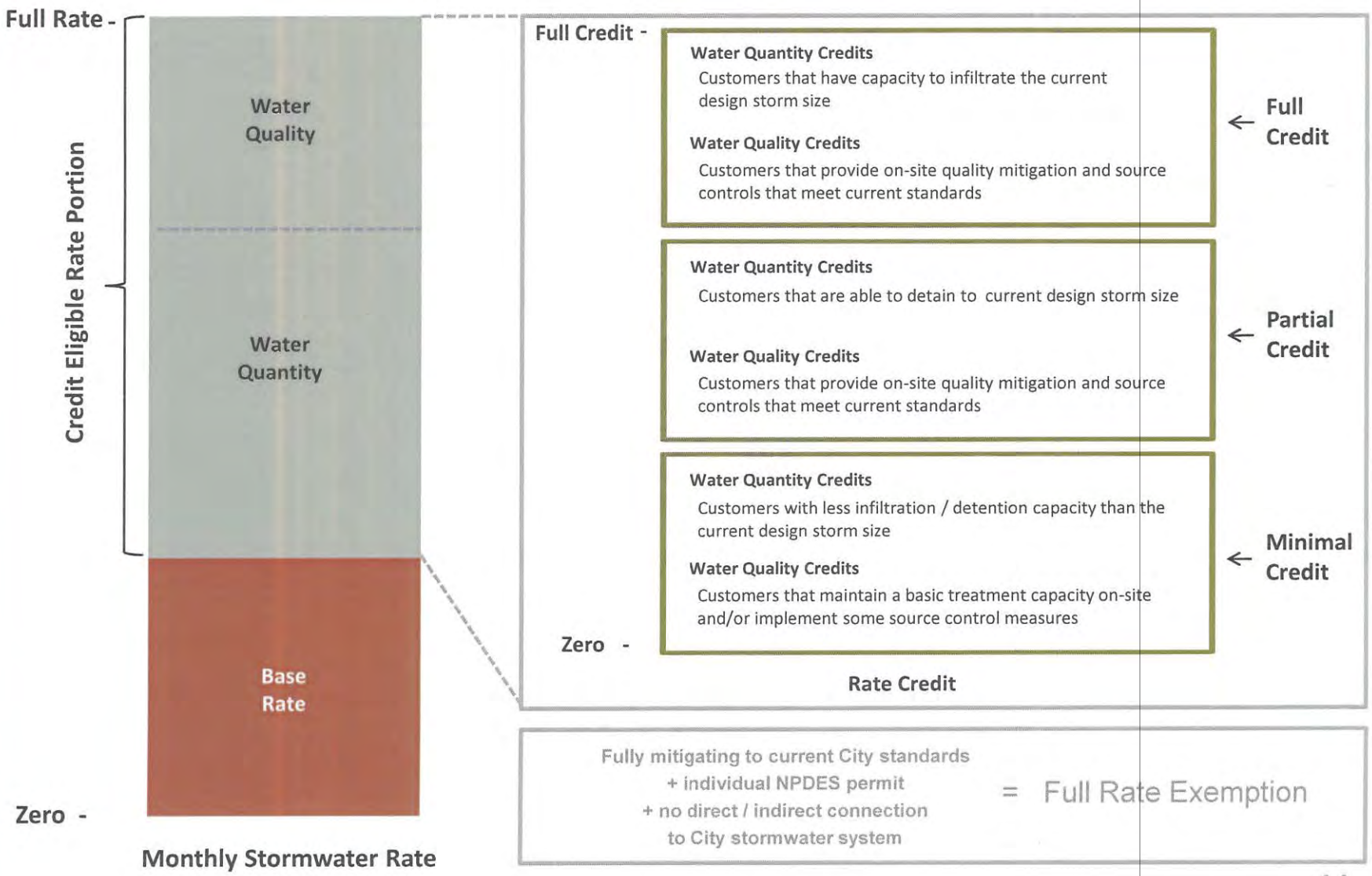


451

Other Issues / Questions

452

Application of Credit Approach



453

Assumptions Used in the Rate Analysis

- Number of EBUs that benefit from rate discounts for having and maintaining on-site mitigation measures
  - 5% with full credit
  - 10% with partial credit
- Rate discounts are assumed to be
  - 100% for full credit
  - 50% for partial credit
- Actual credit amounts (i.e. percentage of rate discounts) will be determined based on site analysis by City staff upon property owners' application
  - Calculated rates will provide for the maximum allowable credit amount

454

SFR Rates & Rate Structure Notes

Jurisdiction	2013 Rate	Notes
Federal Way	$ 6.59	Rates based on Residential or % of impervious surface area
Seatac	$ 6.90	Rates based on Residential or % of impervious surface area
Woodinville	$ 7.26	Rates based on Residential or % of impervious surface area
Tukwila	$ 8.92	Rates based on Residential or % of impervious surface area
Tacoma	$ 9.44	Rates based on development and property size, differs by location; SFR assigned moderate development
Bellevue	$ 10.94	Flat rate plus square footage charge per 2,000 sq ft based on % developed
Kent	$ 11.09	Rates based on Residential or % of impervious surface area and property size, differs by basin (location)
Burien	$ 11.26	Rates based on Residential or % of impervious surface area
Bothell	$ 11.50	Rates based on Residential or % of impervious surface area
Renton	$ 12.09	Rates based on Residential or % of impervious surface area
Des Moines (existing)	**$ 12.20**	
North Bend	$ 12.36	2,920 sq ft
King County	$ 12.58	Rates based on Residential or % of impervious surface area
Seattle	$ 13.67	Rates based on property size for Residential <= 10,000 sq ft, and per 1,000 sq ft for all others
Des Moines (recommended)	**$ 13.93**	
Issaquah	$ 14.08	2,000 sq ft
Mercer Island	$ 15.14	3,471 sq ft
Kirkland	$ 15.60	2,600 sq ft
Normandy Park	$ 16.00	3,100 sq ft
Redmond	$ 16.56	2,000 sq ft
Auburn	$ 17.41	2,600 sq ft

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Attachment #3

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Surface Water Management Rates

ATTACHMENTS:
1. Draft Ordinance No. 13-123 (showing markups)
2. Draft Ordinance No. 13-123 (Alternate A) (showing markups)
3. Draft Report for the Stormwater Rate Structure – July 2013 by FCS Group
4. City Attorney Memo

AGENDA OF: July 25, 2013

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: July 17, 2013

CLEARANCES:
[X] Legal PB
[X] Finance
[ ] Marina N/A
[ ] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works DJB
[ ] Police N/A
[ ] Courts N/A

APPROVED BY CITY MANAGER FOR SUBMITTAL:

Purpose and Recommendation:

The purpose of this agenda item is to enact an Ordinance for adjusting the Surface Water Management Utility rate structure based on the results of a study that was prepared by the Financial Consulting Solutions Group (FCS Group). The Council was briefed on the rate structure study by the consultant on May 23, 2013 and staff was directed to prepare an Ordinance that followed the recommendations of the study with the exception that an exemption be provided to private streets that are non-limited access roads and built to what was required for approval of the plat, and that private streets are to receive the same services as public streets. An alternate Ordinance was also prepared, Draft Ordinance No. 13-123 (Alternate A) that only includes the recommendations of the FCS Group. Both Ordinances were reviewed by the Environment Committee on July 11, 2013; however, for clarity, language has been added to the Rate Adjustment section 2(b) of both versions of the ordinance that the rate adjustment is available for all qualifying non-single family properties and private streets.

Staff has included in this agenda packet two draft Ordinances for Council consideration. Draft Ordinance No. 13-123 [Attachment 1] which includes the recommendations of the FCS Group with provisions as directed by Council on May 23, 2013. This Ordinance is not recommended by staff. Draft Ordinance No. 13-123 (Alternate A) [Attachment 2] which includes just the recommendations of the FCS Group. Staff recommends the Council enact Draft Ordinance No. 13-123 (Alternate A).

Suggested Motions:

Motion "I move to pass Draft Ordinance No. 13-123, revising the definitions of private streets and the Equivalent Billing Unit, eliminating the 70% rate discount for private streets, providing an exemption for private streets that meet public access criteria, providing storm water maintenance services on private streets meeting certain criteria, revising the classification base rate calculations, and providing rate credits for non-single family residences that mitigate water quality and water quantity impacts above current development standards, to a second reading on August 8, 2013."

Alternate Motion "I move to pass Draft Ordinance No. 13-123 (Alternate A), revising the definition the Equivalent Billing Unit, eliminating the 70% rate discount for private streets, revising the classification base rate calculations, and providing rate credits for non-single family residences and private streets that mitigate water quality and water quantity impacts above current development standards, to a second reading on August 8, 2013."

Background:

Council was briefed on the Rate Structure Study by the Financial Consulting Solutions (FCS) Group on May 23, 2013. The Rate Structure Study has been finalized as "Draft Report for the Stormwater Rate Structure Study – July 2013" and is provided as Attachment 3. The general recommendations of the study are as follows:

1. Maintain the current method of using impervious area as the basis for calculating the rates.

2. Update the EBU definition to reflect the current average impervious area of single family residential properties; this being 3450 square feet rather than the current 2400 square feet. Also create a tiered residential class for small (0-2800 square feet), medium (2800 to 4350 square feet), and large (4350 to 7500 square feet) residential properties and an extra large class for residential properties greater than 7500 square feet that would be charged a measured rate.

3. Recalculate the water quality and water quantity rate components based on the utility's current program costs.

4. Charge multi-family residential customers based on the impervious area and eliminate the dwelling per unit charge.

5. Continue to exempt public streets and eliminate the 70% discount for private streets but provide for rate adjustments for private streets within the broader credit policy for on-site mitigation measures.

6. Continue to provide low-income and disable rate discounts and institute a rate credit policy for qualifying that provide for on-site mitigation. The recommended policy is that it would be available to only non-single family properties that provide water quality and water quantity mitigation above the current development standards.

Council directed staff to prepare an Ordinance that includes the above consultant recommendations, but to completely exempt services charges on private streets that are not limited from the public and were

built to the standards required for approval of the plat. Additionally, Council directed the Ordinance be written to provide utility services to private streets in the same manner as public streets.

Discussion:

Exemption of Private Streets

Staff cannot recommend complete exemption of service charges on private streets for several reasons. The benefit for access cannot be clearly defined and the extent of access varies by location. For example, some private streets could be accessible to the public from both ends while others, like the community of Huntington Park for example, are accessible from one entrance. Some private streets are marked with no trespassing signs to discourage public use to a private community, again the Huntington Park community is an example of this.

The matter is further complicated by not having a strong nexus or relation between the public benefit for the access to private streets and the public SWM utility. In other words, there is no "utility" benefit for the public having access to private streets, but the utility would bear the full costs for having the public benefit, if there is a public benefit.

The end result of the rate adjustments must be revenue neutral. Therefore, if an exemption is provided for private streets, the costs associated for the impacts to the public SWM utility created by those private streets must be carried by other rate payers in the utility.

The Draft Ordinance, as directed by Council on May 23, deviates from the recommendations of the Rate Structure Study prepared by the FCS Group. This study was prepared by a highly qualified financial firm that specifically evaluated the equity of the rate classifications of the SWM utility. Any deviations from the recommendations must be done in the context of equity across all of the utility's classifications, Deviations from the equity study is not recommended and should only be done in areas that are not prohibited by statute nor creates an inequity to the rate payers, which is what the study is addressing.

Rather than issuing a city-wide exemption for private street fees that are generally open and are not restricted from the public, staff concurs with the recommendations of the rate structure study that instead suggests that any private street that provides a measurable benefit to the public SWM utility by means of a proposed rate adjustment (via the mitigation of impacts to the public drainage system). This rate adjustment would be made available to all of the rate classes, except for single family homes, which are not proposed for administrative reasons.

Drainage Services to Private Streets

Staff cannot recommend providing drainage services on private streets at this time for several reasons.

Property owners that provide their own street sweeping may be considered for rate adjustments in accordance with the Draft Ordinance No. 13-123 (Alternate A). To require SWM Utility services on private storm water systems, like street sweeping and cleaning out catch basins, could be challenged and difficult to defend because of the costs of the street sweeping on private streets would be borne by all of the ratepayers for a benefit of only those ratepayers that live on private streets. These services are not currently included as part of the services provided by the public SWM utility, and therefore costs for providing the services are not presently being collected from the rate payers.

The purpose of this rate structure study is to evaluate the equity of the rate structure and not the services provided by utility. The utility rates as shown in Appendix A of the Ordinance(s) do not include an adjustment for providing drainage services to private streets (i.e. private drainage systems). The services of the SWM utility are proposed to be evaluated in 2014 when a Comprehensive Plan will be updated. If the Council would like to consider providing services on private drainage systems, staff would suggest that this be included as part of next year's comprehensive plan analysis, whereupon, the criteria for providing services to private systems are established and a public benefit determined.

Providing services to private drainage systems, at no cost to the property owners using those private drainage systems, is not recommended for the same reasons that private streets would not be exempted from service fees. Having public access to the private streets may provide a benefit to the public, but whether the access warrants these drainage services (cleaning the street drains and catch basins and street sweeping) may vary by location. It should also be noted, that adopting the Ordinance with services would supersede any plat approvals with conditions for allowing private streets and requiring the property owners by covenant to properly maintain them.

Financial Impact:

The recommendations of this Rate Structure study are revenue neutral and therefore no financial impacts are anticipated to the SWM Utility. However, most of the recommendations impact the various rate classifications by lowering the rate for most or all commercial and multifamily properties as well as single family properties that qualify for the small impervious tier consisting of less than 2,800 square feet of impervious area. Single family properties that meet the medium or large tiers as well as those that exceed 7,500 square feet of impervious area would be charged a higher rate.

Should Council decide to provide certain drainage services to private streets, the financial impact is unknown and depends on the number of private streets that would qualify for the services. It is suggested that any granted services be evaluated in next year's comprehensive plan and included in any rate adjustments at that time.

Alternatives:

The City Council may decide to enact Draft Ordinance 13-123. This Ordinance deviates from the recommendations of the Rate Structure Study. The FCS Study and staff believes that fully exempting private streets from utility fees as well as providing SWM services on private streets may be challenged as it would create a classification of private street owners with no public benefit and no consideration for the services. The City Council may decide to enact Draft Ordinance No. 13-123 (Alternate A). This Alternate version is recommended by the consultant and staff, and provides a considerable credit system for private streets owners that maintain their private storm water systems sufficiently to mitigate impacts to the public drainage system.

The City Council could also decide not to make any changes to the rate structure. This is not recommended by staff given that the study is addressing concerns raised about the equity of the current rates.

Recommendation/Conclusion:

Staff requests that Council approve Alternate Motion passing Ordinance No. 13-123 (Alternate A) to a second reading on August 8, 2013.

Concurrence:

Legal, Planning, Building and Public Works and the Finance Departments concur.

Attachment #4

City of Des Moines

Office of the City Attorney

Legal Opinion

DATE: July 18, 2013

OPINION PREPARED FOR THE USE OF: The Des Moines City Council

SUBJECT: Surface Water Management Program (SWM) - Stormwater Rate Study and Rate Calculations

ISSUES

(1) Should the City exempt from stormwater rates private streets to the same extent as public streets are exempted; and

(2) Should private streets receive the same services as public streets at no additional costs to the owners of the private streets?

Short Answers: (1) No, a total exemption for property owners on private streets is not appropriate for the reasons stated below but rate adjustments for those property owners actions that benefit the stormwater utility would be appropriate.

(2) No, rate adjustments may be appropriate for property owners who sweep private streets but services by the City at no additional costs to private street owners is not appropriate.

BACKGROUND

The City's Stormwater Utility retained Financial Consulting Solutions Group, Inc. (FCS) to determine the rate structure for the stormwater utility. FCS prepared and presented the *Stormwater Rate Study – Preliminary Draft Results* to the Environment Committee on April 11, 2013. FCS provided the *Stormwater Rate Study Results* to the Council on May 23, 2013 and the *Draft Report for the Stormwater Rate Structure Study – July 2012*, attached to the July 25, 2013 Council Packet. As part of the *Stormwater Rate Study Results*, FCS also presented five Issue Papers:

1. Stormwater Rate Structure
2. Stormwater Fees for Private Streets (Exhibit 1)
3. Stormwater Rate Credits (Exhibit 2)
4. Stormwater Multifamily
5. Stormwater Public Institution Rates. (Exhibit 3)

The rate and rate structure has been an issue of discussion by the City's Environment Committee since June 14, 2012.

During the review and discussion of the FCS Study at the Council meeting on May 23, 2013, Councilmember Scott made the following motion:

> ...to direct staff to prepare an ordinance for adjusting the Surface Water Management Utility rate structure as recommended by Financial Consulting Solutions Group, except that private streets, that are non-limited access roads and streets built to what was required for approval of the plat, are exempted from fees in a similar manner as public streets, and private streets will receive the same services as public streets. The amendment passed 4-3 (Des Moines City Council Regular Meeting of May 23, 2013; (Exhibit 4).

On July 11, 2013 staff presented two Draft Ordinances to the Environment Committee entitled Engineering's Second Draft Ordinance and Engineering's Second Draft Ordinance Alternate A. Engineering's Second Draft Ordinance contained the language from the above stated motion as requested by Council. Alternate A is the draft ordinance that both FCS and the City staff recommend. Both Draft Ordinances will be presented to Council as new business on July 25, 2013 for first reading. The basis for the recommendation for approval of Alternate A is as follows:

DISCUSSION

1. Applicable Law

The City's surface water management program (SWM) was established by Ordinance 832 in 1989. (The Supreme Court approved stormwater utility funding in Teter v. Clark County, 104 Wn.2d 227 (1985)). The authority for cities to establish a sewerage system (which includes storm or surface water sewers) is established in chapter 35.67 RCW.

RCW 35.67.020 grants cities the authority to construct storm water systems and fix rates and charges for that system and to classify services and facilities.

> (1) Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits. Every city and town has full jurisdiction and authority to manage, regulate, and control them and, except as provided in subsection (3) of this section, to fix, alter, regulate, and control the rates and charges for their use.
>
> (2) Subject to subsection (3) of this section, the rates charged under this section must be *uniform for the same class of customers or service and facilities furnished.* In classifying customers served or service and facilities furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors:
>
> (a) The difference in cost of service and facilities to the various customers;

(b) The location of the various customers within and without the city or town;

(c) The difference in cost of maintenance, operation, repair, and replacement of the various parts of the system;

(d) The different character of the service and facilities furnished various customers;

(e) The quantity and quality of the sewage delivered and the time of its delivery;

(f) The achievement of water conservation goals and the discouragement of wasteful water use practices;

(g) Capital contributions made to the system, including but not limited to, assessments;

(h) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

(i) Any other matters which present a reasonable difference as a ground for distinction.

[RCW 35.67.020(3) The rate a city or town may charge under this section for storm or surface water systems…shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system.]

RCW 35.67.025 and RCW 35.92.021 specifically allow for credits for in-kind services:

RCW 35.67.025 Public property subject to rates and charges for storm water control facilities.

> Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.67.020. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

RCW 35.92.021 – Public property subject to rates and charges for storm water control facilities.

> Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.92.020. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

Pursuant to chapter 11.08 DMMC Surface Water Management Program and specifically DMMC 11.08.040:

> The Des Moines SWM shall be self-supporting and shall be funded by service charges, grants and loans; except from time to time the city council may direct transfer of funds to SWM from other sources.

2. The Stormwater Utility - Generally

The City's budget contains numerous fund types. The general fund is the fund that pays most of the operating costs of general government. The City has two enterprise funds SWM and the Marina. Unlike a general fund department such as police, parks and recreation, etc., utilities must pay for their cost to operate. Utilities operate as a business enterprise within the City's overall budget. Charges for services and grants should cover the operating expenses, capital outlay, plus set aside funds for debt and capital projects. Because revenues generated by the utility can only be used for the benefit of the utility the costs attributable to the utility must be appropriate utility costs and the rates charged by the utility must allow for equity among ratepayers.

The SWM Utility's operating budget is like a pie, the whole pie represents the costs to ratepayers to provide the revenue necessary to maintain the SWM. The SWM is fee for services, it is not a tax. The fees charged must substantially relate to that customer's proportionate share of the utility's cost. Any exemptions or credits granted by the Council for one group of ratepayers pushes those costs off to the remaining ratepayers. Because the rates are not subject to review by any outside agency other than a court of law, the Council must be able to assure ratepayers that any rates that are exempted or credited are done so for rational and valid reason.

SWM like other utilities (water, sewer, electricity) are essentially self support enterprises operated by the City. Utility rates are fixed by ordinance as a legislative matter and are not subject to the jurisdiction or review by the Utilities and Transportation Commission (RCW 35.67.020); (*McCormacks, Inc. v. Tacoma*, 170 Wash 103 (1932). While fixing rates is a legislative matter, the City is obligated to ensure that the rates charged to ratepayers by a municipal utility are fair, reasonable, just, uniform and non-discriminatory and the City must also ensure that the integrity of the utility fund is protected. *Hillis Homes, Inc. v. Public Utility Dist. No. 1 of Snohomish County*, 105 Wn.2d 288 (1986).

Upon a showing that the City's rates are unreasonable, the City is obligated to show lawful conditions that justify the rate differential based upon logic and equity. *Faxe v. Grandview*, 48 Wn.2d 342 (1956).

The Accountancy Act, at chapter 43.09 RCW specifically RCW 43.09.210 requires that local governments keep separate accounts for every "appropriation or fund" and that:

> all service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public industry to another, shall be paid for at its true and full value..."

ANALYSIS

1. Should the City exempt from stormwater rates private streets to the same extent as public streets are exempted ?

Part of the motion made by the Council in directing staff to return with a draft stormwater rate structure ordinance contained the following language:

> to direct staff to prepare an ordinance for adjusting the Surface Water Management Utility rate structure as recommended by Financial Consulting Solutions Group, except that private streets, that are non-limited access roads and streets built to what was required for approval of the plat, are ***exempted*** from fees in a similar manner as public streets. (Exhibit 3)

The position of FCS and staff is set out in Issue Paper #1(Exhibit 1), Issue Paper #2 (Exhibit 2) and Issue Paper #5 (Exhibit 3).

Issue Paper #5: (Exhibit 3) specifically provides:

> **Recommendation**: We recommend that the City charge public property the same as any other customers. Credits, as we had laid out in Issue Paper #3, would also apply to all customer types, including schools. The City should, however, exempt or discount City streets because they serve as part of the stormwater conveyance system.

In regard to private streets, Issue Paper #2 (Exhibit 1) states:

> **Recommendation**: Public streets should continue to be exempted from the stormwater rates as they are considered a key part of the stormwater conveyance system. Private streets should continue to be charged as non-residential property and charged a discounted stormwater fee to recognize the contribution of runoff generated by City streets, but at the same time acknowledge the benefit of City streets to the stormwater system, which is the standard approach in the industry. The issue of charges to private streets may be addressed more equitably by quantifying the offsetting contribution and benefit to determine a more exact portion of the rate to be charge to private streets.
>
> DMMC 11.12.080 Rate adjustments provides:
>
> (1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

FCS's analysis is similar to the courts findings in *Post v. City of Tacoma*, 139 Wn.App. 1074 (2007) (unreported) review denied 163 Wn.2d 1038 (2008)[1] In *Post*, the City of Tacoma, as here in Des Moines, determined that its streets, curbs, and gutters provide a benefit to the stormwater utility because they gather and transport storm water. Following oral arguments, the trial court granted the Tacoma's motion for summary judgment and denied Post's cross-motion for declaratory relief. It found that (1) the storm water and waste water disposal charges imposed by the City were regulatory fees, not taxes, and therefore were a proper exercise of the City's police power; (2) Post had not shown that the rate structure was unreasonable,

[1] Case law and the tests developed in other utility vs. general fund cases are cited above, *Post* was unreported. It is cited here because it is a stormwater case and because it presents the decision in a comprehensive manner.

arbitrary, or capricious; and (3) the ordinance excluding direct charges to the City for services that provide an in-kind benefit to the utility is not an unconstitutional tax.

(There have been a number of utility rate challenges decided by the courts in the last few years questioning whether the costs were properly general fund or utility charges. See *Okeson v. City of Seattle*, 150 Wn. 2d 540 (2003) (for street lights); and *Lane v. City of Seattle*, 164 Wn. 2d 875 (2008) (fire hydrants).)

While FCS acknowledges the contribution to the stormwater system from private streets that contribution from private streets is not as great as the City's contribution in providing a comprehensive stormwater system. In *Tukwila School Dist. No. 406 v. City of Tukwila* 140 Wash. App. 735, 749-750 (2007) the school district challenged the City's ability to assess stormwater fees in light of the fact that the school district had been required to provide on site mitigation measures:

> The School District argues it should not have to pay the fees because the City has already required it to build expensive retention/detention systems to contain the storm and surface water its properties generate. The problem with this argument is that private systems do not eliminate the District's impact on the storm and surface water utility. The City requires some landowners with significant impervious surfaces on their property to build surface and stormwater systems on their own property to reduce the rate at which water flows into the municipal system. But this does not eliminate the problem. Retention/detention systems merely slow the flow of storm and surface water entering the system. Ultimately, it must all flow through the City's system. On the other hand, rainwater harvesting systems remove water from the storm and surface water system, and landowners who use them pay reduced fees because they have reduced their impact on the system. Accordingly, the City may reduce fees for rainwater harvesting but not do so for private surface and storm water retention and detention systems which are designed to slow, rather than eliminate, the rate of rainwater flow into the system. There is a direct relationship between the fee charged and the service provided…

The FCS study establishes a rate adjustment for those private streets that collect stormwater that then flows into the City's system. Because private streets do not eliminate stormwater flowing into the City's system it is not reasonable to exempt private streets from stormwater rates entirely. Private streets may contribute to the collection of stormwater but they do not eliminate the need for the City's system. In the alternative public streets also collect stormwater; however they provide the additional benefit of managing and operating the entire stormwater system which entitles them to an exemption from stormwater rates.

Pursuant to Alternate A private street property owners may apply for a rate credit based on performance standards and monitoring similar to the standards the City must meet. (There is a higher standard for industries having more of an impact on the stormwater system that are not relevant to this analysis and will not be addressed here.)

The rate adjustments sections of Draft Ordinance 13-123 and Draft Ordinance 13-123 Alternate A are compared on the attached Exhibit 5.

2. Should private streets receive the same services as public streets at no additional costs to the owners of the private streets?

Draft Ordinances 13-123, pp 8-9 provides:

> **Sec. 5.** DMMC 11.12.060 and section 6 of Ordinance No. 860 as amended by section 2 of Ordinance No. 1187 as amended by section 1 of Ordinance No. 1230 are each amended to read as follows:
>
> **Service charges and services for private streets.**
>
> In recognition of the benefit to the public that have general access to private streets, private streets that meet the definition per this chapter and constructed to standards required for the approval of the plat, shall be exempted from the monthly service charge and shall, upon written agreement of the property owners, receive maintenance services such as street sweeping and catch basin cleaning at no cost. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city. Private streets that do not meet the definition per this chapter shall be fully charged the monthly service charge and shall not be eligible to receive services.
>
> The monthly service charge for private streets shall be computed on the same basis as commercial property, ~~except that the number of equivalent billing units derived therefrom shall be multiplied by 0.30 in computing the overall service charge.~~ Where private streets are in single ownership, the owner shall be responsible for all charges. Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.

FCS has opined in an email (Exhibit 5) as follows:

> In response to your question about making stormwater rate credits available for private streets in which street sweeping is provided, I do think that a credit against the water quality portion of the rate (up to a maximum of 14%, based on a site-specific evaluation) would be warranted as long as the street sweeping can be demonstrated to be of benefit to the public stormwater system and hence the utility. It is our understanding that the sweeping of public streets is funded through the stormwater fund in the City of Des Moines, a critical factor in the determination of whether or not to provide credit for the qualifying sweeping of private streets.

The legal analysis remains the same, the City cannot provide an exemption from the costs of street sweeping to private street owners absent a benefit to the stormwater system. The Council could consider granting rate adjustments for the value of the street sweeping. Since the value for the street sweeping has not been considered as part of the current FCS Report, that

issue would have to be examined and brought back to the Council in the future for their consideration.

CONCLUSION

For all of the reasons stated above FCS, and the staff recommend the enactment of Draft Ordinance 13 - 123 Alternate A in the packet.

P. Bosmans

Pat Bosmans
City Attorney

PB:vs

COPIES TO: City Clerk Opinion File

EXHIBIT 1

DRAFT

Issue Paper #2: Stormwater Fees for Private Streets February 1, 2013

Issue: The City's current practice is to charge private streets for their impervious surface area at 30 percent of the base rate, to recognize their offsetting role in stormwater conveyance. The City currently exempts publicly owned streets from the stormwater fee. The main issue in question - Should the City charge private streets a stormwater fee?

Analysis: Applicable statute (RCW 35.67.020 and RCW 35.92.020) grants discretion to city legislative bodies in the setting of rates and allowing for the consideration of such factors as differences in the cost and/or character of service provided and capital contributions made to the system.

When considering how to charge different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must substantially relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

When a cost of service approach is used as the basis for fee evaluation, exemptions and credits should only be granted when the characteristics of a parcel or improvements to that property cause runoff to differ when compared to similar parcels.

The City's Right-of-Way Construction Standards and Requirements apply to both private and public streets. In comparing the characteristics of the private and public streets it does not appear that the characteristics for stormwater contribution would differ in a significant way. This would indicate they should both be treated in a similar manner.

However, the similar treatment of public streets and private streets diverges when considering the following regarding public streets: first, costs and revenues are coming from comparable "public" sources and, second, public streets can be considered part of the stormwater conveyance system. The conveyance system is a network of pipes primarily designed to intercept drainage from paved streets and transport it underground (generally under a roadway) to an open drainage way. Cities often choose to exempt their streets in recognition of the key role they play in this system.

It is commonly thought that charging public streets simply transfers money from one City fund to another. Administratively, this may be a valid perception. However, by not charging public property, the City may

not accurately and equitably allocate what can be viewed as an overhead cost borne to support the departments that use stormwater services because of their land holdings. Effectively, utility ratepayers bear the costs of stormwater management provided to other user-supported services or the general public. This is not an issue for private streets.

Private streets do not provide such a system-wide benefit. The streets are owned by private owners, homeowners associations, or management groups that are responsible only for stormwater related to the specific development.

The stormwater fee is collected for the purpose of maintaining the City's public stormwater system. The City's stormwater conveyance system includes much more than storm drains. Ditches, curbs, gutters, culverts and open stream channels all make up the citywide drainage system that conveys stormwater runoff away from structures and sites in a manner that minimizes the potential for flooding and erosion to ALL properties. Customers always benefit from adequate, properly functioning drainage and flood control systems that decrease the likelihood of flooding, erosion, and unlimited pollutants from surface and stormwater runoff. Customers also benefit from the regulation and monitoring of the properties above and around the property. Although, the property may have its own stormwater system that complies with best management practices, these devices are not absolute and pollutants generally still exit a property depending on a number of factors such as the intensity and duration of rainfall. The stormwater runoff is still conveyed to the public drainage system.

It is more common than not that each unit of a development with common property (private streets, common driveways and parking areas) such as townhouse developments, cluster unit developments or condominiums is responsible for the pro rata share of the total impervious surfaces of the common areas of the development.

Alternatives:

Arguably, there might be some alternative ways to address the issue of stormwater fees for private streets, among them, (1) condominiums could be charged on a per dwelling unit basis and (2) both private streets and sidewalks could be exempted.

First, charging condominiums as residential property would require a change to all multi-family properties. The stormwater rates currently charged to multi-family properties in the City are based mainly on impervious surface area, a common industry practice. Most instances where the rate per multi-family dwelling unit is higher than the single-family residential rate are when properties have a large amount of private streets and roadways.

Charging each multi-family unit the same rate as a single-family residential customer would penalize those many multi-family units who have less impervious surface area per unit. This approach would also move away from the relationship of impervious area as an equitable basis for stormwater contribution and instead be a per unit charge for multi-family that is less related to runoff contribution.

Exempting private streets and sidewalks, is perhaps a more problematic approach. The City would require public ownership or access to the private streets and sidewalks; otherwise the exemption could be considered a gifting of public funds – prohibited by law. Any change would have to be offered to all other private streets and sidewalks for consistency. This would result in a loss of revenue for the City that would need to be met through an increase in the rate to other customers.

On the contrary, the City has full access to public streets. Transportation improvement projects on these streets also address storm related elements and issues. The City maintains public streets to their required standards including the street sweeping program, which is not a requirement for private streets. This maintenance can also be considered stormwater conveyance system maintenance that is paid for by City streets.

Recommendation: Public streets should continue to be exempted from the stormwater rates as they are considered a key part of the stormwater conveyance system. Private streets should continue to be charged as non-residential property and charged a discounted stormwater fee to recognize the contribution of runoff generated by City streets, but at the same time acknowledge the benefit of City streets to the stormwater system, which is the standard approach in the industry.

The issue of charges to private streets may be addressed more equitably by quantifying the offsetting contribution and benefit to determine a more exact portion of the rate to be charged to private streets.

EXHIBIT 2

DRAFT

Issue Paper #3: Stormwater Rate Credits February 1, 2013

Issue:

City of Des Moines Municipal Code Section 11.12.080 provides for rate adjustments when the amount charged "was not calculated in accordance with the terms of this chapter." When is it reasonable (or required) to provide additional rate credits / adjustments for stormwater customers who mitigate their stormwater impacts and what is a rational basis for such credits?

RCW 90.03.510 authorizes such credits, stating that:

> "Whenever a county, city, town, water-sewer district, or flood control zone district imposes rates or charges to fund storm water control facilities or improvements and the operation and maintenance of such facilities or improvements under RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, 57.08.005, or 57.08.081, it may provide a credit for the value of storm water control facilities or improvements that a person or entity has installed or located that mitigate or lessen the impact of storm water which otherwise would occur."

Alternatives:

A review of potential credit bases / approaches reveals a number of alternatives.

- **On-site retention / detention.** Many residential subdivisions and commercial developments provide on-site retention / detention facilities as a condition of development, often maintaining such facilities as well. There are several ways to structure a potential rate credit for on-site retention / detention, the following among them:
  - **Performance against current standards.** Rate credits may be structured to reward customers who provide mitigation to current development standards, while offering lesser or no credits for mitigation that does not meet current development standards.
  - **Current vs. older standards for quantity and quality management.** Quantity and quality standards have increased greatly over the years. The City could offer credits by time of development, in order to reflect the benefit received from customers who help meet this historical change in stormwater management standards.
- **Customers covered by NPDES stormwater permits.** In order to protect the quality of receiving waters, the federal Clean Water Act requires a National Pollutant Discharge Elimination System (NPDES) permit for stormwater generated by specific industrial activities. The NPDES permit typically requires performance standards, monitoring,

and additional treatment of runoff generated by permitted industrial activities.

Under the NPDES permitting program, the specific stormwater detention and treatment measures that are required vary from permittee to permittee. Furthermore, industrial sites, which typically are subject to NPDES permitting requirements, are exempt from the program if 100% of their stormwater runoff is detained and treated.

As a result, the fact that a development is subject to NPDES permitting requirements may not tell the whole story regarding the stormwater mitigation measures it must incorporate. In the consideration of granting credits for individual permittees, it is important to remember that the City could instead provide credits for customers providing qualifying on-site mitigation including detention, treatment, and infiltration.

- **Infiltration.** Impervious surfaces, among other development features, prevent water from infiltrating the soil and replenishing the groundwater supply (if any). Customers that infiltrate their runoff may benefit both the City's drinking water system, by recharging the aquifer, and the City's stormwater system and receiving waters, by reducing the required size of system facilities. However, allowing infiltration also requires that the City work with owners to reduce contamination risks from such systems. Another factor to consider is the fact that not all stormwater is actually infiltrated; instead, infiltration systems are still connected to the public system via overflow piping.

- **Low-impact development, green building, and rainwater harvesting.** Low-impact development (LID) techniques, such as rainwater harvesting, permeable pavement, open space retention, bio-retention swales and rain gardens could also be worthy of credits. Other aspects of LID – such as green "vegetated" roofs – may affect the "effective" impervious area of a development or home if properly maintained.

  Green building techniques include site planning to take greater advantage of natural site features, achieving LEED or Built Green certification, planting drought-resistant native landscaping, amending soils with compost, reducing impervious surface area, minimizing site disturbance during development, and previously noted low-impact development features. Implementing these techniques will result in increased natural resource conservation, lower home operating costs, and better stewardship of the City's drinking water aquifer. Other than its LID aspects, green building techniques are not strongly linked to a reduction in stormwater utility costs. The one aspect that is directly related to smaller service requirements is the minimization of impervious surface area.

A credit for low-impact development would recognize the fact that effective impervious area can be much smaller than the impervious surface area that is measured from aerial photographs (due to roof rainwater collection systems, permeable paving, vegetated roofs, etc.). An LID credit may be further supported by the fact that even when the effective impervious area of such a development is the same as other, conventional residential developments, other LID practices such as vegetation replacement typically result in reduced runoff from the property.

- **Dedicated open space.** Developments incorporate design techniques that concentrate residences or other buildings in a compact area of the development site (lot clustering) and provide open space and natural areas elsewhere, protected by an easement. Such techniques can reduce runoff, mitigate stormwater quality, and help maintain the amount of water recharging the City's aquifer.

  Open space developments have many benefits in comparison to the conventional subdivisions that they replace: they can reduce impervious surface area (ISA), stormwater pollutants, construction costs, grading, and the loss of natural areas. In addition to the minimization of ISA, the preserved natural areas and tree canopy can significantly mitigate the stormwater runoff created by the buildings on site. Therefore, although affected by the slope characteristics of the property, the preserved portion of the site acts to reduce the effective impervious area of the development and provides a meaningful benefit to the public system when runoff is adequately dispersed.

Analysis:

When considering how to charge, or credit, different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must somewhat relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption or credit policies because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

A stormwater utility's service to its customers and the community it serves can be analyzed in two functional categories: controlling and reducing stormwater runoff (i.e. water quantity), and controlling and managing pollutants (i.e. water quality). The broader questions to address in establishing credits are (1) whether a rate payer help the utility reduce its costs (or not to incur additional costs) by providing certain mitigation measures in these two functional areas or not, and (2) if yes, how much of a cost savings is provided.

Comparatively, properties with on-site mitigation have a reduced effect on the public system than similar property lacking this mitigation. Therefore, it might be argued that to the extent that such facilities reduce costs to the City utility, they may warrant a rate credit.

However, it is also debatable that meeting the City's development standards reduces costs for the utility. Instead, it may simply keep the utility whole. As a result, granting a rate credit for such activities could actually reduce the amount of resources available for basic services to the remainder of the customer base. In fact, it may be argued that the cost of meeting City standards and constructing on-site mitigation should be considered a "cost of doing business," since on-site mitigation only partially neutralizes the impact of developing the property in the first place.

On the other hand, exceeding standards – that is, providing capacity in addition to that needed by developing (or developed) property – in theory does reduce cost to the utility by, in effect, reducing the net utility service area. How much of a credit to grant can then be sized according to the extent to which on-site controls exceed the standards.

Therefore, the two criteria to check for may be (1) effectiveness in reducing stormwater runoff and (2) whether these on-site systems are designed to handle greater amount stormwater than would be required as a condition of development approval. The additional capacity provided by the new development then may become the basis for the service charge credit amount.

It is true that property lines do not follow stormwater basin boundaries. Net impacts and/or benefits of a parcel align better with basin boundaries than property lines. However, estimating net impacts/benefits of each parcel, and developing a rate structure and credit policy around these estimates would be extremely difficult and very costly to administer. Additionally, it would be open to challenge since these estimates would be considered somewhat subjective, and difficult to explain to ratepayers.

Recommendation: Many of the stormwater program's costs are essentially "fixed" and do not decrease no matter what services customers provide on-site. As a first step, we recommend that the City determine the portion of program costs which can be reduced by the on-site activities of the customer base. We further recommend that the City classify the portion of those variable or use related costs as either attributable to managing water quantity or to managing water quality.

Once an allocation of program revenue requirements among fixed or base program costs, water quantity costs, and water quality costs has been made, their component shares of the stormwater utility charge can be determined. All customers would pay the base rate component. However, credits would be made available for the water quantity and quality components depending on on-site activities. (Customers with on-site features that result in reduced runoff – such as those that infiltrate or practice low-impact development – would be eligible for a rate credit that would vary in size based on the level of mitigation, not to exceed the sum of the quantity and quality components of the charge.)

The following recommendations assume that properties subject to stormwater rate credits would be meeting or exceeding the City's development requirements, and hence allowing the City to delay capital projects. As a result, the utility would be able to reduce its capital as well as operating costs by implementing the recommended credit policies.

Quantity Credits

Customers with on-site quantity controls, such as detention or infiltration facilities, provide a direct benefit to the utility by reducing peak flow and thereby reducing the necessary size of system pipes downstream.

In the case of customers that infiltrate their runoff, not only is peak flow reduced, but their total runoff is reduced or eliminated (to the extent there is capacity). Given this, we recommend that a full credit for the quantity-related portion of the utility bill be granted to customers that have capacity to infiltrate the current design storm size. Customers with less infiltration capacity than for the design storm size should receive a minimal quantity credit.

Detention facilities, on the other hand, do not prevent runoff from entering the public system. Instead, peak stormwater flows are simply reduced and extended over a longer duration. For that reason, customers that are able to detain to current standards should receive a quantity-related credit that is less than a full credit for this portion of the bill. Customers with less detention capacity than for the design storm size should receive a minimal credit for the quantity component of the bill.

Additionally, there are several development methods which incorporate features that mitigate stormwater runoff. Such features that reduce peak flows or prevent stormwater runoff from entering the public system include aspects of low impact developments, green building methods, and rainwater harvesting. On their own, such development features provide a quantity mitigation benefit that is typically less than dedicated detention facilities sized for the design storm. Accordingly, quantity-related mitigation should be eligible for a minimal credit against the quantity rate component. However, when paired with detention facilities sized for the design storm, customers should receive a full credit against the quantity rate component.

Note: For crediting purposes, we recommend that the eligibility of rainwater harvesting systems for credit be conditioned upon inspections to ensure regular use of the harvested water (due to the fact that, once collection cisterns are full, they no longer reduce runoff). Also, the system benefit provided by customers with quantity-mitigating development features is dependent upon proper maintenance of the on-site features, so we further recommend that they be subject to regular inspection in order to renew the credit every two years.

Customers that discharge their runoff directly into flow-exempt receiving waters where detention is not required (in Des Moines, these include Puget

Sound and Green/Duwamish River below RM 6 and above SR 18) perform another type of quantity mitigation. There are two types of such customers: those that utilize private systems to convey their runoff to receiving waters, and those that utilize the City's stormwater system, in whole or in part, to convey runoff to receiving waters. As customers of the first type are equivalent to customers with on-site detention facilities sized for the design storm, we recommend that they be granted the maximum detention credit for the quantity component of the utility fee. For customers of the second type, we recommend that a minimal credit for the quantity component be granted, to account for the use of and cost of maintaining the City infrastructure relied upon by the customer.

No credit or adjustment should be granted to customers without meaningful quantity mitigation capability.

Quality Credits

There are a number of factors, in addition to the installation of on-site quality controls, which relate to a customer's ability to manage the quality of their stormwater runoff. The most important of these are controls for on-site sources of pollution. Examples of source controls would be roofs and coverings for pollution-generating surfaces, equipment, and materials.

To meet the City's stormwater quality mitigation requirements, a customer must have on-site quality controls as well as source controls. Accordingly, a full credit for the quality-related portion of the utility bill should only be granted to customers that provide on-site quality mitigation and source controls that meet current standards.

Even in those cases where full mitigation capability is not present, on-site quality control facilities and source control measures can still provide a benefit to the City's stormwater system. Accordingly, we recommend that a minimal credit to the quality portion of the stormwater utility bill be provided to customers that, while not meeting current requirements, do maintain a basic treatment capacity on-site and/or implement some source control measures.

No credit should be granted to customers that have no on-site quality controls or provide only nominal quality mitigation (such as a downturned elbow to control floatables).

Other Credits

Customers with individual NPDES stormwater permits should be eligible for the same rate credits as any other non-residential customer. No dedicated credit for simply possessing a permit should be established.

Please note that the percentage or number of impervious units that will obtain quantity, quality, and/or runoff reduction credits will be forecasted and incorporated into the current rate analysis to ensure adequate revenue generation under the proposed program.

EXHIBIT 3

DRAFT

Issue Paper #5: Stormwater Public Institution Rates February 1, 2013

Issue:

The City of Des Moines stormwater utility currently charges public institutions, including public schools, government buildings, colleges, parks, and sewer and water facilities, a non-profit or commercial rate per EBU.

The City has requested an evaluation to determine if the current public institution rates are the most appropriate or if they should be discounted or exempted.

Analysis:

When considering how to charge different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must substantially relate to that customer's proportionate share of the utility's costs. A rate may be found legally valid if the funded services generally benefit those who pay the fee. There need not be a property-specific link between the fee paid and level of service delivered. In fact, case law (Teter v. Clark County) has supported that a reasonable effort must be made to link services delivered to fees charged, but that the linkage need only be indirect.

When a cost of service approach is used as the basis for fee evaluation, exemptions, discounts and credits should only be granted when the characteristics of a parcel or improvements to that property cause runoff to differ when compared to similar parcels.

Developed properties that are publicly owned still contribute runoff that places a cost burden on the utility system. If the City wishes to pursue a social policy to grant discounts or exemptions, a utility and its ratepayers should not bear the costs of that policy. To preserve the cost of service approach to rate design and avoid causing stormwater utility customers to subsidize a general City policy, the General Fund could possibly be used to fund the costs of public institution credits or exemptions.

Some jurisdictions do not charge publicly-owned land because there is a general sense that charging simply transfers money from one City fund to another. Administratively, this may be a valid perception; however, by not charging public lands, the City may not accurately and equitably allocate what can be viewed as an overhead cost borne to support the departments that use stormwater services because of their land holdings. Effectively, utility ratepayers would bear the costs of stormwater management utilized by other user-supported services or the general public.

The one common exception to this general approach has to do with

charging city streets. City streets, while impervious and generating runoff, also serve as part of the stormwater conveyance system. Cities often choose to exempt their streets in recognition of this fact.

Recommendation: We recommend that the City charge public property the same as any other customers. Credits, as we have laid out in Issue Paper #3, would also apply to all customer types, including schools. The City should, however, exempt or discount City streets because they serve as part of the stormwater conveyance system.

EXHIBIT 4

CERTIFICATE OF CLERK

I DO HEREBY CERTIFY that I am duly chosen, qualified and acting Clerk of the City of Des Moines, Washington (the "City"), and keeper of the records of the City Council (the "Council");

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of July, 2013

Bonnie Wilkins
City Clerk

EXCERPT OF MINUTES FROM REGULAR CITY COUNCIL MEETING
MAY 23, 2013

2. SURFACE WATER MANAGEMENT RATE STRUCTURE STUDY BRIEFING
Staff Presentation — Assistant Director of Utilities & Environmental Engineering Loren Reinhold

Direction/Action
Motion made by Councilmember Sheckler to direct staff to prepare an ordinance for adjusting the Surface Water Management Utility rate structure as recommended by Financial Consulting Solutions Group; seconded by Councilmember Musser.

Councilmember Burrage moved to amend the main motion to direct staff to prepare an ordinance for adjusting the Surface Water Management Utility rate structure as recommended by Financial Consulting Solutions Group, except that private streets that are exempted from fees in a similar manner as public streets, and private streets will receive the same services as public streets.
The amended motion died for a lack of a second.

Councilmember Scott offered a friendly amendment to amend the proposed amendment to direct staff to prepare an ordinance for adjusting the Surface Water Management Utility rate structure as recommended by Financial Consulting Solutions Group, except that private streets, that are non-limited access roads and streets built to what was required for approval of the plat, are exempted from fees in a similar manner as public streets, and private streets will receive the same services as public streets; acceptable to the maker of the amended motion.
The amendment passed 4-3
For: Councilmembers Nutting, Musser, Burrage and Scott
Against: Mayor Kaplan, Mayor Pro Tem Pina and Councilmember Sheckler
The main motion passed 7-0

	DRAFT ORDINANACE NO. 13-123	DRAFT ORDINANCE NO. 13-123 - ALTERNATE A
Draft Ordinance Section 5 DMMC 11.12.060 Service charges and services for private streets	Service charges and services for private streets. In recognition of the benefit to the public that have general access to private streets, private streets that meet the definition per this chapter and constructed to standards required for the approval of the plat, shall be exempted from the monthly service charge and shall, upon written agreement of the property owners, receive maintenance services such as street sweeping and catch basin cleaning at no cost. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city. Private streets that do not meet the definition per this chapter shall be fully charged the monthly service charge and shall not be eligible to receive services. The monthly service charge for private streets shall be computed on the same basis as commercial property~~, except that the number of equivalent billing units derived therefrom shall be multiplied by 0.30 in computing the overall service charge~~. Where private streets are in single ownership, the owner shall be responsible for all charges. Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.	Service charges for private streets. The monthly service charge for private streets shall be computed on the same basis as commercial property~~, except that the number of equivalent billing units derived therefrom shall be multiplied by 0.30 in computing the overall service charge. Where private streets are in single ownership, the owner shall be responsible for all charges.~~. Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.
Draft Ordinance Section 6 (Sec. 6 deleted in Alt. A) DMMC 11.12.070 Services to be provided to commercial, multifamily and nonprofit properties	In recognition of the impact of these properties on both the quantity of storm water runoff and the quality of storm water runoff to the surface water system, the city shall, upon written agreement with the property owners, provide periodic inspection and maintenance of the drainage systems on all commercial, multifamily~~,~~ and nonprofit properties ~~and private streets~~, to include catchbasins, pipe, runoff detention/retention facilities, and water quality control facilities. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city.	~~In recognition of the impact of these properties on both the quantity of storm water runoff and the quality of storm water runoff to the surface water system, the city shall, upon written agreement with the property owners, provide periodic inspection and maintenance of the drainage systems on all commercial, multifamily, and nonprofit properties and private streets, to include catchbasins, pipe, runoff detention/retention facilities, and water quality control facilities. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city.~~
Draft Ordinance Section 7 (Section 6 in Alt. A) DMMC 11.12.080 Rate Adjustments	(1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.	(1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.
	(2) Requests for rate adjustment may be granted or approved only when the Planning, Building and Planning, Building and Public Works Director determines that one or more of the following conditions exists:	(2) Requests for rate adjustment may be granted or approved only when the Planning, Building and Public Works Director determines that one or more of the following conditions exist:
	(a) Tthe rate or service charge bill was not calculated in accordance with the terms of this chapter, or the amount charged is in error;	(a) Tthe rate or service charge bill was not calculated in accordance with the terms of this chapter or the amount charged is in error;
	(b) The request is for a private street or a non-single family residential parcel, which includes a constructed or natural on site storm water mitigation facility that meets all of the following conditions:	(b) The request is for a private street or a non-single family residential parcel, which includes a constructed or natural on-site storm water mitigation facility that meets all of the following conditions:
	(i) The constructed or natural facility provides storm or storm water detention, retention, water quality treatment, and/or conveyance; and,	(i) The constructed or natural facility provides storm or storm water detention, retention, water quality treatment, and/or conveyance; and,
	(ii) The ~~director~~ Planning, Building and Public Works Director has determined that the property owner is capable of maintaining and operating the facility; and,	(ii) The ~~director~~Planning, Building and Public Works Director has determined that the property owner is capable of maintaining and operating the facility; and,
	(iii) The facility is maintained by the property owner to the City's design specifications; and,	(iii) The facility is maintained by the property owner to the City's design specifications; and,
	(iv) The facility is available for inspection by the City; and,	(iv) The facility is available for inspection by the City; and,

	DRAFT ORDINANCE NO. 13-123	DRAFT ORDINANCE NO. 13-123 - ALTERNATE A
	(v) Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and	(v) Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and
	(vi) The rate adjustment is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.	(vi) The rate adjustment is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.
	(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.	(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.
	(4) Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.	(4) Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.
	(5) Rate adjustments granted for on-site mitigation as set forth in DMMC 11.12.080(2)(b) shall not exceed 30% of the unadjusted service charge: 14% of the unadjusted service charge for full water quality mitigation and 16% of the unadjusted service charge for full water quantity mitigation. The percentage of the rate adjustment to be granted up to the maximum amount will be the percentage achievement of on-site facilities against current development requirements as determined by the Planning, Building and Public Works Director.	(5) Rate adjustments granted for on-site mitigation as set forth in DMMC 11.12.080(2)(b) shall not exceed 30% of the unadjusted service charge: 14% of the unadjusted service charge for full water quality mitigation and 16% of the unadjusted service charge for full water quantity mitigation. The percentage of the rate adjustment to be granted up to the maximum amount will be the percentage achievement of on-site facilities against current development requirements as determined by the Planning, Building and Public Works Director.
	(6) If the ~~director~~ Planning, Building and Public Works Director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in DMMC 11.12.020. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.	(6) If the ~~director~~ Planning, Building and Public Works Directorfinds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in DMMC 11.12.020. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

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EXHIBIT 6

Pat Bosmans

From: Loren Reinhold
Sent: Monday, July 15, 2013 3:38 PM
To: Pat Bosmans
Subject: FW: Street Sweeping

From: John Ghilarducci [mailto:JohnG@fcsgroup.com]
Sent: Monday, July 15, 2013 2:34 PM
To: Loren Reinhold
Subject: Street Sweeping

Hi Loren: In response to your question about making stormwater rate credits available for private streets in which street sweeping is provided, I do think that a credit against the water quality portion of the rate (up to a maximum of 14%, based on a site-specific evaluation) would be warranted as long as the street sweeping can be demonstrated to be of benefit to the public stormwater system and hence the utility. It is our understanding that the sweeping of public streets is funded through the stormwater fund in the City of Des Moines, a critical factor in the determination of whether or not to provide credit for the qualifying sweeping of private streets.

- John

John Ghilarducci
Principal
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Redmond, WA 98052

FCS GROUP
johng@fcsgroup.com

Attachment #5

FCS GROUP
Solutions-Oriented Consulting

Memorandum

To: Loren Reinhold **Date:** July 31, 2013

From: John Ghilarducci

RE: Private Streets

The question of whether or not to charge private streets, how much, and whether or not to deliver stormwater services to those streets came up at the Council meeting on July 25th. In advance of possible Council action on August 8th, I provide these additional comments in the hope that they can further understanding and discussion on the issue.

First, and perhaps most importantly, while public streets and private streets may be "equal" from a transportation standpoint, they are not equal from a stormwater management standpoint. The City of Des Moines owns and operates a "Municipal Separate Storm Sewer System", or MS4. The City is required to obtain a permit for its stormwater discharges and sustain a program for managing stormwater – including reducing runoff contamination and prohibiting illicit discharges into the public stormwater system, the MS4.

The City's MS4 is made up of storm drains, pipes, ditches, stormwater facilities (detention and water quality), and its purpose is to manage and/or convey runoff from all developed property in the City service area. Many of those stormwater facilities are next to, under, or associated with City streets. The public stormwater system is used to manage and convey runoff generated by developed property in the City – including building footprints, residential parking areas and patios, commercial parking lots and other developed area, *and private streets*.

The purpose of stormwater facilities associated with private streets is generally to serve the development with the private streets. In that sense, it is like on-site mitigation sized to meet the needs of the development. The private street is generally thought to be like any other impervious surface area for this reason, albeit mitigated by associated stormwater facilities. The stormwater facilities associated with the private street serve to convey stormwater runoff to the City system, just as other developed property that is connected to the public system discharges into the MS4.

That is why the Washington Phase II Municipal Stormwater Permit, applicable to the City of Des Moines, defines an MS4 to include *publicly-owned or operated* streets and roads with drainage systems. The issue of "ownership" is important because the public body is responsible for the protection of receiving waters. As provided in previous correspondence, under the new National Pollutant Discharge Elimination System (NPDES) permit, an MS4 is defined as follows:

> ***"Municipal Separate Storm Sewer System*** *(MS4) means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):*
>
> *(i)* ***Owned or operated by a*** *state,* ***city****, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law)* ***having jurisdiction over disposal of*** *wastes,* ***storm water****, or other wastes, including special districts under State such as sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian*

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tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

***National Pollutant Discharge Elimination System** (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under section 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington Department of Ecology.*

It follows that exempting municipal streets as part of the stormwater system is consistent with the practice of not charging other stormwater facilities.

A stormwater customer who lives on a public street pays for the stormwater runoff they contribute to the MS4, as measured by the amount of developed, impervious, area on the parcel. A stormwater customer who lives on a private street pays for the stormwater runoff they contribute to the MS4 as measured by the amount of developed, impervious, area on the parcel plus a pro-rata share of the impervious surface area of the private street – less any applicable rate adjustments for on-site mitigation. Both measurements, the parcel and the share of the street, are necessary to quantify the contribution of runoff *to the public system*.

City stormwater rates recover the costs associated with operating and maintaining the MS4. The costs of maintaining stormwater systems on private property (including private streets) are not included in the stormwater rates paid by any stormwater customer. Those costs are borne by the property owner. This is why street sweeping, for example, which provides a vital water quality function, is included as a cost of the MS4 and is not provided to private property.

The City provides service to all developed property by operating the MS4. Requiring property owners to maintain stormwater facilities associated with private streets is entirely consistent with the requirement that commercial property owners maintain their on-site stormwater facilities.